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Proclamation 10696 of January 12, 2024

The President

Martin Luther King, Jr., Federal Holiday, 2024

By the President of the United States of America

A Proclamation

Today, we reflect on the life and legacy of Reverend Dr. Martin Luther King, Jr. and recommit to honoring his moral vision on the path to redeeming the soul of our Nation.

Dr. Martin Luther King, Jr. was born into America when racial segregation was the law of the land. He had every reason to believe that history had already been written and division would be our Nation's destiny. But Dr. King rejected that outcome. He heard Scripture's command to do justice, love mercy, and walk humbly. He clung to the Declaration of Independence's promise of equality for all people.

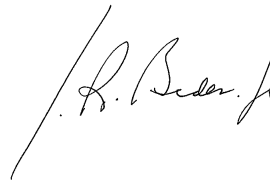
Dr. King's mission was a moral one: from bridges and ballot boxes to pulpits, protests, and courthouses, he courageously stood for the sacred idea that embodies the soul of our Nation—we are all created equal in the image of God and deserve to be treated equally throughout our lives. He vocalized that idea on an August day in 1963 when he told our Nation about his dream. He saw that idea realized for many Americans with the passage of the Civil Rights Act of 1964 and the Voting Rights Act of 1965, ushering in a new era of greater equality and opportunity in our country. That work is not yet finished. It is the task of our time to take up Dr. King's mantle and make his dream a reality.

The battle for the soul of our Nation is perennial—a constant struggle between hope and fear, kindness and cruelty, and justice and injustice. There are still those who seek to thwart progress and roll back our rights as Americans. But Dr. King and countless crusaders across the span of American history teach us that each generation must answer the call to perfect our Union. We must heed the whispers of our better angels. We must see each other as neighbors and not enemies. We must do our best to seek a life of light, hope, and truth. Because nothing is guaranteed about our democracy. We must fight to keep, defend, and protect it.

On this day, may we recommit to being guided by Dr. King's light and by the charge of Scripture: "Let us never grow weary in doing what is right, for if we do not give up, we will reap our harvest in due time." We must continue Dr. King's march forward by choosing democracy over autocracy and a "Beloved Community" over chaos. We must be believers, doers, and, most of all, dreamers. We must be repairers of the breach and remember that the power to redeem the soul of America lies in all of us—"We the People."

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 Monday, January 15, 2024, as the Martin Luther King, Jr., Federal Holiday. I encourage all Americans to observe this day with appropriate civic, community, and service projects in honor of Dr. King and to visit MLKDay.gov to find Martin Luther King, Jr., Day of Service projects across our country.

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

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

[FR Doc. 2024-01114

Filed 1-18-24; 8:45 am]

Billing code 3395-F4-P

Presidential Documents

Proclamation 10697 of January 12, 2024

Religious Freedom Day, 2024

By the President of the United States of America

A Proclamation

The constitutional right to practice our faiths peacefully and openly is a core tenet of our democracy and helps us fulfill one of our highest aspirations as a Nation: to be a citadel of liberty and a beacon of freedom. On Religious Freedom Day, we renew our pledge to protect that right by ensuring each person of any faith or belief can live out the deepest convictions of their conscience with dignity and respect.

Like so many Americans, faith has sustained me throughout my life—serving as a reminder of both our collective purpose and our responsibilities to one another. But for far too many people today, practicing their faith means facing fear and intimidation. In recent years, hate has been given too much oxygen. This year, in the wake of Hamas' brutal terrorist assault against Israel, we have seen horrific threats and attacks in this country that have both shocked our collective conscience and broken our hearts.

It is in the most challenging times that our commitment to freedom matters most. We must work harder than ever to practice the values that make us who we are. That is why my Administration is working tirelessly to protect and preserve the right to freedom of religion for everyone everywhere.

In 2022, I established a new inter-agency group to counter Antisemitism, Islamophobia, and Related Forms of Bias and Discrimination within the United States. Last May, my Administration released the first-ever United States National Strategy to Counter Antisemitism, which outlines more than 100 new actions we are taking to raise awareness of Antisemitism, protect Jewish communities, counter Antisemitic discrimination, and build solidarity across diverse communities. We are also developing the first-ever United States National Strategy to Counter Islamophobia and Related Forms of Bias and Discrimination in the United States, which will address the scourge of hate against Muslims in America. The strategy will also address hate against Sikh, South Asian, and Arab American communities, among others. Meanwhile, we continue to work with all communities to identify, prevent, and disrupt threats.

Everyone must be free to practice their faith without fear, whether they are gathering for worship, attending a religious school, participating in the activities of other faith-based organizations, or simply walking down the street wearing the symbols of their faith. That is why, working with the Congress, my Administration secured the greatest increase in funding in our history for the physical security of non-profits—including churches, gurdwaras, mosques, synagogues, temples, and other places of worship. In my 2024 Budget proposal to the Congress, I requested that this funding be raised to \$360 million, and my Administration works continually to protect places of worship, including through an annual Protecting Places of Worship Week of Action. Through such initiatives, we are providing resources for faith communities and encouraging religious organizations to share their best practices in promoting security with one another.

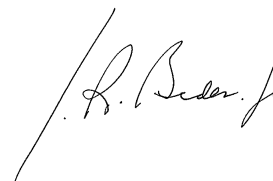
As a world leader, we are also working to make it possible for people to practice their faith freely and peacefully around the globe. Billions of people worldwide are persecuted for or prevented from freely choosing,

practicing, or teaching their faith. Repressive governments and violent extremists continue to reach across borders and target people for their beliefs. We have seen these abhorrent attacks on people of all faiths, including Christians in some countries. That is why, since the beginning of my Administration, we have provided more than \$100 million to promote religious freedom and hundreds of millions more to provide humanitarian assistance to victims fleeing religious repression, including genocide. Further, we are denying the entry of goods into the United States that are made with forced labor—an abuse of human rights that is oftentimes associated with the genocide of religious minorities. We have imposed sanctions, visa restrictions, and export controls on actors and entities that are responsible for serious human rights abuses like religious persecution.

On this day, we recognize that the work of protecting religious freedom is never finished. In our quest to build a more perfect Union, may our faiths and beliefs help us heal divisions and bring us together to safeguard this fundamental freedom guaranteed by our Constitution and to ensure that people of all religions or no religion are treated with dignity and respect.

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 laws of the United States, do hereby proclaim January 16, 2024, as Religious Freedom Day.

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

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

Rules and Regulations

Federal Register

Vol. 89, No. 13

Friday, January 19, 2024

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

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FEDERAL HOUSING FINANCE AGENCY

12 CFR Part 1236

RIN 2590-AB10

Prudential Management and Operations Standards

AGENCY: Federal Housing Finance Agency.

ACTION: Final rule.

SUMMARY: The Federal Housing Finance Agency (FHFA) is amending its prudential management and operations standards rule (rule) to clarify that procedural requirements for corrective plans apply to prudential management and operations standards (Standards) established as regulations as well as guidelines, and to make the Office of Finance of the Federal Home Loan Bank System (OF) subject to the rule and some of the existing Standards in the appendix to the rule.

DATES: This rule is effective February 20, 2024.

FOR FURTHER INFORMATION CONTACT:

Clinton Jones, General Counsel, (202) 649-3006, Clinton.Jones@fhfa.gov; or Francisco Medina, Assistant General Counsel, (202) 649-3076, Francisco.Medina@fhfa.gov. These are not toll-free numbers. The mailing address is: Federal Housing Finance Agency, 400 Seventh Street SW, Washington, DC 20219. For TTY/TRS users with hearing and speech disabilities, dial 711 and ask to be connected to any of the contact numbers above.

SUPPLEMENTARY INFORMATION:

I. Introduction

A. Background

The Federal Housing Enterprises Financial Safety and Soundness Act (the Safety and Soundness Act) requires the Director of FHFA to establish Standards that address ten subjects relating to the management and operation of the

regulated entities, authorizes the Director to establish other Standards in addition to those on the ten listed subjects, and authorizes the Director to establish Standards by regulation or guideline.¹ The Safety and Soundness Act also addresses FHFA corrective actions if a regulated entity fails to comply with a Standard and requires FHFA to establish some procedures for corrective actions by regulation.² FHFA currently implements these requirements through a procedural rule, 12 CFR part 1236, and Standards that FHFA has established as guidelines set forth in an appendix to the rule, as well as Standards established as regulations or as parts of regulations.³

The current rule and initial Standards, all of which were established as guidelines, were promulgated in 2012. Because FHFA did not then identify any regulations as Standards, the current rule addresses only Standards established as guidelines, which could imply that Standards FHFA has since established as regulations are not covered by the rule's procedures. Neither the current rule nor any Standards apply to OF.

B. Overview of Proposed Amendments to the Rule

On May 4, 2023, FHFA proposed to amend part 1236 to reflect the scope of FHFA's statutory authority to establish Standards as regulations as well as guidelines, and to clarify that the rule's procedural aspects related to corrective actions that may result from failure to comply with a Standard apply equally to Standards established as guidelines or as regulations.⁴ FHFA also proposed to follow a notice-and-comment process to establish Standards as guidelines or to make material modifications of such Standards, and reaffirmed its intention to locate Standards established as guidelines in the appendix to the rule.

FHFA further proposed to amend the rule and the appendix to part 1236 so that OF would be subject to the rule and certain Standards. The Standards FHFA proposed to apply to OF are the General

Responsibilities of the Board of Directors and Senior Management, and Standards 1, 2, 8, and 10. Standard 1 addresses "Internal Controls and Information Systems." Standard 2 addresses "Independence and Adequacy of Internal Audit Systems." Standard 8 addresses "Overall Risk Management Processes." Standard 10 addresses "Maintenance of Adequate Records."

Consistent with the foregoing changes, FHFA also proposed to revise and clarify definitions and make conforming changes to part 1236 and its appendix.

II. Discussion of Comments and Agency Response

A. Overview of Comments Received

FHFA received two comments on its proposed amendments to the rule: one from the Council of Federal Home Loan Banks (Council) and one from the Federal Home Loan Mortgage Corporation (Freddie Mac). The Council commented on the proposed amendments to apply the rule and identified Standards to OF and on the applicability of notice-and-comment rulemaking to the establishment of Standards by guideline. Freddie Mac also commented on the applicability of notice-and-comment rulemaking to the revision or revocation of Standards that had been established by guideline. After carefully reviewing and considering the comments, FHFA has determined to issue the final rule as it was proposed.

B. Applying the Rule and Identified Standards to OF

The Council observed that OF is not a "regulated entity" as defined in the Safety and Soundness Act and is therefore not explicitly subject to section 4513b, which applies to regulated entities. The Council nonetheless noted that FHFA has express general regulatory authority over OF under 12 U.S.C. 4511(b)(2), as FHFA also noted in its proposal, which provides a statutory basis for FHFA to apply the rule and identified Standards to OF. The Council suggested FHFA clarify its authority regarding OF in the rule. FHFA observes that the rule's authority provision already references 12 U.S.C. 4511; on that basis, further clarification of FHFA's authority is not necessary.

The Council asked that FHFA identify the specific purposes of section 4513b

¹ 12 U.S.C. 4513b ("section 4513b").

² *Id.* at 4513b(b)(1)(C).

³ See 12 CFR 1242.1(b), identifying the Enterprise Resolution Planning Regulation as a Standard, and 1240.1(e)(3), identifying provisions of the Enterprise Capital Adequacy Regulation as Standards.

⁴ 88 FR 28433 (May 4, 2023); correction notice at 88 FR 35780 (June 1, 2023).

that would be served by subjecting OF to the rule and Standards. As the Council noted in its letter, however, OF “is an integral component of the FHLBank System.” OF is the fiscal agent for the Federal Home Loan Bank System, through which the Banks issue consolidated obligations of the System in the public capital markets. OF’s role and the activities OF performs for the Banks require OF to have appropriate governance, adequate internal controls and information systems, appropriate risk management, and adequate records maintenance. For those reasons, applying the rule and identified Standards to OF would further the purposes of section 4513b in the same manner that subjecting the Banks to the rule and Standards does.

The Council also requested that FHFA specify “the matters that are not relevant” to OF for purposes of compliance with the identified Standards and raised concerns about potential conflicts between existing regulations and the Standards in the appendix. FHFA notes that its proposal particularly specified the Standards and portions of Standards that would apply to OF; in other words, the proposed amendments specified the matters that are relevant to OF. Moreover, the current version of the rule and the proposed amendments to the rule both specify that in the case of a conflict between a Standard and a regulation, “the regulation shall control.”⁵

Finally, the Council requested that FHFA establish an implementation timeframe for OF to comply with the rule and identified Standards. FHFA expects that the interim between publication of the final rule and its effective date will provide OF sufficient time either to come into compliance with the identified Standards or to engage with appropriate FHFA supervision staff on a reasonable timeframe to come into compliance with an identified Standard.

C. Notice-and-Comment Procedures and Standards Established by Guidelines

The Council and Freddie Mac both offered comments on the applicability of notice-and-comment rulemaking to Standards established by guidelines. The current version of the rule provides that the Director may “modify, revoke, or add to the Standards” established by guidelines “by order or notice,”⁶ consistent with FHFA’s authority to

issue guidance without going through notice-and-comment rulemaking.⁷

Based on FHFA’s past practice of establishing Standards as guidelines and because FHFA has determined to continue locating all Standards established as guidelines in the appendix to the rule, which would require a **Federal Register** notice, FHFA proposed amending the rule to require FHFA to provide public notice of and seek public comment on any Standard it planned to establish as a guideline or any material modification to any Standard established as a guideline.⁸ FHFA proposed to retain the right to revoke any Standard established as a guideline at any time by order or notice, as provided in the current version of the rule.

The Council noted that guidance setting forth FHFA’s supervisory expectations is not subject to the notice-and-comment rulemaking requirements of the Administrative Procedure Act (APA) and expressed its appreciation for FHFA’s proposal to use a notice-and-comment process for Standards FHFA planned to establish by guideline. The Council asked FHFA to clarify whether it would use existing or new advisory bulletins to establish Standards without going through notice-and-comment.

As FHFA explained in the preamble to the proposed amendments, the rule as amended will now require FHFA to establish Standards that are guidelines through a **Federal Register** notice-and-comment process and to locate all Standards established as guidelines in the appendix to part 1236.⁹ Those procedural requirements would preclude FHFA from using existing or new advisory bulletins to establish

Standards as guidelines (although they would permit FHFA to re-cast an advisory bulletin as a Standard following a notice-and-comment process).

Freddie Mac requested that FHFA revoke or modify Standards established as guidelines through a notice-and-comment process in the same way that FHFA proposed to establish such Standards. Freddie Mac suggested that Standards established through the notice-and-comment process are “legislative rules” subject to the APA even if they were established as guidelines; thus, such Standards must be modified or revoked in accordance with procedures for “legislative rules.”

Without opining on whether Standards established as guidelines, using a notice-and-comment process, are “legislative rules,” FHFA has already committed to using a notice-and-comment process when establishing a Standard as a guideline and making any material modification to such a Standard. As it did when promulgating the rule, FHFA again observes that section 4513b authorizes and distinguishes between Standards established as regulations and as guidelines and that the APA does not require guidance to be promulgated through a notice-and-comment process. As a practical matter, however, FHFA also observes that removing a Standard from the appendix to the rule will require a **Federal Register** notice, which creates the opportunity to request public comment on revocation. FHFA anticipates requesting public comment on revocation in appropriate circumstances, balancing the public interest in application of the Standard and considering other relevant, applicable, regulatory requirements or guidance, with more immediate reduction of any burden imposed by a Standard (or a provision of a Standard) that FHFA has determined is unnecessary.

III. Differences Between Banks and Enterprises

Section 1313(f) of the Safety and Soundness Act (12 U.S.C. 4513(f)), as amended by section 1201 of the Housing and Economic Recovery Act of 2008, requires the Director, when promulgating regulations relating to the Banks, to consider the differences between the Banks and the Enterprises with respect to the Banks’ cooperative ownership structure; mission of providing liquidity to members; affordable housing and community development mission; capital structure; and joint and several liability. The Director may also consider any other

⁵ In the current rule, see 12 CFR 1236.3(c). In the proposed amendments to the rule, see 12 CFR 1236.3(d).

⁶ 12 CFR 1236.3(b).

⁷ See generally *Perez v. Mortgage Bankers Ass’n*, 575 U.S. 92, (2015) (“Not all ‘rules’ must be issued through the notice-and-comment process. Section 4(b)(A) of the [Administrative Procedure Act] provides that . . . the notice-and-comment requirement ‘does not apply’ to ‘interpretative rules, general statements of policy, or rules of agency organization, procedure, or practice.’”).

⁸ 88 FR 28433, 28437 (May 4, 2023) (amending 12 CFR 1236.3(b)).

⁹ *Id.* at 28434. After FHFA initially proposed the rule and Standards in 2011, FHFA received and responded to comments on the Standards as well as the rule. At the time, commenters requested that FHFA provide an opportunity for comment on any future changes to the Standards. FHFA responded that the final rule would not require use of a notice-and-comment rulemaking process to amend the Standards, but that it did “allow [FHFA] the flexibility to seek public comment on particular changes to the guidelines, as [FHFA] deems appropriate. FHFA believes the decision . . . to seek public comment . . . is best addressed on a case-by-case basis when future changes are proposed.” 77 FR 33950, 33954 (June 8, 2012). Since 2012, FHFA has established one additional Standard as a guideline, and it did so through a notice-and-comment process. 80 FR 72327 (Nov. 19, 2015).

differences that are deemed appropriate. In preparing this final rule, the Director considered the differences between the Banks (including OF) and the Enterprises as they relate to the above factors and determined that the rule is appropriate.

IV. Regulatory Analyses

A. Paperwork Reduction Act

The final rule does not contain any information collection requirement that would require the approval of the Office of Management and Budget (OMB) under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). Therefore, FHFA has not submitted any information to OMB for review.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires that a regulation that has a significant economic impact on a substantial number of small entities, small businesses, or small organizations must include an initial regulatory flexibility analysis describing the regulation's impact on small entities. Such an analysis need not be undertaken if the agency has certified that the regulation will not have a significant economic impact on a substantial number of small entities. 5 U.S.C. 605(b). FHFA has considered the impact of the final rule under the Regulatory Flexibility Act and FHFA certifies that this final rule will not have a significant economic impact on a substantial number of small entities because the regulation applies only to the regulated entities and OF, which are not small entities for purposes of the Regulatory Flexibility Act.

C. Congressional Review Act

In accordance with the Congressional Review Act (5 U.S.C. 801 *et seq.*), FHFA has determined that this final rule is not a major rule and has verified this determination with the Office of Information and Regulatory Affairs of OMB.

List of Subjects in 12 CFR Part 1236

Administrative practice and procedure, Federal home loan banks, Government-sponsored enterprises, Office of Finance, Prudential Management and Operations Standards, Reporting and recordkeeping requirements.

Accordingly, for the reasons stated in the Preamble, FHFA amends part 1236 of chapter XII of title 12 of the Code of Federal Regulations as follows:

PART 1236—PRUDENTIAL MANAGEMENT AND OPERATIONS STANDARDS

■ 1. The authority citation for part 1236 continues to read as follows:

Authority: 12 U.S.C. 4511, 4513(a) and (f), 4513b, and 4526.

■ 2. Revise § 1236.1 to read as follows:

§ 1236.1 Purpose.

This part addresses prudential management and operations standards that are required and authorized by 12 U.S.C. 4513b, including the establishment of Standards by Federal Housing Finance Agency (FHFA) and the processes by which FHFA can notify a regulated entity or the Office of Finance of its failure to operate in accordance with a Standard and direct the regulated entity or the Office of Finance to take corrective action. This part further specifies the possible consequences if any regulated entity or the Office of Finance fails to operate in accordance with an applicable Standard or otherwise fails to comply with this part.

■ 3. Revise § 1236.2 introductory text, remove the definition of “Standards”, and add the definition of “Standard(s)” to read as follows:

§ 1236.2 Definitions.

Unless otherwise indicated, terms used in this part have the meanings that they have in part 1201 of this chapter, in the Safety and Soundness Act, 12 U.S.C. 4501 *et seq.*, or in the Bank Act, 12 U.S.C. 1421 *et seq.*

Standard(s) means any one (or more) of the prudential management and operations standards established by the Director pursuant to 12 U.S.C. 4513b(a). Standard includes the introductory statement of general responsibilities of boards of directors and senior management of the regulated entities set forth in the appendix to this part.

■ 4. Revise § 1236.3 to read as follows:

§ 1236.3 Prudential standards as regulations or guidelines.

(a) *Form.* As expressly authorized by 12 U.S.C. 4513b(a), FHFA may establish Standards as regulations or guidelines.

(b) *Standards established as guidelines.* Each Standard that has been established as a guideline is located in the appendix to this part. FHFA will provide public notice of, and seek public comment on, any Standard it plans to establish as a guideline, or on any material modification to any Standard established as a guideline. FHFA may revoke any Standard

established as a guideline at any time by order or notice. Standards established as guidelines are subject to the remedial provisions of §§ 1236.4 and 1236.5.

(c) *Standards established as regulations.* When establishing a Standard as a regulation or amending such a Standard, FHFA shall follow applicable rulemaking procedures of the Administrative Procedure Act, 12 U.S.C. 553. Standards established as regulations may be set forth as subparts or provisions of this part; or as other parts or subparts, or as provisions of such other parts or subparts, of this chapter XII of title 12. When not set forth as a subpart of this part, the regulation or any provision thereof that is a Standard shall be identified as a Standard in the body of the regulation. Standards established as regulations are subject to this part, including the remedial provisions of §§ 1236.4 and 1236.5, and to the enforcement provisions of 12 U.S.C. chapter 46, subchapter III.

(d) *Conflicts.* In the case of a direct conflict between a Standard established as a guideline and any FHFA regulation, when it is not possible to comply with both that Standard and the FHFA regulation, the FHFA regulation shall control.

■ 5. Revise § 1236.4 to read as follows:

§ 1236.4 Failure to meet a Standard; corrective plans.

(a) *Determination.* FHFA may determine, based upon an examination, inspection, or any other information, that a regulated entity or the Office of Finance has failed to meet one or more of the Standards. Failure to meet any Standard may constitute an unsafe and unsound practice for purposes of the enforcement provisions of 12 U.S.C. chapter 46, subchapter III.

(b) *Submission of corrective plan.* When a regulated entity or the Office of Finance is required to submit a corrective plan, FHFA shall inform the regulated entity or the Office of Finance of that requirement by written notice, which shall also set forth FHFA's determination that the regulated entity or the Office of Finance has failed a particular Standard or Standards. FHFA shall require a regulated entity or the Office of Finance to submit a corrective plan if FHFA determines that the regulated entity or the Office of Finance has failed to meet a Standard established as a regulation. FHFA may require a regulated entity or the Office of Finance to submit a corrective plan for failure to meet a Standard established as a guideline.

(c) *Corrective plans—(1) Contents of plan.* A corrective plan shall be in

writing and shall describe the actions the regulated entity or the Office of Finance will take to correct its failure(s) as determined by FHFA, and the time within which each action will be taken.

(2) *Filing deadline*—(i) *In general*. A regulated entity or the Office of Finance must file a corrective plan with FHFA within thirty (30) calendar days of being notified by FHFA of the requirement to file a corrective plan, unless FHFA notifies the regulated entity or the Office of Finance in writing that the plan must be filed within a different time period.

(ii) *Other plans or submissions*. If a regulated entity must file a capital restoration plan submitted pursuant to 12 U.S.C. 4622, it may submit the corrective plan required under this section as part of the capital restoration plan, subject to the deadline established in accordance with paragraph (c)(2)(i) of this section. If a regulated entity or the Office of Finance is operating under a cease-and-desist order entered into pursuant to 12 U.S.C. 4631 or 4632, or a formal or informal agreement, or must file a response to a report of examination or report of inspection, it may, with the permission of FHFA, submit the corrective plan required under this section as part of its compliance with that order, agreement, or response, subject to the deadline established in accordance with paragraph (c)(2)(i) of this section, but the corrective plan would not become a part of the order, agreement, or response. FHFA may also permit a regulated entity or the Office of Finance to submit a corrective plan required under this section as part of another type of required plan or submission by a regulated entity or the Office of Finance, as deemed appropriate by FHFA.

(d) *Amendment of corrective plan*. A regulated entity or the Office of Finance that is operating in accordance with an approved corrective plan may submit a written request to FHFA to amend the plan as necessary to reflect any changes in circumstance. Until such time that FHFA approves a proposed amendment, the regulated entity or the Office of Finance must continue to operate in accordance with the terms of the corrective plan as previously approved.

(e) *Review of corrective plans and amendments*. Within thirty (30) calendar days of receiving a corrective plan or proposed amendment to a plan, FHFA will notify the regulated entity or the Office of Finance in writing of its decision on the plan, will direct the regulated entity to submit additional information, or will notify the regulated entity in writing of any extended

deadline for review that FHFA has established.

■ 6. Amend § 1236.5 by revising the introductory text to paragraph (a), paragraph (a)(6), the introductory text to paragraph (c)(1), paragraphs (c)(1)(i), (c)(2) through (4), paragraph (d), and the introductory text to paragraph (e) to read as follows:

§ 1236.5 Failure to submit a corrective plan; noncompliance.

(a) *Remedies*. If a regulated entity or the Office of Finance fails to submit an acceptable corrective plan under § 1236.4(b), or fails in any material respect to implement or otherwise comply with an approved corrective plan, FHFA shall order the regulated entity or the Office of Finance to correct that deficiency, and may:

* * * * *

(6) Require the regulated entity or the Office of Finance to take any other action that the Director determines will better carry out the purposes of the statute by bringing the regulated entity or the Office of Finance into conformance with the Standards.

* * * * *

(c) * * *

(1) *Notice*. Except as provided in paragraph (c)(4) of this section, FHFA will notify a regulated entity or the Office of Finance in writing of FHFA's intent to issue an order requiring the regulated entity or the Office of Finance to correct its failure to submit a corrective plan or its failure in any material respect to implement or otherwise comply with an approved corrective plan. Any such notice will include:

(i) A statement that the regulated entity or the Office of Finance has failed to submit a corrective plan under § 1236.4, or has not implemented or otherwise has not complied in any material respect with an approved plan;

* * * * *

(2) *Response to notice*. A regulated entity or the Office of Finance may file a written response to a notice of intent to issue an order, which must be delivered to FHFA within fourteen (14) calendar days of the date of the notice, unless FHFA determines that a different time period is appropriate in light of the safety and soundness of the regulated entity or the Office of Finance or other relevant circumstances. The response should include:

(i) An explanation of why the regulated entity or the Office of Finance believes that the action proposed by FHFA is not an appropriate exercise of discretion;

(ii) Any recommended modification of the proposed order; and

(iii) Any other relevant information, mitigating circumstances, documentation or other evidence in support of the position of the regulated entity or the Office of Finance regarding the proposed order.

(3) *Failure to file response*. The failure of a regulated entity or the Office of Finance to file a written response within the specified time period will constitute a waiver of the opportunity to respond and will constitute consent to issuance of the order.

(4) *Immediate issuance of final order*. FHFA may issue an order requiring a regulated entity or the Office of Finance immediately to take actions to correct a Standards deficiency or to take or refrain from taking other actions pursuant to paragraph (a) of this section. Within fourteen (14) calendar days of the issuance of an order under this paragraph, or other time period specified by FHFA, a regulated entity or the Office of Finance may submit a written appeal of the order to FHFA. FHFA will respond in writing to a timely filed appeal within sixty (60) days after receiving the appeal. During this period, the order will remain in effect unless FHFA stays the effectiveness of the order.

(d) *Request for modification or rescission of order*. A regulated entity or the Office of Finance subject to an order under this part may submit a written request to FHFA for an amendment to the order to reflect a change in circumstance. Unless otherwise ordered by FHFA, the order shall continue in place while such a request is pending before FHFA.

(e) *Agency review and determination*. FHFA will respond in writing within thirty (30) days after receiving a response or amendment request, unless FHFA notifies the regulated entity or the Office of Finance in writing that it will respond within a different time period. After considering the response or amendment request from a regulated entity or the Office of Finance, FHFA may:

* * * * *

■ 7. Amend the appendix to part 1236 by:

■ a. Revising the introductory text to the appendix;

■ b. Revising the introductory text and paragraphs 1 through 8 and 10 under the undesignated heading "General Responsibilities of the Board of Directors and Senior Management";

■ c. In Standard 1, revising paragraphs 1, 4 through 14, and 16;

■ d. In Standard 2, revising paragraphs 1, 3, 5 through 7, and 11;

■ e. In Standard 8, revising paragraphs 1 through 3 and 7 through 12; and

- f. Revising Standard 10.
The revisions read as follows:

Appendix to Part 1236—Prudential Management and Operations Standards

The following provisions constitute the prudential management and operations standards established as guidelines pursuant to 12 U.S.C. 4513b(a). The General Responsibilities of the Board of Directors and Standards 1, 2, 8, and 10 apply to the Office of Finance as appropriate.

General Responsibilities of the Board of Directors and Senior Management

The following provisions address the general responsibilities of the boards of directors and senior management of the regulated entities as they relate to the matters addressed by each of the Standards, and the general responsibilities of the board of directors and senior management of the Office of Finance to the extent a particular Standard is applicable to the Office of Finance. The descriptions are not a comprehensive listing of the responsibilities of either the boards or senior management, each of whom have additional duties and responsibilities to those described in these Standards.

Responsibilities of the Board of Directors

1. With respect to the subject matter addressed by each applicable Standard, the board of directors of each regulated entity and of the Office of Finance is responsible for adopting business strategies and policies that are appropriate for the particular subject matter. The board should review all such strategies and policies periodically. It should review and approve all major strategies and policies at least annually and make any revisions that are necessary to ensure that such strategies and policies remain consistent with the overall business plan of the entity or the Office of Finance.

2. The board of directors is responsible for overseeing management of the regulated entity or the Office of Finance, which includes ensuring that management includes personnel who are appropriately trained and competent to oversee the operation of the regulated entity and the Office of Finance as it relates to the functions and requirements addressed by each applicable Standard, and that management implements the policies set forth by the board.

3. The board of directors is responsible for remaining informed about the operations and condition of the regulated entity or the Office of Finance, including operating consistently with the applicable Standards, and senior management's implementation of the strategies and policies established by the board of directors.

4. The board of directors must remain sufficiently informed about the nature and level of the regulated overall risk exposures of the entity or the Office of Finance, including, as applicable, market, credit, operational, and counterparty risk, so that it can understand the possible short- and long-term effects of those exposures on the financial health of the regulated entity, including the possible short- and long-term consequences, as applicable, to earnings,

liquidity, and economic value. The board of directors should: establish the risk tolerances of the regulated entity or the Office of Finance and provide management with clear guidance regarding the level of acceptable risks; review the entire risk management framework of the regulated entity or the Office of Finance, including policies and entity-wide risk limits at least annually; oversee the adequacy of the actions taken by senior management to identify, measure, manage, and control the risk exposures of the regulated entity or the Office of Finance; and ensure that management takes appropriate corrective measures whenever risk limit violations or breaches occur.

Responsibilities of Senior Management

5. With respect to the subject matter addressed by each applicable Standard, senior management is responsible for developing the policies, procedures and practices that are necessary to implement the business strategies and policies adopted by the board of directors. Senior management should ensure that such items are clearly written, sufficiently detailed, and are followed by all personnel. Senior management also should ensure that the regulated entity or the Office of Finance has personnel who are appropriately trained and competent to carry out their respective functions and that all delegated responsibilities are performed.

6. Senior management should ensure that the regulated entity or the Office of Finance has adequate resources, systems, and controls available to execute effectively the business strategies, policies, and procedures of the entity or the Office of Finance, including operating consistently with each of the applicable Standards.

7. Senior management should provide the board of directors with periodic reports relating to the condition and performance of the regulated entity or the Office of Finance, including the subject matter addressed by each of the applicable Standards, that are sufficiently detailed to allow the board of directors to remain fully informed about the business of the regulated entity or the Office of Finance.

8. Senior management should regularly review and discuss with the board of directors information regarding the risk exposures of the regulated entity or the Office of Finance that is sufficient in detail and timeliness to permit the board of directors to understand and assess the performance of management in identifying and managing the various risks to which the regulated entity or the Office of Finance is exposed.

Responsibilities of the Board of Directors and Senior Management

* * * * *

10. The board of directors and senior management should ensure that the overall risk profile of the regulated entity or the Office of Finance is aligned with its mission objectives.

Standard 1—Internal Controls and Information Systems

Responsibilities of the Board of Directors

1. Regarding internal controls and information systems, the board of directors of

each regulated entity and the Office of Finance should adopt appropriate policies, ensure personnel are appropriately trained and competent, approve and periodically review overall business strategies, approve the organizational structure, and assess the adequacy of senior management's oversight of this function.

* * * * *

Framework

4. Each regulated entity and the Office of Finance should have an adequate and effective system of internal controls, which should include a board approved organizational structure that clearly assigns responsibilities, authority, and reporting relationships, and establishes an appropriate segregation of duties that ensures that personnel are not assigned conflicting responsibilities.

5. Each regulated entity and the Office of Finance should establish appropriate internal control policies and should monitor the adequacy and effectiveness of its internal controls and information systems on an ongoing basis through a formal self-assessment process.

6. Each regulated entity and the Office of Finance should have an organizational culture that emphasizes and demonstrates to personnel at all levels the importance of internal controls.

7. Each regulated entity and the Office of Finance should address promptly any violations, findings, weaknesses, deficiencies, and other issues in need of remediation relating to the internal control systems.

Risk Recognition and Assessment

8. Each regulated entity and the Office of Finance should have an effective risk assessment process that ensures that management recognizes and continually assesses all material risks, including credit risk, market risk, interest rate risk, liquidity risk, and operational risk.

Control Activities and Segregation of Duties

9. Each regulated entity and the Office of Finance should have an effective internal control system that defines control activities at every business level.

10. The control activities of each regulated entity and the Office of Finance should include:

- Board of directors and senior management reviews of progress toward goals and objectives;
- Appropriate activity controls for each business unit;
- Physical controls to protect property and other assets and limit access to property and systems;
- Procedures for monitoring compliance with exposure limits and follow-up on non-compliance;
- A system of approvals and authorizations for transactions over certain limits; and
- A system for verification and reconciliation of transactions.

Information and Communication

11. Each regulated entity and the Office of Finance should have information systems

that provide relevant, accurate and timely information and data.

12. Each regulated entity and the Office of Finance should have secure information systems that are supported by adequate contingency arrangements.

13. Each regulated entity and the Office of Finance should have effective channels of communication to ensure that all personnel understand and adhere to policies and procedures affecting their duties and responsibilities.

Monitoring Activities and Correcting Deficiencies

14. Each regulated entity and the Office of Finance should monitor the overall effectiveness of its internal controls and key risks on an ongoing basis and ensure that business units and internal and external audit conduct periodic evaluations.

Applicable Laws, Regulations, and Policies

16. Each regulated entity and the Office of Finance should comply with all applicable laws, regulations, and supervisory guidance (e.g., advisory bulletins) governing internal controls and information systems.

Standard 2—Independence and Adequacy of Internal Audit Systems

Audit Committee

1. The board of directors of each regulated entity and the Office of Finance should have an audit committee that exercises proper oversight and adopts appropriate policies and procedures designed to ensure the independence of the internal audit function. The audit committee should ensure that the internal audit department includes personnel who are appropriately trained and competent to oversee the internal audit function.

3. The audit committee of the board of directors is responsible for monitoring and evaluating the effectiveness of the internal audit function of each regulated entity and the Office of Finance.

Internal Audit Function

5. Each regulated entity and the Office of Finance should have an internal audit function that provides for adequate testing of the system of internal controls.

6. Each regulated entity and the Office of Finance should have an independent and objective internal audit department that reports directly to the audit committee of the board of directors.

7. The internal audit department of each regulated entity and the Office of Finance should be adequately staffed with properly trained and competent personnel.

Applicable Laws, Regulations, and Policies

11. Each regulated entity and the Office of Finance should comply with applicable laws, regulations, and supervisory guidance (e.g., advisory bulletins) governing the independence and adequacy of internal audit systems.

Standard 8—Overall Risk Management Processes

Responsibilities of the Board of Directors

1. Regarding overall risk management processes, the board of directors is responsible for overseeing the process, ensuring senior management are appropriately trained and competent, ensuring processes are in place to identify, manage, monitor and control risk exposures (this function may be delegated to a board appointed committee), approving all major risk limits, and ensuring incentive compensation measures for senior management capture a full range of risks to the regulated entity or the Office of Finance.

Responsibilities of the Board and Senior Management

2. Regarding overall risk management processes, the board of directors and senior management should establish and sustain a culture that promotes effective risk management. This culture includes timely, accurate and informative risk reports, alignment of the overall risk profile of the regulated entity or the Office of Finance with its mission objectives, and the annual review of comprehensive self-assessments of material risks.

Independent Risk Management Function

3. A regulated entity or the Office of Finance should have an independent risk management function, or unit, with responsibility for risk measurement and risk monitoring, including monitoring and enforcement of risk limits.

Risk Measurement, Monitoring, and Control

7. Each regulated entity and the Office of Finance should measure, monitor, and control its overall risk exposures, reviewing, as applicable, market, credit, liquidity, and operational risk exposures on both a business unit (or business segment) and enterprise-wide basis.

8. Each regulated entity and the Office of Finance should have the risk management systems to generate, at an appropriate frequency, the information needed to manage risk. As applicable, such systems should include systems for market, credit, operational, and liquidity risk analysis, asset and liability management, regulatory reporting, and performance measurement.

9. Each regulated entity and the Office of Finance should have a comprehensive set of risk limits and monitoring procedures to ensure that risk exposures remain within established risk limits, and a mechanism for reporting violations and breaches of risk limits to senior management and the board of directors.

10. Each regulated entity and the Office of Finance should ensure that it has sufficient controls around risk measurement models to ensure the completeness, accuracy, and timeliness of risk information.

11. Each regulated entity and the Office of Finance should have adequate and well-tested disaster recovery and business resumption plans for all major systems and have remote facilitates to limit the impact of disruptive events.

Applicable Laws, Regulations, and Policies

12. As applicable, each regulated entity and the Office of Finance should comply with all applicable laws, regulations, and supervisory guidance (e.g., advisory bulletins) governing the management of risk.

Standard 10—Maintenance of Adequate Records

1. Each regulated entity and the Office of Finance should maintain financial records in compliance with Generally Accepted Accounting Principles (GAAP), FHFA guidelines, and applicable laws and regulations.

2. Each regulated entity and the Office of Finance should ensure that assets are safeguarded and financial and operational information is timely and reliable.

3. Each regulated entity and the Office of Finance should have a records retention program consistent with laws and corporate policies, including accounting policies, as well as personnel that are appropriately trained and competent to oversee and implement the records management plan.

4. Each regulated entity and the Office of Finance, with oversight from its board of directors, should conduct a review and approval of the records retention program and records retention schedule for all types of records at least once every two years.

5. Each regulated entity and the Office of Finance should ensure that reporting errors are detected and corrected in a timely manner.

6. Each regulated entity and the Office of Finance should comply with all applicable laws, regulations, and supervisory guidance (e.g., advisory bulletins) governing the maintenance of adequate records.

Sandra L. Thompson,
Director, Federal Housing Finance Agency.

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BILLING CODE 8070–01–P

SMALL BUSINESS ADMINISTRATION

13 CFR Parts 107 and 121

RIN 3245–AH90

Small Business Investment Company Investment Diversification and Growth; Technical Amendments and Clarifications

AGENCY: U. S. Small Business Administration.

ACTION: Direct final rule.

SUMMARY: This direct final rule clarifies and provides technical updates to the *Small Business Investment Company Investment Diversification and Growth* final rule implemented on August 17, 2023 (SBIC IDG Final Rule), which reduced barriers to program participation for new SBIC fund managers and funds investing in underserved communities and

geographies, capital intensive investments, and technologies critical to national security and economic development. In the SBIC IDG Final Rule, SBA introduced a new class of SBICs (“Accrual” SBICs) to unlock more patient capital financing for small businesses through the SBIC program and implement changes to lower financial barriers to program participation for new fund managers. This direct final rule will help SBA implement Executive Order 13985, Advancing Racial Equity and Support for Underserved Communities Through the Federal Government, by reducing financial and administrative barriers to participate in the SBIC program and modernizing the program’s license offerings to align with a more diversified set of private funds investing in underserved small businesses.

DATES: This rule is effective March 4, 2024, without further action, unless significant comment is received by February 20, 2024. If significant adverse comment is received, SBA will publish a timely withdrawal of the rule in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT:

Policy: Bailey G. DeVries, Associate Administrator of the Office of Investment and Innovation, Small Business Administration, oii.frontoffice@sba.gov, 202–941–6064. This phone number can also be reached by individuals who are deaf or hard of hearing, or who have speech disabilities, through the Federal Communications Commission’s TTY-Based Telecommunications Relay Service teletype service at 711.

Regulatory Comments/Federal Register Docket: Nathan Putnam, Office of Investment and Innovation, Small Business Administration, oii.frontoffice@sba.gov, 202–699–1746. This phone number can also be reached by individuals who are deaf or hard of hearing, or who have speech disabilities, through the Federal Communications Commission’s TTY-Based Telecommunications Relay Service teletype service at 711.

SUPPLEMENTARY INFORMATION:

I. Background Information

A. Small Business Investment Company Program

The mission of the SBIC program is to enhance small business access to capital by stimulating and supplementing “the flow of private equity capital and long-term loan funds which small-business concerns need for the sound financing of their business operations and for their growth, expansion, and modernization, and which are not available in adequate

supply.” SBA carries out this mission by licensing and monitoring privately owned and managed investment funds that raise capital from private investors and issue SBA-guaranteed Debentures to make private long-term equity and debt investments into qualifying Small Businesses.

B. Notice of Rulemaking

The following is an overview of changes made to 13 CFR part 107 as part of this Direct Final Rule to clarify and provide technical updates to the *Small Business Investment Company Investment Diversification and Growth* final rule (SBIC IDG Final Rule) implemented on August 17, 2023.

(a) *§ 107.50 Definition of terms clarification.* Clarifying the definition of Annual Charge, for certain investors clarifying the definition of Institutional Investor to eliminate the need for a “dual commitment” relative to the capital commitment of such investors and clarifying that the definition of Leverage is consistent across SBIC Debenture types.

(b) *§ 107.150 Management ownership diversity requirements clarification.*

Clarifying the exemption for non-profit entities to own more than 70 percent of the Licensee’s Regulatory Capital to facilitate capital raising efforts, particularly for funds targeting investments in underserved geographies and critical technologies.

(c) *§ 107.230 Permitted sources of Private Capital for Licensees clarification.* Clarifying that while SBICs are not restricted in the amount of investment capital that can be contributed to SBICs directly or indirectly from local, State or Federal Government entities, the extent to which such investment capital from local, State or Federal Government entities is eligible to qualify as Leverageable Capital is limited by the Small Business Investment Act of 1958, as amended (“the Act”). The capital contributed by such entities can be included in an SBIC applicant’s proposed formula to calculate management fees.

(d) *§ 107.305 Evaluation of license applicants clarification.* Clarifying that SBA does not require a “certified” track record as a part of the SBIC application process and would expect to see that a meaningful proportion of a prior SBIC fund’s institutional investor base would return to support an anticipated subsequent SBIC fund.

(e) *§ 107.503 Licensee’s adoption of an approved valuation policy technical correction.* Aligning the existing regulation with the statutory requirements.

(f) *§ 107.585 Distributions and reductions in Regulatory Capital technical correction.* Correcting the timeframe for payment of amounts due SBA by Accrual and Reinvestor Licensees making distributions other than those made solely for tax purposes.

(g) *§ 107.630 Requirement for Licensees to file financial statements with SBA (Form 468) clarification.*

Clarifying that Reinvestor SBIC Licensees must file Annual and Interim (Quarterly) Form 468s within 120 calendar days of the close of the calendar quarter.

(h) *§ 107.650 Requirement to report portfolio valuations to SBA clarification.*

Clarifying that Reinvestor SBIC Licensees must report valuations to SBA within 120 calendar days of the close of the calendar quarter.

(i) *§ 107.650 Requirement to report portfolio valuations to SBA technical correction.* Aligning the existing regulation with the statutory requirements.

(j) *§ 107.720 Small Businesses that may be ineligible for financing clarification.* Clarifying that Reinvestor SBIC Licensees may provide Equity Capital Investments to Disadvantaged Businesses that are relenders or reinvestors, including Community Development Financial Institutions (CDFIs) and Minority Deposit Institutions (MDIs). In addition to Equity Capital Investments, Reinvestor SBIC Licensees may provide long-term debt or loan financing to CDFIs and MDIs.

(k) *§ 107.720 Small Businesses that may be ineligible for financing technical correction.* SBA is expanding the exception that permits holding companies to be established by Licensees to mitigate implementation challenges for Accrual SBIC Licensees. Also, SBA is updating the regulation by including a provision that appeared in a prior rulemaking permitting SBIC Business Development Companies (BDCs) to form a blocker entity to avoid adverse tax consequences to an investor that has elected to be taxed as a registered investment company (RIC) under the Internal Revenue Code (26 U.S.C. 851(b)(2)).

(l) *§ 107.740 Portfolio diversification (“overline” limitation) technical correction.* Aligning the existing regulation with the statutory requirements.

(m) *§ 107.855 Interest rate ceiling and limitations on fees charged to Small Businesses (“Cost of Money”) technical correction.* Correcting regulations that misstate in 13 CFR 107.855(h)(2) the “Cost of Money ceiling” reference within § 107.855.

(n) § 107.1120 *General eligibility requirements for Leverage technical correction*. Correcting regulations that erroneously state in 13 CFR 107.1120(d) that SBIC Licensees are limited to \$150 million in outstanding Leverage.

(o) § 107.1130 *Leverage fees and Annual Charges clarification*. Clarifying that Annual Charges on Debentures are based on the principal amount of Debentures.

(p) § 107.1150 *Maximum amount of Leverage clarification*. Clarifying a statement from the preamble of the SBIC IDG Final Rule regarding the how SBA determines the Leverage available to Accrual SBICs and Reinvestor SBICs and how the Agency safely manages the risk of an outsized interest balance accruing.

(q) § 107.1850 *Watchlist technical correction*. Correcting regulations that misstate the formula used to calculate the Leverage Coverage Ratio.

(r) § 121.103(b) *How does SBA determine affiliation? clarification*. Clarifying that SBA does not consider the underlying fund of a Reinvestor SBIC to be the affiliate of a small business in which such underlying fund has made an equity investment.

II. Section by Section Analysis

A. Section 107.50 *Definition of Terms*

SBA seeks to clarify the definition of Institutional Investor to be consistent with rules implemented in the SBIC IDG Final Rule to provide regulatory flexibility for fund-of-fund investors that are required to be managed by SEC regulated Registered Investment Advisors. SBA considers the commitments of such fund-of-fund investors to not be of questionable collectability if the conditions set forth in the revised paragraph (1)(x) of the Institutional Investor definition are met, generally eliminating the requirement that a “dual commitment” be obtained relative to such investor’s capital commitment.

SBA seeks to correct the definition of Annual Charge and correct text added to the definition of Leverage that could inadvertently lead to Annual Charges being charged on Accrual Debenture principal and accrued interest. Consistent with existing practices for Standard Debentures, the Annual Charge on Accrual Debentures is charged on Accrual Debenture principal only.

B. Section 107.150 *Management Ownership Diversity Requirements*

This regulation identifies the SBIC ownership diversity requirements under section 302(c) of the Act. That section

requires SBIC ownership be “sufficiently diversified from and unaffiliated with the ownership of the licensee in a manner that ensures independence and objectivity in the financial management and oversight of the investments and operations of the licensee.” As an exception to the diversity ownership requirement under § 107.150(b)(1), SBA allows an investor that is a traditional investment company to own and control more than 70 percent of the Licensee’s Regulatory Capital. Such SBICs are essentially drop-down funds for that traditional investment company and are structured exclusively to pool capital from more than one source for the purpose of investing and generating profits. In the SBIC Investment Diversification and Growth rulemaking, SBA proposed also including non-profit entities to own more than 70 percent of the Licensee’s Regulatory Capital to facilitate capital raising efforts, particularly for funds targeting investments in underserved geographies and critical technologies. In the final rulemaking, SBA clarified such non-profit entities could own and control a Licensee; however, did include the proposed reforms, which were supported in public comments, for such non-profit entities to own more than 70 percent of the Licensee’s Regulatory Capital. SBA is clarifying in this rulemaking that such non-profit entities can own more than 70 percent of the Licensee’s Regulatory Capital as originally stated in the proposed rulemaking.

C. Section 107.230 *Permitted Sources of Private Capital for Licensees*

SBA seeks to clarify that while SBICs are not restricted in the amount of investment capital that can be contributed to SBICs directly or indirectly from local, State or Federal Government entities, the extent to which such investment capital from local, State or Federal Government entities is eligible to qualify as Leverageable Capital is limited by the Small Business Investment Act of 1958, as amended (“the Act”). The capital contributed by such entities can be included in an SBIC applicant’s proposed formula to calculate management fees.

D. Section 107.305 *Evaluation of License Applicants*

SBA seeks to clarify that a management team must have demonstrated investment acumen to apply for an SBIC license, as defined in § 107.305(b). SBA looks at a mosaic of factors when determining eligibility for an SBIC license and can rely upon third-

party data sources and reference checks in conjunction with the initial license application to verify management team eligibility. For clarity, SBA is adding that while a track record is required to apply for an SBIC license, a certified track record is not required and is clarifying that SBA would expect to see that a meaningful proportion, in terms of the number of institutional investors, of a prior SBIC fund’s investor base would return to support an anticipated subsequent SBIC fund.

E. Section 107.503 *Licensee’s Adoption of an Approved Valuation Policy*

SBA is correcting current regulations, which erroneously state in 13 CFR 107.503(d)(4) that SBIC Licensees must report material adverse changes within 45 days following the close of the quarter. The statutory requirement is within 30 days following the close of the quarter.

F. Section 107.585 *Distributions and Reductions in Regulatory Capital*

SBA is correcting the timeframe set forth in § 107.585(c), for both the mandatory payment of Annual Charges and accrued interest and the mandatory payment of the “SBA share” by Accrual and Reinvestor Licensees making distributions other than those made solely for tax purposes. Under the SBIC IDG Final Rule such Licensees are required to make mandatory payments on annual charges and accrued interest and the calculated SBA share of Leverage in connection with each distribution to private investors, other than a distribution approved in writing and in advance by SBA as solely for tax purposes. The SBIC IDG Final Rule provided inconsistent guidance as to the timing of such payments due to SBA. In order to reduce its risk, SBA corrects the regulation to require that each such payment to SBA be made on or before the date of the corresponding non-tax distribution to private investors.

Also, in view of the alignment of the “overline” formula of § 107.740 with the formula set forth in section 306 of the Act, SBA seeks to eliminate from § 107.585 two references to the former regulatory formula. Those references concern an “add back” of approved reductions of Regulatory Capital to the regulatory formula previously contained within § 107.740. Given that § 107.740 has now been aligned with the statutory overline formula, as to which such “add backs” are not applicable, the references within § 107.585 to such “add backs” are no longer relevant.

G. Section 107.630 Requirement for Licensees To File Financial Statements With SBA (Form 468)

SBA seeks to clarify that Reinvestor SBICs are required to file Annual Form 468 within 120 calendar days of the end of your fiscal year and Interim Form 468 within 120 calendar days of the respective quarter.

H. Section 107.650 Requirement To Report Portfolio Valuations to SBA

Consistent with the clarification in 13 CFR 107.630, SBA similarly clarifies that Reinvestor SBICs must report valuations to SBA within 120 days of the end of the fiscal year and within 120 days following the close of other reporting periods.

In addition, SBA aligns the regulatory requirement for Licensees to report material adverse changes in valuations with the statutory requirement.

I. Section 107.720 Small Businesses That May Be Ineligible for Financing

This regulation identifies small businesses that may be ineligible for financing by SBICs. Current 13 CFR 107.720(a)(2)(i) provides an exception to the limitation on investments in relenders or reinvestors in order to permit Reinvestor SBICs to provide Equity Capital Investments to underserved Small Business reinvestors (except banks, savings and loans not insured by agencies of the Federal Government, and agricultural credit companies). As part of this rulemaking, SBA is seeking to clarify its intent relative to § 107.720(a)(2)(i) by noting that Reinvestor SBIC Licensees may provide Equity Capital Investments to Disadvantaged Businesses that are relenders or reinvestors, including Community Development Financial Institutions (CDFIs) and Minority Deposit Institutions (MDIs). In addition to Equity Capital Investments, Reinvestor SBIC Licensees may provide long-term debt or loan financing to CDFIs and MDIs. SBA notes that such CDFIs and MDIs are excepted from the requirement to solely make investments or loans to eligible businesses pursuant to the requirements set forth in § 107.720(a)(2)(i).

Current regulations provide for two exceptions that allow an SBIC to structure an investment utilizing a passive small business as a pass-through. The first exception, identified in § 107.720(b)(2), permits an investment utilizing up to two passive entities, as long as substantially all of the financing proceeds are passed through to one or more active “subsidiary companies,” each of which

is an eligible small business. The second exception, identified in § 107.720(b)(3), allows a partnership SBIC to form and finance a passive, blocker entity that in turn provides financing to an active, unincorporated small business. Currently, this structure is permitted only if a direct financing of the unincorporated small business would cause at least one of the SBIC’s investors to incur Unrelated Business Taxable Income (UBTI) under section 511 of the Internal Revenue Code, which may arise from an activity engaged in by a tax-exempt organization that is not related to the tax-exempt purpose of that organization.

SBA is clarifying that the exception set forth in 13 CFR 107.720(b)(2) permits an SBIC to structure an investment utilizing additional passive small businesses as a pass through, provided that (i) all financing proceeds are passed through to one or more active “subsidiary companies,” each of which is an eligible small business, (ii) SBA has adequate information to review information appropriate to each passive small business pursuant to 13 CFR 107.720(b)(4), and (iii) SBA is able to maintain enforcement rights against each of the small businesses financed pursuant to 13 CFR 107.720(b)(2), including the active Small Business. Further, SBA is clarifying that 13 CFR 107.720(b)(3) allows the formation of a blocker entity, in the case of an SBIC that either is a BDC licensed under the Investment Company Act of 1940 or is owned by a parent BDC, to avoid adverse tax consequences to an investor that has elected to be taxed as a registered investment company under the Internal Revenue Code (26 U.S.C. 851(b)(2)). SBA believes that these changes will provide SBICs with additional flexibility investments to eligible Small Businesses and increase the flow of private capital within the SBIC program.

J. Section 107.740 Portfolio Diversification (“Overline” Limit)

SBA seeks to align the “overline” formula contained within § 107.740 with overline formula that is set forth in section 306 of the Act. Section 306 contains an aggregate limitation on the concentration of a Licensee’s combined capital (Private Capital + guaranteed Leverage), precluding a Licensee from investing combined capital in excess of a threshold determined under the statutory formula. Previously, SBA regulations contained an overline limitation that was similar to the statutory requirement though different in important respects, thus subjecting Licensees to an additional overline

requirement and potentially resulting in confusion in various circumstances. By aligning the regulation with the statute, SBA now effectively simplifies overline management and the burden of tracking the overline requirement under two separate formulae.

K. Section 107.855 Interest Rate Ceiling and Limitations on Fees Charged to Small Businesses (“Cost of Money”)

SBA seeks to correct a misstated reference by correcting 107.855(h)(2) to read as follows: “Discount the cash flows back to the first disbursement date using the Cost of Money ceiling from paragraph (c) of this section as the discount rate.”

L. Section 107.1120 General Eligibility Requirements for Leverage

SBA seeks to correct current regulations, which erroneously state in 13 CFR 107.1120(d) that SBIC Licensees are limited to \$150 million in outstanding Leverage. This provision does not reflect a change in the statutory outstanding Leverage maximum which is \$175 million for an individual Licensee and \$350 million in aggregate for SBIC Licensees that are under Common Control. Also, SBA has inserted language referring to the maximum Leverage allowed under the Act to ensure that any statutory changes are reflected in the regulations.

M. Section 107.1130 Leverage Fees and Annual Charge

SBA seeks to clarify the current regulations which are ambiguous as to the basis for which Annual Charges are calculated on outstanding Debentures. SBA clarifies the regulation by adding the word “principal” in front of “amount” in 13 CFR 107.1130(d)(1).

N. Section 107.1150 Maximum Amount of Leverage

SBA seeks to further clarify a statement from the preamble of the SBIC IDG Final Rule regarding how SBA determines the Leverage available to Accrual SBICs and Reinvestor SBICs. In the rule, SBA stated that “In order to determine the maximum amount of leverage that Accrual SBICs and Reinvestor SBICs may have outstanding, SBA will aggregate the total principal leverage plus ten years of accrued interest on such principal to determine the total Accrual Debentures that the Accrual SBIC may issue based on the statutory limitation.” SBA seeks to clarify that this aggregation is based on an estimate of potential interest which could accrue based on prevailing interest rates at the time of licensing. Furthermore, SBA seeks to clarify how

the Agency safely manages the risk of an outsized interest balance accruing by requiring Accrual Debentures to include a provision which requires the prompt payment of any interest that has accrued in excess of the limitation of SBA Leverage available at the end of each quarter. This clarification refers to the fact that SBA is performing a forecasting exercise in conjunction with other considerations during the Licensing process to ultimately make a determination on the Total Intended Leverage Commitment SBA will conditionally approve as part of the Green Light approval. It should be noted that all Total Intended Leverage Commitments and Leverage issued are bound by the statutory maxima applicable to Individual Licensees and Licensees under Common Control. (SBA may issue a subsequent Leverage Commitment which permits the Licensee to exceed the sum otherwise available under section 303(b)(2), up to an amount equal to the lesser of (a) 33 percent of the Licensee's Private Capital, and (b) the Licensee's Energy Saving Qualified Investment cost basis, subject to the limitations expressed in section 303 of the SBIC Act and its implementing regulations.)

O. Section 107.1850 Watchlist

SBA seeks to correct current regulations, which erroneously present in 13 CFR 107.1859 the formula used to calculate a metric that was among those included in the formal Licensee "Watchlist" process implemented by the SBIC IDG Final Rule to formalize monitoring practices that have existed in SBIC Program Standard Operating Procedures for several years. Among the "Watchlist triggers" described in paragraph 13 CFR 107.1850(a) was the Leverage Coverage Ratio (LCR). SBA now corrects clause 13 CFR 107.1850(a)(6) which presents the formula used to calculate LCR, which was misstated in the SBIC IDG Final Rule.

P. Section 121.103 How does SBA determine affiliation?

With the SBIC IDG Final Rule, SBA established within § 107.720(a)(2) a new type of SBIC, known as a Reinvestor SBIC, licensed to issue Accrual Debentures and approved by SBA to provide "Equity Capital Investments to underserved Small Business reinvestors (except banks, savings and loans not insured by agencies of the Federal Government, and agricultural credit companies) that make direct financings" to certain qualifying Small Businesses. With the advent of Reinvestor SBICs, questions have arisen concerning the

applicability of SBA affiliation rules to the relationship between such underserved Small Business reinvestors and the qualifying Small Businesses in which they invest. Although 13 CFR 121.103(b)(1), in current form, provides clarity as to the lack of regulatory affiliation between licensed SBICs and the Small Businesses to which they provide Financing, the SBIC IDG Final Rule failed to answer the related question of whether a Small Business reinvestor is affiliated with the qualifying Small Business in which it reinvests. SBA now modifies clause 13 CFR 121.103(b)(1) to respond to this question and resolve that no affiliation results from this relationship.

III. Compliance With Executive Orders 12866, 12988, 13132, 13563, and 13175, the Paperwork Reduction Act (44 U.S.C., Ch. 35), and the Regulatory Flexibility Act (5 U.S.C. 601–612))

A. Executive Order 12866

The Office of Management and Budget has determined that this rule is not a "significant regulatory action" under Executive Order 12866.

B. Executive Order 12988

This action meets applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden. The action does not have preemptive effect or retroactive effect.

C. Executive Order 13132

This rule does not have federalism implications as defined in Executive Order 13132. It will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in the Executive order. As such it does not warrant the preparation of a federalism assessment.

D. Executive Order 13175

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

E. Executive Order 13563

Executive Order 13563, Improving Regulation and Regulatory Review

(January 18, 2011), requires agencies to adopt regulations through a process that involves public participation, and to the extent feasible, base regulations on the open exchange of information and perspectives from affected stakeholders and the public as a whole. SBA has developed this rule in a manner consistent with these requirements, and the public will have the opportunity to provide comments prior to the effective date of this direct final rule.

F. Congressional Review Act, 5 U.S.C. 801–808

The Office of Management and Budget has determined that this is not a major rule under 5 U.S.C. 804(2).

G. Paperwork Reduction Act, 44 U.S.C., Ch. 35

SBA has determined that this rule would not impose new reporting or recordkeeping requirements under the Paperwork Reduction Act.

H. Regulatory Flexibility Act, 5 U.S.C. 601–612

The Regulatory Flexibility Act (RFA), 5 U.S.C. 601, requires administrative agencies to consider the effect of their actions on small businesses, small organizations, and small governmental jurisdictions. According to the Regulatory Flexibility Act (RFA), 5 U.S.C. 601, when an agency issues a rulemaking, it must prepare a regulatory flexibility analysis to address the impact of the rule on small entities. However, section 605 of the RFA allows an agency to certify a rule, in lieu of preparing an analysis, if the rulemaking is not expected to have a significant economic impact on a substantial number of small entities.

This rule likely will not impact a substantial number of small entities. This rulemaking is intended to update and clarify comments received in connection with prior SBA rules, and accordingly will affect only a limited population of existing and potential SBIC Licensees. Importantly, this rule does not directly impact small businesses receiving investments, nor any investors or small banks participating in the SBIC Licensee. This rulemaking regulates the relevant SBIC Licensees. The courts have held that the RFA does not require a regulatory flexibility analysis for entities not directly regulated by the agency's proposed rulemaking. Thus, SBA is not required to conduct a regulatory flexibility analysis on potential downstream benefits or costs to those entities.

Further, this rulemaking also does not have a significant economic impact on

those small entities directly regulated under this rulemaking. SBA expects the changes in this proposed rule to increase program participation, access to capital, and diversity of investment strategies. The rule does not impose any significant new compliance requirements to SBIC program participants.

Based on the foregoing, the Administrator of the SBA hereby certifies that this rulemaking will not have a significant economic impact on a substantial number of small entities.

Justification for Direct Final Rule—Administrative Procedure Act

In general, SBA publishes a rule for public comment before issuing a final rule, in accordance with the Administrative Procedure Act, 5 U.S.C. 553. The Administrative Procedure Act provides an exception to this standard rulemaking process, however, when an agency finds good cause to adopt a rule without prior public participation. 5 U.S.C. 553(b)(3)(B). The good cause requirement is satisfied when prior public participation is impracticable, unnecessary, or contrary to the public interest.

SBA is publishing this rule as a direct final rule because public participation is unnecessary. SBA views this as a non-controversial administrative action because all technical corrections and updates are consistent with public comments received throughout the SBIC IDG Final Rule rulemaking process. This rule will be effective on the date shown in the **DATES** section unless SBA receives significant adverse comment on or before the deadline for comments. Significant adverse comments are comments that provide strong justifications why the rule should not be adopted or for changing the rule. SBA does not expect to receive any significant adverse comments because these technical corrections and updates are consistent with broad stakeholder comments received during the prior SBIC IDG Final Rule rulemaking process.

If SBA receives significant adverse comment, SBA will publish a notice in the **Federal Register** withdrawing this rule before the effective date. If SBA receives no significant adverse comments, the rule will be effective 45 days after publication without further notice.

List of Subjects

13 CFR Part 107

Investment companies, Loan programs—business, Reporting and

recordkeeping requirements, Small businesses.

13 CFR Part 121

Investment companies, Loan programs—business, Reporting and recordkeeping requirements, Small businesses.

Accordingly, for the reasons stated in the preamble, SBA is implementing regulations to amend 13 CFR parts 107 and 121 as follows:

PART 107—SMALL BUSINESS INVESTMENT COMPANIES

- 1. The authority citation for part 107 continues to read as follows:

Authority: 15 U.S.C. 662, 681–687, 687b–h, 687k–m.

- 2. Amend § 107.50 by revising the definitions of Annual Charge, paragraph (1)(x) of Institutional Investor, and Leverage to read as follows:

§ 107.50 Definition of terms.

* * * * *

Annual Charge means:

Annual Charge means an annual fee on the principal amount of outstanding Debentures which is payable to SBA by Licensees, subject to the terms and conditions set forth in §§ 107.585 and 107.1130(d).

* * * * *

Institutional Investor means:

(1) * * *

(x) An entity managed by an SEC regulated Registered Investment Adviser in good standing, provided the Licensee's limited partnership agreement (or other governing agreement) contains sufficient provisions to ensure collectability.

* * * * *

Leverage means:

Leverage means financial assistance provided to a Licensee by SBA, either through the purchase or guaranty of a Licensee's Debentures, and any other SBA financial assistance evidenced by a security of the Licensee.

* * * * *

- 3. Amend § 107.150 by revising paragraph (b)(2) to read as follows:

* * * * *

(b) * * *

(2) *Exception.* An investor that is a traditional investment company, as determined by SBA, may own and control more than 70 percent of your Regulatory Capital and your Leverageable Capital. For purposes of this section, a traditional investment company must be a non-profit entity, or a professionally managed firm organized exclusively to pool capital from more than one source for the purpose of

investing in businesses that are expected to generate substantial returns to the firm's investors. In determining whether a firm is a traditional investment company for purposes of this section, SBA will also consider:

* * * * *

- 4. Amend § 107.230 by:

- a. Adding a heading to paragraph (e); and

- b. Adding paragraph (f).

The revisions read as follows:

§ 107.230 Permitted sources of Private Capital for Licensees.

* * * * *

(e) *Borrowed funds exclusion.* * * *

(f) *Public sector contributions.* The Act limits the extent to which funds invested directly or indirectly by local, State or Federal Government entities are eligible to qualify as Leverageable Capital. However, SBICs are not restricted from accepting funds invested directly or indirectly from local, State or Federal Government entities. The funds contributed by such entities may be included in an SBIC applicant's proposed formula to calculate management fees.

- 5. Amend § 107.305 by adding a sentence at the end of paragraph (b) and revising (e)(1)(iii) to read as follows:

§ 107.305 Evaluation of license applicants.

* * * * *

(b) * * * While a track record is required to apply for an SBIC license, a "certified" track record is not required.

* * * * *

(e) * * *

(1) * * *

(iii) *Consistent limited partnership (LP)-general partnership (GP) dynamics.* No new limited partner will represent ≥33 percent of the Private Capital of the licensee upon reaching final close at target fund size or hard cap. SBA would expect to see that a meaningful proportion of a prior SBIC fund's institutional investor base would return to support an anticipated subsequent SBIC fund. The most recent limited partnership agreement (LPA) of the active Licensee and all side letters will have no substantive changes for the applicant fund.

* * * * *

- 6. Amend 107.503 by revising paragraph (d)(4) to read as follows:

§ 107.503 Permitted sources of Private Capital for Licensees.

* * * * *

(d) * * *

(4) You must report material adverse changes in valuations at least quarterly,

within 30 days following the close of the quarter.

* * * * *

■ 7. Amend § 107.585 by:

- a. In paragraph (b), removing the fourth sentence;
- b. Revising the introductory text of paragraph (c), paragraph (c)(1), paragraph (c)(2) introductory text, and paragraph (c)(2)(i); and
- c. In paragraph (c)(4) removing the fifth sentence.

The revisions read as follows:

§ 107.585 Distributions and reductions in Regulatory Capital.

* * * * *

(c) *Accrual SBICs and Reinvestor SBICs.* If you are an Accrual SBIC or Reinvestor SBIC, unless you receive prior written approval from SBA to make a distribution solely to cover tax liabilities, you may only distribute as follows:

(1) *Payment of Annual Charges and accrued interest.* Prior to any non-tax distribution, you must pay any Annual Charges owed to SBA and all accrued interest on your outstanding Leverage.

(2) *Calculate SBA's share of distribution.* Prior to any non-tax distribution, you must make payments to SBA on a pro rata basis with any distributions based on your SBA Total Intended Leverage Commitment relative to your Total Private Capital Commitments, inclusive of Qualified Non-Private Funds, determined within 12 months of Licensure calculated as follows: $SBA's\ Share = \frac{Total\ Intended\ Leverage\ Commitment}{Total\ Intended\ Leverage\ Commitment + Total\ Private\ Capital\ Commitments}$ where:

(i) Total Distributions means any prior tax distributions plus the total amount of distributions, whether profit or return of capital, you intend to make after paying all accrued interest and Annual Charges;

* * * * *

- 8. Amend § 107.630 by adding a sentence at the end of paragraphs (a) introductory text and (b) to read as follows:

§ 107.630 Requirement for Licensees to file financial statements with SBA (Form 468).

(a) * * * Reinvestor SBICs must file Annual Form 468 within 120 calendar days of the end of your fiscal year.

* * * * *

(b) * * * Reinvestor SBICs must file such reports within 120 calendar days of the end of the reporting period.

* * * * *

- 9. Revise § 107.650 to read as follows:

§ 107.650 Requirement to report portfolio valuations to SBA.

You must determine the value of your Loans and Investments in accordance with § 107.503. You must report such valuations to SBA within 90 calendar days of the end of the fiscal year in the case of annual valuations, and if you are a Leveraged Licensee within 45 calendar days following the close of other reporting periods. Reinvestor SBICs must report valuations to SBA within 120 calendar days of the end of the fiscal year in the case of annual valuations, and within 120 calendar days following the close of other reporting periods. You must report material adverse changes in valuations at least quarterly, within 30 days following the close of the quarter.

■ 10. Amend § 107.720 by:

- a. Adding two sentences at the end of paragraph (a)(2)(i);
- b. Revising the first sentence of paragraph (b)(2) introductory text;
- c. Revising the fourth sentence of paragraph (b)(3) introductory text; and
- d. Revising paragraph (b)(4)(iii).

The additions and revisions read as follows:

§ 107.720 Small Businesses that may be ineligible for financing.

(a) * * *

(2) * * *

(i) * * * A Reinvestor SBIC may make Equity Capital Investments to Disadvantaged Businesses that are relenders or reinvestors, including Community Development Financial Institutions (CDFIs) and Minority Deposit Institutions (MDIs), and any such investments in CDFIs or MDIs pursuant to this section are not subject to the requirement that such CDFIs or MDIs make direct financings solely to Small Businesses. In addition to Equity Capital Investments, Reinvestor SBIC Licensees may provide long-term debt or loan financing to CDFIs and MDIs.

* * * * *

(b) * * *

(2) *Exception for pass-through of proceeds to subsidiary.* You may provide Financing directly to passive businesses, including passive businesses that you have formed, if it is a Small Business and it passes substantially all the proceeds through to (or uses substantially all the proceeds to acquire) one or more subsidiary companies, each of which is an eligible Small Business that is not passive.

* * *

(3) * * * You may form such blocker entities only if a direct Financing to such Small Businesses would cause any of your investors to incur "unrelated business taxable income" under section

511 of the Internal Revenue Code (26 U.S.C. 511) or to incur "effectively connected income" to foreign investors under sections 871 and 882 of the Internal Revenue Code (26 U.S.C. 871 and 882) or (for an investor that has elected to be taxed as a regulated investment company) receive or be deemed to receive gross income that does not qualify under section 851(b)(2) of the Internal Revenue Code (26 U.S.C. 851(b)(2)). * * *

(4) * * *

(iii) For the purposes of this part 107, each passive and non-passive business included in the Financing is a Portfolio Concern and subject to the provisions set forth in the Act. The terms of the financing must also provide SBA with access to Portfolio Concern information in compliance with this part 107, including without limitation §§ 107.600 and 107.620.

* * * * *

- 11. Revise § 107.740 to read as follows:

§ 107.740 Portfolio diversification ("Overline" limitation).

If you are a Leveraged Licensee, the aggregate amount of financings you may provide and commitments you may issue to a Small Business and its affiliates may not, without SBA's prior written approval, exceed 10 percent of the sum of:

(a) Your Private Capital; and

(b) The total amount of Leverage principal (excluding any interest which may become due or accrue at any point following the issuance of Leverage) projected to be issued in the business plan that was approved by SBA at the time you were licensed.

- 12. Amend § 107.855 by revising paragraph (h)(2) to read as follows:

§ 107.855 Interest rate ceiling and limitations on fees charged to Small Businesses ("Cost of Money").

* * * * *

(h) * * *

(2) Discount the cash flows back to the first disbursement date using the Cost of Money ceiling from paragraph (c) of this section as the discount rate.

* * * * *

- 13. Amend § 107.1120 by revising paragraph (d) to read as follows:

§ 107.1120 General eligibility requirements for Leverage.

* * * * *

(d) For any Leverage draw that would cause you and any other Licensees under Common Control to have aggregate outstanding Leverage in excess of the amount permitted under Section 303(b)(2)(A)(ii) of the Act,

which, as of June 21, 2018, is \$175,000,000, certify that none of the Licensees has a condition of Capital Impairment. See also § 107.1150(b).

■ 14. Amend § 107.1130 by revising paragraph (d)(1) introductory text to read as follows:

§ 107.1130 Leverage fees and Annual Charge.

* * * * *

(d) * * *

(1) *Debentures*. You must pay to SBA an Annual Charge, not to exceed 1.38 percent per annum, on the outstanding principal amount of your Debentures, payable under the same terms and conditions as the interest on the Debentures. For Leverage issued pursuant to Leverage commitments approved on or after October 1, 2023, the Annual Charge, established and published, shall not be less than 0.10 percent per annum, subject to the following provisions:

* * * * *

■ 15. Amend § 107.1850 by revising paragraph (a)(6) to read as follows:

§ 107.1850 Watchlist.

* * * * *

(a) * * *

(6) Your leverage coverage ratio (LCR) falls below 1.25, where LCR is calculated as ((Total Assets – Liabilities excluding SBA Leverage – Other Assets) + Unfunded Private Commitments) / Outstanding Leverage, or a Capital Impairment Percentage approaching your threshold set forth in § 107.1830.

* * * * *

PART 121—SMALL BUSINESS SIZE REGULATIONS

■ 16. The authority citation for part 121 continues to read as follows:

Authority: 15 U.S.C. 632, 634(b)(6), 636(a)(36), 662, and 694a(9); Pub. L. 116–136, Section 1114.

■ 17. Amend § 121.103 by revising paragraph (b)(1) to read as follows:

§ 121.103 How does SBA determine affiliation?

* * * * *

(b) * * *

(1) Business concerns owned in whole or substantial part either by investment companies licensed, or by development companies qualifying, under the Small Business Investment Act of 1958, as amended, or by investment companies to which a Reinvestor SBIC (within the meaning of 13 CFR 107.720(a)(2)) has provided a meaningful percentage of Equity Capital are not considered

affiliates of such investment companies or development companies.

* * * * *

Isabella Casillas Guzman,
Administrator.

[FR Doc. 2024–00559 Filed 1–18–24; 8:45 am]

BILLING CODE 8026–09–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 31526; Amdt. No. 4095]

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

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

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

DATES: This rule is effective January 19, 2024. The compliance date for each SIAP, associated Takeoff Minimums, and ODP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of January 19, 2024.

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

For Examination

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

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

3. The office of Aeronautical Information Services, 6500 South

MacArthur Blvd., Oklahoma City, OK 73169 or,

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

Availability

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

FOR FURTHER INFORMATION CONTACT:

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

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

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

the airport and its location, the procedure, and the amendment number.

Availability and Summary of Material Incorporated by Reference

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

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

The Rule

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

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

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

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

amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Lists of Subjects in 14 CFR Part 97

Air traffic control, Airports, Incorporation by reference, Navigation (air).

Issued in Washington, DC, on January 5, 2024.

Thomas J. Nichols,

Manager, Aviation Safety, Flight Standards Service, Standards Section, Flight Procedures & Airspace Group, Flight Technologies & Procedures Division.

Adoption of the Amendment

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

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

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

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

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

Effective 22 February 2024

North Vernon, IN, OVO, RNAV (GPS) Y RWY 23, Amdt 1
Weedsport, NY, B16, RNAV (GPS) RWY 28, Orig-A, CANCELED

Effective 21 March 2024

Clinton, AR, 2A2, RNAV (GPS) RWY 5, Amdt 1E
Clinton, AR, 2A2, RNAV (GPS) RWY 23, Amdt 1E
San Luis Obispo, CA, SBP, ILS OR LOC RWY 11, Amdt 3
San Luis Obispo, CA, SBP, LOC RWY 11, Orig-C, CANCELED
Canon, GA, 18A, RNAV (GPS) RWY 8, Orig-C
Canon, GA, 18A, Takeoff Minimums and Obstacle DP, Amdt 1
Reserve, LA, KAPS, RNAV (GPS) RWY 17, Amdt 1B
Reserve, LA, KAPS, RNAV (GPS) RWY 35, Amdt 1B
Reserve, LA, KAPS, VOR RWY 35, Amdt 1B
Norwood, MA, KOWD, Takeoff Minimums and Obstacle DP, Amdt 9
Dowagiac, MI, C91, RNAV (GPS) RWY 27, Orig-B
Hibbing, MN, KHIB, ILS OR LOC RWY 13, Amdt 1B
Hibbing, MN, KHIB, ILS OR LOC RWY 31, Amdt 13B
Hibbing, MN, KHIB, RNAV (GPS) RWY 4, Orig-B

Hibbing, MN, KHIB, RNAV (GPS) RWY 13, Amdt 1D
Hibbing, MN, KHIB, RNAV (GPS) RWY 22, Orig-B
Hibbing, MN, KHIB, RNAV (GPS) RWY 31, Amdt 1C
Hutchinson, MN, KHCD, VOR RWY 33, Amdt 3C, CANCELED
Wayne, NE, LCG, RNAV (GPS) RWY 18, Amdt 2C
Wayne, NE, LCG, RNAV (GPS) RWY 36, Amdt 2D
Danville, PA, 8N8, VOR-A, Orig-A, CANCELED
Harrisburg, PA, MDT, ILS OR LOC RWY 13, ILS RWY 13 (SA CAT I), ILS RWY 13 (CAT II), ILS RWY 13 (CAT III), Amdt 3
Myrtle Beach, SC, MYR, ILS OR LOC RWY 18, ILS RWY 18 (SA CAT I), ILS RWY 18 (SA CAT II), Amdt 6A
Myrtle Beach, SC, MYR, RNAV (GPS) RWY 18, Amdt 4C
Myrtle Beach, SC, MYR, RNAV (GPS) RWY 36, Amdt 4B
Covington, TN, M04, RNAV (GPS) RWY 1, Amdt 1
Covington, TN, M04, RNAV (GPS) RWY 19, Orig
Millington, TN, 2M8, Takeoff Minimums and Obstacle DP, Amdt 2
Orange, TX, KOR, VOR/DME RWY 22, Amdt 2A, CANCELED
Martinsville, VA, MTN, RNAV (GPS) RWY 31, Amdt 3B

[FR Doc. 2024–00966 Filed 1–18–24; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 31527; Amdt. No. 4096]

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

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

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

DATES: This rule is effective January 19, 2024. The compliance date for each SIAP, associated Takeoff Minimums, and ODP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of January 19, 2024.

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

For Examination

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

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

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

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

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

Availability

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

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: This rule amends 14 CFR part 97 by amending the referenced SIAPs. The complete regulatory description of each SIAP is listed on the appropriate FAA Form 8260, as modified by the National Flight Data Center (NFDC)/Permanent Notice to Air Missions (P-NOTAM), and is incorporated by reference under 5 U.S.C. 552(a), 1 CFR part 51, and 14 CFR 97.20. The large number of SIAPs, their complex nature, and the need for

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

Availability and Summary of Material Incorporated by Reference

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

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

The Rule

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

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

The circumstances that created the need for these SIAP and Takeoff Minimums and ODP amendments require making them effective in less than 30 days.

Because of the close and immediate relationship between these SIAPs, Takeoff Minimums and ODPs, and safety in air commerce, I find that notice and public procedure under 5 U.S.C.

553(b) are impracticable and contrary to the public interest and, where applicable, under 5 U.S.C. 553(d), good cause exists for making these SIAPs effective in less than 30 days.

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

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Incorporation by reference, Navigation (air).

Issued in Washington, DC, on January 5, 2024.

Thomas J. Nichols,

Manager, Aviation Safety, Flight Standards Service, Standards Section, Flight Procedures & Airspace Group, Flight Technologies & Procedures Division.

Adoption of the Amendment

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

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

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

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

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

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

* * * *Effective Upon Publication*

AIRAC date	State	City	Airport name	FDC No.	FDC date	Procedure name
2/22/24	TX	Denton	Denton Enterprise	3/0199	12/12/23	RNAV (GPS) RWY 18L, Orig.
2/22/24	WA	Moses Lake	Grant County Intl	3/1765	11/6/23	NDB RWY 32R, Amdt 17B.
2/22/24	KY	Bardstown	Samuels Fld	3/2136	11/16/23	RNAV (GPS) RWY 3, Amdt 1A.
2/22/24	KY	Bardstown	Samuels Fld	3/2138	11/16/23	RNAV (GPS) RWY 21, Amdt 1A.
2/22/24	KY	Bardstown	Samuels Fld	3/2142	11/16/23	VOR RWY 3, Amdt 1.
2/22/24	OR	Medford	Rogue Valley Intl—Medford	3/2772	11/6/23	VOR/DME RWY 14, Amdt 5B.
2/22/24	OR	John Day	Grant County Rgnl/Ogilvie Fld	3/3840	11/6/23	RNAV (GPS) Z RWY 9, Orig—D.
2/22/24	ND	Lakota	Lakota Muni	3/5790	11/16/23	RNAV (GPS) RWY 33, Orig—A.
2/22/24	FL	Orlando	Orlando Intl	3/6102	12/19/23	RNAV (GPS) RWY 17R, Orig—D.

[FR Doc. 2024–00967 Filed 1–18–24; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9987]

RIN 1545–BK95

Update to Minimum Present Value Requirements for Defined Benefit Plan Distributions

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document sets forth final regulations providing guidance relating to the minimum present value requirements applicable to certain defined benefit pension plans. These regulations provide guidance on changes made by the Pension Protection Act of 2006 to the prescribed interest rate and mortality table and other guidance, including rules regarding the treatment of preretirement mortality discounts and Social Security level income options. These regulations affect participants, beneficiaries, sponsors, and administrators of defined benefit pension plans.

DATES:

Effective date: These regulations are effective on January 19, 2024.

Applicability date: These regulations generally apply to distributions with annuity starting dates that occur on or after October 1, 2024.

FOR FURTHER INFORMATION CONTACT:

Diane S. Bloom or Linda S.F. Marshall at (202) 317–6700 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

Section 401(a)(11) of the Internal Revenue Code (Code) provides rules that a defined benefit plan must satisfy with respect to a vested participant in order to be a qualified plan under

section 401(a). Under those rules, except as provided under section 417: (1) if the participant survives to the annuity starting date, the accrued benefit payable to the participant must be provided in the form of a qualified joint and survivor annuity (QJSA); and (2) if the participant dies before the annuity starting date and has a surviving spouse, the plan must provide a qualified preretirement survivor annuity (QPSA) to the surviving spouse.

Under section 417(e)(1), a plan may provide that the present value of a QJSA or a QPSA will be distributed immediately if that present value does not exceed the amount that may be distributed without the participant's consent under section 411(a)(11).¹ Under section 417(e)(2), if the present value of the QJSA or the QPSA exceeds that amount, then a plan may immediately distribute the present value of the QJSA or the QPSA only if the participant and the spouse of the participant (or, if the participant has died, the surviving spouse) consent in writing to the distribution.

Section 417(e)(3)(A) provides that the present value of the QJSA or QPSA must not be less than the present value calculated by using the applicable mortality table and the applicable interest rate.²

Section 417(e)(3)(B), as amended by section 302 of the Pension Protection Act of 2006, Public Law 109–280, 120 Stat. 780 (PPA '06), provides that the term “applicable mortality table” means a mortality table, modified as appropriate by the Secretary, based on the mortality table specified for the plan year under section 430(h)(3)(A) of the Code (without regard to section 430(h)(3)(C) or (D)).

Section 417(e)(3)(C), as amended by section 302 of PPA '06, provides that the term “applicable interest rate” means

¹ Section 411(a)(11)(A) generally provides that if the present value of a participant's nonforfeitable accrued benefit exceeds \$7,000 (\$5,000 for distributions made on or before December 31, 2023), then the benefit may not be distributed immediately without the participant's consent.

² Under section 411(a)(11)(B), the present value that is used to apply the rules of section 411(a)(11) is calculated using the rules of section 417(e)(3).

the adjusted first, second, and third segment rates applied under rules similar to the rules of section 430(h)(2)(C) of the Code for the month before the date of the distribution or such other time as the Secretary may prescribe by regulations. However, for purposes of section 417(e)(3), these rates are determined without regard to the segment rate stabilization rules of section 430(h)(2)(C)(iv). In addition, under section 417(e)(3)(D), these rates are determined using the average yields for a month, rather than the 24-month average used under section 430(h)(2)(D).

Section 411(a)(13), as added by section 701(b) of PPA '06, provides that an “applicable defined benefit plan,” as defined by section 411(a)(13)(C) of the Code, is not treated as failing to meet the requirements of section 417(e) with respect to accrued benefits derived from employer contributions solely because the present value of a participant's accrued benefit (or any portion thereof) may be, under the terms of the plan, equal to the amount expressed as the hypothetical account balance or as an accumulated percentage of such participant's final average compensation.

The Department of the Treasury (Treasury Department) and the IRS issued final regulations under section 417 relating to the QJSA and QPSA requirements in 1988 (53 FR 31854, August 22, 1988), and amended those regulations in 1998 (63 FR 16898, April 3, 1998), to reflect changes to section 417(e)(3) enacted by the Retirement Protection Act of 1994, Subtitle F of Title VII of the Uruguay Round Agreements Act, Public Law 103–465, 108 Stat. 4809 (RPA '94). Section 1.417(e)–1 was further amended in 2016 (81 FR 62359, September 9, 2016) to permit defined benefit plans to bifurcate a benefit that is paid partly in the form of an annuity and partly in a more accelerated form and to apply the requirements of section 417(e)(3) only to the accelerated portion of the distribution. However, § 1.417(e)–1 was not updated at that time to reflect changes made by PPA '06.

Under § 1.417(e)–1(d)(1), a defined benefit plan generally must provide that the present value of any accrued benefit and the amount (subject to sections 411(c)(3) and 415) of any distribution, including a single sum, may not be less than the amount calculated using the applicable interest rate and the applicable mortality table. In addition, under § 1.417(e)–1(d)(1), the present value of any optional form of benefit may not be less than the present value of the normal retirement benefit determined in accordance with the preceding sentence.

Section 1.417(e)–1(d)(6) provides an exception from the minimum present value requirements of section 417(e) and § 1.417(e)–1(d) for certain distributions. This exception applies to the amount of a distribution paid in the form of an annual benefit that either does not decrease during the life of the participant (or, in the case of a QPSA, the life of the participant's spouse), or that decreases during the life of the participant merely because of (1) the death of the survivor annuitant (but only if the reduction is to a level not below 50 percent of the annual benefit payable before the death of the survivor annuitant), or (2) the cessation or reduction of Social Security supplements or qualified disability benefits.

Section 1.401(a)–20 provides rules regarding the survivor annuity requirements of sections 401(a)(11) and 417. Section 1.401(a)–20, Q&A–16, provides that, in the case of a married participant, the QJSA must be at least as valuable as any other optional form of benefit payable under the plan at the same time. Section 1.401(a)–20, Q&A–16 does not specify a particular actuarial basis for applying this requirement; therefore, this requirement may be satisfied using any set of reasonable actuarial assumptions. In addition, § 1.401(a)–20, Q&A–16 provides that a plan does not fail to satisfy the at-least-as-valuable requirement merely because the amount payable under an optional form of benefit that is subject to the minimum present value requirement of section 417(e)(3) is calculated using the applicable interest rate (and, for periods when required, the applicable mortality table) under section 417(e)(3).

Under section 401(a)(7), a plan is not a qualified plan unless the plan satisfies the requirements of section 411. Section 411(d)(6)(A) provides that a plan is treated as not satisfying the requirements of section 411 if it is amended to reduce accrued benefits (subject to certain exceptions). For this purpose, section 411(d)(6)(B) provides that a plan amendment is treated as

impermissibly reducing accrued benefits if it has the effect of eliminating or reducing an early retirement benefit or a retirement-type subsidy, or eliminating an optional form of benefit, with respect to benefits attributable to service before the amendment. However, the last sentence of section 411(d)(6)(B) provides that the Secretary may by regulations provide that section 411(d)(6)(B) does not apply to a plan amendment that eliminates an optional form of benefit (other than a plan amendment that has the effect of eliminating or reducing an early retirement benefit or a retirement-type subsidy).

Notice 2007–81, 2007–2 CB 899, provides guidance on the applicable interest rate. Rev. Rul. 2007–67, 2007–2 CB 1047, provides guidance on the applicable mortality table³ and the timing rules that apply to the determination of the applicable interest rate under section 417(e)(3)(C) and the applicable mortality table under section 417(e)(3)(B).

Sections 203(e), 204(g), and 205(g) of the Employee Retirement Income Security Act of 1974, Public Law 93–406, 88 Stat. 829, as amended (ERISA), provide rules that are parallel to Code sections 411(a)(11), 411(d)(6), and 417(e), respectively. Under section 101 of Reorganization Plan No. 4 of 1978, 5 U.S.C. App., as amended, the Secretary of the Treasury has interpretive jurisdiction over the subject matter addressed in these regulations for purposes of ERISA, as well as the Code. Thus, these regulations apply for purposes of the Code and the corresponding provisions of ERISA.

In *West v. AK Steel Corporation Retirement Accumulation Pension Plan*, 484 F.3d 395, 411 (6th Cir. 2007), cert. denied 555 U.S. 1097 (2009), the court held that a preretirement mortality discount could not be used in the computation of the present value of a participant's single-sum distribution under a cash balance plan if the death benefit under the plan was equal in value to the participant's accrued benefit under the plan. The court found that, if a participant's beneficiary is entitled to the participant's entire accrued benefit upon the participant's death before attainment of normal retirement age, the use of a mortality

discount for the period before normal retirement age would result in a partial forfeiture of benefits in violation of the ERISA vesting rules that correspond to the rules of section 411(a). *Id.* See also *Berger v. Xerox Retirement Income Guaranty Plan*, 231 F.Supp.2d 804, 814 (S.D. Ill. 2002), modified and affirmed, 338 F.3d 755, 764 (7th Cir. 2003) (holding that use of a preretirement mortality discount was not warranted in determining participants' normal retirement benefits payable under plan); *Crosby v. Bowater, Inc. Ret. Plan*, 212 FRD. 350, 362 (W.D. Mich. 2002), rev'd on other grounds, 382 F.3d 587 (6th Cir. 2004), cert. denied 544 U.S. 976 (2005) (holding that accrued benefits include not only retirement benefits themselves, but also death benefits which are directly related to the value of the retirement benefits); and *McCutcheon v. Colgate-Palmolive Co.*, 62 F.4th 674 (2nd Cir. 2023) (holding that a preretirement mortality factor may not be applied to calculate the value of a participant's accrued benefit previously distributed from a cash-balance plan for purposes of determining a residual annuity). In *Stewart v. AT&T Inc.*, 354 Fed. App'x. 111, 118 (5th Cir. 2009), however, the court held that a preretirement mortality discount was appropriately applied to determine a single-sum distribution under a traditional defined benefit plan. The court distinguished *AK Steel* and *Berger* on the basis that the plans at issue in those cases did not provide for a forfeiture of the accrued benefit on the death of the participant before retirement, whereas the plan at issue in *Stewart* provided for such a forfeiture.

Proposed regulations that would update the regulations under section 417(e) and make certain clarifying changes were published in the **Federal Register** on November 25, 2016 (81 FR 85190). Comments were received on the proposed regulations, and a public hearing was held on March 7, 2017. After consideration of the comments, the proposed regulations are adopted by this Treasury decision with certain changes described in the section of this preamble entitled "Summary of Comments and Explanation of Revisions."

Summary of Comments and Explanation of Revisions

1. Overview

These regulations amend the existing regulations under section 417(e) regarding the minimum present value requirements of section 417(e)(3) in several respects. Specifically, these regulations update § 1.417(e)–1 to reflect

³ Notice 2008–85, 2008–2 CB 905, Notice 2013–49, 2013–32 IRB 127, Notice 2015–53, 2015–33 IRB 190, Notice 2016–50, 2016–38 IRB 371, Notice 2017–60, 2017–43 IRB 365, Notice 2018–2, 2018–2 IRB 281, Notice 2019–26, 2019–15 IRB 943, Notice 2019–67, 2019–52 IRB 1510, Notice 2020–85, 2020–51 IRB 1645, Notice 2022–22, 2022–20 IRB 1057, and Notice 2023–73, 2023–45 IRB 1232, set forth the section 417(e)(3) applicable mortality tables for 2009 through 2024.

changes to sections 411(a) and 417(e) made by PPA '06 and to eliminate certain obsolete provisions. These regulations also set forth other updates and clarifying changes.

2. Updates To Reflect Statutory Changes

These regulations update the existing regulations to reflect the statutory changes made by PPA '06, including the new interest rates and mortality tables set forth in section 417(e)(3) and the exception from the valuation rules for certain applicable defined benefit plans set forth in section 411(a)(13). These regulations clarify that, for purposes of section 417(e)(3), the interest rates that are published by the Commissioner are to be used without further adjustment. In addition, these regulations eliminate obsolete provisions relating to the transition from pre-1995 law to the interest rates and mortality assumptions under section 417(e)(3) as modified by RPA '94.

3. Treatment of Preretirement Mortality

These regulations adopt the rules set forth in the proposed regulations relating to the treatment of preretirement mortality discounts in determining the minimum present value of accrued benefits. Those rules address the issue raised by *AK Steel* and *Berger* of whether a plan that provides a death benefit equal in value to the accrued benefit may apply a preretirement mortality discount for the probability of death when determining the amount of a single-sum distribution.

Section 411(a) sets forth rules limiting the forfeiture of accrued benefits. Under section 411(a)(1), an employee's rights in the accrued benefit derived from employee contributions must be nonforfeitable. In addition, an employee's rights in the accrued benefit derived from employer contributions must become nonforfeitable at least as quickly as under one of the vesting schedules specified in section 411(a)(2). Section 411(a)(3)(A) provides that a right to an accrued benefit derived from employer contributions is not treated as forfeitable solely because the plan provides that it is not payable if the participant dies.

Section 411(a)(7)(A)(i) defines a participant's accrued benefit under a defined benefit plan as the employee's accrued benefit determined under the plan and, except as provided in section 411(c)(3), expressed in the form of an annual benefit commencing at normal retirement age. Section 1.411(a)–7(a)(1) provides that the term “accrued benefit” refers only to pension or retirement benefits. Consequently, accrued benefits do not include ancillary benefits not

directly related to retirement benefits, such as incidental death benefits.

A death benefit under a defined benefit plan that is payable if the participant dies before attaining normal retirement age and before benefits commence is not part of the participant's accrued benefit within the meaning of section 411(a)(7) and, accordingly, the nonforfeiture rules of section 411(a) do not apply to this type of death benefit. This is the case even if the amount of the death benefit is the same as the amount the participant would have received if, instead of dying, the participant had separated from service and elected to receive an immediate distribution. Moreover, such an ancillary death benefit can be eliminated by plan amendment without violating the anti-cutback rule of section 411(d)(6).

Consistent with this analysis, section 417(e) does not require ancillary death benefits (that is, a death benefit that is not part of the accrued benefit) to be taken into account in the calculation of the minimum present value of the accrued benefit. Accordingly, under the proposed regulations, the probability of death under the applicable mortality table generally is taken into account for purposes of determining the minimum amount of a lump sum distribution under the plan that is equal to the present value of the accrued benefit (or the optional form of benefit, if applicable) under section 417(e)(3), and that minimum amount is not required to include the present value of the death benefits provided under the plan (other than a death benefit that is part of the accrued benefit or part of the optional form of benefit for which present value is determined). Commenters generally supported this rule in the proposed regulations, and it is included in the final regulations at § 1.417(e)–1(d)(2)(ii)(A).⁴

Some commenters raised an issue regarding the effect of the rule on plan designs under which the probability of death is not taken into account in determining the amount of a single-sum distribution because the plan provides a death benefit equal in value to the

present value of the accrued benefit.⁵ These commenters expressed concern that this type of plan design might violate the requirement of § 1.401(a)–20, Q&A–16, that, for a married participant, the QJSA must be at least as valuable as any other optional form of benefit payable under the plan at the same time, and would not be eligible for the exception that applies to an optional form of benefit that is calculated in accordance with the requirements of section 417(e)(3) (because disregarding the probability of death before normal retirement age in calculating the amount of a distribution in an optional form of benefit to which section 417(e)(3) applies would increase the present value of that distribution above the minimum present value required under section 417(e)(3)).

The Treasury Department and the IRS did not intend for the rule requiring the probability of death to be taken into account for purposes of determining minimum present value to prohibit this plan design. Accordingly, these regulations expand eligibility for the exception to the rule under § 1.401(a)–20, Q&A–16, for certain optional forms of benefit. The existing exception under § 1.401(a)–20, Q&A–16, applies to an optional form of benefit that is subject to the requirements of section 417(e)(3) and is calculated using the applicable interest rate and the applicable mortality table. Under the expanded eligibility for that exception provided for in § 1.417(e)–1(d)(2)(ii)(C)(1), the amount payable under an optional form of benefit is treated as calculated using the applicable interest rate and applicable mortality table under section 417(e)(3) (and therefore is eligible for this exception) even if the amount payable is calculated taking into account both the probability of death before retirement and any death benefit under the plan.

These regulations also adopt the rule under the proposed regulations under which, for purposes of determining the present value under section 417(e)(3) with respect to the portion of the accrued benefit derived from employee contributions (the employee-provided accrued benefit) that is computed in accordance with the rules of section 411(c)(2), the probability of death before the assumed commencement date may not be taken into account. This rule is different from the rule that applies to the portion of the accrued benefit

⁴ Neither the proposed regulations nor these regulations address the applicability of a preretirement mortality adjustment in determining the actuarial equivalent of a past distribution for purposes of offsetting that actuarial equivalent against future distributions. *But see McCutcheon*, which concerned the application of a preretirement mortality adjustment to calculate the actuarial equivalent of previously distributed benefits for purposes of determining whether the plan's calculation of a residual annuity resulted in the forfeiture of a participant's accrued benefit.

⁵ These commenters noted that disregarding the probability of death in these circumstances generates the same present value as is generated by taking into account the probability of death and including the value of the death benefit in the single-sum distribution.

derived from employer contributions (the employer-provided accrued benefit) because an employee's rights in the employee-provided accrued benefit are nonforfeitable under section 411(a)(1), and the exception for death under section 411(a)(3)(A) to the nonforfeitable of the employer-provided accrued benefit does not apply to the employee-provided accrued benefit.

These regulations include an example to illustrate the application of the minimum present value requirements of section 417(e)(3) in the case of a single-sum distribution of a participant's entire accrued benefit that consists of both the employee-provided accrued benefit and the employer-provided accrued benefit. Consistent with the rules in these regulations, the example illustrates that a single-sum distribution of the participant's entire accrued benefit in this case must be no less than the sum of the minimum present value of the employee-provided accrued benefit, determined under section 417(e)(3) (applying the special rules set forth in the preceding paragraph), and the minimum present value of the employer-provided accrued benefit, determined under section 417(e)(3).

Note that Rev. Rul. 89-60, 1989-1 CB 113 (as corrected by Announcement 89-65, 1989-21 IRB 33), provides that it is sufficient for a single-sum distribution to equal the greater of: (1) the minimum present value of the employee-provided accrued benefit (determined using the actuarial assumptions specified in section 411(c)(2) and Rev. Rul. 76-47, 1976-1 CB 109, taking into account the principle illustrated in Rev. Rul. 78-202, 1978-1 CB 124), and (2) the minimum present value of the participant's entire accrued benefit using plan assumptions subject to the interest rate limitation of section 417(e). The determination under Rev. Rul. 89-60 of these minimum present values does not reflect the specification in 1994 of a mortality assumption in section 417(e)(3)(B).⁶ Several commenters noted that some plan sponsors, in the absence of updated guidance following the 1994 amendment to section 417(e), have applied a preretirement mortality discount to both the employer-provided and employee-provided portions of the accrued benefit. These regulations modify and supersede the guidance in Rev. Rul. 89-60 to the extent the revenue ruling is inconsistent with these regulations.

Several commenters raised concerns that the prohibition on taking preretirement mortality into account in

determining the present value of the employee-provided accrued benefit would require a redetermination of a participant's remaining accrued benefit if the participant had received a partial distribution in the past. As discussed in the "Applicability Dates" section of this preamble, these regulations do not change the results of calculations that were made in accordance with the rules that applied before the applicability date of these regulations. Therefore, the regulations would not require the redetermination of a participant's remaining accrued benefit in such a case.

One commenter observed that some employers would prefer not to use different factors for the employer-provided portion of a benefit and the employee-provided portion of a benefit (and accordingly would like to determine the full amount of a single-sum distribution using the factor required to be used for the employee-provided portion of the benefit). A single-sum distribution determined in this manner would be greater than the minimum single-sum distribution that would satisfy section 417(e)(3) (and therefore would not be eligible for the exception to the requirement under § 1.401(a)-20, Q&A-16). To address this concern, these regulations provide a second expansion of eligibility to use that exception. Under this rule (at § 1.417(e)-1(d)(2)(ii)(C)(2)), the amount payable under an optional form of benefit is treated as calculated using the applicable interest rate and applicable mortality table under section 417(e)(3) (and therefore is eligible for the exception to § 1.401(a)-20, Q&A-16), even if, under the plan, the present value factor used for the employer-provided portion of the benefit is the present value factor that is required to be used for the employee-provided portion of the benefit (that is, a present value factor that does not take into account preretirement mortality).

Some commenters raised concerns about the implications of the rule that the probability of death is taken into account in determining minimum present value for distributions commencing after normal retirement age. Section 1.417(e)-1(d)(1)(i)(A) provides that, for a distribution commencing after normal retirement age, the minimum present value under section 417(e)(3) is determined based on the immediate annuity rather than the accrued benefit payable as of normal retirement age. However, the extent to which the probability of death is taken into account in determining the annuity commencing after normal retirement age that is actuarially equivalent to the

accrued benefit commencing at normal retirement age is an issue that arises under section 411(a), rather than under section 417(e)(3), and is expected to be addressed in future proposed regulations under section 411(a).⁷

4. Social Security Level Income Options

The proposed regulations address the applicability of the minimum present value requirements of section 417(e)(3) to a Social Security level income option (SSLIO). An SSLIO is an optional form of benefit (within the meaning of section 411(d)(6)(B) and § 1.411(d)-3(g)(6)(ii)) under which a participant's accrued benefit is paid in the form of an annuity for the life of the participant, with additional temporary annuity payments in earlier years, before an assumed Social Security commencement age, to provide the participant with approximately level retirement income when the estimated Social Security payments are taken into account.

As noted in the Background section of this preamble, § 1.417(e)-1(d)(6) provides that the minimum present value requirements of section 417(e)(3) do not apply to the amount of a distribution paid in the form of an annual benefit that does not decrease during the life of the participant, or that decreases during the life of the participant merely because of the death of the survivor annuitant or the cessation or reduction of Social Security supplements or qualified disability benefits. A Social Security supplement is defined in § 1.411(a)-7(c)(4) as a benefit for plan participants that both commences and terminates before the age when participants are entitled to old-age insurance benefits, unreduced on account of age, under title II of the Social Security Act (42 U.S.C. Chapter 7, subchapter II), as amended, and does

⁷ The preamble to the proposed regulations requested comments on the issue of whether, in the case of a plan that provides a subsidized annuity payable upon early retirement and determines a single-sum distribution as the present value of the early retirement annuity, the present-value determination should be required to be calculated using the applicable interest rate and the applicable mortality table applied to the early retirement annuity. See *Rybarczyk v. TRW*, 235 F.3d 975, 983 (6th Cir. 2000) (an early retirement single-sum distribution option that was determined based on the early retirement annuity was not required to be calculated using the section 417(e) factors, provided that the lump sum was at least as great as the present value of the deferred annuity determined using the section 417(e) factors); but see *Costantino v. TRW*, 13 F.3d 969, 979 (6th Cir. 1994) (benefit distributions must comply with the valuation rule of § 1.411(a)-11(a)(2)). A number of comments were received on this issue, many of which noted that the topic is also addressed in § 1.411(a)-11(a)(2). These comments will be considered in connection with the development of proposed regulations under section 411(a), rather than in these regulations under section 417(e).

⁶ See section 767 of RPA '94.

not exceed those old-age insurance benefits. A Social Security supplement (other than a QSUPP as defined in § 1.401(a)(4)–12) is an ancillary benefit within the meaning of § 1.411(d)–3(g)(2) that is not a section 411(d)(6) protected benefit.

Because the periodic payments under an SSLIO decrease during the lifetime of the participant and the decrease is not the result of the cessation of an ancillary Social Security supplement, § 1.417(e)–1(d)(6) does not provide an exception from the minimum present value requirements of section 417(e)(3) for this form of benefit. The proposed regulations included an example illustrating the application of the minimum present value requirements of section 417(e)(3) to an SSLIO. Commenters expressed a variety of views regarding this example. One commenter stated that it is reasonable to apply the minimum present value requirements to an SSLIO, while another commenter maintained that the minimum present value requirements should not apply to any optional forms of benefit other than a single-sum distribution. Some commenters suggested that the minimum present value requirements should apply only to the determination of the temporary annuity payments under an SSLIO and that the implicit bifurcation rule of § 1.417(e)–1(d)(7)(ii)(B) should be expanded to permit bifurcation of that option into a temporary annuity portion and a remaining accrued benefit.

The Treasury Department and the IRS believe that it is appropriate to apply the rules of section 417(e)(3) to an SSLIO because, when a participant's lifetime benefit is paid in that form, a portion of those benefits (which may be a substantial portion of the participant's lifetime benefits) is accelerated and paid over a short period of time (that is, until assumed Social Security retirement age). Nevertheless, the Treasury Department and the IRS agree with those commenters who suggested that it is appropriate to permit a plan to satisfy section 417(e)(3) by implicitly bifurcating the participant's benefit payable in the form of an SSLIO into a temporary annuity portion and a remaining annuity benefit. As a result, the regulations include a new implicit bifurcation rule for an SSLIO at § 1.417(e)–1(d)(7)(ii)(C).

Under the new implicit bifurcation rule, the plan satisfies the minimum present value requirements of section 417(e)(3) with respect to the temporary annuity portion of an SSLIO if the plan satisfies two minimum requirements with respect to the remaining annuity benefit. First, the remaining accrued

benefit expressed in the normal form and payable at normal retirement age (or current age, if later) must be at least as great as it would be if an annuity payable in that form and commencing at that age that is actuarially equivalent to the temporary annuity (determined using the applicable section 417(e)(3) assumptions) were subtracted from the participant's accrued benefit. Second, the remaining immediate annuity expressed in the normal form must be at least as great as it would be if an immediate annuity payable in that form that is actuarially equivalent to the temporary annuity (determined using the applicable section 417(e)(3) assumptions) were subtracted from the immediate annuity. The regulations include an example illustrating the application of the minimum present value requirements of section 417(e)(3) to an SSLIO and an example to illustrate the application of the new implicit bifurcation rule to an SSLIO. A plan amendment that provides for implicit bifurcation of an SSLIO in accordance with this new rule must comply with the requirements of section 411(d)(6).

5. Section 411(d)(6) Relief for Changes in Lookback Months and Stability Periods for Mortality Table and Interest Rate

The proposed regulations retained the rules providing relief under section 411(d)(6) for a plan amendment that changes lookback months or stability periods for the applicable mortality table and applicable interest rate under section 417(e)(3). Under these rules, such a plan amendment does not violate section 411(d)(6) provided that, for a specified period, the participant is entitled to the greater of the benefits under the pre- and post-amendment timing rules. Commenters asked that this relief under section 411(d)(6) be expanded to apply to amendments that change the time for determining an interest rate or mortality table that is used for any purpose. Commenters observed that, given the requirement to use the more participant-favorable of the two sets of assumptions for a specified period, expanding this rule cannot be used to manipulate assumptions in the plan sponsor's favor.

In response, these regulations expand the rule previously set forth in the regulations under section 417(e) by adopting a comparable rule under section 411(d)(6), which is set forth in § 1.411(d)–3(a), that applies to amendments that change the time for determining an interest rate or mortality table that is used for any purpose. Under these regulations, a defined benefit plan may be amended by an

amendment that is adopted on or after January 19, 2024 to change the stability period from one stability period permitted under § 1.417(e)–1(d)(4)(ii) to a different permitted stability period, or to change the lookback month described in § 1.417(e)–1(d)(4)(iii) from one permitted lookback month to a different permitted lookback month (including an indirect change to the stability period or lookback month as a result of a change in plan year). Such an amendment may be made with respect to any plan provision under which an interest rate or mortality table is specified by reference to a stability period or a lookback month, provided that the amount of any distribution for which the annuity starting date occurs on or after the effective date of the amendment and before the end of the one year period commencing on the applicable amendment date for the amendment is determined using the more participant-favorable of the two sets of assumptions.

For an amendment that changes the time for determining an interest rate or mortality table that is used for a purpose other than the minimum present value rules of section 417(e)(3), and that is adopted before January 19, 2024, whether an impermissible cutback under section 411(d)(6) has occurred is based on applicable law on the date the amendment is adopted. Thus, for example, if a plan amendment adopted before January 19, 2024 was permitted under § 1.417(e)–1(d)(10)(ii) as in effect before the amendments made by these regulations, no violation of section 411(d)(6) will have occurred as a result of that plan amendment.

Commenters requested that relief from the anti-cutback rules of section 411(d)(6) be provided in additional situations. These situations involve plans that have been applying section 417(e) to determine the amount of a benefit but could satisfy section 417(e) using a less generous benefit calculation than is permitted under these regulations, such as the application of a preretirement mortality discount or the implicit bifurcation of a benefit paid in the form of an SSLIO. Commenters requested section 411(d)(6) relief for such a plan so that the plan could be amended to apply the less generous benefit calculation to benefits already accrued. The final regulations do not provide the requested section 411(d)(6) relief but instead provide the relief under § 1.401(a)–20, Q&A–16 described earlier in this Summary of Comments and Explanation of Provisions.

6. Applicability Dates

The changes to the regulations under section 417(e)(3) apply to distributions with annuity starting dates occurring on or after October 1, 2024, except as otherwise provided. For earlier distributions, the rules of § 1.417(e)–1(d) as set forth in 26 CFR part 1, revised as of April 1, 2023, apply (taking into account any statutory changes and guidance of general applicability relating to those statutory changes), except that taxpayers may instead apply the rules of this Treasury decision. For example, if, before October 1, 2024, a participant received a payment equal to the present value of the participant's employee-provided benefit determined in accordance with the valuation rules of section 417(e)(3) and § 1.417(e)–1(d) that applied at the time of the distribution, then the determination of the participant's remaining accrued benefit is not affected by any differences between those rules and the rules in this Treasury decision (unless the taxpayer chooses to apply the applicable rules of this Treasury decision).

The amendments to § 1.411(d)–3(a) apply to plan amendments adopted on or after January 19, 2024.

Special Analyses

1. Regulatory Planning and Review—Economic Analysis

Pursuant to the Memorandum of Agreement, Review of Treasury Regulations under Executive Order 12866 (June 9, 2023), tax regulatory actions issued by the IRS are not subject to the requirements of section 6 of Executive Order 12866, as amended. Therefore, a regulatory impact assessment is not required.

2. Regulatory Flexibility Act

It is hereby certified that these regulations will not have a significant economic impact on a substantial number of small entities pursuant to the Regulatory Flexibility Act (5 U.S.C. chapter 6). This certification is based on the fact that the regulations reflect the statutory changes to section 417(e) made by PPA '06 and also provide additional flexibility in plan design. Specifically, the regulations reflect the statute in a manner that (i) is consistent with the statutory language, (ii) provides certain clarifications, and (iii) eases and facilitates plan administration. Although the regulations might affect a substantial number of individuals, the economic impact of the regulations on small businesses is not expected to be significant. For example, while the regulations clarify the application of the minimum present value requirements of

section 417(e) to an SSLIO, most defined benefit plans sponsored by small employers do not include an SSLIO. Moreover, for those plans that do provide for SSLIOs, the regulations provide flexibility in the application of the minimum present value requirements by permitting the implicit bifurcation of the SSLIO into a temporary annuity (required to be determined using the minimum present value factors under section 417(e)(3)) and a life annuity (to which the minimum present value requirements do not apply). These regulations are not expected to result in any economically meaningful changes in behavior by small employers that sponsor defined benefit plans.

For the reasons stated, a regulatory flexibility analysis under the Regulatory Flexibility Act is not required. Pursuant to section 7805(f), the notice of proposed rulemaking preceding these regulations was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business, and no comments were received.

3. Unfunded Mandates Reform Act

Section 202 of the Unfunded Mandates Reform Act of 1995 requires that agencies assess anticipated costs and benefits and take certain other actions before issuing a final rule that includes any Federal mandate that may result in expenditures in any one year by a State, local, or Tribal government, in the aggregate, or by the private sector, of \$100 million in 1995 dollars, updated annually for inflation. These regulations do not include any Federal mandate that may result in expenditures by State, local, or Tribal governments, or by the private sector in excess of that threshold.

4. Executive Order 13132 (Federalism)

Executive Order 13132 (Federalism) prohibits an agency from publishing any rule that has federalism implications if the rule either imposes substantial, direct compliance costs on State and local governments, and is not required by statute, or preempts State law, unless the agency meets the consultation and funding requirements of section 6 of the Executive order. These regulations do not have federalism implications, impose substantial direct compliance costs on State and local governments, or preempt State law within the meaning of the Executive order.

5. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), the Office of Information and Regulatory Affairs

designated this rule as not a major rule, as defined by 5 U.S.C. 804(2).

Statement of Availability of IRS Documents

IRS Revenue Rulings, Revenue Procedures, and Notices cited in this document are published in the Internal Revenue Bulletin (or Cumulative Bulletin) and are available from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, or by visiting the IRS website at www.irs.gov.

Drafting Information

The principal authors of these regulations are Diane S. Bloom and Linda S.F. Marshall, Office of Associate Chief Counsel (Employee Benefits, Exempt Organizations, and Employment Taxes). However, other personnel from the IRS and the Treasury Department participated in the development of these regulations.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, the Treasury Department and the IRS amend 26 CFR part 1 as follows:

PART 1—INCOME TAXES

■ **Paragraph 1.** The authority citation for part 1 continues to read, in part, as follows:

Authority: 26 U.S.C. 7805 * * *

■ **Par. 2.** Section 1.411(d)–3 is amended by redesignating paragraph (a)(4) as paragraph (a)(5) and adding a new paragraph (a)(4) to read as follows:

§ 1.411(d)–3 Section 411(d)(6) protected benefits.

(a) * * *

(4) *Changes in lookback months and stability periods for mortality table and interest rate.* Subject to the rules of this paragraph (a)(4), a defined benefit plan may be amended by an amendment that is adopted on or after January 19, 2024 to change the stability period described in § 1.417(e)–1(d)(4)(ii) from one stability period to a different stability period or to change the lookback month described in § 1.417(e)–1(d)(4)(iii) from one lookback month to a different lookback month (including an indirect change to the stability period or lookback month as a result of a change in plan year). The amendments described in this paragraph (a)(4) may be made with respect to any plan provision under which an interest rate

or mortality table is specified by reference to a stability period or a lookback month, provided that any distribution for which the annuity starting date occurs on or after the effective date of the amendment and before the end of the one-year period commencing on the applicable amendment date for the amendment is equal to the greater of—

(i) The amount determined using the pre-amendment stability period and lookback month; and

(ii) The amount determined using the post-amendment stability period and lookback month.

* * * * *

■ **Par. 3.** Section 1.417(e)–1 is amended by:

■ a. Revising paragraphs (d)(1)(i) and (d)(2) through (4) and (6);

■ b. Adding paragraphs (d)(7)(ii)(C) and (D);

■ c. In paragraph (d)(7)(v), redesignating Examples 1 through 7 as paragraphs (d)(7)(v)(A) through (G), respectively;

■ d. In newly designated paragraphs (d)(7)(v)(A) through (G), redesignating the paragraphs in the first column as the paragraphs in the second column:

Newly redesignated paragraphs	Further redesignated as paragraphs
(d)(7)(v)(A)(i) through (iv)	(d)(7)(v)(A)(1) through (4).
(d)(7)(v)(B)(i) through (v)	(d)(7)(v)(B)(1) through (5).
(d)(7)(v)(C)(i) through (iv)	(d)(7)(v)(C)(1) through (4).
(d)(7)(v)(D)(i) and (ii)	(d)(7)(v)(D)(1) and (2).
(d)(7)(v)(E)(i) through (iv)	(d)(7)(v)(E)(1) through (4).
(d)(7)(v)(F)(i) through (iv)	(d)(7)(v)(F)(1) through (4).
(d)(7)(v)(G)(i) through (iii)	(d)(7)(v)(G)(1) through (3).

■ e. In newly designated paragraph (d)(7)(v)(C)(1), removing the language “*Example 2* of this paragraph (d)(7)(v)” and adding the language “paragraph (d)(7)(v)(B)(1) of this section (*Example 2*)” in its place;

■ f. In newly designated paragraph (d)(7)(v)(E)(1), removing the language “*Example 4* of this paragraph (d)(7)(v)” and adding the language “paragraph (d)(7)(v)(D)(1) of this section (*Example 4*)” in its place;

■ g. In newly designated paragraph (d)(7)(v)(E)(2), removing the language “*Example 4* of this paragraph (d)(7)(v)” and adding the language “paragraph (d)(7)(v)(D)(1) of this section (*Example 4*)” in its place;

■ h. Adding paragraph (d)(7)(v)(H);

■ i. Adding paragraph (d)(8)(vi);

■ j. Revising paragraph (d)(9); and

■ k. Removing paragraph (d)(10).

The revisions and additions read as follows:

§ 1.417(e)–1 Restrictions and valuations of distributions from plans subject to sections 401(a)(11) and 417.

* * * * *

(d) * * *

(1) * * *

(i) *Defined benefit plans*—(A) *In general.* A defined benefit plan must provide that the present value of any accrued benefit and the amount (subject to sections 411(c)(3) and 415) of any distribution, including a single-sum distribution, must not be less than the amount calculated using the applicable mortality table described in paragraph (d)(2) of this section and the applicable interest rate described in paragraph (d)(3) of this section, as determined for the month described in paragraph (d)(4) of this section. In the case of an optional form of benefit payable before normal retirement age, the present value of the

optional form determined in accordance with the preceding sentence may not be less than the present value of the accrued benefit payable at normal retirement age. In the case of an optional form of benefit payable on or after normal retirement age, the present value of the optional form determined in accordance with the first sentence of this paragraph (d)(1)(i)(A) may not be less than the present value of the immediate annuity (payable in the same form as the accrued benefit is expressed). The present value determined under this paragraph (d) also applies for purposes of determining whether consent for a distribution is required under paragraph (b) of this section.

(B) *Payment of a portion of a participant's benefit.* The rules of this paragraph (d)(1) apply with respect to a payment of only a portion of the accrued benefit in the same manner as these rules would apply to a distribution of the entire accrued benefit. See paragraph (d)(7) of this section for rules relating to such a bifurcation of a participant's accrued benefit.

(C) *Special rules for applicable defined benefit plans.* See section 411(a)(13) and § 1.411(a)(13)–1 for an exception from the rules of section 417(e)(3) and this paragraph (d) that applies to certain distributions from plans with lump sum-based benefit formulas.

* * * * *

(2) *Applicable mortality table*—(i) *In general.* The applicable mortality table for a calendar year is the mortality table that is prescribed by the Commissioner in guidance published in the Internal Revenue Bulletin. See § 601.601(d) of this chapter. This mortality table is to be

based on the table specified under section 430(h)(3)(A), but without regard to section 430(h)(3)(C) or (D).

(ii) *Mortality discounts*—(A) *In general.* Except as provided in paragraph (d)(2)(ii)(B) of this section, the probability of death under the applicable mortality table is taken into account for purposes of determining the present value under this paragraph (d) without regard to the death benefits provided under the plan (other than a death benefit that is part of the normal form of benefit or part of another optional form of benefit, as described in § 1.411(d)–3(g)(6)(ii)(B), for which present value is determined).

(B) *Special rule for employee-provided benefit.* For purposes of determining the present value under this paragraph (d) with respect to the portion of the accrued benefit derived from employee contributions (that is determined in accordance with the rules of section 411(c)), the probability of death during the assumed deferral period, if any, is not taken into account. For purposes of the preceding sentence, the assumed deferral period is the period between the date of the present value determination and the assumed commencement date for the annuity attributable to the accrued benefit derived from employee contributions.

(C) *Exception from requirement that QJSA be most valuable form of benefit.* An optional form of benefit that is subject to the minimum present value requirement of this section is not treated as failing the requirement under § 1.401(a)–20, Q&A–16, that an optional form of benefit for a married participant may not be more valuable than the qualified joint and survivor annuity payable at the same time merely because, in applying the rules of this

section in determining the amount of the optional form of benefit, the amount payable is calculated—

(1) Taking into account both the probability of death before retirement and any death benefit under the plan, or

(2) Using the present value factor for the employee-provided portion of the benefit determined under paragraph (d)(2)(ii)(B) of this section as the present value factor for the employer-provided portion of the benefit.

(3) *Applicable interest rate*—(i) *In general.* The applicable interest rate for a month is determined using the first, second, and third segment rates for that month under section 430(h)(2)(C), as modified pursuant to section 417(e)(3)(D) (and without regard to the segment rate stabilization rules of section 430(h)(2)(C)(iv)). These section 417(e) segment rates are specified by the Commissioner in revenue rulings, notices, or other guidance published in the Internal Revenue Bulletin and are applied under rules similar to the rules under § 1.430(h)(2)–1(b). Thus, for example, in determining the present value of a straight life annuity, the first segment rate is applied with respect to payments expected to be made during the 5-year period beginning on the annuity starting date, the second segment rate is applied with respect to payments expected to be made during the 15-year period following the end of that 5-year period, and the third segment rate is applied with respect to payments expected to be made after the end of that 15-year period. The section 417(e) segment rates that are published by the Commissioner are to be used for this purpose without further adjustment.

(ii) *Examples.* The following examples illustrate the rules of paragraphs (d)(2) and (d)(3)(i) of this section:

(A) *Example 1—(1) Facts.* Plan A is a non-contributory defined benefit plan with a calendar-year plan year. The normal retirement age is 65, and all participant elections are made with proper spousal consent. Plan A includes an optional form of benefit that provides a single-sum distribution equal to the present value of the participant's accrued benefit. Plan A provides that the applicable interest rate for any distribution is determined using the segment rates as specified by the Commissioner for the month preceding the month containing the annuity starting date of the distribution. The applicable mortality table is the table specified by the Commissioner for the calendar year that contains the annuity starting date.

(2) *Analysis of minimum amount of single-sum distribution.* Participant P retires in November 2024 at age 60 and elects (with spousal consent) to receive a single-sum distribution. P has an accrued benefit of \$2,000 per month payable as a life annuity beginning at the plan's normal retirement age of 65. The applicable mortality rates for 2024 apply. For purposes of this paragraph (d)(3)(ii)(A) (*Example 1*), the section 417(e) segment rates published by the Commissioner for October 2024 are assumed to be 3.00 percent, 4.00 percent, and 5.00 percent for the first, second, and third segment rates, respectively. The present value factor for a participant, age 60, for a deferred annuity payable at age 65, calculated based on these interest rates and the applicable mortality table for 2024, is 10.432. To satisfy the requirements of section 417(e)(3) and this paragraph (d), the single-sum distribution received by P cannot be less than \$250,368 (that is, $\$2,000 \times 12 \times 10.432$).

(B) *Example 2—(1) Facts.* The facts are the same as in paragraph (d)(3)(ii)(A)(1) of this section (*Example 1*), except that Plan A provides for mandatory employee contributions. Participant Q retires in November 2024 at age 60 and elects (with spousal consent) to receive a single-sum distribution of Q's entire accrued benefit. Q has an accrued benefit of \$2,000 per month payable as a life annuity beginning at Plan A's normal retirement age of 65, consisting of an accrued benefit derived from employee contributions determined in accordance with section 411(c)(2) (Q's employee-provided accrued benefit) of \$500 per month and an accrued benefit derived from employer contributions (Q's employer-provided accrued benefit) of \$1,500 per month.

(2) *Analysis of minimum amount of the employee-provided portion of the single-sum distribution.* Pursuant to paragraph (d)(2)(ii)(B) of this section, the single-sum distribution used to settle Q's employee-provided accrued benefit may not be less than the present value of the employee-provided portion of Q's accrued benefit determined using the applicable interest and mortality rates described in paragraphs (d)(2)(i) and (d)(3)(i) of this section, but without taking into account the probability of death during the assumed deferral period in accordance with paragraph (d)(2)(ii)(B) of this section. The present value factor for a participant, age 60, for a deferred annuity payable at age 65, calculated based on the interest and mortality rates specified in paragraph (d)(3)(ii)(A) of this section (*Example 1*), taking the probability of death only after

age 65 into account, is 10.704. To satisfy the requirement of section 417(e)(3) and this paragraph (d), the single-sum distribution received by Q with respect to the employee-provided portion of the accrued benefit may not be less than \$64,224 (that is, $\$500 \times 12 \times 10.704$).

(3) *Analysis of minimum amount of the employer-provided portion of the single-sum distribution.* The single-sum distribution made to settle Q's employer-provided accrued benefit may not be less than the present value of that portion of Q's accrued benefit determined using the applicable interest and mortality rates. However, for this purpose, Plan A is permitted to take into account the probability of death during the assumed deferral period in accordance with paragraph (d)(2)(ii)(A) of this section. The single-sum distribution received by Q with respect to the employer-provided portion of the accrued benefit may not be less than \$187,776 (that is, $\$1,500 \times 12 \times 10.432$).

(4) *Analysis of minimum amount of the total single-sum distribution.* To satisfy the requirements of section 417(e)(3) and this paragraph (d), the total single-sum distribution received by Q may not be less than the sum of the minimum single-sum distribution with respect to the employee-provided and employer-provided portions of the accrued benefit, or \$252,000 ($\$64,224 + \$187,776$).

(5) *Analysis of minimum amount of partial single-sum distribution.* If Q were to receive a partial single-sum distribution (that is, a single-sum distribution that is less than \$252,000) with the balance payable as an annuity, then, in accordance with paragraph (d)(7)(iii)(D) of this section, the plan must specify the portion of the participant's accrued benefit that is settled by that distribution of the partial single-sum distribution (unless the plan uses the same single-sum factor with respect to all portions of the accrued benefit). Because the present value factor for the employee-provided benefit cannot take into account the probability of death before age 65, the plan may use the same present value factor to determine the portion of the accrued benefit that is settled by the single-sum distribution that applies to both the employee-provided and the employer-provided portions of the accrued benefit only if the factor that is used does not take into account the probability of death before age 65.

(4) *Time for determining interest rate and mortality table*—(i) *Interest rate general rule.* Except as provided in paragraphs (d)(4)(v) or (vi) of this section, the applicable interest rate to be used for a distribution is the applicable

interest rate determined under paragraph (d)(3) of this section for the applicable lookback month. The applicable lookback month for a distribution is the lookback month (as described in paragraph (d)(4)(iv) of this section) for the stability period (as described in paragraph (d)(4)(iii) of this section) that contains the annuity starting date for the distribution. The time and method for determining the applicable interest rate for each participant's distribution must be determined in a consistent manner that is applied uniformly to all participants in the plan.

(ii) *Mortality table general rule.* The applicable mortality table to be used for a distribution is the mortality table that is described in paragraph (d)(2)(i) of this section for the calendar year during which the stability period containing the annuity starting date begins.

(iii) *Stability period.* A plan must specify the period for which the applicable interest rate remains constant (the stability period). This stability period may be one calendar month, one plan quarter, one calendar quarter, one plan year, or one calendar year. This same stability period also applies to the applicable mortality table.

(iv) *Lookback month.* A plan must specify the lookback month that is used to determine the applicable interest rate with respect to a stability period. The lookback month may be the first, second, third, fourth, or fifth full calendar month preceding the first day of the stability period.

(v) *Permitted average interest rate.* A plan may apply the rules of paragraph (d)(4)(i) of this section by substituting a permitted average applicable interest rate with respect to the plan's stability period for the applicable interest rate determined under paragraph (d)(3) of this section for the applicable lookback month with respect to the plan's stability period. For this purpose, a permitted average applicable interest rate with respect to a stability period is the applicable interest rate that is computed using the average of the section 417(e) segment rates described in paragraph (d)(3) of this section for two or more consecutive months from among the first, second, third, fourth, and fifth calendar months preceding the first day of the stability period. For this paragraph (d)(4)(v) to apply, a plan must specify the manner in which the permitted average interest rate is computed.

(vi) *Additional determination dates.* The Commissioner may prescribe, in guidance published in the Internal Revenue Bulletin, other times that a plan may provide for determining the

applicable interest rate. See § 601.601(d) of this chapter.

(vii) *Example of determination of applicable interest rate—(A) Facts.* The facts are the same as in paragraph (d)(3)(ii)(A)(1) of this section (*Example 1*), except that Plan A provides that the applicable interest rate for any annuity starting date is determined using the segment rates specified by the Commissioner for the third calendar month preceding the beginning of the plan quarter that contains the annuity starting date. Plan A also provides that the applicable mortality table is the table specified by the Commissioner for the calendar year that contains the beginning of the quarterly stability period.

(B) *Analysis.* The segment rates that apply for annuity starting dates during the period beginning October 1, 2024, and ending December 31, 2024, are the segment rates for July 2024. This plan design permits the applicable interest rate to be fixed for each plan quarter and for the applicable interest rate for all distributions made during each plan quarter to be determined before the beginning of the plan quarter.

* * * * *

(6) *Exceptions—(i) In general.* This paragraph (d) (other than the provisions relating to section 411(d)(6) requirements in paragraph (d)(9) of this section) does not apply to the amount of a distribution paid in the form of an annual benefit that—

(A) Does not decrease during the life of the participant, or, in the case of a QPSA, the life of the participant's spouse; or

(B) Decreases during the life of the participant merely because of—

(1) The death of the survivor annuitant (but only if the reduction is to a level not below 50 percent of the annual benefit payable before the death of the survivor annuitant); or

(2) The cessation or reduction of a Social Security supplement or qualified disability benefit (as defined in section 411(a)(9)).

(ii) *Example of Social Security level income option—(A) Facts.* The facts are the same as in paragraph (d)(3)(ii)(A)(1) of this section (*Example 1*). Plan A also provides for an optional distribution in the form of a Social Security level income option that is actuarially equivalent to the straight life annuity payable at the same commencement date. Under this optional form, the participant receives a larger monthly payment until age 65, and a smaller monthly payment afterward, so that it is estimated that the participant will receive level monthly payments for life

(taking into account the participant's estimated Social Security benefit beginning at age 65). Based on the plan's early retirement reduction factor of 0.65 at age 60, Participant R's reduced early retirement benefit payable as a straight life annuity benefit commencing at age 60 is \$1,300 per month (which is less than the early retirement benefit that is actuarially equivalent to the accrued benefit determined using the applicable interest and mortality rates under section 417(e)(3)). Participant R's estimated Social Security benefit is \$1,000 per month beginning at age 65. Plan A provides that actuarial equivalence is determined using a 6 percent interest rate and the mortality table set forth in Revenue Ruling 2001–62, 2001–53 IRB 632.

(B) *Analysis of benefit calculation using plan factors.* Using the plan's terms for determining actuarial equivalence (an interest rate of 6 percent and the mortality table set forth in Revenue Ruling 2001–62), the present value factor for a participant, age 60, with lifetime benefits commencing at age 65 is 7.800, and the present value factor for a temporary annuity payable to that participant until age 65 is 4.278. The benefit payable to Participant R in the form of a Social Security level income option (with a decrease of \$1,000 occurring at age 65) that is actuarially equivalent to the early retirement benefit of \$1,300 is \$1,945.80 per month until age 65 and \$945.80 per month thereafter.

(C) *Analysis of minimum present value.* Because the benefit payable under the Social Security level income option decreases at age 65 and the decrease is not on account of the death of the participant or a beneficiary or the cessation or reduction of a Social Security supplement or a qualified disability benefit, the exception under this paragraph (d)(6) from the minimum present value requirements of section 417(e)(3) does not apply to the benefits payable under the plan's Social Security level income option. As illustrated in paragraph (d)(3)(ii)(A) of this section (*Example 1*), to satisfy the requirements of section 417(e)(3) and this paragraph (d), the minimum present value of a benefit payable to Participant R at age 60 cannot be less than \$250,368 (that is, $\$2,000 \times 12 \times 10.432$).

(D) *Conclusion.* Based on the applicable interest rate and applicable mortality table under section 417(e)(3) that are assumed in paragraph (d)(3)(ii)(A) of this section (*Example 1*), the present value factor for a participant, age 60, with lifetime benefits commencing at age 65 is 10.432, and the present value factor for

a temporary annuity payable until age 65 is 4.604. The present value of the benefit payable to Participant R under the Social Security level income option is \$225,901 ($\$1,945.80 \times 4.604 \times 12 + \$945.80 \times 10.432 \times 12$). Because this present value is less than the minimum present value of a benefit payable to Participant R at age 60 (\$250,368), the plan would fail to satisfy the minimum present value requirement of section 417(e)(3). However, see paragraph (d)(7)(ii)(C) of this section for a rule permitting a plan to provide for implicit bifurcation of a Social Security level income option.

(7) * * *

(ii) * * *

(C) *Bifurcation of Social Security level income option.* A plan that provides for a Social Security level income option satisfies the requirements of this paragraph (d) with respect to the temporary annuity portion of the Social Security level income option if, under the terms of the plan—

(1) The portion of the participant's accrued benefit, expressed in the normal form of benefit under the plan and commencing at normal retirement age (or at the current date, if later), that is not paid in the form of the temporary annuity is no less than the excess, if any, of—

(i) The participant's total accrued benefit under the plan expressed in that form and commencing at that age; over

(ii) The annuity payable in that form commencing at that age that is actuarially equivalent to that temporary annuity, determined using the applicable interest rate and the applicable mortality table; and

(2) The portion of the participant's immediate annuity (payable in the same form as the accrued benefit is expressed) that is not paid in the form of the temporary annuity is no less than the excess, if any, of—

(i) The participant's immediate annuity (payable in the same form as the accrued benefit is expressed); over

(ii) The immediate annuity payable in that form that is actuarially equivalent to that temporary annuity, determined using the applicable interest rate and the applicable mortality table.

(D) *Social Security level income option.* For purposes of paragraph (d)(7)(ii)(C) of this section, a Social Security level income option is an optional form of benefit under which a participant's accrued benefit is paid in the form of an annuity for the life of the participant with additional temporary annuity payments that cease at the participant's assumed Social Security commencement age and that do not exceed the participant's estimated

Social Security benefit at that age. For this purpose, a participant's estimated Social Security benefit is the estimated amount of old-age insurance benefits for the participant under title II of the Social Security Act (as amended) and the assumed Social Security commencement age is an age that is not later than the age as of which the participant is entitled to those benefits without reduction on account of age.

* * * * *

(v) * * *

(H) *Example of bifurcation of Social Security level income option—(1) Facts.* The facts are the same as in paragraph (d)(6)(ii)(A) of this section (*Example of Social Security level income option*), except that Plan A is amended to provide for implicit bifurcation of a distribution paid in the form of a Social Security level income option, as described in paragraph (d)(7)(ii)(C) of this section. Thus, under the plan amendment, a distribution in the form of a Social Security level income option is bifurcated into a temporary annuity portion that ceases at the participant's assumed Social Security commencement age and a life annuity portion.

(2) *Analysis of bifurcation requirements.* If the requirements of paragraph (d)(7)(ii)(C) of this section are satisfied, then the temporary annuity portion of the Social Security level income option satisfies the minimum present value rules of section 417(e)(3) and this paragraph (d). In order to satisfy paragraph (d)(7)(ii)(C) of this section, there are two requirements that must be satisfied. First, the portion of the participant's accrued benefit that is not paid in the form of the temporary annuity must be no less than the excess of the participant's total accrued benefit over the annuity that is actuarially equivalent to the temporary annuity (determined using the applicable interest and mortality rates under section 417(e)(3)), both expressed in the normal form of benefit commencing at normal retirement age (or at the current date, if later). Second, the portion of the participant's immediate annuity that is not paid in the form of the temporary annuity must be no less than the excess of the participant's total immediate annuity over the immediate annuity that is actuarially equivalent to the temporary annuity (determined using the applicable interest and mortality rates under section 417(e)(3)), both expressed in the form of benefit in which the accrued benefit is expressed but commencing at the current age.

(3) *Analysis of minimum portion of accrued benefit payable as lifetime*

annuity. A temporary annuity that is payable from age 60 to 65 in the amount of \$1,000 per month is actuarially equivalent, determined using the applicable interest rate and applicable mortality table under section 417(e)(3), to a straight life annuity of \$441.33 per month payable at normal retirement age. Therefore, under the amendment, the portion of Participant R's accrued benefit that is not paid in the form of that temporary annuity must be no less than \$1,558.67 per month payable as a straight life annuity at normal retirement age (\$2,000 – \$441.33). Because the portion of the accrued benefit that is not being paid in the form of the temporary annuity determined without regard to the amendment is \$1,455.08 (the lifetime annuity of \$945.80, divided by the early retirement factor of .65), the amendment increases that portion of the accrued benefit to \$1,558.67, and the associated early retirement benefit commencing at age 60 is \$1,013.14 ($\$1,558.67 \times 0.65$).

(4) *Analysis of minimum portion of immediate benefit payable as lifetime annuity.* A temporary annuity that is payable from age 60 to 65 in the amount of \$1,000 per month is actuarially equivalent, determined using the applicable interest rate and applicable mortality table under section 417(e)(3), to a straight life annuity of \$306.20 per month commencing at age 60. Therefore, under the amendment, the portion of the participant's immediate benefit that is not paid in the form of that temporary annuity must be no less than \$993.80 ($\$1,300 - \306.20). Because this minimum amount of immediate annuity is less than the otherwise calculated early retirement benefit at age 60 of \$1,013.14, the amendment does not increase the immediate annuity above that amount.

(5) *Conclusion.* Because the portion of the benefit under the Social Security level income option that is not paid in the form of a temporary annuity satisfies the requirements of paragraph (d)(7)(ii)(C) of this section, the plan is permitted under paragraph (d)(7)(iii)(A) of this section to treat the temporary annuity and the remaining portion of the benefit as separate distribution options for purposes of this paragraph (d). Under paragraph (d)(7)(ii)(C) of this section, the temporary annuity portion of the Social Security level income option is treated as satisfying the minimum present value requirements of section 417(e) and this paragraph (d). Because the lifetime annuity portion of the Social Security level income option is non-decreasing during the lifetime of the participant, that portion is described in paragraph (d)(6) of this section and is

therefore excepted from the requirements of section 417(e)(3). Thus, under the amendment, the combined payments payable to Participant R under the Social Security level income option of \$2,013.14 per month until age 65 and \$1,013.14 per month thereafter satisfy the requirements of section 417(e)(3) and this paragraph (d).

(8) * * *

(vi) *Applicability date for provisions reflecting PPA '06 updates and other rules.* Paragraphs (d)(1) through (4) of this section apply to distributions with annuity starting dates occurring on or after October 1, 2024. For earlier distributions, the rules of § 1.417(e)–1(d) as set forth in 26 CFR part 1, revised as of April 1, 2023, apply, except that taxpayers may instead apply the rules of paragraphs (d)(1) through (4) of this section.

(9) *Relationship with section 411(d)(6).* A plan amendment that changes the interest rate or the mortality assumptions used for the purposes described in paragraph (d)(1) of this section (including a plan amendment that changes the time for determining those assumptions) is generally subject to section 411(d)(6). However, for certain exceptions to the rule in the preceding sentence, see paragraph (d)(7)(iv) of this section (with respect to a plan amendment providing for bifurcation that was adopted before December 31, 2017), § 1.411(d)–3(a)(4) (regarding changes in lookback months and stability periods for mortality table and interest rate), § 1.411(d)–4, Q&A–2(b)(2)(v) (with respect to plan amendments relating to involuntary distributions), and section 1107(a)(2) of the Pension Protection Act of 2006, Public Law 109–280, 120 Stat. 780 (PPA '06) (with respect to certain plan amendments that were made pursuant to a change to the Internal Revenue Code made by PPA '06 or pursuant to regulations issued thereunder).

* * * * *

Douglas W. O'Donnell,
Deputy Commissioner for Services and Enforcement.

Approved: December 27, 2023.

Lily Batchelder,
Assistant Secretary of the Treasury (Tax Policy).

[FR Doc. 2024–00978 Filed 1–18–24; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 950

[SATS No. WY–050–FOR; Docket ID No. OSM–2021–0004; S1D1S SS08011000 SX064A000 223S180110; S2D2S SS08011000 SX064A000 22XS501520]

Wyoming Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Final rule; approval with exceptions.

SUMMARY: We, the Office of Surface Mining Reclamation and Enforcement (OSMRE), are approving with exceptions an amendment to the Wyoming regulatory program (Wyoming program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). Between 1978 and 2007, the Wyoming Legislature enacted a number of revisions to the statutes governing coal exploration by drilling. On March 2, 2016, the Wyoming Environmental Quality Council approved a number of revisions to the rules governing coal exploration by drilling under the Wyoming program. The State submitted this proposal to OSMRE at its own initiative.

DATES: Effective February 20, 2024.

FOR FURTHER INFORMATION CONTACT: Jeffrey Fleischman; Director, Denver Field Division, Office of Surface Mining Reclamation and Enforcement, 100 East B Street, Room 4100; Casper, Wyoming 82602. Telephone: (307) 261–6550. Email: jfleischman@osmre.gov.

SUPPLEMENTARY INFORMATION:

- I. Background on the Wyoming Regulatory Program
- II. Submission of the Amendment
- III. OSMRE's Findings
- IV. Summary and Disposition of Comments
- V. OSMRE's Decision
- VI. Procedural Determinations

I. Background on the Wyoming Regulatory Program

Subject to OSMRE's oversight, Section 503(a) of the Act permits a state to assume primacy for the regulation of surface coal mining and reclamation operations on non-federal and non-Indian lands within its borders by demonstrating that its program includes, among other things, state laws and regulations that govern surface coal mining and reclamation operations in accordance with the Act and consistent with the federal regulations. See 30 U.S.C. 1253(a)(1) and (7).

On the basis of these criteria, the Secretary of the Interior conditionally approved the Wyoming program on November 26, 1980. You can find background information on the Wyoming program including the Secretary's findings, the disposition of comments, and conditions of approval in the November 26, 1980, **Federal Register** (45 FR 78637). You can also find later actions concerning Wyoming's program and program amendments at 30 CFR 950.10, 950.12, 950.15, 950.16, and 950.20.

II. Submission of the Amendment

By letter dated June 14, 2021 (Docket ID No. OSM–2021–0004), Wyoming sent us an amendment to its program under SMCRA (30 U.S.C. 1201 *et seq.*). We found Wyoming's proposed amendment administratively complete on July 13, 2021.

Between 1978 and 2007, the Wyoming Legislature enacted a number of revisions to the statutes governing coal exploration by drilling. The proposed statutory revisions reflect organizational changes at the Wyoming Land Quality Division (LQD), correct a typographical error, provide more detailed instructions for plugging and sealing drill holes, incorporate provisions for the awarding of attorney fees and other litigation costs, and include more detailed instructions for bond release.

Additionally, on March 2, 2016, the Wyoming Environmental Quality Council approved a number of revisions to the rules governing coal exploration by drilling under the Wyoming program. The proposed amendment is a state initiative to update Chapter 14 of the LQD Coal Rules and Regulations, which was last revised in 1998. The revised rules were updated to include more detailed directions for plugging and sealing requirements for drill holes. The rules were also updated to include best management practices and standards adopted by the Wyoming State Engineer's Office that conform with accepted best practices by the American Society for Testing and Materials and American Water Works Association, and Wyoming Department of Environmental Quality—Water Quality Division regulations. Other revisions include a list of acceptable grout materials, requirements to plug the entire hole, immediate capping of drill holes, and adding identification numbers to facilitate inspections. Additional formatting and organizational changes were made to Chapter 14.

We announced receipt of the proposed amendment in the October 28, 2021, **Federal Register** (86 FR 59674). In the same document, we opened a public

comment period and provided an opportunity for a public hearing or meeting on the adequacy of the amendment. We did not hold a hearing or meeting because none was requested. We received one comment on the amendment. The public comment period closed November 29, 2021.

III. OSMRE's Findings

The following are the findings we made concerning the amendment under SMCRA and the federal regulations at 30 CFR 732.15 and 732.17. We are approving with exceptions the amendment as described below.

A. Minor Revisions to Wyoming's Rules

Wyoming proposed minor grammatical and organizational changes to Chapter 14 of the LQD Coal Rules and Regulations. Wyoming did not propose any substantive changes to the text of these previously approved regulations. Because the proposed revisions are minor and result in no substantive changes to the Wyoming program, we are approving the changes and find that they are no less effective than the corresponding federal regulations at 30 CFR parts 700 to 887. The specific, minor revisions to the Code of Wyoming Rules and the federal regulation counterparts are as follows:

- Section 1 heading: minor grammatical change;
- Section 2 heading: minor grammatical change;
- Section 3 heading: minor grammatical change;
- Subsection 1(a): statutory cross-reference update;
- Subsection 1(g): statutory cross-reference update;
- Subsection 2(a): organizational change;
- Subsection 4(d): minor grammatical change;
- Subsection 3(c): organizational change;
- Subsection 3(f): organizational change and minor grammatical change;
- Subsection 3(a)(ii): organizational change; and
- Subsection 5(a): minor revision to date of statutory enactment.

B. Revisions to Wyoming's Rules That Have the Same or Similar Meaning as the Corresponding Provisions of the Federal Regulations

Wyoming also proposed a number of substantive revisions to Chapter 14 of the LQD Coal Rules and Regulations that have the same or substantially similar meaning as the corresponding provisions of the federal regulations. Therefore, we are approving them:

- Subsection 1(b): *Casing and sealing of drilled holes* [30 CFR 816.13];

- Subsection 2(a): *Casing and sealing of drilled holes* [30 CFR 816.13];

• Subsection 1(g): *Coal exploration public availability of information requirements* [30 CFR 772.15 (b)]. Within Subsection 1(g), Wyoming also updated a statutory reference to W.S. 35–11–1101 such that 2015 is reflected as the year of enactment. Since OSMRE's approval of the existing language at Chapter 14, Subsection 2(b) (recodified at Subsection 1(g) as part of this amendment), W.S. 35–11–1101 has been revised with the addition of Subsection (c). This occurred during the 1994 Wyoming legislative session. Subsection (c) reads: "In any suit under this section or the Public Records Act, W.S. 16–4–201 *et seq.*, to compel the release of information under this act, the court may assess against the state reasonable attorney fees and other litigation costs reasonably incurred in any case in which the complainant has substantially prevailed and in which the court determines the award is appropriate." Wyoming notes its revisions to Subsection 2(b) are part of its compliance with 30 CFR 840.14 (Availability of records). In this case, Wyoming references W.S. 35–11–1101 to highlight an exception to the requirements of 30 CFR 840.14. Wyoming's incorporation of the requirements at 30 CFR 840.14, including references to W.S. 35–11–1101, was approved by OSMRE on December 4, 2019. See 84 FR 66311;

- Subsection 2(b): *Coal exploration performance standards* [30 CFR 815.15(i)];
- Subsection 2(c): *Coal exploration performance standards* [30 CFR 815.15(i)];
- Subsection 2(i): Wyoming revised the requirements of Chapter 14, Section 2 by adding Subsection (i). Wyoming's proposed language closely mirrors pertinent portions of the federal counterpart provision at 30 CFR 816.13 (the additional requirements of 30 CFR 816.13 are constructed at LQD Coal Rules and Regulations Chapter 4, Subsection 2(p), and Chapter 10, Subsection 4(j)). The language proposed for addition would provide for appropriate backfill of all drill holes to the ground surface to ensure the safety of people, livestock, wildlife, and machinery in the area. Similarly, the drill hole casing and sealing federal regulations at 30 CFR 816.13 require that exploration or other holes be cased, sealed, or otherwise managed to ensure the safety of people, livestock, fish and wildlife, and machinery in the permit and adjacent area. Where the federal language specifies "in the permit area and adjacent area" Wyoming's proposed

language—"in the area"—is slightly broader and can be reasonably understood to capture both the permit area and adjacent area. These changes were also made for consistency with Wyoming Division of Environmental Quality—Water Quality Division Rules and Regulations at Chapter 11, Part G, Section 70; newly approved Wyoming State Engineer's Office Rules and Regulations, Part III; and American Society for Testing and Materials (ASTM) D–5299. Importantly, however, Wyoming omitted the word "fish" from the phrase "fish and wildlife."

"Fish and wildlife" is a term of art that appears throughout the Endangered Species Act of 1973 (ESA), SMCRA, and implementing federal regulations at 30 CFR part 700 to end. While an argument can be made the term "wildlife" describes all fauna, including fish, the text of the ESA and SMCRA clearly and consistently demonstrates Congress' intent to use the two words together, forming the phrases "fish and wildlife" or "fish or wildlife." Additionally, because the thrust of the proposed revisions to Chapter 14 is to incorporate best management practices related to, and enhancing protections for, surface and groundwater quality and quantity within the context of exploration for coal by drilling, the inclusion of "fish" adjacent to "wildlife" here is particularly important and appropriate. Accordingly, Wyoming's proposed rule change, as submitted, was less effective than the federal regulations at 30 CFR 816.13 and less stringent than SMCRA. By letter dated August 12, 2022, we informed Wyoming of the requirement to add the word "fish" at Chapter 14, Subsection 2(i) to form the phrase "fish and wildlife." In our letter we offered to temporarily delay rulemaking to allow Wyoming time to respond and address the identified concern.

By letter dated September 14, 2022, Wyoming responded to our concern. Wyoming indicated that, although they had taken the initial steps to address our concern through formal rulemaking, the State's internal processes would preclude Wyoming from addressing our concern within the allowable timeframe. However, our Final Rule Notice not approving this change was significantly delayed and Wyoming ultimately was able to respond to the concern. By letter dated September 22, 2023 Wyoming re-submitted its Chapter 14 amendment package with revisions to Subsection 2(i) specifically addressing the concern noted above.

Accordingly, we are approving the addition of Subsection 2(i), as revised.

- Subsection 2(j): *Temporary casing and sealing of drilled holes* [30 CFR 816.14];
- Subsection 2(k): *Casing and sealing of drilled holes* [30 CFR 816.13];
- Subsection 2(l): *Coal exploration performance standards* [30 CFR 815.15(i)];
- Subsection 3(b)(i)–(ii): *Coal exploration performance standards* [30 CFR 815.15(j)];
- Section 5. Wyoming proposed to revise several statutory citations in Section 5 to reflect the most current year of enactment. For example, at Subsection 5(b) Wyoming inserted “2015” at the end of the statutory citation to “W.S. 35–11–421 through 35–11–423.” “W.S. 35–11–421 through 35–11–423 (2015)” captures the following statutory provisions: W.S. 35–11–421(a)–(c); W.S. 35–11–422; and W.S. 35–11–423 (a)–(d). No changes have been made to W.S. 35–11–421 or W.S. 35–11–422 since 1977. In 1980 the Wyoming Legislature did revise W.S. 35–11–423 at Subsection (d) (Release of bonds), to read, “The council shall promulgate rules and regulations governing the release of bonds for surface coal mining operations in compliance with Public Law 95–87 as that law is worded on August 3, 1977, which shall be controlling notwithstanding other provisions of W.S. 35–11–417 and 35–11–423 to the contrary.” The Secretary of the Interior approved the Wyoming coal regulatory program in 1980. Within the context of Wyoming Statutes Title 35, Chapter 11, “council” refers to the Environmental Quality Council (EQC) as established by the Wyoming Environmental Quality Act. The revised provision at W.S. 35–11–423(d) directs the EQC to promulgate rules and regulations governing bond release on surface coal mining operations, pursuant to SMCRA, regardless of any conflict with existing state law at W.S. 35–11–417 (Bonding provisions) and W.S. 35–11–423. The promulgation of SMCRA-compliant rules and regulations governing bond release for surface coal mining operations—among other topics—is a reasonable and logical next step in the pursuit of state primacy following the passage of SMCRA. In fact, the language at W.S. 35–11–423(d), while specific to bond release, essentially describes the process of standing-up a state coal regulatory program, with the important distinction that the promulgated rules and regulations must be SMCRA-compliant and controlling. We find the proposed change renders the Wyoming program no less effective than OSMRE’s regulations nor less stringent than SMCRA, and we approve it.

Wyoming also revised the statutory citation contained in the existing provision at Chapter 14, Subsection 5(c), “W.S. 35–11–404 (k)–(n)” by inserting “(2015)” at the end of the citation to reflect the year of enactment. No changes have been made to W.S. 35–11–404(n) since 1977. The Wyoming Legislature did revise W.S. 35–11–404(k) in 1980 and W.S. 35–11–404(m) in 1992. Changes to W.S. 35–11–404(m) include: “The director in consultation with” was inserted; “section” was substituted for “act”; and “director in having” was substituted for “administrator, land quality division in having.” Neither SMCRA nor the OSMRE regulations state which individual within the organization of the regulatory authority, including administrators or directors, may carry out which of the many functions comprising implementation of a regulatory program. Second, the change from “act” to “section” is logical given the subject matter of Subsection (m), abandoned exploratory drill holes, and the section heading for W.S. 35–11–404: “Drill holes to be capped, sealed, or plugged.” These stylistic changes add specificity without altering the stringency/effectiveness of the previously approved statutory language of Subsection (m). Therefore, we are approving them.

In 1980, W.S. 35–11–404 was amended to include Subsection (k), effective upon final approval of Wyoming’s regulatory program pursuant to SMCRA. The Wyoming program was approved by OSMRE on November 26, 1980. Subsection (k) reads as follows: “Except as follows, any person who fails or refuses to comply with the provisions of this section is guilty of a misdemeanor and on conviction is subject to imprisonment in a county jail for not more than ninety (90) days or a fine of not more than five thousand dollars (\$5,000.00), or both.

Any person who drills in conjunction with coal mining or coal exploration operations in violation of this section or regulations promulgated pursuant hereto is subject to the provisions of W.S. 35–11–901.” The language of Subsection (k) imposes a maximum 90-day jail sentence and maximum \$5,000 penalty, or both, on any person who fails to comply with the provisions of the Wyoming Public Health and Safety Act pertaining to the capping, sealing, and plugging of coal exploration drill holes. Subsection (k) additionally provides, “Any person who drills in conjunction with coal mining or coal exploration operations in violation of this section or regulations promulgated pursuant hereto is subject to the

provisions of W.S. 35–11–901.” This language incorporates by reference the provisions for civil and criminal penalties found at W.S. 35–11–901. SMCRA section 512(c) incorporates by reference the civil penalty provisions of SMCRA section 518(a). Section 518(a), in pertinent part, imposes a maximum fine of \$5,000 on “any permittee who violates any permit condition or who violates any other provision of this title . . .” but does not include any mention of imprisonment.

With the imprisonment component, the language of Subsection (k) is more specific than what is provided by SMCRA. This difference does not render the statute any less stringent than required by SMCRA or the Wyoming regulatory program any less effective than the OSMRE regulations. W.S. 35–11–901(a) additionally provides for fines of up to \$10,000 per day, per violation, temporary and permanent injunctions, or both, for any person who causes an applicable violation. Counterpart language at SMCRA section 518(a) (Civil penalties . . .) provides for fines of up to \$5,000 per violation, per day but does not contemplate injunctions or a combination of fines and injunctions. In this way W.S. 35–11–901 is more stringent than SMCRA. W.S. 35–11–901(j) provides for fines of up to \$25,000 per day, per violation and imprisonment of up to one year or both (\$50,000 and 2 years or both upon subsequent conviction) for any person who willfully and knowingly causes an applicable violation. Counterpart language at SMCRA section 518(e) (Willful violations) provides for fines of not more than \$10,000, imprisonment for no more than one year, or both. Again, the language at W.S. 35–11–901(j) is more stringent than that provided by SMCRA. W.S. 35–11–901(k) provides for fines of up to \$10,000 per day, per violation, imprisonment for up to one year, or both, for any person who knowingly makes an applicable false statement under the Wyoming program. Counterpart language at SMCRA section 518(g) (False statements . . .) likewise provide for fines of up to \$10,000, imprisonment for one year, or both, for any person who knowingly makes a false statement, representation, or certification under the Act. Here the language at W.S. 35–11–901(k) and SMCRA section 518(g) are nearly identical in effect. For the reasons explained above we are approving the reference to W.S. 35–11–901 incorporated by reference at W.S. 35–11–404(k).

- Section 6: *Casing and sealing of drilled holes* [30 CFR 816.13];

- Wyoming Statutes 35–11–404(e); and
- Wyoming Statutes 35–11–404(j).

C. Revisions to Wyoming's Rules That Lack Corresponding Provisions in the Federal Regulations

Wyoming also proposed a number of substantive revisions to Chapter 14 of the LQD Coal Rules and Regulations that do not have corresponding provisions in the federal regulations. The lack of federal counterpart provisions for these rules does not render the Wyoming program less effective than required by the federal regulations nor less stringent than required by SMCRA. Accordingly, we are approving them.

Section 1. Wyoming added Subsection 1(c) to clarify the requirements for exploration by drilling within a permit area and to be explicit when drilling is considered “exploration by drilling” as distinguished from “developmental drilling.” When exploration by drilling is conducted inside a permit area but 500 feet or more from the active mining area, the proposed language would require the developer to notify the LQD Administrator and adjust the reclamation bond for the mining permit. Wyoming also revised Subsection 1(d) to incorporate the terms “permit area” and “surface coal mining and reclamation operation,” which are defined and used throughout the LQD Coal Rules and Regulations, for clarity and consistency. As revised, Subsection 1(d) requires the discoverer for coal exploration by drilling operations outside of a permit area to provide a Drilling Notification and reclamation bond to the LQD Administrator, prior to drilling. The reference to a “hole completion and surface restoration plan in accordance with Section 2” is eliminated as Wyoming recodifies these requirements within its revisions to Section 3 (Reclamation of Drill Sites and Affected Lands). Wyoming also added the new Subsection 1(e) to define the elements of a Drilling Notification, in a form specified by the LQD Administrator, which include the approximate number and depth of holes to be drilled and a map showing the approximate hole locations within the exploration area. These requirements supplement the existing coal exploration provisions of LQD Coal Rules and Regulations Chapter 10 and add specificity to the Wyoming program beyond that contained in the federal regulations. The lack of federal counterpart provisions does not render the Wyoming program less effective than required by the federal regulations

or less stringent than required by SMCRA. Accordingly, we are approving the changes.

Section 2. Wyoming proposed numerous changes to Section 2 for consistency with Wyoming Division of Environmental Quality—Water Quality Division Rules and Regulations at Chapter 11, Part G, Section 70; newly approved Wyoming State Engineer's Office Rules and Regulations, Part III; and American Society for Testing and Materials (ASTM) D–5299. At Subsection 2(d), Wyoming proposed to define the physical characteristics of acceptable sealant materials and prohibit the use of used drilling muds as a sealant material. OSMRE does not have any corresponding regulatory provisions defining the physical characteristics of acceptable sealant materials or prohibiting the use of drilling mud as a sealant material. At Subsection 2(e), Wyoming proposed to require that sealant materials meet the technical requirements for making a proper seal, meet applicable recognized industry standards, and be prepared according to the manufacturer's directions for specific site requirements. The proposed language would also specify acceptable physical qualities and mixing proportions of the following sealant materials: neat cement slurry, sand cement slurry, concrete slurry, cement/bentonite slurry, high solids bentonite slurry, nonslurry bentonite, and abandonment gel. OSMRE does not have any corresponding regulatory provisions for these technical specifications. At Subsection 2(f), Wyoming outlined two acceptable sealant material emplacement methods that provide a watertight seal: placement of sealant material by drill pipe or similar, upward from the bottom of the hole to within 5 feet of the surface; or acceptable use of non-slurry bentonite. OSMRE does not have any corresponding federal regulations for these technical specifications. At Subsection 2(g), Wyoming proposed revisions that would apply to drill holes sealed with sealant material and include requirements to allow for appropriate cure time of the sealant material, provide for sealant column fall-back in proximity to saturated groundwater stratum, and require that the sealant column be topped off with acceptable material to within 5 feet of the surface. OSMRE does not have any corresponding federal regulations for these technical specifications. Finally, at Subsection 2(h), Wyoming outlined abandonment requirements for coal exploration holes drilled without drilling fluids that are situated above

the preexisting natural elevation of the uppermost saturated groundwater stratum. OSMRE does not have any corresponding federal regulations that contemplate the scenario given. We find these changes add specificity to the Wyoming program beyond that provided by the federal regulations, without rendering the Wyoming program any less effective than required by the federal regulations or less stringent than required by SMCRA. Accordingly, we are approving them.

Section 3. For clarity, Wyoming proposed to dedicate Section 3 to surface reclamation requirements related to coal exploration by drilling and to separate these requirements from the drill hole plugging and sealing provisions of Section 2. In response to public comments Wyoming also incorporated new language addressing the containment of drilling mud, disposal of petroleum-contaminated soils, and reclamation of access routes. Wyoming would further incorporate the defined term “ancillary road” in Section 3 for consistency with the LQD Coal Rules and Regulations and to ensure the Chapter 4 reclamation standards are applied to ancillary roads as described in Section 3. Wyoming proposed to revise and recodify at Subsection 3(d) the existing provisions of Subsection 3(b)(iii). These changes would clarify that the topsoil removal and stockpiling requirements of Chapter 4, Subsection 2(c) apply to coal exploration ancillary roads as well as to exploration drill sites. OSMRE has no counterpart regulations addressing topsoil removal and stockpiling requirements for coal exploration ancillary roads and drill sites. Wyoming also incorporated by reference the environmental performance standards for roads located at LQD Coal Rules and Regulations Chapter 4, Subsection 2(j). We find this addition is reasonable and provides specificity beyond that contained in the existing approved language. The lack of federal counterpart provisions does not render the Wyoming program any less effective than required by the federal regulations or less stringent than required by SMCRA. Accordingly, we are approving the changes.

Wyoming also proposed to revise and recodify at Subsection 3(e) the existing provisions of Subsection 3(b)(iv). Specifically, the proposed language would clarify that the revegetation requirements of LQD Coal Rules and Regulations Chapter 4, Subsection 2(d) apply to coal exploration ancillary roads as well as to exploration drill sites. OSMRE does not have any counterpart provisions addressing revegetation of coal exploration ancillary roads or

exploration drill sites. The lack of federal counterpart provisions does not render the Wyoming program any less effective than required by the federal regulations or less stringent than required by SMCRA. Both the existing and proposed new language incorporate by reference the revegetation requirements of LQD Coal Rules and Regulations Chapter 4, Subsection 2(d). However, the proposed language also incorporates by reference the environmental performance standards for surface and groundwater monitoring located at Chapter 4, Subsection 2(i), as successful revegetation is closely tied to groundwater infiltration and recharge rates and surface runoff quantity and quality. We find this addition is reasonable and provides specificity beyond that contained in the existing approved language. Accordingly, we are approving it.

Section 4. Wyoming proposed changes to Section 4 that would eliminate reference to a flat \$10,000 reclamation bond, as this amount was deemed no longer adequate to address large-scale coal exploration projects; help ensure bond amounts reflect actual reclamation costs; and allow for the bond to be reduced following proper plugging and sealing of the drill holes. At Subsection 4(a) Wyoming incorporated a bonding requirement for exploration areas. The amount of the bond would be computed in accordance with the engineering principles for drill hole abandonment and surface restoration established in Chapter 14. OSMRE does not have any corresponding provisions addressing bonding amounts of coal exploration areas. We find the proposed language is reasonable and provides specificity beyond that contained in the federal regulations. As such, we are approving the addition of Subsection 4(a).

Wyoming also revised Subsection 4(b) to provide for surety reduction upon demonstration to the satisfaction of the LQD Administrator that coal exploration drill holes have been properly abandoned in accordance with Chapter 14. The proposed language provides that bond reduction amounts may be either returned to the discoverer or applied towards bonding amounts for additional exploration by drilling. Finally, Subsection 4(b) provides for surety release upon complete reclamation of exploration drill holes and upon a finding by the Administrator that vegetation has been reestablished. The existing language requiring all exploration bonds to be signed by the discoverer as principal and underwritten by a “good and sufficient corporate surety licensed to do

business” in Wyoming, and with such bonds “made payable to the State of Wyoming,” would remain. OSMRE does not have any counterpart provisions addressing the reduction and release of coal exploration reclamation bonds. We find the proposed changes add specificity to the Wyoming program beyond that contained in the federal requirements. The lack of federal counterpart provisions does not render the Wyoming program any less effective than required by the federal regulations or any less stringent than required by SMCRA. As such, we are approving the revisions to Subsections 4(a)–(b).

Section 6. Wyoming proposed several revisions to Section 6 including statutory citation updates to reflect the current language as amended through the 2015 legislative session and the removal of previous language pertaining to developmental drilling within a mine permit area. The latter change was proposed in response to public comments questioning the applicability of the coal exploration by drilling rules to developmental drilling. The revision appropriately highlights the distinction between developmental drilling and exploratory drilling and confines the requirements of Chapter 14 to the latter.

By contrast to exploratory drilling, developmental drilling is conducted post exploration in proven producing areas, prior to blasting. As the act of blasting obliterates the drill hole itself, developmental drill holes are appropriately excluded from the plugging and sealing requirements of Chapter 14. As revised, Section 6 would retain the existing exemption for oil and gas exploration operations, which are not regulated under Chapter 14, as well as specific exemptions provided for at W.S. 35–11–404(g) and (h). OSMRE’s counterpart drill hole casing and sealing provisions at 30 CFR 816.13 specifically exclude “holes solely drilled and used for blasting.” Accordingly, we find the revision comports with the federal minimum requirements and renders the Wyoming program no less effective than required by the federal regulations and no less stringent than required by SMCRA. We are approving the change. As previously mentioned, the statutory citations embedded in Section 6 would also be updated to reflect current language as amended through the 2015 legislative session, though only W.S. 35–11–404(g) and not W.S. 35–11–404(h) was revised by the Wyoming Legislature in that time. W.S. 35–11–404 was amended in 1980 to include Subsection (g), effective upon final approval of Wyoming’s regulatory program pursuant to SMCRA. The addition of Subsection (g) created an

exclusion under the Wyoming Public Health and Safety Act whereby the LQD could waive the administrative provisions related to aquifers except where coal mining or coal exploration operations are concerned. The prohibition against waiving administrative requirements for aquifers with respect to coal mining or coal exploration operations does not render the Wyoming program any less effective than SMCRA or the OSMRE regulations. Therefore, we are approving the 1980 amendment. The first sentence of W.S. 35–11–404(g) was later revised in 1992 to insert “the director in consultation with” and to substitute “director waiver” for “administrator, land quality division, waiver . . .”. Neither SMCRA nor the OSMRE regulations specify which individual within the organization of the regulatory authority, including administrators or directors, may carry out which functions. These nonsubstantive changes add specificity to the Wyoming program beyond that contemplated by the federal requirements and we are approving them.

Section 7. Finally, Wyoming proposed updates to Section 7 that incorporate a formal permitting mechanism for the installation of baseline water monitoring wells and test wells. The baseline data derived from these water monitoring wells and test wells are needed to support permit applications for mining or research and development; however, Wyoming’s current rules do not provide such a permitting mechanism. Wyoming noted that the plugging and sealing requirements for these water monitoring wells and test wells incorporate the same procedures proposed under the rewrite of Chapter 14, Section 2. To incorporate the permitting system for water monitoring wells and test wells described above, Wyoming proposed the addition of Subsections (a) through (g). According to the language proposed for Subsection (a), well construction would be authorized by the Administrator under a Drilling Notification containing the information required by Subsection 1(e). OSMRE does not have any counterpart provisions addressing the authorization process for the construction of wells used to collect groundwater baseline data in preparation for a mine permit application. We find the proposed language is reasonable and provides specificity beyond that contained in the federal regulations. As such, we are approving the addition of Subsection 7(a).

Under the proposed Subsection 7(b), the discoverer would be encouraged but not required to submit a plan for review

by the Administrator describing the location and completion details for each proposed baseline groundwater monitoring or test well. The Administrator would have 30 days to review the plan and respond to the discoverer. OSMRE does not have any counterpart provisions addressing the review of plans related to the construction of wells used to collect groundwater baseline data in preparation for a mine permit application. We find the proposed language is reasonable and provides specificity beyond that contained in the federal regulations. As such, we are approving the addition of Subsection 7(b).

Under the proposed Subsection 7(c), permitting for baseline groundwater monitoring wells and test wells would be carried out in accordance with the requirements of the State Engineer's Office and W.S. 35–11–404(c)(iv). W.S. 35–11–404(c)(iv) requires any holes drilled for use as water wells, or holes which are converted for use as water wells, to comply with the applicable provisions of W.S. 41–3–911–41–3–938. The provisions of W.S. 41–3–911–41–3–938 pertain to underground water generally as well as permitting requirements for water well construction. OSMRE does not have any counterpart provisions addressing the permitting requirements for wells used to collect groundwater baseline data in preparation for a mine permit application. We find the proposed language is reasonable and provides specificity beyond that contained in SMCRA or the federal regulations. As such, we are approving the addition of Subsection 7(c).

The language proposed for Subsection 7(d) would require these baseline groundwater monitoring wells and test wells to be secured to prevent contaminant entry. OSMRE does not have any counterpart provisions requiring the securing and prevention of contaminant entry into wells used to collect groundwater baseline data in preparation for a mine permit application. We find the proposed language is reasonable and provides specificity beyond that contained in the federal regulations. As such, we are approving the addition of Subsection 7(d).

Subsection 7(e) would create a bonding requirement to ensure all baseline groundwater monitoring and test wells are properly plugged and sealed and to ensure the restoration of well sites. OSMRE does not have any counterpart provisions requiring a bond for baseline groundwater monitoring wells or other test wells constructed

prior to issuance of a mining permit. We find the proposed language is reasonable and provides specificity beyond that contained in the federal regulations. As such, we are approving the addition of Subsection 7(e).

Subsection 7(f) would apply the plugging, sealing, and site reclamation requirements of LQD Coal Rules and Regulations Chapter 14, Sections 2 and 3 to baseline groundwater monitoring wells and test wells. Subsection 7(f) would further require all well casings be cut at least two feet below grade and any pumps or other equipment to be removed before plugging and sealing of the well. OSMRE does not have any counterpart provisions addressing plugging, sealing, and site reclamation requirements for baseline groundwater monitoring wells and test wells constructed in preparation for the submission of a mining permit. We find the proposed language is reasonable and provides specificity beyond that contained in the federal regulations. As such, we are approving the addition of Subsection 7(f).

Finally, Subsection 7(g) would require well abandonment reports to be filed with the LQD Administrator and the State Engineer's Office within twelve months of a baseline groundwater monitoring or test well's abandonment. OSMRE does not have any counterpart provisions pertaining to the submission of abandonment reports for baseline groundwater monitoring or test wells constructed in preparation for a mine permit or research and development application. We find the proposed changes are reasonable and provide specificity beyond that contained in the federal regulations. The lack of federal counterpart provisions does not render the Wyoming program any less effective than required by the federal regulations or any less stringent than required by SMCRA. As such, we are approving the addition of Subsections 7(a)–(g).

D. Revisions to Wyoming's Rules That We Are Not Approving

Wyoming proposed two revisions to Chapter 14 that we are not approving. First, Wyoming proposed to revise the existing provisions of Chapter 14, Subsection 3(b) and recodify these requirements at Subsection 3(a). This revision was proposed to provide for the reclamation of drill sites and "ancillary roads" as defined in Chapters 1 and 4 of the LQD Coal Rules and Regulations. During our review of this proposed change, we noted that the final word in the provision, "location," was inadvertently used in place of "condition," as previously approved. The word-swap renders the provision

illogical and not fit for approval by OSMRE. Next, Wyoming included minor updates to Section 3 and Section 4. The updates clarify and specify the provisions incorporated by reference in Chapter 14, Subsections 3(c), 3(d), 3(e), and 4(d) are from the "Land Quality Coal Rules and Regulations," as opposed to simply the "Land Quality Rules and Regulations." However, in both instances Wyoming failed to include the word "Division," as in "Land Quality Division Coal Rules and Regulations" which is the complete and proper reference to these requirements. By letter dated October 24, 2023, we informed Wyoming of the requirements to: (1) replace the word "location" with the previously-approved "condition" as proposed at Chapter 14, Subsection 3(a); and (2) update the proposed revisions to Chapter 14, Subsections 3(c), 3(d), 3(e), and 4(d) to include the word "Division," forming the complete phrase "Land Quality Division Coal Rules and Regulations." In our letter we offered to temporarily delay rulemaking to allow Wyoming time to respond and address the identified concerns. By letter dated November 22, 2023, Wyoming responded to our additional concern letter. In the response letter Wyoming indicated that, although they had taken the initial steps to address our concerns through formal rulemaking, the State's internal rulemaking processes would preclude Wyoming from correcting the error and omissions noted above within the allowable timeframe. Accordingly, we are not approving the proposed revisions to Chapter 14, Subsections 3(a), 3(c), 3(d), 3(e), and 4(d). It is incumbent on Wyoming to revisit these provisions in subsequent rulemaking.

IV. Summary and Disposition of Comments

Public Comments

We asked for public comments on the amendment; one comment was received. The commenter recommended we "end extractive industries on public lands." Later the commenter suggested "the extractive industry" should be nationalized and the "New Green Deal" [sic] be implemented. The commenter included various additional political opinions. These comments are outside the scope of this amendment, and we won't respond to them here. We appreciate the commenter's engagement with the rulemaking process.

Federal Agency Comments

On June 16, 2021, under 30 CFR 732.17(h)(11)(i) and section 503(b) of SMCRA, we requested comments on the

amendment from various federal agencies with an actual or potential interest in the Wyoming program (OSM–2021–0004). We did not receive any comments.

Environmental Protection Agency (EPA) Concurrence and Comments

Under 30 CFR 732.17(h)(11)(ii), we are required to get a written concurrence from EPA for those provisions of the program amendment that relate to air or water quality standards issued under the authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or the Clean Air Act (42 U.S.C. 7401 *et seq.*). On June 16, 2021, under 30 CFR 732.17(h)(11)(i), we requested comments from the EPA on the amendment (Docket ID No. OSM–2021–0004). The EPA did not respond to our request.

State Historic Preservation Office (SHPO) and the Advisory Council on Historic Preservation (ACHP)

Under 30 CFR 732.17(h)(4), we are required to request comments from the SHPO and ACHP on amendments that may have an effect on historic properties. On June 16, 2021, we requested comments on Wyoming's amendment (OSM–2021–0004). We did not receive any comments from the SHPO or ACHP.

V. OSMRE's Decision

Section 503(a) of SMCRA requires that the State's program demonstrate that the State has the capability of carrying out the provisions of the Act and meeting its purposes. SMCRA requires consistency of state and federal standards. Based on the above findings, we are approving, in part, Wyoming's amendment that was submitted on June 14, 2021. To implement this decision, we are amending the federal regulations at 30 CFR part 950.16 that codify decisions concerning the Wyoming program. In accordance with the Administrative Procedure Act, this rule will take effect 30 days after the date of publication.

VI. Procedural Determinations

Executive Order 12630—Governmental Actions and Interference With Constitutionally Protected Property Rights

This rule would not affect a taking of private property or otherwise have taking implications that would result in public property being taken for government use without just compensation under the law. Therefore, a takings implication assessment is not required. This determination is based on an analysis of the corresponding federal regulations.

Executive Orders 12866—Regulatory Planning and Review, 13563—Improving Regulation and Regulatory Review, and 14094—Modernizing Regulatory Review

Executive Order 12866, as amended by Executive Order 14094, provides that the Administrator of the Office of Information and Regulatory Affairs within the Office of Management and Budget (OMB) will review all significant rules. Pursuant to OMB guidance, dated October 12, 1993, the approval of state program and/or plan amendments is exempted from OMB review under Executive Order 12866, as amended by Executive Order 14094. Executive Order 13563, which reaffirms and supplements Executive Order 12866, does not supplant this exemption.

Executive Order 12988—Civil Justice Reform

The Department of the Interior has reviewed this rule as required by Section 3 of Executive Order 12988. The Department determined that this **Federal Register** document meets the criteria of Section 3 of Executive Order 12988, which is intended to ensure that the agency review its proposed legislation and regulations to eliminate drafting errors and ambiguity; that the agency write its legislation and regulations to minimize litigation; and that the agency's legislation and regulations provide a clear legal standard for affected conduct rather than a general standard, and promote simplification and burden reduction. Because Section 3 focuses on the quality of federal legislation and regulations, the Department limited its review under this Executive Order to the quality of this **Federal Register** document and to changes to the federal regulations. The review under this Executive Order did not extend to the language of the State regulatory program or to the program amendment that the Cabinet proposed.

Executive Order 13132—Federalism

This rule is not a “[p]olicy that [has] federalism implications” as defined by section 1(a) of Executive Order 13132 because it 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.” Instead, this rule approves an amendment to the Wyoming program submitted and drafted by that state. OSMRE reviewed the submission with fundamental federalism principles in mind as set forth in sections 2 and 3 of the

Executive Order and with the principles of cooperative federalism set forth in SMCRA. See, e.g., 30 U.S.C. 1201(f). As such, pursuant to section 503(a)(1) and (7) (30 U.S.C. 1253(a)(1) and (7)), OSMRE reviewed the program amendment to ensure that it is “in accordance with” the requirements of SMCRA and “consistent with” the regulations issued by the Secretary pursuant to SMCRA.

Executive Order 13175—Consultation and Coordination With Indian Tribal Governments

The Department of the Interior strives to strengthen its government-to-government relationship with Tribes through a commitment to consultation with Tribes and recognition of their right to self-governance and tribal sovereignty. We have evaluated this rule under the Department's consultation policy and under the criteria in Executive Order 13175 and have determined that it has no substantial direct effects on federally recognized Tribes or on the distribution of power and responsibilities between the federal government and Tribes. Therefore, consultation under the Department's Tribal consultation policy is not required. The basis for this determination is that our decision pertains to the Wyoming coal regulatory program which does not include Tribal lands or regulation of activities on Tribal lands. Indian lands under SMCRA are regulated independently under the applicable, approved federal program.

Executive Order 13211—Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

Executive Order 13211 requires agencies to prepare a Statement of Energy Effects for a rulemaking that is (1) considered significant under Executive Order 12866, and (2) likely to have a significant adverse effect on the supply, distribution, or use of energy. Because this rule is exempt from review under Executive Order 12866 and is not a significant energy action under the definition in Executive Order 13211, a Statement of Energy Effects is not required.

Executive Order 13045—Protection of Children From Environmental Health Risks and Safety Risks

This rule is not subject to Executive Order 13045 because this is not an economically significant regulatory action as defined by Executive Order 12866; and this action does not address

environmental health or safety risks disproportionately affecting children.

National Environmental Policy Act

Consistent with sections 501(a) and 702(d) of SMCRA (30 U.S.C. 1251(a) and 1292(d)) and the U.S. Department of the Interior Departmental Manual, part 516, section 13.5(A), state program amendments are not major federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 3701 *et seq.*) directs OSMRE to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. (OMB Circular A-119 at p. 14). This action is not subject to the requirements of section 12(d) of the NTTAA because application of those requirements would be inconsistent with SMCRA.

Paperwork Reduction Act

This rule does not include requests and requirements of an individual, partnership, or corporation to obtain information and report it to a federal agency. As this rule does not contain information collection requirements, a submission to the Director of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) is not required.

Regulatory Flexibility Act

This rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal, which is the subject of this rule, is based upon corresponding federal regulations for which an economic analysis was prepared, and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the corresponding federal regulations.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule: (a) Does not have an annual effect on the economy of \$100 million; (b) Will not cause a major increase in costs or prices for consumers, individual industries, federal, state, or local government agencies, or geographic regions; and (c) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. This determination is based on an analysis of the corresponding federal regulations, which were determined not to constitute a major rule.

Unfunded Mandates

This rule will not impose an unfunded mandate on state, local, or Tribal governments or the private sector of more than \$100 million per year. The rule does not have a significant or unique effect on state, local, or tribal governments or the private sector. This determination is based on an analysis of the corresponding federal regulations, which were determined not to impose an unfunded mandate. Therefore, a statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

List of Subjects in 30 CFR Part 950

Intergovernmental relations, surface mining, underground mining.

David A. Berry,

Regional Director Interior Region 5, 7–11.

For the reasons set out in the preamble, 30 CFR part 950 is amended as set forth below:

PART 950—Wyoming

■ 1. The authority citation for part 950 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

■ 2. In § 950.15 amend the table by adding an entry for “June 14, 2021” in chronological order to read as follows:

§ 950.15 Approval of Wyoming regulatory program amendments.

* * * * *

Original amendment submission date	Date of final publication	Citation/description
June 14, 2021	January 19, 2024.	LQD Rules, Ch XIV, §§ 1 through 7.

■ 3. Revise § 950.16 to read as follows:

§ 950.16 Required program amendments

Pursuant to 30 CFR 732.17, Wyoming is required to submit for OSMRE's approval the following required amendments by the dates specified.

(a) By September 15, 2024, Wyoming shall correct the provision in Chapter 14, where the final word in the provision, “location,” was inadvertently used in place of “condition,” as previously approved.

(b) By September 15, 2024, Wyoming shall add the word “Division” to the “Land Quality Coal Rules and

Regulations” as referenced in Chapter 14, Subsections 3(c), 3(d), 3(e), and 4(d).
[FR Doc. 2024–00531 Filed 1–18–24; 8:45 am]

BILLING CODE 4310–05–P

POSTAL SERVICE

39 CFR Part 111

Shipping Address Label

AGENCY: Postal Service™.

ACTION: Final rule.

SUMMARY: The Postal Service is amending *Mailing Standards of the United States Postal Service*, Domestic Mail Manual (DMM®) to clarify the

requirement of the service icon and service banner when a shipping address label is used.

DATES: *Effective date:* January 21, 2024.

FOR FURTHER INFORMATION CONTACT:

Steven Jarboe at (202) 268–7690, Catherine Knox at (202) 268–5636, or Garry Rodriguez at (202) 268–7281.

SUPPLEMENTARY INFORMATION: On December 5, 2023, the Postal Service published a notice of proposed rulemaking (88 FR 84251–84252) to clarify the requirement of the service icon and service banner when a shipping address label is used. In response to the proposed rule, the Postal Service received two responses, both

containing multiple comments, as follows:

Comment: Two comments raised concern with the January 21, 2024, effective date. One of the comments cited late notification, peak season, and end-of-year programming routines as causes for delayed adherence to the new requirements and requested a grace period through March 31, 2024.

Response: The Postal Service has taken this request into consideration and will allow a grace period from January 21, 2024, through May 31, 2024.

Comment: Two comments stated concern with the service icon and service banner requirement being problematic for some of the Postal Service's recommended label formats.

Response: The Postal Service has updated the *Parcel Labeling Guide* (v3.3.3), available on PostalPro at postalpro.usps.com, which outlines the requirements for sizing of the service icon and banner for all label sizes.

Comment: Two comments were a request to confirm the proposed rule did not require a service icon on Parcel Return Service labels.

Response: The Postal Service has updated the *Parcel Labeling Guide* (v3.3.3), available on PostalPro at postalpro.usps.com, which outlines the requirements for Parcel Return Service (PRS) labels.

Comment: One comment questioned the proposal to require a generic box with an "X" through it for Parcel Select shipments and questioned the operational purpose of the marking on a destination entered product.

Response: The Parcel Select "X" or solid box service icons are established markings by the Postal Service that are already in use by shippers on their Parcel Select shipping labels. Operationally, the use of these markings assists in the visibility of Parcel Select mailpieces not sorted to a 5-digit, and primarily entered at the DNDC and DSCF (e.g., SCF, 3-digit, NDC).

The Postal Service is requiring the correct service indicator composed of the service icon and service banner be included when a shipping address label is used.

In addition, the Postal Service is requiring the hazardous materials icon in lieu of the service icon be included when a shipping address label is used on items containing mailable hazardous materials.

Any variance in the physical aspect of the label affixed to a parcel presented for mailing may subject the piece to the IMpb noncompliance fee.

We believe these revisions will enable the Postal Service to provide customers

with a more efficient mailing experience.

The Postal Service adopts the described changes to *Mailing Standards of the United States Postal Service*, Domestic Mail Manual (DMM), incorporated by reference in the *Code of Federal Regulations*.

We will publish an appropriate amendment to 39 CFR part 111 to reflect these changes.

List of Subjects in 39 CFR Part 111

Administrative practice and procedure, Postal Service.

Accordingly, 39 CFR part 111 is amended as follows:

PART 111—[AMENDED]

■ 1. The authority citation for 39 CFR part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a); 13 U.S.C. 301–307; 18 U.S.C. 1692–1737; 39 U.S.C. 101, 401–404, 414, 416, 3001–3018, 3201–3220, 3401–3406, 3621, 3622, 3626, 3629, 3631–3633, 3641, 3681–3685, and 5001.

■ 2. Revise the *Mailing Standards of the United States Postal Service*, Domestic Mail Manual (DMM) as follows:

Mailing Standards of the United States Postal Service, Domestic Mail Manual (DMM)

100 Retail Letters, Cards, Flats, and Parcels

* * * * *

102 Elements on the Face of a Mailpiece

* * * * *

3.0 Placement and Content of Mail Markings

* * * * *

3.2 Priority Mail Marking

[Revise the introductory text of 3.2 to read as follows:]

Priority Mail pieces must have the basic price marking of "Priority Mail" printed in a prominent location on the address side. When a shipping address label is used, the basic required price marking must be printed as provided under 202.3.9.

[Delete items a and b in their entirety.]

[Delete Exhibit 3.2 in its entirety.]

3.3 First-Class Mail and USPS Ground Advantage—Retail Markings

[Revise the second sentence under 3.3 to read as follows:]

* * * When a shipping address label is used, the basic required price marking must be printed as provided under 202.3.9.

3.4 Media Mail, Library Mail, and USPS Retail Ground Markings

[Revise the third sentence of the introductory text of 3.4 to read as follows:]

* * * When a shipping address label is used, the basic required price marking must be printed as provided under 202.3.9.

[Delete items a and b in their entirety.]

[Delete Exhibit 3.4 in its entirety.]

* * * * *

200 Commercial Letters, Cards, Flats, and Parcels

* * * * *

202 Elements on the Face of a Mailpiece

* * * * *

3.0 Placement and Content of Mail Markings

* * * * *

3.3 Priority Mail Express and Priority Mail Markings

* * * * *

3.3.2 Priority Mail

[Revise the text of 3.3.2 to read as follows:]

Priority Mail pieces must have the basic price marking of "Priority Mail" printed in a prominent location on the address side. When a shipping address label is used, the basic required price marking must be printed as provided under 3.9.

[Delete items a and b in their entirety.]

[Delete Exhibit 3.3.2 in its entirety.]

* * * * *

3.5 First-Class Mail and USPS Marketing Mail Markings

3.5.1 Types of Markings

Mailpieces must be marked under the corresponding standards to show the class of service and/or price paid:

* * * * *

[Revise the text of item d to read as follows:]

d. When a shipping address label is used, the basic required price marking must be printed as provided under 3.9.

* * * * *

3.6 USPS Ground Advantage—Commercial Markings

3.6.1 Basic Markings

[Revise the last sentence of 3.6.1 to read as follows:]

* * * When a shipping address label is used, the basic required price marking must be printed as provided under 3.9.

* * * * *

3.7 Parcel Select, Bound Printed Matter, Media Mail, and Library Mail Markings

3.7.1 Basic Markings

[Revise the last sentence in the introductory text of 3.7.1 to read as follows:]

* * * When a shipping address label is used, the basic required price marking must be printed as provided under 3.9. *[Delete items a and b in their entirety.] [Delete Exhibit 3.7.1 in its entirety.]*

[Delete 3.9, Marking Hazardous Materials, and add new 3.9 to read as follows:]

3.9 Shipping Address Label Markings

3.9.1 General

When a shipping address label is used, it must include the correct service indicator composed of two elements, the service icon (except as provided under 3.9.2) and service banner. For information on the markings and specifications, see the Parcel Labeling Guide available on the PostalPro website at postalpro.usps.com/parcellabelingguide). Failure to comply may subject the piece to the IMpb noncompliance fee.

3.9.2 Hazardous Materials

When a shipping address label is used on items containing mailable hazardous materials, it must include the hazardous materials icon in lieu of the service icon as provided in the Parcel Labeling Guide.

[Add new 9.0 to read as follows:]

9.0 Hazardous Materials

9.1 General

Mailers must ensure that their packages meet all applicable markings under 3.0, and ancillary service endorsement requirements under 507.1.5.

9.2 Shipping Address Labels

When a shipping address label is used, the basic required price marking must be printed as provided under 3.9.

9.3 Additional Elements

All mailable hazardous materials must also include the applicable labels, markings, and tags, as required in Publication 52, *Hazardous, Restricted, and Perishable Mail*.

600 Basic Standards for All Mailing Services

601 Mailability

8.0 Hazardous, Restricted, and Perishable Mail

[Add a new 8.5 to read as follows:]

8.5 Hazardous Materials Labeling

All mailable hazardous materials must be marked as provided under 202.9.0 and include the applicable labels, markings, and tags, as required in Publication 52, *Hazardous, Restricted, and Perishable Mail*.

Colleen Hibbert-Kapler,

Attorney, Ethics and Legal Compliance.

[FR Doc. 2024-00945 Filed 1-18-24; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R05-OAR-2023-0482; FRL-11618-02-R5]

Air Plan Approval; Indiana; Lake and Porter 2008 Ozone NAAQS Maintenance Plan Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving Indiana's September 21, 2023, state implementation plan (SIP) submission which revises the 2008 ozone maintenance plan for the Indiana portion (Lake and Porter Counties) of the Chicago Naperville, IL-IN-WI area (Chicago Naperville area). This SIP submission updates onroad vehicle emissions inventories for oxides of nitrogen (NO_x) and volatile organic compounds (VOC) for the years 2019, 2030 and 2035. In addition to updated emissions inventories, this SIP submission updates the Motor Vehicle Emissions Budgets (budgets) for NO_x and VOC for the years 2030 and 2035. EPA is approving the allocation of a portion of the safety margins for VOC and NO_x in the ozone maintenance plan to the 2030 and 2035 budgets. Total year 2030 and 2035 emissions of NO_x and VOC for the area will remain below the attainment level required by the transportation conformity regulations.

DATES: This direct final rule will be effective March 19, 2024, unless EPA receives adverse comments by February 20, 2024. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R05-OAR-2023-0482 at <https://www.regulations.gov> or via email to leslie.michael@epa.gov. For comments submitted at [Regulations.gov](https://www.regulations.gov), follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from [Regulations.gov](https://www.regulations.gov). For either manner of submission, EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the web, cloud, or other file sharing system). For additional submission methods, 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://www2.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT:

Emily Crispell, Control Strategies Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353-8512, crispell.emily@epa.gov. The EPA Region 5 office is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays and facility closures due to COVID-19.

SUPPLEMENTARY INFORMATION:

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

I. Background

On May 20, 2022 (87 FR 30821), EPA determined that the Chicago Naperville area was attaining the 2008 ozone National Ambient Air Quality Standard (NAAQS), based on quality-assured and certified monitoring data for 2019–2021, and changed the legal designation of the Indiana portion from nonattainment to attainment for the 2008 ozone NAAQS, effective May 20, 2022. At that time, EPA also approved Indiana's maintenance plan for the area along with 2030 and 2035 budgets to keep the Indiana portion of the Chicago

Naperville area in attainment of the 2008 ozone NAAQS through 2035.

Budgets are the projected levels of controlled emissions from the transportation sector (mobile sources) that are estimated in the SIP to provide for maintenance of the ozone standard. The transportation conformity rule (40 CFR part 93, subpart A) allows the budgets to be changed as long as the total level of emissions from all sources remains below the attainment levels.

On September 21, 2023, the Indiana Department of Environmental Management (IDEM) submitted a request to update the state's

maintenance plan to include revised emissions inventories and motor vehicle emissions budgets that reflect updated EPA Motor Vehicle Emission Simulator (MOVES3) modeling and increased onroad vehicle emission rates.

II. Emissions Inventory

Indiana updated its MOVES3 inputs for the Indiana portion of the Chicago Naperville maintenance area for the 2008 ozone NAAQS. This has resulted in slightly higher emissions rates and more accurate onroad emissions estimates for the 2019 attainment level emissions, 2030 interim year emission

projections, and 2035 maintenance year emission projections. The revised onroad emissions inventories for Lake and Porter counties were calculated using EPA's MOVES3 model-produced emission factors and data extracted from the area's travel-demand model. Table 1 shows Indiana's onroad emissions for Lake and Porter Counties for the years 2019, 2030, and 2035 which were approved by EPA on May 20, 2022 (87 FR 30821). Table 2 shows Indiana's revised onroad emissions for Lake and Porter Counties for the years 2019, 2030, and 2035 based on updated MOVES3 modeling.

TABLE 1—LAKE AND PORTER COUNTIES 2019 ATTAINMENT YEAR, 2030 PROJECTED INTERIM YEAR, AND 2035 PROJECTED MAINTENANCE YEAR ONROAD NO_x AND VOC EMISSION INVENTORY

[Tons per summer day]

Pollutant	2019 Attainment year emissions (tons/day)	2030 Projected interim year emissions (tons/day)	2035 Projected maintenance year emissions (tons/day)
NO _x	9.48	4.55	4.77
VOC	3.51	2.03	1.82

TABLE 2—REVISED LAKE AND PORTER COUNTIES 2019 ATTAINMENT YEAR, 2030 PROJECTED INTERIM YEAR, AND 2035 PROJECTED MAINTENANCE YEAR ONROAD NO_x AND VOC MOVES3 EMISSION INVENTORY

[Tons per summer day]

Pollutant	2019 Attainment year emissions (tons/day)	2030 Projected interim year emissions (tons/day)	2035 Projected maintenance year emissions (tons/day)
NO _x	9.99	5.44	5.08
VOC	3.50	2.06	2.42

III. Safety Margin

A “safety margin,” as defined in the transportation conformity rule (40 CFR part 93, subpart A), is the amount by which the total projected emissions from all sources of a given pollutant are less than the total emissions that would satisfy the applicable requirement for

reasonable further progress, attainment, or maintenance. The attainment level of emissions is the level of emissions during one of the years in which the area met the NAAQS. Table 3 gives detailed information on the safety margin for the Indiana portion of the Chicago-Naperville, IL-IN-WI area. Table 3 includes a comparison of the

VOC and NO_x emissions in the year 2019 (Indiana's attainment year), to the projected emissions of VOC and NO_x in the years 2030 and 2035. The difference between the projected emissions in the year 2035 and the actual emissions in the year 2019 is referred to as the “safety margin” or the amount of excess emission reductions.

TABLE 3—SAFETY MARGIN FOR CHICAGO'S 2008 8-HOUR OZONE MAINTENANCE PLAN

Pollutant	2019 Attainment year emissions (tons/day)	2030 Projected interim year emissions (tons/day)	2030 Safety margin (tons/day)	2035 Projected maintenance year emissions (tons/day)	2035 Safety margin (tons/day)
NO _x	88.53	78.80	9.73	76.37	12.16
VOC	37.33	35.84	1.49	36.19	1.14

Indiana has requested the allocation of 1.09 tons/day of the NO_x and 0.41 tons/day of VOC from the safety margins to the 2030 budgets. Additionally, Indiana has requested the allocation of 1.02 tons/day of the NO_x and 0.48 tons/day of VOC from the safety margins to

the 2035 budgets. The revised maintenance plan will have a 2030 safety margin of 8.64 tons/day of NO_x and 1.08 tons/day of VOC and a 2035 safety margin of 11.14 tons/day of NO_x and 0.66 tons/day of VOC. The 2030 and the 2035 projected emissions, even with

this allocation, will be below the 2019 attainment year emissions for both VOC and NO_x. For this reason, EPA finds that the allocation of the safety margins to the 2030 and 2035 budget for the Indiana portion of Chicago Naperville, IL-IN-WI area meets the requirements of

the transportation conformity regulations at 40 CFR part 93 and is approvable.

IV. Motor Vehicle Emission Budgets

Indiana's maintenance plan includes NO_x and VOC budgets for the Indiana portion of the Chicago Naperville area for 2030 and 2035, an interim year and the last year of the maintenance period, respectively. The budgets were developed as part of an interagency consultation process which includes Federal, state, and local agencies. The budgets were clearly identified and

precisely quantified. These budgets, when considered together with all other emissions sources, are consistent with maintenance of the 2008 ozone NAAQS.

This action changes the budgets for mobile sources. The maintenance plan is designed to provide for future growth while still maintaining the ozone NAAQS. Growth in industries, population, and traffic is offset by reductions from cleaner cars and other emission reduction programs. Through the maintenance plan, the state and local agencies can manage and maintain

clean air quality while providing for growth.

In its submittal, Indiana requested to allocate a portion of the safety margins for NO_x and VOC to the 2030 and 2035 budgets. Table 4 and 5 detail the updated budgets for the 2008 ozone maintenance plan for the Indiana portion of the Chicago Naperville, IL-IN-WI area. Table 4 and 5 also show the revised projected onroad emissions, the amount of excess emission reductions or safety margin to be allocated into the new budgets, and the new budgets for NO_x and VOC.

TABLE 4—REVISED 2030 MOTOR VEHICLE EMISSIONS BUDGETS FOR THE INDIANA PORTION OF THE CHICAGO NAPERVILLE AREA 2008 OZONE MAINTENANCE PLAN IN TONS PER OZONE SEASON DAY

Pollutant	Revised 2030 onroad emissions (tons/day)	Safety margin allocation (tons/day)	Revised 2030 MVEB (tons/day)
NO _x	5.44	1.09	6.53
VOC	2.06	0.41	2.47

TABLE 5—REVISED 2035 MOTOR VEHICLE EMISSIONS BUDGETS FOR THE INDIANA PORTION OF THE CHICAGO NAPERVILLE AREA 2008 OZONE MAINTENANCE PLAN IN TONS PER OZONE SEASON DAY

Pollutant	Revised 2035 onroad emissions (tons/day)	Safety margin allocation (tons/day)	Revised 2035 MVEB (tons/day)
NO _x	5.08	1.02	6.10
VOC	2.42	0.48	2.90

V. What action is EPA taking?

EPA is approving revisions to the 2008 ozone maintenance plan for the Indiana portion of the Chicago-Naperville, IL-IN-WI area. The revisions will change the onroad emissions inventory for VOC and NO_x for the years 2019, 2030, and 2035. The revisions will also change the budgets that are used for transportation conformity purposes. The revisions will keep the total emissions for the area at or below the attainment level required by law. This action will allow State or local agencies to continue to maintain air quality while providing for transportation growth.

We are publishing this action without prior proposal because we view this as a noncontroversial amendment and anticipate no adverse comments. However, in the proposed rules section of this **Federal Register** publication, we are publishing a separate document that will serve as the proposal to approve the state plan if relevant adverse written comments are filed. This rule will be effective March 19, 2024 without further notice unless we receive relevant adverse written comments by February 20, 2024. If we receive such comments, we will withdraw this action before the

effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on the proposed action. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment. If we do not receive any comments, this action will be effective March 19, 2024.

VI. Statutory and Executive Order Reviews

Under the Clean Air Act (CAA), the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as

meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993), and 14094 (88 FR 21879, April 11, 2023);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it approves a state program;

• Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001); and

• Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA.

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

Executive Order 12898 (Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations, 59 FR 7629, February 16, 1994) directs Federal agencies to identify and address “disproportionately high and adverse human health or environmental effects” of their actions on minority populations and low-income populations to the greatest extent practicable and permitted by law. EPA defines environmental justice (EJ) as “the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.” EPA further defines the term fair treatment to mean that “no group of people should bear a disproportionate burden of environmental harms and risks,

including those resulting from the negative environmental consequences of industrial, governmental, and commercial operations or programs and policies.” The Indiana Department of Environmental Management did not evaluate environmental justice considerations as part of its SIP submittal; the CAA and applicable implementing regulations neither prohibit nor require such an evaluation. EPA did not perform an EJ analysis and did not consider EJ in this action. Consideration of EJ is not required as part of this action, and there is no information in the record inconsistent with the stated goal of E.O. 12898 of achieving environmental justice for people of color, low-income populations, and Indigenous peoples.

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

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by March 19, 2024. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of

proposed rulemaking for this action published in the proposed rules section of this **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

Dated: January 10, 2024.

Debra Shore,
Regional Administrator, Region 5.

For the reasons stated in the preamble, title 40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

■ 2. In § 52.770, the table in paragraph (e) is amended by revising the entry for “Lake and Porter Counties 2008 8-hour Ozone Maintenance Plan” to read as follows:

§ 52.770 Identification of plan.
* * * * *
(e) * * *

EPA-APPROVED INDIANA NONREGULATORY AND QUASI-REGULATORY PROVISIONS

Title	Indiana date	EPA approval	Explanation
Lake and Porter Counties 2008 8-hour Ozone Maintenance Plan.	9/21/2023	1/19/2024, [INSERT FEDERAL REGISTER CITATION].	Updated Onroad Emissions Inventory and Motor Vehicle Emissions Budgets.

* * * * *
[FR Doc. 2024–00790 Filed 1–18–24; 8:45 am]
BILLING CODE 6560–50–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts

45 CFR Parts 1149 and 1158

RIN 3135–AA33

Civil Penalties Adjustment for 2024

AGENCY: National Endowment for the Arts, National Foundation on the Arts and the Humanities.

ACTION: Final rule.

SUMMARY: The National Endowment for the Arts (NEA) is adjusting the

maximum civil monetary penalties (CMPs) that may be imposed for violations of the Program Fraud Civil Remedies Act (PFCRA) and the NEA’s Restrictions on Lobbying to reflect the requirements of the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (the 2015 Act). The 2015 Act further amended the Federal Civil Penalties Inflation Adjustment Act of 1990 (the Inflation Adjustment Act) to improve the effectiveness of civil monetary penalties and to maintain their deterrent effect. This final rule provides the 2024 annual inflation adjustments to the initial

“catch-up” adjustments made on June 15, 2017, and reflects all other inflation adjustments made in the interim.

DATES: This rule is effective January 19, 2024.

FOR FURTHER INFORMATION CONTACT:

Daniel Fishman, Assistant General Counsel, National Endowment for the Arts, 400 7th St. SW, Washington, DC 20506, Telephone: 202–682–5418.

SUPPLEMENTARY INFORMATION:

1. Background

On December 12, 2017, the NEA issued a final rule entitled “Federal Civil Penalties Adjustments”¹ which finalized the NEA’s June 15, 2017, interim final rule entitled “Implementing the Federal Civil Penalties Adjustment Act Improvements Act”,² implementing the 2015 Act (section 701 of Pub. L. 114–74), which amended the Inflation Adjustment Act (28 U.S.C. 2461 note) requiring catch-up and annual adjustments to the NEA’s CMPs. The 2015 Act requires agencies make annual adjustments to its CMPs for inflation.

A CMP is defined in the Inflation Adjustment Act as any penalty, fine, or other sanction that is (1) for a specific monetary amount as provided by Federal law, or has a maximum amount provided for by Federal law; (2) assessed or enforced by an agency pursuant to Federal law; and (3) assessed or enforced pursuant to an administrative proceeding or a civil action in the Federal courts.

These annual inflation adjustments are based on the percentage change in the Consumer Price Index for all Urban Consumers (CPI-U) for the month of October preceding the date of the adjustment, relative to the October CPI-U in the year of the previous adjustment. The formula for the amount of a CMP inflation adjustment is prescribed by law, as explained in OMB Memorandum M–16–06 (February 24, 2016), and therefore the amount of the adjustment is not subject to the exercise of discretion by the Chairman of the National Endowment for the Arts (Chairman).

The Office of Management and Budget has issued guidance on implementing and calculating the 2024 adjustment under the 2015 Act.³ Per this guidance, the CPI-U adjustment multiplier for this annual adjustment is 1.03241. In its prior rules, the NEA identified two CMPs, which require adjustment: the penalty for false statements under the

PFCRA and the penalty for violations of the NEA’s Restrictions on Lobbying. With this rule, the NEA is adjusting the amount of those CMPs accordingly.

2. Dates of Applicability

The inflation adjustments contained in this rule shall apply to any violations assessed after January 15, 2024.

3. Adjustments

Two CMPs in NEA regulations require adjustment in accordance with the 2015 Act: (1) the penalty associated with the Program Fraud Civil Remedies Act (45 CFR 1149.9) and (2) the penalty associated with Restrictions on Lobbying (45 CFR 1158.400; 45 CFR part 1158, app. A).

A. Adjustments to Penalties Under the NEA’s Program Fraud Civil Remedies Act Regulations

The current maximum penalty under the PFCRA for false claims and statements is currently set at \$13,507. The post-adjustment penalty or range is obtained by multiplying the pre-adjustment penalty or range by the percent change in the CPI-U over the relevant time period and rounding to the nearest dollar. Between October 2022 and October 2023, the CPI-U increased by a multiplier of 103.241%. Therefore, the new post-adjustment maximum penalty under the PFCRA for false statements is $\$13,507 \times 1.03241 = \$13,944.76$ which rounds to \$13,945. Therefore, the maximum penalty under the PFCRA for false claims and statements will be \$13,945.

B. Adjustments to Penalties Under the NEA’s Restrictions on Lobbying Regulations

The penalty for violations of the Restrictions on Lobbying is currently set at a range of a minimum of \$23,714 and a maximum of \$237,268. The post-adjustment penalty or range is obtained by multiplying the pre-adjustment penalty or range by the percent change in the CPI-U over the relevant time period and rounding to the nearest dollar. Between October 2022 and October 2023, the CPI-U increased by a multiplier of 103.241%. Therefore, the new post-adjustment minimum penalty under the Restrictions on Lobbying is $\$23,714 \times 1.03241 = \$24,482.57074$, which rounds to \$24,483 and the maximum penalty under the Restrictions on Lobbying is $\$237,268 \times 1.03241 = \$244,957.86$, which rounds to \$244,958. Therefore, the range of penalties under the law on the Restrictions on Lobbying shall be between \$24,483 and \$244,958.

Administrative Procedure Act

Section 553 of the Administrative Procedure Act requires agencies to provide an opportunity for notice and comment on rulemaking and also requires agencies to delay a rule’s effective date for 30 days following the date of publication in the **Federal Register** unless an agency finds good cause to forgo these requirements. However, section 4(b)(2) of the 2015 Act requires agencies to adjust civil monetary penalties notwithstanding section 553 of the Administrative Procedure Act (APA) and publish annual inflation adjustments in the **Federal Register**. “This means that the public procedure the APA generally requires . . . is not required for agencies to issue regulations implementing the annual adjustment.” OMB Memorandum M–18–03.

Even if the 2015 Act did not except this final rule from section 553 of the APA, the NEA has good cause to dispense with notice and comment. Section 553(b)(B), authorizes agencies to dispense with notice and comment procedures for rulemaking if the agency finds good cause that notice and comment are impracticable, unnecessary, or contrary to public interest. The annual adjustments to civil penalties for inflation and the method of calculating those adjustments are established by section 5 of the 2015 Act, as amended, leaving no discretion for the NEA. Accordingly, public comment would be impracticable because the NEA would be unable to consider such comments in the rulemaking process.

Regulatory Planning and Review (Executive Order 12866)

Executive Order 12866 (E.O. 12866) established a process for review of rules by the Office of Information and Regulatory Affairs, which is within the Office of Management and Budget (OMB). Only “significant” proposed and final rules are subject to review under this Executive Order. “Significant,” as used in E.O. 12866, means “economically significant.” It refers to rules with (1) an impact on the economy of \$100 million; or that (2) were inconsistent or interfered with an action taken or planned by another agency; (3) materially altered the budgetary impact of entitlements, grants, user fees, or loan programs; or (4) raised novel legal or policy issues.

This final rule would not be a significant policy change and OMB has not reviewed this final rule under E.O. 12866. The NEA has made the assessments required by E.O. 12866 and determined that this final rule: (1) will

¹ 82 FR 58348.

² 82 FR 27431.

³ OMB Memorandum M–24–07 (December 19, 2023).

not have an effect of \$100 million or more on the economy; (2) will not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities; (3) will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (4) does not alter the budgetary effects of entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients; and (5) does not raise novel legal or policy issues.

Federalism (Executive Order 13132)

This final rule does not have federalism implications, as set forth in E.O. 13132. As used in this order, federalism implications mean “substantial direct effects on the States, on the relationship between the [N]ational [G]overnment and the States, or on the distribution of power and responsibilities among the various levels of government.” The NEA has determined that this final rule will not have federalism implications within the meaning of E.O. 13132.

Civil Justice Reform (Executive Order 12988)

This final rule meets the applicable standards set forth in section 3(a) and 3(b)(2) of E.O. 12988. Specifically, this final rule is written in clear language designed to help reduce litigation.

Indian Tribal Governments (Executive Order 13175)

Under the criteria in E.O. 13175, the NEA has evaluated this final rule and determined that it would have no potential effects on Federally recognized Indian Tribes.

Takings (Executive Order 12630)

Under the criteria in E.O. 12630, this final rule does not have significant takings implications. Therefore, a takings implication assessment is not required.

Regulatory Flexibility Act of 1980 (5 U.S.C. 605(b))

This final rule will not have a significant adverse impact on a substantial number of small entities, including small businesses, small governmental jurisdictions, or certain small not-for-profit organizations.

Paperwork Reduction Act of 1995 (44 U.S.C., Chapter 35)

This final rule will not impose any “information collection” requirements under the Paperwork Reduction Act. Under the Act, information collection

means the obtaining or disclosure of facts or opinions by or for an agency by 10 or more nonfederal persons.

Unfunded Mandates Act of 1995 (Sec. 202, Pub. L. 104–4)

This final rule does not contain a Federal mandate that will result in the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector of \$100 million or more in any one year.

National Environmental Policy Act of 1969 (5 U.S.C. 804)

The final rule will not have a significant effect on the human environment.

Small Business Regulatory Enforcement Fairness Act of 1996 (Sec. 804, Pub. L. 104–121)

This final rule would not be a major rule as defined in section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. This final rule will not result in an annual effect on the economy of \$100 million or more, a major increase in costs or prices, significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign based companies in domestic and export markets.

E-Government Act of 2002 (44 U.S.C. 3504)

Section 206 of the E-Government Act requires agencies, to the extent practicable, to ensure that all information about that agency required to be published in the **Federal Register** is also published on a publicly accessible website. All information about the NEA required to be published in the **Federal Register** may be accessed at <https://www.arts.gov>. This Act also requires agencies to accept public comments on their rules “by electronic means.” See heading “Public Participation” for directions on electronic submission of public comments on this final rule.

Finally, the E-Government Act requires, to the extent practicable, that agencies ensure that a publicly accessible Federal Government website contains electronic dockets for rulemakings under the Administrative Procedure Act of 1946 (5 U.S.C. 551 *et seq.*). Under this Act, an electronic docket consists of all submissions under section 553(c) of title 5, United States Code; and all other materials that by agency rule or practice are included in the rulemaking docket under section 553(c) of title 5, United States Code,

whether or not submitted electronically. The website <https://www.regulations.gov> contains electronic dockets for the NEA’s rulemakings under the Administrative Procedure Act of 1946.

Plain Writing Act of 2010 (5 U.S.C. 301)

Under this Act, the term “plain writing” means writing that is clear, concise, well-organized, and follows other best practices appropriate to the subject or field and intended audience. To ensure that this final rule has been written in plain and clear language so that it can be used and understood by the public, the NEA has modeled the language of this final rule on the Federal Plain Language Guidelines.

Public Participation (Executive Order 13563)

The NEA encourages public participation by ensuring its documentation is understandable by the general public and has written this final rule in compliance with Executive Order 13563 by ensuring its accessibility, consistency, simplicity of language, and overall comprehensibility.

List of Subjects in 45 CFR Parts 1149 and 1158

Administrative practice and procedure, Government contracts, Grant programs, Loan programs, Lobbying, Penalties.

For the reasons stated in the preamble, the NEA amends 45 CFR parts 1149 and 1158 as follows:

PART 1149—PROGRAM FRAUD CIVIL REMEDIES ACT REGULATIONS

■ 1. The authority citation for part 1149 continues to read as follows:

Authority: 5 U.S.C. App. 8G(a)(2); 20 U.S.C. 959; 28 U.S.C. 2461 note; 31 U.S.C. 3801–3812.

§ 1149.9 [Amended]

■ 2. In § 1149.9, amend paragraph (a)(1) by removing the amount “\$13,507” and adding in its place the amount “\$13,945”.

PART 1158—NEW RESTRICTIONS ON LOBBYING

■ 3. The authority citation for part 1158 continues to read as follows:

Authority: 20 U.S.C. 959; 28 U.S.C. 2461; 31 U.S.C. 1352.

§ 1158.400 [Amended]

■ 4. In § 1158.400, amend paragraphs (a), (b), and (e) by:

- a. Removing the amount “\$23,714” and adding in its place the amount “\$24,483” wherever it appears; and
- b. Removing the amount “\$237,268” and adding in its place the amount “\$244,958” wherever it appears.

Appendix A to Part 1158 [Amended]

- 5. Amend appendix A to part 1158 by removing the amount “\$23,714” and adding in its place the amount “\$24,483” and by removing the amount “\$237,268” and adding in its place the amount “\$244,958” in the following places:

- a. In the last paragraph under the heading “Certification for Contracts, Grants, Loans, and Cooperative Agreements”; and
- b. In the last paragraph under the heading “Statement for Loan Guarantees and Loan Insurance”.

Dated: January 16, 2024.

Daniel Beattie,

Director of Guidelines and Panel Operations.

[FR Doc. 2024–00992 Filed 1–18–24; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Part 391

[Docket No. FMCSA–2022–0111]

Qualifications of Drivers: Medical Advisory Criteria

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: FMCSA updates the Medical Advisory Criteria published as an appendix in the Code of Federal Regulations (CFR). The appendix provides guidance for medical examiners listed on FMCSA’s National Registry of Certified Medical Examiners (National Registry) on the applicability and interpretation of the physical qualification standards for operators of commercial motor vehicles. The advisory criteria in the appendix are also intended to provide recommendations and information to assist medical examiners in applying the standards, basic information related to testing, and matters to consider when making a qualification determination. The updated Medical Advisory Criteria replace all previous versions of the criteria.

DATES: This final rule is effective on January 19, 2024.

FOR FURTHER INFORMATION CONTACT: Ms. Christine A. Hydock, Chief, Medical Programs Division, FMCSA, 1200 New Jersey Avenue SE, Washington, DC 20590, (202) 366–4001, FMCSAmedical@dot.gov. If you have questions on viewing material in the docket, call Dockets Operations at (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Availability of Documents

To view comments or any documents mentioned as being available in the docket, go to <https://www.regulations.gov/docket/FMCSA-2022-0111/document> and choose the document to review. To view comments, click “Browse Comments.” If you do not have access to the internet, you may view the docket online by visiting Dockets Operations on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC 20590–0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366–9317 or (202) 366–9826 before visiting Dockets Operations.

II. Legal Basis

FMCSA has statutory authority under 49 U.S.C. 31136(a)(3) and 31149(c)(1)(A)(i)—delegated to the Agency by 49 CFR 1.87(f)—to establish regulations to ensure the physical condition of commercial motor vehicle operators is adequate to enable them to operate the vehicles safely. The guidance in the Medical Advisory Criteria is related to the physical qualification regulations required by those sections.

The notice and comment rulemaking procedures of the Administrative Procedure Act (APA) do not apply to interpretative rules and general statements of policy (commonly called “guidance”) (5 U.S.C. 553(b)(A)). The Medical Advisory Criteria are interpretative rules that provide guidance, but do not amend any Agency regulation or establish any requirements for medical examiners or drivers not found in existing regulations. Accordingly, FMCSA was not required under the APA to solicit public comment on the criteria. Nevertheless, to ensure that the Medical Advisory Criteria provide clear, useful, and relevant information for stakeholders and as encouraged by DOT policy,¹

¹ Section 14(f) of DOT 2100.6A (Rulemaking and Guidance Procedures) states that it is DOT policy to encourage providing an opportunity for public comment on guidance documents, as public input can be very helpful in formulating and improving the guidance that DOT offers.

FMCSA opted to make a draft of the criteria available for public review and comment (87 FR 50282 (Aug. 16, 2022)). Although FMCSA voluntarily provided an opportunity for public comment on the Medical Advisory Criteria, its decision to do so does not make applicable any of the other procedural requirements in the APA or most of the other statutes or executive orders that would apply if the opportunity for prior notice and public comment were required.

Further, the APA does not require interpretive rules such as this to be published in the **Federal Register** with an effective date that is not less than 30 days after publication (5 U.S.C. 553(d)(2)). Therefore, this rule is effective on the date of publication in the **Federal Register** to coincide with the publication of the revised Medical Examiner’s Handbook (MEH).

III. Background

In 2000, FMCSA adopted a revised medical examination report that also contained the Agency’s guidelines to help medical examiners assess an individual’s physical qualifications. These guidelines, in the form of advisory criteria, were strictly advisory and were established after consultation with physicians, States, and industry representatives (65 FR 59363, 59364 (Oct. 5, 2000)). Subsequently, when FMCSA revised the report form again, the medical advisory criteria were removed from the report form and published as Appendix A to 49 CFR part 391 (80 FR 22790 (Apr. 23, 2015)).

On August 16, 2022, FMCSA made available for public comment a revised and updated draft MEH, which included updates to the Medical Advisory Criteria (87 FR 50282). The goal of the updated Medical Advisory Criteria was to provide guidance for medical examiners to consider when making physical qualification determinations in conjunction with established best medical practices. Information that was outdated, obsolete, or no longer relevant was removed from the Medical Advisory Criteria. The Agency stated that the revised Medical Advisory Criteria would be included in the MEH and would also be published in Appendix A to 49 CFR part 391. The final version of the criteria would be identical in both publications.

FMCSA notes that, as a procedural matter, a final rule is required by the Office of the Federal Register to change any text included in the CFR. This is so even if the CFR text changed is guidance in an interpretive rule, as is the case here.

IV. New Regulatory Guidance

After consideration of the public comments and further internal review, FMCSA has published a revised MEH that includes revisions to the Medical Advisory Criteria. A **Federal Register** notice about this publication of the MEH and the treatment of some of the public comments is being issued concurrently with this notice. The revised criteria included in the MEH are identical to the criteria published by this notice in Appendix A to 49 CFR part 391; although, the order of the criteria differs. The criteria in the MEH reflects the order in which a medical examiner typically conducts the physical qualification examination, while Appendix A organizes the criteria in the same order that the physical qualification standards appear in 49 CFR 391.41(b). Consistent with previous practice, the Medical Advisory Criteria are advisory and are therefore considered guidance because they provide interpretations and recommendations for the physical qualification standards contained in the Federal Motor Carrier Safety Regulations. The updated Medical Advisory Criteria replace all previous versions of the criteria. Previous versions of the Medical Advisory Criteria should not be relied upon.

V. Publication of the Regulatory Guidance

Each guidance document issued by FMCSA must be published on a publicly accessible DOT internet website on the date of issuance (49 U.S.C. 113 note).² Accordingly, in addition to being available in this docket and the MEH, the Medical Advisory Criteria will be available in FMCSA's Guidance Portal (<https://www.fmcsa.dot.gov/guidance>). The criteria also will be available on FMCSA's website at <https://www.fmcsa.dot.gov/regulations/medical/medical-regulations-and-guidance-resource-links> and on the National Registry website at <https://nationalregistry.fmcsa.dot.gov/resource-center>.

FMCSA expects to review the guidance no later than 5 years after it is published and will consider at that time whether the guidance should be withdrawn, reissued, or incorporated into FMCSA's regulations.

VI. Regulatory Analysis

A. Regulatory Flexibility Act (*Small Entities*)

Under the Regulatory Flexibility Act of 1980 (5 U.S.C. 601–612), FMCSA is not required to complete a regulatory flexibility analysis because, as discussed earlier in the Legal Basis section, this action is not subject to notice and public comment under section 553(b) of the APA.

B. Assistance for Small Entities

In accordance with section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121, 110 Stat. 857, Mar. 29, 1996), FMCSA wants to assist small entities in understanding this final rule so they can better evaluate its effects on themselves and participate in the rulemaking initiative. If the final rule will affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance; please consult the person listed under the **FOR FURTHER INFORMATION CONTACT** section of this final rule.

C. Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or Tribal government, in the aggregate, or by the private sector of \$192 million (which is the value equivalent of \$100 million in 1995, adjusted for inflation to 2022 levels) or more in any 1 year. This final rule will not result in such an expenditure.

D. Paperwork Reduction Act

This final rule contains no new information collection requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

E. E.O. 13132 (*Federalism*)

A rule has implications for federalism under section 1(a) of E.O. 13132 if it has “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.” FMCSA has determined that this rule will not have substantial direct costs on or for States, nor will it limit the policymaking discretion of States. Nothing in this action preempts any State law or regulation. Therefore, this rule does not

have sufficient federalism implications to warrant the preparation of a Federalism Impact Statement.

F. Privacy Act

The Consolidated Appropriations Act, 2005 (Pub. L. 108–447, 118 Stat. 2809, 3268, Dec. 8, 2004 (5 U.S.C. 552a note)), requires the Agency to conduct a privacy impact assessment of a regulation that will affect the privacy of individuals. Privacy impact assessments were completed when the physical qualification regulations relating to the guidance were adopted. The guidance in the Medical Advisory Criteria does not present any new privacy concerns that were not previously addressed in those assessments. Also, because this interpretive rule does not require the collection of personally identifiable information, the Agency is not required to conduct a privacy impact assessment.

G. E.O. 13175 (*Indian Tribal Governments*)

This rule does not have Tribal implications under E.O. 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes.

H. National Environmental Policy Act of 1969

FMCSA analyzed this rule pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and determined this action is categorically excluded from further analysis and documentation in an environmental assessment or environmental impact statement under FMCSA Order 5610.1 (69 FR 9680, Mar. 1, 2004), Appendix 2, paragraph 1.a. regarding guidance documents.

List of Subjects in 49 CFR Part 391

Alcohol abuse, Drug abuse, Drug testing, Highway safety, Motor carriers, Reporting and recordkeeping requirements, Safety, Transportation.

For the reasons stated in the preamble, FMCSA amends 49 CFR part 391, as follows:

PART 391—QUALIFICATIONS OF DRIVERS AND LONGER COMBINATION VEHICLE (LCV) DRIVER INSTRUCTORS

■ 1. The authority citation for part 391 continues to read as follows:

² See section 5203(a)(2)(A) and (a)(3) of the Fixing America's Surface Transportation Act, Public Law 114–94, 129 Stat. 1312, 1535 (Dec. 4, 2015).

Authority: 49 U.S.C. 504, 508, 31133, 31136, 31149, 31502; sec. 4007(b), Pub. L. 102–240, 105 Stat. 1914, 2152; sec. 114, Pub. L. 103–311, 108 Stat. 1673, 1677; sec. 215, Pub. L. 106–159, 113 Stat. 1748, 1767; sec. 32934, Pub. L. 112–141, 126 Stat. 405, 830; secs. 5403 and 5524, Pub. L. 114–94, 129 Stat. 1312, 1548, 1560; sec. 2, Pub. L. 115–105, 131 Stat. 2263; and 49 CFR 1.87.

■ 2. In part 391, Appendix A is revised to read as follows:

Appendix A to Part 391—Medical Advisory Criteria

I. Introduction

This appendix contains the Federal Motor Carrier Safety Administration's recommendations and guidance in the form of Medical Advisory Criteria to help medical examiners assess a driver's physical qualification. These recommendations and guidance are strictly advisory and do not have the force and effect of law. They were established after consideration of public comments and after consideration of recommendations from the Agency's Medical Review Board.

II. Interpretation of Medical Standards

Since the issuance of the regulations for physical qualifications of commercial motor vehicle drivers, the Federal Motor Carrier Safety Administration has published recommendations and guidance called advisory criteria to help medical examiners in determining whether a driver meets the physical qualification standards for commercial driving. These recommendations have been derived from the Medical Examiner's Handbook to provide information to medical examiners that is directly relevant to the physical qualification examination.

A. Medical Advisory Criteria for 49 CFR 391.41(b)(1)

1. Only individuals with loss of all five fingers are considered to have loss of a hand under § 391.41(b)(1).

2. Unless an individual possesses a skill performance evaluation certificate, loss of a foot, a leg, a hand, or an arm precludes physical qualification. Even if an individual has a prosthesis that replaces the foot, leg, hand, or arm, as applicable, certification is precluded without a skill performance evaluation certificate.

3. An individual may be eligible for a skill performance evaluation certificate under § 391.41(b)(1) or § 391.41(b)(2), or both.

B. Medical Advisory Criteria for 49 CFR 391.41(b)(2)

1. Individuals with loss of fewer than all five fingers or any number of toes should be evaluated under § 391.41(b)(2) to determine whether there is an impairment, defect, or limitation of a hand or foot that interferes with the ability to perform normal tasks associated with operating a commercial motor vehicle.

2. A skill performance evaluation certificate is only available under § 391.41(b)(2) for impairment, defect, or limitation of a limb. A skill performance evaluation certificate is not available for

impairment of the spine or torso that does not result in impairment, defect, or limitation of a limb.

3. An individual may be eligible for a skill performance evaluation certificate under § 391.41(b)(1) or § 391.41(b)(2), or both.

C. Medical Advisory Criteria for 49 CFR 391.41(b)(4)

1. The phrase “has no current clinical diagnosis of” is specifically designed to encompass a clinical diagnosis of a current cardiovascular condition, or a cardiovascular condition that has not fully stabilized. The phrase “known to be accompanied by” is designed to include a clinical diagnosis of a cardiovascular disease that is accompanied by, or is likely to cause, symptoms of syncope, dyspnea, collapse, or congestive cardiac failure.

2. Coronary artery bypass surgery and pacemaker implantation are remedial procedures and, thus, do not preclude medical certification. Implantable cardioverter-defibrillators are installed to address an ongoing underlying cardiovascular condition and are likely to cause syncope or collapse as a result of the underlying cardiovascular condition, as well as when they discharge.

3. Anticoagulation therapy is a medical treatment, which can improve the health and safety of the individual, and should not, by its use alone, preclude certification of the individual. The emphasis should be on the underlying medical condition(s) that requires treatment and the general health of the individual.

D. Medical Advisory Criteria for 49 CFR 391.41(b)(5)

1. Many conditions interfere with oxygen exchange and may interfere with the ability to control and drive a commercial motor vehicle safely. These include, but are not limited to, emphysema, chronic asthma, carcinoma, tuberculosis, chronic bronchitis, and obstructive sleep apnea.

2. If the medical examiner detects a possible undiagnosed or inadequately treated respiratory dysfunction that may be likely to interfere with the individual's ability to control and drive a commercial motor vehicle safely, the medical examiner should confer with the treating provider or should recommend that the individual be referred to a specialist for further evaluation and therapy.

E. Medical Advisory Criteria for 49 CFR 391.41(b)(6)

1. An elevated blood pressure finding should be confirmed by at least two subsequent measurements.

2. Hypertension alone is unlikely to interfere with the ability to operate a commercial motor vehicle safely; however, the likelihood increases when target organ damage, particularly cerebral vascular disease, is present. The guidance on the stages of hypertension below is based on the Federal Motor Carrier Safety Administration's Cardiovascular Advisory Panel Guidelines for the Medical Examination of Commercial Motor Vehicle Drivers (October 2002), which adopted the sixth report of the Joint National Committee

on Detection, Evaluation, and Treatment of High Blood Pressure (1997).

3. Stage 1 hypertension corresponds to a systolic blood pressure of 140–159 mmHg and/or a diastolic blood pressure of 90–99 mmHg. An individual with a blood pressure in this range is at low risk for a hypertension-related event that is likely to interfere with the ability to operate a commercial motor vehicle safely and may be medically certified to drive for a 1-year period. Certification examinations should be done annually thereafter and should be at or less than 140/90. If less than 160/100 but greater than 140/90 at the subsequent examinations, the individual may be given a one-time certification of 3 months to reduce the blood pressure to less than or equal to 140/90.

4. A blood pressure of 160–179 systolic and/or 100–109 diastolic is considered Stage 2 hypertension. A blood pressure in this range is an absolute indication for antihypertensive drug therapy. The individual may be given a one-time certification of 3 months to initiate or adjust antihypertensive drug therapy and to reduce the blood pressure to less than or equal to 140/90. Provided treatment is well tolerated and the driver demonstrates a blood pressure value of 140/90 or less, the individual may be certified for 1 year.

5. A blood pressure at or greater than 180 (systolic) and 110 (diastolic) is considered Stage 3 and carries a high risk for an acute blood pressure-related event that is likely to interfere with the ability to operate a commercial motor vehicle safely. The individual should not be qualified, even for a short period, until the blood pressure is reduced to 140/90 or less and treatment is well tolerated. The individual may be certified for 6 months and biannually (every 6 months) thereafter if at recheck blood pressure is 140/90 or less.

6. Annual certification is recommended if the medical examiner does not know the severity of hypertension prior to treatment.

7. Treatment includes non-pharmacologic and pharmacologic modalities as well as counseling to improve or eliminate the factors that contributed to the hypertension. Most antihypertensive medications also have side effects, such as somnolence or syncope. The importance of side effects must be evaluated on an individual basis and considering the underlying hypertension. Individuals should be alerted to the possibility that antihypertensive medications may interfere with the ability to operate a commercial motor vehicle safely.

8. Medical certification for secondary hypertension is based on the above stages. Evaluation is warranted if an individual is persistently hypertensive on maximal or near-maximal doses of two to three pharmacologic agents. Some causes of secondary hypertension may be amenable to surgical intervention or specific pharmacologic treatment.

F. Medical Advisory Criteria for 49 CFR 391.41(b)(7)

1. Once an individual has been diagnosed as having a rheumatic, arthritic, orthopedic, muscular, neuromuscular, or vascular disease, then the individual has an established history of that disease.

2. The medical examiner, when examining an individual, should consider the following: the nature and severity of the individual's condition (such as sensory loss or loss of strength); the degree of limitation present (such as range of motion); the rate or stage of progression (symptoms may not be present initially but may manifest over time); and whether symptoms are likely to interfere with the ability to control and operate a commercial motor vehicle safely.

3. If severe functional impairment exists, the individual does not physically qualify. In cases where more frequent monitoring is required, a Medical Examiner's Certificate, Form MCSA-5876, for less than the maximum certification period may be issued.

G. Medical Advisory Criteria for 49 CFR 391.41(b)(8)

1. Epilepsy is a chronic functional disease characterized by seizures or episodes that usually occur without warning, resulting in loss of voluntary control that may lead to loss of consciousness. Therefore, the following individuals are not physically qualified:

- An individual who has a medical history of epilepsy or a seizure disorder, unless the individual satisfies the criteria described in paragraph 5 of the Medical Advisory Criteria for § 391.41(b)(8);
- An individual who has a current clinical diagnosis of epilepsy or a seizure disorder; or
- An individual who is taking antiseizure medication to prevent seizures.

2. When an individual has had a single unprovoked episode of loss of consciousness (*i.e.*, the cause is unknown or there is no clear provoking trigger) that is determined not to have been a seizure, the medical examiner may certify the individual if the medical examiner determines recurrence of loss of consciousness or loss of ability to control a commercial motor vehicle is unlikely and the individual is not taking antiseizure medication. The determination should be made on an individual basis by the medical examiner in consultation with the treating provider. Before certification is considered, it is recommended that a 6-month waiting period elapse from the time of the episode.

3. When an individual has had a single unprovoked nonepileptic seizure (*i.e.*, the cause is unknown or there is no clear provoking trigger) that was treated with antiseizure medication or left untreated, the medical examiner may certify the individual if the individual is both off antiseizure medication and seizure free for 5 years of more.

4. When an individual has had a single provoked nonepileptic seizure or episode of loss of consciousness (*i.e.*, there is a known medical condition or a clear provoking trigger that is reversible or avoidable, such as a drug reaction, alcohol or illicit drug withdrawal, high temperature, acute infectious disease, dehydration, or acute metabolic disturbance), the medical examiner may certify the individual if the individual has fully recovered, has no existing residual complications, and is not taking antiseizure medication and seizure recurrence and exposure to the provoking trigger in the future is unlikely.

5. When an individual has a medical history of epilepsy or a seizure disorder, the medical examiner may certify the individual if the individual is both off antiseizure medication and seizure free for 10 years or more.

6. If a medical examiner is unsure about whether to qualify an individual with a diagnosis of epilepsy or a seizure disorder, or a single nonepileptic seizure, the medical examiner may refer the individual to the Federal Motor Carrier Safety Administration for evaluation under the criteria for a Federal seizure exemption.

H. Medical Advisory Criteria for 49 CFR 391.41(b)(9)

1. Emotional or adjustment disorders contribute directly to an individual's level of memory, reasoning, attention, and judgment, and are often caused by physical disorders. A variety of functional disorders can cause drowsiness, dizziness, confusion, weakness, or paralysis that may lead to incoordination, inattention, or loss of functional control that may be likely to interfere with the ability to drive a commercial motor vehicle safely.

Physical fatigue, headache, impaired coordination, recurring physical ailments, and chronic "nagging" pain may be present to such a degree that they may be likely to interfere with the ability to drive a commercial motor vehicle safely. Somatic and psychosomatic complaints should be thoroughly evaluated when examining an individual.

2. The degree to which an individual is able to appreciate, evaluate, and adequately respond to environmental strain and emotional stress is critical when assessing an individual's mental alertness and flexibility to cope with the stresses of commercial motor vehicle driving.

3. It is unlikely that individuals who are highly susceptible to frequent states of emotional instability (*e.g.*, due to schizophrenia, affective psychoses, paranoia, severe anxiety, or depressive neuroses) would satisfy the physical qualification standard.

4. Careful consideration should be given to the side effects and interactions of medications in the overall qualification determination. Medications used to treat mental, nervous, organic, or functional disease or psychiatric disorder may be likely to interfere with the ability to drive a commercial motor vehicle safely.

I. Medical Advisory Criteria for 49 CFR 391.41(b)(11)

1. Since the prescribed standard under the Federal Motor Carrier Safety Regulations is from the American National Standards Institute (ANSI), formerly the American Standards Association, it may be necessary to convert the audiometric results from the International Organization for Standardization (ISO) standard to the ANSI standard. To convert audiometric test results from ISO to ANSI, subtract 14 decibels (dBs) from the ISO result for 500 Hertz (Hz), subtract 10 dBs for 1,000 Hz, and subtract 8.5 dBs for 2000 Hz. To average, add the readings for the 3 frequencies tested and divide by 3.

2. For the whispered voice test, the individual should be stationed at least 5 feet

from the medical examiner with the ear being tested turned toward the medical examiner. The other ear is covered. Using the breath that remains after a normal expiration, the medical examiner whispers words or random numbers such as 66, 18, 3, etc. The medical examiner should then ask the individual to repeat the words or sequence. The medical examiner should not use only sibilants ("s" sounding materials). The opposite ear should be tested in the same manner. If the individual fails the whispered voice test in both ears, the audiometric test should be administered.

3. If an individual does not meet the requirements with the use of a hearing aid and requires a Federal hearing exemption, the box for "Wearing hearing aid" should NOT be selected on either the Medical Examination Report Form, MCSA-5875, or Medical Examiner's Certificate, Form MCSA-5876. Instead, only the box for accompanied by a hearing exemption is selected on the Medical Examination Report Form, MCSA-5875, and the Medical Examiner's Certificate, Form MCSA-5876.

4. To obtain an application for a hearing exemption, individuals who do not meet the Federal hearing standard may call (202) 366-4001, email fmcsahearingexemptions@dot.gov, or go to <https://www.fmcsa.dot.gov/medical/driver-medical-requirements/new-hearing-applicant-doc-email-version>.

J. Medical Advisory Criteria for 49 CFR 391.41(b)(12)

1. Federal law prohibits Schedule I drugs or substances listed on 21 CFR 1308.11 from being prescribed for any purpose. Therefore, a medical examiner cannot physically qualify an individual who uses Schedule I drugs or substances.

2. A medical examiner may physically qualify an individual who uses an amphetamine, a narcotic, or other prescribed drug or substance listed on Schedules II through V in 21 CFR 1308.12 through 1308.15 if the prescription exception is met. A drug or substance that is prescribed by a licensed medical practitioner who is licensed under applicable Federal, State, local, or foreign laws to prescribe controlled drugs and substances, is familiar with the individual's medical history, and has advised the individual that the drug or substance will not adversely affect the individual's ability to safely operate a commercial motor vehicle meets the prescription exception in § 391.41(b)(12).

3. One of the ways for the medical examiner to obtain the information that shows the prescription exception is satisfied is to request a written communication from the prescribing licensed medical practitioner who satisfies the regulation's requirements. A voluntary form available on the Federal Motor Carrier Safety Administration's website (391.41 CMV Driver Medication Form, MCSA-5895) may be used, with the individual's consent, as an optional tool to obtain the required information.

4. The medical examiner may request a non-Department of Transportation drug test to aid in the physical qualification determination, including when signs exist indicating the individual may not have

disclosed use of a scheduled drug or substance. Use of a substance abuse professional, see 49 CFR 40.3 and 40.281, is not required as part of a non-Department of Transportation drug test.

K. Medical Advisory Criteria for 49 CFR 391.41(b)(13)

1. The phrase “current clinical diagnosis of” alcoholism is specifically designed to encompass a current alcoholic illness or those instances where the individual’s physical condition has not fully stabilized.

2. When in remission, the medical examiner may certify an individual who has a prior clinical diagnosis of alcoholism.

3. The medical examiner may request a non-Department of Transportation alcohol test to aid in the physical qualification determination, including when the individual discloses excessive use of alcohol or the medical examiner observes signs of alcoholism. The use of a substance abuse professional, see 49 CFR 40.3 and 40.281, is not required. The medical examiner may request that individuals provide documentation from a professional qualified to conduct an alcohol use assessment that includes an opinion concerning whether a current clinical diagnosis of alcoholism is present or the individual is in remission prior to making a medical certification determination.

Issued under authority delegated in 49 CFR 1.87.

Robin Hutcheson,

Administrator.

[FR Doc. 2024–00980 Filed 1–18–24; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[RTID 0648–XD197]

Fisheries of the Exclusive Economic Zone Off Alaska; Scallop Specification Process Flexibility

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

ACTION: Notice of agency decision.

SUMMARY: The National Marine Fisheries Service (NMFS) announces the approval of Amendment 18 to the Fishery Management Plan (FMP) for the Scallop Fishery off Alaska (Scallop FMP). Amendment 18 revises timing requirements for the Stock Assessment and Fishery Evaluation (SAFE) report to allow more flexibility for non-annual assessments and to set scallop harvest specifications less frequently than on an annual basis. This will reduce the burden on staff and provide more time

for the development of new stock assessment methods. Amendment 18 is intended to promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), the Scallop FMP, and other applicable laws.

DATES: The amendment was approved on January 11, 2024.

ADDRESSES: Electronic copies of Amendment 18, the Analysis, and the Categorical Exclusion (CE) prepared for this action may be obtained from <https://www.regulations.gov> under the docket NOAA–NMFS–2023–0094.

FOR FURTHER INFORMATION CONTACT: Megan Mackey, 907–586–7228.

SUPPLEMENTARY INFORMATION: The Magnuson-Stevens Act requires that each regional fishery management council submit any FMP amendment it prepares to NMFS for review and approval, disapproval, or partial approval by the Secretary of Commerce (Secretary). The Magnuson-Stevens Act also requires that NMFS, upon receiving an FMP amendment, immediately publish a notice in the **Federal Register** announcing that the amendment is available for public review and comment.

The Notice of Availability (NOA) for Amendment 18 was published in the **Federal Register** on November 3, 2023 (88 FR 75535) with a 60-day comment period that ended on January 2, 2024. NMFS received one comment during the public comment period on the NOA. NMFS summarized and responded to this comment under Comments and Responses, below.

NMFS determined that Amendment 18 is consistent with the Magnuson-Stevens Act and other applicable laws, and the Secretary of Commerce approved Amendment 18 on January 11, 2024. The November 3, 2023, NOA (88 FR 75535) contains additional information on this action. No changes to Federal regulations are necessary to implement the Amendment.

The scallop fishery in the exclusive economic zone off Alaska under the Scallop FMP is jointly managed by NMFS and the State of Alaska (State). The Council prepared the Scallop FMP under the authority of the Magnuson-Stevens Act (16 U.S.C. 1801 *et seq.*). Regulations governing U.S. fisheries and implementing the Scallop FMP appear at 50 CFR parts 600 and 679.

The Scallop FMP delegates many management aspects of the scallop fishery to the State but maintains Federal oversight. This authority is limited by the Magnuson-Stevens Act and the FMP. While the FMP includes scallop stocks off the coast of Alaska,

including weathervane scallop (*Patinopecten caurinus*), reddish scallop (*Chlamys rubida*), spiny scallop (*Chlamys hastata*), and rock scallop (*Crassadoma gigantea*), the weathervane scallop is the only commercially targeted stock at this time. Commercial fishing for weathervane scallops occurs in the Gulf of Alaska, Bering Sea, and waters off the Aleutian Islands. There is currently no formal stock assessment model for the scallop fishery. Instead, the State sets guideline harvest levels informed by data collected through the scallop fishery observer program and fishery-independent scallop dredge surveys. Standardized catch per unit effort indices are estimated to account for depth, month, vessel, bed, and season variations.

Previously, the overfishing level (OFL) and acceptable biological catch (ABC) have been set based on the definition of optimal yield (OY). More recently, OFL and ABC have been based on the OY re-defined in 2012 (Amendment 13), when OY was re-defined as 0 to 1.29 million pounds (lb) (585 tons (t)) of shucked scallop meats to include estimated discards over the reference time frame. Annual specifications have been defined as: max OFL = OY, and ABC = 90 percent of OFL. Alaska scallop harvests have not exceeded OY in any year since it was first established.

In the absence of stock-size estimates, the status of the scallop stock relative to its overfished state is unknown. Consistent with assessments since the 2011–12 season, the 2022–23 OFL is set equal to the OY (1.284 million lb.; 582 t) as defined in the Scallop FMP, and the 2022–23 ABC is set equal to the maximum ABC control rule value (90 percent of OFL or 1.156 million lb.; 524 t). Estimated total fishing removals (retained and discarded) for the 2021–22 and 2022–23 seasons were 311,978 lb (141.5 t) and 345,690 lb (156.8 t) of shucked meats, respectively. These estimates are less than 30 percent of the ABC/annual catch limit and OFL; therefore, overfishing did not occur in 2021–22 or 2022–23.

Currently, the Scallop FMP requires the SAFE report to be created on an annual basis. The management measures in Amendment 18 will amend the FMP to allow flexibility for non-annual assessments. This will remove prescriptive language dictating that the SAFE report is produced on an annual basis. Amendment 18 will give the Council flexibility in modifying the assessment cycle with the potential to set multi-year specifications, based on a period of no more than 3 years, that best suit the needs of the stock. If a formal

stock assessment model is developed, or there is a decrease in estimated stock abundance, the Council could task the Scallop Plan Team to develop the scallop SAFE report annually.

Comments and Responses

During the public comment period for the NOA for Amendment 18, NMFS received one unique comment from one

member of the public. NMFS' response to this comment is presented below.

Comment 1: One commenter expressed concern about the impacts of offshore wind farms on scallops.

Response: This comment is outside the scope of this action. This action is limited to providing flexibility in the timing for non-annual SAFE reports, as

well as multi-year specifications, for scallops.

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

Dated: January 11, 2024.

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

[FR Doc. 2024-01021 Filed 1-18-24; 8:45 am]

BILLING CODE 3510-22-P

Proposed Rules

Federal Register

Vol. 89, No. 13

Friday, January 19, 2024

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

DEPARTMENT OF STATE

2 CFR Part 602

[Public Notice: 12059]

RIN 1400–AF66

Nondiscrimination in Foreign Assistance

AGENCY: Department of State.**ACTION:** Notice of proposed rulemaking, request for comment.

SUMMARY: The Foreign Assistance Act of 1961 (FAA) and other related statutes such as the FREEDOM Support Act, the Migration and Refugee Assistance Act of 1962, and the SEED Act of 1989, authorize the U.S. Department of State (Department) to provide foreign assistance that seeks to support efforts that would have the effect of protecting and promoting U.S. security, prosperity, and democratic values and shape an international environment to improve the lives of people around the world. To implement the Department's expectation of nondiscrimination against beneficiaries of Department-funded foreign assistance activities, the Department is proposing to add a new award term entitled "Nondiscrimination in Foreign Assistance." The proposed award term expressly states that recipients and subrecipients receiving Department-funded foreign assistance funds must not discriminate on specified bases against beneficiaries and potential beneficiaries or in certain employment decisions involving persons employed in the performance of the grants and funded in whole or in part with foreign assistance funds except where target populations are specified in the relevant Federal award.

DATES: The Department will accept comments until March 19, 2024.

ADDRESSES: Submit comments, identified by title of the action and Regulatory Information Number (RIN) by any of the following methods:

- Visit the *Regulations.gov* website at: <https://www.regulations.gov> and search for the Regulatory Information Number

(RIN) 1400–AF66 or docket number DOS–2023–0015.

- *Email:* aopefagrantspolicy@state.gov. You must include RIN 1400–AF66 in the subject line of your message.

- All comments should include the commenter's name, the organization the commenter represents (if applicable), and the commenter's address. If the Department is unable to read your comment for any reason, and cannot contact you for clarification, the Department may not be able to consider your comment. After the conclusion of the comment period, the Department will publish a Final Rule that will address relevant comments as expeditiously as possible.

- For a summary of this rulemaking, please go to www.regulations.gov/DOS-2023-0015.

FOR FURTHER INFORMATION CONTACT:

Office of the Procurement Executive, Federal Assistance Division, aopefagrantspolicy@state.gov, (202) 890 9795.

SUPPLEMENTARY INFORMATION: The inclusion and equitable treatment of all individuals, organizations, and persons relevant to Department foreign assistance programs is critical to achieving effective, comprehensive, and sustainable foreign assistance results because it enhances the participation, contributions, and access of the target population. Because of this premise, which underpins all of the Department's programs, the Department seeks to ensure access for all eligible beneficiaries of the target population within the scope of its foreign assistance grants and cooperative agreements without discrimination. The Department is embedding equity across its foreign affairs work and raising the visibility of inequities globally by providing equal opportunities for all eligible individuals, including members of minority groups and members of other underserved communities, through its foreign assistance programs. The Department seeks to improve the lives of people around the world by being inclusive and equitable in its foreign assistance efforts, including its evaluation of responses to requests for applications, notices of funding opportunities, etc. ("applications").

The Department is committed to a nondiscrimination policy in its programs and activities and welcomes

applications irrespective of—race, ethnicity, color, religion, sex, gender, sexual orientation, gender identity or expression, sex characteristics, pregnancy, national origin, disability, age, genetic information, indigeneity, marital status, parental status, political affiliation, or veteran's status. The Department seeks to ensure that applications for foreign assistance that demonstrate that the recipients of foreign assistance would not, in implementation of a potential award, discriminate against any beneficiaries of such foreign assistance funds, based on any of the factors listed above unless otherwise expressly authorized in the award or otherwise required by U.S. law in implementation of a potential award. Discrimination in implementation of an award could include such actions as withholding, adversely impacting, or denying equitable access to the benefits provided through the award.

Establishing clear and meaningful nondiscrimination protections in Department foreign assistance awards advances U.S. foreign policy by ensuring that U.S. foreign assistance is inclusive and equitable by reaching all intended beneficiaries and efficiently accomplishing its intended objectives. Moreover, in the judgment of the Department of State, U.S. funding is less effective and efficient when discrimination prevents assistance from reaching those who might most benefit from such assistance—which hinders U.S. foreign policy by excluding individuals that the United States intended to receive such assistance.

Nondiscrimination protections also promote equality in the administration of foreign assistance by requiring award recipients to comply with a uniform nondiscrimination standard. Nondiscrimination protections send a strong signal to people around the world that equity and inclusion are values that the United States takes seriously. They complement and affirm other commitments to equity in U.S. foreign policy, maximizing their coherence and effectiveness.

Nondiscrimination principles and protections are essential in protecting and advancing the human rights of all persons and ensuring equitable access to Department foreign assistance programs. Recipients must adhere to this requirement by performing the activities as outlined in the Federal award.

In recent years, the U.S. government has issued multiple policy pronouncements emphasizing equity, fairness, and human dignity. Effective nondiscrimination protections for beneficiaries of foreign assistance are a means toward achieving these objectives. For example, in 2021, the President issued Executive Order (E.O.) 13985 on “Advancing Racial Equity and Support for Underserved Communities Through the Federal Government”; and in 2023, the President issued E.O. 14091, “Further Advancing Racial Equity and Support for Underserved Communities Through the Federal Government.” Furthermore, in 2011, the President issued E.O. 13563, “Improving Regulation and Regulatory Review,” which, in addition to quantitative factors, advised that the qualitative values of equity, fairness, and human dignity are important considerations in agencies’ rulemaking.

This rulemaking proposes to revise 2 CFR part 600 to add an award term at § 602, entitled “Nondiscrimination in Foreign Assistance.” The term, applicable to all solicitations, Federal awards, and subawards awarded with Department of State foreign assistance funds, prohibits recipients and subrecipients from discriminating against beneficiaries or potential beneficiaries (*i.e.*, those individuals intended to receive the benefits of the award except where target populations are specified in the relevant Federal award) or persons employed in the performance of the award on the basis of any listed characteristics not expressly stated in the award.

The purpose of this proposed rulemaking is to ensure effective implementation of foreign assistance programs consistent with U.S. foreign policy and the purposes of the FAA. Section 101 of the FAA provides that: “[T]he Congress reaffirms the traditional humanitarian ideals of the American people and renews its commitment to assist people in developing countries to eliminate hunger, poverty, illness, and ignorance.” 22 U.S.C. 2151(a).

The main effect of the proposed award term is to ensure that the Department’s policy and practice of nondiscrimination in planning foreign assistance projects and activities is followed through to completion by the recipients that implement them. Its impact on recipients is to require them to refrain from the discrimination described in the term.

Under the statutory regime governing foreign assistance, and consistent with his responsibilities regarding the conduct of U.S. foreign affairs, the President has broad discretion to set the

terms and conditions on which the United States provides such assistance. Many of the authorities provided under the Foreign Assistance Act of 1961, and similar statutes, explicitly allow for the provision of assistance “on such terms and conditions as [the President] may determine.” *See, e.g.*, section 104(c)(1) of the FAA (22 U.S.C. 2151b(c)(1)) (health assistance); section 481(a)(4) of the FAA (22 U.S.C. 2291(a)(4)) (counternarcotics and anti-crime assistance); section 531 of the FAA (22 U.S.C. 2346) (assistance to promote economic or political stability); section 541(a) of the FAA (22 U.S.C. 2347) (International Military Education and Training assistance); section 551 of the FAA (22 U.S.C. 2348) (Peacekeeping Operations); section 571 of the FAA (22 U.S.C. 2349aa) (anti-terrorism assistance); *see also* section 2(c)(1) of the MRAA; section 201 of the SEED Act of 1989 (amending the FAA by inserting, *inter alia*, section 498b(i)).

The FAA provides that “[t]he President may exercise any functions conferred upon him by this Act through such agency or officer of the United States Government as he shall direct. The head of any such agency or such officer may from time to time promulgate such rules and regulations as may be necessary to carry out such functions. . . .” 22 U.S.C. 2381(a). The Secretary of State exercises authorities under the FAA as delegated by the President in Executive Order 12163, dated September 29, 1979, as amended. That includes the President’s authority to “issue and enforce regulations determining the eligibility of any person to receive funds made available under” the FAA. 22 U.S.C. 2381(b).

These proposed rules fall within the Department’s authority, delegated to it by the President, to set conditions on the provision of foreign assistance, including on the implementers of such assistance. Courts have repeatedly recognized that the President has broad discretion in the conduct of foreign affairs to allocate foreign assistance funding for particular programs and to set the conditions on U.S. funding to implementers of those programs. *See, e.g., DKT Memorial Fund v. USAID*, 887 F.2d 275, 282 (D.C. Cir. 1989); *Planned Parenthood Federation of America v. USAID*, 915 F.2d 59 (2d Cir. 1990); *Center for Reproductive Law and Policy v. Bush*, 304 F.3d 183 (2d Cir. 2002). These courts recognized the President’s broad discretion to allocate assistance funding for particular programs and to set the conditions on U.S. funding to non-governmental implementers of those programs. *See, e.g., Planned Parenthood v. USAID*, 838 F.2d 649, 654

(2d Cir. 1988) (in carrying out the policies under the Foreign Assistance Act, “AID has ‘broad discretionary power’ to decide which, among numerous competing projects, will be given family planning funds”); *DKT*, 887 F.2d at 282 (“President acted under a congressional grant of discretion as broadly worded as any we are likely to see. . . .”).

Moreover, the Secretary has the authority to promulgate such rules and regulations as may be necessary to carry out his functions and the functions of the Department of State. *See* 22 U.S.C. 2651a(a)(4). This rule provides an award requirement for award recipients to refrain from undermining the objectives, terms, and conditions of foreign assistance funded activities by engaging in conduct that interferes with its delivery to intended beneficiaries. Under its grantmaking authority, the Department awards grants in the execution of foreign assistance. Prudent and responsible exercise of the Department’s foreign assistance and grantmaking authority requires that award terms ensure that foreign assistance reaches its intended beneficiaries and is not thwarted by discrimination on the bases covered in this rule. In addition to the Department’s authority to promulgate regulations under the FAA, described above, 2 CFR 200.211(c), (d), and (e) also expressly authorize the agency to incorporate in an award general terms and conditions; Federal awarding agency, program, or Federal award specific terms and conditions; and Federal awarding agency requirements.

Finally, in the event that any portion of this the proposed rule as finalized is declared invalid, the Department intends that the various aspects be severable; the Department would intend the remaining features of the policy to stand.

Regulatory Analyses

Administrative Procedure Act

Pursuant to the Administrative Procedure Act (APA), this proposed rule is published for public comment for a period of 60 days, notwithstanding the fact that this rule relates to grants and therefore is not subject to 5 U.S.C. 553. *See* 5 U.S.C. 553(a)(2).

Executive Orders 12866 (Regulatory Planning and Review), and 13563 (Improving Regulation and Regulatory Review), and 14094 (Modernizing Regulatory Review)

Executive Orders (E.O.s) 12866, 13563, and 14094 direct agencies to assess the costs and benefits of the

intended regulation. E.O. 13563 allows that in making this assessment, an agency “may consider (and discuss qualitatively) values that are difficult or impossible to quantify, including equity, human dignity, fairness, and distributive impacts.” The Department has submitted this rulemaking to the Office of Information and Regulatory Affairs (OIRA) for review. OIRA has designated this rulemaking a “significant regulatory action” under E.O. 12866, as amended.

This rule provides a benefit by promoting nondiscrimination in Department of State foreign assistance, which itself promotes programmatic efficiency, with very little additional administrative burden anticipated for the affected entities, which are Department recipients and subrecipients. It does not require them to carry out activities beyond those in their cooperative agreements and grants; it does not ask them to alter the manner in which they conduct the work as set out in their awards. The Department anticipates that the benefits of the proposed rule are realized by (1) ensuring that grant solicitations and resulting awards clearly notify that recipients and subrecipients must not discriminate against beneficiaries and potential beneficiaries of foreign assistance or in relation to employment decisions to support performance of the award; (2) avoiding proposal evaluation costs arising from grantees who are unwilling to provide assistance to all intended beneficiaries; (3) helping to ensure that foreign assistance funded activities reach intended beneficiaries and are not undermined by discriminatory exclusion on the bases identified in the rule. If, for example, an award specified the provision of food parcels in a certain community, the grantee could not, on its own, decide that only certain members of that community should receive the food parcels or that certain members should be excluded. This rule makes it clear at the inception of an award solicitation and any resulting award the grantee is obligated to provide services and supplies without excluding beneficiaries on the bases stated in the rule.

Potential costs the Department identifies for recipients and grantees are for minimal training and implementation guidance, to the extent that recipients and grantees do not already proscribe nondiscrimination as part of the normal conduct of their business operations, and potential changes in hiring practices for certain employees hired to support performance of the award. For grantees/recipients

and subrecipients, potential costs could include creation of policies and procedures and training on implementation. The Department requests comment on costs of compliance with the provisions of this proposed rule, including estimates of hourly burdens and wages of employees that may be required to implement the rule, should it be finalized.

Including this clause in all new grants and cooperative agreements funded by Department of State foreign assistance provides an explicit requirement that the Department’s recipients and grantees not discriminate against any designated group or individual (except as provided in the award) and is particularly important in countries where stigma and discrimination toward certain groups is tolerated or officially endorsed by the government. The benefits of the rule would include expressly reinforcing notions of equity, fairness, and human dignity under Federal Government grants and cooperative agreements internationally.

Regulatory Flexibility Act

Congress enacted the Regulatory Flexibility Act of 1980, as amended, 5 U.S.C. 601–612, to ensure that Government regulations do not unnecessarily or disproportionately burden small entities. It requires a regulatory flexibility analysis if a rule is subject to the notice-and-comment provisions of the APA and would have a significant economic impact, either detrimental or beneficial, on a substantial number of small entities. This rule is exempt from the notice and comment requirements of the APA, as a matter related to grants. *See* 5 U.S.C. 553(a)(2). The Department nonetheless provides the following information for the information of the public.

The requirement this rule would impose on small businesses is no different than the requirement imposed on other entities: cooperative agreements and grants will include an award term clause requiring them not to discriminate in the employment of persons engaged directly in the performance of the Department’s foreign assistance cooperative agreements and grants and not to discriminate with respect to the intended beneficiaries of U.S. foreign assistance except as provided in the award. For example, an award might be specifically for businesses owned by women; in such a case, it would be permissible to “discriminate in favor” of women-owned businesses. We do not estimate that this will impose a significant additional cost on recipients or subrecipients beyond adding a brief

reminder or discussion of this requirement to existing trainings on business ethics and conduct that they provide to their staff. The Department requests comment on this assessment.

The employees of small businesses will be expected to be mindful of the principles of equity, fairness, and human dignity when performing the work funded by taxpayer dollars, as they have always been. The Department anticipates that the additional effort required by small businesses as a result of this proposed rule is de minimis and is not likely to impose more than a negligible cost.

In light of the above analysis, the Department certifies that this proposed rule would not have a significant economic impact on a substantial number of small entities. The Department welcomes comment on any of its assessments in this section.

Unfunded Mandates Act of 1995

The Unfunded Mandates Act of 1995 requires agencies to prepare several analytical statements before proposing any rule that may result in annual expenditures of \$100 million or more in State, local, or Indian Tribal governments or the private sector. Since this final rule will not result in expenditures of this magnitude, the Department certifies that such statements are not necessary.

Executive Orders 12372 and 13132—Federalism

This regulation will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132, it is determined that this rule does not have sufficient federalism implications to require consultations or warrant the preparation of a federalism summary impact statement. The regulations implementing E.O. 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this regulation.

Executive Order 13175—Consultation With Tribal Governments

The Department has determined that this rulemaking will not have Tribal implications, will not impose substantial direct compliance costs on Indian Tribal governments, and will not preempt Tribal law. Accordingly, the requirements of E.O. 13175 do not apply to this proposed rule.

Paperwork Reduction Act

The Department believes that the number of respondents submitting reports pursuant to this rulemaking will be low, possibly under the “10 respondents per year” that would trigger the Paperwork Reduction Act. Nevertheless, the Department provides the following information, using a figure of “10 respondents” to calculate burden. The Department anticipates that the burden per response would be one hour, yielding a total burden of 10 hours for this rulemaking. The Department invites public comment on these figures.

Title of Information Collection:

Nondiscrimination in Foreign Assistance.

OMB Control Number: 1405–XXXX.

Type of Request: New collection.

Originating Office: Department of State, A/OPE.

Form Number: No form.

Respondents: Offerors and awardees of Department of State foreign assistance.

Estimated Number of Respondents: 10.

Estimated Number of Responses: 10.

Average Time per Response: One hour.

Total Estimated Burden Time: 10 hours.

Frequency: On occasion.

Obligation to Respond: Mandatory.

List of Subjects in 2 CFR Part 602

Administrative practice and procedure, Grant programs.

For the reasons set forth above, the Department of State proposes to add part 602 to title 2 of the Code of Federal Regulations to read as follows:

PART 602—NONDISCRIMINATION IN FOREIGN ASSISTANCE

Sec.

602.10 Purpose of this part.

602.20 Policy.

602.30 Waiver.

602.40 Award term.

602.50 Referral.

Authority: 5 U.S.C. 301; 22 U.S.C. 2651a, 22 U.S.C. 2151, 22 U.S.C. 2451, 22 U.S.C. 1461, 2 CFR part 200.

§ 602.10 Purpose of this part.

This part establishes policy and an award term for Federal awards subsidized in whole or in part by Department of State foreign assistance funds that states that recipients and subrecipients must not discriminate against beneficiaries and potential beneficiaries of foreign assistance or in relation to employment decisions to support performance of the award, in any way that is contrary to the scope of

the activity as defined in the Federal award.

§ 602.20 Policy.

(a) Nondiscrimination is essential in protecting and advancing the human rights of all persons and ensuring equitable access to Department of State federally funded foreign assistance programs. The Department of State is committed to a policy of non-discrimination on the basis of race, ethnicity, color, religion, sex, gender, sexual orientation, gender identity or expression, sex characteristics, pregnancy, national origin, disability, age, genetic information, indigeneity, marital status, parental status, political affiliation, or veteran's status.

(b) In each Federal award (e.g., grant or cooperative agreement) under which funding is provided to a non-Federal entity or a Foreign Public Entity (such as a public research university, public hospital, etc.), the Department will include an award term that authorizes action up to and including termination of the award, without penalty, if the recipient or a subrecipient discriminates, and fails to remedy in a manner reasonably acceptable to the Department, on the basis of race, ethnicity, color, religion, sex, sexual orientation, gender, gender identity or gender expression, sex characteristics, pregnancy, national origin, disability, age, genetic information, indigeneity, marital status, parental status, political affiliation, or veteran's status or any factor not expressly stated in the award, against:

(1) any beneficiary or potential beneficiary of the foreign assistance provided in performance of the award, such as, but not limited to, by withholding, adversely impacting, or denying equitable access to the benefits of foreign assistance; or

(2) any employee, agent, or candidate for a position, who is or will be engaged directly in the performance of this award and whose work will be subsidized in whole or in part by Federal foreign assistance funds under this award, unless expressly permitted by applicable U.S. law.

§ 602.30 Waiver.

(a) The Grants Officer, with written concurrence from the Bureau's Assistant Secretary, Chief of Mission, or other similar management units may waive the application of the requirements at paragraph (a)(2) of § 602.40, Nondiscrimination in Foreign Assistance, if it is determined to be in the best interest of the U.S. government. Such determinations will take into account the totality of the

circumstances, including, but not limited to, whether the waiver is requested as an accommodation to comply with applicable foreign laws, edicts, or decrees.

(b) The recipient shall submit any request for a waiver of the requirements of the paragraph at § 602.40(a)(2) in writing to the Grants Officer, and with sufficient justification for a determination, prior to award or thereafter by mutual agreement between the parties.

(c) If approved pursuant to this section, the Grants Officer shall specifically denote the inapplicability of the paragraph at § 602.40(a)(2) in the Federal award.

(d) Upon making a determination to waive the requirements at § 602.40(a)(2) pursuant to this section, the Grants Officer shall notify the Assistant Secretary of the Bureau for Democracy, Human Rights, and Labor, or their designee in writing within 30 days.

(e) Nothing in any such waiver approved pursuant to this section shall negate any of the other requirements of § 602.40.

§ 602.40 Award term.

The following term will be incorporated in Department of State Federal awards as applicable:

Nondiscrimination in Foreign Assistance (Date)

a. Department of State policy requires that the recipient or grantee not discriminate on the basis of race, ethnicity, color, religion, sex, gender, sexual orientation, gender identity or expression, sex characteristics, pregnancy, national origin, disability, age, genetic information, indigeneity, marital status, parental status, political affiliation, or veteran's status or any factor not expressly stated as permissible in the award, against:

1. any beneficiary or potential beneficiary of the foreign assistance provided in performance of the award, such as, but not limited to, by withholding, adversely impacting, or denying equitable access to the benefits of foreign assistance; and

2. any employee, agent, or candidate for a position, who is or will be engaged directly in the performance of this award and whose work will be subsidized in whole or in part by Federal foreign assistance funds under this award, unless expressly permitted by applicable U.S. law.

b. Nothing in this award term is intended to limit the ability of a recipient to target activities toward the assistance needs of certain populations as defined in the award.

c. The recipient shall post in conspicuous places available to employees and beneficiaries in their predominant languages the notices to be provided by the Department of State regarding the nondiscrimination policy implemented in this award term.

d. The recipient shall notify beneficiaries and prospective beneficiaries that the recipient is prohibited from discriminating on the basis of race, ethnicity, color, religion, sex, gender, sexual orientation, gender identity or expression, sex characteristics, pregnancy, national origin, disability, age, genetic information, indigeneity, marital status, parental status, political affiliation, or veteran's status. The notice shall include information (telephone numbers, email addresses, and mailing addresses) necessary to contact the Department of State Inspector General's Fraud, Waste, and Abuse hotline to report potential violations of this award term.

e. The recipient shall take such action with respect to any subaward or contract as the Department of State may direct as a means of enforcing this award term, including terminating for noncompliance.

f. The recipient shall:

1. Notify its employees and agents of:
i. The policy prohibiting discrimination, described in paragraph (a) of this award term; and

ii. The actions that will be taken against employees or agents for violations of this policy. Such actions for employees may include, but are not limited to, removal from the award, reduction in benefits, or termination of employment; and

2. Take appropriate action, up to and including termination, against employees, agents, or subrecipients that violate the policy in paragraph (a) of this clause.

g. *Notification.*

1. The recipient shall inform the Grants Officer, Grants Officer Representative, and the Department of State Inspector General immediately of:

i. Any credible information it receives from any source (including host country law enforcement) that alleges an employee of the recipient, subrecipient entity, an employee of a subrecipient, or their agent has engaged in conduct that violates the policy in paragraph (a) of this award term; and

ii. Any actions taken against an employee of the recipient, subrecipient entity, an employee of a subrecipient, or their agent pursuant to this award term.

2. If the allegation may be associated with more than one award, the recipient

shall inform the Grants Officer for the award with the highest dollar value.

h. *Remedies.* In addition to other remedies available to the U.S. Government, the recipient's failure to comply with the requirements of this award term may result in:

1. Requiring the recipient to remove an employee or subrecipient employee from the performance of the award;

2. Requiring the award recipient to terminate a subaward;

3. Suspension of award payments until the recipient has taken appropriate remedial action;

4. Declining to exercise available options under the award;

5. Termination of the award for default or cause, in accordance with the Department of State Standard Terms and Conditions for Federal Awards; or

6. Suspension or debarment.

i. The recipient must insert this award term, modified as appropriate or necessary to identify the parties, including this paragraph, in all subawards under this award.

(End of award term)

§ 602.50 Referral.

A Department official will inform the Department's suspension and debarment official if an award is terminated based on a violation of a prohibition contained in the award term under § 602.40.

Kevin E. Bryant,

Deputy Director, Office of Directives Management, Department of State.

[FR Doc. 2024-01059 Filed 1-18-24; 8:45 am]

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Parts 166 and 167

[Docket No. USCG-2019-0279]

RIN 1625-AC57

Shipping Safety Fairways Along the Atlantic Coast

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is proposing to establish shipping safety fairways ("fairways") along the Atlantic Coast of the United States, identified in the Atlantic Coast Port Access Route Study. Fairways would preserve the safe and reliable transit of vessels along well-established traffic patterns and routes. While vessels are not required to use

them, fairways are designed to keep traditional navigation routes free from fixed structures that could impact navigation safety and impede other shared offshore activities. The Coast Guard recognizes that there is increasing interest in offshore commercial development, including offshore renewable energy installations, and believes this development is best served by the establishment of consistent and well-defined fairways. The proposed fairways would help ensure that offshore developments remain viable by allowing developers to construct and maintain installations without risk of impeding vessel traffic. The Coast Guard is also proposing to establish traffic separation schemes and precautionary areas along the Atlantic coast to further improve navigation safety.

DATES: Comments and related material must be received by the Coast Guard on or before April 18, 2024.

ADDRESSES: You may submit comments identified by docket number USCG-2019-0279 using the Federal Decision Making Portal at www.regulations.gov. See the "Public Participation and Request for Comments" portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: For information about this document call or email Maureen Kallgren, Coast Guard; telephone 202-372-1561, email Maureen.R.Kallgren@uscg.mil.

SUPPLEMENTARY INFORMATION:

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I. Public Participation and Request for Comments

The Coast Guard views 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 www.regulations.gov. To do so, go to www.regulations.gov, type USCG–2019–0279 in the search box and click “Search.” Next, look for this document in the Search Results column, and click on it. Then click on the Comment option. If you cannot submit your material by using www.regulations.gov, call or email the person in the **FOR FURTHER INFORMATION CONTACT** section of this proposed rule for alternate instructions.

Viewing material in docket. To view documents mentioned in this proposed rule as being available in the docket, find the docket as described in the previous paragraph, and then select “Supporting & Related Material” in the Document Type column. Public comments will also be placed in our online docket and can be viewed by following instructions on the www.regulations.gov Frequently Asked Questions (FAQ) web page. That FAQ page also explains how to subscribe for email alerts that will notify you when comments are posted or if a final rule is published. We review all comments received, but we will only post comments that address the topic of the proposed rule. We may choose not to post off-topic, inappropriate, or duplicate comments that we receive.

Personal information. We accept anonymous comments. Comments we post to 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).

Public Meeting. We do not plan to hold a public meeting, but we will consider doing so if we determine from public comments that a meeting would be helpful. We would issue a separate **Federal Register** notice to announce the date, time, and location of such a meeting.

II. Abbreviations

ACP American Clean Power
 ACPARS Atlantic Coast Port Access Route Study
 AIS Automatic Identification System
 ANPRM Advance Notice of Proposed Rulemaking
 AWO American Waterways Operators

BOEM Bureau of Ocean Energy Management
 BSEE Bureau of Safety and Environmental Enforcement
 Call Call for information and nominations
 COMDTINST Commandant Instruction
 COP Construction and Operation Plans
 CZMA Coastal Zone Management Act
 CFR Code of Federal Regulations
 °T Degrees true
 DHS Department of Homeland Security
 EEZ Exclusive Economic Zone
 EA Environmental Assessment
 EIS Environmental impact statement
 EPA Environmental Protection Agency
 ESA Environmental Species Act
 Fairways Shipping safety fairways
 FR Federal Register
 GW Gigawatts
 IMO International Maritime Organization
 MMPA Marine Mammal Protection Act
 MTS Marine Transportation System
 MW Megawatts
 NAICS North American Industry Classification System
 NAVCEN Coast Guard Navigation Center
 NEPA National Environmental Policy Act
 NM Nautical mile
 NPRM Notice of proposed rulemaking
 OCS Outer Continental Shelf
 OMB Office of Management and Budget
 OREI Offshore renewable energy installation
 PARS Port Access Route Studies
 RFI Request for interest
 SBA Small Business Administration
 § Section
 TSS Traffic separation scheme
 USACE United States Army Corps of Engineers
 U.S.C. United States Code
 USN United States Navy
 WEA Wind energy area
 WGS 84 World Geodetic System 1984

III. Basis and Purpose

Chapter 700, Ports and Waterways Safety, of Title 46 United States Code (U.S.C.) authorizes the Secretary of the department in which the Coast Guard is operating to take certain actions to advance port, harbor, and coastal facility safety and security. Specifically, 46 U.S.C. 70001 and 70034 authorize the Secretary to promulgate regulations to establish reporting and operating requirements, surveillance and communications systems, routing systems, and fairways. The Secretary has delegated this authority to the Commandant of the Coast Guard (Department of Homeland Security (DHS) Delegation 00170.1, Revision No. 01.3, paragraph (II)(70)).

This notice of proposed rulemaking (NPRM) proposes to codify existing vessel traffic patterns into shipping safety fairways (“fairways”), traffic separation schemes (TSSs), and precautionary areas along the Atlantic Coast of the United States to facilitate offshore development and ensure that traditional navigation routes are kept

free from fixed structures that could affect navigation safety. The Coast Guard recognizes that current offshore development trends and other increased shared commercial activities on the Outer Continental Shelf (OCS) necessitate cohesion between industries. We believe that OCS users are best served by establishing consistent and clearly defined fairways that preserve historic shipping routes and safe access to the Marine Transportation System (MTS). Fairways, TSSs, and precautionary areas are designed to preserve traditional maritime commerce routes and safe access to U.S. ports and protect them from fixed structures that could impact navigation safety.

A shipping safety fairway is a lane or corridor, in which no fixed structure is permitted, that sets aside areas of sufficient depth and dimensions to accommodate vessels and to allow for the orderly and safe movements of vessels transiting to or from ports. A TSS is a designated routing measure that separates opposing streams of traffic into traffic lanes, in which vessels all travel in roughly the same direction. A precautionary area is a designated routing measure with defined limits, where vessels must navigate with caution. These navigation systems would help to manage expectations of use and development along the OCS by communicating to the public the exact coordinates of established shipping lanes and routes.

IV. Background

The Coast Guard seeks comments regarding the proposed establishment of fairways, TSSs, and precautionary areas along the Atlantic Coast of the United States, based on navigation safety corridors recommended by the Atlantic Coast Port Access Route Study (ACPARS). In this section, the Coast Guard provides background information on fairways, TSSs, the ACPARS, and related Port Access Route Studies (PARS).

A. Shipping Safety Fairways and Traffic Separation Schemes

Section 70003 of Title 46 U.S.C. directs the Secretary of the department in which the Coast Guard operates to designate necessary fairways, TSSs, and precautionary areas that provide safe access routes for vessels proceeding to and from U.S. ports. Designating a particular area as a fairway establishes the requirement that the area remains free of fixed structures that could pose navigational hazards or impediments. Designating a particular area as a TSS separates opposing streams of vessel traffic, and designating a particular area

as a precautionary area indicates where vessels should navigate with particular caution.¹ Fairways and TSSs² are typically established along existing and heavily traveled shipping routes. Accordingly, these designations help maintain safe shipping and recognize the “paramount right of navigation” over other uses within the designated areas.³

The Coast Guard coordinates the possible establishment of fairways along the Atlantic Coast, complementary port approaches, and international entry and departure zones with the Bureau of Ocean Energy Management (BOEM) and other users of waterways to guarantee collaboration between offshore energy leasing efforts and efforts to codify customary shipping routes. The Coast Guard is prohibited under 46 U.S.C. 70003(b)(1) from designating fairways, TSSs, and precautionary areas in areas where such a designation would deprive any person of the effective exercise of a vested right granted by a lease or permit executed or issued under other applicable provisions of law.

Fairways and TSSs are designated through Federal regulations as directed by 46 U.S.C. 70003. Regulations governing fairways in title 33 of the Code of Federal Regulations (CFR) part 166 provide that fixed structures and artificial islands are not permitted within fairways because these structures would jeopardize safe navigation. Regulations governing TSSs and precautionary areas in 33 CFR part 167 provide designated routing measures that separate opposing streams of traffic by establishing a separation zone and traffic lanes. TSSs and associated precautionary areas are submitted to the International Maritime Organization (IMO) for adoption and international recognition after the close of the public comment period and subsequent publication of a final rule. Modifying an existing TSS may include adjustment of the associated traffic lanes and separation zones for specific port approaches. The Coast Guard has the authority to establish, modify, or relocate existing fairways and TSSs to improve navigation safety and to preserve unimpeded navigation where

appropriate. See 46 U.S.C. 70003 and 33 CFR 166.110.

Before establishing or modifying fairways, TSSs, and precautionary areas, 46 U.S.C. 70003(c)(1) requires the Coast Guard to study potential traffic density and assess the need for safe access routes for vessels in the area for which they are proposed. In accordance with 46 U.S.C. 70003(c)(2), the Coast Guard consulted with all required Federal and appropriate State agencies while conducting the consolidated PARS. In executing these studies, the Coast Guard considered the views of the maritime community, environmental groups, and other stakeholders to reconcile the need for safe access routes with reasonable waterway uses to the extent practicable. See 46 U.S.C. 70003(c)(3). In addition to determining the necessary location for fairways, TSSs, and precautionary areas, the studies also assessed widths of fairways, TSSs, and precautionary areas based on vessel size and maneuverability, and density of the predominant vessel traffic. As part of its assessment, the Coast Guard attempts to recognize and identify potential impacts and balance these against the need to preserve safe navigation routes.

During the PARS process, and as required by 46 U.S.C. 70003(c)(2), the Coast Guard considered competing uses of the OCS that may interfere with the proposed fairways. The Coast Guard notes that it is not mandatory for vessels to use fairways or TSSs. Rather, the primary legal effect of establishing these fairways, TSSs, and precautionary areas is to ensure that safe access to or from U.S. ports is available for marine traffic, and to prevent the establishment of any artificial island, fixed structure, or other impediment to vessel traffic. The PARS process did not identify any existing or planned structures, including existing wind energy area (WEA) leases, that would be affected by any of the fairways, TSSs, and precautionary areas proposed in this rule.

B. Atlantic Coast Port Access Route Study (ACPARS)

On May 11, 2011, the Coast Guard announced the ACPARS to address potential navigational safety risks associated with offshore energy development and to support future marine planning efforts. The Coast Guard analyzed vessel traffic along the entire Atlantic Coast and focused on waters located seaward of existing port approaches within the U.S. Exclusive Economic Zone (EEZ). This extensive study area allowed the Coast Guard to consider vessel movements among both domestic and international ports of call to inform marine planning for the entire

Atlantic seaboard. The Coast Guard used Automatic Identification System (AIS) data and information from shipping organizations to identify traditional navigation routes. The AIS data identified customary routes transited by towing vessels and deep draft vessels. Because these two vessel types have different maneuvering capabilities and navigation safety requirements, the identification of their customary routes and required fairway widths were studied separately and aggregated for final recommendation in the ACPARS.

The Coast Guard announced the availability of the ACPARS report and requested public comment in the **Federal Register** (FR) on March 14, 2016 (81 FR 13307). After considering comments submitted in response to that notice, the Coast Guard determined that the report was complete as published and announced this finding in the **Federal Register** on April 5, 2017 (82 FR 16510). The ACPARS report is available for public viewing in several locations: (1) In the docket for this rulemaking, as indicated in section I of this preamble, Public Participation and Request for Comments; (2) in the docket for the ACPARS itself (docket number USCG–2011–0351); and (3) at <https://www.navcen.uscg.gov/port-access-route-study-reports>.

The ACPARS identified navigation safety corridors⁴ along the Atlantic Coast that have the width necessary for safe navigation based on the predominant two-way vessel traffic and customary routes identified with AIS data.⁵ The ACPARS identified customary deep draft vessel routes as navigation safety corridors and recommended developing these corridors into official fairways or other appropriate vessel routing measures. These routes should be given consideration over other alternatives, in accordance with international law, as reflected in Article 78 of the United Nations Convention on the Law of the Sea (“Convention”), which states, “[t]he exercise of the rights of the coastal State over the continental shelf must not infringe or result in any unjustifiable

¹ A fairway or shipping safety fairway is a lane or corridor in which no artificial island or fixed structure, whether temporary or permanent, will be permitted. Temporary underwater obstacles may be permitted under certain conditions described for specific areas. Aids to navigation approved by the Coast Guard may be established in a fairway. See 33 CFR 166.105(a).

² These terms are defined in 33 CFR 166.105(a) and 33 CFR 167.5(b), respectively.

³ See limitations on such designations in 46 U.S.C. 70003(b).

⁴ Navigation safety corridor is a term used in the ACPARS final report for areas required by vessels to safely transit along a customary navigation route under all situations. A navigation safety corridor is not inherently a routing measure and should not be confused with fairways, two-way routes, or TSSs. Navigation safety corridors have the potential to become a fairway, two-way route, or a TSS but not until they receive such a designation from the Coast Guard.

⁵ See pages i, 11, and 12, and Appendix VII of the ACPARS, which is available in the docket <https://www.regulations.gov/docket/USCG-2019-0279/document>.

interference with navigation and other rights and freedoms of other States as provided for this Convention.”

The ACPARS also identified coastal navigation routes and navigation safety corridors of an appropriate width to accommodate safe passage for seagoing towing vessels.⁶ As identified in the ACPARS, a Quality Action Team, sponsored by the Coast Guard and the American Waterways Operators (AWO), articulated a need for 9 nautical mile (NM)-wide fairways, where practicable, to account for the long towing cables commonly used by the industry along the Atlantic Coast.

The ACPARS recommended that the Coast Guard consider developing the navigation safety corridors it identifies in Appendix VII—which include navigation safety corridors for deep draft vessels and navigation safety corridors closer to shore for towing vessels—into official shipping safety fairways or other appropriate vessel routing measures.⁷ Analysis of the sea space required for vessels to maneuver led to developing marine planning guidelines that were included in the ACPARS and were considered when identifying the navigation safety corridors, in Appendix VII of the final report.

C. Port Approaches and International Entry and Departure Transit Areas PARS Integral to Efficiency of Possible Atlantic Coast Fairways

Recognizing that the ACPARS only analyzed coastal, longshore, and predominantly north-south vessel transit routes along the Atlantic Coast, the Coast Guard announced its intention to study four port approaches and international entry and departure areas to supplement the ACPARS on March 15, 2019, in the **Federal Register** (84 FR 9541).⁸ These studies were consolidated into a single report and considered the same access routes that the ACPARS recommended be developed as fairways or other appropriate vessel routing measures, from ports along the Atlantic Coast to the navigation safety corridors. The ports that the Coast Guard considered in these studies are

economically important, support military operations, or deemed strategically critical to national defense. On September 9, 2022, the Coast Guard announced the completion and availability of a consolidated PARS report in the **Federal Register** (87 FR 55449) and provided a 90-day comment period for the public (88 FR 15055). After considering comments submitted in response to that notice, the Coast Guard determined that the report was complete as published and announced this finding in the **Federal Register** on August 28, 2023 (88 FR 58591).

D. Results of PARS

The Coast Guard identified four port approach areas that required further study: (1) the Northern New York Bight; (2) the Seacoast of New Jersey including the offshore approaches to Delaware Bay; (3) the approaches to Chesapeake Bay; and (4) the Seacoast of North Carolina, including the offshore approaches to the Cape Fear River and Beaufort Inlet, NC. The purpose of these additional PARS was to identify east and west routes between port approaches on the east coast and these proposed fairways. These PARS were conducted according to the methodology outlined in United States Coast Guard Commandant Instruction (COMDTINST) 16003.2B, *Marine Planning to Operate and Maintain the Marine Transportation System (MTS) and Implement National Policy*.⁹

The recommendations from the ACPARS and the four consolidated PARS in concert with public comments received from the advance notice of proposed rulemaking (ANPRM) were considered for this NPRM (85 FR 37034, June 19, 2020). The following is a summary of the recommendations of each of the PARS:

Port Access Route Study: Northern New York Bight

On January 3, 2022, the Coast Guard announced the completion of the Northern New York Bight PARS in the **Federal Register** (87 FR 107), which is available for viewing and download from the docket at www.regulations.gov or the Coast Guard Navigation Center's website at <https://www.navcen.uscg.gov/port-access-route-study-reports>. The First Coast Guard District analyzed available sources of data relevant to this process, including existing and potential traffic patterns, existing regulations, public comments made in response to the draft Northern

New York Bight PARS, and other factors. These factors went into considering whether the Coast Guard should revise existing regulations to improve navigation safety in Northern New York Bight due to vessel traffic density, vessel traffic patterns, weather conditions, or navigation challenges in the study area. The results from the study led to the following recommendations:

- Establish modified versions of the fairways proposed in the ANPRM.
- Establish a New Jersey to New York Connector Fairway.
- Establish a Hudson Canyon to Ambrose Southeastern Fairway, a Hudson Canyon to Ambrose Eastern Fairway, and a single Nantucket to Ambrose Fairway.
- Widen the Long Island Fairway that was proposed in the ANPRM.
- Modify the portion of the ANPRM that proposed the Cape Charles to Montauk Point Fairway that crosses the NY Bight by renaming it the Barnegat to Narragansett Fairway and adjusting coordinates to reconcile conflicts with lease areas OCS-A 0544 and OCS-A 0549.

- Establish an Ambrose Anchorage and adjust the Long Island Fairway to mitigate location conflict between the anchorage and fairway.

The Coast Guard proposes to implement these recommendations in this NPRM, with the following exceptions:

- The proposed Hudson Canyon to Ambrose Southeastern Fairway would be extended out to the end of the EEZ (200 NM) to ensure that safe access remains if expansion of offshore energy development continues to the east.
 - Reduce the width of the recommended single Nantucket to Ambrose fairway to the northern border of the existing Nantucket to Ambrose Fairway and the southern border of the Ambrose to Nantucket Fairway as defined in 33 CFR 166.500. This will ensure there is sufficient room for safe navigation and the resulting fairways do not conflict with BOEM lease area OCS-A 0522.
 - The establishment of the Ambrose Anchorage will not be covered within this rulemaking as it has utility independent of the fairways proposed in this rule. As this recommended anchorage would be within U.S. navigable waters, the First Coast Guard District will evaluate a possible rulemaking under authority in 46 U.S.C. 70006 for an anchorage ground that would be codified in 33 CFR part 110.
- In addition, the Coast Guard is proposing precautionary areas where the proposed Barnegat to Narragansett

⁶ See pages i and 11, and Appendix VII (page 7) of the ACPARS.

⁷ See pages 12 and 16 of the ACPARS.

⁸ International Entry and Departure Transit Areas are navigation routes followed by vessels entering or departing from the United States through an international seaport. International entry and departure transit areas connect navigation safety corridors identified in the ACPARS to the outer limit of the U.S. EEZ. Port approaches are navigation routes followed by vessels entering or departing a seaport from or to a primary transit route. Port approaches link seaports to navigation safety corridors identified in the ACPARS.

⁹ https://media.defense.gov/2019/Jul/10/2002155400/-1/-1/0/CI_16003_2B.PDF. Last accessed March 1, 2023.

Fairway intersects with the Southern and Southeastern approaches to New York. Although these precautionary areas were not recommended in the Northern New York Bight PARS, the Coast Guard expects to see a considerable amount of vessel traffic cross perpendicular to each other at the intersection of the fairway with the traffic lanes. A precautionary area would signify to mariners that they are transiting through an area, "where ships must navigate with particular caution,"¹⁰ due to the perpendicular crossing of vessel traffic.

Port Access Route Study: Seacoast of New Jersey Including Offshore Approaches to the Delaware Bay, Delaware

On March 24, 2022, the Coast Guard announced the completion of the Seacoast of New Jersey including offshore approaches to the Delaware Bay, DE PARS in the **Federal Register** (87 FR 16759). The Fifth Coast Guard District analyzed available sources of data relevant to this process, including existing and potential traffic patterns, existing regulations, public comments made in response to the draft PARS, and other factors. These factors went into considering whether the Coast Guard should revise existing regulations to improve navigation safety off the coast of New Jersey and in the approaches to Delaware Bay due to vessel traffic density, vessel traffic patterns, weather conditions, or navigation challenges in the study area. The results from the study led to the following recommendations:

- Establish modified versions of the fairways proposed in the ANPRM.
- Extend the Off Delaware Bay: Eastern and Southeastern approaches to the TSS past the currently leased wind farms in the region, in lieu of establishing the Off Delaware Bay Eastern approach Cutoff Fairway and Off Delaware Bay Southeastern approach Cutoff Fairway.
- Establish additional precautionary areas where a wide variety of vessel traffic converges east of the offshore renewable energy installations (OREIs) under development.
- Establish a new two-way route along the Delaware seacoast for safe transits into and across the mouth of the Delaware Bay by coastwise vessels.
- Separate the Cape Charles to Montauk Fairway into two distinct fairways and rename them to clarify

endpoints. Rename the southern portion Cape Charles to Delaware Bay and the northern portion Barnegat to Narragansett, to clarify the divergence of the route as it transits the mouth of the Delaware Bay and across the New York Bight.

- Establish the New Jersey to New York Connector Fairway along the New Jersey coast and up into New York–New Jersey Harbor.

- Establish an offshore fairway anchorage in the area to the east of the Off Delaware Bay: Southeastern approach to meet the needs for safe anchorage areas around OREIs.

- Ensure coordination of fairways and TSSs crossing District boundaries, and widen fairways to 9 NM, where practicable.

The Coast Guard proposes to implement these recommendations in this NPRM, with the following exceptions:

- The recommended reorientation of the St. Lucie to New York: Delaware Bay Connector Fairway, combined with the location of the St. Lucie to New York Fairway, and the recommended offshore Precautionary Area adjacent to the offshore terminus of the Southeastern approach leaves very little open sea space between the connector fairway and the proposed St. Lucie to New York Fairway. The Coast Guard proposes combining the Connector Fairway with the St. Lucie to New York Fairway and widening it in the general vicinity of the approaches to Delaware Bay. This would allow for the additional sea space needed for vessels maneuvering in the area and provide for a more natural approach to the Southeastern approach TSS, as supported by customary traffic patterns and BOEM. This would also provide a larger contiguous area for further offshore wind development.

- The Cape Charles to Montauk Fairway as proposed in the ANPRM conflicted with BOEM lease area OCS–A 0490. The recommendations from the New Jersey PARS reconcile this conflict by providing a fairway near the shore that crosses at the mouth of the Delaware Bay. Public comments received from mariners operating in the Delaware Bay area continued to urge the Coast Guard to consider a route that allows for safe, unobstructed transit seaward of the OREI development projects that connects back to the proposed New Jersey to New York Connector Fairway. The Coast Guard is proposing the Offshore Delaware Bay to New Jersey Connector Fairway to meet this need.

- The Coast Guard concurs with the recommendation for offshore precautionary areas where a wide

variety of vessel traffic converges east of the OREI development projects. To account for the proposed combining of the St. Lucie to New York: Delaware Bay Connector Fairway with the St. Lucie to New York Fairway and the proposed Offshore Delaware Bay to New Jersey Connector Fairway, the proposed size and location of the precautionary areas at the convergence point of these fairways with the Eastern and Southeastern approaches have been adjusted to best meet the recommendations of the Fifth Coast Guard District and highlight areas that require particular caution when navigating.

- The Coast Guard is not proposing to establish a new two-way route as recommended in the New Jersey PARS. To account for the recommended orientation of the Cape Charles to Delaware Bay Fairway, the expansion of fairways to 9 NM where practicable, and the dense traffic at the entrance to Delaware Bay, the Coast Guard is proposing an expansion of the current precautionary area. This expansion would encompass the convergence of the proposed Cape Charles to Delaware Bay Fairway and the New Jersey to New York Connector Fairway with the established TSS. Expanding the precautionary area would appropriately caution the mariners transiting in the area while maximizing the freedom of navigation for opposing vessel traffic.

- The Coast Guard proposes to extend the recommended New Jersey to New York Connector Fairway south to connect with the proposed precautionary area expansion at the entrance to Delaware Bay. This expansion would absorb a portion of the established two-way route to the north of the approaches to Delaware Bay. Designating the water surrounding the two-way route would preserve current traffic flow and customary routes in the region, while ensuring ample sea space is available for future offshore energy development.

Port Access Route Study: Approaches to the Chesapeake Bay, Virginia

On October 22, 2021, the Coast Guard announced the completion of the approaches to the Chesapeake Bay, Virginia PARS in the **Federal Register** (86 FR 58684). The Fifth Coast Guard District analyzed available sources of data relevant to this process, including existing and potential traffic patterns, existing regulations, public comments made in response to the draft, approaches to the Chesapeake Bay, Virginia PARS, and other factors. These factors went into considering whether the Coast Guard should revise existing

¹⁰ Definition of *Precautionary Area* under *Elements used in traffic routing systems include:* <https://www.imo.org/en/OurWork/Safety/Pages/ShipsRouteing.aspx>. Last accessed March 17, 2022.

regulations to improve navigation safety off the coast of Virginia and in the approaches to Chesapeake Bay due to vessel traffic density, vessel traffic patterns, weather conditions, or navigation challenges in the study area. The results from the study led to the following recommendations:

- The IMO's adoption of expanded precautionary area between the Eastern and Southern TSS approaches to Chesapeake Bay.
- Modifications to fairways, as proposed in the ANPRM, to include:
 - Re-orienting the Chesapeake Bay to Delaware Bay Eastern approach Cutoff Fairway to increase available maneuvering space for crossing vessels in the approaches to Delaware Bay, and to allow space for an offshore anchorage in the approach to the Delaware Bay.
 - Re-orienting the Cape Charles to Montauk Point Fairway to route closer to the Delmarva Peninsula.
 - Adding northern and southern connector fairways from the St. Lucie to New York Fairway and the Chesapeake Bay TSS, around the Commercial Virginia Offshore Wind project area, to facilitate safe transit of commercial vessels around future offshore energy installations.

The Coast Guard proposes to incorporate these recommendations in this NPRM, with the following exceptions:

- All proposed fairways would be widened to 9 NM or the maximum sea space practicable based on comments received from the AWO and the tug and tow community.
- The Cape Charles to Montauk Point Fairway would be divided into three distinct sections, as identified in the New Jersey PARS and the Northern New York Bight PARS. The southernmost section would be renamed the Cape Charles to Delaware Bay Fairway.
- The Delaware Bay Connector Fairway would reorient to the east and be combined into the St. Lucie to New York Fairway to better support the vessel traffic flow in and out of the Delaware Bay Southeastern approach.

Port Access Route Study: Seacoast of North Carolina

On May 16, 2022, the Coast Guard announced the completion of the Seacoast of North Carolina Including Approaches to the Cape Fear River and Beaufort Inlet, NC PARS in the **Federal Register** (87 FR 29756). The Fifth Coast Guard District analyzed all available sources of data relevant to this process. These sources of data include existing and potential traffic patterns, existing regulations, public comments made in response to the draft PARS Seacoast of

North Carolina, including approaches to the Cape Fear River and Beaufort Inlet, NC, and other factors. These factors went into considering whether the Coast Guard should revise existing regulations to improve navigation safety off the coast of North Carolina including the approaches to the Cape Fear River and Beaufort Inlet, due to vessel traffic density, vessel traffic patterns, weather conditions, or navigation challenges in the study area. The results from the study led to the following recommendations:

- Establish modified versions of the fairways proposed in the ANPRM.
- Establish a precautionary area at the offshore terminus of the TSS in the approaches to the Cape Fear River.
- Establish the Beaufort Inlet Connector, Cape Fear Southeastern Connector, and Cape Fear Southwestern Connector fairways.

The Coast Guard proposes to incorporate these recommendations in this NPRM, with the following exceptions:

- The recommended Cape Fear Southwestern approach Connector Fairway would end at the PARS study area. After consulting with the Seventh Coast Guard District, the Coast Guard proposes extending this fairway past the Cape Romain Call Area to the approaches of Charleston, SC. This extension would ensure vessels transiting along this nearshore route have unobstructed, safe passage to the Cape Fear River as future OREI development continues. This extension will not be affected by future PARS underway in the Southeast Atlantic off the coast of South Carolina. Future rulemakings will be considered after the conclusion of these ongoing studies.¹¹
- Combine the portions of the St. Lucie to Chesapeake Bay Nearshore and Offshore fairways from St. Lucie, FL to Cape Hatteras, NC into a single St. Lucie to Hatteras Fairway.

E. Approach to Regulatory Development

The Coast Guard is familiar with the competing demands between preserving unobstructed vessel navigation routes and the spatial needs of offshore development. In the 1940s in the Gulf of Mexico, the advent of increasingly significant numbers of oil installations in the Gulf soon demonstrated the reality of conflict between navigational and resource extraction uses of the same ocean space and the nature of the resulting economic loss and physical

danger. Instances of navigational confusion, near-collision, and collisions began to occur.¹² Lessons learned from participating in the process of establishing those fairways in the Gulf taught the Coast Guard to mitigate the impact on vessel operators and offshore developers by releasing the dimensions of the proposed fairways as soon as possible.

However, unlike the mineral-based installations in the Gulf of Mexico that generally consist of a single installation or a tight cluster of 3 to 5 structures encompassing a singular facility, OREI developments are usually comprised of a much larger network of interconnected turbines that encompass a larger contiguous area. Considering the massive geographic scope of this proposed rule, which is partially caused by the large footprints of these OREI developments, the Coast Guard considers it necessary to gather additional information before initiating the NEPA process. The Coast Guard believes it would benefit from the public comment process that follows the publication of a proposed rule, which will help the Coast Guard narrow the range of reasonable alternatives and identify issues that need to be considered in the required environmental review. Therefore, the Coast Guard is publishing this NPRM and the coordinates of the proposed fairways before it starts the environmental analysis that normally accompanies the proposed rule.

Following the close of the comment period for the NPRM, the Coast Guard will consider comments and adjust the proposed rule if needed. Then, the Coast Guard will publish a notice of intent consistent with this NPRM and announce it in the **Federal Register** as required by 40 CFR 1501.9.

The Coast Guard intends to prepare a draft EIS, file it with the U.S. Environmental Protection Agency (EPA), and then add the draft EIS to the docket of this NPRM. The EPA will publish a notice of availability for public review in the **Federal Register**. At that time, the Coast Guard will reopen the public comment period, allowing for the public to comment on the draft EIS. During the comment period, the public will also be able to comment on the alternatives, contents, recommendations, and impact of the analysis in this proposed rule.

¹² *Ocean Navigation Fairways through Gulf of Mexico "Oilfields"*; William L. Griffin; Coast and Geodetic Survey, Environmental Science Services Administration, United States Department of Commerce; <https://journals.lib.unb.ca/index.php/ihr/article/download/24035/27820/36382>. Last accessed May 24, 2023.

¹¹ Seventh Coast Guard District Southeast Atlantic Coast Port Access Route Study: Port Approaches and International Entry and Departure Transit Areas, found at USCG-2022-0347.

If the analysis or subsequent comments determines there is a substantive change to the dimensions of the proposed fairways, TSSs, and precautionary areas, the Coast Guard will issue a Supplemental Notice of Proposed Rulemaking (SNPRM) that will detail any departures from the fairways, TSSs, and precautionary areas proposed in this NPRM. If the analyses confirm the viability of the proposed fairways, TSSs, and precautionary areas, we will proceed on to the final rule stage. The Coast Guard will complete the NEPA review process at the time of the final rule. The Coast Guard will issue a final EIS with the final rule and waive the requirement for a 30-day time period between the final EIS and the record of decision as allowed under 40 CFR 1506.11(c)(2).

The Coast Guard met with offshore wind industry group American Clean Power (ACP) on August 22, 2023 to discuss the impact of the proposed fairways on ongoing BOEM leasing activities in the Central Atlantic. ACP proposed a re-orientation of two of the proposed fairways, with the goal of expanding overall acreage available for leasing in the Central Atlantic. The Coast Guard listened to ACP's proposal, explained that there is still ample time to suggest changes to the proposed fairways, and encouraged them to submit their proposal in a comment to this NPRM. The Coast Guard memorialized this meeting in a Memorandum of Record, which is available in the docket. The Coast Guard also participated in a meeting with ACP and the Office of Information and Regulatory Affairs (OIRA), convened by OIRA on October 10, 2023, during review of this rule pursuant to Executive Order 12866, in which ACP shared additional information about their proposed re-orientation.¹³ The Coast Guard seeks comments on any suggested reorientations of the fairways, TSSs, and precautionary areas proposed in this NPRM.

F. BOEM Leasing Process

Establishing fairways, TSSs, and precautionary areas is inextricably linked with energy development on the OCS. It is important to note that the Coast Guard works with BOEM during both the leasing and the fairway establishment processes to ensure cooperation among competing uses of the MTS.

Regional Intergovernmental Renewable Energy Task Forces are a key mechanism that BOEM uses to help shape its approach to offshore renewable energy development. These task forces consist of representatives from federally recognized Tribes, Federal agencies, States, and local governments, including the Coast Guard. BOEM's task forces serve as forums to coordinate planning; gather data; solicit feedback; educate about BOEM's processes, permitting, and statutory requirements; and exchange scientific and other information. BOEM's task forces work in parallel and are integrated into the more formal area identification and competitive leasing processes described below, with a particular focus on early identification of potential conflicting uses of the OCS and strategies for balancing the needs of all sea and seabed users. BOEM is currently actively engaged with several regional task forces in the Atlantic, including the Central Atlantic, Gulf of Maine, New York Bight, and Carolina Long Bay.

The current process by which BOEM issues competitive leases and grants is defined in 30 CFR part 585, subpart B. Typically, BOEM begins the competitive leasing process by publishing in the **Federal Register** a request for interest (RFI) in leasing all or part of a region of the OCS for renewable energy activities. The RFI is followed by a subsequent **Federal Register** publication calling for information and nominations ("Call"). The Call requests that developers explicitly nominate areas on the OCS for potential commercial OREI development, in addition to soliciting general information to further inform BOEM's understanding of ocean uses in the area. BOEM uses the feedback from the RFI and the Call to inform marine spatial models evaluating the area's potential suitability for offshore wind energy development, and to assess competitive interest in bidding for specified OCS areas. After BOEM identifies potential areas on the OCS for OREI development, BOEM then evaluates the potential impacts of leasing those areas on the human, marine, and coastal environments under the OCS Lands Act¹⁴ and subsequently consults with Federal agencies and affected States regarding the requirements of other potentially applicable Federal statutes.¹⁵

Throughout BOEM's competitive leasing process as defined in 30 CFR part 585, BOEM engages with the applicable task force and directly with other Federal agencies, including the

Coast Guard, whom BOEM relies on to assist with identifying potential maritime conflicts. This engagement is iterative throughout the development of commercial leases from the RFI to the competitive lease sale because the interests and needs of both OREI and the maritime industry, as well as States and the Federal agencies, are dynamic and evolving over time. Codifying traditional shipping lanes into fairways, TSSs, and precautionary areas would have the effect of providing relevant stakeholders with pertinent information earlier in the competitive lease process.

V. Discussion of ANPRM Comments

On June 19, 2020, the Coast Guard published an ANPRM announcing the possible establishment of fairways along the Atlantic Coast of the United States identified in the ACPARS.¹⁶ To engage the public early and often throughout this complex and dynamic process, the ANPRM solicited comments on the establishment of such fairways and presented the public with 15 questions. The Coast Guard received 24 comment submissions addressing the potential fairways identified in the ANPRM and answering these questions. The questions were focused on the necessity of the proposed fairways, the dimensions of the proposed fairways, and the potential impacts of the fairways to industry, the environment, or other affected populations.

After a thorough review of comments received, the Coast Guard summarized the issues raised. The Coast Guard then organized the issues by subject matter and their responses, which are presented below.

A. BOEM Leases

The Coast Guard received many comments expressing concern that the proposed fairways identified in the ANPRM would infringe on existing leases that stakeholders hold with BOEM and a comment that fairway and lease overlaps could result in substantive economic impacts on OREI development. The comments urged the Coast Guard to avoid routing fairways through leaseholds, specifically those leases off the coasts of the Maryland, Virginia, and Kitty Hawk, North Carolina. BOEM and other stakeholders alerted the Coast Guard of the potential overlap between the fairways described in the ANPRM and the aforementioned leases. In response to these comments, the Coast Guard has adjusted the fairways proposed in this NPRM to eliminate all overlaps, thereby addressing the concern of potential

¹³ For further information on this meeting, please visit <https://www.reginfo.gov/public/do/viewEO12866Meeting?viewRule=false&rin=1625-AC57&meetingId=225623&acronym=1625-DHS/USCG> (last visited on Dec. 13, 2023).

¹⁴ 43 U.S.C. 1331 *et seq.*

¹⁶ 85 FR 37034, June 19, 2020.

economic impacts on OREI development. The new proposed fairways adjustments are as follows:

The portion of the proposed Cape Charles to Montauk Fairway that was described in the ANPRM ran through lease area OCS-A 0490 (U.S. Wind). This fairway is now proposed to be rerouted off the coast of Ocean City, MD to the North to intersect with the Delaware Bay Precautionary Area. This adjustment moves the closest point between the proposed fairway and the U.S. Wind's lease area to approximately 3 NM. This segment was renamed the Cape Charles to Delaware Bay Fairway.

The portion of the Cape Charles to Montauk Fairway that was proposed in the ANPRM to run along the New Jersey Coast conflicted with lease areas OCS-A 0498 (Ocean Wind) and 0499 (Atlantic Shores). Note that since publication of the ANPRM, BOEM has split OCS-A 0498 into lease areas 0498 and 0532, and OCS-A 0499 was split into 0499 and 0549. This portion of the fairway overlapped as much as 2 NM into the lease areas. In response to this overlap, the fairway was moved towards the shore to reconcile the conflicts. The border of the fairway would now abut the lease areas, but since the total fairway width includes the recommended buffer zones, additional setbacks are not necessary. Developers would be able to build up to the border of their respective leases as long as no overhang of appurtenances extends out of the lease area into the fairway. This segment of the proposed Cape Charles to Montauk Fairway was extended up into New York and renamed the New Jersey to New York Connector Fairway.

The portion of the proposed St. Lucie to Chesapeake Bay Offshore Fairway that was described in the ANPRM conflicted with lease area OCS-A 0508 (Kitty Hawk) by approximately 67 yards. This portion of the fairway was moved that distance toward shore. The border of the proposed fairway would now abut the Kitty Hawk lease area, but no additional setbacks are necessary. The developer would be able to build up to the border of the lease as long as no overhang of appurtenances extends out of the lease area into the fairway. This segment of the proposed St. Lucie to Chesapeake Bay Offshore Fairway has been renamed the Hatteras to Chesapeake Bay Fairway.

A portion of the proposed Cape Charles to Montauk Fairway from Barnegat, NJ to Narragansett, RI that was described in the ANPRM overlapped with the northernmost tip of the Atlantic Shores lease (now OCS-A 0549). Additionally, since the ANPRM was published, BOEM auctioned six

additional lease areas in the New York Bight Area. The fairway proposed in the ANPRM would have intersected with OCS-A 0544 (Hudson North). The proposed adjustments and reorienting of this portion of the fairway—now the Barnegat to Narragansett Fairway—removed any overlap and thus reconciled any potential conflict between the proposed fairway and lease areas. The border of the fairway would abut lease area OCS-A 0544, but no additional setbacks are necessary. The developer would be able to build up to the border of the lease as long as no overhang of appurtenances extends out of the lease area into the fairway.

The Coast Guard will continue to work with BOEM throughout this rulemaking to ensure that any potential conflicts are identified and resolved. The Coast Guard believes that the establishment of consistent and clearly defined fairways will further development on the OCS going forward.

B. Fairway Width

The Coast Guard received many comments asking about the width of proposed fairways, buffer zones around proposed fairways, and whether the width of proposed fairways will include these buffer zones. The proposed fairways vary in width depending on location and may be adjusted before the publication of a potential final rule. The dimensions for the fairways, TSSs, and precautionary areas proposed in this NPRM are listed in tables 1 through 33 and the proposed regulatory text.

Buffer zones are included within the width of the proposed fairways. The Coast Guard designed the proposed fairways' dimensions to accommodate the vessel traffic needs for a given reach of the Atlantic Coast. Accordingly, the design features for the segments of the fairways proposed in this NPRM vary in width and include buffer zones of up to 2 NM to ensure efficient and safe passage of opposing traffic streams.

The Coast Guard also received a comment that inquired whether Post-Panamax vessels would be considered in this NPRM. Panamax vessels were built to the maximum size that the Panama Canal could accommodate at the time. However, the Panama Canal was expanded in 2016, thereby leading to an even larger class of vessels known as Post-Panamax. The Coast Guard considered Post-Panamax vessels in both the ACPARS and in other related PARS, which are publicly available. As a result, Post-Panamax vessels have been considered and will be able to use

the fairways in the same way as any other ship.¹⁷

Some commenters asked whether different vessel types would use different types of fairways. For example, one commenter asked if deep-draft vessels would have separate fairways from tug and barge vessels. While the Coast Guard considered the historical routes for the different types of vessels when it determined the location of the fairways along the Atlantic Coast, the Coast Guard does not designate fairways for specific vessel types. Therefore, the proposed fairways would be accessible to any type of vessel.

There were several comments on the ANPRM that recommended specific routes for proposed fairways to take. For example, one commenter suggested adding a fairway to route traffic away from the proposed New York Bight WEA. The Coast Guard considered each of these specific concerns in the PARS described in section IV.D., *Results of PARS*, and has included these recommendations in this NPRM.

C. Marine Mammals

The Coast Guard received several comments about the effect of the proposed fairways on marine mammals, particularly North Atlantic right whales. The Coast Guard will evaluate the potential for interactions with a variety of species, including the North Atlantic right whale, and will coordinate with the responsible Federal resource agency or agencies pursuant to the Endangered Species Act (ESA) and the Marine Mammal Protection Act (MMPA).

The data collection regarding potential for interactions with marine mammals is currently in progress and the analysis will be initiated as soon as possible, along with the necessary interagency coordination, and the Coast Guard will complete associated consultations during the regulatory development process before promulgating a final rule.

The Coast Guard will evaluate the potential environmental effects associated with this proposed rule and will provide documentation for public review and comment in the docket. For more information on the docket, see the Public Participation and Request for Comments section of this preamble. The Coast Guard will announce the availability of this material in the **Federal Register**. More information on the Coast Guard's environmental

¹⁷ See page 18 of Appendix VI of the ACPARS Final Report, pages 15 through 16 of the Chesapeake Bay PARS Final Report, and page 2 of the Cape Fear River PARS Report. These reports are available online at <https://www.navcen.uscg.gov/port-access-route-study-reports>.

analysis for this proposed rule can be found in section VII.M. *Environment*.

D. Competing Uses

The Coast Guard received a few comments about the proposed fairways' effects on existing water-dependent uses of the study area, including commercial and recreational fishing, scuba diving, and other recreational activities, including those competing uses in conjunction with established artificial reefs.

Section 166.105 of title 33 of the CFR defines a shipping safety fairway as "a lane or corridor in which no artificial island or fixed structure, whether temporary or permanent, will be permitted." The Coast Guard does not expect competing uses, such as fishing, scuba diving, or other similar activities, whether commercial or recreational, to be affected by the proposed fairways.

In 33 CFR 64.06, structures are defined as "any fixed or floating obstruction, intentionally placed in the water, which may interfere with or restrict marine navigation." This section also defines an obstruction as "anything that restricts, endangers, or interferes with navigation." There are currently several artificial reefs along the Atlantic Coast between Florida and Rhode Island located within the proposed fairways. The Coast Guard reviewed and considered these artificial reefs during the PARS. The studies found that the artificial reefs do not interfere or restrict marine navigation, and therefore are not considered obstructions or structures for the purpose of this rulemaking. Additionally, the proposed fairways would be in locations where a majority of vessel traffic currently transit and do not impact use of the artificial reefs. Because the traditional activities associated with the artificial reefs, such as recreational diving and fishing would not be prohibited within a fairway and these activities already safely coexist with the shipping in the proposed fairway locations, these activities would not be impacted.

One commenter asked whether the proposed fairways would have a negative impact on U.S. Navy (USN) and U.S. Army Corps of Engineers (USACE) activities. While conducting the PARS, the Coast Guard regularly engaged with the USN and USACE and discussed proposals for fairways, TSSs, and precautionary areas. Both agencies indicated they do not anticipate any impact to operations.

One commenter asked if underwater cables had been considered and if they would affect the proposed fairways. The Coast Guard has considered all known underwater cables and their potential

impacts on the proposed fairways, TSS, and precautionary areas. None were found to restrict, endanger, or interfere with navigation. The Coast Guard works as a cooperating agency with BOEM for OREI development and with the USN and U.S. Department of Defense for submarine cables used for communications, and will continue to ensure that any future underwater cables do not impact safe navigation and that vessels avoid harm to underwater cables.

E. Rulemaking Process

The Coast Guard received a few comments regarding this rulemaking process. One commenter asked whether the Coast Guard plans to hold a public meeting to discuss this rulemaking. While the Coast Guard does not, at this time, plan to hold a public meeting, it is open to the idea and may do so if it determines from public comments that a meeting would be helpful. If the Coast Guard decides to hold a public meeting to discuss this rulemaking it will publish a document in the **Federal Register** announcing any public meetings.

Some commenters asked how coastal States would be involved with this rulemaking. Since establishing fairways, TSSs, and precautionary areas constitutes a Federal action proposed within or outside the coastal zone that could affect the use of land or water resources or natural resources of coastal States, the Coast Guard will review the potential for this action to result in reasonably foreseeable effects on those resources. Within this process, the Coast Guard will engage the coastal States, as required by 33 U.S.C. 70003(c)(2), to better understand the potential impact of this proposed rule. The Coast Guard will use information collected from the ANPRM, the ACPARS, the four PARS consolidated with the ACPARS, the involved States' coastal management programs, comments received in response to this NPRM, and commercially available information to determine whether the Coast Guard's proposed action would result in coastal effects.

The Coast Guard will coordinate with each of the involved coastal States pursuant to the Federal consistency requirements and seek a consistency determination or a negative determination, as appropriate, prior to publishing a final rule.¹⁸ During this process, the Coast Guard's environmental specialists will make a preliminary determination with regard to the proposed rule's impact on any

land or water use or natural resource of an affected State's coastal zone (such effects are also referred to as "coastal effects" or "effects on any coastal use or resource").¹⁹ If the proposed action is consistent with the enforceable coastal policies of the State, and there is no reasonably foreseeable impact on coastal lands, uses, and the health of natural resources, the Coast Guard will submit a negative determination to the impacted State. If there is such a reasonably foreseeable impact on the health of those coastal resources, the Coast Guard will prepare and submit a consistency determination to the affected State, which requires a lengthy and detailed analysis of any potential impacts to lands, uses, and resources that are covered under that State's coastal management program. In either case, each State must concur with the Coast Guard's determination before the rulemaking process can proceed to a final decision. If a State concurs with a negative determination, then the Coast Guard can proceed in the most efficient manner possible under the Coastal Zone Management Act (CZMA) (16 U.S.C. 1451–1465). The Coast Guard would be able to continue the rulemaking process without preparing a full CZMA consistency package and associated coordination with the State entity that administers that State's coastal management program. Coordinating with this State entity may also require coordinating with the National Oceanic and Atmospheric Administration's National Ocean Service.

If a consistency determination is required, the Coast Guard will demonstrate how it arrived at its preliminary determination that the Atlantic Fairways scheme is consistent to the maximum extent practicable with the enforceable policies unique to each State's coastal management program. The Coast Guard will finalize its coordination strategy with the involved coastal States in due course and may consider taking a regional approach for meeting its Federal consistency requirements. In such a case, the Coast Guard would consider, at a minimum, the common denominator of the involved States' coastal management policies, and thereby address the different States' policies with one discussion and determination. Any remaining items, such as unique issues or items held in common with a subset of States, would be addressed in an accompanying narrative. If the Coast Guard does not take this approach, the Coast Guard will issue consistency determinations or negative

¹⁸ See 15 CFR part 930.

¹⁹ These terms are defined in 15 CFR 930.11(g).

determinations to each State pursuant to 15 CFR 930.39, requesting their concurrence. This process will use this rulemaking's docket as an interface for documents subject to public review, meaning anyone who wants to comment on this process will be able to find all the documents associated with it easily at <https://www.regulations.gov/docket/USCG-2019-0279>. Items that are not subject to public review would be communicated directly with the State officials that are responsible for administering that State's coastal consistency process. If a consistency determination is required, the Coast Guard will publish a document in the **Federal Register** announcing that one is necessary and explaining the next steps.

F. ACPARS Methodology

The Coast Guard received a few comments that were critical of the ACPARS and the processes used to determine the recommended fairways. The Coast Guard published the interim ACPARS report in the **Federal Register** on September 11, 2012 (77 FR 55781) and requested public comments. The Coast Guard published a document responding to public comments critiquing the ACPARS in the **Federal Register** on April 5, 2017 (82 FR 16510). The final version of the ACPARS report was published in the **Federal Register** on March 14, 2016 (81 FR 13307). After reviewing the comments received, the Coast Guard determined that it was unnecessary to revise the final report and so, the Coast Guard is relying on that study as expanded in the Consolidated Port Approaches Port Access Route Studies (CPAPARS) to propose these fairways as directed under 46 U.S.C. 70003(c)(1).

Some commenters asked about the possibility of vessel traffic density increasing because of the proposed fairways. The proposed fairways are located in areas that have been customary shipping routes, and therefore any impact on vessel traffic behavior is expected to be minimal. Establishing fairways, TSSs, and precautionary areas should serve to maintain the status quo regarding vessel traffic behavior. The locations of the proposed fairways were determined based on approximately 95 percent of the vessel traffic traveling in the same or opposing directions. The width of the fairways was then determined considering the total amount of possible traffic, accounting for the potential increase in traffic density. By designating these sections of the waterways as fairways, safe passage around offshore energy installations can be available for vessels, and the number

of vessels needing to reroute around these installations would be minimized.

VI. Discussion of Proposed Rule

The Coast Guard is proposing to codify historically traveled shipping routes into fairways, as defined by 33 CFR 166.105, and TSSs and precautionary areas, as defined by 33 CFR 167.5. This proposed rule is intended to facilitate offshore development, preserve traditional shipping routes, protect maritime commerce, and maintain navigational safety amidst growing offshore activity along the Atlantic Coast.

Designating these portions of the waterways as fairways, TSSs, and precautionary areas is intended to maintain traditional shipping routes and continue to ensure that these navigation lanes remain free of fixed structures. This NPRM does not mandate that any vessel(s) use the newly established fairways; therefore, vessels would continue to traverse U.S. jurisdictional waters without restriction and use the most efficient route(s) to their destinations.

The Coast Guard recognizes the need for fairways to address increasing OCS activity and potential future trends in offshore energy development along the Atlantic Coast. The Coast Guard has a duty to ensure that vessels have a safe, unimpeded, and efficient route from sea to port and, for developers, from port to the lease site and back. Without promulgating this rule, BOEM could propose to establish energy development facilities (wind turbines and other fixed structures) that could be in historical maritime vessel routes, conflicting with existing maritime uses and users. With that in mind, the Coast Guard continues to engage with BOEM during the development of this NPRM, throughout the course of the PARS, and during the offshore leasing development processes to ensure that proposed offshore energy lease areas and proposed fairways, TSSs, and precautionary areas coexist without interference.

A. Proposed Fairways

In this NPRM, the Coast Guard is proposing 18 fairways and 1 fairway anchorage. These fairways are based on the fairways described in the ANPRM and have been further refined based on public comments, consultation with other Federal Government agencies, and the recommendations from the PARS. Approximate fairway widths and reciprocal courses are provided. A chart of the proposed fairways is available for review in the docket.

The proposed Long Island Fairway would be approximately 105 NM long, in an approximate direction of 066 degrees true (°T)/246 °T and varies in width from approximately 3 NM on the approaches to New York to 8 NM at its widest point. This proposed size would include the customary routes taken by vessels between the New York-New Jersey Harbor and the approaches to Narragansett Bay. This proposed fairway would be in an area enclosed by the following rhumb lines joining points (World Geodetic System 1984 (WGS 84) datum):

TABLE 1—THE PROPOSED LONG ISLAND FAIRWAY

Latitude	Longitude
40°29'15" N	73°32'03" W
40°31'02" N	73°35'17" W
40°30'15" N	73°41'25" W
40°31'33" N	73°42'23" W
40°35'59" N	73°11'39" W
41°06'31" N	71°30'24" W
41°02'51" N	71°29'06" W
40°48'05" N	71°59'27" W
40°32'38" N	72°50'50" W
40°32'12" N	73°11'28" W

The proposed Nantucket to Ambrose Fairway would be approximately 150 NM long in an approximate direction of 090 °T/270 °T, 15 NM wide, and would encapsulate the current Nantucket to Ambrose and Ambrose to Nantucket fairways into one single fairway. It would cross the Barnegat to Narragansett Fairway. This proposed fairway would be in an area enclosed by the following rhumb lines joining points (WGS 84 datum):

TABLE 2—THE PROPOSED NANTUCKET TO AMBROSE FAIRWAY

Latitude	Longitude
40°32'20" N	73°04'55" W
40°30'59" N	72°57'39" W
40°34'07" N	70°19'26" W
40°35'41" N	70°14'02" W
40°22'38" N	70°13'34" W
40°24'07" N	70°19'03" W
40°20'57" N	72°58'22" W
40°19'20" N	73°04'56" W

The proposed Hudson Canyone to Ambrose Eastern Fairway would be approximately 35 NM long in an approximate direction of 090 °T/270 °T, 5 NM wide, and would extend approximately 30 NM past BOEM lease OCS-A 0537. This proposed fairway would support offshore vessel transits from Europe to New York-New Jersey Harbor via the Off New York: Southeastern approach (33 CFR 167.154). This proposed fairway would

be in an area enclosed by the following rhumb lines joining points (WGS 84 datum):

TABLE 3—THE PROPOSED HUDSON CANYON TO AMBROSE EASTERN FAIRWAY

Latitude	Longitude
40°08'25" N	72°38'18" W
40°08'25" N	72°27'34" W
40°08'25" N	72°00'00" W
40°03'25" N	72°00'00" W
40°03'25" N	72°27'34" W
40°03'25" N	72°53'15" W

The proposed Hudson Canyon to Ambrose Southeastern approach Fairway would be 177 NM long in an approximate direction of 315 °T/135 °T, 15 NM wide, and would extend from the proposed precautionary area at the offshore terminus of the Off New York: Southeastern approach to the offshore boundary of the U.S. EEZ. Because BOEM's leasing authority for the OCS extends to the outer boundary of the U.S. EEZ, the proposed Hudson Canyon to Ambrose Southeastern approach Fairway would designate the customary offshore route to New York-New Jersey Harbor via the Off New York: Southeastern approach. This proposed fairway would be in an area enclosed by the following rhumb lines joining points (WGS 84 datum):

TABLE 4—THE PROPOSED HUDSON CANYON TO AMBROSE SOUTH-EASTERN APPROACH FAIRWAY

Latitude	Longitude
40°01'32" N	72°58'53" W
40°00'20" N	72°56'59" W
39°42'19" N	72°34'32" W
39°24'19" N	72°12'12" W
39°06'19" N	71°49'57" W
38°48'19" N	71°27'49" W
38°30'19" N	71°05'45" W
38°12'19" N	70°43'48" W
37°54'40" N	70°22'22" W
37°45'55" N	70°38'53" W
38°01'33" N	70°57'56" W
38°19'33" N	71°19'57" W
38°37'33" N	71°42'04" W
38°55'33" N	72°04'17" W
39°13'33" N	72°26'35" W
39°31'33" N	72°48'59" W
39°49'33" N	73°11'28" W
39°55'14" N	73°17'43" W

The proposed Barnegat to Narragansett Fairway would be approximately 135 NM long in an approximate direction of 063 °T/243 °T, between 9 and 35 NM wide, and include the customary route taken by vessels across the New York Bight. The proposed fairway would have a 7-degree

turn (063 °T/243 °T to 056 °T/236 °T) that is located between the Off New York: Eastern approach (33 CFR 167.153) and the Off New York: Southeastern approach. The proposed Barnegat to Narragansett Fairway would widen beyond 9 NM in this area to account for the additional sea space needed for vessels to maneuver prior to crossing the Nantucket to Ambrose Fairway. This proposed fairway would be in an area enclosed by the following rhumb lines joining points (WGS 84 datum):

TABLE 5—THE PROPOSED BARNEGAT TO NARRAGANSETT FAIRWAY

Latitude	Longitude
39°53'10" N	73°53'21" W
39°57'38" N	73°40'25" W
40°02'24" N	73°26'33" W
40°09'1" N	73°10'49" W
40°09'37" N	73°06'52" W
40°48'5" N	71°59'27" W
41°02'51" N	71°29'6" W
41°02'11" N	71°18'13" W
40°20'32" N	72°02'02" W
40°01'32" N	72°58'53" W
39°55'14" N	73°17'43" W
39°48'21" N	73°38'17" W
39°42'55" N	73°54'32" W

The proposed New Jersey to New York Connector Fairway would be approximately 105 NM long, 4 NM wide, and include the customary route taken by vessels along the New Jersey coast between New York-New Jersey Harbor and the entrance to Delaware Bay. Because of the limited available sea space, this proposed fairway could not be widened to a desired 9 NM. The proposed New Jersey to New York Connector Fairway would be bounded to the west (shoreside) within 3 NM from shore, to designate the available sea space within the OCS as a fairway to prohibit future construction or development, and to preserve safe water for vessel navigation. This proposed fairway would be in an area enclosed by the following rhumb lines joining points (WGS 84 datum):

TABLE 6—THE PROPOSED NEW JERSEY TO NEW YORK CONNECTOR FAIRWAY

Latitude	Longitude
38°48'54" N	74°47'17" W
38°48'19" N	74°55'24" W
39°29'42" N	74°12'28" W
39°47'36" N	74°00'38" W
40°22'17" N	73°55'58" W
40°20'30" N	73°49'38" W
39°52'58" N	73°53'22" W
39°42'55" N	73°54'32" W
39°41'42" N	73°58'10" W

TABLE 6—THE PROPOSED NEW JERSEY TO NEW YORK CONNECTOR FAIRWAY—Continued

Latitude	Longitude
39°35'15" N	74°02'59" W
39°27'30" N	74°08'07" W
39°06'13" N	74°30'01" W

The proposed St. Lucie to New York Fairway would be approximately 790 NM long in an approximate direction of 030 °T/210 °T until off Cape Hatteras, NC, then it would turn to the north to approximately 003 °T/183 °T. It would be between 9 and 20 NM wide. It would include the customary route taken by vessels transiting offshore between the Port of Miami, FL; Port Everglades, FL; the Port of Virginia; the Port of Baltimore, MD; the Port of Philadelphia, PA; the Port of Wilmington, DE; and the Port of New York and New Jersey. The proposed St. Lucie to New York Fairway would measure 9 NM wide between Miami, FL and the approaches to Chesapeake Bay, where it would widen to 20 NM to account for the high vessel traffic density on the approaches to Chesapeake Bay, Delaware Bay, and New York. This proposed fairway would be an area enclosed by the following rhumb lines joining points (WGS 84 datum):

TABLE 7—THE PROPOSED ST. LUCIE TO NEW YORK FAIRWAY

Latitude	Longitude
36°17'51" N	74°26'02" W
35°17'41" N	74°40'46" W
34°33'21" N	74°52'32" W
33°57'08" N	75°20'14" W
32°49'16" N	76°06'42" W
31°37'49" N	76°51'25" W
29°36'06" N	78°06'19" W
27°46'56" N	79°12'18" W
27°51'00" N	79°21'20" W
29°40'20" N	78°15'25" W
31°42'04" N	77°00'43" W
32°53'37" N	76°16'03" W
34°01'48" N	75°29'30" W
34°36'50" N	75°02'46" W
35°19'31" N	74°51'32" W
36°07'03" N	74°39'60" W
37°59'00" N	74°25'56" W
38°18'34" N	74°18'21" W
38°41'08" N	74°09'36" W
38°52'59" N	74°05'01" W
39°15'49" N	73°56'09" W
39°42'55" N	73°54'32" W
39°45'42" N	73°46'12" W
39°48'21" N	73°38'17" W
39°45'42" N	73°37'40" W
39°11'38" N	73°40'30" W

The proposed Offshore Delaware Bay to New Jersey Connector Fairway would be approximately 43 NM long in an approximate direction of 355 °T/175 °T,

4 NM wide, and would include a customary route taken by vessels between New York-New Jersey Harbor and Chesapeake Bay. The proposed Offshore Delaware Bay to New Jersey Connector Fairway provides vessels an offshore route connecting the proposed Chesapeake Bay to Delaware Bay Eastern Approach Cutoff Fairway to the proposed New Jersey to New York Connector Fairway around the U.S. Wind, Skipjack, and Garden State Offshore Energy project lease areas. This proposed fairway would be in an area enclosed by the following rhumb lines joining points (WGS 84 datum):

TABLE 8—THE PROPOSED OFFSHORE DELAWARE BAY TO NEW JERSEY CONNECTOR FAIRWAY

Latitude	Longitude
38°19'43" N	74°30'38" W
38°44'27" N	74°33'19" W
38°49'48" N	74°33'54" W
39°01'14" N	74°35'09" W
39°06'13" N	74°30'01" W
39°01'41" N	74°30'03" W
38°49'47" N	74°28'44" W
38°44'26" N	74°28'09" W
38°21'04" N	74°25'35" W

The proposed Delaware Bay Fairway Anchorage would be a 51-square mile area adjacent and contiguous to the western boundary of the Offshore Delaware Bay to New Jersey Connector Fairway. Deep draft vessels already use this area between the Southeastern approach proposed extension and the Offshore Delaware Bay to New Jersey Connector Fairway as an informal anchorage for anchoring and bunkering. Therefore, the proposed Delaware Bay Fairway Anchorage would meet current and future needs for safe anchorage in the region as offshore development continues. This proposed fairway anchorage would be in an area enclosed by the following rhumb lines joining points (WGS 84 datum):

TABLE 9—THE PROPOSED DELAWARE BAY FAIRWAY ANCHORAGE

Latitude	Longitude
38°31'23" N	74°35'39" W
38°32'23" N	74°32'01" W
38°19'43" N	74°30'38" W
38°28'48" N	74°39'18" W

The proposed Cape Charles to Delaware Bay Fairway would be approximately 105 NM long in an approximate direction along the Delmarva Peninsula, mainly 9 NM wide, and would include customary routes for vessels between the approaches to

Chesapeake Bay and Delaware Bay. The width of the proposed Cape Charles to Delaware Bay Fairway would gradually decrease to 4 NM over the final 40-NM stretch to the precautionary area at the entrance to Delaware Bay. This proposed fairway would be in an area enclosed by the following rhumb lines joining points (WGS 84 datum):

TABLE 10—THE PROPOSED CAPE CHARLES TO DELAWARE BAY FAIRWAY

Latitude	Longitude
38°31'31" N	74°55'28" W
37°53'08" N	74°56'45" W
36°59'41" N	75°36'05" W
37°01'39" N	75°47'38" W
38°01'17" N	75°04'15" W
38°42'50" N	74°58'56" W
38°37'15" N	74°54'09" W

The proposed Chesapeake Bay to Delaware Bay: Eastern approach Cutoff Fairway would be approximately 70 NM long in an approximate direction of 043 °T/223 °T, is 9 NM wide, and would include a customary route taken by vessels between the approaches to Chesapeake Bay and the approaches to Delaware Bay. This proposed fairway would be an area enclosed by the following rhumb lines joining points (WGS 84 datum):

TABLE 11—THE PROPOSED CHESAPEAKE BAY TO DELAWARE BAY: EASTERN APPROACH CUTOFF FAIRWAY

Latitude	Longitude
37°16'48" N	75°23'35" W
38°04'32" N	74°34'56" W
37°58'60" N	74°25'56" W
37°08'44" N	75°17'17" W
37°08'43" N	75°29'30" W

The proposed Chesapeake Bay approach Connector-North Fairway would be approximately 48 NM long in an approximate direction of 090 °T/270 °T, 9 NM wide, and would include customary routes taken by vessels from the high seas to the Chesapeake Bay: Southern approach (33 CFR 167.203). The Chesapeake Bay approach Connector—North Fairway would also preserve the deep-water slough connecting the deep-water route within the Southern approach—which is recommended for vessels with drafts greater than 13.5 meters (45 feet) and Naval aircraft carriers—to the high seas. This proposed fairway would be an area enclosed by the following rhumb lines joining points (WGS 84 datum):

TABLE 12—THE PROPOSED CHESAPEAKE BAY APPROACH CONNECTOR—NORTH FAIRWAY

Latitude	Longitude
37°08'43" N	075°29'30" W
37°08'50" N	74°32'14" W
36°59'49" N	74°33'22" W
36°59'42" N	075°27'31" W
36°57'56" N	075°29'59" W
36°49'18" N	075°29'56" W
36°49'18" N	075°35'28" W
36°59'41" N	075°36'05" W

The proposed Chesapeake Bay approach Connector—South Fairway would be approximately 48 NM long in an approximate direction of 090 °T/270 °T, 9 NM wide, and would include customary routes for vessels from the high seas to the Chesapeake Bay: Southern approach. This proposed fairway would be an area enclosed by the following rhumb lines joining points (WGS 84 datum):

TABLE 13—THE PROPOSED CHESAPEAKE BAY APPROACH CONNECTOR—SOUTH FAIRWAY

Latitude	Longitude
36°49'18" N	75°35'28" W
36°49'18" N	74°34'41" W
36°40'20" N	74°35'49" W
36°40'17" N	75°33'31" W
36°43'51" N	75°36'43" W

The proposed Hatteras to Chesapeake Bay Offshore Fairway would be approximately 103 NM long, in an approximate direction of 342 °T/162 °T, and approximately 6 NM wide. It would include customary routes for vessels transiting between the Port of Miami, FL; Port Everglades, FL; Port Canaveral, FL; the Port of Jacksonville, FL; Kings Bay, GA; the Port of Brunswick, GA; the Port of Savannah, GA; Charleston, SC; the Port of Morehead City, NC; the Port of Wilmington, NC; and the Port of Virginia.

The proposed Hatteras to Chesapeake Bay Offshore Fairway was originally part of the St. Lucie to Chesapeake Offshore Fairway, discussed in the ANPRM, and remains unaltered. Combining this proposed fairway with the Hatteras to Chesapeake Bay Offshore Fairway into a single fairway 9 NM wide was considered, but a consistent single fairway of that width could not be supported based on USN activity and OREI development in the area. Thus, this and the nearshore portion of the St. Lucie to Chesapeake Bay navigation corridor remain as separate proposals. This proposed fairway would be in an

area enclosed by the following rhumb lines joining points (WGS 84 datum):

TABLE 14—THE PROPOSED HATTERAS TO CHESAPEAKE BAY OFFSHORE FAIRWAY

Latitude	Longitude
35°06'32" N	74°58'03" W
35°07'36" N	75°06'05" W
35°59'33" N	75°06'58" W
36°09'53" N	75°16'11" W
36°21'49" N	75°26'54" W
36°34'42" N	75°38'28" W
36°41'58" N	75°41'36" W
36°43'51" N	75°36'43" W
36°25'19" N	75°20'05" W
36°13'49" N	75°09'47" W
36°01'44" N	74°59'01" W

The proposed Hatteras to Chesapeake Bay Nearshore Fairway would be approximately 97 NM long, in an approximate direction of 342 °T/162 °T, and approximately 7 NM wide. It would include customary routes for vessels transiting between the Port of Miami, FL; Port Everglades, FL; Port Canaveral, FL; the Port of Jacksonville, FL; Kings Bay, GA; the Port of Brunswick, GA; the Port of Savannah, GA; Charleston, SC; the Port of Morehead City, NC; the Port of Wilmington, NC; and the Port of Virginia.

The proposed Hatteras to Chesapeake Bay Nearshore Fairway was originally part of the St. Lucie to Chesapeake Offshore Fairway, which was discussed in the ANPRM. Combining this proposed fairway with the Hatteras to Chesapeake Bay Offshore Fairway into a single fairway 9 NM wide was considered, but a consistent single fairway of that width could not be supported based on USN activity and OREI development in the area. Thus, this and the offshore portion of the St. Lucie to Chesapeake Bay navigation corridor remain as separate proposals. The proposed width of this fairway, however, has been increased from approximately 5 NM to approximately 7 NM to better support the maneuverability of vessels and to make better use of available sea space. This proposed fairway would be in an area enclosed by the following rhumb lines joining points (WGS 84 datum):

TABLE 15—THE PROPOSED HATTERAS TO CHESAPEAKE BAY NEARSHORE FAIRWAY

Latitude	Longitude
35°09'05" N	75°17'23" W
35°35'43" N	75°19'23" W
36°35'18" N	75°43'45" W
36°44'43" N	75°47'08" W

TABLE 15—THE PROPOSED HATTERAS TO CHESAPEAKE BAY NEARSHORE FAIRWAY—Continued

Latitude	Longitude
36°41'58" N	75°41'36" W
36°34'42" N	75°38'28" W
36°26'19" N	75°30'57" W
35°37'03" N	75°10'53" W
35°07'57" N	75°08'45" W

The proposed St. Lucie to Hatteras Fairway would be approximately 600 NM long, would follow the direction of the coastline from St. Lucie, FL to Cape Hatteras, NC, and would be 13 NM wide. This fairway would include customary routes for vessels transiting between the Port of Miami, FL; Port Everglades, FL; Port Canaveral, FL; the Port of Jacksonville, FL; Kings Bay, GA; the Port of Brunswick, GA; the Port of Savannah, GA; Charleston, SC; the Port of Morehead City, NC; the Port of Wilmington, NC; and the Port of Virginia.

The proposed St. Lucie to Hatteras Fairway would combine the portions of the St. Lucie to Chesapeake Offshore and Nearshore Fairways, which was discussed in the ANPRM, from St. Lucie, FL to Cape Hatteras, NC. The fairway would maintain the split around the charted fixed structure near Ft. Pierce Inlet, FL as presented in the ANPRM. Because fairways are not designated for specific user groups, and since the two fairways proposed in the ANPRM share a common border, the Coast Guard is seeking to streamline regulations by proposing to combine the two fairways into a single fairway from St. Lucie, FL to Cape Hatteras, NC. This proposed fairway would be in an area enclosed by the following rhumb lines joining points (WGS 84 datum):

TABLE 16—THE PROPOSED ST. LUCIE TO HATTERAS FAIRWAY

Latitude	Longitude
35°06'32" N	74°58'03" W
34°08'12" N	76°13'25" W
33°17'01" N	77°24'37" W
31°45'60" N	79°54'60" W
31°24'48" N	80°15'25" W
31°15'38" N	80°21'14" W
30°55'07" N	80°29'47" W
28°40'16" N	80°06'15" W
27°13'02" N	79°48'27" W
27°11'28" N	79°58'17" W
27°45'00" N	80°05'18" W
27°23'53" N	80°02'26" W
27°11'28" N	79°58'17" W
27°10'12" N	80°03'04" W
27°22'58" N	80°07'20" W
27°44'21" N	80°10'14" W
28°38'07" N	80°21'01" W
30°56'24" N	80°45'09" W

TABLE 16—THE PROPOSED ST. LUCIE TO HATTERAS FAIRWAY—Continued

Latitude	Longitude
31°22'43" N	80°34'10" W
31°31'32" N	80°29'18" W
31°56'27" N	80°05'11" W
33°27'43" N	77°34'12" W
34°18'07" N	76°23'59" W
35°09'05" N	75°17'23" W

The proposed Beaufort Inlet Connector Fairway would be approximately 23 NM long, in an approximate direction of 320 °T/140 °T, and between 5 and 10 NM wide. It would include customary routes for vessels in the approaches to Beaufort Inlet. The proposed Beaufort Inlet Connector Fairway would have a width of 5 NM at its nearshore most point and fan outwards to a maximum width of 10 NM where it would meet the St. Lucie to Hatteras Fairway, to support vessel transits to or from the north or south. This proposed fairway would be in an area enclosed by the following rhumb lines joining points (WGS 84 datum):

TABLE 17—THE PROPOSED BEAUFORT INLET CONNECTOR FAIRWAY

Latitude	Longitude
34°10'17" N	76°34'54" W
34°34'09" N	76°43'24" W
34°35'52" N	76°37'42" W
34°17'00" N	76°25'32" W

The proposed Cape Fear River Southeastern approach Connector Fairway would be approximately 17 NM long, in a direction of approximately 300 °T/120 °T/, between 5 and 10 NM wide, and would include customary routes taken by vessels in the approaches to the Cape Fear River. The proposed Cape Fear River Southeastern approach Connector Fairway would have a width of 5 NM at its nearshore most point and would fan outwards to a maximum width of 10 NM, where it would meet the St. Lucie to Hatteras Fairway to support vessel transits to or from the north or south. This proposed fairway is an area enclosed by the following rhumb lines joining points (WGS 84 datum):

TABLE 18—THE PROPOSED CAPE FEAR RIVER SOUTHEASTERN APPROACH CONNECTOR FAIRWAY

Latitude	Longitude
33°28'07" N	78°08'24" W
33°13'45" N	77°57'18" W
33°06'41" N	78°08'60" W
33°27'44" N	78°15'14" W

The proposed Cape Fear River Southwestern approach Connector Fairway would be approximately 85 NM long, in a direction of approximately 039 °T/219 °T and 5 NM wide, and would include customary routes taken by vessels from Savannah, GA and Charleston, SC to the Cape Fear River. It would extend from the proposed precautionary area in the approaches to the Cape Fear River past the Cape Romain, SC Call Area. This proposed fairway would be in an area enclosed by rhumb lines connecting the following points (WGS 84 datum):

TABLE 19—THE PROPOSED CAPE FEAR RIVER SOUTHWESTERN APPROACH CONNECTOR FAIRWAY

Latitude	Longitude
32°55'31" N	78°45'26" W
32°30'42" N	79°29'19" W
32°34'40" N	79°32'37" W
32°59'13" N	78°49'35" W
33°34'29" N	78°18'02" W
33°28'20" N	78°16'04" W

B. Proposed Traffic Separation Schemes and Precautionary Areas

The Coast Guard is proposing two TSS extensions, one precautionary area expansion, and six new precautionary areas with associated traffic lanes, discussed below roughly in order of north to south. The Coast Guard based these routing measures on the fairways under consideration in the ANPRM, public comments, consultation with other government agencies, and the recommendations from the four PARS.

The Coast Guard is proposing a new precautionary area at the offshore terminus of the Off New York: Southeastern approach. This proposed precautionary area would be an approximately 197-square mile area encompassing the intersection of the Off New York: Southeastern approach, the proposed Barnegat to Narragansett Fairway, and the Hudson Canyon to Ambrose Southeastern Fairway. As discussed in section IV.D., *Results of PARS*, the Coast Guard expects to see a considerable amount of vessel traffic cross perpendicular to each other at the intersection of the fairways and TSS. A precautionary area would signify to mariners that they are transiting through an area, "where ships must navigate with particular caution," because of the perpendicular crossing of vessel traffic. The proposed precautionary area would be in an area enclosed by rhumb lines connecting the following points (Datum: WGS 84):

TABLE 20—PROPOSED PRECAUTIONARY AREA OFF NEW YORK: SOUTHEASTERN APPROACH

Latitude	Longitude
39°42.92' N	73°54.53' W
39°53.17' N	73°53.35' W
39°57.63' N	73°40.41' W
39°48.35' N	73°38.28' W
39°42.92' N	73°54.53' W

The Coast Guard is proposing a new precautionary area at the offshore terminus of the Off New York: Southern approach. This proposed precautionary area would be an approximately 146-square mile area encompassing the intersection of the Off New York: Southern approach, the proposed Barnegat to Narragansett Fairway, and the St. Lucie to New York Fairway. As discussed in section IV.D., *Results of PARS*, the Coast Guard expects to see a considerable amount of vessel traffic cross perpendicular to each other at the intersection of the fairways and TSS. A precautionary area would signify to mariners that they are transiting through an area, "where ships must navigate with particular caution," because of the perpendicular crossing of vessel traffic. The proposed precautionary area would be in an area enclosed by rhumb lines connecting the following points (Datum: WGS 84):

TABLE 21—PROPOSED PRECAUTIONARY AREA OFF NEW YORK: SOUTHERN APPROACH

Latitude	Longitude
40°01.53' N	72°58.88' W
39°55.23' N	73°17.71' W
40°02.41' N	73°26.55' W
40°09.02' N	73°10.82' W
40°01.53' N	72°58.88' W

In addition to these precautionary areas Off New York's Southern and Southeastern approaches, the Coast Guard is proposing two more precautionary areas where the fairway and TSS overlap: Barnegat to Ambrose Precautionary Area and Hudson Canyon to Ambrose Precautionary Area. The proposed precautionary areas would be in an area enclosed by rhumb lines connecting the following points (Datum: WGS 84):

TABLE 22—PROPOSED BARNEGAT TO AMBROSE PRECAUTIONARY AREA

Latitude	Longitude
39°53'10" N	73°53'21" W
39°57'38" N	73°40'25" W
39°48'21" N	73°38'17" W

TABLE 22—PROPOSED BARNEGAT TO AMBROSE PRECAUTIONARY AREA—Continued

Latitude	Longitude
39°42'55" N	73°54'32" W

TABLE 23—PROPOSED HUDSON CANYON TO AMBROSE PRECAUTIONARY AREA

Latitude	Longitude
40°02'24" N	73°26'33" W
40°09'01" N	73°10'49" W
40°01'32" N	72°58'53" W
39°55'14" N	73°17'43" W

The Coast Guard is proposing a new precautionary area at the offshore terminus of the Off Delaware Bay: Eastern approach. This proposed precautionary area would be an approximately 29-square mile area, encompassing the intersection of the Off Delaware Bay: Eastern approach and the proposed Off Delaware Bay to New Jersey Connector Fairway. The Coast Guard expects to see vessel traffic cross perpendicularly to each other at the intersection of the fairway and TSS. A precautionary area would signify to mariners that they are transiting through an area, "where ships must navigate with particular caution," because of the perpendicular crossing of vessel traffic. The proposed precautionary area would be in an area enclosed by rhumb lines connecting the following points (Datum: WGS 84):

TABLE 24—PROPOSED PRECAUTIONARY AREA A OFF DELAWARE BAY: EASTERN APPROACH

Latitude	Longitude
38°49.80' N	74°33.91' W
38°49.79' N	74°28.74' W
38°44.44' N	74°28.15' W
38°44.45' N	74°33.32' W

The proposed extension of the Off Delaware Bay: Eastern approach would extend the TSS separation zone and traffic lanes approximately 16 NM offshore past the proposed precautionary area, where it would intersect with the St. Lucie to New York Fairway. The Coast Guard expects to see vessel traffic converge at the intersection of the TSS extension and the St. Lucie to New York Fairway, and therefore proposes a precautionary area at the intersection. A precautionary area would indicate to mariners that they are transiting through an area "where ships must navigate with particular caution,"

because of the perpendicular crossing of vessel traffic. The proposed precautionary area would be in an area radius 5 NM centered upon geographical position 38°46.79' N, 74°06.60' W, the areas within the separation zones, traffic lanes, and fairways excluded. (Datum: WGS 84).

Because the proposed precautionary area A would bisect the proposed Eastern approach, we present the proposed separation zone and traffic lanes in two parts.

With the extension, the new separation zone for Off Delaware Bay: Eastern approach would be two areas enclosed by rhumb lines connecting the positions provided in tables 25 and 26 (Datum: WGS 84).

TABLE 25—PROPOSED SEPARATION ZONE FOR THE OFF DELAWARE BAY: EASTERN APPROACH—PART 1

Latitude	Longitude
38°47.35' N	74°34.5' W
38°47.35' N	74°33.64' W
38°46.3' N	74°33.53' W
38°46.3' N	74°34.45' W

TABLE 26—PROPOSED SEPARATION ZONE FOR THE OFF DELAWARE BAY: EASTERN APPROACH—PART 2

Latitude	Longitude
38°47.34' N	74°28.47' W
38°47.29' N	74°12.98' W
38°46.25' N	74°12.98' W
38°46.29' N	74°28.35' W

The proposed traffic lane for westbound traffic for the Off Delaware Bay: Eastern approach would be in an area enclosed by rhumb lines between the proposed separation zone parts and two corresponding lines connecting the positions provided in tables 27 and 28 (WGS 84):

TABLE 27—PROPOSED TRAFFIC LANE FOR WESTBOUND TRAFFIC FOR THE OFF DELAWARE BAY: EASTERN APPROACH—PART 1

Latitude	Longitude
38°49.80' N	74°34.60' W
38°49.80' N	74°33.91' W

TABLE 28—PROPOSED TRAFFIC LANE FOR WESTBOUND TRAFFIC FOR THE OFF DELAWARE BAY: EASTERN APPROACH—PART 2

Latitude	Longitude
38°49.79' N	74°28.74' W

TABLE 28—PROPOSED TRAFFIC LANE FOR WESTBOUND TRAFFIC FOR THE OFF DELAWARE BAY: EASTERN APPROACH—PART 2—Continued

Latitude	Longitude
38°49.77' N	74°12.26' W

The proposed eastbound traffic lane for the Off Delaware Bay: Eastern approach would be in an area enclosed by rhumb lines, between the proposed separation zone parts and two corresponding lines connecting the positions in tables 29 and 30 (WGS 84):

TABLE 29—PROPOSED TRAFFIC LANE FOR EASTBOUND TRAFFIC FOR THE OFF DELAWARE BAY: EASTERN APPROACH—PART 1

Latitude	Longitude
38°44.45' N	74°34.35' W
38°44.45' N	74°33.32' W

TABLE 30—PROPOSED TRAFFIC LANE FOR EASTBOUND TRAFFIC FOR THE OFF DELAWARE BAY: EASTERN APPROACH—PART 2

Latitude	Longitude
38°44.44' N	74°28.15' W
38°44.43' N	74°12.55' W

The proposed extension of the Off Delaware Bay: Southeastern approach would extend the TSS separation zone and traffic lanes approximately 12 NM farther offshore and would maintain the width of approximately 5 NM. With the extension, the new Off Delaware Bay: Southeastern approach traffic lanes and separation zones would be enclosed by rhumb lines connecting the following points (Datum: WGS 84):

TABLE 31—PROPOSED SEPARATION ZONE FOR THE OFF DELAWARE BAY: SOUTHEASTERN APPROACH

Latitude	Longitude
38°27.00' N	74°42.30' W
38°27.60' N	74°41.30' W
38°18.41' N	74°32.53' W
38°17.63' N	74°33.35' W

The proposed northwest-bound traffic lane for the Off Delaware Bay: Eastern approach would be in an area enclosed by rhumb lines, between the proposed separation zone and a line connecting the following positions (WGS 84):

TABLE 32—PROPOSED TRAFFIC LANE POSITIONS FOR NORTHWEST-BOUND TRAFFIC FOR THE OFF DELAWARE BAY: SOUTHEASTERN APPROACH

Latitude	Longitude
38°28.80' N	74°39.30' W
38°19.72' N	74°30.63' W

The proposed southeast-bound traffic lane for the Off Delaware Bay: Eastern approach would be in an area enclosed by rhumb lines, between the proposed separation zone and a line connecting the following positions (WGS 84):

TABLE 33—PROPOSED TRAFFIC LANE POSITIONS FOR SOUTHEAST-BOUND TRAFFIC FOR THE OFF DELAWARE BAY: EASTERN APPROACH

Latitude	Longitude
38°15.80' N	74°34.75' W
38°25.78' N	74°44.28' W

The Coast Guard is proposing a new precautionary area at the offshore terminus of the Off Delaware Bay: Southeastern approach. This proposed precautionary area would be an approximately 314-square mile area encompassing the intersection of the Off Delaware Bay: Southeastern approach, the proposed Chesapeake Bay to Delaware Bay Eastern approach Cutoff Fairway, the proposed Off Delaware Bay to New Jersey Connector Fairway, and the proposed St. Lucie to New York Fairway. The Coast Guard expects to see a considerable amount of vessel traffic meet at the intersection of the fairways and TSS. A precautionary area would signify to mariners that they are transiting through an area, "where ships must navigate with particular caution," due to the perpendicular crossing of vessel traffic. The proposed precautionary area would be in an area radius 10 NM centered upon geographical position 38°10.02' N, 74°25.34' W, the areas within the separation zones, traffic lanes, and fairways excluded. (Datum: WGS 84)

The Coast Guard is proposing an expansion of the precautionary area at the entrance to the Delaware Bay. This proposed expansion would extend the precautionary area approximately 4.5 NM offshore and would gradually widen to 11 NM, where it would encompass the intersection of the proposed Cape Charles to Delaware Bay Fairway, the proposed New Jersey to New York Connector Fairway, and both the Off Delaware Bay: Eastern and Southeastern approaches. A precautionary area would signify to

mariners that they are transiting through an area, “where ships must navigate with particular caution,” due to the perpendicular crossing of vessel traffic. The proposed precautionary area extension would be in an area enclosed by the following points (Datum: WGS 84):

From 38°42.80′ N, 74°58.90′ W; then southeasterly to 38°37.25′ N, 74°54.15′ W; then northeasterly to 38°48.89′ N, 74°47.29′ W; then westerly to 38°48.31′ N, 74°55.39′ W; then westerly to 38°47.50′ N, 75°01.80′ W; then northerly to 38°50.75′ N, 75°03.40′ W; then northeasterly to 38°51.27′ N, 75°02.83′ W; then northerly to 38°54.80′ N, 75°01.60′ W; then westerly by an arc of 6.7 nautical miles centered at 38°48.90′ N, 75°05.60′ W to 38°55.53′ N, 75°05.87′ W; then southwesterly to 38°54.00′ N, 75°08.00′ W; then southerly to 38°46.60′ N, 75°03.55′ W; then southeasterly to 38°42.80′ N, 74°58.90′ W.

The Coast Guard is proposing a new precautionary area connecting the termini of the Eastern and Southern approach to the TSS in the approaches to Chesapeake Bay. This proposed precautionary area would be approximately 22 NM long, bounded by arcs of 5 NM, and 5 NM wide. It would also encompass the intersections of the proposed Hatteras to Chesapeake Bay Nearshore Fairway, the proposed Hatteras to Chesapeake Bay Offshore Fairway, the Chesapeake Bay Connector—South Fairway, the Chesapeake Bay Connector—North Fairway, the Cape Charles to Delaware Bay Fairway, and both the Eastern and Southern approaches in the approaches to Chesapeake Bay TSS. A precautionary area is charted between the Eastern and Southern approaches to Chesapeake Bay, but it was never adopted by IMO, nor codified in 33 CFR part 167. This existing precautionary area is included within the proposed precautionary area. A precautionary area would signify to mariners that they are transiting through an area, “where ships must navigate with particular caution,” due to the perpendicular crossing of vessel traffic. The proposed precautionary area would be in an area enclosed by the following points (Datum: WGS 84):

From 36°58.25′ N, 75°48.44′ W; then easterly by an arc of 5 NM centered at 36°59.06′ N, 75°42.28′ W to 36°59.27′ N, 75°36.04′ W; then southerly to 36°47.20′ N, 75°35.35′ W; then westerly by an arc of 5 NM centered around 36°46.98′ N, 75°41.58′ W to 36°48.21′ N, 75°47.61′ W; then northerly to 36°48.87′ N, 75°47.42′ W; then northeasterly to 36°50.33′ N, 75°46.29′ W; then northerly to 36°57.04′ N, 75°48.01′ W;

then northwesterly to 36°57.94′ N, 75°48.41′ W; then northerly to 36°58.25′ N, 75°48.44′ W.

The Coast Guard is proposing a new precautionary area at the offshore terminus of the TSS for the approaches to the Cape Fear River. This proposed precautionary area would be an approximately 75-square mile area encompassing the intersection of the Cape Fear River TSS, the proposed Cape Fear Southeastern approach Connector Fairway, and the proposed Cape Fear Southwestern approach Connector Fairway. A precautionary area would signify to mariners that they are transiting through an area, “where ships must navigate with particular caution,” due to the perpendicular crossing of vessel traffic. The proposed precautionary area would be in an area enclosed by the following points (Datum: WGS 84):

From 33°36.22′ N, 078°17.30′ W; then easterly by an arc of 5.2 NM centered at 33°32.99′ N, 078°12.10′ W; to 33°32.75′ N, 078°05.99′ W; then westerly to 33°32.75′ N, 078°09.66′ W; then northwesterly to 33°34.50′ N, 078°14.70′ W; then northwesterly to 33°36.22′ N, 078°17.30′ W.

VII. Regulatory Analyses

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

A. Regulatory Planning and Review

Executive Orders 12866 (Regulatory Planning and Review), as amended by Executive Order 14094 (Modernizing Regulatory Review), and 13563 (Improving Regulation and Regulatory Review) direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying costs and benefits, reducing costs, harmonizing rules, and promoting flexibility.

This proposed rule is a significant regulatory action under section 3(f) of Executive Order 12866, as amended by Executive Order 14094, and has been reviewed by the Office of Management and Budget (OMB). A combined regulatory analysis and regulatory flexibility analysis follows.

The Coast Guard is proposing to codify shipping safety fairways along

historic and well-established vessel traffic patterns and routes. These fairways would provide advance information to the offshore wind energy sector and help ensure that vessels traversing waters subject to U.S. jurisdiction would have unimpeded voyages, free from fixed and affixed structures. Establishing the fairways would not impose any costs on the offshore wind energy sector or to vessels, as there are no costs for streamlining the preexisting requirements for offshore wind energy consultations and for vessels to continue to travel along their historic routes.

Throughout BOEM’s competitive lease process, as defined in 30 CFR part 585, BOEM engages with its task forces and directly with other Federal agencies, including the Coast Guard, whom BOEM relies on to assist with identifying potential maritime conflicts. This engagement is iterative throughout the development of commercial leases from the RFI to the competitive lease sale because the interest and needs of both OREI and the maritime industry, as well as States and the Federal agencies, are dynamic and evolving over time. Codifying traditional shipping lanes into fairways, TSSs, and precautionary areas has the effect of providing relevant stakeholders with necessary information earlier in the competitive lease process. Additionally, these fairways would help ensure that vessels have clear and unimpeded transit routes to and from U.S. ports, preserving safe and reliable transit paths.

Background

To address climate change while also meeting growing energy demands, President Biden issued Executive Order 14008 (Tackling the Climate Crisis at Home and Abroad). Executive Order 14008 is designed to signal a significant increase in ambition to meet the climate crisis. In particular, section 207 of the Order directs the Administration to identify steps needed to increase renewable energy production, specifically offshore wind energy production, with defined goals on measured timelines. The Biden Administration then announced a shared goal between the Departments of Interior, Energy, and Commerce to deploy 30 gigawatts (GW) of offshore wind energy by 2030, while protecting biodiversity and ocean co-use.²⁰ The

²⁰ The White House, “FACT SHEET: Biden Administration Jumpstarts Offshore Wind Energy Projects to Create Jobs,” 03/29/2021. Available at: <https://www.whitehouse.gov/briefing-room/statements-releases/2021/03/29/fact-sheet-biden->

Administration also identified that achieving this 2030 goal would unlock a pathway to 110 GW of offshore wind energy generation by 2050.²¹

The Coast Guard recognizes the increase in offshore commercial activity and will work with other Federal agencies to facilitate this continued growth. The Coast Guard believes that

establishing consistent and clearly defined fairways, TSSs, and precautionary areas will facilitate this development while preserving continued ready access to port facilities.

Protecting access to Atlantic ports is also critical to the U.S. and global economies. Any obstructions or delays in shipping could result in added costs

that may trickle down to consumers and disrupt supply chains across all industries. For the purpose of this discussion, table 34²² lists the average value of goods flowing through various Atlantic ports each day. For example, the Port of Virginia handles \$106.7 billion worth of goods per year, or an estimated \$296.3 million per day.

TABLE 34—AVERAGE VALUE OF GOODS PER DAY FLOWING THROUGH ATLANTIC PORTS

Port	Daily value of goods (millions)	Annual value of goods (billions) *
Boston	\$31.7	\$11.268
New York-New Jersey	765.1	271.692
Delaware River	171.2	60.804
Baltimore	206.4	73.296
Virginia	296.3	105.228

Note: Monetary values in 2022 dollars. We calculated daily estimates using 360 working days.

Moving these goods generates port activity and revenue. In turn, these businesses, as well as their employees, purchase goods and services, creating a small ecosystem within each port community.

In an effort to help maintain the unimpeded flow of goods and service in and out of U.S. Ports, this NPRM proposes fairways, TSSs, and precautionary areas for vessels to use for transit. Under this proposed rule, vessels would be able to maintain their unimpeded access to and from all ports of call along the Atlantic Coast. Vessels would be free to transit and maintain their routes according to their business operation decisions and to continue with their historic operational patterns.

Affected Population

Establishing fairways primarily affects offshore wind energy developers by restricting the space that they may site future WEAs. The American Clean Power Association (ACP) is a pro-wind lobbying organization that tracks offshore wind development. As noted in ACP's May 2023 Offshore Wind Market

Report, the United States has 32 active leases for renewable energy in development on the OCS.²³ This report notes that the United States currently has 42 megawatts (MW) of offshore wind capacity currently operating and is expected to grow to 51.4 GW once all the 32 lease sites come online. Of those 32 offshore leases, BOEM has awarded 29 on the Atlantic OCS.²⁴ These 29 offshore leases are expected to be able to generate approximately 43 GW of power once fully operational.

We examined each of the Atlantic lease sites, reviewing relevant lease contracts and paperwork to determine location and size, as well as relevant details about the developer. The results of this review are presented in table 35. According to the Coast Guard Navigation Center (NAVCEN), the total size of the Atlantic EEZ from St. Lucie, FL to Montauk, NY is approximately 194.834 million acres. The 29 lease sites on the Atlantic EEZ span approximately 2.35 million acres and account for 1.21 percent of the Atlantic EEZ ($2.35 \div 194.834 \times 100\% = 1.21$ percent).

The 29 offshore wind energy lease areas are situated within relative proximity to the proposed fairways. Despite this, there would be no overlap between them and the offshore wind energy lease areas. The Coast Guard recognized this proximity and included a 2-NM buffer zone within each side of the proposed fairway designation area as a result. This 2-NM buffer zone would allow developers to build up to the limits of the fairway, so long as no overhang of the structure extends out of the lease area into the fairway. Given the existence of this buffer zone, no known or planned energy installation lease areas would be affected by fairway boundaries or traffic.

Additionally, as discussed in section V. Discussion of ANPRM Comments earlier, the Coast Guard has worked with BOEM to ensure that these proposed fairways would not interfere with any existing or planned lease sites. Table 35 below provides a list of all current offshore wind energy projects, their proximity to the fairways, and the distance (in NM) between each project and the closest fairways(s).

TABLE 35—CURRENT OFFSHORE WIND ENERGY PROJECTS

No.	Lease No.	Project name	State	Capacity (MW) *	Developer	Size (acres)	Closest fairway	Distance (NM)
1	OCS-A 0482	Garden State Offshore Energy.	DE	1,249	NRG Energy, Inc.	70,098	Off Delaware Bay to New Jersey.	~1 to 2.
2	OCS-A 0483	Coastal Virginia Offshore Wind.	VA	2,587	Dominion Energy Inc	112,799	1. Chesapeake Bay North. 2. Chesapeake Bay South.	~1.
3	OCS-A 0486	Revolution Wind	MA, RI	704	Ørsted, Eversource	83,798	Barneгат to Narragansett	~10.
4	OCS-A 0487	Sunrise Wind	MA, RI	924	Ørsted, Eversource	109,952	Barneгат to Narragansett	~5.

administration-jumpstarts-offshore-wind-energy-projects-to-create-jobs/. Accessed June 08, 2023.

²¹ Ibid.

²² Data for table 34 in 2022 dollars from USA Trade® Online, <https://usatrade.census.gov/> Monetary values. Last accessed May 24, 2023.

²³ ACP, "Offshore Wind Market Report," May 2023, <https://cleanpower.org/resources/offshore-wind-market-report-2023/>. Last accessed May 23, 2023.

²⁴ Bureau of Ocean Energy Management, Lease and Grant Information. Available at: [https://](https://www.boem.gov/renewable-energy/lease-and-grant-information)

www.boem.gov/renewable-energy/lease-and-grant-information. Last accessed May 23, 2023.

TABLE 35—CURRENT OFFSHORE WIND ENERGY PROJECTS—Continued

No.	Lease No.	Project name	State	Capacity (MW)*	Developer	Size (acres)	Closest fairway	Distance (NM)
5	OCS-A 0490	US Wind	MD	1,079	U.S. Wind	79,707	Cape Charles to Delaware Bay.	~3.
6	OCS-A 0497	Coastal Virginia Offshore Wind.	VA	12	Dominion Energy Inc	2,135	1. Chesapeake Bay North. 2. Chesapeake Bay South.	~1 ~3.
7	OCS-A 0498	Ocean Wind 1	NJ	1,100	Ørsted	75,526	St. Lucie to New York	~5 to 10.
8	OCS-A 0499	Atlantic Shores South	NJ	1,510	EDF, Shell	102,123	1. New Jersey to New York. 2. St. Lucie to New York	~1 to 2. ~5 to 9.
9	OCS-A 0500	Bay State Wind	MA, RI	2,579	Ørsted	144,823	Nantucket to Ambrose	~5 to 9.
10	OCS-A 0501	Vineyard Wind 1	MA, RI	806	Avangrid Inc., CIP	65,296	<i>Not within 10 NM to any</i>	~10 to 35.
11	OCS-A 0506**	Block Island Wind Farm	RI	30	Ørsted	7,708	<i>Right of Way Grant for Cables.</i>	n/a.
12	OCS-A 0508	Kitty Hawk	NC	3,500	Avangrid Inc.	122,405	Hatteras to Chesapeake Bay.	~1.
13	OCS-A 0512	Empire Wind	NY	2,076	BP, Equinor Asa	79,350	Nantucket to Ambrose	~5.
14	OCS-A 0517	South Fork Wind	MA, RI	132	Ørsted, Eversource	13,700	Barneget to Narragansett	~10.
15	OCS-A 0519	Skipjack	DE	966	Ørsted	26,332	Off Delaware Bay to New Jersey.	~2 to 3.
16	OCS-A 0520	Beacon Wind	MA, RI	1,230	BP, Equinor Asa	128,811	Nantucket to Ambrose	~6.
17	OCS-A 0521	Mayflower Wind	MA, RI	1,204	EDP Renewables, Engie, Shell.	127,388	Nantucket to Ambrose	~5.
18	OCS-A 0522	Vineyard Northeast	MA, RI	2,358	Avangrid Inc., CIP	132,370	Nantucket to Ambrose	~4.
19	OCS-A 0532	Ocean Wind 2	NJ	1,148	Ørsted	84,955	1. New Jersey to New York. 2. Off Delaware Bay to New Jersey.	~1. <i>Not within 10 NM to any</i>
20	OCS-A 0534	New England Wind	MA, RI	2,036	Avangrid Inc.	101,590	1. Hudson Canyon to Ambrose.	~10 to 30.
21	OCS-A 0537	Bluepoint Wind	NY	1,700	EDP, Engie North America.	71,522	2. Hudson Canyon to Ambrose.	~1.
22	OCS-A 0538	Attentive Energy	NJ	3,000	TotalEnergies	84,332	Hudson Canyon to Ambrose.	~1.
23	OCS-A 0539	Hudson South—C	NJ	3,000	RWE, National Grid plc	125,964	1. Hudson Canyon to Ambrose. 2. St. Lucie to New York	~7. ~1.
24	OCS-A 0541	Hudson South—E	NJ	1,414	EDF Group, Shell	79,351	St. Lucie to New York	~1.
25	OCS-A 0542	Hudson South—F	NJ	2,000	GE Renewable Energy	83,976	St. Lucie to New York	~3.
26	OCS-A 0544	Hudson North	NY	767	CIP	43,056	Barneget to Narragansett	~1.
27	OCS-A 0545	Wilmington West	NC	1,000	TotalEnergies	54,937	Cape Fear Southeastern	~2.
28	OCS-A 0546	Wilmington East	NC	1,600	Duke Energy Corp	55,154	St. Lucie to Hatteras	~2.
29	OCS-A 0549	Atlantic Shores North	NJ	1,446	EDF Group, Shell	81,129	1. New Jersey to New York. 2. St. Lucie to New York	~1 to 2.
Totals				43,157		2,350,287		

*Where a proposed capacity has not been stated publicly, ACP estimates potential capacity using a factor of 4.4 MW per square kilometer. We denote estimates in italics.

**Lease number references right-of-way grant. Block Island Wind Farm is located in Rhode Island State waters.

On November 16, 2022, BOEM announced eight draft WEAs in the Central Atlantic,²⁵ subject to public and Federal agency comments. Additionally, on April 25, 2023, BOEM issued a Call for information and nominations for the Gulf of Maine in preparation for possible offshore WEA development.²⁶

As discussed in Section VI.F *BOEM's Leasing Process*, the BOEM lease process is an iterative process that takes many steps and can take many years to complete. These steps include drafting and publishing an RFI in the **Federal Register**, developing the Call area,

drafting WEAs, conducting lease auctions, awarding the lease, and conducting an environmental review before BOEM issues a final Record of Decision, which will then allow industry to begin developing active sites in the lease area. We discuss the impact of these steps in more detail in the *Costs* section of this analysis.

During BOEM's leasing process, the Coast Guard provides comments regarding existing high-volume shipping lanes, which have historically and will continue to prevent other development in these areas. By codifying the historic shipping lanes into fairways, TSSs, and precautionary areas, the Coast Guard would provide developers the necessary information prior to expending resources exploring areas that cannot be developed without significantly and

adversely affecting existing shipping lanes.

According to NAVCEN, the proposed fairways, TSSs, and precautionary areas would encompass approximately 24.4 million acres, or 12.5 percent, of the Atlantic EEZ ($24.4 \div 194.8 \times 100\% = 12.5$ percent). Existing wind energy lease areas are expected to generate over 43 GW of offshore wind energy.

Regulatory Analysis

This NPRM proposes to codify PARS recommendations into fairways, TSSs, and precautionary areas along the Atlantic Coast. This would help ensure that vessels traversing waters subject to U.S. jurisdiction would have unimpeded voyages, free from fixed and affixed structures, as they transit to and from their destinations. This action

²⁵ <https://www.boem.gov/renewable-energy/state-activities/central-atlantic>. Last accessed May 23, 2023.

²⁶ <https://www.boem.gov/renewable-energy/state-activities/maine/gulf-maine>. Last accessed May 23, 2023.

would also align with one of the Coast Guard's central missions of maintaining and securing safe navigable waters for vessels transiting waters subject to U.S. jurisdiction.

The Coast Guard is anticipating an increase in offshore activity and hopes to preserve existing shipping lanes and accommodate OREI developments, thereby managing future expectations and balancing the needs of the maritime and energy sectors. If left unabated, future development areas could create unintended navigation hazards, delays, or impediments to the safe and efficient transportation and commerce of maritime vessels carrying goods, materials, and people. Vessels transit to, from, and between U.S. ports in well-defined routes and in regular patterns. These typical vessel routes have been developed over many years as companies look to maximize transportation efficiencies. For this reason, the Coast Guard proposes codifying existing shipping lanes into fairways, TSSs, and precautionary areas.

Although this NPRM is proposing to codify fairways, TSSs, and precautionary areas for vessel use, it would not require vessels to use them. This proposed rule would maintain the status quo in that vessels would be free to navigate the waters of the United States to maximize voyage efficiencies while operating in a safe manner. Since this NPRM would not impose any requirements that would cause vessels to change their behavior, the Coast Guard does not anticipate that the proposed rule would impact the vessel population but is seeking comments on the possible impacts of this proposed rule.

Costs

Developing offshore wind energy projects on the OCS is a multi-faceted and iterative process. BOEM is the Federal agency responsible for issuing leases, easements, and rights-of-way for renewable energy projects on the OCS. BOEM determines whether to issue leases in consultation and coordination with other Federal agencies, potentially affected federally recognized Tribes, States, and local governments. As specified in 30 CFR 585.210, BOEM initiates the competitive lease process by publishing in the **Federal Register** an RFI covering certain areas of the OCS. BOEM uses the responses to the RFI to determine if there is a competitive interest for scheduling sales and issuing leases. If the RFI phase garners sufficient interest, BOEM begins the process of issuing competitive leases as detailed in 30 CFR 585.211. BOEM then follows a four-step process to issue

competitive leases, with three of the steps requiring publication in the **Federal Register** and subsequent review of responses. Those four steps laid out in 30 CFR 585.211 are as follows:

- (1) Publishing a Call for information and nominations;
- (2) Identifying the area for a lease;
- (3) Publishing a proposed sale notice; and
- (4) Publishing a final sale notice.

BOEM typically conducts an environmental review under NEPA at the proposed sale notice stage and finalizes that review in parallel with the final sale notice. Furthermore, once BOEM issues a lease, applicants cannot begin construction until BOEM concludes additional steps, which include reviewing applicants' Site Assessment Plans and Construction and Operation Plans (COP), performing a subsequent NEPA analysis, consulting with additional Federal agencies, and concluding a final technical review of all activities. BOEM specifically states that a "lease does not grant the lessee the right to construct any facilities; rather, the lease grants the right to develop a plan for use of the area for BOEM's review and potential approval." Once the environmental reviews under NEPA, consultations under the ESA, and BOEM's technical reviews are complete, BOEM may approve, disapprove, or approve with modifications a lessee's COP. If a COP is approved, the lessee must submit required reports to the Bureau of Safety and Environmental Enforcement (BSEE). Once the lessee receives a non-objection from BSEE and all other necessary Federal and State permits, as well as a consistency determination under the CZMA, the lessee may begin construction on the OCS.

Given that this consultation process must occur before issuing new leases, the proposed fairways, TSSs, and precautionary areas do not cause future potential lease sites to incur any additional costs because consideration of commercial vessel traffic is already an existing baseline requirement under current regulations (§ 585.102(a)(9)).

The Coast Guard recognizes the competing interests of the maritime domain as well as the Administration's goal to increase offshore wind energy production and has taken steps to ensure that the proposed fairways, TSSs, and precautionary areas do not intersect, limit, remove, or in any other way interfere with the continued development of the current lease sites noted in table 35. The proposed fairways, TSSs, and precautionary areas would codify traditional vessel navigation routes. This reflects the work

done in the PARS, which analyzed vessel travel patterns and relative densities to make recommendations regarding preferred vessel travel routes. Additionally, vessels would be free to transit along other routes outside the proposed fairways, but we expect vessels would continue to operate as they have historically. Since this NPRM would not impact existing vessel behavior, nor would it conflict with any existing lease areas, the Coast Guard determined that there are no costs associated to existing leases located in the Atlantic OCS as a result of this proposed rule. The Coast Guard will continue to work and collaborate with other agencies to further the Biden Administration's offshore wind energy goals. Furthermore, the Coast Guard asks the public to submit comments that address how future offshore energy development may be impacted by this proposed regulation, and whether any alternative fairway orientations could reduce those impacts while preserving navigational safety.

Benefits

The current offshore wind energy development process relies on input from the public and Federal agencies at various stages and levels. It is an iterative process that must consider the needs of various stakeholders and agencies while also navigating renewable energy demands. Of particular note, 30 CFR 585.102(a)(5) specifies that BOEM must coordinate with "relevant Federal agencies (including, in particular, those agencies involved in planning activities that are undertaken to avoid conflicts among users and maximize the economic and ecological benefits of the OCS)[.]" Under § 585.102(a)(7), BOEM must also "[protect] the rights of other authorized users of the OCS," and § 585.102(a)(9) directs BOEM to "[prevent] interference with reasonable uses . . . of the [EEZ], the high seas, and the territorial seas."

The proposed fairways, TSSs, and precautionary areas would accomplish this by minimizing conflicts while, preserving the rights of, and preventing interference with, reasonable users of the EEZ and surrounding waters.

Given the complex nature of the process that BOEM must take when proposing and subsequently developing wind energy lease sites, proposing these fairways, TSSs, and precautionary areas would facilitate efficient interagency comments between the Coast Guard, BOEM, and other relevant stakeholders early on during the leasing process by communicating the locations of historic vessel travel lanes and areas with high vessel traffic. Additionally, establishing

these fairways would facilitate quick and unambiguous communication of less-trafficked and open-water areas for future potential energy exploration projects and needs.

Individual lease sites issued by BOEM are not on exclusive waters. This means that vessels in the vicinity of the area are free to transit through lease sites. However, those vessels must still employ safe navigation practices.²⁷ Similarly, the fairways, proposed by this NPRM are not restrictive in that vessels are not required to use the fairways.

Given the nascent nature of the offshore wind energy industry, there are relatively few detailed studies regarding vessel and wind farm interaction. A study from 2015 looked at five wind energy lease sites in the Thames Estuary and recorded AIS transponder data before and after wind farm development. This international study notes the importance of accounting for vessel traffic patterns prior to establishing wind farms and that traffic management measures are critical to mitigating potential risks.²⁸ A subsequent 2022 study sponsored by Germany looked at vessel AIS data to gauge the relative risk in the North and Baltic Seas in the German EEZ. This area of the German EEZ is also experiencing offshore wind energy project growth. A principal conclusion from this study is that “developments in recent years lead to an increasing safety risk due to limited available fairways[.]”²⁹

A case study for the Baltic Master project, an international effort sponsored by the European Union to address maritime safety, looked at the interaction between vessel traffic and wind farms on the southwest Baltic Sea. The study noted that when traffic organizing patterns were applied to

areas where vessels transit on a regular basis, those vessels traveled along more organized, compact, and consistent routes without incurring additional delays or other unintended consequences. These passive mitigating measures were observed to reduce the risk of collision, particularly around wind farms.³⁰ This expected risk reduction would be beneficial to both vessels and wind farms in the study area.

A recent study by the National Academies looked at the interaction of vessels navigating in wind farms and determined that vessels could experience interference and reflectivity due to the turbine structures and blades with additional combining factors which could lead to degrading effectiveness and confusing navigational pictures.³¹ The unique combination of factors in wind farms may lead to reduced navigational effectiveness and lost contact with smaller objects such as buoys, smaller commercial fishing vessels, and recreational vessels.³² Recommendations from this study concluded that vessels should use additional caution when transiting through WEAs. Commercial vessels can instead use the proposed fairways to preserve uninterrupted access along their traditional routes without experiencing significant degradation in navigation.

The proposed fairways, TSSs, and precautionary areas provide clear shipping lanes for commercial vessel navigation and allow for safe navigation in and out of busy U.S. Atlantic ports. This proposed rule fosters one of the Coast Guard's central missions of maintaining and securing safe navigable waters for vessels transiting through waters subject to U.S. jurisdiction. This NPRM also furthers the President's offshore wind energy goals by minimizing conflicts through advance notice of traditional commercial maritime routes, sharing in maritime use rights, and preventing interference with users of the EEZ and surrounding waters.

Environmental Impact

The Coast Guard is studying the environmental issues that commenters presented during the ANPRM stage of this rulemaking. NEPA will provide the primary framework for our environmental analyses, and we will meet the requirements of other involved environmental statutes in parallel. These include, but are not limited to the ESA, MMPA, Magnuson Stevens, Fishery Conservation and Management Act, and CZMA. The Coast Guard will evaluate the potential environmental effects associated with this proposed rule and will provide documentation for public review and comment as discussed in section VII.E, *Environment* of this preamble.

The Council on Environmental Quality's regulations require that a draft EIS “normally” accompany a proposed rule. See 40 CFR 1502.5(d). However, for this proposed rulemaking, the large geographic scope of the project area poses challenges for the Coast Guard's environmental review, due to the number of species, issues, and State, Tribal, and Federal entities with whom it will consult or coordinate. Publishing this proposed rule before the completion of the draft NEPA document is part of the Coast Guard's efforts to identify a range of reasonable alternatives for the environmental review process.

The Coast Guard appreciates its ongoing coordination with BOEM on the designated fairways. The Coast Guard also appreciates BOEM's ongoing environmental analysis of the affected environment; it also recognizes that BOEM's assessments, which focus on small static sections, are not sufficient for meeting the environmental review requirements for the Coast Guard's rulemaking process. The Coast Guard's rulemaking process requires an analysis with a broader scope along the entire Atlantic Coast. We will use the best available information to inform this analysis. Given the dynamic nature of the emerging renewable energy industry, we will also use the public's continued input to determine new information concurrently with our rulemaking and incorporate it as practical during the regulatory development process.

The Coast Guard's environmental coordination and associated consultations for this rulemaking will include coordination with State and Federal agencies and federally recognized Tribes pursuant to governing environmental statutes, regulations, and Executive orders. As stated above, the Coast Guard is currently gathering

²⁷ Rules 18 & 19 of Convention of the International Regulation for Preventing Collision at Sea, 1972.

²⁸ Andrew Rawson and Edward Rogers, “Assessing the Impacts to Vessel Traffic from Offshore Wind Farms in the Thames Estuary,” *Scientific Journals of the Maritime University of Szczecin*, Volume 43 (115), January 2015, pages 99 through 107. (PDF) Assessing the impacts to vessel traffic from offshore wind farms in the Thames Estuary (https://www.researchgate.net/publication/316460284_Assessing_the_impacts_to_vessel_traffic_from_offshore_wind_farms_in_the_Thames_Estuary). Last accessed July 21, 2023.

²⁹ Jürgen Weigell, Carlos Jahn; “Assessing Offshore Wind Farm Collision Risks Using AIS Data: An Overview.”; *Changing Tides: The New Role of Resilience and Sustainability in Logistics and Supply Chain Management—Innovative Approaches for the Shift to a New Era. Proceedings of the Hamburg International Conference of Logistics (HICL)*; Vol. 33, ISBN 978–3–756541–95–9, Berlin, Germany; 2022; pages 499 through 521; available at <https://hdl.handle.net/10419/267197>. Last accessed June 22, 2023.

³⁰ European Union, Baltic Master; Case Study, “Kiegers Flak” I, II, & III; “Offshore Windfarm Development and the Issue of Maritime Safety.”; September 2007; https://discomap.eea.europa.eu/map/Data/Milieu/OURCOAST_191_DE/OURCOAST_191_DE_Doc1_OffshoreWindfarm.pdf. Last accessed June 22, 2023.

³¹ National Academies of Sciences, Engineering, and Medicine, “Wind Turbine Generator Impacts to Marine Vessel Radar,” *The National Academies Press*, 2022. Available at <https://doi.org/10.17226/26430>. Last accessed June 22, 2023.

³² Ibid.

preliminary data and will initiate its environmental analyses as soon as possible to determine potential impacts, if any, that establishing the proposed fairways may have on the environment. We will use the information collected and analyzed to inform our compliance with NEPA as well as other involved environmental statutes.

Alternatives

The Coast Guard considered the following alternatives while developing this proposed rule:

(1) The Coast Guard could take no action. This alternative would allow for continued conflicts between navigation and proposed offshore energy development and other competing uses. These conflicts would not be resolved until later in the lease process, at potential expense and delays for the OREI developers. This alternative could also put the priority right of navigation at risk in violation of the Coast Guard's statutory mandates. In addition, the "no action" alternative would leave the status quo in place, which allows OREI development projects to be proposed without regard to historic vessel routes. Additionally, this alternative requires consistent and extensive oversight by the Coast Guard to monitor all activities undertaken by another Federal Agency. The status quo is a resource intensive process due to the continuous and iterative wind energy lease process. For these reasons, the Coast Guard rejects this alternative.

(2) Instead of establishing the fairways through rulemaking, the Coast Guard could work with BOEM under a memorandum of agreement to jointly limit issuance of new leases for offshore wind development to areas outside of the fairways identified in this NPRM. This alternative would allow for continued collaboration between the two agencies but would have to be completed on a case-by-case basis. Beyond efficiency concerns, which are substantial, this approach lacks the certainty and stability that comes with codifying the dimensions of the proposed fairways in the CFR. Under this alternative, offshore energy developers would not be certain where WEAs can and cannot go, making long-term strategic planning very difficult.

(3) The third and preferred alternative is to conduct a rulemaking to codify vessel travel lanes into fairways along the Atlantic Coast to ensure that vessels traversing waters subject to U.S. jurisdiction would have unimpeded voyages. The Coast Guard is proposing fairway routes, TSSs, and precautionary areas, the dimensions of which would

be finalized over the course of the rulemaking process.

B. Small Entities

Under the Regulatory Flexibility Act, 5 U.S.C. 601–612, we have considered whether this proposed rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

Section 603(b) of the Regulatory Flexibility Act prescribes the content of the Initial Regulatory Flexibility Analysis, which addresses the following:

(1) A description of the reasons why action by the agency is being considered;

(2) A succinct statement of the objectives of, and legal basis for, this proposed rule;

(3) A description of and, where feasible, an estimate of the number of small entities to which this proposed rule will apply;

(4) A description of the projected reporting, recordkeeping, and other compliance requirements of this proposed rule, including an estimate of the classes of small entities that will be subject to the requirement and the type of professional skills necessary for preparation of the report or record;

(5) An identification, to the extent practicable, of all relevant Federal rules that may duplicate, overlap, or conflict with this proposed rule; and

(6) A description of any significant alternatives to this proposed rule that accomplish the stated objectives of applicable statutes and minimize any significant economic impact of the proposed rule on small entities.

1. *A description of the reasons why the action by the agency is being considered.*

The Coast Guard proposes to establish fairways, TSSs, and precautionary areas along the Atlantic Coast of the United States as identified in the PARS. Fairways allow for the implementation of safe and reliable vessel transit routes along already established traffic patterns and routes.

The Coast Guard is proposing this action to ensure that traditional navigation routes are kept free from fixed structures that could affect navigation safety. The Coast Guard recognizes that current offshore development trends and other increased shared commercial activities on the OCS necessitate the preservation of safe

commercial shipping lanes as fairways. Fairways, TSSs, and precautionary areas are necessary to preserve traditional maritime commerce routes and safe access to U.S. ports and protect them from the emplacement of fixed structures that could impact navigation safety.

2. *A succinct statement of the objective of, and legal basis for, this proposed rule.*

This NPRM proposes to codify existing vessel traffic patterns into fairways, TSSs, and precautionary areas along the Atlantic Coast of the United States to ensure that traditional navigation routes are kept free from fixed structures that could affect navigation safety.

Chapter 700, Ports and Waterways Safety, of Title 46 U.S.C. authorizes the Secretary of the department in which the Coast Guard is operating to take certain actions to advance port, harbor, and coastal facility safety and security. Specifically, 46 U.S.C. 70001 and 70034 authorize the Secretary to promulgate regulations to establish reporting and operating requirements, surveillance and communications systems, routing systems, and fairways. The Secretary has delegated this authority to the Commandant of the Coast Guard (DHS Delegation 00170.1, Revision No. 01.3, paragraph (II)(70)).

3. *A description-and, where feasible, an estimate of the number-of small entities to which this proposed rule will apply.*

The Coast Guard is proposing 18 fairways and 1 fairway anchorage. These fairways are based on the fairways described in the ANPRM and have been further refined based on public comments, consultation with other Federal Government agencies, and the recommendations from the PARS. Fairways are corridors that set aside areas of sufficient depth and dimensions to accommodate vessels to allow for the orderly and safe movements of vessels transiting to or from ports. Designating a particular area as a fairway establishes the requirement that the area remains free of fixed structures that could pose navigational hazards or impediments. These fairways would be established next to and in the vicinity of existing lease sites as described in table 35.

We gathered and examined information on BOEM's lease sites to evaluate the size of the lessees.³³ We examined lease documents, assignment documents, and company information

³³ BOEM Lease and Grant Information web page. Available at <https://www.boem.gov/renewable-energy/lease-and-grant-information>. Last accessed May 23, 2023

using open and proprietary sources³⁴ to determine which entities were leasing each site, as well as their principal business operation as determined by their primary North American Industry Classification System (NAICS) code, to

make a determination whether each of the entities is considered to be a small entity according to the Small Business Administration's (SBA) standards.³⁵ Using the latest table of small business size standards for each NAICS code

from the SBA, we determine the threshold amount and category type for each small entity and present the results in table 36 below organized by NAICS code.

TABLE 36—NUMBER OF SMALL ENTITIES AFFECTED BY THIS PROPOSED RULE

NAICS code	NAICS code and industry type	Size standard type	SBA size standard	Number of entities	Number of small entities
213112	Support Activities for Oil and Gas Operations	Revenue (Millions)	\$47.0	2	0
221115	Wind Electric Power Generation	Employees	1,150	2	0
221121	Electric Bulk Power Transmission and Control	Employees	950	1	0
221122	Electrical Power Distribution	Employees	1,100	5	0
238220	Plumbing, Heating, and Air Conditioning Contractors.	Revenue (Millions)	\$19.0	1	0
333611	Turbine & turbine Generator Set Unit Manufacturing.	Employees	1,500	1	0
541715	Research and Development in the Physical, Engineering, and Life Sciences (except Nanotechnology and Biotechnology).	Employees	1,000	1	0
525910	Open End Investment Funds	Revenue (Millions)	\$40.0	1	0
811310	Commercial and Industrial Machinery and Equipment (except Automotive and Electronic) Repair and Maintenance.	Revenue (Millions)	\$12.5	1	0

The 29 active WEA lease sites we identified in table 35 earlier are being developed or operated by 14 unique companies and one State Government entity partnering with a research entity (NAICS 541715), none of which are considered to be small entities as determined by SBA size standards.

Discussion of effect

These fairways, TSSs, and precautionary areas would not intersect any existing wind energy lease sites and those sites would not be restricted in their operations. As such, we do not expect any impact to leaseholders from the proposed fairways nor any costs to the leaseholder companies. As previously discussed in section VI. Discussion of Proposed Rule, vessels would be free to transit along other routes outside the proposed fairways and we expect vessels would continue to operate as they have historically. Since this NPRM would not impact existing vessel behavior, the Coast Guard determined that there are no costs associated to vessel operators; therefore, costs were not further evaluated. If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this proposed rule would have a significant economic impact on it, please submit a comment to the docket at the address listed in the **ADDRESSES** section of this preamble. In your

comment, explain why you think it qualifies and how and to what degree this proposed rule would economically affect it.

4. *A description of the projected reporting, recordkeeping, and other compliance requirements of this proposed rule, including an estimate of the classes of small entities that will be subject to the requirements and the type of professional skills necessary for preparation of the report or record.*

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

5. *An identification, to the extent practicable, of all relevant Federal rules that may duplicate, overlap, or conflict with the proposed rule.*

There are no relevant Federal rules that may duplicate, overlap, or conflict with this NPRM.

6. *A description of any significant alternatives to this proposed rule that accomplish the stated objectives of applicable statutes and minimize any significant economic impact of the proposed rule on small entities.*

The Coast Guard identified three alternatives for this proposed rule as identified earlier in the *Alternatives* discussion. During our review, the Coast Guard did not identify any small entities which would be affected by this proposed rule. Therefore, the Coast Guard did not consider any additional

alternatives specifically tailored to minimize impacts on small entities.

7. Conclusion.

We are interested in the potential impacts from this proposed rule on small businesses and we request public comment on these potential impacts. If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this proposed rule would have a significant economic impact on it, please submit a comment to the docket at the address listed in the **ADDRESSES** section of this preamble. In your comment, explain why you think it qualifies and how and to what degree this proposed rule would economically affect it.

C. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996, Public Law 104–121, we want to assist small entities in understanding this proposed rule, so that they can better evaluate its effects on them and participate in the rulemaking. If the proposed rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning the proposed rule's provisions or options for compliance, please call or email the person in the **FOR FURTHER INFORMATION CONTACT** section of this proposed rule. The Coast Guard will not retaliate

³⁴ Reference USA U.S. Business Research, <https://www.referenceusa.gov/>. Last accessed May 23, 2023.

³⁵ U.S. Small Business Administration Table of Size Standards, <https://www.sba.gov/document/support-table-size-standards>. Last accessed May 23, 2023. PDF Table link: <https://www.sba.gov/sites/>

sba.gov/files/2023-03/Table%20of%20Size%20Standards_Effective%20March%2017%2C%202023%20%281%29%20%281%29_0.pdf.

against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247).

D. Collection of Information

This proposed rule would call for no new or revised collection of information under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501-3520, nor would it impact any existing collection of information.

E. Federalism

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

It is well settled that States may not regulate in categories reserved for regulation by the Coast Guard. Title 46, Sections 70001 and 70034 of the U.S.C. make it clear that the Coast Guard has the sole authority "to construct, operate, maintain, improve, or expand vessel traffic services," which include fairways, TSSs, and precautionary areas. This authority extends to the ability to issue regulations to implement such services.

While it is well settled that States may not regulate in categories in which Congress intended the Coast Guard to be the sole administrator of such services, the Coast Guard recognizes the key role that State and local governments may have in making regulatory determinations. Additionally, for rules with federalism implications and preemptive effect, Executive Order 13132 specifically directs agencies to consult with State and local governments during the rulemaking process. If you believe this proposed rule would have implications for

federalism under Executive Order 13132, please call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section of this preamble.

F. Unfunded Mandates

The Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1531-1538, requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100 million (adjusted for inflation) or more in any one year. Although this proposed rule would not result in such an expenditure, we do discuss the effects of this proposed rule elsewhere in this preamble.

G. Taking of Private Property

This proposed rule would not cause a taking of private property or otherwise have taking implications under Executive Order 12630 (Governmental Actions and Interference with Constitutionally Protected Property Rights).

H. Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, (Civil Justice Reform), to minimize litigation, eliminate ambiguity, and reduce burden.

I. Protection of Children

We have analyzed this proposed rule under Executive Order 13045 (Protection of Children from Environmental Health Risks and Safety Risks). This proposed rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

J. Indian Tribal Governments

This proposed rule may have tribal implications under Executive Order 13175 (Consultation and Coordination with Indian Tribal Governments), because it may have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. In accordance with DHS' Tribal Consultation Policy, the Coast Guard will initiate a process of meaningful and timely consultation with federally recognized Tribes to determine the impact of the proposed rule on Tribal concerns. This process involves four steps: (1) preparation and identification

of Tribes directly affected and issues, (2) a notification of consultation to potentially affected Tribal Nations, (3) receiving Tribal input and adjudicating that input, and (4) follow-up to explain how the results of the consultation were incorporated.

K. Energy Effects

We have analyzed this proposed rule under Executive Order 13211 (Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use). We have determined that it is not a "significant energy action" under that order because although it is a "significant regulatory action" under Executive Order 12866, as amended by Executive Order 14094, it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. While it is true that this proposed rule could have impacts on BOEM's effort to promulgate renewable energy lease areas on the Atlantic OCS, the Coast Guard has worked closely with BOEM throughout the rulemaking process to ensure that this proposed rule would not create inconsistency or interfere with BOEM's leasing efforts.

L. Technical Standards

The National Technology Transfer and Advancement Act, codified as a note to 15 U.S.C. 272, directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through OMB, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

M. Environment

We have analyzed this proposed rule under DHS Management Directive 023-01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*). The Coast Guard will conduct an EIS to evaluate the potential environmental effects associated with this proposal and will provide documentation for public

review and comment in the docket, where indicated under the Public Participation and Request for Comments section of this preamble. We encourage the public to submit comments on the documents as they are posted. The public will be allotted the customary comment periods for each item.

The large geographic scope of the project area poses challenges for the Coast Guard's environmental evaluations, due to the number of species that occur in the project area, the variety of issues in play that are evaluated as part of the Coast Guard's NEPA assessment, and the number of stakeholder entities with whom the Coast Guard will consult or coordinate. To address these challenges, the Coast Guard is publishing this NPRM without the draft NEPA document that usually accompanies a NPRM. Continued public input will help the Coast Guard identify a reasonable number of alternatives to explore during the environmental review process. The Coast Guard's environmental coordination for this rulemaking will include coordination with State and Federal agencies, and federally recognized Tribes pursuant to several cultural resource and environmental statutes (including NEPA, ESA, the National Historic Preservation Act of 1966, CZMA, and MMPA).

This proposed rule involves possibly establishing and codifying fairways, TSSs, and precautionary areas based on existing vessel traffic patterns at key transportation nodes to major domestic ports along the Atlantic Coast of the United States. The proposed navigation safety corridors presented in this NPRM are informed by ACPARS as expanded upon by the consolidated PARS supplemental efforts. This system of fairways, TSSs, and precautionary areas is intended to ensure that traditional navigation routes are kept free from fixed and affixed structures that could impact navigation safety. These fairways, TSSs, and precautionary areas would support the Coast Guard's Ports and Waterways Safety; Aids to Navigation; Marine Safety; and Marine Environmental Protection missions by identifying safe and efficient traffic schemes to serve vessels moving to or among Atlantic Coast ports, thereby reducing opportunities for incidents that could result in casualties or environmental damage. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

List of Subjects

33 CFR Part 166

Anchorage grounds, Marine safety, Navigation (water), Waterways.

33 CFR Part 167

Harbors, Marine safety, Navigation (water), Waterways.

For the reasons discussed in the preamble, the Coast Guard is proposing to amend 33 CFR parts 166 and 167 as follows:

PART 166—SHIPPING SAFETY FAIRWAYS

■ 1. The authority citation for part 166 is revised to read as follows:

Authority: 46 U.S.C. 70001, 70003; DHS Delegation No. 00170.0, Revision No. 01.3, paragraph (II)(70).

■ 2. In § 166.500, revise paragraph (b) to read as follows:

§ 166.500 Areas along the Atlantic Coast.

* * * * *

(b) *Designated Areas*—

(1) Long Island Fairway. The area enclosed by rhumb lines, joining points at:

TABLE 1 TO § 166.500(b)(1)

Latitude	Longitude
40°29'15" N	73°32'03" W
40°31'02" N	73°35'17" W
40°30'15" N	73°41'25" W
40°31'33" N	73°42'23" W
40°35'59" N	73°11'39" W
41°06'31" N	71°30'24" W
41°02'51" N	71°29'06" W
40°48'05" N	71°59'27" W
40°32'38" N	72°50'50" W
40°32'12" N	73°11'28" W

Datum: WGS 84

(2) Nantucket to Ambrose Fairway. The area enclosed by rhumb lines, joining points at:

TABLE 1 TO § 166.500(b)(2)

Latitude	Longitude
40°32'20" N	73°04'55" W
40°30'59" N	72°57'39" W
40°34'07" N	70°19'26" W
40°35'41" N	70°14'02" W
40°22'38" N	70°13'34" W
40°24'07" N	70°19'03" W
40°20'57" N	72°58'22" W
40°19'20" N	73°04'56" W

Datum: WGS 84

(3) Hudson Canyon to Ambrose Eastern Fairway. The area enclosed by rhumb lines, joining points at:

TABLE 1 TO § 166.500(b)(3)

Latitude	Longitude
40°08'25" N	72°38'18" W
40°08'25" N	72°27'34" W
40°08'25" N	72°00'00" W
40°03'25" N	72°00'00" W
40°03'25" N	72°27'34" W
40°03'25" N	72°53'15" W

Datum: WGS 84

(4) Hudson Canyon to Ambrose Southeastern approach Fairway. The area enclosed by rhumb lines, joining points at:

TABLE 1 TO § 166.500(b)(4)

Latitude	Longitude
40°01'32" N	72°58'53" W
40°00'20" N	72°56'59" W
39°42'19" N	72°34'32" W
39°24'19" N	72°12'12" W
39°06'19" N	71°49'57" W
38°48'19" N	71°27'49" W
38°30'19" N	71°05'45" W
38°12'19" N	70°43'48" W
37°54'40" N	70°22'22" W
37°45'55" N	70°38'53" W
38°01'33" N	70°57'56" W
38°19'33" N	71°19'57" W
38°37'33" N	71°42'04" W
38°55'33" N	72°04'17" W
39°13'33" N	72°26'35" W
39°31'33" N	72°48'59" W
39°49'33" N	73°11'28" W
39°55'14" N	73°17'43" W

Datum: WGS 84

(5) Barnegat to Narragansett Fairway. The area enclosed by rhumb lines, joining points at:

TABLE 1 TO § 166.500(b)(5)

Latitude	Longitude
39°53'10" N	73°53'21" W
39°57'38" N	73°40'25" W
40°02'24" N	73°26'33" W
40°09'01" N	73°10'49" W
40°09'37" N	73°06'52" W
40°48'05" N	71°59'27" W
41°02'51" N	71°29'06" W
41°02'11" N	71°18'13" W
40°20'32" N	72°02'02" W
40°01'32" N	72°58'53" W
39°55'14" N	73°17'43" W
39°48'21" N	73°38'17" W
39°42'55" N	73°54'32" W

Datum: WGS 84

(6) New Jersey to New York Connector Fairway. The area enclosed by rhumb lines, joining points at:

TABLE 1 TO § 166.500(b)(6)

Latitude	Longitude
38°48'54" N	74°47'17" W
38°48'19" N	74°55'24" W
39°29'42" N	74°12'28" W
39°47'36" N	74°00'38" W
40°22'17" N	73°55'58" W
40°20'30" N	73°49'38" W
39°52'58" N	73°53'22" W
39°42'55" N	73°54'32" W
39°41'42" N	73°58'10" W
39°35'15" N	74°02'59" W
39°27'30" N	74°08'07" W
39°06'13" N	74°30'01" W

Datum: WGS 84

(7) St. Lucie to New York Fairway. The area enclosed by rhumb lines, joining points at:

TABLE 1 TO § 166.500(b)(7)

Latitude	Longitude
36°17'51" N	74°26'02" W
35°17'41" N	74°40'46" W
34°33'21" N	74°52'32" W
33°57'08" N	75°20'14" W
32°49'16" N	76°06'42" W
31°37'49" N	76°51'25" W
29°36'06" N	78°06'19" W
27°46'56" N	79°12'18" W
27°51'00" N	79°21'20" W
29°40'20" N	78°15'25" W
31°42'04" N	77°00'43" W
32°53'37" N	76°16'03" W
34°01'48" N	75°29'30" W
34°36'50" N	75°02'46" W
35°19'31" N	74°51'32" W
36°07'03" N	74°39'60" W
37°59'00" N	74°25'56" W
38°18'34" N	74°18'21" W
38°41'08" N	74°09'36" W
38°52'59" N	74°05'01" W
39°15'49" N	73°56'09" W
39°42'55" N	73°54'32" W
39°45'42" N	73°46'12" W
39°48'21" N	73°38'17" W
39°45'42" N	73°37'40" W
39°11'38" N	73°40'30" W

Datum: WGS 84

(8) Offshore Delaware Bay to New Jersey Connector Fairway. The area enclosed by rhumb lines, joining points at:

TABLE 1 TO § 166.500(b)(8)

Latitude	Longitude
38°19'43" N	74°30'38" W
38°44'27" N	74°33'19" W
38°49'48" N	74°33'54" W
39°01'14" N	74°35'09" W
39°06'13" N	74°30'01" W
39°01'41" N	74°30'03" W
38°49'47" N	74°28'44" W
38°44'26" N	74°28'09" W
38°21'04" N	74°25'35" W

Datum: WGS 84

(9) Delaware Bay Fairway Anchorage. The area enclosed by rhumb lines, joining points at:

TABLE 1 TO § 166.500(b)(9)

Latitude	Longitude
38°31'23" N	74°35'39" W
38°32'23" N	74°32'01" W
38°19'43" N	74°30'38" W
38°28'48" N	74°39'18" W

Datum: WGS 84

(10) Cape Charles to Delaware Bay Fairway. The area enclosed by rhumb lines, joining points at:

TABLE 1 TO § 166.500(b)(10)

Latitude	Longitude
38°31'31" N	74°55'28" W
37°53'08" N	74°56'45" W
36°59'41" N	75°36'05" W
37°01'39" N	75°47'38" W
38°01'17" N	75°04'15" W
38°42'50" N	74°58'56" W
38°37'15" N	74°54'09" W

Datum: WGS 84

(11) Chesapeake Bay to Delaware Bay: Eastern approach Cutoff Fairway. The area enclosed by rhumb lines, joining points at:

TABLE 1 TO § 166.500(b)(11)

Latitude	Longitude
37°16'48" N	75°23'35" W
38°04'32" N	74°34'56" W
37°58'60" N	74°25'56" W
37°08'44" N	75°17'17" W
37°08'43" N	75°29'30" W

Datum: WGS 84

(12) Chesapeake Bay approach Connector-North Fairway. The area enclosed by rhumb lines, joining points at:

TABLE 1 TO § 166.500(b)(12)

Latitude	Longitude
37°08'43" N	075°29'30" W
37°08'50" N	74°32'14" W
36°59'49" N	74°33'22" W
36°59'42" N	075°27'31" W
36°57'56" N	075°29'59" W
36°49'18" N	075°29'56" W
36°49'18" N	075°35'28" W
36°59'41" N	075°36'05" W

Datum: WGS 84

(13) Chesapeake Bay Approach Connector—South Fairway. The area enclosed by rhumb lines, joining points at:

TABLE 1 TO § 166.500(b)(13)

Latitude	Longitude
36°49'18" N	75°35'28" W
36°49'18" N	74°34'41" W
36°40'21" N	74°35'49" W
36°40'17" N	75°33'31" W
36°43'51" N	75°36'43" W

Datum: WGS 84

(14) Hatteras to Chesapeake Bay Offshore Fairway. The area enclosed by rhumb lines, joining points at:

TABLE 1 TO § 166.500(b)(14)

Latitude	Longitude
35°06'32" N	74°58'03" W
35°07'36" N	75°06'05" W
35°59'33" N	75°06'58" W
36°09'53" N	75°16'11" W
36°21'49" N	75°26'54" W
36°34'42" N	75°38'28" W
36°41'58" N	75°41'36" W
36°43'51" N	75°36'43" W
36°25'19" N	75°20'05" W
36°13'49" N	75°09'47" W
36°01'44" N	74°59'01" W

Datum: WGS 84

(15) Hatteras to Chesapeake Bay Nearshore Fairway. The area enclosed by rhumb lines, joining points at:

TABLE 1 TO § 166.500(b)(15)

Latitude	Longitude
35°09'05" N	75°17'23" W
35°35'43" N	75°19'23" W
36°35'18" N	75°43'45" W
36°44'43" N	75°47'08" W
36°41'58" N	75°41'36" W
36°34'42" N	75°38'28" W
36°26'19" N	75°30'57" W
35°37'03" N	75°10'53" W
35°07'57" N	75°08'45" W

Datum: WGS 84

(16) St. Lucie to Hatteras Fairway. The area enclosed by rhumb lines, joining points at:

TABLE 1 TO § 166.500(b)(16)

Latitude	Longitude
35°06'32" N	74°58'03" W
34°08'12" N	76°13'25" W
33°17'01" N	77°24'37" W
31°45'60" N	79°54'60" W
31°24'48" N	80°15'25" W
31°15'38" N	80°21'14" W
30°55'07" N	80°29'47" W
28°40'16" N	80°06'15" W
27°13'02" N	79°48'27" W
27°11'28" N	79°58'17" W
27°45'00" N	80°05'18" W
27°23'53" N	80°02'26" W
27°11'28" N	79°58'17" W

TABLE 1 TO § 166.500(b)(16)—
Continued

Latitude	Longitude
27°10'12" N	80°03'04" W
27°22'58" N	80°07'20" W
27°44'21" N	80°10'14" W
28°38'07" N	80°21'01" W
30°56'24" N	80°45'09" W
31°22'43" N	80°34'10" W
31°31'32" N	80°29'18" W
31°56'27" N	80°05'11" W
33°27'43" N	77°34'12" W
34°18'07" N	76°23'59" W
35°09'05" N	75°17'23" W

Datum: WGS 84

(17) Beaufort Inlet Connector Fairway. The area enclosed by rhumb lines, joining points at:

TABLE 1 TO § 166.500(b)(17)

Latitude	Longitude
34°10'17" N	76°34'54" W
34°34'09" N	76°43'24" W
34°35'52" N	76°37'42" W
34°17'00" N	76°25'32" W

Datum: WGS 84

(18) Cape Fear River Southeastern approach Connector Fairway. The area enclosed by rhumb lines, joining points at:

TABLE 1 TO § 166.500(b)(18)

Latitude	Longitude
33°28'07" N	78°08'24" W
33°13'45" N	77°57'18" W
33°06'41" N	78°08'60" W
33°27'44" N	78°15'14" W

Datum: WGS 84

(19) Cape Fear River Southwestern approach Connector Fairway. The area enclosed by rhumb lines, joining points at:

TABLE 1 TO § 166.500(b)(19)

Latitude	Longitude
32°55'31" N	78°45'26" W
32°30'42" N	79°29'19" W
32°34'40" N	79°32'37" W
32°59'13" N	78°49'35" W
33°34'29" N	78°18'02" W
33°28'20" N	78°16'04" W

Datum: WGS 84

PART 167—OFFSHORE TRAFFIC SEPARATION SCHEMES

■ 3. The authority citation for part 167 is revised to read as follows:

Authority: 46 U.S.C. 70001, 70003; DHS Delegation No. 00170.0, Revision No. 01.3, paragraph (II)(70).

■ 4. Amend § 167.151 by adding paragraphs (c) and (d) to read as follows.

§ 167.151 Off New York: Precautionary areas.

* * * * *

(c) A precautionary area is established as follows: from 39°42.92' N, 73°54.53' W; then northerly to 39°53.17' N, 73°53.35' W; then northeasterly to 39°57.63' N, 73°40.41' W; then southeasterly to 39°48.35' N, 73°38.28' W; then southwesterly to 39°42.92' N, 73°54.53' W.

Datum: WGS 84

(d) A precautionary area is established as follows: from 40°01.53' N, 72°58.88' W; then southwesterly to 39°55.23' N, 73°17.71' W; then northwesterly to 40°02.41' N, 73°26.55' W; then northeasterly to 40°09.02' N, 73°10.82' W; then southeasterly to 40°01.53' N, 72°58.88' W.

Datum: WGS 84

■ 5. Revise § 167.171 to read as follows:

§ 167.171 Off Delaware Bay: Eastern approach.

(a) A separation zone is established bounded by a line connecting the following geographic positions:

TABLE 1 TO § 167.171(a)

Latitude	Longitude
38°47.35' N	74°34.5' W
38°47.35' N	74°33.64' W
38°46.3' N	74°33.53' W
38°46.3' N	74°34.45' W

Datum: WGS 84

(b) A traffic lane for westbound traffic is established between the separation zone and a line connecting the following geographic positions:

TABLE 1 TO § 167.171(b)

Latitude	Longitude
38°49.80' N	74°34.60' W
38°49.80' N	74°33.91' W

Datum: WGS 84

(c) A traffic lane for eastbound traffic is established between the separation zone and a line connecting the following geographic positions:

TABLE 1 TO § 167.171(c)

Latitude	Longitude
38°44.45' N	74°33.32' W
38°44.45' N	74°34.35' W

Datum: WGS 84

(d) A separation zone is established bound by a line connecting the following geographic positions:

TABLE 1 TO § 167.171(d)

Latitude	Longitude
38°47.34' N	74°28.47' W
38°47.29' N	74°12.98' W
38°46.25' N	74°12.98' W
38°46.29' N	74°28.35' W

Datum: WGS 84

(e) A traffic lane for westbound traffic is established between the separation zone and a line connecting the following geographic positions:

TABLE 1 TO § 167.171(e)

Latitude	Longitude
38°49.79' N	74°28.74' W
38°49.77' N	74°12.26' W

Datum: WGS 84

(f) A traffic lane for eastbound traffic is established between the separation zone and a line connecting the following geographic positions:

TABLE 1 TO § 167.171(f)

Latitude	Longitude
38°44.44' N	74°28.15' W
38°44.43' N	74°12.55' W

Datum: WGS 84

■ 6. Revise § 167.172 to read as follows:

§ 167.172 Off Delaware Bay: Southeastern approach.

(a) A separation zone is established bounded by a line connecting the following geographic positions:

TABLE 1 TO § 167.172(a)

Latitude	Longitude
38°27.00' N	74°42.30' W
38°27.60' N	74°41.30' W
38°18.41' N	74°32.53' W
38°17.63' N	74°33.35' W

Datum: WGS 84

(b) A traffic lane for north-westbound traffic is established between separation zone and a line connecting the following geographic positions:

TABLE 1 TO § 167.172(b)

Latitude	Longitude
38°28.80' N	74°39.30' W
38°19.72' N	74°30.63' W

Datum: WGS 84

(c) A traffic lane for south-eastbound traffic is established between the separation zone and a line connecting the following geographic positions:

TABLE 1 TO § 167.172(c)

Latitude	Longitude
38°15.80' N	74°34.75' W
38°25.78' N	74°44.28' W

Datum: WGS 84

■ 7. Revise § 167.174 and its section heading to read as follows:

§ 167.174 Off Delaware Bay: Precautionary areas.

(a) A precautionary area is established as follows: from 38°42.80' N, 74°58.90' W; then southeasterly to 38°37.25' N, 74°54.15' W; then northeasterly to 38°48.89' N, 74°47.29' W; then westerly to 38°48.31' N, 74°55.39' W; then westerly to 38°47.50' N, 75°01.80' W; then northerly to 38°50.75' N, 75°03.40' W; then northeasterly to 38°51.27' N, 75°02.83' W; then northerly to 38°54.80' N, 75°01.60' W; then westerly by an arc of 6.7 nautical miles centered at 38°48.90' N, 75°05.60' W to 38°55.53' N, 75°05.87' W; then southwesterly to 38°54.00' N, 75°08.00' W; then southerly to 38°46.60' N, 75°03.55' W; then southeasterly to 38°42.80' N, 74°58.90' W.

Datum: WGS 84.

(b) A precautionary area is established as follows: from 38°49.80' N, 74°33.91' W; then easterly to 38°49.79' N, 74°28.74' W; then southerly to 38°44.44' N, 74°28.15' W; then westerly to 38°44.45' N, 74°33.32' W; then northerly to 38°49.80' N, 74°33.91' W.

Datum: WGS 84.

(c) A precautionary area is established with a radius of 5 nautical miles centered upon geographical position 38°46.79' N, 74°06.60' W, the areas within the separation zones, traffic lanes, and fairways excluded.

Datum: WGS 84.

(d) A precautionary area is established with a radius of 10 nautical miles centered upon geographical position 38°10.02' N, 74°25.34' W, the areas within the separation zones, traffic lanes, and fairways excluded.

Datum: WGS 84.

§ 167.200 [Amended]

■ 8. Amend § 167.200 paragraph (a) by:

■ a. After the text “three parts:”, removing the word “a” and adding, in its place, the word “two”;

■ b. Removing the word “Area” and adding, in its place, the word “Areas”; and

■ c. After the text “167.202,”, adding the text “and”.

■ 9. Amend § 167.201 by:

■ a. Redesignating the introductory text as paragraph (a);

■ b. Adding a title to Table 1 to § 167.201(a); and

■ c. Adding paragraph (b).

The additions read as follows:

§ 167.201 In the approaches to Chesapeake Bay: Precautionary areas.

(a) * * *

TABLE 1 TO § 167.201(a)

*	*	*	*	*
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(b) A precautionary area is established as follows: from 36°58.25' N, 75°48.44' W; then easterly by an arc of 5 nautical miles centered at 36°59.06' N, 75°42.28' W to 36°59.27' N, 75°36.04' W; then southerly to 36°47.20' N, 75°35.35' W; then westerly by an arc of 5 nautical miles centered around 36°46.98' N, 075°41.58' W to 36°48.21' N, 075°47.61' W; then northerly to 36°48.87' N, 075°47.42' W; then northeasterly to 36°50.33' N, 075°46.29' W; then northerly to 36°57.04' N, 075°48.01' W; then northwesterly to 36°57.94' N, 075°48.41' W; then northerly to 36°58.25' N, 75°48.44' W.

Datum: WGS 849.

■ 10. Amend § 167.251 by:

■ a. Redesignating the introductory text as paragraph (a); and

■ b. Adding paragraph (b) to read as follows:

§ 167.251 In the approaches to the Cape Fear River: Precautionary area.

* * * * *

(b) A precautionary area is established as follows: from 33°36.22' N, 078°17.30' W; then easterly by an arc of 5.2 nautical miles centered at 33°32.99' N, 078°12.10' W; to 33°32.75' N, 078°05.99' W; then westerly to 33°32.75' N, 078°09.66' W; then northwesterly to 33°34.50' N, 078°14.70' W; then northwesterly to 33°36.22' N, 078°17.30' W.

Datum: WGS 84.

Dated: January 9, 2024.

Linda L. Fagan,

Admiral, U.S. Coast Guard, Commandant.

[FR Doc. 2024–00757 Filed 1–18–24; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2021–0691; FRL–11644–01–R4]

Air Plan Approval; KY; 2015 8-Hour Ozone Nonattainment New Source Review Permit Program Requirements and Rule Revision for Jefferson County

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a revision to the Jefferson County portion of the Kentucky State Implementation Plan (SIP) submitted by the Commonwealth of Kentucky through the Kentucky Energy and Environment Cabinet (Cabinet) on June 13, 2022. The changes were submitted by the Cabinet on behalf of the Louisville Metro Air Pollution Control District (District, also referred to herein as Jefferson County). EPA is proposing to approve changes to the District's rules on the construction or modification of major stationary sources that are located within nonattainment areas or that have emissions impacting nonattainment areas. EPA also is proposing to approve the certification submitted by Kentucky on behalf of the District that the new version of the Nonattainment New Source Review (NNSR) permitting regulations proposed for incorporation into the Jefferson County portion of the Kentucky SIP meets the NNSR nonattainment planning requirements for the 2015 8-hour ozone National Ambient Air Quality Standards (NAAQS). The certification covers the Jefferson County portion of the Louisville, Kentucky-Indiana multi-state nonattainment area for the 2015 8-hour ozone NAAQS. This action is proposed pursuant to the Clean Air Act (CAA or Act) and its implementing regulations.

DATES: Comments must be received on or before February 20, 2024.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R04–OAR–2021–0691 at www.regulations.gov. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video,

etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT: Pearlene Williams-Miles, Multi-Air Pollutant Coordination Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, GA 30303-8960. The telephone number is (404) 562-9144. Ms. Williams-Miles can also be reached via electronic mail at WilliamsMiles.Pearlene@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

The New Source Review (NSR) program is a preconstruction permitting program that requires certain stationary sources of air pollution to obtain permits prior to beginning construction.¹ The NSR permitting program applies to new construction and to the modification of existing sources. New construction and source modifications that cause emissions of “regulated NSR pollutants” over certain thresholds are subject to major NSR requirements, while smaller emitting sources and modifications may be subject to minor NSR requirements.²

The NSR permitting program applies to sources located in an area where the NAAQS have been exceeded (nonattainment area), areas where the NAAQS have not been exceeded (attainment), and areas that are unclassifiable. However, the demonstration that must be made to obtain a permit and the conditions of such permits are different for

nonattainment and attainment/unclassifiable areas. Thus, the pollutant(s) at issue and the air quality designation of the area where the facility is located or proposed to be built determine the specific permitting requirements.

A new stationary source is subject to major NSR requirements if its potential to emit a regulated NSR pollutant exceeds certain emission thresholds. If it exceeds an applicable threshold, the NSR regulations define it as a “major stationary source.”³ An existing major stationary source triggers major NSR permitting requirements when it undergoes a “major modification,” which occurs when a source undertakes a physical change or change in method of operation (*i.e.*, a “project”) that would result in: (1) A significant emissions increase from the project, and (2) a significant net emissions increase from the source. *See, e.g.*, 40 CFR 51.165(a)(1)(v)(A), 40 CFR 51.165(a)(1)(xxxix), and 40 CFR 51.165(a)(2)(ii)(A).

Jefferson County is located within a nonattainment area for the 2015 8-hour ozone NAAQS. *See* 40 CFR 81.318; *see also* EPA’s Greenbook.⁴ Therefore, Jefferson County is required to have NNSR rules approved into the Jefferson County portion of the Kentucky SIP for this criteria pollutant addressing the requirements of CAA section 172(c)(5), CAA section 173, 40 CFR 51.165, and 40 CFR 51.1314.

II. Analysis of the Commonwealth’s Submittal

The Commonwealth has proposed changes to Regulation 2.04—*Construction or Modification of Major Sources In or Impacting Upon Non-Attainment Areas (Emission Offset Requirements)* in the Jefferson County portion of Kentucky’s SIP. EPA’s analysis of the Commonwealth’s proposed revisions to Regulation 2.04 is provided below.

a. CAA Requirements Regarding the Changes to Regulation 2.04

Based on Jefferson County’s nonattainment designation for the 2015

8-hour ozone NAAQS, Kentucky was required to develop a SIP revision addressing the requirements of CAA sections 172(c)(5) and 173 for this nonattainment area. Section 172(c)(5) requires each state with a nonattainment area to submit a SIP revision requiring NNSR permits in the nonattainment area in accordance with the permitting requirements of CAA section 173.⁵ The minimum SIP requirements for NNSR permitting for the ozone NAAQS are in 40 CFR 51.165. *See* 40 CFR 51.1314. The proposed revisions to Regulation 2.04 must comply with these minimum requirements.

On June 13, 2022, Kentucky submitted a SIP revision⁶ to EPA that includes changes to the District’s Regulation 2.04, which establishes requirements for Jefferson County’s NNSR program, along with a certification that this updated version of Regulation 2.04 satisfies the requirements of the CAA for the 2015 8-hour ozone NAAQS applicable to the Jefferson County portion of the Louisville, KY-IN 2015 ozone moderate nonattainment area.⁷

b. Changes to Regulation 2.04

The Jefferson County June 13, 2022, SIP revision includes changes to Jefferson County’s NNSR permitting regulations to align those regulations with the federal requirements for NNSR permitting in 40 CFR 51.165. Specifically, these changes update Jefferson County’s Regulation 2.04—*Construction or Modification of Major Sources In or Impacting Upon Non-Attainment Areas (Emission Offset Requirements)*, which applies to new major stationary sources and major modifications locating in an area designated as nonattainment.^{8,9} EPA last

⁵ CAA section 173 requires, among other things, emissions offsets. The emissions offset ratio for moderate ozone nonattainment areas is found in CAA section 182(b)(5).

⁶ The June 13, 2022, submission was received via a letter dated June 15, 2022.

⁷ On July 13, 2021, Kentucky, on behalf of Jefferson County, submitted a certification that the current SIP-approved version of Regulation 2.04 fulfills requirements of the NNSR program. Jefferson County withdrew that submission on June 13, 2022, and replaced it with a SIP revision containing changes to District Regulation 2.04 and an updated certification that the modified version of Regulation 2.04 complies with NNSR requirements for the 8-hour ozone NAAQS as addressed in this proposed rulemaking.

⁸ Under the June 13, 2022, cover letter, Jefferson County also submitted updates to the following District Regulations: Regulation 1.06—Stationary Source Self-Monitoring, Emissions Inventory Development, and Reporting and Regulation 2.17—Federally Enforceable District Origin Operating Permits. These rules will be acted on separately by EPA.

⁹ The existing sections in the redline strike-through text of the submittal appear are

¹ In this proposed action, the EPA refers to “source” as shorthand for “source owner/operator.”

² “Regulated NSR pollutant” is defined at 40 CFR 52.21(b)(50). A “regulated NSR pollutant” includes any pollutant for which a NAAQS has been promulgated and other pollutants regulated under the CAA. These other pollutants include, among others, fluorides, sulfuric acid mist, hydrogen sulfide, total reduced sulfur, and reduced sulfur compounds. *See, e.g.*, 40 CFR 52.21(b)(23). For NNSR, regulated NSR pollutants include only the NAAQS, also known as criteria pollutants, and the precursors to those pollutants for which the area is designated nonattainment. *See* 40 CFR 51.165(a)(1)(xxxvii).

³ For major sources subject to Prevention of Significant Deterioration (PSD) requirements, the CAA uses the term “major emitting facility,” which is defined as a stationary source that emits, or has a potential to emit (PTE) of, at least 100 tons per year (tpy) if the source is in one of 28 listed source categories—or at least 250 tpy if the source is not—of “any air pollutant.” CAA section 169(1). For NNSR, the emissions threshold for a major stationary source is 100 tpy, although lower thresholds may apply depending on the degree of the nonattainment problem and the pollutant.

⁴ The Kentucky portion of the Greenbook is available at https://www3.epa.gov/airquality/greenbook/anayo_ky.html.

approved amendments to Regulation 2.04 in the SIP on October 23, 2001, with a local effective date of March 17, 1993. See 66 FR 53660. Approximately twenty-nine years have passed between this local effective date and the local effective date of Jefferson County's updated Regulation 2.04 that EPA is now proposing to approve into the SIP. The June 13, 2022, SIP revision aims to align the Jefferson County regulations with the most recent version of 40 CFR 51.165, which sets forth minimum NNSR permitting program requirements.

Since the last time EPA approved amendments to Regulation 2.04, EPA has updated the federal NNSR regulations in 40 CFR 51.165 to clarify provisions, provide greater regulatory certainty, and provide administrative flexibility while correcting certain errors in the NNSR regulations that had accumulated over time. Jefferson County's requested SIP revision replaces the District's NNSR regulations largely in their entirety with a new version that reflects changes to the federal NNSR regulations at 40 CFR 51.165, including provisions promulgated in the following federal rules:

- "Requirements for Preparation, Adoption and Submittal of Implementation Plans; Approval and Promulgation of Implementation Plans; Standards of Performance for New Stationary Sources," Final Rule, 57 FR 32314 (July 21, 1992) (generally referred to as the Wisconsin Electric Power Company (WEPCO) Rule);
- "Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NSR): Baseline Emissions Determination, Actual-to-Future-Actual Methodology, Plantwide Applicability Limitations, Clean Units, Pollution Control Projects," Final Rule, 67 FR 80186 (December 31, 2002) (generally referred to as the NSR Reform Rule);
- "Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NSR): Reconsideration," Final Rule, 68 FR 63021 (November 7, 2003) (generally referred to as the Reconsideration Rule);
- "Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NSR): Removal of Vacated Elements," Final

Rule, 72 FR 32526 (June 13, 2007) (generally referred to as the Vacated Elements Rule);

- "Prevention of Significant Deterioration, Nonattainment New Source Review, and Title V: Treatment of Certain Ethanol Production Facilities Under the 'Major Emitting Facility' Definition", 72 FR 24060 (July 2, 2007) (generally referred to as the Ethanol Rule);¹⁰

- "Prevention of Significant Deterioration and Nonattainment New Source Review: Reasonable Possibility in Recordkeeping," Final Rule, 72 FR 72607 (December 21, 2007), (generally referred to as the Reasonable Possibility Rule);

- "Final Rule To Implement the 8-Hour Ozone National Ambient Air Quality Standard—Phase 2; Final Rule To Implement Certain Aspects of the 1990 Amendments Relating to New Source Review and Prevention of Significant Deterioration as They Apply in Carbon Monoxide, Particulate Matter and Ozone NAAQS; Final Rule for Reformulated Gasoline," Final Rule, 70 FR 171612 (November 29, 2005) (generally referred to as the Phase 2 Rule);

- "Implementation of the New Source Review (NSR) Program for Particulate Matter Less Than 2.5 Micrometers (PM_{2.5})," Final Rule, 73 FR 28321 (May 16, 2008) (generally referred to as the NSR PM_{2.5} Rule);

- "Prevention of Significant Deterioration (PSD) for Particulate Matter Less Than 2.5 Micrometers (PM_{2.5})—Increments, Significant Impact Levels (SILs) and Significant Monitoring Concentration (SMC)," Final Rule, 75 FR 64864 (October 20, 2010) (generally referred to as the PM_{2.5} PSD Increments-SILs-SMC Rule);

- "Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NSR): Reconsideration of Inclusion of Fugitive Emissions; Interim Rule; Stay and Revisions", Interim Rule, 76 FR 17548 (March 30, 2011) (generally referred to as the Fugitive Emissions Interim Rule);

- "Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NNSR): Project Emissions Accounting", 85 FR 74890 (November 24, 2020) (generally referred to as the Project Emissions Accounting Rule); and

- "New Source Review Regulations; Correction", 86 FR 37918 (July 19, 2021)

misnumbered. *Section 1* is repeated twice—once at *Section 1 Applicability* and again at *Section 1 Definitions*. For example, *Section 9 Permit Condition Rescission* is marked as *Section 8* in the redline strike-through text of the submission. The erroneous numbering extends throughout the entirety of Regulation 2.04. The text in each section is accurate despite the misnumbering, and this misnumbering is not contained in the non-redline version of the regulatory text contained within the submittal.

¹⁰ The June 13, 2022, submittal contains changes to address to the Federal NNSR provisions promulgated in the Ethanol Rule. EPA is not proposing to act on these changes in this proposed rulemaking.

(generally referred to as the NSR Corrections Rule).

Additional information regarding each of the above-described rules is available within the **Federal Register** citations provided and at <https://www.epa.gov/nsr/nsr-regulatory-actions>. More detailed discussion of the textual changes proposed by Jefferson County is provided below.

Section 1—As revised, the existing *Section 1, Applicability*, is now titled *Definitions*. The text of the existing section, which identifies sources that are regulated by Regulation 2.04, is removed in its entirety, and replaced with the *Definitions* section, which has been relocated from *Section 2*.

The proposed definitions in *Section 1* would modify, add, or remove existing definitions currently found in *Section 2* and reorder several definitions. The definitions that are removed include: "Reasonable further progress," "Adverse impact on visibility," "State Implementation Plan," "Mandatory Class I federal area," "Natural conditions," and "Visibility impairment." Jefferson County's June 13, 2022, SIP revision also includes the removal of the definition, "Class I area." However, the District has since withdrawn its request for this change.¹¹

New definitions are added in *Section 1*, which include: "Volatile organic compounds (VOC)," "Electric utility steam generating unit," "Replacement unit," "Temporary clean coal technology demonstration project," "Clean coal technology," "Clean coal technology demonstration project," "Pollution prevention," "Significant emissions increase," "Projected actual emissions," "Nonattainment major new source review (NSR) program," "Continuous emissions monitoring system (CEMS)," "Predictive emissions monitoring system (PEMS)," "Continuous parameter monitoring system (CPMS)," "Continuous emissions rate monitoring system (CERMS)," "Baseline actual emissions," "Regulated NSR pollutant," "Reviewing authority," "Project," "Best available control technology (BACT)," "Prevention of Significant Deterioration (PSD) permit," "Federal Land Manager," "Act," "Administrator," and

¹¹ In a letter dated August 24, 2023, the District withdrew its request to remove *Section 2.2.20* of Regulation 2.04 from the SIP, which defines "Class I area," from EPA's consideration. In a subsequent email dated November 14, 2023, the District clarified that the withdrawal of the June 13, 2022, request to remove from the SIP Regulation 2.04 version 7 *Section 2.2.20*, includes all subparagraphs within the definition (*i.e.*, 2.2.20.1 through 2.2.20.7). See the August 24, 2023, letter, and the November 14, 2023, clarifying correspondence in the docket for this proposed rulemaking.

“NAICS.” Among the additions, three entries labeled “[Reserved]” are added at 1.25, 1.29, and 1.36. Lastly, the following definitions have been modified: “Stationary source,” “Building, structure, facility, or installation,” “Secondary emissions,” “Actual emissions,” “Emissions unit,” “Major stationary source,” “Major modification,” “Net emission increase,” “Potential to emit,” “Construction,” “Commence,” “Necessary preconstruction approval or permits,” “Allowable emissions,” “Federally enforceable,” “Fugitive Emissions,” “Significant,” and “Lowest achievable emission rate.”

Certain definitions were also revised to remove outdated terminology and align the rules with the Federal regulations at 40 CFR 51.165. EPA is proposing to approve these definitional revisions, except that EPA is not proposing at this time to approve into the SIP the following phrase in the definition at 1.4.3.20 originating from the Ethanol Rule: “—The term chemical processing plant shall not include ethanol production facilities that produce ethanol by natural fermentation included in NAICS codes 325193 or 312140”. The remaining definitions (*i.e.*, those neither modified nor removed in *Section 2*) were moved into *Section 1* unchanged.

Section 2—As revised, the existing *Section 2, Definitions*, is now titled *Applicability Procedures*. As mentioned above, the terms and definitions in the existing *Section 2* are relocated to *Section 1* as part of the proposed changes. The revised *Section 2* includes revised applicability provisions of Rule 2.04, including three subsections that: (1) Define which sources are subject to regulation under Rule 2.04, (2) outline the procedures for determining whether a project is a major modification for a regulated NSR pollutant, and (3) require that any major stationary source with a plantwide applicability limit (PAL) for a regulated NSR pollutant comply with requirements under section 16 of Rule 2.04.

Section 3—As revised, the existing *Section 3, Initial Screening Analyses and Determination of Applicable Requirements*, is now titled *Conditions for Approval*. The existing text of *Section 3* requires the District to evaluate a source’s compliance with applicable emission requirements to determine their eligibility for a construction permit. The regulation also requires that the District evaluate a source’s impact on air quality to determine whether offset credits are required. Lastly, the regulation exempts certain sources from applicable

conditions for approval established in the existing *Section 5* text, and visibility impact analysis addressed in *Section 10*, if the source’s fugitive emissions are considered in calculating the source’s potential to emit and the source does not belong to specified source categories. The revised *Section 3* provides the conditions that new major stationary sources or major modifications must meet prior to approval of construction in an area designated as nonattainment.

Section 4—As revised, the existing *Section 4, Sources Locating in Designated Attainment or Unclassifiable Areas*, is now titled *Baseline*. The existing *Section 4* provisions regulate new major stationary sources and major modifications of existing sources in areas designated as attainment or unclassifiable if the source or modification would cause impacts which exceed the significance levels specified in Appendix B at any locality that does not, or would not, meet the NAAQS. The proposed changes to this rule remove these provisions in their entirety from *Section 4* and move them, with revisions compliant with 40 CFR 51.165, to *Section 15*. The revised *Section 4* establishes baseline emissions limits for which emission reduction credits are determined. The text added in this section regulates allowable credits and includes provisions pertaining to credits for shutting down an existing emissions unit, the replacement of one hydrocarbon compound with another of lesser reactivity, the requirement that offset credits be federally enforceable, offset requirements for owners of new sources and modifying sources, and limitations on credit claimed.

Section 5—As revised, the existing *Section 5, Conditions for Approval*, is now titled *Fugitive Emissions*. The existing *Section 5* regulates the conditions for approval to construct in a nonattainment area. As revised, the text under this section is removed in its entirety and, as mentioned above, conditions for approval are discussed in the proposed language of revised *Section 3*. The proposed language in the revised *Section 5* establishes how fugitive emissions should be treated when evaluating NNSR applicability. EPA is not proposing to incorporate the language originating from the Ethanol Rule within *Section 5.20*, which states that “The term chemical processing plant shall not include ethanol production facilities that produce ethanol by natural fermentation included in NAICS codes 325193 or 312140,” into the Jefferson County portion of Kentucky’s SIP in this notice.

Section 6—As revised, the existing *Section 6, Baseline for Determining Credit for Emission Offsets*, is now titled *Effect of Other Requirements*. The existing *Section 6* establishes the requirements for determining baseline emissions. This section is moved in its entirety to *Section 4*. The proposed language of the revised *Section 6* requires an owner or operator to comply with any requirements under local, state, or Federal law even after approval to construct has been given. Additionally, the revised *Section 6* establishes that when a relaxation of an enforcement limitation occurs and a source or modification is deemed a major source due to its capacity to emit a pollutant, the requirement of this provision will then apply to the source or modification in a manner as if construction had not commenced.

Section 7—As revised, the existing *Section 7, Administrative Procedures*, is now titled *Applicability Recordkeeping and Reporting*. The existing text of *Section 7* regulates the administrative procedures for managing source-initiated and District-initiated emission offsets, which are enforceable by the District and EPA. The proposed changes in *Section 7* remove the text for administrative procedures in its entirety and replace it with provisions on applicability recordkeeping and reporting. As revised, *Section 7* provides specific recordkeeping and reporting provisions for any regulated NSR pollutant emitted from projects at existing emissions units at a major stationary source (other than projects at a source with a PAL) where there is a “reasonable possibility” that a project that is not a part of a major modification may result in a significant emissions increase of such pollutant and the owner or operator elects to use the actual-to-projected-actual applicability process for calculating projected actual emissions.

Section 8—As revised, the existing *Section 8, Source Obligation*, is now titled *Availability of Documentation*. The existing language of *Section 8* describes a source’s compliance obligations and the enforcement that may be taken against the source when the source fails to comply with these obligations. The failure to comply may occur when a source relaxes an enforceable emissions limitation such that the particular source or modification becomes a major stationary source or major modification solely by virtue of a relaxation in any enforcement limitation or when the source initiates construction of a source prior to obtaining a required permit. The proposed changes in *Section 8* include

the removal of the existing text in its entirety and the addition of requirements for owners or operators to present documentation required by *Section 7* upon request by the District or the general public.

Section 9—As revised, the existing *Section 9, Permit Condition Rescission*, is now titled *Applicability of VOC Requirements to Major Sources of NO_x*. The existing text under *Section 9* regulates the rescission of permits that were issued prior to April 21, 1982. The proposed changes include removal of this text in its entirety. As revised, *Section 9* provides that “[t]he requirements of this regulation applicable to major stationary sources and major modifications of volatile organic compounds shall apply to nitrogen oxides emissions from major stationary sources and major modifications of nitrogen oxides in an ozone transport region or in any ozone nonattainment area” except where the EPA Administrator has granted a NO_x waiver.

Section 10—The proposed changes include the addition of a new *Section 10, Offset Ratio*, which establishes the offset ratio provisions to accompany the conditions for approval provided in *Section 3*.¹²

Section 11—The proposed changes include the addition of a new *Section 11, Applicability to PM₁₀ Precursors*. This section provides that the requirements of Regulation 2.04 applicable to major stationary sources and major modifications of particulate matter with a diameter of 10 microns or less (PM₁₀) shall also apply to major stationary sources and major modifications of PM₁₀ precursors, except where the Administrator determines that such sources do not contribute significantly to PM₁₀ levels that exceed the PM₁₀ ambient standards in the area.

Section 12 and Section 13—Sections 12 and 13 are added as “Reserved” sections for future use.

Section 14—The proposed changes include the addition of a new *Section 14, Applicability to PM_{2.5} Precursors*. This section provides that the control

requirements of Regulation 2.04 applicable to major stationary sources and major modifications of PM_{2.5} shall also apply to major stationary sources and major modifications of PM_{2.5} precursors in a PM_{2.5} nonattainment area, except that a reviewing authority may exempt new major stationary sources and major modifications of a particular precursor from the requirements of the rule for PM_{2.5} if the NNSR precursor demonstration submitted to and approved by EPA shows that such sources do not contribute significantly to PM_{2.5} levels that exceed the standard in the area.

Section 15—The proposed changes include the addition of a new *Section 15, Applicability of Regulation in Attainment Areas*. This section applies to any new major stationary source or major modification, as defined in paragraphs 1.4 and 1.5 of Regulation 2.04, that would locate in any area designated as attainment or unclassifiable for any NAAQS when it would cause or contribute to a violation of any NAAQS. This section also includes the significance levels above which a source would be considered to cause or contribute to a violation of the NAAQS. It also provides that applicable sources may obtain sufficient emissions reductions to compensate for their impact on air quality. Lastly, the revised regulations clarify that *Section 15* sources need not be subject to the provisions of *Section 15* for a regulated NSR pollutant if they can demonstrate that the area in which the source would be located is not in attainment for that particular regulated pollutant.

Section 16—The proposed changes include the addition of a new *Section 16, Actuals PALs*. This section establishes the provisions in which a reviewing authority may approve the use of an actuals PAL for any existing major stationary source and establishes relevant definitions pertaining to PALs. This section contains PAL regulations, including the requirements related to permit applications, public notice and comment, the establishment of PAL levels, and the components a PAL permit.

Section 17 and Section 18—Sections 17 and 18 are added as “Reserved” sections for future use.

Section 19—The proposed changes include the addition of a new *Section 19, Public participation requirements*. This section establishes the reviewing authority’s responsibility to notify the public of a draft permit and establishes how the notification must take place.

Appendix A and Appendix B—As revised, existing *Appendix A, Significant Pollutant and Emission Rate*,

and existing *Appendix B, Significant Levels of Air Quality Impact*, are removed in their entirety. The information that is provided in existing *Appendix A* and *Appendix B* is condensed into chart form in the revised *Section 15*. PM_{2.5} and PM₁₀ are defined in Regulation 1.02.

c. Nonattainment New Source Review Certification

Jefferson County has a longstanding and fully implemented NNSR program that establishes air quality permitting requirements for the construction or modification of major stationary sources located within areas designated as nonattainment. The program, found at Jefferson County Regulation 2.04, *Construction or Modification of Major Sources in or Impacting upon Nonattainment Areas (Emission Offset Requirements)*, contains NNSR permitting requirements for the Jefferson County portion of the Kentucky SIP.¹³ In its June 13, 2022, SIP revision, Kentucky, on behalf of the District, certified that the version of Regulation 2.04 proposed for incorporation into the Jefferson County portion of the Kentucky SIP satisfies the Federal NNSR requirements for the Jefferson County portion of the Louisville, KY-IN 2015 ozone moderate nonattainment area. The version of Regulation 2.04 that is contained in the current Jefferson County portion of the Kentucky SIP was approved into the SIP by EPA on October 23, 2001, *see* 66 FR 53658, and was state effective as of March 17, 1993.

As revised, Regulation 2.04 provides requirements for the 2015 ozone moderate nonattainment area for Jefferson County and remains adequate to meet all applicable NNSR requirements for the 2015 8-hour ozone NAAQS. EPA is therefore proposing to approve the District’s certification, submitted on its behalf by Kentucky, that Jefferson County Regulation 2.04, as proposed for incorporation into the SIP, meets the NNSR requirements for implementation of the 2015 8-hour ozone NAAQS.

¹³ In 2003, the City of Louisville and Jefferson County governments merged, and the “Jefferson County Air Pollution Control District” was renamed the “Louisville Metro Air Pollution Control District.” *See* The History of Air Pollution Control in Louisville, available at <https://louisvilleky.gov/government/air-pollution-control-district/history-air-pollution-control-louisville>. However, each of the regulations in the Jefferson County portion of the Kentucky SIP still has the subheading “Air Pollution Control District of Jefferson County.” Thus, to be consistent with the terminology used in the SIP, EPA refers throughout this notice to regulations contained in the Jefferson County portion of the Kentucky SIP as the “Jefferson County Regulations.”

¹² In a letter dated August 24, 2023, the District withdrew its request to remove *Section 10—Protection of Visibility*, from EPA’s consideration. Keeping *Section 10—Protection of Visibility* in the SIP allows the Commonwealth to maintain visibility provisions for the Jefferson County area in accordance with 40 CFR 51.307(b)(2). The request to add *Section 10—Offset Ratio* remains before EPA for consideration. The withdrawal would leave two sections numbered “10” in Rule 2.04: one locally effective on March 13, 1993, and the other locally effective on March 16, 2022. The District intends to address the duplicate numbering in a future submission.

d. Clean Air Act Sections 110(l) and 193

Section 110(l) of the CAA requires that a revision to the SIP not interfere with any applicable requirement concerning attainment and reasonable further progress (as defined in section 171), or any other applicable requirement of the Act. As noted above, since the last time EPA approved amendments to Regulation 2.04, with a local effective date of March 17, 1993, EPA has updated the Federal NSR regulations in 40 CFR 51.165 several times. These revisions include NSR Reform and the related Reasonable Possibility Provisions implemented through the December 31, 2002, final rule (67 FR 80186), with revisions per the November 7, 2003, final rule (68 FR 63021), the June 13, 2007, final rule (72 FR 32526), and the December 21, 2007, final rule (72 FR 72607) along with the adoption of the Project Emissions Accounting Rule. 85 FR 74890 (November 24, 2020). The District's updates to Regulation 2.04 are intended to align its NSR rules with EPA's current NSR rules in 40 CFR 51.165. As discussed below, EPA's proposed approval of the District's Regulation 2.04 into the Jefferson County portion of the Kentucky SIP is consistent with CAA section 110(l) and CAA section 193.

EPA's national analysis in support of the 2002 NSR Reform Rules indicates that the non-vacated provisions of the NSR Reform Rules will have a neutral or beneficial impact. The three significant changes in the 2002 NSR Reform Rules are: (1) PALs, (2) the 2-in-10 baseline, and (3) the actual-to-projected-actual applicability test. EPA's Supplemental Environmental Analysis of the Impact of the 2002 Final NSR Improvement Rules (November 21, 2002) (Supplemental Analysis)¹⁴ discussed each of these three changes individually.

With regard to PALs, the Supplemental Analysis explains, "EPA expects that the adoption of PAL provisions will result in a net environmental benefit. Our experience to date is that the emissions caps found in PAL-type permits result in real emissions reductions, as well as other benefits." Supplemental Analysis, pg. 6. EPA further explained that, while it is difficult to quantify the emissions reductions associated with PALs, the PAL program will likely result in tens of thousands of tons of reductions of VOC from source categories where frequent operational changes are made,

where these changes are time sensitive, and where there are opportunities for economical air pollution control measures. These reductions occur because by creating a tons per year plantwide emissions limit for a regulated NSR pollutant, sources have an incentive to control existing and new units in order to provide room under the cap such that the source can undertake subsequent operational changes over the life of the PAL. Supplemental Analysis, pg. 7. The Supplemental Analysis, and particularly Appendix B, provides additional details regarding EPA's analysis of PALs and anticipated associated emissions decreases.

With regard to the 2-in-10 baseline (see 40 CFR 51.165(a)(1)(xxv)(B)), EPA concluded that "the environmental impact from the change in baseline EPA is now finalizing will not result in any significant change in benefits derived from the NSR program." Supplemental Analysis at 13. This is mainly because "the number of sources receiving different baselines likely represents a very small fraction of the overall NSR permit universe, excludes new sources and coal fired power plants, and because the baseline may shift in either direction, we conclude that any overall consequences would be negligible." Supplemental Analysis, pg. 14. Additional information regarding the 2-in-10 baseline changes is available in the Supplemental Analysis, Appendix F.

With regard to the actual-to-projected-actual test, EPA concluded, "We believe that the environmental impacts of the switch to the actual-to-projected actual test are likely to be environmentally beneficial. However, as with the change to the baseline, we believe the vast majority of sources, including new sources, new units, electric utility steam generating units, and units that actually increase emissions as a result of a change, will be unaffected by this change. Thus, the overall impacts of the NSR changes are likely to be environmentally beneficial, but only to a small extent." Supplemental Analysis, pg. 14 (see also Supplemental Analysis Appendix G). EPA has no reason to believe that the environmental impacts will be substantially different from those discussed in the Supplemental Analysis for the 2002 NSR Reform Rules. Therefore, adopting the NSR Reform provisions into the Jefferson County portion of the Kentucky SIP is consistent with CAA section 110(l).

Regarding the adoption of the Project Emissions Accounting (PEA) Rule, as EPA noted in the response to comments document for the PEA Rule, "implementation of [the PEA Rule] will

not cause states to violate the anti-backsliding requirements of the Clean Air Act. Allowing for PEA is consistent with the intent of the 2002 NSR Reform Rule and is more consistent with the Act than implementing Step 1 without PEA. That is because PEA would not subject a project which does not significantly increase emissions in and of itself, or actually result in a decrease [in] emissions, from being subject to NSR." See Response to Comments Document on Proposed Rule: 'Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NSR): Project Emissions Accounting'—84 FR 39244, August 9, 2019 (October 2020), at pg. 114. Therefore, adopting the PEA provisions into the Jefferson County portion of the Kentucky SIP is consistent with CAA section 110(l).

Section 193 of the CAA prohibits modification of any control requirement in effect before November 15, 1990, in a current nonattainment area, unless the modification "insures equivalent or greater emissions reductions." Section 193 does not apply here because the state-effective date of Louisville's Regulation 2.04 is March 17, 1993. Additionally, EPA anticipates a neutral to positive air quality benefit from adoption of these rules, and therefore these rules will ensure "equivalent or greater emission reductions" of air pollution in accordance with CAA section 193.

III. Incorporation by Reference

In this document, EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, and as discussed in Sections I and II of this preamble, EPA is proposing to incorporate by reference Jefferson County Regulation 2.04, Version 8, "Construction or Modification of Major Sources in or Impacting upon Non-Attainment Areas (Emission Offset Requirements)," locally effective on March 16, 2022, except for the ethanol production facilities exclusion in Sections 1.4.3.20 and 5.20, which EPA is not proposing to act on at this time. Additionally, EPA proposes to maintain Sections 2.2.20 and 10 from Version 7 of Regulation 2.04, locally effective on March 17, 1993.¹⁵ EPA has made and will continue to make, these materials generally available through www.regulations.gov and at the EPA Region 4 Office (please contact the person identified in the **FOR FURTHER**

¹⁴ The Supplemental Analysis is available at <https://www.epa.gov/sites/default/files/2015-08/documents/nsr-analysis.pdf>.

¹⁵ See footnotes 11 and 12.

INFORMATION CONTACT section of this preamble for more information).

IV. Proposed Action

EPA is proposing to approve changes to the Jefferson County portion of the Kentucky SIP, submitted on June 13, 2022, with the exception of the ethanol production facilities exclusion in Regulations 1.4.3.20 and 5.20, which EPA is not proposing to act on at this time. These revisions will align Jefferson County Regulation 2.04, with Federal NNSR regulations at 40 CFR 51.165. Additionally, EPA is proposing to approve Jefferson County's certification of NNSR requirements for the 2015 8-hour ozone NAAQS for the Jefferson County portion of the Louisville, KY-IN 2015 ozone moderate nonattainment area which meets the requirements of CAA sections 172(c)(5) and 173 and 40 CFR 51.165 and 51.1314. EPA has determined that the requested changes in Kentucky's June 13, 2022, SIP revision will not interfere with any applicable requirement concerning attainment and reasonable further progress, or any other applicable requirement of the CAA.

V. Statutory and Executive Order Reviews

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

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 14094 (88 FR 21879, April 11, 2023);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);

- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it approves a state program;
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001); and
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA.

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

Executive Order 12898 (Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations, 59 FR 7629, February 16, 1994) directs Federal agencies to identify and address "disproportionately high and adverse human health or environmental effects" of their actions on minority populations and low-income populations to the greatest extent practicable and permitted by law. EPA defines environmental justice (EJ) as "the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies." EPA further defines the term fair treatment to mean that "no group of people should bear a disproportionate burden of environmental harms and risks, including those resulting from the negative environmental consequences of industrial, governmental, and commercial operations or programs and policies."

Jefferson County evaluated EJ considerations as part of its SIP submittal even though the CAA and applicable implementing regulations neither prohibit nor require an evaluation. The analysis was done for the purpose of providing additional context and information about this proposed rulemaking to the public, not as a basis of the proposed action. EPA is proposing action under the CAA on bases independent of Jefferson County's evaluation of EJ. In addition, there is no information in the record upon which

this decision is based that is inconsistent with the stated goal of E.O. 12898 of achieving EJ for people of color, low-income populations, and Indigenous peoples.

List of Subjects in 40 CFR Part 52

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

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

Dated: January 16, 2024.

Jeananne Gettle,

Acting Regional Administrator, Region 4.

[FR Doc. 2024-01029 Filed 1-18-24; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R05-OAR-2023-0482; FRL-11618-01-R5]

Air Plan Approval; Indiana; Lake and Porter 2008 Ozone NAAQS Maintenance Plan Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve Indiana's September 21, 2023, state implementation plan (SIP) submission which revises the 2008 ozone maintenance plan for the Indiana Portion (Lake and Porter Counties) of the Chicago Naperville, IL-IN-WI area. This SIP submission updates onroad vehicle emissions inventories for oxides of nitrogen (NO_x) and volatile organic compounds (VOC) for the years 2019, 2030 and 2035. In addition to updated emissions inventories, this SIP revision updates the Motor Vehicle Emissions Budgets (budgets) for NO_x and VOC for the years 2030 and 2035. EPA is proposing to approve the allocation of a portion of the safety margins for NO_x and VOC in the ozone maintenance plan to the 2030 and 2035 budgets. Total year 2030 and 2035 emissions of NO_x and VOC for the area will remain below the attainment level required by the transportation conformity regulations.

DATES: Comments must be received on or before February 20, 2024.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R05-OAR-2023-0482 at <https://>

www.regulations.gov or via email to leslie.michael@epa.gov. For comments submitted at Regulations.gov, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. For either manner of submission, EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, 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://www2.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT: Emily Crispell, Control Strategies Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353-8512, crispell.emily@epa.gov. The EPA Region 5 office is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays and facility closures due to COVID-19.

SUPPLEMENTARY INFORMATION: In the Rules and Regulations section of this issue of the **Federal Register**, EPA is approving the state's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no relevant adverse comments are received in response to this rule, no further activity is contemplated. If EPA receives such comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be

severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment. For additional information, see the direct final rule which is located in the Rules section of this issue of the **Federal Register**.

Dated: January 10, 2024.

Debra Shore,

Regional Administrator, Region 5.

[FR Doc. 2024-00789 Filed 1-18-24; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R02-OAR-2022-0714; FRL 11587-01-R2]

Approval of Source-Specific Air Quality Implementation Plan; New York; Finch Paper LLC

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a revision to the State of New York's State Implementation Plan (SIP) for the ozone National Ambient Air Quality Standard (NAAQS) related to a Source-specific SIP (SSSIP) revision for Finch Paper LLC, located at 1 Glen Street, Glens Falls, New York (Facility). The control options in this SSSIP revision address nitrogen oxide (NO_x) Reasonably Available Control Technology (RACT) for the Facility sources identified as four power boilers, a wood waste boiler, and four recovery boilers. The intended effect of this SSSIP revision is to approve NO_x RACT for the Facility sources required for implementation of the 2008 and 2015 ozone NAAQS. This proposed action will not interfere with ozone NAAQS requirements and meets all applicable requirements of the Clean Air Act (CAA).

DATES: Comments must be received on or before March 19, 2024.

ADDRESSES: Submit your comments, identified by Docket Number EPA-R02-OAR-2022-0714, at <https://www.regulations.gov>. Although listed in the index, some information is not publicly available, *e.g.*, Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available electronically

through <http://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or withdrawn. 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, such as the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT:

Linda Longo, Air Programs Branch, Environmental Protection Agency, Region 2 Office, 290 Broadway, 25th Floor, New York, New York 10007-1866, (212) 637-3565, or by email at longo.linda@epa.gov.

SUPPLEMENTARY INFORMATION: For additional information on regulatory background and the EPA's technical findings relating to the Facility RACT, the reader can refer to the Technical Support Document (TSD) that is contained in the EPA docket assigned to this **Federal Register** document.

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I. Background

Ground Level Ozone Formation

Ground level ozone is predominantly a secondary air pollutant created by chemical reactions that occur when ozone precursors, including nitrogen oxides (NO_x) and volatile organic compounds (VOCs), chemically react in the presence of sunlight.¹ Emissions

¹ Primary standards provide public health protection, including protecting the health of "sensitive" populations such as asthmatics, children, and the elderly. Secondary standards provide public welfare protection, including protection against decreased visibility and damage to animals, crops, vegetation, and buildings.

from industrial facilities are some of the human-caused sources of ozone precursors. The potential for ground-level ozone formation tends to be highest during months with warmer temperatures and stagnant air masses. Ozone levels are thus generally higher during the summer months, which are often referred to as “the ozone season”. In New York, the ozone season takes place between April 15 and October 15, while the non-ozone season takes place between October 16 and April 14.

Ozone Nonattainment

Nonattainment for ground level ozone is defined as a geographic area of the United States that is not meeting the primary or secondary National Ambient Air Quality Standard (NAAQS) for ozone. Nonattainment areas are classified as either marginal, moderate, serious, severe, or extreme. Currently, the EPA has two ozone NAAQS in effect. First, on March 12, 2008, the EPA promulgated a revision to the ozone NAAQS, lowering both the primary and secondary standards to 75 parts per million (ppm) averaged over an 8-hour time frame (2008 8-hour Ozone Standard). See 73 FR 16436 (March 27, 2008). Second, on October 1, 2015, the EPA lowered these standards once more to 70 ppm averaged over an 8-hour time frame (2015 8-hour Ozone Standard). See 80 FR 65292 (October 26, 2015).

The State of New York has two ozone nonattainment areas: (1) Jamestown, and (2) the New York Metro Area² for the Bronx County, Kings County, Nassau County, New York County, Queens County, Richmond County, Rockland County, Suffolk County, Westchester County. The State of New York is also located within the Ozone Transport Region (OTR) that triggers statewide RACT requirements. Although the Facility is not located in one of the two nonattainment areas, because it is in the OTR, the Facility is subject to RACT requirements.

Federal RACT Requirements

RACT is defined as the lowest emission limit that a source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility. The CAA section 182, Plan Submissions and Requirements, requires states with ozone nonattainment areas to include in their statewide SIPs, among other things, provisions to require the implementation of RACT. The State of

New York is located within the OTR, which triggers the statewide RACT requirements. The CAA section 184(a) addresses RACT requirements for nonattainment areas located in the OTR and the CAA section 176A sets forth requirements to establish control measures for NO_x RACT for major sources located in the OTR. The EPA has not generally prescribed RACT requirements. The EPA has provided that RACT for a particular source is determined on a case-by-case basis, considering the technological and economic circumstances of the individual source.

NYSDEC RACT Requirements

The New York State Department of Environmental Conservation (NYSDEC) RACT regulations require applicable facilities to meet presumptive RACT requirements. The presumptive requirements may include, but are not limited to, emission limits, control efficiency requirements, specific control technologies, averaging plans, and fuel/raw material switching. In some instances, the presumptive RACT requirements may not be achievable and a source-specific RACT determination can be granted by the state and submitted to the EPA as a SSSIP. The SSSIP will include the facility's RACT plan that demonstrates how RACT might be achievable. The SSSIP will also include CAA title V operating permit conditions for the RACT requirements. These permit conditions for the facility will become Federally enforceable upon EPA approval of the SSSIP.

The RACT determination required under existing NYSDEC RACT regulations assess all technologically feasible control options that meet the state's cost threshold. The cost threshold for NYSDEC RACT requirements is found under the NYSDEC 2013 policy, “DAR–20 Economic and Technical Analysis for Reasonably Available Control Technology (RACT).” Under this policy, facilities must consider in their RACT determinations technologies that achieve a dollar amount per ton of NO_x removed which includes an inflation-adjusted economic threshold.³

II. The EPA's Evaluation of New York's SSSIP Revision

This action relates to a SSSIP revision that concerns a Facility that produces

paper products. The paper manufacturing processes include pulp preparation, paper machines, acid recovery, bleaching operations, and wastewater facilities. The sources at issue in this action are the Facility's four power boilers, one wood-waste boiler, and four recovery boilers. NYSDEC RACT regulations establish presumptive RACT requirements for these sources in (1) 6 NYCRR part 227, “Stationary Combustion Installations”, subpart 227–2, “Reasonably Available Control Technology for Major Facilities of Oxides of Nitrogen”, last approved by the EPA on July 12, 2013. See 78 FR 41846 (July 12, 2013); and (2) 6 NYCRR part 212, “Process Operations”, subpart 212–3, “Reasonably Available Control Technology for Major Facilities”, last approved by the EPA on October 1, 2021. See 87 FR 54375 (October 1, 2021). However, the State regulations allow determination of source-specific RACT if the presumptive RACT requirements are not achievable; such a determination must be submitted to the EPA as a SSSIP.

This SSSIP was submitted by NYSDEC on May 24, 2022, and it replaces and withdraws the SSSIP that was submitted by the State on September 16, 2008. As to this more recent SSSIP submittal, the EPA has reviewed the RACT determination for the four power boilers, one wood-waste boiler, and four recovery boilers for consistency with the CAA and the EPA regulations, as interpreted through EPA actions and guidance.

The intended effect of this Source-specific SIP revision is to establish: (1) Source-specific emission limits and RACT control options for four large power boilers where the presumptive NO_x limit is not technologically and economically feasible; (2) a case-by-case NO_x emission limit for the wood waste boiler's biomass fuel; and (3) NO_x emission limits for four recovery boilers that are not covered by other New York RACT regulations, and therefore must follow 6 NYCRR part 212 as a process operation.

The EPA is proposing to determine through this SSSIP action that the NO_x emission limits submitted by the State in this SSSIP for the Facility's boilers are the lowest emission limits with the application of control technology that are reasonably available given the technological and economic feasibility considerations. These NO_x RACT emission limits are contained in the Facility's title V operating permit, 5–5205–00005/00059, under Condition 1–1, Condition 47, and Condition 60 respectively. This operating permit was issued by the State on December 20,

² The New York Metro Area is part of the greater nonattainment area: New York-N. New Jersey-Long Island, NY-NJ-CT.

³ The DAR–20 cost threshold was \$3000 in 1994 dollars. State of New York relies on the U.S. Department of Labor, Bureau of Labor Statistics inflationary calculator to adjust the RACT economic feasibility threshold over time for inflation. See https://www.bls.gov/data/inflation_calculator.htm.

2021, modified on January 12, 2022, and expires on December 19, 2026. The Facility submitted a RACT re-evaluation for these emission limits and the NYSDEC reviewed and approved the emission limits as being RACT for the sources. NYSDEC then submitted the Source-specific SIP revision at issue in this action. The next step is this current source-specific SIP revision process that the EPA is proposing to approve to make the emission limits Federally enforceable.

The following is a summary of the EPA's analysis of how the proposed NO_x emission limits comprise RACT for the power boilers, wood waste boiler and the recovery boilers.

Power Boilers, Permit Condition 1–1, Emission Unit 3–00000

The Facility's power boilers are subject to the presumptive limit of 0.15 pounds NO_x per million Btu (lb/MMBtu) and 1-hour compliance averaging time found in NYSDEC RACT regulations under 6 NYCRR subpart 227–2.4(b) because they are categorized as large boilers that burn gas/oil. The NYSDEC determined that the presumptive limit in 6 NYCRR subpart 227–2.4(b) is not technologically and economically feasible for the power boilers. Therefore, the Facility is allowed under 6 NYCRR 227–2.4(b)(2) to request a case-by-case higher emission limit. Such a case-by-case higher limit can be approved if supported by a RACT analysis, and then must be submitted to EPA for review as a SIP revision. The Facility provided a RACT analysis dated February 2019 and a RACT re-analysis dated May 2021 that includes, among other control considerations, the use of fuel switching and the use of a system averaging plan which are required under 6 NYCRR subpart 227–2.5(c). The Facility's RACT analysis suggests a series of higher limits to meet RACT for the power boilers based on time of year (ozone and non-ozone season) and measured with a 30-day/24-hour compliance average, and not the presumptive 1-hour compliance average.

NYSDEC reviewed the case-by-case analysis and determined that the submitted emission limits did comprise RACT for the power boilers. Specifically, NYSDEC approved the following source specific emission limits after determining they comprised RACT for this source: (1) Compliance measured using predictive emission monitoring system (PEMS) for 0.225 NO_x lb/MMBtu during the April 15 through October 15 ozone season with a 30-day average; (2) compliance measured using PEMS for 0.275 NO_x lb/

MMBtu during the October 16 through April 14 non-ozone season with a 30-day average; and (3) compliance measured using PEMS for 0.378 NO_x lb/MMBtu during the October 16 through April 14 non-ozone season when recovery boilers are not burning liquor or the wood waste boiler is down with a 24-hour block average. The permit conditions for the three emission limits will be calculated daily based on boiler steaming rates and emission rate curves developed for each power boiler. These permit conditions allow the facility to determine compliance with the alternate NO_x emission limits with averaging methods of 30-day, 24-hour block, that differ from those imposed by 6 NYCRR 227–2.6(b)(3)(i)(c) for 1-hour.

EPA is proposing to also determine that these limits comprise RACT for this source because: (1) The analysis developed by the source and approved by the State demonstrate that the presumptive RACT limits cannot be met; (2) the RACT analysis showed that no control technology beyond what is currently used at the power boilers is technically and economically feasible; (3) The power boilers do not operate at all times because they are swing boilers that operate only when the supporting boiler networks (wood waste and recovery) are operating close to load capacity or when the boiler networks not in operation; the power boilers are used to maintain steam rates for the paper operations; (4) compliance will be determined using PEMS which has been determined to be the equivalent to continuous emission monitoring system (CEMS) for this source; (5) compliance will be based on a daily calculation of the boiler steaming rates and emission rate curves developed for each boiler averaged monthly; while the 30-day average is a deviation from the presumptive 1-hour average, this is supported to be RACT for this source as demonstrated in the case-by-case justification. Further details explaining how EPA made these determinations is provided in the TSD available in the docket for this rulemaking.

Swing Function

The 4 power boilers (boiler Nos. 2, 3, 4, and 5) produce steam during cold weather (non-ozone season) and have a non-ozone season load limit with 0.375 lb/MMBtu NO_x that does not apply during the ozone season. In addition, the swing function of the power boilers picks up the steam load when the wood waste boilers and the recovery boilers operate close to their load capacity or when these boilers are down for

maintenance.⁴ The result is that the power boilers operate below their load capacity during the ozone season because the demand for steam to heat the paper process is low due to the warmer temperatures in the summer months. The swing function helps maintain the NO_x emission limits by preventing power boilers from reaching high loads.

30-Day Averaging Time

The 30-day average is a deviation from the presumptive 1-hour averaging time under subpart 227–2.4(b). Because of the “swing” function of the power boilers, the 1-hour averaging is not economically or technologically feasible. As explained in the prior section and in the TSD available in the docket for this rulemaking, based on the case-by-case RACT analysis provided by the source, NYSDEC has determined, and EPA is herein proposing to approve, the use of PEMS instead of CEMS for the boilers. A PEMS calculates NO_x on a daily basis based on boiler steam rates and emission steam rate curves developed for each boiler. Because the Facility demonstrated through a RACT analysis that the prescribed 1-hour averaging time is not RACT for the power boilers because they operate in a swing capacity, the NYSDEC added a permit condition that allows the Facility to determine compliance using PEMS based on averaging rates that differ from the regulation's presumptive 1-hour method. The NYSDEC published an Environmental Notice Bulletin on March 30, 2022, for this action that provided the public an opportunity to comment and no public comments were received.

Summary of RACT Controls

The power boilers No. 2 and No. 3 have been retrofitted with Low NO_x Burner (LNB) control technology. Power boilers No. 4 and No. 5 currently have been upgraded to second generation LNB. While the Facility has considered the application of a third generation LNB for power boiler No. 4 and No 5, the third generation LNB would not provide consistent or acceptable NO_x reductions without major retrofits to other mechanical aspects of the boiler system.⁵ The geometry and configuration of the power boilers would likely preclude any contractor from providing a warrantable guarantee

⁴ Refer to Technical Support Document (TSD) for description of periods of required shutdown of Finch Paper boilers. See TSD section VI.a, “Scheduled shutdowns for boilers: 4 power, 1 wood waste, 4 recovery.”

⁵ A third generation LNB has more technology than a second generation LNB.

that the power boiler retrofit to third generation LNB would provide satisfactory NO_x reduction.

In order to determine what NO_x control technologies could potentially be considered as economically and technologically achievable for the power boilers, the EPA reviewed the Reasonably Available Control Technology/Best Available Control Technology/Lowest Achievable Emission Rate Clearinghouse (RBLC).⁶ The EPA's review of the RBLC reveals that two similar U.S. facilities, one each in Arizona and Pennsylvania, have NO_x controls that the Facility at issue in this action either already implemented (*i.e.*, pollution prevention: decommission boiler, fuel switch) or are not achievable based on the Facility boiler configurations (*i.e.*, retrofit limitations, vertical profile limitations). The EPA confirms that there can be a wide range in performance and emission levels due to differences in boiler design, capacity, and burner type. Furthermore, the EPA confirms that the Facility's current boiler room and outside roof configuration would not sustain additional boiler equipment such that would be required for add on technology (*e.g.*, high temperature fans and ductwork) without major retrofits that have been demonstrated in the RACT analysis to be over the regulatory cost threshold. For details on cost analysis, refer to the TSD available in the docket for this rulemaking.

Wood Waste Boiler, Condition 47, Emission Unit 3–10000

The Facility operates one wood waste boiler, identified as boiler No. 9, that primarily combusts wood waste and can fire natural gas. The wood waste boiler is subject to 6 NYCRR subpart 227–2.4(b)(2). Wood is not one of the approved fuel types under 6 NYCRR subpart 227–2.4(b)(1)(ii) (*i.e.*, gas, oil, pulverized coal, or coal), so a case-by-case RACT emission limit is needed for this source. In addition, subpart 227–2.6(a) requires the operator to verify NO_x emissions by performing applicable testing (*i.e.*, test method 7E) to ensure the boiler continues to meet the appropriate emission limit. Here, stack testing from 2020 established an emission limit of 0.28 lbs of NO_x emissions per MMBtu.

NYSDEC determined that the following emission limits comprise RACT for the wood waste boiler: 0.28

lbs of NO_x emissions per MMBtu that emit through a separate stack. Emission testing to demonstrate compliance will be performed pursuant to the requirements under the boiler Maximum Achievable Control Technology (MACT) testing occurs (every 3 years). The last MACT test was conducted by the Facility in 2020. For this specific emission unit, MACT is more stringent regarding emission control than RACT. Emission testing will use test Method 7E for large boilers, Nitrogen Oxide Instrumental Analyzer. Reporting requirement is twice a year. The wood waste boiler No. 9 emits through a separate stack on the east side of the Facility's power house building.

EPA believes that the proposed limit for the wood waste boiler comprises RACT because the re-evaluated RACT analysis demonstrated that no new control technologies have become available that would be economically and technologically achievable for this boiler. Further detail on this analysis is available in the TSD available in the docket for this rulemaking.

Recovery Boilers, Condition 60, Emission Unit 3–20000

The Facility operates four recovery boilers (boiler IO, and Nos. 6, 7, 8) that have a primary purpose to burn spent sulfite cooking liquor from the paper pulping process to recover sulfur dioxide and reuse it to make more cooking liquor. The recovery boilers are subject to Federally approved RACT regulations under 6 NYCRR part 212 because they are a process source unlike the Facility's power boilers or wood waste boiler which are combustion sources subject to part 227–2.

NYSDEC determined that the following emission limits comprise RACT for the four recovery boilers: 464 parts per million (corrected to 7% oxygen) that emit through a single common stack. The emission limit is calculated on a monthly block average. NO_x and oxygen are monitored continuously with CEMS to calculate a NO_x emission rate. The recovery boilers currently have technically feasible control strategies to minimize NO_x formation which include daily monitoring for opacity, a system wide NO_x limit, and a CEMS. In addition, the recovery boilers currently have emission control equipment alternatives, absorbers, and mist eliminators.

EPA believes that the proposed limit for the recovery boilers comprises RACT because the re-evaluated RACT analysis demonstrated that costs for adding additional controls are beyond what is considered economically feasible for purposes of RACT. Further detail on

this analysis is available in the TSD available in the docket for this rulemaking.

III. Environmental Justice Considerations

The CAA and applicable implementing regulations neither prohibit nor require an environmental justice evaluation and so the State of New York did not evaluate environmental justice considerations as part of its SSSIP submittal. The EPA performed an environmental justice analysis for the purpose of transparency about this rulemaking to the public and the analysis is not provided for the basis of this action. The EPA created a Community Report (Report) using its EJ Screen, Version 2.2. The Report is contained in the EPA docket assigned to this **Federal Register** document.

The Report represents a 1-mile ring centered at the Facility. All thirteen EJ Screen environmental indexes were considered for the Report: (1) Particulate matter; (2) ozone; (3) diesel particulate matter; (4) air toxics cancer risks; (5) air toxics respiratory health index; (6) toxics releases to air; (7) traffic proximity; (8) lead paint; (9) superfund proximity; (10) risk management plan (RMP) facility proximity; (11) hazardous waste proximity; (12) underground storage tanks; and (13) wastewater discharge. Both the EJ Indexes and the Supplemental Indexes were verified using the thirteen environmental indexes. The difference between the EJ and Supplemental indexes is that the EJ Indexes combine data on low income and people of color populations and the Supplemental Indexes combine data on percent low-income, percent linguistically isolated, percent less than high school education, percent unemployed, and low life expectancy. We analyze both EJ Indexes and Supplemental Indexes because they offer different perspectives on community level vulnerability based on different factors. We also consider all environmental indexes since the effects of different forms of pollution might accumulate upon each other. The EPA uses the National percentile for the Report results and not the State percentile since this SSSIP action is a Federal action. The EPA brings to your attention any environmental index result that is 80 percentile or greater because environmental indexes at this level are relatively high compared to the United States population. The “percentile” is what EJ Screen uses to compare the area of study to national figures.

The Report results in no National EJ Indexes above 80th percentile. The

⁶ The RBLC contains case-specific information on the best available air pollution technologies that have been required to reduce the emission of air pollutants from stationary sources. See <https://cfpub.epa.gov/rblc/index.cfm?action=Search.BasicSearch&lang=en>.

Report indicates the following National Supplemental Indexes above 80th percentile: Superfund proximity is at the 83rd percentile; and RMP facility proximity is at the 81st percentile. To understand the indexes that are over the 80th percentile, refer to docket assigned to this **Federal Register** document.

IV. Proposed Action

The EPA is proposing that the current Source-specific SIP revision is approvable because the limits included in the SSSIP are demonstrated to be RACT for the power boilers, wood waste boiler and the recovery boilers. Based on a thorough RBLC review of similar sources, consultation with NYSDEC and an analysis of this Source-specific SIP revision, the EPA proposes to approve Finch Paper LLC's operation under the NYSDEC approved NO_x emission limits for emission unit 3-00000 power boilers, emission unit 3-10000 wood waste boiler, and emission unit 3-20000 recovery boilers.

Specifically, the EPA proposes to approve the following: (1) Emission unit 3-00000, four power boilers, at 0.225 NO_x lb/MMBtu during ozone season (April 15 through October 15) and at 0.275 NO_x lb/MMBtu during non-ozone season (October 16 through April 14) and at 0.378 NO_x lb/MMBtu when recovery boilers are not burning liquor or when the wood waste boiler is down during non-ozone season; (2) emission unit 3-10000, No. 9 wood waste boiler, at 0.28 NO_x lb/MMBtu; and (3) emission unit 3-20000, recovery boilers, at 464 parts per million (corrected to 7% oxygen) system wide.

V. Incorporation by Reference

In this document, the EPA is proposing to include regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference revisions to Finch Paper LLC title V operating permit conditions 1-1, 47, and 60 as described in section II. of this preamble. The EPA has made, and will continue to make, these materials generally available through www.regulations.gov and at the EPA Region 2 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

VI. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the

EPA's role is to approve State choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves State law as meeting Federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this 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 this action does not involve technical standards.

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

Executive Order 12898 (Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, 59 FR 7629, Feb. 16, 1994) directs Federal agencies to identify and address "disproportionately high and adverse human health or environmental effects" of their actions on minority populations and low-income populations to the greatest extent practicable and permitted by law. EPA defines environmental justice (EJ) as "the fair

treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies." EPA further defines the term fair treatment to mean that "no group of people should bear a disproportionate burden of environmental harms and risks, including those resulting from the negative environmental consequences of industrial, governmental, and commercial operations or programs and policies." resulting from the negative environmental consequences of industrial, governmental, and commercial operations or programs and policies."

The New York State Department of Environmental Conservation did not evaluate environmental justice considerations as part of its SSSIP submittal; the CAA and applicable implementing regulations neither prohibit nor require such an evaluation. The EPA performed an environmental justice analysis, as is described above in the section titled, "Environmental Justice Considerations." The analysis was done for the purpose of providing additional context and information about this rulemaking to the public, not as a basis of the action. In addition, there is no information in the record upon which this decision is based inconsistent with the stated goal of E.O. 12898 of achieving environmental justice for people of color, low-income populations, and Indigenous peoples.

List of Subjects 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Oxides of nitrogen, Ozone, Reporting and recordkeeping requirements.

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

Lisa Garcia,

Regional Administrator, Region 2.

[FR Doc. 2024-00748 Filed 1-18-24; 8:45 am]

BILLING CODE 6560-50-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MB Docket No. 24-4; RM-11974; DA 24-30; FR ID 196932]

Television Broadcasting Services Waynesboro, Virginia

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Video Division, Media Bureau (Bureau), has before it a petition for rulemaking filed January 9, 2024, by VPM Media Corporation (Petitioner). The Petitioner requests the allotment of reserved noncommercial educational (NCE) television channel *12 to Waynesboro, Virginia (Waynesboro), as the community's first local television service and its first NCE television service.

DATES: Comments must be filed on or before February 20, 2024 and reply comments on or before March 4, 2024.

ADDRESSES: Federal Communications Commission, Office of the Secretary, 45 L Street NE, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve counsel for the Petitioner as follows: Ari Meltzer, Wiley Rein LLP, 2050 M Street NW, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Emily Harrison, Media Bureau, at (202) 418-1665; or Emily Harrison, Media Bureau, at Emily.Harrison@fcc.gov.

SUPPLEMENTARY INFORMATION: The Petitioner states that Waynesboro qualifies as a community for allotment purposes. In support, it states that Waynesboro is an independent and principal city of the Staunton-Waynesboro Metropolitan Statistical Area. As of the 2020 Census, Waynesboro had a population of 22,196 and the Staunton-Waynesboro Statistical Area had a population of 125,654. In addition, Waynesboro has its own ZIP Code, two post offices, city council, public school system, police department, and library. The Petitioner states its intention to file an application for channel *12 if allotted, and take all necessary steps to obtain a construction permit.

We find the proposed amendment to the Table of TV Allotments warrants consideration. The Petitioner's proposal would result in a first local service to Waynesboro under the second priority of the Commission's television allotment priority standard. The Petitioner demonstrates, and a Bureau staff engineering analysis confirms, that channel *12 can be allotted to Waynesboro, consistent with the minimum geographic spacing requirements for new allotments in section 73.623(d) of the Commission's rules (Rules), at 37°38'24" N and 78°27'11" W (allotment point). In addition, the allotment point complies with section 73.625(a)(1) of the Rules as the entire community of Waynesboro is encompassed by the proposed 43 dBμ contour.

This is a synopsis of the Commission's *Notice of Proposed*

Rulemaking, MB Docket No. 24-4; RM-11974; DA 24-30, adopted January 11, 2024, and released January 11, 2024. The full text of this document is available for download at <https://www.fcc.gov/edocs>. To request materials in accessible formats (braille, large print, computer diskettes, or audio recordings), please send an email to FCC504@fcc.gov or call the Consumer & Government 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.

Members of the public should note that all *ex parte* contacts are prohibited from the time a Notice of Proposed Rulemaking is issued to the time the matter is no longer subject to Commission consideration or court review, *see* 47 CFR 1.1208. There are, however, exceptions to this prohibition, which can be found in Section 1.1204(a) of the Commission's rules, 47 CFR 1.1204(a).

See Sections 1.415 and 1.420 of the Commission's rules for information regarding the proper filing procedures for comments, 47 CFR 1.415 and 1.420.

Providing Accountability Through Transparency Act: The Providing Accountability Through Transparency Act, Public Law 118-9, requires each agency, in providing notice of a rulemaking, to post online a brief plain-language summary of the proposed rule. The required summary of this Notice of Proposed Rulemaking/Further Notice of Proposed Rulemaking is available at <https://www.fcc.gov/proposed-rulemakings>.

List of Subjects in 47 CFR Part 73

Television.

Federal Communications Commission.

Thomas Horan,

Chief of Staff, Media Bureau.

Proposed Rule

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 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, in the table in paragraph (j), under Virginia, add an entry for Waynesboro to read as follows:

§ 73.622 Digital television table of allotments.

* * * * *

(j) * * *

Community	Channel No.
* * *	*
Virginia	
* * *	*
Waynesboro	* 12
* * *	*

[FR Doc. 2024-00988 Filed 1-18-24; 8:45 am]

BILLING CODE 6712-01-P

DEPARTMENT OF STATE

48 CFR Parts 625 and 652

[Public Notice: 12058]

RIN 1400-AF65

Department of State Acquisition Regulation: Nondiscrimination in Foreign Assistance

AGENCY: Department of State.

ACTION: Notice of proposed rulemaking; request for comment.

SUMMARY: The Foreign Assistance Act of 1961 (FAA) and other related statutes, such as the FREEDOM Support Act, the Migration and Refugee Assistance Act of 1962, and the SEED Act of 1989, authorize the U.S. Department of State (Department of State, State, or Department) to provide foreign assistance that seeks to support efforts that would have the effect of protecting and promoting U.S. security, prosperity, and democratic values and shape an international environment to improve the lives of people around the world. To implement the Department's expectation of nondiscrimination against beneficiaries of Department-funded foreign assistance activities, the Department is proposing to amend its Department of State Acquisition Regulation (DOSAR) to include a new

contract clause entitled “Nondiscrimination in Foreign Assistance.” The proposed clause expressly states that contractors and subcontractors receiving Department-funded foreign assistance funds must not discriminate on specified bases against end-users of supplies or services (also referred to in this rule as beneficiaries and potential beneficiaries) or in certain employment decisions involving persons employed in the performance of this contract and funded in whole or in part with foreign assistance funds except where target populations are specified in the relevant statement of work (SOW) or as otherwise required by U.S. law.

DATES: The Department of State will accept comments until March 19, 2024.

ADDRESSES: Submit comments, identified by title of the action and Regulatory Information Number (RIN) by any of the following methods:

- Through the Federal eRulemaking Portal at <https://www.regulations.gov> and search for docket DOS–2023–0014 or RIN 1400–AF65.
- *By Email:* Submit electronic comments to acquisitionpolicy@state.gov and/or schroederhr@state.gov.
- The summary of this rule can be found at www.regulations.gov/DOS-2023-0014.

FOR FURTHER INFORMATION CONTACT:

Direct requests for additional information regarding this notice to Hilary Schroeder, who may be reached at (202) 890–9798 or at schroederhr@state.gov.

SUPPLEMENTARY INFORMATION: The inclusion and equitable treatment of all individuals, organizations, and communities relevant to Department foreign assistance programs is critical to achieving effective, comprehensive, and sustainable foreign assistance results because it enhances the participation, contributions, and access of the target population. As such, the Department seeks to ensure access for all eligible beneficiaries of the target population within the scope of its foreign assistance contracts without discrimination. Because of this premise, which underpins all of the Department’s programs, the Department is embedding equity across its foreign affairs work and raising the visibility of inequities globally by providing equal opportunities for all eligible individuals, including members of minority groups and members of other underserved communities, through its foreign assistance programs. The Department seeks to improve the lives of people around the world by being inclusive and equitable in its foreign

assistance efforts, including its evaluation of responses to requests for proposal, solicitations, etc.

The Department is committed to a nondiscrimination policy in its projects and activities and welcomes proposals irrespective of an offeror’s race, ethnicity, color, religion, sex, gender, sexual orientation, gender identity or expression, sex characteristics, pregnancy, national origin, disability, age, genetic information, indigeneity, marital status, parental status, political affiliation, or veteran’s status. The Department seeks to ensure that foreign assistance proposals that demonstrate that the recipients would not, in implementation of a potential contract, discriminate against any beneficiaries of foreign assistance funds based on any of the factors listed above—unless otherwise expressly authorized in the contract or otherwise required by U.S. law in implementation of a potential contract. Discrimination in implementation of an award could include adversely impacting, or denying equitable access to the benefits provided through the contract.

Establishing clear and meaningful nondiscrimination protections in Department of State foreign assistance awards advances U.S. foreign policy by ensuring that U.S. foreign assistance is inclusive and equitable by reaching all intended beneficiaries, and efficiently accomplishing its intended objectives. U.S. foreign assistance funding is less effective and efficient when discrimination prevents assistance from reaching those who might most benefit from such assistance—which hinders U.S. foreign policy by excluding individuals that the United States intended to receive such assistance.

Nondiscrimination protections require a tangible incentive for organizations to take affirmative steps to commit to nondiscrimination and extend protection to employees and beneficiaries of foreign assistance. Nondiscrimination protections send a strong signal to people around the world that equity and inclusion are values that the United States takes seriously. They complement and affirm other commitments to equality in U.S. foreign policy, maximizing their coherence and effectiveness.

Nondiscrimination principles and protections are essential in protecting and advancing the human rights of all persons and ensuring equitable access to foreign assistance programs. Contractors must adhere to this requirement by performing the activities as outlined in the contract SOWs.

In recent years, the U.S. government has issued multiple policy

pronouncements emphasizing equity, fairness, and human dignity. Effective nondiscrimination protections for beneficiaries of foreign assistance are a means toward achieving these objectives. For example, in 2021, the President issued Executive Order (E.O.) 13985 on “Advancing Racial Equity and Support for Underserved Communities Through the Federal Government,” which mandates embedding equity in government programming and decision-making processes of every department and agency in the Executive Branch”; and in 2023, the President issued E.O. 14091, “Further Advancing Racial Equity and Support for Underserved Communities Through the Federal Government. Furthermore, in 2011, the President issued E.O. 13563, “Improving Regulation and Regulatory Review,” which, in addition to quantitative factors, advised that the qualitative values of equity, fairness, and human dignity are important considerations in agencies’ rulemaking.

This rulemaking proposes to revise (48 CFR) DOSAR Part 625 to add new requirements, at 625.7101, 625.7102, and 625.7103 outlining the policy against nondiscrimination in Department of State foreign assistance contracts. In addition, the rulemaking proposes to add a clause at 652.225–72, entitled “*Nondiscrimination in Foreign Assistance*.” The clause, applicable to all solicitations, contracts, and subcontracts awarded with Department of State foreign assistance funds at any tier, prohibits contractors and subcontractors from discriminating against beneficiaries or potential beneficiaries (*i.e.*, those individuals intended to receive the benefits of the award, whether goods or services) or persons employed in the performance of the award on the basis of any listed characteristics not expressly stated in the award.

The purpose of this proposed rulemaking is to ensure effective implementation of foreign assistance programs consistent with U.S. foreign policy and the purposes of the FAA. Section 101 of the FAA provides that: “[T]he Congress reaffirms the traditional humanitarian ideals of the American people and renews its commitment to assist people in developing countries to eliminate hunger, poverty, illness, and ignorance.” 22 U.S.C. 2151(a).

The main effect of the proposed clause is to ensure that contractors adhere to State’s policy and practice of nondiscrimination in planning foreign assistance projects and activities, and State’s policy and practice of nondiscrimination is followed through to completion by the contractors that

implement them. The impact of the clause on contractors and offerors is to require them to refrain from the discrimination described in the clause.

Under the statutory regime governing foreign assistance, and consistent with his responsibilities regarding the conduct of U.S. foreign affairs, the President has broad discretion to set the terms and conditions on which the United States provides such assistance. Many of the authorities provided under the Foreign Assistance Act of 1961, and similar statutes, explicitly allow for the provision of assistance “on such terms and conditions as [the President] may determine.” See, e.g., section 104(c)(1) of the FAA (22 U.S.C. 2151b(c)(1)) (health assistance); section 481(a)(4) of the FAA (22 U.S.C. 2291(a)(4)) (counternarcotics and anti-crime assistance); section 531 of the FAA (22 U.S.C. 2346) (assistance to promote economic or political stability); section 541(a) of the FAA (22 U.S.C. 2347) (International Military Education and Training assistance); section 551 of the FAA (22 U.S.C. 2348) (Peacekeeping Operations); section 571 of the FAA (22 U.S.C. 2349aa) (anti-terrorism assistance); see also section 2(c)(1) of the MRRA; section 201 of the SEED Act of 1989 (amending the FAA by inserting, *inter alia*, section 498b(i)).

The FAA provides that “[t]he President may exercise any functions conferred upon him by this Act through such agency or officer of the United States Government as he shall direct. The head of any such agency or such officer may from time to time promulgate such rules and regulations as may be necessary to carry out such functions. . . .” 22 U.S.C. 2381(a). The Secretary of State exercises authorities under the FAA as delegated by the President in Executive Order 12163, dated September 29, 1979, as amended. That includes the President’s authority to “issue and enforce regulations determining the eligibility of any person to receive funds made available under” the FAA. 22 U.S.C. 2381(b).

These proposed rules fall within the Department’s authority, delegated to it by the President, to set conditions on the provision of foreign assistance, including on the implementers of such assistance. Courts have repeatedly recognized that the President has extremely broad discretion in the conduct of foreign affairs to allocate foreign assistance funding for particular programs and to set the conditions on U.S. funding to implementers of those programs. See, e.g., *DKT Memorial Fund v. USAID*, 887 F.2d 275, 282 (D.C. Cir.1989); *Planned Parenthood Federation of America v. USAID*, 915

F.2d 59 (2d Cir. 1990); *Center for Reproductive Law and Policy v. Bush*, 304 F.3d 183 (2d Cir. 2002). These courts recognized the President’s broad discretion to allocate assistance funding for particular programs and to set the conditions on U.S. funding to non-governmental implementers of those programs. See, e.g., *Planned Parenthood v. USAID*, 838 F.2d 649, 654 (2d Cir. 1988) (in carrying out the policies under the Foreign Assistance Act, “AID has ‘broad discretionary power’ to decide which, among numerous competing projects, will be given family planning funds”); *DKT*, 887 F.2d at 282 (“President acted under a congressional grant of discretion as broadly worded as any we are likely to see. . . .”).

Consistent with this broad authority, the Department and other agencies have imposed a range of requirements on foreign assistance awards. For example, the Department utilizes contract-specific terms and conditions from time to time when necessitated by policy and priorities, such as restrictions on allowed activities and implementation areas/countries.

Moreover, the Secretary has the authority to promulgate such rules and regulations as may be necessary to carry out his functions and the functions of the Department of State. See 22 U.S.C. 2651a(a)(4). This rule provides a contractual requirement for contractors to refrain from undermining the objectives, terms, and conditions of foreign assistance-funded activities by engaging in conduct that interferes with its delivery to intended recipients. In addition to the Department’s authority to promulgate regulations under the FAA, the Federal Acquisition Regulation (FAR) also expressly authorizes the Secretary to issue “agency acquisition regulations that implement or supplement the FAR and incorporate, together with the FAR, agency policies, procedures, contract clauses, solicitation provisions, and forms that govern the contracting process or otherwise control the relationship between the agency, including any of its suborganizations, and contractors or prospective contractors.” (FAR 1.301(a)(1)). Under its acquisition authority, the Department awards contracts in the execution of foreign assistance. Prudent and responsible exercise of the Department’s foreign assistance and acquisition authority under the FAR require that contract terms ensure that foreign assistance reaches its intended recipients and is not thwarted by discrimination on the bases covered in this rule. Establishing terms and conditions for foreign assistance

contracts is a function the Department’s broad authority both to set the terms, conditions, and scope of foreign assistance and, under the FAR, to ensure that the terms and conditions of contracts implementing such activities are consistent with the objectives of the foreign assistance.

Finally, in the event that any portion of the proposed rule as finalized is declared invalid, the Department intends that the various aspects be severable. The Department would intend the remaining features of the policy to stand.

Regulatory Analyses

Administrative Procedure Act

This proposed rule is published for public comment pursuant to the Office of Federal Procurement Policy Act (41 U.S.C. 1707). The Department is publishing this proposed rulemaking for a comment period of 60 days.

Executive Orders 12866 (Regulatory Planning and Review), 13563 (Improving Regulation and Regulatory Review), and 14094 (Modernizing Regulatory Review)

Executive Orders (E.O.s) 12866, 13563, and 14094 direct agencies to assess the costs and benefits of the intended regulation. E.O. 13563 allows that in making this assessment, an agency “may consider (and discuss qualitatively) values that are difficult or impossible to quantify, including equity, human dignity, fairness, and distributive impacts.” The Department has submitted this rulemaking to the Office of Information and Regulatory Affairs (OIRA) for review. OIRA has designated this rulemaking a “significant regulatory action” under E.O. 12866, as amended.

This rule provides a benefit by promoting nondiscrimination in Department of State foreign assistance, which itself promotes programmatic efficiency, with minimal administrative burden anticipated for the affected entities, Department contractors and subcontractors. It does not require them to carry out activities beyond those in their contract SOWs and terms and conditions. The Department anticipates that the benefits of the proposed rule are realized by (1) ensuring that contract solicitations and resulting contracts clearly notify that discrimination on bases in the rule will not excuse the contractor from performing the foreign assistance funded work; (2) by avoiding proposal evaluation costs arising from contractors who are unwilling to provide supplies and services to all intended recipients; (3) by helping to

ensure that foreign assistance funded activities reach intended recipients and are not undermined by discriminatory exclusion on the bases identified in the rule. If, for example, a contract specified the provision of food parcels in a certain community, the contractor could not, on its own, decide that only certain members of that community should receive the food parcels or that certain members should be excluded. This rule makes it clear at the inception of a contract solicitation and any resulting contract the contractor is obligated to provide services and supplies without excluding recipients on the bases stated in the rule.

Potential costs the Department identifies for contractors and subcontractors are for implementation guidance, to the extent that contractors do not already proscribe discrimination as part of the normal conduct of their business, and potential changes in hiring practices for certain employees supporting performance of the contract. Potential costs could include creation of policies and procedures, initial training on implementation guidelines, and training on working with Department contracting officer representatives and/or contracting officers to ensure compliance. The Department requests comment on the costs of compliance with the provisions of this proposed rule, including estimates of hourly burdens and wages of employees that may be required to implement the rule, should it be finalized.

The Department awards approximately 100 new contracts with foreign assistance funds annually. Including this clause in all new contracts funded by Department of State foreign assistance funds and all new subcontracts thereunder provides an explicit requirement that the Department's contractors not discriminate against any designated group or individual (except as provided in the award or as required under U.S. law) and is particularly important in countries where stigma and discrimination toward certain groups is tolerated or officially endorsed by the government. The benefits of the rule would include expressly reinforcing notions of equity, fairness, and human dignity under Federal Government contracts internationally.

Contractors responding to a solicitation (e.g. request for proposal (RFP) or invitation for bid (IFB)) would further be on notice not to include any discriminatory criteria in their responses to a solicitation, absent specific programmatic justification in the SOW to do so.

Regulatory Flexibility Act

Congress enacted the Regulatory Flexibility Act of 1980, as amended, 5 U.S.C. 601–612, to ensure that Government regulations do not unnecessarily or disproportionately burden small entities. It requires a regulatory flexibility analysis if a rule would have a significant economic impact, either detrimental or beneficial, on a substantial number of small entities.

In fiscal year 2022, 14 unique domestic small businesses received Department foreign assistance funds under 29 individual awards. In fiscal years 2018, 2019, 2020, and 2021, three, one, four, and six unique small businesses received Department foreign assistance funds, respectively. The requirement this rule would impose on small businesses is no different than the requirement imposed on other entities: contracts or subcontracts awarded to them will include a clause prohibiting discrimination in the employment of persons engaged directly in the performance of Department foreign assistance contracts and grants and not to discriminate with respect to the intended beneficiaries of U.S. foreign assistance, except as provided in the award. As with all contractors, the employees of small businesses will be expected to be mindful of the principles of equity, fairness, and human dignity when performing the work under their contracts; as they have always been. The Department anticipates that the additional effort required by small businesses as a result of this proposed rule is *de minimis* and will not impose more than a negligible cost. However, the Department is requesting comment on this assumption.

In light of the above analysis, the Department of State certifies that this proposed rule would not have a significant economic impact on a substantial number of small entities.

Unfunded Mandates Act of 1995

The Unfunded Mandates Act of 1995 requires agencies to prepare several analytical statements before proposing any rule that may result in annual expenditures of \$100 million or more in State, local, or Indian Tribal governments or the private sector. Since this final rule will not result in expenditures of this magnitude, the Department certifies that such statements are not necessary.

Executive Orders 12372 and 13132—Federalism

This regulation will not have substantial direct effects on the states,

on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132, it is determined that this rule does not have sufficient federalism implications to require consultations or warrant the preparation of a federalism summary impact statement. The regulations implementing E.O. 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this regulation.

Executive Order 13175—Consultation With Tribal Governments

The Department has determined that this rulemaking will not have Tribal implications, will not impose substantial direct compliance costs on Indian Tribal governments, and will not pre-empt Tribal law. Accordingly, the requirements of E.O. 13175 do not apply to this proposed rule.

Paperwork Reduction Act

The Department believes that the number of respondents submitting reports pursuant to this rulemaking will be low, possibly close to the 10 respondents per year that would trigger the Paperwork Reduction Act. The Department anticipates that the burden per response would be one hour, yielding a total burden of 10 hours for this rulemaking. The Department invites public comment on these figures. The number of respondents and the burden hours will be added to the existing OMB Control Number that covers information collections mandated by the DOSAR. Therefore, the Department submits the following information:

Title of Information Collection: Department of State Acquisition Regulation (DOSAR).

OMB Control Number: 1405–0050.

Type of Request: Revision of a currently approved collection.

Originating Office: Department of State, A/OPE.

Form Number: No form.

Respondents: Offerors and awardees of Department of State solicitations and contracts.

Estimated Number of Respondents: 2,897, plus 10 for this rulemaking = 2,907.

Estimated Number of Responses: 3,095, plus 10 for this rulemaking = 3,105.

Average Time per Response: 82 hours, plus one hour for this rulemaking = 83 hours.

Total Estimated Burden Time: 253,416, plus 10 for these rulemaking = 253,426 hours.

Frequency: On occasion.

Obligation to Respond: Mandatory.

List of Subjects in 48 CFR Parts 625 and 652

Government procurement.

For the reasons discussed in the preamble, the Department of State proposes to amend 48 CFR Chapter 6 as set forth below:

PART 625—FOREIGN ACQUISITION

- 1. The Authority citation for Part 625 is revised to read as follows:

Authority: 40 U.S.C. 486(c); 22 U.S.C. 2651a, 2656.

- 2. Add subpart 625.71 to read as follows:

Subpart 625.71—Nondiscrimination in Foreign Assistance

Sec.
626.7101 Policy.
625.7102 Waivers.
625.7013 Contract clause.

Subpart 625.71—Nondiscrimination in Foreign Assistance

625.7101 Policy.

Contractors receiving Department of State foreign assistance awards shall not discriminate on the basis of race, ethnicity, color, religion, sex, gender, sexual orientation, gender identity or expression, sex characteristics, pregnancy, national origin, disability, age, genetic information, indigeneity, marital status, parental status, political affiliation, or veteran's status within the target population of the foreign assistance award (*i.e.*, the beneficiary of the contract).

625.7102 Waivers.

(a) Pursuant to the procedures in this section, the head of the contracting activity may waive the application of the requirements at paragraph (a)(2) of clause 652.225–72, Nondiscrimination in Foreign Assistance, if it is determined to be in the best interest of the U.S. government. Such determinations will take into account the totality of the circumstances, including, but not limited to, whether the waiver is requested as an accommodation to comply with applicable foreign laws, edicts, or decrees, or to allow a religious corporation, association, educational institution, or society to employ individuals of a particular religion to carry out the activities under the award in a manner consistent with its religious beliefs.

(b) The contractor shall submit any request for a waiver of the requirements of the paragraph at 652.225–72(a)(2) in

writing to the contracting officer, and with sufficient justification for a determination, prior to award or thereafter by mutual agreement between the parties.

(c) Upon review of information submitted by the contractor, any determination to waive the requirements at 652.225–72(a)(2) shall be executed jointly, in writing, by the head of the contracting activity and the requesting Bureau's Assistant Secretary or the post Chief of Mission, or their designee.

(d) If a waiver is approved pursuant to this section, the contracting officer shall specifically denote the inapplicability of the paragraph at 652.225–72(a)(2) in the contract award.

(e) Upon making a determination to waive the requirements at 652.225–72(a)(2) pursuant to this section, the head of the contracting activity shall notify the Assistant Secretary of the Bureau for Democracy, Human Rights, and Labor, or their designee in writing within 30 days.

(f) Nothing in any such waiver approved pursuant to this section shall negate any of the other requirements of clause 652.225–72.

625.7103 Contract clause.

The contracting officer shall insert the clause at 652.225–72, Nondiscrimination in Foreign Assistance, in full text in all solicitations and contracts using foreign assistance funds, including solicitations and contracts using FAR Part 12 procedures for the acquisition of commercial products and commercial services.

PART 652—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

- 3. The authority citation for Part 652 continues to read as follows:

Authority: 22 U.S.C. 2651a, 40 U.S.C. 121(c) and 48 CFR chapter 1.

- 4. Add Section 652.225–72 to read as follows:

652.225–72 Nondiscrimination in Foreign Assistance.

As prescribed in 625.7103, insert the following clause:

Nondiscrimination in Foreign Assistance (Date)

(a) Unless expressly stated in the award, no contractor or subcontractor receiving a foreign assistance award shall discriminate on the basis of race, ethnicity, color, religion, sex, gender, sexual orientation, gender identity or expression, sex characteristics, pregnancy, national origin, disability, age, genetic information, indigeneity, marital

status, parental status, political affiliation, or veteran's status against:

(1) Any end user, prospective end user, or beneficiary of the contract supplies or services, such as, but not limited to, discrimination by withholding, denying, or adversely impacting equitable access to the supplies or services; or

(2) Any employee, agent, or candidate for a position, who is or will be engaged directly in the performance of this contract and whose work will be funded in whole or in part by funds provided under this contract, unless expressly permitted by applicable U.S. law.

(b) Nothing in this clause is intended to limit the ability of a contractor to target activities toward the assistance needs of certain populations as defined in the contract or to otherwise comply with anti-discrimination programs.

(c) The Contractor shall inform its workforce and end users, in their predominant language(s), of the nondiscrimination notices required by paragraphs (d) and (f) of this clause. The Contractor shall display the notices in prominent and accessible places commonly available to its employees and end users.

(d) The Contractor shall notify end users and prospective end users that the Contractor is prohibited from discriminating on the basis of race, ethnicity, color, religion, sex, gender, sexual orientation, gender identity or expression, sex characteristics, pregnancy, national origin, disability, age, genetic information, indigeneity, marital status, parental status, political affiliation, or veteran's status within the target population of a foreign assistance award. The notice shall include the telephone number, email address, and mailing address of the Department of State Inspector General to report potential violations of this clause.

(e) The Contractor is responsible for compliance by its subcontractors with the terms and conditions of this clause, including sanctions for noncompliance, and shall take action to enforce them as the Contracting Officer may direct.

(f) The Contractor shall:

(1) Notify its employees and agents of:

(i) The prohibition on discrimination described in paragraph (a) of this clause;

(ii) The contact information of the Department of State Inspector General and the U.S. Government's Fraud, Waste, and Abuse hotline to report violations or suspected violations of this clause; and

(iii) The actions that will be taken against employees or agents for violations of this clause, which may include, but are not limited to, removal from the contract, reduction in benefits, or termination of employment; and

(2) Take appropriate action, up to and including termination, against employees, agents, or subcontractors that violate the nondiscrimination requirement in paragraph (a).

(g) *Notification.*

(1) The Contractor shall inform the Contracting Officer and the Department of State's Inspector General immediately of:

(i) Any credible information it receives from any source (including host country law

enforcement) that alleges a Contractor employee, subcontractor, subcontractor employee, or their agent has engaged in conduct that violates paragraph (a) of this clause; and

(ii) Any actions taken against a Contractor employee, subcontractor, subcontractor employee, or their agent pursuant to this clause.

(2) If the allegation may be associated with more than one contract, the Contractor shall inform the Contracting Officer for the contract with the highest dollar value.

(h) Remedies. In addition to other remedies available to the Government, the Contractor's failure to comply with the requirements of

this clause may result in any, or a combination of, the following:

(1) Requiring the Contractor to remove a Contractor employee or employees from the performance of the contract;

(2) Requiring the Contractor to terminate a subcontract;

(3) Suspension of contract payments until the Contractor has taken appropriate remedial action;

(4) Loss of award fee, consistent with the award fee plan, for the performance period in which the Government determined Contractor noncompliance;

(5) Declining to exercise available options under the contract;

(6) Termination of the contract for default or cause, in accordance with the termination clause of this contract; or

(7) Suspension or debarment.

(i) The Contractor shall insert this clause, including this paragraph, in all subcontracts under this contract.

(End of clause)

Kevin E. Bryant,
Deputy Director, Office of Directives Management, Department of State.
[FR Doc. 2024-00972 Filed 1-18-24; 8:45 am]
BILLING CODE 4710-24-P

Notices

Federal Register

Vol. 89, No. 13

Friday, January 19, 2024

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

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Summer Food Service Program; 2024 Reimbursement Rates

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: This notice informs the public of the annual adjustments to the reimbursement rates for meals served in the Summer Food Service Program. These adjustments address changes in the Consumer Price Index, as required under the Richard B. Russell National School Lunch Act. The 2024 reimbursement rates are presented as a combined set of rates to highlight simplified cost accounting procedures. The 2024 rates are also presented individually, as separate operating and administrative rates of reimbursement, to show the effect of the Consumer Price Index adjustment on each rate. On average, the 2024 rates adjustment represents a 5.3 percent increase in the rates from last year.

DATES: This adjustment is applicable January 1, 2024.

FOR FURTHER INFORMATION CONTACT: Penny Burke, Program Monitoring and Operational Support Division, Child Nutrition Programs, Food and Nutrition Service, United States Department of Agriculture, 1320 Braddock Place, Suite 401, Alexandria, Virginia 22314, (303) 844-0357.

SUPPLEMENTARY INFORMATION: The Summer Food Service Program (SFSP) is listed in the Catalog of Federal Domestic Assistance under No. 10.559 and is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 2 CFR, 415 and final rule-related notice published at 48 FR 29114, June 24, 1983.)

In accordance with the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–

3520, no new recordkeeping or reporting requirements have been included that are subject to approval from the Office of Management and Budget.

This notice is not a rule as defined by the Regulatory Flexibility Act, 5 U.S.C. 601–612, and thus is exempt from the provisions of that Act. Additionally, this notice has been determined to be exempt from formal review by the Office of Management and Budget under Executive Order 12866.

Special Note: While the United States Department of Agriculture (USDA) Food and Nutrition Service (FNS) does not have the authority to adjust reimbursement rates above inflation in the contiguous United States (CONUS), pursuant to section 12 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1760), USDA may make adjustments to reimbursement rates in the outlying areas to reflect differences between the cost of providing meals and supplements in those areas and the costs of providing meals and supplements in all other States. Therefore, FNS is increasing the reimbursement rates for the child nutrition programs in Guam, Hawaii, Puerto Rico, and the Virgin Islands to 30 percent above CONUS rates. This adjustment to the Summer Food Service Program rates will be applied beginning on January 1, 2024, until further notice.

Definitions

The terms used in this notice have the meaning ascribed to them under 7 CFR part 225 of the SFSP regulations.

Background

This notice informs the public of the annual adjustments to the reimbursement rates for meals served in SFSP. In accordance with sections 12(f) and 13, 42 U.S.C. 1760(f) and 1761 of the Richard B. Russell National School Lunch Act (NSLA) and SFSP regulations under 7 CFR part 225, the USDA announces the adjustments in SFSP payments for meals served to participating children during calendar year 2024.

The 2024 reimbursement rates are presented as a combined set of rates to highlight simplified cost accounting procedures. Reimbursement is based solely on a “meals times rates” calculation, without comparison to actual or budgeted costs.

Sponsors receive reimbursement that is determined by the number of reimbursable meals served, multiplied by the combined rates for food service operations and administration. However, the combined rate is based on separate operating and administrative rates of reimbursement, each of which is adjusted differently for inflation.

Calculation of Rates

The combined rates are constructed from individually authorized operating and administrative reimbursements. Simplified procedures provide flexibility, enabling sponsors to manage their reimbursements to pay for any allowable cost, regardless of the cost category. Sponsors remain responsible, however, for ensuring proper administration of the Program, while providing the best possible nutrition benefit to children.

The operating and administrative rates are calculated separately. However, the calculations of adjustments for both cost categories are based on the same set of changes in the *Food Away from Home* series of the Consumer Price Index for All Urban Consumers, published by the Bureau of Labor Statistics of the United States Department of Labor. They represent a 5.3 percent increase in this series for the 12-month period, from November 2022 through November 2023 (from 342.266 in November 2022 to 360.383 in November 2023).

Table of 2024 Reimbursement Rates

Presentation of the 2024 maximum per meal rates for meals served to children in SFSP combines the results from the calculations of operational and administrative payments, which are further explained in this notice. The total amount of payments to State agencies for disbursement to SFSP sponsors will be based upon these adjusted combined rates and the number of meals of each type served. These adjusted rates will be in effect from January 1, 2024, through December 31, 2024.

These changes are reflected below.

All States except Alaska and Hawaii—Rural or Self-prep Sites—Breakfast—2 dollars and 97.75 cents (15.25 cent increase from the 2023 reimbursement rate), Lunch or Supper—5 dollars and 21.25 cents (26.25 cent increase), Snack—1 dollar and 23.50 cents (6.75 cent increase); All Other

Types of Sites—Breakfast—2 dollars and 92.25 cents (15 cent increase), Lunch or Supper—5 dollars and 13 cents (26 cent increase), Snack—1 dollar and 20.50 cents (6.50 cent increase).

Alaska—Rural or Self-prep Sites—Breakfast—4 dollars and 82.50 cents (24.25 cent increase), Lunch or Supper—8 dollars and 45 cents (42 cent increase), Snack—1 dollar and 99.75

cents (10 cent increase); All Other Types of Sites—Breakfast—4 dollars and 73.50 cents (23.75 cent increase), Lunch or Supper—8 dollars and 31.25 cents (41.25 cent increase), Snack—1 dollar and 95.25 cents (10 cent increase).

*Guam, Hawaii, Puerto Rico, and Virgin Islands*¹—Rural or Self-prep Sites—Breakfast—3 dollars and 87 cents (56.25 cent increase), Lunch or

Supper—6 dollars and 78.25 cents (98.50 cent increase), Snack—1 dollar and 60.50 cents (23.50 cent increase); All Other Types of Sites—Breakfast—3 dollars and 79.50 cents (55 cent increase), Lunch or Supper—6 dollars and 67.25 cent (96.75 cent increase), Snack—1 dollar and 56.75 cents (23 cent increase).

2024 REIMBURSEMENT RATES (COMBINED)

Per meal rates in whole or fractions of U.S. dollars	All states except Alaska and Hawaii	All states except Alaska and Hawaii	Alaska	Alaska	Guam, Hawaii, Puerto Rico, and Virgin Islands	Guam, Hawaii, Puerto Rico, and Virgin Islands
Site types	Rural or self-prep sites	All other types of sites	Rural or self-prep sites	All other types of sites	Rural or self-prep sites	All other types of sites
Breakfast	2.9775	2.9225	4.8250	4.7350	3.8700	3.7950
Lunch or Supper	5.2125	5.1300	8.4500	8.3125	6.7825	6.6725
Snack	1.2350	1.2050	1.9975	1.9525	1.6050	1.5675

Operating Rates

The portion of the SFSP rates for operating costs is based on payment amounts set in section 13(b)(1) of the NSLA, 42 U.S.C. 1761(b)(1). They are rounded down to the nearest whole cent, as required by section 11(a)(3)(B)(iii) of the NSLA, 42 U.S.C. 1759a(a)(3)(B)(iii).

These changes are reflected below.

All States except Alaska and Hawaii—Breakfast—2 dollars and 71 cents (14 cents increase from the 2023 reimbursement rate), Lunch or Supper—4 dollars and 72 cents (24 cents increase), Snack—1 dollar and 10 cents (6 cents increase).

Alaska—Breakfast—4 dollars and 39 cents (22 cents increase), Lunch or

Supper—7 dollars and 65 cents (38 cents increase), Snack—1 dollar and 78 cents (9 cents increase).

Guam, Hawaii, Puerto Rico, and Virgin Islands—Breakfast—3 dollars and 52 cents (51 cents increase), Lunch or Supper—6 dollars and 14 cents (89 cents increase), Snack—1 dollar and 43 cents (21 cents increase).

OPERATING COMPONENT OF 2024 REIMBURSEMENT RATES

Operating rates in U.S. dollars, rounded down to the nearest whole cent	All states except Alaska and Hawaii	Alaska	Guam, Hawaii, Puerto Rico, and Virgin Islands
Breakfast	2.71	4.39	3.52
Lunch or Supper	4.72	7.65	6.14
Snack	1.10	1.78	1.43

Administrative Rates

The administrative cost component of the reimbursement is authorized under section 13(b)(3) of the NSLA, 42 U.S.C. 1761(b)(3). Rates are higher for sponsors of sites located in rural areas and for “self-prep” sponsors that prepare their own meals at the SFSP site or at a central facility instead of purchasing them from vendors. The administrative portion of SFSP rates are adjusted, either up or down, to the nearest quarter-cent.

These changes are reflected below.

All States except Alaska and Hawaii—Rural or Self-prep Sites—Breakfast—26.75 cents (1.25 cent increase from the 2023 reimbursement rate), Lunch or Supper—49.25 cents (2.25 cent increase), Snack—13.50 cents (0.75 cent increase); All Other Types of Sites—Breakfast—21.25 cents (1 cent increase), Lunch or Supper—41 cents (2 cent increase), Snack 10.50 cents (0.50 cent increase).

Alaska—Rural or Self-prep Sites—Breakfast—43.50 cents (2.25 cent increase), Lunch or Supper—80 cents (4 cent increase), Snack—21.75 cents (1

cent increase); All Other Types of Sites—Breakfast—34.50 cents (1.75 cent increase), Lunch or Supper—66.25 cents (3.25 cent increase), Snack—17.25 cents (1 cent increase).

Guam, Hawaii, Puerto Rico, and Virgin Islands—Rural or Self-prep Sites—Breakfast—35 cents (5.25 cent increase), Lunch or Supper—64.25 cents (9.50 cents increase), Snack—17.50 cents (2.50 cent increase); All Other Types of Sites—Breakfast—27.50 cents (4 cent increase), Lunch or Supper—53.25 cents (7.75 cent increase), Snack—13.75 cents (2 cent increase).

¹ Starting January 1, 2024, Guam, Puerto Rico, and Virgin Islands receive the same reimbursement rates as Hawaii for Summer Food Service Program.

ADMINISTRATIVE COMPONENT OF 2024 REIMBURSEMENT RATES

Administrative rates in U.S. dollars, adjusted, up or down, to the nearest quarter-cent	All states except Alaska and Hawaii	All states except Alaska and Hawaii	Alaska	Alaska	Guam, Hawaii, Puerto Rico, and Virgin Islands	Guam, Hawaii, Puerto Rico, and Virgin Islands
Site types	Rural or self-prep sites	All other types of sites	Rural or self-prep sites	All other types of sites	Rural or self-prep sites	All other types of sites
Breakfast	0.2675	0.2125	0.4350	0.3450	0.3500	0.2750
Lunch or Supper	0.4925	0.4100	0.8000	0.6625	0.6425	0.5325
Snack	0.1350	0.1050	0.2175	0.1725	0.1750	0.1375

Authority: Sections 9, 13, and 14, Richard B. Russell National School Lunch Act, 42 U.S.C. 1758, 1761, and 1762a, respectively.

Cynthia Long,

Administrator, Food and Nutrition Service.

[FR Doc. 2024-01009 Filed 1-18-24; 8:45 am]

BILLING CODE 3410-30-P

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Request for Information: Food Price Data for State of Hawaii

AGENCY: Food and Nutrition Service (FNS), USDA.

ACTION: Notice.

SUMMARY: The U.S. Department of Agriculture's (USDA) Food and Nutrition Service (FNS) requests comments from the public—including the food industry and research community—to help inform future policy and decisions about potentially updating Thrifty Food Plan (TFP) cost estimates for the State of Hawaii. Specifically, FNS invites comments and ideas about food price data for the State of Hawaii—including communities in the State outside of the County of Honolulu—that may be available, potentially accessible to FNS, and of sufficient quality, format, sample size, and recent period to be used potentially by FNS to make cost adjustments for the State of Hawaii to the TFP pursuant to section 3(u)(2) of the Food and Nutrition Act of 2008, as amended. Comments must be received on or before March 4, 2024.

DATES: Written comments must be received on or before March 4, 2024.

ADDRESSES: *Comments may be sent to:* Kevin Meyers Mathieu, Economic Advisor, Nutrition Guidance and Analysis Division, Center for Nutrition Policy and Promotion, Food and Nutrition Service, U.S. Department of Agriculture, 1320 Braddock Place, Fourth Floor, Alexandria, VA 22314. Comments may also be submitted via

email to fns.foodplans@usda.gov.

Comments will also be accepted through the Federal eRulemaking Portal. Go to <http://www.regulations.gov> and follow the online instructions for submitting comments electronically. All comments received in response to this notice will be a matter of public record.

FOR FURTHER INFORMATION CONTACT:

Requests for additional information or copies of this information collection should be directed to Kevin Meyers Mathieu, Economic Advisor, Nutrition Guidance and Analysis Division, Center for Nutrition Policy and Promotion, Food and Nutrition Service, U.S. Department of Agriculture, at 703-946-7619.

SUPPLEMENTARY INFORMATION: FNS

makes this request with the goal of maximizing the range of food price data specific to communities in the State of Hawaii outside of the County of Honolulu—that is, the Neighbor Islands—that may become accessible to the Agency and available for the Agency to assess in terms of feasibility to use for updating TFP cost estimates in Hawaii. Data should be of a similar quality, format, and sample size to data used for reevaluating the TFP for the mainland United States in August 2021 (Thrifty Food Plan, 2021, FNS-916)¹ and making cost adjustments for Alaska and Hawaii in July 2023 (Thrifty Food Plan Cost Estimates for Alaska and Hawaii, FNS-989).²

The TFP represents a healthy, practical, cost-conscious diet for a family of four, and its cost forms the basis for Supplemental Nutrition Assistance Program (SNAP) benefit levels. Through a rigorous and transparent process, USDA used updated food price data to recalculate the cost estimates of the TFP for Alaska and Hawaii. This update ensured SNAP participants in Alaska and Hawaii have

a data-driven benefit amount that is equitable to the benefits provided to people living in the 48 contiguous States and DC so they can afford nutritious food essential for health and well-being.

The updated cost estimates for Alaska and Hawaii were calculated in alignment with the existing statutory and regulatory framework. Namely, TFP costs for Alaska and Hawaii were calculated by comparing food prices in the 48 contiguous States and DC to those in Anchorage and Honolulu, respectively. The Anchorage TFP cost is further adjusted to reflect food prices throughout urban and rural areas of the State of Alaska, as per statute. In contrast, the Honolulu TFP cost, as per regulation, is used as the basis for SNAP benefits throughout the entire State of Hawaii. Evidence suggests that Honolulu was originally used because it was the only location in the State where the Bureau of Labor Statistics routinely collected food price information at the time. The availability of food price data in the State of Hawaii—including communities in the State outside of the County of Honolulu—of sufficient quality, format, sample size, and recent period may motivate a reexamination of the regulatory language that stipulates Honolulu as the basis for the Hawaii TFP cost estimate. The features of the data may also contribute to potential future decisions on a preferred methodology that could be used to calculate a Hawaii TFP cost using food price data from throughout the State of Hawaii.

List of Questions for Commenters

The Agency requests responses to the following questions:

Question 1: How does the cost of food differ between the Island of Oahu (*i.e.*, the County of Honolulu) and the Neighbor Islands (*i.e.*, all other areas of the State of Hawaii)? To what extent are any differences in the cost of food driven by differences in prices for identical foods and beverages versus differences in other factors (*e.g.*, region-

¹ The Thrifty Food Plan, 2021 report and supplemental materials are available at: <https://www.fns.usda.gov/cnpp/thrifty-food-plan-2021>.

² The Thrifty Food Plan Cost Estimates for Alaska and Hawaii report and supplemental materials are available at: <https://www.fns.usda.gov/cnpp/tfp-akhi>.

specific food choices and/or availability)?

Question 2: What benefits and/or consequences are experienced by SNAP participants residing on the Neighbor Islands as a result of the Agency's use of food prices in Honolulu as the basis for calculating the SNAP maximum benefit amounts in the State of Hawaii?

Question 3: How would the benefits and/or consequences described in question 2 change if the Agency implemented an alternative approach for calculating the SNAP maximum benefit amount in Hawaii that uses food price data from all areas of the State of Hawaii?

Question 4: What data are available for the Agency's use in calculating a Hawaii TFP cost that uses food prices from throughout the State of Hawaii?

Question 5: For any data source(s) identified under question 4:

(a) Can these data be used to quantify price differences for identical foods and beverages as described in question 1?

(b) To what extent are the data representative of the State of Hawaii or any specific geographies, regions, and/or communities within the State? Are there any areas of the State of Hawaii that are not represented in the data?

(c) Are these data also collected outside of the State of Hawaii? If so, where? To what extent are the data representative of the other locations in which they are collected?

(d) At what level of geographic aggregation are the data available (e.g., State-level, County-level, store-level)?

(e) At what unit of analysis are the data available? Specifically, do the data provide prices for individual Universal Product Codes (UPCs, also called barcodes) or for categories of foods and beverages? If the data are reported at the category-level, how were the categories constructed?

(f) Do the data include prices for food items that do not have barcodes (e.g., fresh fruits, vegetables, bakery items, meat, or fish that are sold on a per pound, per ounce or per unit basis)?

(g) What is the sample size of foods and beverages (measured using the unit of analysis described above) in the data?

(h) To what extent do the foods and beverages included in the data reflect the foods and beverages in the TFP market basket? Are there any food and beverage categories that are excluded from or underrepresented in the data?

(i) By whom are the data collected and reported? For example, the data might be comprised of households self-reporting food and beverage acquisitions, in-store price quotes collected by surveyors, or sales records maintained by retailers.

(j) Do the data represent prices quoted by the retailer (i.e., sticker price in the store) or prices that the consumer actually paid (accounting for loyalty card discounts, coupons, etc.)?

(k) What is the sample size of reporting units (e.g., number of households, number of stores)?

(l) If the data are collected at the household-level (i.e., from a household survey) to what extent are the households that are included representative of the overall population in Hawaii? Are sampling weights available?

(m) What store types are represented in the data (e.g., grocery stores, mass merchandisers, drug stores, club stores, convenience stores)?

(n) When were the data collected? If the data are collected on a recurring basis, with what frequency are they collected? If the data are collected on a continuous basis, with what frequency are they reported?

(o) Do the data also include information on factors other than food prices (e.g., dietary intakes)?

(p) What quality assurance processes have the data undergone? To what extent can the Agency and the public trust that the data are accurate? For example, are units checked for accurate conversion to a common unit (e.g., packages to ounces) and are outlier prices checked for accuracy?

(q) Have these data been analyzed in the past? If so, how?

(r) Are there any known limitations or considerations when using the data?

(s) Are the data publicly available or are they proprietary/restricted access? If they are proprietary/restricted access, to what extent could the Agency release them to the public to enable reproduction of any related analyses?

(t) What is the approximate cost of accessing the data? Does data access require a contractual agreement or access to a specialized data hosting platform?

(u) In what format are the data available? Are the data machine readable?

Disclaimers: This is a Request for Information (RFI). This is not a Request for Proposals or a Request for Applications and is not to be construed as a commitment by the U.S. Government to issue any solicitation or Notice of Funding Opportunity, or ultimately award a contract or assistance agreement based on this RFI, or to pay for any information voluntarily submitted as a result of this request. The U.S. Department of Agriculture (USDA) posts its competitive business opportunities on www.grants.gov. It is the potential offeror's/applicant's

responsibility to monitor these sites for announcements of new opportunities. Please note that responding to this RFI will not give any advantage to any organization or individual in any subsequent competition. Responses may be used by USDA without restriction or limitation, therefore proprietary information should not be sent.

Furthermore, this RFI does not mean and should not be construed to suggest that FNS will update TFP cost estimates for the State of Hawaii in the future. The current TFP cost estimate for Hawaii was calculated in alignment with the existing statutory and regulatory framework. Namely, the TFP cost for Hawaii was calculated by comparing food prices in the 48 contiguous States and DC to those in Honolulu. FNS seeks information about potentially available food price data for the State of Hawaii outside of Honolulu to properly assess the feasibility of potentially pursuing an update to the TFP cost estimate for the State of Hawaii that could potentially incorporate such food price data should such an update be permissible in the future. If sufficient food price data sources are identified and such data were to become available to FNS, the Agency would take such information into account as it considers the range of factors relevant to potentially pursuing an update to the TFP cost estimates for the State of Hawaii, but identifying food price data alone, whether as a result of an RFI response or not, is not in and of itself determinative for future cost estimate updates.

Collection of Information

Requirements: This document does not impose information collection requirements, that is, reporting, recordkeeping or third-party disclosure requirements. However, this document does contain a general solicitation of comments in the form of a request for information. In accordance with implementing regulations of the Paperwork Reduction Act of 1995 (PRA), specifically 5 CFR 1320.3(h)(4), this general solicitation is exempt from the PRA. Facts or opinions submitted in response to general solicitations of comments from the public, published in the **Federal Register** or other publications, regardless of the form or format thereof, provided that no person is required to supply specific information pertaining to the commenter other than that necessary for self-identification, as a condition of the agency's full consideration, are not generally considered information

collections and therefore not subject to the PRA.

Cynthia Long,

Administrator, Food and Nutrition Service.

[FR Doc. 2024–00997 Filed 1–18–24; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF COMMERCE

Census Bureau

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Census Household Panel Topical 4, Topical 5, and Topical 6 Operations

On December 8, 2023, the Department of Commerce received clearance from the Office of Management and Budget (OMB) in accordance with the Paperwork Reduction Act of 1995 to conduct the second and third Census Household Panel topical operations (OMB No. 0607–1025, Exp. 6/20/26). The Census Household Panel is designed to ensure availability of frequent data collection for nationwide estimates on a variety of topics for a variety of subgroups of the population. This notice serves to inform of the Department's intent to request clearance from OMB to conduct topical operations 4, 5, and 6.

Topical surveys 4 and 5 will include content from Pew's National Public Opinion Reference Survey and the National Center for Health Statistics' Research and Development Survey. These are being asked for methodological reasons to study the representativeness of the originally recruited panel members along different benchmarked dimensions. Additionally, in Topical 4, we ask some questions about improving the CHP respondent experience. In Topical survey 6, we are incorporating a self-administered version of the Survey of Income and Program Participation (SIPP) roster and demographic questions into the Census Household Panel to test their usability in the field. The Department of Commerce will submit the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. We invite the general public and other Federal agencies to comment on proposed, and continuing information collections, which helps us assess the impact of our information collection

requirements and minimize the public's reporting burden. Public comments were previously requested via the **Federal Register** on February 6, 2023, during a 60-day comment period. This notice allows for an additional 30 days for public comments.

Agency: U.S. Census Bureau, Commerce.

Title: Census Household Panel Topical 4, Topical 5, and Topical 6 Operations.

OMB Control Number: 0607–1025.

Form Number(s): Not yet determined.

Type of Request: Request for a Revision of a Currently Approved Collection.

Number of Respondents: 11,000 panel members.

Average Hours per Response: 4 hours per year (20 minutes for monthly collection).

Burden Hours: 43,956.

Needs and Uses: The Census Household Panel is a probability-based nationwide nationally representative survey panel designed to test the methods to collect data on a variety of topics of interest, and for conducting experimentation on alternative question wording and methodological approaches. The goal of the Census Household Panel is to ensure availability of frequent data collection for nationwide estimates on a variety of topics and a variety of subgroups of the population, meeting standards for transparent quality reporting of the Federal Statistical Agencies and the Office of Management and Budget (OMB).

Panelists and households selected for the Panel were recruited from the Census Bureau's gold standard Master Address File. This ensures the Panel is rooted in this rigorously developed and maintained frame and available for linkage to administrative records securely maintained and curated by the Census Bureau. Invitations to complete the monthly surveys will be sent via email and SMS messages, and for experimental purposes, Topical 4 invitations will include pressure-sealed post-cards. Questionnaires will be mainly internet self-response. The Panel will maintain representativeness by allowing respondents who do not use the internet to respond via computer-assisted telephone interviewing (CATI). All panelists will receive an incentive for each complete questionnaire. Periodic replenishment samples will maintain representativeness and panelists will be replaced after a period of three years.

Affected Public: Individuals or Households.

Frequency: Monthly.

Respondent's Obligation: Voluntary.

Legal Authority: Title 13, United States Code, Sections 141, 182 and 193.

This information collection request may be viewed at www.reginfo.gov. Follow the instructions to view the Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting "Currently under 30-day Review—Open for Public Comments" or by using the search function and entering either the title of the collection or the OMB Control Number 0607–1025.

Sheleen Dumas,

Department PRA Clearance Officer, Office of the Under Secretary for Economic Affairs, Commerce Department.

[FR Doc. 2024–01034 Filed 1–18–24; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–52–2023]

Foreign-Trade Zone (FTZ) 46; Authorization of Production Activity; Patheon Pharmaceuticals Inc.; (Pharmaceutical Products); Cincinnati, Ohio

On September 18, 2023, Patheon Pharmaceuticals Inc. submitted a notification of proposed production activity to the FTZ Board for its facility within Subzone 46K, in Cincinnati, Ohio.

The notification was processed in accordance with the regulations of the FTZ Board (15 CFR part 400), including notice in the **Federal Register** inviting public comment (88 FR 67230–67231, September 29, 2023). On January 16, 2024, the applicant was notified of the FTZ Board's decision that no further review of the activity is warranted at this time. The production activity described in the notification was authorized, subject to the FTZ Act and the FTZ Board's regulations, including section 400.14.

Dated: January 16, 2024.

Elizabeth Whiteman,

Executive Secretary.

[FR Doc. 2024–00983 Filed 1–18–24; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B-50-2023]

Foreign-Trade Zone (FTZ) 45; Authorization of Production Activity; Epson Portland, Inc.; (Inkjet Ink Cartridges and Bottles); Hillsboro, Oregon

On September 18, 2023, Epson Portland, Inc. submitted a notification of proposed production activity to the FTZ Board for its facility within Subzone 45F, in Hillsboro, Oregon.

The notification was processed in accordance with the regulations of the FTZ Board (15 CFR part 400), including notice in the **Federal Register** inviting public comment (88 FR 65365, September 22, 2023). On January 16, 2024, the applicant was notified of the FTZ Board's decision that no further review of the activity is warranted at this time. The production activity described in the notification was authorized, subject to the FTZ Act and the FTZ Board's regulations, including section 400.14.

Dated: January 16, 2024.

Elizabeth Whiteman,
Executive Secretary.

[FR Doc. 2024-00984 Filed 1-18-24; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

For the Regents of the University of Idaho et al.; Application(s) for Duty-Free Entry of Scientific Instruments

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), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with 15 CFR 301.5(a)(3) and (4) of the regulations and be postmarked on or before February 8, 2024. Address written comments to Statutory Import Programs Staff, Room 41006, U.S. Department of Commerce, Washington, DC 20230. Please also email a copy of those comments to Dianne.Hanshaw@trade.gov.

Docket Number: 23-017. Applicant: For the Regents of the University of Idaho, 875 Perimeter Drive, MS 2006,

Moscow, ID 83844-2006. Instrument: EcoUnit(s).

Manufacturer: Regineering GmbH, Germany. Intended Use: The instrument is intended to be used to study the 24 EcoUnits composing the Deep Soil Ecotron (<https://deepsoilecotron.org/>) will be used specifically to study deep soils (i.e., soils greater than 30 cm in depth), as well as the associated surface soils (i.e., soils 0-30 cm in depth) and the above ground plant community. The techniques employed will include experimental design that enables researchers through the use of these EcoUnits to precisely manipulate and control a suite of environmental variables controlled by EcoUnits. Additionally, researchers will employ state of the art sensors to monitor soil temperature, moisture, and gas fluxes, as well as plant root growth an morphology, and soil microbial communities via next-generation sequencing. Justification for Duty-Free Entry: According to the applicant, there are no instruments of the same general category manufactured in the United States. Application accepted by Commissioner of Customs: October 20, 2023.

Docket Number: 23-018. Applicant: University of Chicago, 5640 S Ellis Avenue, ERC LL248, Chicago, IL 60637. Instrument: Fiber Laser Amplifier. Manufacturer: PerciLasers, China. Intended Use: The instrument is intended to be used for the laser amplifier in question which will allow us to improve both the quality of Rydberg excitation and the number of atoms which can be simultaneously excited, which in turn will extend the complexity of quantum circuits which can be implemented in this experiment. Large quantum circuits are of fundamental interest in understanding the information complexity of quantum systems and may also enable the study of complex many-body phenomena such as quantum magnetism. Justification for Duty-Free Entry: According to the applicant, there are no instruments of the same general category manufactured in the United States. Application accepted by Commissioner of Customs: September 7, 2023.

Dated: January 12, 2024.

Gregory W. Campbell,
Director, Subsidies and Economic Analysis, Enforcement and Compliance.

[FR Doc. 2024-00987 Filed 1-18-24; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648-XD663]

North Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of web conference.

SUMMARY: The North Pacific Fishery Management Council (Council) Pacific Northwest Crab Industry Advisory Committee (PNCIAC) will meet via web conference.

DATES: The meeting will be held on Tuesday, January 30, 2024, from 9 a.m. to 11 a.m., Alaska Time.

ADDRESSES: The meeting will be a web conference. Join online through the link at <https://meetings.npfmc.org/Meeting/Details/3033>.

Council address: North Pacific Fishery Management Council, 1007 W 3rd Ave, Suite 400, Anchorage, AK 99501-2252; telephone: (907) 271-2809. Instructions for attending the meeting via video conference are given under **SUPPLEMENTARY INFORMATION**, below.

FOR FURTHER INFORMATION CONTACT: Sarah Marrinan, Council staff; phone: (907) 271-2809; email: sarah.marrinan@noaa.gov. For technical support, please contact our admin Council staff, email: npfmc.admin@noaa.gov.

SUPPLEMENTARY INFORMATION:**Agenda**

Tuesday, January 30, 2024

The Committee will discuss several topics including: (a) Red King Crab savings area initial review; (b) consider smaller size limits for opilio and bairdi crab; (c) crab rationalization program review elements (T); and (d) other business. The agenda is subject to change, and the latest version will be posted <https://meetings.npfmc.org/Meeting/Details/3033> prior to the meeting, along with meeting materials.

Connection Information

You can attend the meeting online using a computer, tablet, or smart phone, or by phone only. Connection information will be posted online at: <https://meetings.npfmc.org/Meeting/Details/3033>.

Public Comment

Public comment letters will be accepted and should be submitted

electronically to <https://meetings.npfmc.org/Meeting/Details/3033>.

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

Dated: January 16, 2024.

Rey Israel Marquez,

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

[FR Doc. 2024-01031 Filed 1-18-24; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Southeast Region Permit Family of Forms

The Department of Commerce will submit the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. We invite the general public and other Federal agencies to comment on proposed, and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. Public comments were previously requested via the **Federal Register** on August 22, 2023 (88 FR 57103) during a 60-day comment period. This notice allows for an additional 30 days for public comments.

Agency: National Oceanic & Atmospheric Administration, Commerce.

Title: Southeast Region Permit Family of Forms.

OMB Control Number: 0648-0205.

Form Number(s): None.

Type of Request: Regular submission [revision and extension of a current information collection].

Number of Respondents: 9,883.

Average Hours per Response:

- Vessel EEZ Permit Application, including Golden Tilefish Endorsement and Smoothhound Shark Permit, 50 minutes;

- Wreckfish Permit Application, 55 minutes;

- Dealer Permit Application, 30 minutes;

- Aquacultured Live Rock Permitting and Reporting—New Permit—Deposit or Harvest Report, 15 minutes; Notice of Intent to Harvest, 10 minutes; Federal Permit Application, including Site Evaluation Report, 70 minutes;

- Aquacultured Live Rock Permitting and Reporting—Renew Permit—Deposit or Harvest Report, 15 minutes; Notice of Intent to Harvest, 10 minutes; Federal Permit Application, 50 minutes.

- Vessel Operator Card Application for Dolphin and Wahoo, or Rock Shrimp, 30 minutes;

- Fishing in Colombian Treaty Waters Vessel Permit Application, 50 minutes;

- Permit Holder Change of Information, 5 minutes;

- Gulf of Mexico Reef Fish Permit Consolidation, 5 minutes;

- Duplicate Permit, Card, or Decal, 5 minutes;

- Notifications of Lost or Stolen Traps or Authorization for Retrieval (golden crab, reef fish, snapper-grouper, spiny lobster), 10 minutes;

- Golden Crab Permittee Zone Transit Notification, 10 minutes;

- Annual Landings Report for Gulf of Mexico Shrimp, 20 minutes;

- Vessel Permit Transfers and Notarizations, 10 minutes; and

- International Maritime Organization (IMO) Number Registration, 30 minutes.

Total Annual Burden Hours: 7,033.

Needs and Uses: The National Marine Fisheries Service (NMFS), Southeast Regional Office (SERO), Permits Office administers Federal fishing permits in the U.S. exclusive economic zone (EEZ) of the Caribbean Sea, Gulf of Mexico (Gulf), and South Atlantic under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), 16 U.S.C. 1801. The SERO Permits Office proposes to extend and to revise parts of the current collections-of-information approved under OMB Control Number 0648-0205.

The NMFS Southeast Region manages the U.S. Federal fisheries in the Caribbean, Gulf, and South Atlantic under the fishery management plans (FMPs) for each region. The regional fishery management councils prepared the FMPs pursuant to the Magnuson-Stevens Act. The regulations implementing the FMPs, including those that have recordkeeping and reporting requirements, are located at 50 CFR part 622.

The recordkeeping and reporting requirements at 50 CFR part 622 form the basis for this collection of information. The NMFS Southeast Region requests information from fishery participants. This information, upon receipt, results in an increasingly more efficient and accurate database for management and monitoring of the Federal fisheries in the Caribbean, Gulf, and South Atlantic.

The SERO Permits Office proposes to extend and to revise the collection-of-

information approved under OMB Control Number 0648-0205. NMFS proposes to revise the Federal permit applications for Vessels Fishing in the EEZ (Vessel EEZ), Change of Information Form, Vessel Fishing in the Colombian Treaty Waters, Duplicate Federal Fishery Permits, Operator Card or Decal, Aquacultured Live Rock (new permit), Aquacultured Live Rock (permit renewal), Harvest of Aquacultured Live Rock in the EEZ, Southeast Region Issued Operator Card, Consolidate Gulf of Mexico Reef Fish permits, Vessels Fishing for Wreckfish in the South Atlantic States (Wreckfish), and the Annual Dealer permit.

The proposed revisions to the specified application forms are administrative and would combine two socio-economic questions into one, along with making them optional instead of required. The revisions would also update the payment method of Floy tags. Instead of the permit holder sending a check to NMFS with the application, Floy Tag, Inc., will begin reaching out to the permit holder for payment once the permit is issued. NMFS estimates that the proposed revisions would not change the annual number of respondents or responses, or annual costs to affected permit applicants from estimates in the currently approved collection. Across the application forms, NMFS estimates these revisions would not increase the overall time burden.

The SERO Permits Office also proposes to modify the limited access permits by updating the form field name related to the selling price of the permit, along with removing the section related to the permit's selling price. NMFS does not anticipate these revisions will materially change the time burden to the applicants.

The SERO Permits Office also proposes to modify the Vessel EEZ application to include a checkbox and language related to the compliance of regulatory requirements. NMFS does not anticipate these revisions to the form will materially change the time burden to the applicants.

Affected Public: Businesses or other for-profit organizations, and individuals or households.

Frequency: Annual and periodic.

Respondent's Obligation: Mandatory.

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

This information collection request may be viewed at www.reginfo.gov. Follow the instructions to view the Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be

submitted within 30 days of the publication of this notice on the following website www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function and entering either the title of the collection or the OMB Control Number 0648–0205.

Sheleen Dumas,

Department PRA Clearance Officer, Office of the Under Secretary for Economic Affairs, Commerce Department.

[FR Doc. 2024–00977 Filed 1–18–24; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Fishermen’s Contingency Fund

AGENCY: National Oceanic & Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of information collection, request for comment.

SUMMARY: The Department of Commerce, in accordance with the Paperwork Reduction Act of 1995 (PRA), invites the general public and other Federal agencies to comment on proposed, and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public’s reporting burden. The purpose of this notice is to allow for 60 days of public comment preceding submission of the collection to OMB.

DATES: To ensure consideration, comments regarding this proposed information collection must be received on or before March 19, 2024.

ADDRESSES: Interested persons are invited to submit written comments to Adrienne Thomas, NOAA PRA Officer, at Adrienne.thomas@noaa.gov. Please reference OMB Control Number 0648–0082 in the subject line of your comments. Do not submit Confidential Business Information or otherwise sensitive or protected information.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or specific questions related to collection activities should be directed to Moni Banerjee, Chief, Financial Services Division, NOAA National Marine

Fisheries Service, (301) 427–8716 or moni.banerjee@noaa.gov.

SUPPLEMENTARY INFORMATION:

I. Abstract

This request is for an extension of a currently approved information collection.

United States (U.S.) commercial fishermen may file claims for compensation for losses of, or damage to, fishing gear or vessels, plus 50 percent of resulting economic losses, attributable to oil and gas activities on the U.S. Outer Continental Shelf. To obtain compensation, applicants must comply with requirements set forth in 50 CFR part 296.

The requirements include a “report” within 15 days of the date the vessel first returns to port after the casualty incident to gain a presumption of eligible causation, and an “application” within 90 days of when the applicant first became aware of the loss and/or damage.

The report is NOAA Form 88–166 and it requests identifying information such as: Respondent’s name; address; social security number; and casualty location. The information in the report is usually completed by NOAA during a telephone call with the respondent.

The application is NOAA Form 88–164 and it requires the respondent to provide information on the property and economic losses and/or damages including type of damage; purchase date and price of lost/damaged gear; and income from recent fishing trips. It also includes an affidavit by which the applicant attests to the truthfulness of the claim.

II. Method of Collection

Respondents may telephone NOAA and provide the information for the report verbally or submit a paper or electronic report. Respondents have a choice of either electronic or paper forms for the application.

III. Data

OMB Control Number: 0648–0082.

Form Number: NOAA Forms 88–164, 88–166.

Type of Review: Extension of a current information collection.

Affected Public: Individuals or households; business or other for-profit organizations.

Estimated Number of Respondents: 20.

Estimated Time per Response: 15 minutes for a report and 7 hours, 45 minutes for an application.

Estimated Total Annual Burden Hours: 160.

Estimated Total Annual Cost to the Public: \$500 in recordkeeping and filing costs.

Respondent’s Obligation: Required to Obtain or Retain Benefits.

Legal Authority: Title IV of the Outer Continental Shelf Lands Act Amendments of 1978 (43 U.S.C. 1841) authorizes the Fishermen’s Contingency Fund (Fund or FCF) program to compensate U.S. commercial fishermen for losses of, or damages to, fishing gear or vessels, plus 50% of resulting gross economic loss, attributable to oil and gas activities on the OCS. Program requirements are set forth in 50 CFR part 296.

IV. Request for Comments

We are soliciting public comments to permit the Department/Bureau to: (a) Evaluate whether the proposed information collection is necessary for the proper functions of the Department, including whether the information will have practical utility; (b) Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used; (c) Evaluate ways to enhance the quality, utility, and clarity of the information to be collected; and (d) Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this ICR. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you may ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Sheleen Dumas,

Department PRA Clearance Officer, Office of the Under Secretary for Economic Affairs, Commerce Department.

[FR Doc. 2024–00969 Filed 1–18–24; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE**National Telecommunications and Information Administration****Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; State Digital Equity Capacity Grant Program for Native Entities**

AGENCY: National Telecommunications and Information Administration (NTIA), Commerce.

ACTION: Notice of information collection, request for comment.

SUMMARY: The Department of Commerce, in accordance with the Paperwork Reduction Act of 1995 (PRA), invites the general public and other Federal agencies to comment on proposed and continuing information collections, which help us assess the impact of our information collection requirements and minimize the public's reporting burden. The purpose of this notice is to allow for 60 days of public comment preceding submission of the collection to OMB.

DATES: To ensure consideration, comments regarding this proposed information collection must be received on or before March 19, 2024.

ADDRESSES: Interested persons are invited to submit written comments by mail to Arica Cox, Telecommunications Policy Analyst, Grants Management and Compliance, Office of Internet Connectivity and Growth, National Telecommunication and Information Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Room 4826, Washington, DC 20230, or by email to broadbandusa@ntia.gov. Please reference "Comment on Digital Equity Application Forms for Native Entities" in the subject line of your comments. Do not submit Confidential Business Information or otherwise sensitive or protected information.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or specific questions related to collection activities should be directed to Arica Cox, Telecommunications Policy Analyst, Grants Management and Compliance, 1401 Constitution Avenue NW, Room 4826, Washington, DC 20230, via email at acox@ntia.gov or via telephone at (202) 482-2048.

SUPPLEMENTARY INFORMATION:**I. Abstract**

The Infrastructure Investment and Jobs Act, 2021 ("Infrastructure Act" or "Act"), which was adopted on

November 15, 2021, and is also known as the Bipartisan Infrastructure Law, provided \$65 billion of funding for programs to close the digital divide and ensure that all Americans have access to affordable, reliable, high-speed internet. NTIA administers six broadband connectivity grant programs funded by the Act, including the State Digital Equity Planning Grant Program ("Planning Grant Program") and the State Digital Equity Capacity Grant Program ("Capacity Grant Program"). The Planning Grant Program provides federal funding for grants to eligible applicants for the purpose of developing Digital Equity Plans. Through these Plans, entities will, among other things, identify barriers to digital equity in the State and strategies for overcoming those barriers. The Capacity Grant Program will provide federal funding to eligible applicants for the purpose of implementing the State Digital Equity Plans and pursuing digital inclusion activities consistent with the State Digital Equity Plan. In addition, the Capacity Grant Program will provide new federal funding for grants to Indian Tribes, Alaska Native entities, and Native Hawaiian organizations ("Native Entities") to undertake digital equity planning activities and implement digital inclusion activities, consistent with the Planning Grant Program and the Capacity Grant Program.

NTIA will use the information collected from each Native Entity applicant to effectively review the proposed applications and budgets of Indian Tribes, Alaska Native entities, and Native Hawaiian organizations applying for funding under the Digital Equity Planning and Capacity Programs.

II. Method of Collection

NTIA will collect data through both electronic and mail submission.

III. Data

OMB Control Number: 0660-XXXX.
Form Number(s): TBD.

Type of Review: Regular submission for a new information collection.

Affected Public: Indian Tribes, Alaska Native entities, and Native Hawaiian organizations applying for Infrastructure Act Broadband Grant Program funding.

Estimated Number of Respondents: 475.

Estimated Time Per Response: 16 hours.

Estimated Total Annual Burden Hours: 5,760 hours.

Estimated Total Annual Cost to Public: \$264,207.80.

Respondent's Obligation: Mandatory.
Legal Authority: Sections 60304(c) and 60304(d) of the Infrastructure

Investment and Jobs Act of 2021, Public Law 117-58, 135 Stat. 429 (November 15, 2021).

IV. Request for Comments

We are soliciting public comments to permit the Department/Bureau to: (a) Evaluate whether the proposed information collection is necessary for the proper functions of the Department, including whether the information will have practical utility; (b) Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used; (c) Evaluate ways to enhance the quality, utility, and clarity of the information to be collected; and (d) Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this ICR. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you may ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Sheleen Dumas,

Department PRA Clearance Officer, Office of the Under Secretary for Economic Affairs, Commerce Department.

[FR Doc. 2024-00968 Filed 1-18-24; 8:45 am]

BILLING CODE 3510-60-P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED**Procurement List; Deletions**

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Deletions from the Procurement List.

SUMMARY: This action deletes product(s) from the Procurement List that were furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

DATES: Date added to and deleted from the Procurement List: February 18, 2024.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely

Disabled, 355 E Street SW, Suite 325, Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT:

Michael R. Jurkowski, Telephone: (703) 785-6404, or email CMTEFedReg@AbilityOne.gov.

SUPPLEMENTARY INFORMATION:

Deletions

On 12/15/2024, the Committee for Purchase From People Who Are Blind or Severely Disabled published notice of proposed deletions from the Procurement List. This notice is published pursuant to 41 U.S.C. 8503(a)(2) and 41 CFR 51-2.3.

After consideration of the relevant matter presented, the Committee has determined that the product(s) listed below are no longer suitable for procurement by the Federal Government under 41 U.S.C. 8501-8506 and 41 CFR 51-2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in additional reporting, recordkeeping or other compliance requirements for small entities.
2. The action may result in authorizing small entities to furnish the product(s) to the Government.
3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 8501-8506) in connection with the product(s) and service(s) deleted from the Procurement List.

End of Certification

Accordingly, the following product(s) are deleted from the Procurement List:

Product(s)

NSN(s)—Product Name(s):

7520-01-529-1850—Pen, Ball Point, Retractable, Refillable, Americana, Medium Point, Black Ink

Designated Source of Supply: Industries for the Blind and Visually Impaired, Inc., West Allis, WI

Contracting Activity: GSA/FAS ADMIN SVCS ACQUISITION BR 2, NEW YORK, NY

NSN(s)—Product Name(s):

7510-01-591-5821—Tape, Duct, Premium Grade, Waterproof, 3" x 60 yd, Camouflage

Designated Source of Supply: CINCINNATI ASSOCIATION FOR THE BLIND AND VISUALLY IMPAIRED, Cincinnati, OH

Contracting Activity: GSA/FAS ADMIN SVCS ACQUISITION BR 2, NEW YORK, NY

NSN(s)—Product Name(s):

8520-01-691-2733—Advanced Instant Hand Sanitizer, Green Certified Gel, 64 oz

Designated Source of Supply: Travis

Association for the Blind, Austin, TX

Contracting Activity: GSA/FSS GREATER SOUTHWEST ACQUISITI, FORT WORTH, TX

NSN(s)—Product Name(s):

8115-01-544-2416—Kit, Humanitarian Airdrop, Tri-Wall Aerial Distribution System (TRIADS)

8115-01-582-2197—Kit, TRIADS, Modified

Designated Source of Supply: Tarrant County Association for the Blind, Fort Worth, TX

Contracting Activity: GSA/FAS ADMIN SVCS ACQUISITION BR(2, NEW YORK, NY

Michael R. Jurkowski,

Acting Director, Business Operations.

[FR Doc. 2024-00986 Filed 1-18-24; 8:45 am]

BILLING CODE 6353-01-P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed deletions from the Procurement List.

SUMMARY: The Committee is proposing to delete product(s) from the Procurement List that were furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

DATES: *Comments must be received on or before:* February 18, 2024.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, 355 E Street SW, Suite 325, Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: For further information or to submit comments contact: Michael R. Jurkowski, Telephone: (703) 785-6404, or email CMTEFedReg@AbilityOne.gov.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 8503(a)(2) and 41 CFR 51-2.3. Its purpose is to provide interested persons an opportunity to submit comments on the proposed actions.

Deletions

The following product(s) are proposed for deletion from the Procurement List:

Product(s)

NSN(s)—Product Name(s):

7105-00-269-8463—Chair, Metal Folding

7105-00-663-8475—Chair, Metal Padded Folding

Contracting Activity: GSA/FAS FURNITURE SYSTEMS MGT DIV, PHILADELPHIA, PA

NSN(s)—Product Name(s):

8465-01-481-4448—Cover, Field-Pack, Camouflage, White

Designated Source of Supply: Human

Technologies Corporation, Utica, NY

Contracting Activity: DLA TROOP SUPPORT, PHILADELPHIA, PA

Michael R. Jurkowski,

Acting Director, Business Operations.

[FR Doc. 2024-00989 Filed 1-18-24; 8:45 am]

BILLING CODE 6353-01-P

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Business Board; Notice of Federal Advisory Committee Meeting

AGENCY: Office of the Deputy Secretary of Defense, Department of Defense (DoD).

ACTION: Notice of Federal Advisory Committee meeting.

SUMMARY: The DoD is publishing this notice to announce that the following Federal Advisory Committee meeting of the Defense Business Board ("the Board") will take place.

DATES: Closed to the public February 6, 2024 from 9:15 a.m. to 11:30 a.m., 1:20 p.m. to 4:50 p.m., and from 5:00 p.m. to 7:05 p.m. and on February 7, 2024 from 9:20 a.m. to 11:05 a.m. Open to the public February 6 from 12:30 p.m. to 1:15 p.m. All Eastern time.

ADDRESSES: The open and closed portions of the meeting will be in room M2 of the Pentagon Library Conference Center, Nunn-Lugar Conference Room and 4D880 in the Pentagon, and at the U.S. Department of State, Washington DC.

FOR FURTHER INFORMATION CONTACT: Ms. Cara Allison Marshall, Designated Federal Officer (DFO) of the Board in writing at Defense Business Board, 1155 Defense Pentagon, Room 5B1088A, Washington, DC 20301-1155; or by email at cara.l.allisonmarshall.civ@mail.mil; or by phone at 703-614-1834.

SUPPLEMENTARY INFORMATION: This meeting is being held under the provisions of chapter 10 of title 5, United States Code (U.S.C.) (commonly known as the "Federal Advisory Committee Act" or "FACA"), 5 U.S.C. 552b (commonly known as the "Government in the Sunshine Act"), and 41 CFR 102-3.140 and 102-3.150.

Purpose of the Meeting: The mission of the Board is to examine and advise

the Secretary of Defense on overall DoD management and governance. The Board provides independent, strategic-level, private sector and academic advice and counsel on enterprise-wide business management approaches and best practices for business operations and achieving National Defense goals.

Agenda: The Board will begin in closed session on February 6 from 9:15 a.m. to 11:30 a.m. The DFO will begin the closed session followed by a welcome by Board Chair, Hon. Deborah James. The Board will receive a classified discussion on the DoD Budget from Hon. Kathleen Hicks, Deputy Secretary of Defense. The discussion will cover the DoD priorities and considerations that helped to shape its request as part of the President's budget request for fiscal year 2025. Next the Board will receive a classified discussion on the DoD Audit and Incremental Progress from Hon. Michael McCord. This session will include an overview of the latest DoD Audit, progress to date, and the path forward. Discussion will include current obstacles and recommended courses of action from business leaders. The DFO will adjourn the closed session. After a lunch break, the Board will meet in open session from 12:30 p.m. to 1:15 p.m. The DFO will open the public session followed by a welcome by the Board Chair. The Board will receive a presentation on the Board study, *Creating a Digital Ecosystem Study* from Mr. Stan Soloway, Chair, Business Transformation Subcommittee. During this session, the Subcommittee will brief the Board on the findings, observations, and recommendations it compiled as part of a recent study on ways to leverage digital ecosystems to harness the power of data to aid decision-making and risk analysis through simulation and advanced computing.

The DFO will then adjourn the open session. The Board will reconvene in closed session from 1:20 p.m. to 4:50 p.m. The DFO will begin the closed session followed by a welcome by the Board Chair. The Board will receive a classified discussion on the State of the Workforce—Recruiting, Training, and Retention, Obstacles, and Solutions from Sergeant Major Troy E. Black, Senior Enlisted Advisor to the Chairman of the Joint Chiefs of Staff. The conversation is expected to delve into the multifaceted aspects of managing a contemporary workforce, addressing challenges in recruiting talent in the current environment, implementing effective training programs, and devising retention strategies. Discussion will focus on identifying obstacles such

as changing workforce expectations, skill gaps to address future needs per the National Security Strategy and exploring innovative solutions to foster a resilient and high-performing workforce. Next the Board will receive a classified discussion on DoD Current Affairs from Hon. Lloyd Austin, Secretary of Defense. This session is expected to focus on the state of the current global security environment and its implications for current and future business operations. Following, the Board will receive a classified discussion on Current Operations, Crisis Action Planning, and Adaptive Decision Making in Dynamic Environments from LTG Douglass A. Sims II, Army, Director of Operations. This forum will explore the intersection of military operations and corporate crisis management, highlighting the parallels between the principles of current operations, crisis action planning, and adaptive decision-making in both contexts. Through this exploration, participants can gain valuable insights into proactive crisis management, strategic preparedness for “black swan” events, and the cultivation of an agile organizational culture that is capable of navigating complex and rapidly changing landscapes. The DFO will adjourn the closed session. The Board will transition to the Air Force Mess for their final closed session on February 6. The DFO will begin the closed session followed by remarks by Board Chair, Hon. Deborah James and Deputy Secretary, Hon. Kathleen Hicks. Next, the Board will hear a classified update by the Defense Advanced Research Projects Agency (DARPA) from Dr. Stefanie Tompkins, Director. This discussion focuses on any significant updates from DARPA in support of the National Security Strategy, how they have a different remit from the DoD, and what best business practices could be imported to the rest of the DoD. The DFO will adjourn the closed session. The Board will meet in closed session February 7 from 9:20 a.m. to 11:05 a.m. The DFO will begin the closed session followed by the Chair's welcome. Next the Board will receive a classified Briefing on State Department (DoS) Business Operations/Management in Support of Current Efforts from Richard Verma, Deputy Secretary of State for Management and Resources. This discussion will focus on differences between DoD, DoS, and business operations management, and DoD and DoS unity of effort to achieve combined effects both militarily and diplomatically. The DFO will then adjourn the closed session.

The latest version of the agenda will be available on the Board's website at: <https://dbb.dod.afpims.mil/Meetings/Meeting-February-2024/>.

Meeting Accessibility: In accordance with 5 U.S.C. 1009(d) and 41 CFR 102–3.155, it is hereby determined that the February 6–7 meeting of the Board will include classified information and other matters covered by 5 U.S.C. 552b(c)(1) and that, accordingly, portions of the meeting will be closed to the public. This determination is based on the consideration that it is expected that discussions throughout the closed portions will involve classified matters of national security. Such classified material is so intertwined with the unclassified material that it cannot reasonably be segregated into separate discussions without defeating the effectiveness and meaning of these portions of the meeting. To permit these portions of the meeting to be open to the public would preclude discussion of such matters and would greatly diminish the ultimate utility of the Board's findings and recommendations to the Secretary of Defense and the Deputy Secretary of Defense. Pursuant to 5 U.S.C. 1009(a)(1) and 41 CFR 102–3.140, the portion of the meeting on February 6 from 12:30 p.m. to 1:15 p.m. is open to the public virtually. Persons desiring to attend the public sessions are required to register. To attend the public sessions, submit your name, affiliation/organization, telephone number, and email contact information to the Board at

osd.pentagon.odam.mbx.defense-business-board@mail.mil. Requests to attend the public sessions must be received no later than 4:00 p.m. on Friday, February 2, 2024. Upon receipt of this information, the Board will provide further instructions for virtually attending the meeting.

Written Comments and Statements: Pursuant to 41 CFR 102–3.105(j) and 102–3.140 and 5 U.S.C. 1009(a)(3) of the FACA, the public or interested organizations may submit written comments or statements to the Board in response to the stated agenda of the meeting or regarding the Board's mission in general. Written comments or statements should be submitted to Ms. Cara Allison Marshall, the DFO, via electronic mail (the preferred mode of submission) at the address listed in the **FOR FURTHER INFORMATION CONTACT** section. Each page of the comment or statement must include the author's name, title or affiliation, address, and daytime phone number. The DFO must receive written comments or statements submitted in response to the agenda set forth in this notice by Friday, February

2, 2024, to be considered by the Board. The DFO will review all timely submitted written comments or statements with the Board Chair and ensure the comments are provided to all members of the Board before the meeting. Written comments or statements received after this date may not be provided to the Board until its next scheduled meeting. Please note that all submitted comments and statements will be treated as public documents and will be made available for public inspection, including, but not limited to, being posted on the Board's website.

Dated: January 12, 2024.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2024-00961 Filed 1-18-24; 8:45 am]

BILLING CODE 6001-FR-P

DEPARTMENT OF ENERGY

National Nuclear Security Administration

Notice of Availability of Final Environmental Impact Statement for the Surplus Plutonium Disposition Program

AGENCY: National Nuclear Security Administration, Department of Energy.

ACTION: Notice of availability.

SUMMARY: The National Nuclear Security Administration (NNSA), a semi-autonomous agency within the Department of Energy (DOE), announces the availability of the Final Environmental Impact Statement for the Surplus Plutonium Disposition Program (SPDP EIS) (DOE/EIS-0549) in compliance with the National Environmental Policy Act of 1969 (NEPA). NNSA prepared the Final SPDP EIS to evaluate the potential environmental impacts of dispositioning 34 metric tons (MT) of surplus plutonium.

DATES: NNSA will not issue a Record of Decision (ROD) on the proposal for a minimum of 30 days after the date that the U.S. Environmental Protection Agency (EPA) publishes its Notice of Availability (NOA) in the **Federal Register**.

ADDRESSES: Requests for additional information related to the EIS should be sent by email to SPDP-EIS@nnsa.doe.gov or to Ms. Maxcine Maxted, NEPA Document Manager, National Nuclear Security Administration, Office of Material Management and

Minimization, P.O. Box A, Bldg. 730-2B, Rm. 328, Aiken, SC 29802.

The SPDP EIS is available on the internet at: <https://www.energy.gov/nnsa/nnsa-nepa-reading-room> and <https://www.energy.gov/nepa/doeeis-0549-surplus-plutonium-disposition-program>.

FOR FURTHER INFORMATION CONTACT: For further information about this notice, please contact Ms. Maxcine Maxted, NEPA Document Manager, National Nuclear Security Administration, Office of Material Management and Minimization, P.O. Box A, Bldg. 730-2B, Rm. 328, Aiken, SC 29802; phone: (803) 952-7434; email: SPDP-EIS@nnsa.doe.gov.

SUPPLEMENTARY INFORMATION:

Background

NNSA prepared the SPDP EIS pursuant to NEPA (Title 42 U.S.C. 4321 *et seq.*), the Council on Environmental Quality's NEPA regulations (40 CFR parts 1500-1508), and the DOE NEPA implementing procedures (10 CFR part 1021). NNSA's previous NEPA reviews and decisions regarding the disposition of surplus plutonium are summarized in Section 1.1 of the SPDP EIS. The following paragraphs describe recent developments relevant to the scope of the SPDP EIS.

In 2015, NNSA completed the Surplus Plutonium Disposition Supplemental Environmental Impact Statement (SPD Supplemental EIS) (DOE/EIS-0283-S2). In the SPD Supplemental EIS, NNSA evaluated the environmental impacts of alternatives for dispositioning 13.1 MT of surplus plutonium (7.1 MT of pit and 6 MT of non-pit) for which a disposition path had not been assigned. The alternatives evaluated in the 2015 SPD Supplemental EIS included the Mixed Oxide (MOX) Fuel Alternative, the Waste Isolation Pilot Plant (WIPP) Alternative, and two variations of waste immobilization. In addition, NNSA evaluated four options for pit disassembly and conversion (pit disassembly and conversion is equivalent to pit disassembly and processing [PDP] as used in this Notice and the SPDP EIS) using facilities at the Savannah River Site (SRS) and Los Alamos National Laboratory (LANL). In 2015, NNSA announced that its preferred alternative for disposition of the six MT of non-pit surplus plutonium evaluated in the SPD Supplemental EIS was to prepare the non-pit surplus plutonium for eventual disposal at the WIPP facility in Carlsbad, New Mexico (80 FR 80348, December 24, 2015). In a 2016 ROD, NNSA announced a decision to disposition the six MT of non-pit

surplus plutonium by downblending it with an adulterant (downblending is a process equivalent to dilution in the dilute and dispose strategy as used in the SPDP EIS), packaging it as defense-related contact-handled transuranic (CH-TRU) waste, and shipping it to the WIPP facility for disposal (81 FR 19588). In the 2016 ROD, NNSA did not make a decision about the disposition of the 7.1 MT of pit plutonium or about the various options for pit disassembly and conversion that were analyzed in the 2015 SPD Supplemental EIS.

In 2016, NNSA, partnering with the U.S. Army Corps of Engineers, developed an independent cost estimate for the MOX Fuel Fabrication Facility (MFFF) project and concluded that the cost of the project, upon completion of construction, would be approximately \$17 billion and construction would not be complete until 2048. Congress directed NNSA to prepare a lifecycle cost estimate for disposal of surplus plutonium using the same approach announced for the six MT, now referred to as the dilute and dispose strategy. The completed cost estimate indicated that the estimate-to-complete lifecycle cost of the dilute and dispose strategy would be substantially lower than the cost to complete the MOX project. In response, the Secretary of Energy halted construction of the MOX fuel project in May 2018 by waiving the requirement to use funds for construction and support activities for the MFFF per the National Defense Authorization Act. In a letter dated May 10, 2018, the Secretary of Energy certified that "the remaining lifecycle cost for the dilute and dispose strategy will be less than approximately half of the estimated remaining lifecycle cost of the MOX fuel program." On October 10, 2018, NNSA issued a notice terminating the contract for construction of MFFF. On February 8, 2019, the U.S. Nuclear Regulatory Commission (NRC) terminated the construction license for MFFF (NRC 2019). NNSA is preparing this SPDP EIS to evaluate alternatives for disposition of the 34 MT of surplus plutonium previously designated for disposition using the MOX fuel program that no longer has a disposition path.

In 2020, NNSA prepared a Supplement Analysis (SA) based on the analysis presented in the 2015 SPD Supplemental EIS. NNSA determined that disposition of 7.1 MT of non-pit surplus plutonium was not a substantial change in the action analyzed in the 2015 SPD Supplemental EIS to disposition 7.1 MT of pit plutonium via the WIPP Alternative and that the environmental impacts had been sufficiently analyzed. NNSA subsequently issued an Amended ROD

(AROD) to include preparation of an additional 7.1 MT of non-pit surplus plutonium for disposal as defense-related CH-TRU waste at the WIPP facility (85 FR 53350, August 28, 2020). In the same 2020 AROD, NNSA also decided that non-pit metal processing (NPMP) may be performed at either LANL or SRS. The SA and AROD are available online at <https://www.energy.gov/nnsa/nnsa-nepa-reading-room>.

The 7.1 MT of non-pit surplus plutonium referred to in the 2020 AROD is part of the 34 MT of surplus plutonium that NNSA had decided to disposition by fabricating it into MOX fuel for use in commercial reactors. The disposition of that 34 MT is the subject of this SPDP EIS.

Purpose and Need for Agency Action

Since the end of the Cold War in the early 1990s and the Presidential declarations of surplus fissile materials, DOE has been charged with the disposition of surplus plutonium.

NNSA's purpose and need for action is to safely and securely disposition plutonium that is surplus to the Nation's defense needs so that it is not readily usable in nuclear weapons. NNSA needs to disposition 34 MT of surplus plutonium in a safe and secure manner and in a reasonable time frame at a cost consistent with NNSA priorities and fiscal realities. To achieve this, NNSA must use mature methods and proven technologies that are based on processes requiring minimal research and engineering development.

Proposed Action and Alternatives

Both the Preferred Alternative and the No Action Alternative in the SPDP EIS use the dilute and dispose strategy, and both address up to 7.1 MT of non-pit surplus plutonium that NNSA previously decided to dispose of using the dilute and dispose strategy (85 FR 53350). The dilute and dispose strategy includes processing surplus plutonium to plutonium oxide, diluting it with an adulterant to inhibit plutonium recovery, and disposing the resulting defense-related CH-TRU waste at the WIPP facility.

Preferred Alternative

NNSA's Preferred Alternative is to use the dilute and dispose strategy for 34 MT of surplus plutonium comprised of both pit and non-pit surplus plutonium. The exact amounts of pit and non-pit forms of plutonium that compose the 34 MT are safeguarded, so they cannot be delineated further. Therefore, to bound the impacts, the analysis in the SPDP EIS evaluates the impacts of

dispositioning 34 MT of surplus plutonium in pit form and the impacts of dispositioning 7.1 MT of non-pit surplus plutonium. The activities that are part of the Preferred Alternative would occur at five DOE sites—the Pantex Plant (Pantex) in Texas, LANL in New Mexico, SRS in South Carolina, the Y-12 National Security Complex (Y-12) in Tennessee, and the WIPP facility in New Mexico. NNSA has developed four sub-alternatives for the Preferred Alternative based on the location of activities.

Base Approach Sub-Alternative

Under the Base Approach Sub-Alternative, NNSA analyzes the impacts of shipping 34 MT of surplus pit plutonium from Pantex to LANL and disassembling and processing (*i.e.*, PDP) of the 34 MT of surplus pit plutonium at LANL with subsequent shipment of the decontaminated and oxidized highly enriched uranium (HEU) to Y-12. NNSA also analyzes the impacts of processing 7.1 MT of non-pit surplus plutonium at LANL, using some of the same capabilities as PDP. This sub-alternative would rely on expanding existing capabilities at LANL in the Plutonium Facility (PF-4) for PDP and modifying or building additional support facilities. The resulting plutonium oxide from the surplus pit and non-pit surplus plutonium would be shipped to K-Area at SRS, where it would be diluted, characterized, and packaged for shipment to and disposal at the WIPP facility.

SRS NPMP Sub-Alternative

The SRS NPMP Sub-Alternative is similar to the Base Approach Sub-Alternative. NNSA analyzes the impacts of shipping 34 MT of surplus pit plutonium from Pantex to LANL and PDP of the 34 MT of surplus pit plutonium at LANL. The decontaminated and oxidized HEU would then be shipped to Y-12. This sub-alternative would rely on NNSA expanding existing capabilities at LANL in PF-4 for PDP and modifying or building additional support facilities. Plutonium oxide resulting from PDP would be shipped to SRS (K-Area). Unlike the Base Approach Sub-Alternative, under this sub-alternative, NNSA does not analyze NPMP at LANL. Instead, processing of 7.1 MT of non-pit surplus plutonium would occur in the SRS K-Area either in Building 105-K or in a modular system adjacent to the building. Under this sub-alternative, NNSA considers the impacts of dilution and characterization and packaging (C&P) of the diluted plutonium oxide as defense-related CH-TRU waste in SRS's

K-Area for shipment to and disposal at the WIPP facility.

All LANL Sub-Alternative

Under the All LANL Sub-Alternative, NNSA would use only capabilities at LANL for the entire disposition pathway prior to shipment to the WIPP facility. Under this Sub-Alternative, NNSA analyzes the impacts of shipping 34 MT of surplus pit plutonium from Pantex to LANL, PDP at LANL, and shipment of the decontaminated and oxidized HEU to Y-12. NNSA would rely on expanding existing capabilities at LANL in PF-4 and modifying or building additional support facilities. NNSA also analyzes the impacts of processing 7.1 MT of non-pit surplus plutonium at LANL in PF-4. Under the All LANL Sub-Alternative NNSA considers the impacts of dilution in PF-4 and C&P of the diluted plutonium oxide defense-related CH-TRU waste for shipment to and disposal at the WIPP facility.

All SRS Sub-Alternative

Under the All SRS Sub-Alternative, NNSA would use only capabilities at SRS for the entire disposition pathway prior to shipment to the WIPP facility. Under this sub-alternative, NNSA analyzes the impacts of shipping 34 MT of surplus pit plutonium from Pantex to SRS and the disassembly and processing of the 34 MT of surplus pit plutonium and processing 7.1 MT of non-pit surplus plutonium in a new capability installed at SRS in either K-Area or F-Area. NNSA analyzes the subsequent shipment of the decontaminated and oxidized HEU to Y-12 and the shipment of by-product material to LANL. Under this Sub-Alternative, NNSA considers the impacts of dilution and C&P of the diluted plutonium oxide defense-related CH-TRU waste in SRS's K-Area for shipment to and disposal at the WIPP facility.

No Action Alternative

The No Action Alternative is the continued management of 34 MT of surplus plutonium. This includes (1) continued storage of surplus pits at Pantex, (2) continuing the plutonium mission at LANL to process up to 400 kg of actinides (including surplus plutonium) per year, and (3) disposition of up to 7.1 MT of non-pit surplus plutonium for which the disposition decision, using the dilute and dispose strategy, was announced in NNSA's 2020 AROD (85 FR 53350).

Public Involvement

The SPDP EIS is an element of the NEPA strategy related to the disposition of surplus plutonium, which NNSA

announced in the Notice of Intent published in the **Federal Register** on December 16, 2020 (85 FR 81460). In that announcement, NNSA provided information regarding NNSA's overall NEPA strategy related to fulfilling the purpose and need to disposition 34 MT of surplus plutonium.

On December 16, 2022, NNSA electronically published the Draft SPDP EIS and published an NOA in the **Federal Register** announcing a 60-day public comment period for the Draft SPDP EIS (87 FR 77096). EPA also published its NOA of the Draft SPDP EIS on December 16, 2022 (87 FR 77106). The comment period was scheduled to end on February 14, 2023. On February 7, 2023, NNSA notified the EPA that it was extending the comment period until March 16, 2023. On February 10, 2023, the EPA published a notice in the **Federal Register** that announced the extension to the public comment period (88 FR 8843). NNSA held three in-person public hearings and one internet-based (with telephone access) virtual public hearing. The in-person public hearings were held on January 19, 2023, in North Augusta, South Carolina, on January 24, 2023, in Carlsbad, New Mexico, and on January 26, 2023, in Los Alamos, New Mexico. The virtual public hearing was held on January 30, 2023. In addition to the public hearings, the public was encouraged to provide comments via U.S. postal mail, by phone, or electronically via email. NNSA received 121 comment documents from individuals, interested groups, and Federal, State, and local agencies during the public comment period on the Draft SPDP EIS.

NNSA considered all comments received before May 2023, on the Draft SPDP EIS in preparing the Final EIS and revised the Draft EIS to incorporate changes as a result of public comments. The Final EIS also includes NNSA's responses to all comments received.

NNSA will consider the environmental impact analysis presented in the Final SPDP EIS, along with other information, when making decisions regarding surplus plutonium disposition. NNSA will then issue a ROD on the proposal no sooner than 30 days following the date that EPA publishes its NOA in the **Federal Register**.

Signing Authority

This document of the Department of Energy was signed on December 19, 2023, by Jill Hruby, Under Secretary for Nuclear Security and Administrator, National Nuclear Security Administration, pursuant to delegated

authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on January 12, 2024.

Treena V. Garrett,
*Federal Register Liaison Officer, U.S.
Department of Energy.*

[FR Doc. 2024-00890 Filed 1-18-24; 8:45 am]

BILLING CODE 6450-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER24-847-000]

Sunlight Road Solar, L.L.C.; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Sunlight Road Solar, L.L.C.'s application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is February 1, 2024.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at <http://www.ferc.gov>. To facilitate electronic service, persons with internet access who will eFile a document and/or be

listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (<http://www.ferc.gov>). From the Commission's Home Page on the internet, this information is available on eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field.

User assistance is available for eLibrary and the Commission's website during normal business hours from FERC Online Support at 202-502-6652 (toll free at 1-866-208-3676) or email at ferconlinesupport@ferc.gov, or the Public Reference Room at (202) 502-8371, TTY (202) 502-8659. Email the Public Reference Room at public.referenceroom@ferc.gov.

The Commission's Office of Public Participation (OPP) supports meaningful public engagement and participation in Commission proceedings. OPP can help members of the public, including landowners, environmental justice communities, Tribal members and others, access publicly available information and navigate Commission processes. For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, the public is encouraged to contact OPP at (202) 502-6595 or OPP@ferc.gov.

Dated: January 12, 2024.

Debbie-Anne A. Reese,
Acting Secretary.

[FR Doc. 2024-01039 Filed 1-18-24; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory
Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings in Existing Proceedings

Docket Numbers: PR24–9–001.

Applicants: Lee 8 Storage Partnership.

Description: Amendment Filing: Settlement Proposal (PR24–9–) to be effective 11/14/2023.

Filed Date: 1/12/24.

Accession Number: 20240112–5030.

Comment Date: 5 p.m. ET 2/2/24.

§ 284.123(g) Protest: 5 p.m. ET 2/2/24.

Any person desiring to protest in any the above proceedings must file in accordance with Rule 211 of the Commission's Regulations (18 CFR 385.211) on or before 5:00 p.m. Eastern time on the specified comment date.

The filings are accessible in the Commission's eLibrary system (<https://elibrary.ferc.gov/idmws/search/fercgensearch.asp>) by querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: <http://www.ferc.gov/docs-filing/efiling/filing-req.pdf>. For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

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For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, the public is encouraged to contact OPP at (202) 502–6595 or OPP@ferc.gov.

Dated: January 12, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–01040 Filed 1–18–24; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory
Commission

[Project No. 1869–066]

NorthWestern Energy; Notice of Application Tendered for Filing With the Commission and Establishing Procedural Schedule for Licensing and Deadline for Submission of Final Amendments

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* New Major License.

b. *Project No.:* 1869–066.

c. *Date Filed:* December 29, 2023.

d. *Applicant:* NorthWestern Energy.

e. *Name of Project:* Thompsons Falls Hydroelectric Project.

f. *Location:* On the Clark Fork River in Sanders County in the city of Thompson Falls, Montana. The project includes 103.80 acres of federal lands administered by the U.S. Forest Service.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mary Gail Sullivan, Director, Environmental & Lands Permitting & Compliance, NorthWestern Energy 11 East Park Street, Butte, Montana 59701; phone: (406) 497–3382 or (406) 490–1838.

i. *FERC Contact:* Michael Tust at (202) 502–6522 or email at michael.tust@ferc.gov.

j. This application is not ready for environmental analysis at this time.

k. *Project Description:* The project consists of multiple dams that form the project reservoir and two powerhouses. The following existing facilities occur at the project: (1) a 1,016-foot-long, 54-foot-high, concrete gravity dam (*i.e.*, main channel dam) with a 913-foot-long overflow section with 8-foot-high fixed wheel panels atop 8-foot-high stoplogs and four radial gates; (2) an upstream fish passage facility on the main channel dam; (3) a 449-foot-long, 45-foot-high concrete gravity dam (*i.e.*, dry channel dam) located downstream of the main channel dam with a 289-foot-long overflow section with 8-foot-high fixed wheel panels atop 4-foot-high stoplogs; (4) a 1,226-acre reservoir impounded by the two dams; (5) a 300-foot-long, 78-foot-wide excavated channel leading to a 200-foot long, 78-foot-wide reinforced concrete intake structure; (6) three 39-foot-high, 18-foot-wide, and 75-foot-long rectangular conduits extending from the intake to a 200-foot-long, 78-foot-wide concrete powerhouse containing a Kaplan-type

turbine-generator unit with an installed capacity of 52.61 megawatts (MW); (7) a 450-foot-long, 80-foot-wide forebay channel leading to a 258-foot-long, 40-foot-high second intake structure (adjacent to the other intake structure); (8) six steel, 14-foot-diameter main turbine penstocks and two 6-foot-8-inch-diameter exciter turbine penstocks extend from the second intake to a 292-foot-long, 97-foot-wide second powerhouse containing six Francis-type turbine-generating units, with three rated at 7.0 MW, two rated at 6.38 MW, and one rated at 6.0 MW; (9) a 1,000-foot-long, 100-foot-wide tailrace channel leading from the outlet of the first powerhouse; (10) a 800-foot-long, 130-foot-wide tailrace channel leading from the outlet of the second powerhouse; (11) three generator step-up transformers; (12) a 300-foot-long, 115-kilovolt generator lead line extending from the first powerhouse to the second powerhouse and two 50-foot-long, 6.6-kilovolt generator lead lines connecting to a breaker within the second powerhouse serving as the interconnection point for both powerhouses; (13) a 1,000-foot long access road; and (14) appurtenant facilities. NorthWestern Energy maintains the following recreation facilities under the current license: Island Park, Wild Goose Landing Park, and the South Shore Dispersed Recreation Area.

NorthWestern Energy is currently authorized to operate as a peaking facility while maintaining the reservoir elevation within a four-foot operating band (*i.e.*, between 2396.5 feet and 2392.5 feet elevation). However, NorthWestern Energy typically maintains the reservoir within 1.5 feet from the full operating level (*i.e.*, between 2396.5 feet and 2395.0 feet) while also maintaining a minimum discharge flow of 6,000 cubic feet per second or inflow, if less, in the Clark Fork River downstream of the project. NorthWestern proposes to maintain the reservoir within 2.5 feet from the full operating level (*i.e.*, between 2396.5 feet and 2394.0 feet) while continuing to maintain the 6,000-cfs minimum flow discharge downstream of the project and would continue to operate its upstream fish passage facility from mid-March to mid-October each year. The project has an average annual generation of 504,300 megawatt-hours.

NorthWestern Energy also proposes to revise the project boundary to more accurately follow the reservoir shoreline at the project's highest operating elevation and to enclose only those lands necessary for operation and maintenance. The boundary changes

would reduce the project acreage from 2,001 to 1,536 acres and it would reduce the acreage of federal lands within the project boundary from 103.80 acres to 66.90 acres.

l. *Location of the Application:* In addition to publishing the full text of this notice in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this notice, as well as other documents in the proceeding (e.g., license application) via the internet through the Commission’s Home Page (<http://www.ferc.gov>) using the “eLibrary” link. Enter the docket number excluding the last three digits in the docket number field to access the document (P–1869). For assistance, contact FERC at FERCOnlineSupport@ferc.gov or call toll-free, (866) 208–3676 or (202) 502–8659 (TTY).

m. You may also register online at <https://ferconline.ferc.gov/ferconline.aspx> to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

n. *Procedural Schedule:* The application will be processed according to the following preliminary Hydro Licensing Schedule. Revisions to the schedule may be made as appropriate.

Milestone	Target date
Issue Deficiency Letter (if necessary).	January 2024.
Issue Additional Information Request (if necessary).	February 2023.
Notice of Acceptance/Notice of Ready for Environmental Analysis.	June 2024.
Filing of recommendations, preliminary terms and conditions, and fishway prescriptions.	August 2024.

o. Final amendments to the application must be filed with the Commission no later than 30 days from the issuance date of the notice of ready for environmental analysis.

Dated: January 12, 2024.
Debbie-Anne A. Reese,
Acting Secretary.
[FR Doc. 2024–01037 Filed 1–18–24; 8:45 am]
BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #2

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

Docket Numbers: EC24–28–000.

Applicants: Vitol PA Wind Marketing LLC, Twin Ridges LLC, Patton Wind Farm, LLC, Highland North LLC.

Description: Supplement to December 20, 2023 Joint Application for Authorization Under Section 203 of the Federal Power Act of Twin Ridges LLC, et al.

Filed Date: 1/11/24.
Accession Number: 20240111–5214.
Comment Date: 5 p.m. ET 1/22/24.

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

Docket Numbers: ER23–2917–001.
Applicants: California Independent System Operator Corporation.
Description: Tariff Amendment: 2024–1–12 Deficiency Response—Subscriber Participating Transmission Owner Amdt to be effective 3/13/2024.
Filed Date: 1/12/24.
Accession Number: 20240112–5110.
Comment Date: 5 p.m. ET 2/2/24.

Docket Numbers: ER24–96–001.
Applicants: Pacific Gas and Electric Company.
Description: Compliance filing: Transmission Owner Rate Case TO21 Formula Rate Compliance Filing to be effective 1/1/2024.
Filed Date: 1/12/24.
Accession Number: 20240112–5108.
Comment Date: 5 p.m. ET 2/2/24.

Docket Numbers: ER24–869–000.
Applicants: PJM Interconnection, L.L.C., West Penn Power Company.
Description: § 205(d) Rate Filing: PJM Interconnection, L.L.C. submits tariff filing per 35.13(a)(2)(iii): West Penn Power Amends 3 Service Agreements (3661 4897 5049) to be effective 1/1/2024.
Filed Date: 1/12/24.
Accession Number: 20240112–5092.
Comment Date: 5 p.m. ET 2/2/24.

Docket Numbers: ER24–870–000.
Applicants: FirstEnergy Pennsylvania Electric Company, PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: FirstEnergy Pennsylvania Electric Company submits tariff filing per 35.13(a)(2)(iii): FEPA submits Amended IA, SA No. 4976 re: FirstEnergy Reorganization to be effective 1/1/2024.
Filed Date: 1/12/24.
Accession Number: 20240112–5111.
Comment Date: 5 p.m. ET 2/2/24.

Docket Numbers: ER24–871–000.
Applicants: PJM Interconnection, L.L.C.
Description: Tariff Amendment: Notice of Cancellation of WMPA, SA No. 6608; Queue No. AH1–109 re: breach to be effective 3/13/2024.
Filed Date: 1/12/24.

Accession Number: 20240112–5113.
Comment Date: 5 p.m. ET 2/2/24.

Docket Numbers: ER24–872–000.
Applicants: California Independent System Operator Corporation.
Description: § 205(d) Rate Filing: 2024–01–12 Rules of Conduct Tariff Amendment to be effective 12/31/9998.
Filed Date: 1/12/24.
Accession Number: 20240112–5121.
Comment Date: 5 p.m. ET 2/2/24.

Docket Numbers: ER24–874–000.
Applicants: Duke Energy Progress, LLC, Duke Energy Carolinas, LLC.
Description: § 205(d) Rate Filing: Duke Energy Progress, LLC submits tariff filing per 35.13(a)(2)(iii): DEC–DEP—Re-Filing of Proposed Revisions to Attachment N–1 to be effective 3/13/2024.
Filed Date: 1/12/24.
Accession Number: 20240112–5127.
Comment Date: 5 p.m. ET 2/2/24.

The filings are accessible in the Commission’s eLibrary system (<https://elibrary.ferc.gov/idmws/search/fercgensearch.asp>) by querying the docket number.

Any person desiring to intervene, to protest, or to answer a complaint in any of the above proceedings must file in accordance with Rules 211, 214, or 206 of the Commission’s Regulations (18 CFR 385.211, 385.214, or 385.206) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: <http://www.ferc.gov/docs-filing/efiling/filing-req.pdf>. For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

The Commission’s Office of Public Participation (OPP) supports meaningful public engagement and participation in Commission proceedings. OPP can help members of the public, including landowners, environmental justice communities, Tribal members and others, access publicly available information and navigate Commission processes. For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, the public is encouraged to contact OPP at (202) 502–6595 or OPP@ferc.gov.

Dated: January 12, 2024.
Debbie-Anne A. Reese,
Acting Secretary.
[FR Doc. 2024–01041 Filed 1–18–24; 8:45 am]
BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY**Federal Energy Regulatory Commission****Combined Notice of Filings #1**

Take notice that the Commission received the following Complaints and Compliance filings in EL Dockets:

Docket Numbers: EL24–53–000.

Applicants: Grain Belt Express LLC v. Midcontinent Independent System Operator, Inc.

Description: Complaint of Grain Belt Express LLC v. Midcontinent Independent System Operator, Inc.

Filed Date: 1/10/24.

Accession Number: 20240110–5196.

Comment Date: 5 p.m. ET 1/25/24.

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

Docket Numbers: ER19–1644–003.

Applicants: Richland-Stryker Generation LLC.

Description: Richland-Stryker Generation LLC submits a Reactive Power Informational Filing Regarding Planned Upstream Change in Control and Request for Waiver.

Filed Date: 1/2/24.

Accession Number: 20240102–5514.

Comment Date: 5 p.m. ET 1/23/24.

Docket Numbers: ER23–1851–005.

Applicants: PJM Interconnection, L.L.C.

Description: Tariff Amendment: Response to Commission's 12/12/2023 Deficiency Letter in ER23–1851–003, –004 to be effective 12/31/9998.

Filed Date: 1/11/24.

Accession Number: 20240111–5195.

Comment Date: 5 p.m. ET 2/1/24.

Docket Numbers: ER23–2003–004.

Applicants: Invenergy Nelson Expansion LLC.

Description: Tariff Amendment: Supplement to January 2, 2024 Deficiency Letter Response to be effective 7/1/2023.

Filed Date: 1/12/24.

Accession Number: 20240112–5021.

Comment Date: 5 p.m. ET 2/2/24.

Docket Numbers: ER24–476–001.

Applicants: ISO New England Inc.

Description: ISO–NE submits an Errata to its Informational Filing regarding Forward Capacity Auction 18.

Filed Date: 1/10/24.

Accession Number: 20240110–5205.

Comment Date: 5 p.m. ET 1/16/24.

Docket Numbers: ER24–672–002.

Applicants: Moonshot Solar, LLC.

Description: Tariff Amendment: Moonshot Solar, LLC Amendment to MBR Tariff to be effective 2/1/2024.

Filed Date: 1/12/24.

Accession Number: 20240112–5043.

Comment Date: 5 p.m. ET 2/2/24.

Docket Numbers: ER24–673–002.

Applicants: PGR 2022 Lessee 5, LLC.

Description: Tariff Amendment: PGR 2022 Lessee 5, LLC Amendment to MBR Tariff to be effective 2/1/2024.

Filed Date: 1/12/24.

Accession Number: 20240112–5044.

Comment Date: 5 p.m. ET 2/2/24.

Docket Numbers: ER24–862–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Original NSA, Service Agreement No. 7160; Queue No. AE2–110 to be effective 3/12/2024.

Filed Date: 1/11/24.

Accession Number: 20240111–5172.

Comment Date: 5 p.m. ET 2/1/24.

Docket Numbers: ER24–863–000.

Applicants: Keystone Appalachian Transmission Company, PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Keystone Appalachian Transmission Company submits tariff filing per 35.13(a)(2)(iii): KATCo submits Original IA, SA No. 6928 re: FirstEnergy Reorganization to be effective 1/1/2024.

Filed Date: 1/11/24.

Accession Number: 20240111–5175.

Comment Date: 5 p.m. ET 2/1/24.

Docket Numbers: ER24–865–000.

Applicants: New York Independent System Operator, Inc.

Description: § 205(d) Rate Filing: NYISO 205 Filing: Scnd Amnd Development Agreement NYISO, NYTransco (SA2510) to be effective 12/15/2023.

Filed Date: 1/12/24.

Accession Number: 20240112–5032.

Comment Date: 5 p.m. ET 2/2/24.

Docket Numbers: ER24–866–000.

Applicants: Desert Sunlight 250, LLC.

Description: § 205(d) Rate Filing: Desert Sunlight 250, LLC 2nd Amended LGIA Co-Tenancy Agreement to be effective 12/21/2023.

Filed Date: 1/12/24.

Accession Number: 20240112–5052.

Comment Date: 5 p.m. ET 2/2/24.

Docket Numbers: ER24–867–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Amendment to ISA, Service Agreement No. 6864; Queue No. AF1–019 to be effective 3/13/2024.

Filed Date: 1/12/24.

Accession Number: 20240112–5057.

Comment Date: 5 p.m. ET 2/2/24.

Docket Numbers: ER24–868–000.

Applicants: Tri-State Generation and Transmission Association, Inc.

Description: § 205(d) Rate Filing: Amendment to Service Agreement FERC No. 803 to be effective 12/18/2023.

Filed Date: 1/12/24.

Accession Number: 20240112–5060.

Comment Date: 5 p.m. ET 2/2/24.

The filings are accessible in the Commission's eLibrary system (<https://elibrary.ferc.gov/idmws/search/fercgensearch.asp>) by querying the docket number.

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Dated: January 12, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–01042 Filed 1–18–24; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY**Federal Energy Regulatory Commission**

[Project No. 1744–041]

PacifiCorp; Notice of Availability of Executed Programmatic Agreement for the Weber Hydroelectric Project

Take notice that on November 2, 2023, the Federal Energy Regulatory Commission (Commission) and the Utah State Historic Preservation Officer (SHPO) executed a Programmatic Agreement for the Weber Hydroelectric Project No. 1744.¹ The project is located

¹ *PacifiCorp*, 174 FERC ¶ 62,172 (2021).

on the Weber River near the city of Ogden in Weber, Morgan, and Davis counties, Utah and occupies federal lands within the Uinta-Wasatch-Cache National Forest managed by the U.S. Department of Agriculture's Forest Service.

On January 20, 2023, and April 18, 2023, PacifiCorp, the project's licensee, requested Commission approval to undertake certain construction, modification, and removal activities that have the potential to adversely affect properties included in, or eligible for inclusion in, the National Register of Historic Places. Thereafter, Commission staff determined that a Programmatic Agreement should be executed to ensure compliance with section 106 of the National Historic Preservation Act.²

On November 2, 2023, the Commission and the Utah SHPO executed the Programmatic Agreement. PacifiCorp was invited to concur in the agreement and did so on November 14, 2023. The Programmatic Agreement requires PacifiCorp to continue to implement the Historic Properties Management Plan approved in Article 407 of the project's license.³ Pursuant to section 6 of the Federal Power Act,⁴ the Commission is providing notice that it plans to issue an order amending the license to incorporate the executed Programmatic Agreement. Unless and until the Commission issues an order incorporating the Programmatic Agreement into the license, the agreement has no independent legal effect.

The executed Programmatic Agreement may be viewed on the Commission's website at <http://www.ferc.gov> under the eLibrary link. Enter the docket number (P-1744) in the docket number field to access the document. For assistance, contact FERC Online Support at FERCOnlineSupport@ferc.gov or toll-free at 1-866-208-3676, or for TTY, (202) 502-8659. You may also register online at <https://ferconline.ferc.gov/FEROnline.aspx> to be notified via email of new filings and issuances related to this or other pending projects.

The Commission's Office of Public Participation (OPP) supports meaningful public engagement and participation in Commission proceedings. OPP can help members of the public, including landowners, environmental justice communities, Tribal members and others, access publicly available information and navigate Commission

processes. For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, the public is encouraged to contact OPP at (202) 502-6595 or OPP@ferc.gov.

For further information, contact Jennifer Polardino at 202-502-6437 or jennifer.polardino@ferc.gov.

Dated: January 12, 2024.

Debbie-Anne A. Reese,
Acting Secretary.

[FR Doc. 2024-01035 Filed 1-18-24; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 5698-022]

Triton Power Company; Notice Soliciting Applications

On December 31, 2020, Triton Power Company, licensee for the Chateaugay High Falls Hydroelectric Project No. 5698 (project), filed a Notice of Intent (NOI) to file an application for a new license for the project pursuant to section 15(b)(1) of the Federal Power Act (FPA).¹ On February 26, 2021, Commission staff issued public notice of the NOI and approved the use of the traditional licensing process to develop the license application. The current license for the project expires on December 31, 2025.²

The 1,710-kilowatt (kW) project is located on the Chateaugay River in Franklin County, New York. The project consists of: (1) an 82-foot-long, 56-foot-high concrete and masonry dam; (2) an intake structure equipped with a trashrack with 1-inch clear bar spacing and a 9-foot-wide, 9-foot-high sluice gate, located approximately 130 feet upstream of the dam; (3) an impoundment with a surface area of 2.9 acres at an elevation of 962.7 feet mean sea level; (4) a 6-foot-diameter, 480-foot-long steel penstock; (5) a 50-foot-wide, 40-foot-long concrete powerhouse containing a 1,260-kW turbine-generator unit and a 450-kW turbine-generator unit; (6) a tailrace; (7) a 1,020-foot-long, 4.16-kilovolt transmission line; and (8) appurtenant facilities. From 2010, through 2019, the project had an average annual energy production of 6,751 megawatt-hours.

Pursuant to section 15(c)(1) of the FPA³ and section 16.9 of the

Commission's regulations,⁴ an existing licensee must file an application for a new license at least 24 months prior to the expiration of the current license. As stated above, Triton Power Company's NOI indicated that it would file an application for a new license; however, it did not file an application for a new license for the project by the December 31, 2023 deadline.

Therefore, pursuant to section 16.25(a) of the Commission's regulations, we are soliciting applications from potential applicants other than the existing licensee.⁵ Interested parties have 90 days from the date of this notice to file a NOI to file an application for a new license. An application for a new license for the project may be filed within 18 months of the date of filing the NOI. The existing licensee is prohibited from filing an application either individually or in combination with other entities.⁶

Questions concerning this notice should be directed to Arash Barsari at (202) 502-6207 or email at Arash.JalaliBarsari@ferc.gov.

Dated: January 12, 2024.

Debbie-Anne A. Reese,
Acting Secretary.

[FR Doc. 2024-01036 Filed 1-18-24; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC24-2-000]

Commission Information Collection Activities (FERC-725r); Comment Request; Extension

AGENCY: Federal Energy Regulatory Commission, Department of Energy.

ACTION: Notice of revision of information collection and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act, the Federal Energy Regulatory Commission (Commission or FERC) is soliciting public comment on revisions of the information collection FERC-725R (Mandatory Reliability Standards for the Bulk-Power System: BAL Reliability Standards), which will be submitted to the Office of Management and Budget (OMB).

DATES: Comments on the collection of information are due February 20, 2024.

² 54 U.S.C. 306108.

³ *PacifiCorp*, 174 FERC ¶ 62,172 at P 53 & Article 407.

⁴ 16 U.S.C. 799.

¹ 16 U.S.C. 808(b)(1).

² *Triton Power Company*, 34 FERC ¶ 61,055 (1986).

³ 16 U.S.C. 808(c)(1).

⁴ 18 CFR 16.9 (2023).

⁵ *Id.* § 16.25(a).

⁶ *Id.* § 16.24(a)(2).

ADDRESSES: Send written comments on FERC-725R to OMB through www.reginfo.gov/public/do/PRAMain. Attention: Federal Energy Regulatory Commission Desk Officer. Please identify the OMB Control Number (1902-0268) in the subject line of your comments. Comments should be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain.

Please submit copies of your comments to the Commission. You may submit copies of your comments (identified by Docket No. IC24-2-000) by one of the following methods: Electronic filing through <https://www.ferc.gov>, is preferred.

- **Electronic Filing:** Documents must be filed in acceptable native applications and print-to-PDF, but not in scanned or picture format.

- For those unable to file electronically, comments may be filed by USPS mail or by hand (including courier) delivery.

- **Mail via U.S. Postal Service Only:** Addressed to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE, Washington, DC 20426.

- **Hand (Including Courier) Delivery:** Deliver to: Federal Energy Regulatory Commission, Secretary of the Commission, 12225 Wilkins Avenue, Rockville, MD 20852.

Instructions: OMB submissions must be formatted and filed in accordance with submission guidelines at www.reginfo.gov/public/do/PRAMain. Using the search function under the "Currently Under Review" field, select Federal Energy Regulatory Commission; click "submit," and select "comment" to the right of the subject collection.

FERC submissions must be formatted and filed in accordance with submission guidelines at: <https://www.ferc.gov>. For user assistance, contact FERC Online Support by email at ferconlinesupport@ferc.gov, or by phone at: (866) 208-3676 (toll-free).

Docket: Users interested in receiving automatic notification of activity in this docket or in viewing/downloading comments and issuances in this docket may do so at <http://www.ferc.gov/docs-filing/docs-filing.asp>.

FOR FURTHER INFORMATION CONTACT: Jean Sonneman may be reached by email at DataClearance@FERC.gov, and telephone at (202) 502-6362.

SUPPLEMENTARY INFORMATION:

Title: FERC-725R, Mandatory Reliability Standards for the Bulk-Power System: BAL Reliability Standards. **OMB Control No.:** 1902-0268.

Type of Request: OMB renewal of the FERC-725R information collection

requirements, with no changes to the requirements.

Abstract: The FERC 725R information collection includes four reliability standards.

- BAL-001-2, Real Power Balancing Control Performance; (effective July 1, 2016)
- BAL-002-3, Disturbance Control Standard—Contingency Reserve for Recovery from a Balancing Contingency Event; (effective April 1, 2019)
- BAL-003-2, Frequency Response and Frequency Bias Setting; (effective December 1, 2020)
- BAL-005-1, Balancing Authority Control. (effective January 1, 2019)

On August 8, 2005, Congress enacted into law the Electricity Modernization Act of 2005, which is title XII, subtitle A, of the Energy Policy Act of 2005 (EPAc 2005).¹ EPAc 2005 added a new section 215 to the Federal Power Act (FPA), which requires a Commission-certified Electric Reliability Organization (ERO) to develop mandatory and enforceable Reliability Standards, which are subject to Commission review and approval. Once approved, any Reliability Standard may be enforced by the ERO subject to Commission oversight, or the Commission may independently enforce Reliability Standards.²

On February 3, 2006, the Commission issued Order No. 672, implementing section 215 of the FPA.³ Pursuant to Order No. 672, the Commission certified one organization, North American Electric Reliability Corporation (NERC), as the ERO.⁴ The Reliability Standards developed by the ERO and approved by the Commission apply to users, owners and operators of the Bulk-Power System as set forth in each Reliability Standard.

This collection was last revised beginning on December 19, 2019 when NERC submitted for approval the proposed Reliability Standard BAL-003-2.

Types of Respondents: Balancing authorities and a Frequency Response Sharing Group (FRSG).

¹ Energy Policy Act of 2005, Public Law 109-58, Title XII, Subtitle A, 119 Stat. 594, 941 (codified at 16 U.S.C. 824o).

² 16 U.S.C. 824o(e)(3).

³ Rules Concerning Certification of the Electric Reliability Organization; and Procedures for the Establishment, Approval, and Enforcement of Electric Reliability Standards, Order No. 672, FERC Stats. & Regs. ¶ 31,204, order on reh'g, Order No. 672-A, FERC Stats. & Regs. ¶ 31,212 (2006).

⁴ North American Electric Reliability Corp., 116 FERC ¶ 61,062, order on reh'g and compliance, 117 FERC ¶ 61,126 (2006), order on compliance, 118 FERC ¶ 61,190, order on reh'g, 119 FERC ¶ 61,046 (2007), *aff'd sub nom. Alcoa Inc. v. FERC*, 564 F.3d 1342 (D.C. Cir. 2009).

Estimate of Annual Burden:⁵ The estimated burdens of the FERC 725R include the Reliability Standards: BAL-001-2, BAL-002-3, BAL-003-2, and BAL-005-1.

The requirements for each Reliability Standard—are as follows:

BAL-001-2: Real Power Balancing Control Performance. Reliability Standard BAL-001-2 is designed to ensure that applicable entities balance generation and load by maintaining system frequency within narrow bounds around a scheduled value, and it improves reliability by adding a frequency component to the measurement of a Balancing Authority's Area Control Error (ACE).⁶

BAL-002-3: Disturbance Control Standard—Contingency Reserve for Recovery from a Balancing Contingency Event. This standard ensures that a responsible entity, either a balancing authority or reserve sharing group, is able to recover from system contingencies by deploying adequate reserves to return their Area Control Error to defined values and replacing the capacity and energy lost due to generation or transmission equipment outages.

BAL-003-2: Frequency Response and Frequency Bias Setting. This standard requires sufficient Frequency Response from the Balancing Authority (BA) to maintain Interconnection Frequency within predefined bounds by arresting frequency deviations and supporting frequency until the frequency is restored.

BAL-005-1: Balancing Authority Control. This standard establishes requirements for acquiring data necessary to calculate Reporting Area Control Error (Reporting ACE). The standard also specifies a minimum periodicity, accuracy, and availability requirement for acquisition of the data and for providing the information to the System Operator. It requires balancing authorities to maintain minimum levels of annual availability of 99.5% for each balancing authority system for calculating Reporting ACE.

Our estimates are based on the NERC Compliance Registry as of September

⁵ Burden is defined as the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a federal agency. See 5 CFR 1320 for additional information on the definition of information collection burden.

⁶ Area Control Error is the "instantaneous difference between a Balancing Authority's net actual and scheduled interchange, taking into accounts the effects of Frequency Bias, correction for meter error, and Automatic Time Error Correction (ATEC), if operating in the ATEC mode. ATEC is only applicable to Balancing Authorities in the Western Interconnection." NERC Glossary.

22, 2023, which indicates that in the United States there are 98 registered balancing authorities, 8 registered

reserve sharing group (RSG) and 1 frequency response sharing group (FRSG).⁷

Estimates for the average annual burden and cost⁸ follow.

FERC-725R

Function	Number & type of respondents	Number of annual responses per respondent	Total number of annual responses	Average burden hours & cost (\$) ⁹ per response	Total annual burden hours & total annual cost (\$)
	(1)	(2)	(1) × (2) = (3)	(4)	(3) × (4) = (5)
BAL-001-2:					
BA Reporting Requirements	98	1	98	8 hrs.; \$618.32 ...	784 hrs.; \$60,595.36.
BA Recordkeeping Requirements	98	1	98	4 hrs.; \$224.56 ...	392 hrs.; \$22,006.88.
BAL-002-3:					
BA & RSG Reporting Requirements	106	1	106	8 hrs.; \$618.32 ...	848 hrs.; \$65,541.92.
BA & RSG Recordkeeping Requirements	106	1	106	4 hrs.; \$224.56 ...	424 hrs.; \$23,803.36.
BAL-003-2:					
BA & FRSG Reporting Requirements	99	28	2,772	8 hrs.; \$618.32 ...	22,176 hrs.; \$1,713,983.04.
BA & FRSG Recordkeeping Requirements	99	1	99	2 hrs.; \$112.28 ...	198 hrs.; \$11,115.72.
BAL-005-1:					
BA Reporting Requirements	98	1	98	1 hr.; \$77.29	98 hrs.; \$7,574.42.
BA Recordkeeping Requirements	98	1	98	1 hr.; \$56.14	98 hrs.; \$5,501.72.
Sub-Total for Reporting Requirements					23,906 hrs.; \$1,847,694.74.
Sub-Total for Recordkeeping Requirements					1,112 hrs.; \$62,427.68.
Total for FERC-725R					25,018 hrs.; \$1,910,122.42.

Comments: Comments are invited on: (1) whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Dated: January 12, 2024.

Debbie-Anne A. Reese,
Acting Secretary.

[FR Doc. 2024-01038 Filed 1-18-24; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Western Area Power Administration

Agency Information Collection Extension

AGENCY: Western Area Power Administration, DOE.

ACTION: Submission for Office of Management and Budget (OMB) review; comment request.

SUMMARY: The Department of Energy (DOE) has submitted an information collection request to the OMB for extension under the provisions of the Paperwork Reduction Act of 1995. The information collection requests a 3-year extension of Western Area Power Administration's (WAPA) Applicant Profile Data (APD), OMB Control Number 1910-5136. The proposed collection is necessary for the proper performance of WAPA's functions. WAPA markets a limited amount of Federal hydropower. Due to the high demand for WAPA's power, WAPA needs the ability to collect information under the information collection request in order to evaluate who may receive an allocation of Federal power pursuant to specific marketing plans. This APD public process only determines the information WAPA will collect in its information collection request. The actual allocation of Federal power will be conducted through a separate marketing plan process outside the scope of this APD process.

DATES: Comments regarding this collection must be received on or before February 20, 2024. If you anticipate that you will be submitting comments but

find it difficult to do so within the period of time allowed by this notice, please advise the OMB Desk Officer of your intention to make a submission as soon as possible. The Desk Officer may be telephoned at (202) 395-4718.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting "Currently under Review—Open for Public Comments" or by using the search function.

FOR FURTHER INFORMATION CONTACT: Please contact Mr. Christopher Magee, Records and Information Management Program Manager, Western Area Power Administration, PO Box 281213, Lakewood, CO 80228, telephone (720) 962-7139, or email cmagee@wapa.gov. The proposed APD form is available on WAPA's website at <https://www.wapa.gov/power-marketing/applicant-profile-data/>.

SUPPLEMENTARY INFORMATION: This information collection request contains: (1) OMB No.: 1910-5136; (2) Information Collection Request Title: Western Area Power Administration (WAPA) Applicant Profile Data; (3) Type of Review: Renewal; (4) Purpose: WAPA is collecting—and will continue

⁷ NERC Compliance Registry (September 22, 2023), available at https://www.nerc.com/pa/comp/Registration%20and%20Certification%20DL/NERC_Compliance_Registry_Matrix_Excel.xlsx.

⁸ The hourly cost estimates are based on wage data from the Bureau of Labor Statistics for May 2022 (at https://www.bls.gov/oes/current/naics2_22.htm) and benefits data for Dec. 2022 (issued March 2023, at <https://www.bls.gov/news.release/ecec.nr0.htm>). The hourly costs (for wages and

benefits) for reporting are: Electrical Engineer (Occupation code 17-2071), \$77.29. The hourly costs (for wages and benefits) for evidence retention are: Information and Record Clerk (Occupation code 43-4199), \$56.14.

to collect—the data under its APD to properly perform its function of marketing a limited amount of Federal hydropower. The information WAPA collects is voluntary. Due to the high demand for WAPA's power and limited amount of available power, WAPA will use the information collected in the APD—and has used the information collected under the current OMB-approved control number—pursuant to its marketing plans, to determine an applicant's eligibility for an allocation of Federal power. As a result, the information WAPA collects under its APD is both necessary and useful.

WAPA notes the Paperwork Reduction Act is the process whereby WAPA obtains approval from OMB to collect information from the public. It is a legal requirement WAPA must comply with before requesting an interested party submit an application for power. The Paperwork Reduction Act process is not the process in which interested parties apply for a new allocation of Federal power. The allocation of power from WAPA is outside the scope of this process and is completed in a separate marketing plan process by each WAPA region, when required; (5) *Annual Estimated Number of Respondents*: 33; (6) *Annual Estimated Number of Total Responses*: 33; (7) *Annual Estimated Number of Burden Hours*: 248; and (8) *Annual Estimated Reporting and Recordkeeping Cost Burden*: \$36,944.

Statutory Authority: The Reclamation Act of 1902 established the Federal reclamation program. See Ch. 1093, 32 Stat. 388 (1902), as amended and supplemented. The basic principle of the Reclamation Act of 1902 was that the United States, through the Secretary of the Interior, would build and operate irrigation works from the proceeds of public land sales in sixteen arid Western states (a seventeenth, Texas, was added in 1906). The Reclamation Project Act of 1939 expanded the purposes of the reclamation program and specified certain terms for contracts that the Secretary of the Interior enters into to furnish water and power. See Ch. 418, 53 Stat. 1187 (1939), as amended and supplemented. Section 5 of the Flood Control Act of 1944, as amended, is read *in pari materia* with the Reclamation Laws with respect to WAPA. See Ch. 665, 58 Stat. 887, as amended and supplemented. In 1977, section 302 of the Department of Energy Organization Act transferred the power marketing functions of the Department of the Interior to the Secretary of Energy, acting by and through a separate Administrator for WAPA. See 42 U.S.C. 7152 (a)(1)(D). Under this authority, WAPA markets Federal hydropower.

Signing Authority

This document of the Department of Energy was signed on January 12, 2024, by Tracey LeBeau Administrator, 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 January 16, 2024.

Treena V. Garrett,

Federal Register Liaison Officer, U.S. Department of Energy.

[FR Doc. 2024–01013 Filed 1–18–24; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Western Area Power Administration

Central Arizona Project, Colorado River Storage Project, Loveland Area Projects, Pacific Northwest-Pacific Southwest Intertie Project, and Parker-Davis Project—Rate Order No. WAPA–215

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of proposed extension of the formula rates for use under WestConnect Regional Non-Firm Transmission Service.

SUMMARY: The Colorado River Storage Project Management Center (CRSP MC), Desert Southwest Region (DSW), and Rocky Mountain Region (RM) of the Western Area Power Administration (WAPA) propose extending the existing formula rates under Rate Schedule WC–8, without any changes, for on-peak and off-peak non-firm transmission service provided under the WestConnect Point-to-Point Regional Transmission Service Participation Agreement (WestConnect PA) through September 30, 2026. The existing formula rates expire on May 31, 2024.

DATES: A consultation and comment period will begin January 19, 2024 and end February 2, 2024. Written comments will be accepted any time during the consultation and comment period.

ADDRESSES: Written comments and requests to be informed of Federal Energy Regulatory Commission (FERC) actions concerning the proposed extension to be submitted by WAPA to FERC for approval should be sent to: Barton V. Barnhart, Regional Manager, Rocky Mountain Region, Western Area Power Administration, 5555 East Crossroads Boulevard, Loveland, CO 80538–8986, or email: laptransadj@wapa.gov. Information about the proposed formula rate extension and written comments will be posted to WAPA's website at: www.wapa.gov/about-wapa/regions/dsw/power-marketing/westconnect.

FOR FURTHER INFORMATION CONTACT: Tamala D. Gheller, CRSP Rates Manager, (970) 702–8826 or email: gheller@wapa.gov; Tina Ramsey, DSW Rates Manager, (602) 605–2525 or email: dswpwrmrk@wapa.gov; or Sheila D. Cook, RM Rates Manager, (970) 685–9562 or email: laptransadj@wapa.gov.

SUPPLEMENTARY INFORMATION:

WestConnect consists of a group of electric utilities which provide hourly, non-firm transmission service in the Western Interconnection to eliminate pancaking of transmission charges, which is the practice of charging a transmission customer separately for the use of each utility's transmission system. The WestConnect membership, including WAPA and investor-owned and consumer-owned utilities, encompasses an interconnected electrical grid stretching from western Nebraska to southern California and from Wyoming to the United States-Mexico border.

On December 15, 2014, FERC confirmed and approved Rate Schedule WC–8, under Rate Order No. WAPA–163, effective June 1, 2014, through May 31, 2019.¹ On June 20, 2019, FERC confirmed and approved the extension of Rate Schedule WC–8, under Rate Order No. WAPA–187, effective June 1, 2019, through May 31, 2024.²

In accordance with 10 CFR 903.23(a),³ CRSP MC, DSW, and RM are proposing to extend the existing formula rates under Rate Schedule WC–8 for the period of June 1, 2024, through September 30, 2026. The existing formula rates are viewable on WAPA's website at: www.wapa.gov/about-wapa/regions/dsw/power-marketing/westconnect. The existing formula rates

¹ *Order Confirming and Approving Rate Schedule on a Final Basis*, FERC Docket No. EF14–8–000, 149 FERC ¶ 62,196 (2014).

² *Order Confirming and Approving Rate Schedule on a Final Basis*, FERC Docket No. EF14–8–001, 167 FERC ¶ 62,188 (2019).

³ 50 FR 37835 (Sept. 18, 1985) and 84 FR 5347 (Feb. 21, 2019).

provide sufficient revenue to pay annual costs, including interest expense, and repay investment within the allowable period consistent with the cost recovery criteria set forth in Department of Energy (DOE) Order RA 6120.2.

This extension will allow CRSP MC and RM to proceed with final negotiations for membership in the Southwest Power Pool Regional Transmission Organization (SPP RTO), with potential membership beginning in or around April 2026, after which CRSP MC and RM would no longer provide this transmission service. DSW would evaluate whether it will continue selling this service beyond that date, as will CRSP MC and RM if their proposed integration into the SPP RTO is delayed or is not successful.

In accordance with 10 CFR 903.23(a), CRSP MC, DSW, and RM have determined it is not necessary to hold a public information or public comment forum for this action but are initiating a 14-day consultation and comment period to give the public an opportunity to comment on the proposed extension. CRSP MC, DSW, and RM will review and consider all timely public comments at the conclusion of the consultation and comment period and adjust the proposal as appropriate.

Legal Authority

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. By Delegation Order No. S1–DEL–S3–2023, effective April 10, 2023, the Secretary of Energy also delegated the authority to confirm, approve, and place such rates into effect on an interim basis to the Under Secretary for Infrastructure. By Redelegation Order No. S3–DEL–WAPA1–2023, effective April 10, 2023, the Under Secretary for Infrastructure further redelegated the authority to confirm, approve, and place such rates into effect on an interim basis to WAPA's Administrator.

Ratemaking Procedure Requirements

Environmental Compliance

Categorical exclusion determinations were previously issued for the underlying rates of the transmission projects included in the WestConnect PA under the following categorical

exclusion listed in appendix B to subpart D of 10 CFR part 1021: B4.3 (Electric power marketing rate changes).⁴ Those categorical exclusion determinations are also applicable to this rate action. Copies of the categorical exclusion determinations are available on WAPA's website. For CRSP, the website is: www.wapa.gov/about-wapa/regions/crsp/about-crsp/environment. Look for file titled "SLCA/IP Rate Determination—WAPA–206—(CX Determination 2024–2028)". For DSW, the website is: www.wapa.gov/about-wapa/regions/dsw/environment. Look in the "2023" folder for file titled, "Rate Order WAPA–209". For RM, the website is: www.wapa.gov/about-wapa/regions/rm/rm-environment/cx2016. Look for file titled, "2016–077 Proposed Formula Rate Adjustment for Transmission Ancillary Services and Sale of Surplus".

Determination Under Executive Order 12866

WAPA has an exemption from centralized regulatory review under Executive Order 12866; accordingly, no clearance of this notice by the Office of Management and Budget is required.

Signing Authority

This document of the Department of Energy was signed on January 12, 2024, by Tracey A. LeBeau, Administrator, Western Area Power Administration, pursuant to delegated authority from the Secretary of Energy. That document, with the original signature and date, is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of 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 January 16, 2024.

Treena V. Garrett,

Federal Register Liaison Officer, U.S. Department of Energy.

[FR Doc. 2024–01012 Filed 1–18–24; 8:45 am]

BILLING CODE 6450–01–P

⁴ The determination was done in compliance with the National Environmental Policy Act (NEPA) of 1969, as amended, 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).

ENVIRONMENTAL PROTECTION AGENCY

[FRL–11669–01–OA]

Farm, Ranch, and Rural Communities Advisory Committee (FRRCC); Notice of Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act (FACA), notice is hereby given that the next meeting of the Farm, Ranch, and Rural Communities Advisory Committee (FRRCC) will be held in-person and virtually January 30–31, 2024. The FRRCC provides independent policy advice, information, and recommendations to the Administrator on a range of environmental issues and policies that are of importance to agriculture and rural communities.

DATES: This meeting will be held in-person and virtually Tuesday, January 30, 2024–Wednesday, January 31, 2024, from approximately 8:00 a.m. until 5:00 p.m. (MST).

This meeting will take place in-person and virtually. To register and receive information on how to listen to the meeting and to provide comments, please visit: www.epa.gov/faca/frcc. Attendees must register online to receive instructions for virtual attendance.

ADDRESSES: The meeting will be held at 330 E Palace Avenue, Santa Fe, NM 87501.

Virtual Attendance: Virtual attendance will be via Zoom. The link to register for the meeting can be found on the FRRCC web page: www.epa.gov/faca/frcc.

FOR FURTHER INFORMATION CONTACT: Venus Welch-White, Designated Federal Officer (DFO), at FRRCC@epa.gov or 202–566–2369. General information regarding the FRRCC can be found on the EPA website at: www.epa.gov/faca/frcc.

SUPPLEMENTARY INFORMATION: Meetings of the FRRCC are open to the public. An agenda will be posted at www.epa.gov/faca/frcc.

Access and Accommodations: For information on access or services for individuals with disabilities, please visit: www.epa.gov/faca/frcc.

Due to unforeseen administrative circumstances, EPA is announcing this

meeting with less than 15 calendar days public notice.

Rodney Snyder,

Senior Advisor for Agriculture, U.S. EPA.

[FR Doc. 2024-00960 Filed 1-18-24; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[FRL OP-OFA-106]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information 202-564-5632 or <https://www.epa.gov/nepa>. Weekly receipt of Environmental Impact Statements (EIS)

Filed January 8, 2024 10 a.m. EST

Through January 12, 2024 10 a.m. EST Pursuant to 40 CFR 1506.9.

Notice

Section 309(a) of the Clean Air Act requires that EPA make public its comments on EISs issued by other Federal agencies. EPA's comment letters on EISs are available at: <https://cdxapps.epa.gov/cdx-enepa-II/public/action/eis/search>.

EIS No. 20240004, Draft, BLM, DC, Utility-Scale Solar Energy Development PEIS, Comment Period Ends: 04/18/2024, Contact: Jeremy Bluma 208-789-6014.

EIS No. 20240005, Final, NNSA, SC, Surplus Plutonium Disposition Program, Review Period Ends: 02/20/2024, Contact: Maxcine Maxted 803-952-7434.

EIS No. 20240006, Draft, BLM, NV, Libra Solar, Comment Period Ends: 03/04/2024, Contact: Melanie Hornsby 775-885-8024.

Amended Notice

EIS No. 20240000, Draft, NRC, MD, Site-Specific Environmental Impact Statement for License Renewal of Nuclear Plants Supplement 7a, Second Renewal Regarding Subsequent License Renewal for North Anna Power Station Units 1 and 2, Comment Period Ends: 02/22/2024, Contact: Tam Tran 301-415-3617.

Revision to FR Notice Published 01/05/2024; Extending the Comment Period from 02/20/2024 to 02/22/2024.

Dated: January 16, 2024.

Julie Smith,

Acting Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 2024-00985 Filed 1-18-24; 8:45 am]

BILLING CODE 6560-50-P

EXPORT-IMPORT BANK

[Public Notice: 2023-3050]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Application for Equity Express Select Insurance

AGENCY: Export-Import Bank of the United States

ACTION: Notice of information collection; request for comment.

SUMMARY: The Export-Import Banks of the United States (EXIM), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal Agencies to comment on the proposed information collection, as required by the Paperwork Reduction Act of 1995. The purpose of this Notice is to announce the initiation of a 30-day period for public comment.

DATES: Comments must be received on or before February 20, 2024 to be assured of consideration.

ADDRESSES: Comments may be submitted electronically on www.regulations.gov (EIB 10-02) or by email Jennifer.Krause@exim.gov, or by mail to Jennifer Krause, Export-Import Bank of the United States, 811 Vermont Ave. NW, Washington, DC.

FOR FURTHER INFORMATION CONTACT: To request additional information, please contact Jennifer Krause, Jennifer.Krause@exim.gov, 305-586-2022.

SUPPLEMENTARY INFORMATION: This form is used by an exporter (or broker acting on its behalf) in order to obtain approval for coverage of the repayment risk of export sales. The information received allows EXIM staff to make a determination of the eligibility of the applicant and the creditworthiness of one of the applicant's foreign buyers for EXIM assistance under its programs.

The application tool can be reviewed at: <https://img.exim.gov/s3fs-public/pub/pending/eib23-02.pdf>.

Title and Form Number: EIB 23-02, Application for Equity Express Select Insurance.

OMB Number: 3048-0060.

Type of Review: Regular.

Need and Use: This is the application form for use by underserved U.S. businesses with limited export experience. Companies that are eligible to use the Equity Express Select policy will need to answer approximately 20 questions and sign an acknowledgement of the certifications that appear on the reverse of the application form. This

program does not provide discretionary credit authority to the U.S. exporter, and therefore the financial and credit information needs are minimized.

Affected Public: This form affects entities involved in the export of U.S. goods and services.

Annual Number of Respondents: 500.
Estimated Time per Respondent: 0.25 hours.

Annual Burden Hours: 125 hours.

Frequency of Reporting of Use: Once per year.

Dated: January 16, 2024.

Kalesha Malloy,

IT Specialist.

[FR Doc. 2024-01019 Filed 1-18-24; 8:45 am]

BILLING CODE 6690-01-P

FEDERAL PERMITTING IMPROVEMENT STEERING COUNCIL

[ICR Ref. No. 202312-3121-001; OMB Control No. 3121-002]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Federal Permitting Improvement Steering Council.

ACTION: Notice; request for comment.

SUMMARY: The Federal Permitting Improvement Steering Council (Permitting Council) Executive Director invites the public and Federal agencies to comment on a proposed information collection request which is summarized below under **SUPPLEMENTARY INFORMATION**. The Permitting Council publishes this notice in the **Federal Register** and invites comments in accordance with the Paperwork Reduction Act of 1995.

DATES: Please send your comments to the Permitting Council Executive Director on or before March 19, 2024. The Permitting Council Executive Director is soliciting comment on any aspect of this information collection, including: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) 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. The Permitting Council Executive Director will consider all comments and

suggestions submitted within 60 days of this publication, and will summarize and/or include the comments received in any request for Office of Management and Budget (OMB) clearance of this information collection.

ADDRESSES: Please submit your comments to ERIF@fpisc.gov with the subject line: “ERIF TAP Information Collection Comment.” You may obtain copies of the proposed collection of information by emailing ERIF@fpisc.gov. Please identify all requests by including “ERIF TAP” in the subject line.

FOR FURTHER INFORMATION CONTACT: John Flores, at john.flores@fpisc.gov, or (385) 602-2138.

SUPPLEMENTARY INFORMATION:

Title of the Program Seeking Information Collection: Environmental Review Improvement Fund Tribal Assistance Program (ERIF TAP).

Type of Review: New Information Collection Request (ICR).

Background: Established in 2015 by title 41 of the Fixing America’s Surface Transportation Act (FAST–41), 42 U.S.C. 4370m *et seq.*, the Permitting Council is a unique Federal agency charged with improving the transparency and predictability of the Federal environmental review and authorization process for certain infrastructure projects. The Permitting Council is comprised of the Permitting Council Executive Director, who serves as the Council Chair; 13 Federal agency Council members (including deputy secretary-level designees of the Secretaries of Agriculture, Army, Commerce, Interior, Energy, Transportation, Defense, Homeland Security, and Housing and Urban Development, the Administrator of the Environmental Protection Agency, and the Chairs of the Federal Energy Regulatory Commission, Nuclear Regulatory Commission, and the Advisory Council on Historic Preservation); and the Chair of the Council on Environmental Quality and the Director of the OMB. 42 U.S.C. 4370m–1(a) & (b).

The Permitting Council coordinates Federal environmental reviews¹ and authorizations² for projects that seek

and qualify for FAST–41 coverage. FAST–41 covered projects are entitled to comprehensive permitting timetables and transparent, collaborative management of those timetables on the Federal Permitting Dashboard in compliance with FAST–41 procedural requirements. 42 U.S.C. 4370m–2(c) & (d). Sponsors of FAST–41 covered projects also benefit from the direct engagement of the Permitting Council Executive Director and the Permitting Council members in timely identification and resolution of permitting issues that affect covered projects’ permitting timetables.

The Permitting Council Executive Director, with the approval of the OMB Director, also may transfer funds from the Environmental Review and Improvement Fund (ERIF) to Federal agencies and state, local, and tribal governments to make the environmental review and authorization process for FAST–41 covered projects more timely and efficient. 42 U.S.C. 4370m–8(d)(3). Executive Director has established the ERIF Tribal Assistance Program (TAP) to facilitate the distribution of ERIF funds to Tribal governments pursuant to this authority.

This collection is necessary for administration of the ERIF TAP in accordance with 42 U.S.C. 4370m–8(d)(3). The Executive Director seeks public comment on the application form that the Executive Director would use to collect information from Tribal governments that seek ERIF TAP funding. The form will be used by the Executive Director to evaluate the eligibility of each Tribal government applicant, and determine whether, the circumstances under which, and the amount of any ERIF funds that may be transferred to a Tribal government applicant pursuant to 42 U.S.C. 4370m–2(d)(3). Seeking ERIF funds under the ERIF TAP is voluntary with each Tribal government. The application form is planned as a one-time information collection per applicant. The Permitting Council estimates that it will take approximately 40 hours to complete the application form for ERIF TAP funds.

Respondents: Federally-recognized Indian Tribe consulting on or engaged in the Federal environmental review and authorization process (e.g., through the National Environmental Policy Act or Section 106 of the National Historic Preservation Act) for one or more FAST–41 covered projects that are

administered by a Federal agency or, in the case of a State that chooses to participate in the environmental review and authorization process in accordance with [42 U.S.C.] 4370m–2(c)(3)(A) . . . , a State agency”).

posted on the Permitting Dashboard at the time of submission.

Frequency: One time per grant application.

Application: To be considered to receive ERIF TAP funds, an eligible Tribal government must submit a completed application form to the Permitting Council Executive Director that contains the information required in the Application Instructions. At a minimum, the applicant must include contact information, the amount of funding requested, what will be accomplished with the funding (*i.e.*, activities and funding level per activity), which FAST–41 covered projects the applicant is consulting on or engaged in, and how the funded activities will result in more timely and efficient environmental review and authorization of those FAST–41 covered projects. The application should include the information necessary for the Permitting Council Executive Director to determine that the project and proposal satisfies eligibility requirements.

Completed application forms must be submitted to the Executive Director through ERIF@fpisc.gov. Instructions for submitting applications can be found at <https://www.permits.performance.gov/fpisc-content/erif-tribal-assistance-program>.

Estimated Burden: The estimated burden for completing an application form is as follows:

Expected Number of Respondents: Approximately 30 per year.

Frequency: Once per application.

Estimated Average Burden per Response: 40 hours for each new application form.

Authority: 44 U.S.C. 3501 *et seq.*; 42 U.S.C. 4370m–8(d)(3).

Eric Beightel,

Executive Director, Federal Permitting Improvement Steering Council.

[FR Doc. 2024–01028 Filed 1–18–24; 8:45 am]

BILLING CODE 6820–PL–P

FEDERAL MARITIME COMMISSION

[Docket No. 24–04]

ICL USA, Inc., Complainant v. Dependable Highway Express, Inc. and Mediterranean Shipping Company, (USA) INC., on Behalf Of Mediterranean Shipping Company, S.A., Respondents

Served: January 12, 2024.

Notice of Filing of Complaint and Assignment

Notice is given that a complaint has been filed with the Federal Maritime Commission (the “Commission”) by ICL

¹ 42 U.S.C. 4370m(11) (defining “environmental review” as “the agency procedures and processes for applying a categorical exclusion or for preparing an environmental assessment, an environmental impact statement, or other document required under [the National Environmental Policy Act]”).

² 42 U.S.C. 4370m(3) (defining “authorization” as “any license, permit, approval, finding, determination, or other administrative decision issued by an agency and any interagency consultation that is required or authorized under Federal law in order to site, construct, reconstruct, or commence operations of a covered project

USA, Inc. (the “Complainant”) against Dependable Highway Express, Inc. (“DHE”) and Mediterranean Shipping Company, (USA) Inc., on behalf of Mediterranean Shipping Company, S.A. (“MSC”). Complainant states that the Commission has subject matter jurisdiction over the complaint under the Shipping Act of 1998, as amended, 46 U.S.C. 40101 *et seq.* Complainant states that the Commission has personal jurisdiction over Respondent DHE as a party for the purposes of this proceeding when it acted directly or indirectly in conjunction with Respondent MSC in some instances and personal jurisdiction over Respondent MSC as an ocean common carrier as this term is defined at 46 U.S.C. 40102(18).

Complainant ICL USA, Inc. is a corporation organized and existing under the laws of the New York with its principal place of business in Rosedale, New York and acts as a destination agent in the United States for various affiliated Commission registered non-vessel-operating common carriers.

Complainant identifies Respondent DHE as a corporation organized and existing under the laws of California with a principal place of business in Los Angeles, California and as a Federal Motor Carrier Safety Administration motor carrier.

Complainant identified Respondent MSC as an entity headquartered in Geneva, Switzerland with an agent in the United States located in New York and as a vessel-operating common carrier.

Complainant alleges that the Respondents violated 46 U.S.C. 41104(a)(2)(A) and 41102(c) and 46 CFR 545.5, because Respondent DHE acted directly or indirectly in conjunction with Respondent MSC to assess unauthorized per diem related charges, including Admin Fees.

An answer to the complaint must be filed with the Commission within 25 days after the date of service.

The full text of the complaint can be found in the Commission’s electronic Reading Room at <https://www2.fmc.gov/readingroom/proceeding/24-04/>. This proceeding has been assigned to the Office of Administrative Law Judges. The initial decision of the presiding judge shall be issued by January 13, 2025, and the final decision of the Commission shall be issued by July 28, 2025.

Alanna Beck,
Federal Register Alternate Liaison Officer,
Federal Maritime Commission.

[FR Doc. 2024–01008 Filed 1–18–24; 8:45 am]

BILLING CODE 6730–02–P

FEDERAL TRADE COMMISSION

Agency Information Collection Activities; Proposed Collection; Comment Request; Extension

AGENCY: Federal Trade Commission.

ACTION: Notice.

SUMMARY: The Federal Trade Commission (“FTC” or “Commission”) is seeking public comments on its proposal to extend for an additional three years the current Paperwork Reduction Act (“PRA”) clearance for information collection requirements contained in the Commission’s rules and regulations under the Wool Products Labeling Act of 1939 (“Wool Rules”). That clearance expires on June 30, 2024.

DATES: Comments must be filed by March 19, 2024.

ADDRESSES: Interested parties may file a comment online or on paper, by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Write “Wool Rules; PRA Comment: FTC File No. P072108” on your comment, and file your comment online at <https://www.regulations.gov> by following the instructions on the web-based form. If you prefer to file your comment on paper, mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC–5610 (Annex J), Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Jock K. Chung, Attorney, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Mail Code CC–9528, 600 Pennsylvania Avenue NW, Washington, DC 20580, (202) 326–2984.

SUPPLEMENTARY INFORMATION:

Title of Collection: Rules and Regulations under the Wool Products Labeling Act of 1939, 16 CFR part 300.

OMB Control Number: 3084–0100.

Type of Review: Extension without change of currently approved collection.

Abstract: The Wool Products Labeling Act of 1939 (Wool Act) prohibits the misbranding of wool products. The Wool Rules establish disclosure requirements that assist consumers in making informed purchasing decisions and recordkeeping requirements that assist the Commission in enforcing the Rules.

Likely Respondents: Manufacturers, importers, processors, and marketers of wool products.

Frequency of Response: Third party disclosure; recordkeeping requirement.

Estimated Annual Burden Hours: 2,046,667 hours (160,000 recordkeeping hours + 1,886,667 disclosure hours).

Recordkeeping: 160,000 hours (4,000 wool firms incur an average 40 hours per firm).

Disclosure: 1,886,667 hours (240,000 hours for determining label content + 480,000 hours to draft and order labels + 1,166,667 hours to attach labels).

Estimated Annual Cost Burden: \$28,258,668.84 (solely relating to labor costs).

As required by section 3506(c)(2)(A) of the PRA, 44 U.S.C. 3506(c)(2)(A), the FTC is providing this opportunity for public comment before requesting that OMB extend the existing clearance for the information collection requirements contained in the Wool Rules.

Burden Statement

FTC staff’s burden estimates for the Wool Rules are based on data from the Department of Commerce’s Bureau of the Census, the International Trade Commission, the Department of Labor’s Bureau of Labor Statistics (BLS), and data or other input from the main industry association, the American Apparel and Footwear Association (AAFA), and from *SICCode.com*, which specializes in the business classification of SIC (Standard Industrial Classification) and NAICS (North American Industry Classification System) codes for business identification, verification, and targeting. The AAFA, a national trade association which represents U.S. apparel, footwear and other sewn products companies and their suppliers, has stated that “[t]he use of labels on textiles and apparels is beneficial to consumers, manufacturers, and business in general as it allows for the necessary flow of information along the supply chain.”¹

The relevant information collection requirements in these rules and staff’s corresponding burden estimates follow. The estimates address the number of hours needed and the labor costs incurred to comply with the requirements. FTC staff believes that a significant portion of hours and labor costs currently attributable to burden below are time and financial resources usually and customarily incurred by persons in the course of their regular activity (e.g., industry participants already have and/or would have care

¹ Page one from comment by Kevin M. Burke, President and CEO, American Apparel & Footwear Association, March 26, 2012, Advance Notice of Proposed Rulemaking; Request for Public Comment; Rules and Regulations under the Wool Products Labeling Act of 1939; 77 FR 4498 (Jan. 30, 2012).

labels regardless of the Rules) and could be excluded from PRA-related burden.²

Estimated Annual Burden Hours: 2,046,667 hours (160,000 recordkeeping hours + 1,886,667 disclosure hours).

Recordkeeping: FTC staff estimates that approximately 4,000 wool firms are subject to the Wool Rules' recordkeeping requirements. Based on an average annual burden of 40 hours per firm, the total recordkeeping burden is 160,000 hours.

Disclosure: Approximately 8,000 wool firms, producing or importing about 700,000,000 wool products annually, are subject to the Wool Rules' disclosure

requirements. FTC staff estimates the burden of determining label content to be 30 hours per year per firm, or a total of 240,000 hours, and the burden of drafting and ordering labels to be 60 hours per firm per year, or a total of 480,000 hours. FTC staff believes that the process of attaching labels is now fully automated and integrated into other production steps for about 40 percent of all affected products. For the remaining 420,000,000 items (60 percent of 700,000,000), the process is semi-automated and requires an average of approximately ten seconds per item, for a total of 1,166,667 hours per year.

Thus, the total estimated annual burden for all firms is 1,886,667 hours (240,000 hours for determining label content + 480,000 hours to draft and order labels + 1,166,667 hours to attach labels). FTC staff believes that any additional burden associated with advertising disclosure requirements would be minimal (less than 10,000 hours) and can be subsumed within the burden estimates set forth above.

Estimated Annual Cost Burden: \$28,258,668.84 (solely relating to labor costs). The chart below summarizes the total estimated costs.

Task	Hourly rate	Burden hours	Labor cost
Determine label content	\$31.49 ³	240,000	\$7,557,600
Draft and order labels	20.46 ⁴	480,000	9,820,800
Attach labels	6.52 ⁵	1,166,667	7,606,668.84
Recordkeeping	20.46 ⁶	160,000	3,273,600
Total			28,258,668.84

FTC staff believes that there are no current start-up costs or other capital costs associated with the Wool Rules. Because the labeling of wool products has been an integral part of the manufacturing process for decades, manufacturers have in place the capital equipment necessary to comply with the Rules. Based on knowledge of the industry, staff believes that much of the information required by the Wool Act and Rules would be included on the product label even absent their requirements. Similarly, recordkeeping and advertising disclosures are tasks performed in the ordinary course of business so that covered firms would incur no additional capital or other non-labor costs as a result of the Rules.

Request for Comment

Pursuant to section 3506(c)(2)(A) of the PRA, the FTC invites comments on: (1) whether the disclosure and recordkeeping requirements are necessary, including whether the information will be practically useful; (2) the accuracy of our burden estimates, including whether the methodology and assumptions used are valid; (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.

For the FTC to consider a comment, we must receive it on or before March 19, 2024. Your comment, including your name and your state, will be placed on the public record of this proceeding, including the <https://www.regulations.gov> website.

You can file a comment online or on paper. Due to heightened security screening, postal mail addressed to the Commission will be subject to delay. We encourage you to submit your comments online through the <https://www.regulations.gov> website.

If you file your comment on paper, write "Wool Rules; PRA Comment: FTC File No. P072108" on your comment and on the envelope, and mail it to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC-5610 (Annex J), Washington, DC 20580.

Because your comment will become publicly available at <https://www.regulations.gov>, you are solely responsible for making sure that your comment does not include any sensitive or confidential information. In particular, your comment should not include any sensitive personal

information, such as your or anyone else's Social Security number; date of birth; driver's license number or other state identification number, or foreign country equivalent; passport number; financial account number; or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, your comment should not include any "trade secret or any commercial or financial information which . . . is privileged or confidential"—as provided by section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2)—including, in particular, competitively sensitive information, such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

Comments containing material for which confidential treatment is requested must (1) be filed in paper form, (2) be clearly labeled "Confidential," and (3) comply with FTC Rule 4.9(c). In particular, the written request for confidential treatment that accompanies the comment must include the factual and

² 5 CFR 1320.3(b)(2).

³ The wage rate for supervisors of office and administrative support workers is based on data through May 2022 from the Bureau of Labor Statistics Occupational Employment Statistics Survey at <https://www.bls.gov/news.release/ocwage.htm> (released on April 25, 2023).

⁴ The wage rate for correspondence clerks is based on recent data from the Bureau of Labor

Statistics Occupational Employment Statistics Survey at <https://www.bls.gov/news.release/ocwage.htm>.

⁵ For imported products, the labels generally are attached in the country where the products are manufactured. According to information compiled by an industry trade association using data from the U.S. Department of Commerce, International Trade Administration and the U.S. Census Bureau, approximately 97.1% of apparel used in the United

States is imported. With the remaining 2.9% attributable to U.S. production at an approximate domestic hourly wage of \$12 to attach labels, staff has calculated a weighted average hourly wage of \$6.52 per hour attributable to U.S. and foreign labor combined.

⁶ This estimate includes the wage rate for correspondence clerks.

legal basis for the request and must identify the specific portions of the comment to be withheld from the public record. See FTC Rule 4.9(c). Your comment will be kept confidential only if the General Counsel grants your request in accordance with the law and the public interest. Once your comment has been posted publicly at www.regulations.gov, we cannot redact or remove your comment unless you submit a confidentiality request that meets the requirements for such treatment under FTC Rule 4.9(c), and the General Counsel grants that request.

The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before March 19, 2024. For information on the Commission's privacy policy, including routine uses permitted by the Privacy Act, see <https://www.ftc.gov/site-information/privacy-policy>.

Josephine Liu,

Assistant General Counsel for Legal Counsel.

[FR Doc. 2024-01005 Filed 1-18-24; 8:45 am]

BILLING CODE 6750-01-P

FEDERAL TRADE COMMISSION

Agency Information Collection Activities; Proposed Collection; Comment Request; Extension

AGENCY: Federal Trade Commission.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (PRA), the Federal Trade Commission (FTC or Commission) is seeking public comment on its proposal to extend for an additional three years the current Paperwork Reduction Act (PRA) clearance for its information collection requirements in the Privacy of Consumer Financial Information Rule (Privacy Rule or Rule). The current clearance expires on January 31, 2024.

DATES: Comments must be filed by February 20, 2024.

ADDRESSES: Interested parties may file a comment online or on paper, by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. 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. The reginfo.gov web link is a United States Government website produced by the Office of Management and Budget (OMB) and the General Services Administration (GSA). Under PRA requirements, OMB's Office of Information and Regulatory Affairs (OIRA) reviews Federal information collections.

FOR FURTHER INFORMATION CONTACT:

Jennifer Rimm, Attorney, Division of Privacy and Identity Protection, Bureau of Consumer Protection, Federal Trade Commission, (202) 326-2277, jrimm@ftc.gov.

SUPPLEMENTARY INFORMATION: Title:

Privacy of Consumer Financial Information (Gramm-Leach-Bliley Act Privacy Rule), 16 CFR part 313.

OMB Control Number: 3084-0121.

Type of Review: Extension without change of currently approved collection.

Affected Public: Private Sector:

Businesses and other for-profit entities.

Abstract:

The Privacy Rule is designed to ensure that customers and consumers, subject to certain exceptions, will have access to the privacy policies of the covered financial institutions with which they conduct business—namely, motor vehicle dealers that do not routinely extend credit to consumers directly without assigning the credit to unaffiliated third parties (hereafter, “motor vehicle dealers”). As mandated by the Gramm-Leach-Bliley Act (“GLBA”), 15 U.S.C. 6801–6809, the Rule requires motor vehicle dealers to disclose to consumers: (1) initial notice of the financial institution's privacy policy when establishing a customer relationship with a consumer and/or before sharing a consumer's nonpublic personal information with certain nonaffiliated third parties; (2) notice of the consumer's right to opt out of information sharing with such parties; (3) annual notice of the institution's privacy policy to any continuing customer;¹ and (4) notice of changes in

¹ On December 4, 2015, Congress amended the GLBA as part of the Fixing America's Surface Transportation Act (“FAST Act”). This amendment, titled Eliminate Privacy Notice Confusion (FAST Act, Pub. L. 114-94, section 75001) added new GLBA section 503(f). This subsection provides an exception under which financial institutions that meet certain conditions are not required to provide annual privacy notices to customers. Section 503(f) requires that to qualify for this exception, a financial institution must not share nonpublic personal information about customers except as described in certain statutory exceptions, under which sharing does not trigger a customer's statutory right to opt out of the sharing. In addition, section 503(f)(2) requires that the financial institution must not have changed its policies and

the institution's practices on information sharing. These requirements are subject to the PRA. The Rule does not require recordkeeping. For PRA burden calculations, the FTC shares the PRA burden with the Consumer Financial Protection Bureau (CFPB) for financial institutions over which both agencies have enforcement authority under the CFPB's regulation corresponding to the Privacy Rule, titled Privacy of Consumer Financial Information (Regulation P), 12 CFR part 1016, and attributes to itself the burden for all motor vehicle dealers. See 12 U.S.C. 5519.

Estimated Annual Burden Hours:

1,454,850.

Estimated Annual Labor Costs:

\$35,820,366.

Request for Comment

On October 18, 2023, the FTC sought public comment on the information collection requirements associated with the Rule. 88 FR 71861. No germane comments were received. Pursuant to the OMB regulations, 5 CFR part 1320, that implement the PRA, 44 U.S.C. 3501 *et seq.*, the FTC is providing this second opportunity for public comment while seeking OMB approval to renew the pre-existing clearance for the Rule.

Your comment—including your name and your state—will be placed on the public record of this proceeding. Because your comment will be made public, you are solely responsible for making sure that your comment does not include any sensitive personal information, such as anyone's Social Security number; date of birth; driver's license number or other state identification number, or foreign country equivalent; passport number; financial account number; or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, your comment should not include any “trade secret or any commercial or financial information which . . . is privileged or confidential” —as provided by section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2)—including in particular competitively sensitive information such as costs,

practices with regard to disclosing nonpublic personal information from those that the institution disclosed in the most recent privacy notice the customer received. On December 9, 2021, the Privacy Rule was amended at 16 CFR 313.5(e) to incorporate this exception. The amendments were effective January 10, 2022. 86 FR 70020 (Dec. 9, 2021).

sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

Josephine Liu,

Assistant General Counsel for Legal Counsel.

[FR Doc. 2024–01002 Filed 1–18–24; 8:45 am]

BILLING CODE 6750–01–P

FEDERAL TRADE COMMISSION

Agency Information Collection Activities; Proposed Collection; Comment Request; Extension

AGENCY: Federal Trade Commission.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (“PRA”), the Federal Trade Commission (“FTC” or “Commission”) is seeking public comment on its proposal to extend for an additional three years the Office of Management and Budget clearance for information collection requirements in the Trade Regulation Rule entitled Power Output Claims for Amplifiers Utilized in Home Entertainment Products (“Amplifier Rule” or “Rule”). This clearance expires on April 30, 2024.

DATES: Comments must be filed by March 19, 2024.

ADDRESSES: Interested parties may file a comment online or on paper, by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Write “Amplifier Rule, PRA Comment, P085405,” on your comment, and file your comment online at <https://www.regulations.gov> by following the instructions on the web-based form. If you prefer to file your comment on paper, mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC–5610 (Annex J), Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Hong Park, Attorney, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, (202) 326–2158, hpark@ftc.gov.

SUPPLEMENTARY INFORMATION:

Title: Amplifier Rule, 16 CFR part 432.

OMB Control Number: 3084–0105.

Type of Review: Extension of a currently approved collection.

Estimated Annual Hours of Burden: 462 hours (308 testing hours; 154 disclosure hours).

Likely Respondents and Estimated Burden:

(a) Testing—High fidelity manufacturers—308 new products/year × 1 hour each = 308 hours; and
(b) Disclosures—High fidelity manufacturers—[(308 new products/year × 1 specification sheet) + (308 new products/year × 1 brochure)] × 15 minutes per specification sheet or brochure = 154 hours.

Frequency of Response: Periodic.

Estimated Annual Labor Cost: \$28,019 per year (\$17,131 for testing + \$10,888 for disclosures).

Abstract: The Amplifier Rule assists consumers by standardizing the measurement and disclosure of power output and related performance characteristics of amplifiers in stereos and other home entertainment equipment. The Rule also specifies the test conditions necessary to make the disclosures that the Rule requires.

As required by section 3506(c)(2)(A) of the PRA, 44 U.S.C. 3506(c)(2)(A), the FTC is providing this opportunity for public comment before requesting that OMB extend the existing clearance for the information collection requirements contained in the Rule.

Burden Estimates:

Estimated annual hours of burden: 462 hours (308 testing hours; 154 disclosure hours).

The Rule’s provisions require manufacturers making certain amplifier power output-related claims to test the power output in accordance with a specified FTC protocol. The Commission staff estimates that approximately 308 new models of covered products¹ (*i.e.*, amplifiers, receivers, and amplifier-integrated devices typically marketed to consumers with amplifier power output-related claims) come on the market each year. High fidelity manufacturers routinely conduct performance tests on these new models prior to sale. Because manufacturers conduct such tests, the Rule imposes no additional costs except to the extent that the FTC protocol is more time-consuming than alternative testing procedures. In this regard, a warm-up period that the Rule requires before measurements are taken may add approximately one hour to the time testing would otherwise entail. Thus, staff estimates that the Rule imposes

¹ Staff estimates 2,500 models of amplifiers or amplifier-integrated devices are sold in the U.S. each year and that approximately 2,050 models are marketed with amplifier power output-related claims that would subject them to the Rule’s requirements. Of these 2,050 models, staff estimates approximately 80% or 1,640 of the models have nominally new model numbers but only 15% or 308 of the models require new testing and disclosures because the products are either entirely new or have significant changes from their prior iteration.

approximately 308 hours (1 hour × 308 new models) of added testing burden annually.

In addition, the Rule requires disclosures if a seller makes a triggering power output-related claim for a covered product in an advertisement, specification sheet, or product brochure. This requirement does not impose any additional costs on sellers because, absent the Rule, media advertisements, as well as manufacturer specification sheets and product brochures, would contain a power specification obtained using an alternative to the Rule-required testing protocol. The Rule, however, also requires disclosure of harmonic distortion, power bandwidth, and impedance ratings in manufacturer specification sheets and product brochures that might not otherwise be included.

Staff assumes that manufacturers produce one specification sheet and one brochure each year for each new model. The burden of disclosing the harmonic distortion, bandwidth, and impedance information on the specification sheets and brochures is limited to the time needed to draft and review the language pertaining to the aforementioned specifications. Staff estimates the time involved for this task to be a maximum of fifteen minutes (or 0.25 hours) for each new specification sheet or brochure for a total of 154 hours (derived from [(308 new models × 1 specification sheet) + (308 new models × 1 brochure)] × 0.25 hours for each specification sheet or brochure). The total annual burden imposed by the Rule, therefore, is approximately 462 burden hours for testing and disclosures.

Estimated annual labor cost burden: \$28,019.

Generally, electronics engineers perform the testing of amplifiers. Staff estimates a labor cost of \$17,131 for such testing (308 hours for testing × \$55.62 mean hourly wages). Staff assumes advertising or promotions managers prepare the disclosures contained in product brochures and manufacturer specification sheet and estimates a labor cost of \$10,888 (154 hours for disclosures × \$70.70 mean hourly wages). Accordingly, staff estimates the total labor costs associated with the Rule to be approximately \$28,019 per year (\$17,131 for testing + \$10,888 for disclosures).²

The Rule imposes no capital or other non-labor costs because its requirements

² The wage rates for electronics engineers and advertising and promotions managers are based on recent data from the Bureau of Labor Statistics Occupational Employment Statistics Survey at <https://www.bls.gov/news.release/ocwage.htm>.

are incidental to testing and advertising done in the ordinary course of business.

Request for Comment

Pursuant to section 3506(c)(2)(A) of the PRA, the FTC invites comments on: (1) whether the disclosure and recordkeeping requirements are necessary, including whether the information will be practically useful; (2) the accuracy of our burden estimates, including whether the methodology and assumptions used are valid; (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.

For the FTC to consider a comment, we must receive it on or before March 19, 2024. Your comment, including your name and your state, will be placed on the public record of this proceeding, including the <https://www.regulations.gov> website.

You can file a comment online or on paper. Due to heightened security screening, postal mail addressed to the Commission will be subject to delay. We encourage you to submit your comments online through the <https://www.regulations.gov> website.

If you file your comment on paper, write “Amplifier Rule, PRA Comment, P085405,” on your comment and on the envelope, and mail it to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC–5610 (Annex J), Washington, DC 20580. If possible, submit your paper comment to the Commission by overnight service.

Because your comment will become publicly available at <https://www.regulations.gov>, you are solely responsible for making sure that your comment does not include any sensitive or confidential information. In particular, your comment should not include any sensitive personal information, such as your or anyone else’s Social Security number; date of birth; driver’s license number or other state identification number, or foreign country equivalent; passport number; financial account number; or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, your comment should not include any “trade secret or any commercial or financial information which . . . is privileged or confidential”—as provided by Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2)—including, in particular, competitively

sensitive information, such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

Comments containing material for which confidential treatment is requested must (1) be filed in paper form, (2) be clearly labeled “Confidential,” and (3) comply with FTC Rule 4.9(c). In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. See FTC Rule 4.9(c). Your comment will be kept confidential only if the General Counsel grants your request in accordance with the law and the public interest. Once your comment has been posted publicly at www.regulations.gov, we cannot redact or remove your comment unless you submit a confidentiality request that meets the requirements for such treatment under FTC Rule 4.9(c), and the General Counsel grants that request.

The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before March 19, 2024. For information on the Commission’s privacy policy, including routine uses permitted by the Privacy Act, see <https://www.ftc.gov/site-information/privacy-policy>.

Josephine Liu,

Assistant General Counsel for Legal Counsel.

[FR Doc. 2024–01006 Filed 1–18–24; 8:45 am]

BILLING CODE 6750–01–P

FEDERAL TRADE COMMISSION

[File No. P072108]

Agency Information Collection Activities; Proposed Collection; Comment Request; Extension

AGENCY: Federal Trade Commission.

ACTION: Notice.

SUMMARY: The Federal Trade Commission (“FTC” or “Commission”) is seeking public comments on its proposal to extend for an additional three years the current Paperwork Reduction Act (“PRA”) clearance for information collection requirements contained in the Commission’s rules and regulations under the Textile Fiber Products Identification Act (“Textile Rules”). That clearance expires on June 30, 2024.

DATES: Comments must be filed by March 19, 2024.

ADDRESSES: Interested parties may file a comment online or on paper, by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Write “Textile Rules; PRA Comment: FTC File No. P072108” on your comment, and file your comment online at <https://www.regulations.gov> by following the instructions on the web-based form. If you prefer to file your comment on paper, mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC–5610 (Annex J), Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Jock K. Chung, Attorney, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Mail Code CC–9528, 600 Pennsylvania Avenue NW, Washington, DC 20580, (202) 326–2984.

SUPPLEMENTARY INFORMATION:

Title of Collection: Rules and Regulations under the Textile Fiber Products Identification Act, 16 CFR part 303.

OMB Control Number: 3084–0101.

Type of Review: Extension without change of currently approved collection.

Abstract: The Textile Fiber Products Identification Act (Textile Act)¹ prohibits the misbranding and false advertising of textile fiber products. The Textile Rules establish disclosure requirements that assist consumers in making informed purchasing decisions, and recordkeeping requirements that assist the Commission in enforcing the Rules. The Rules also contain a petition procedure for requesting the establishment of generic names for textile fibers.

Likely Respondents: Manufacturers, importers, processors, and marketers of textile fiber products.

Frequency of Response: Third party disclosure; recordkeeping requirement.

Estimated Annual Burden Hours: 43,234,317 hours (1,180,725 recordkeeping hours + 42,053,592 disclosure hours).

Recordkeeping: 1,180,725 hours (approximately 18,165 textile firms incur average burden of 65 hours per firm).

Disclosure: 42,053,592 hours (621,725 hours to determine label content + 765,200 hours to draft and order labels + 40,666,667 hours to attach labels).

Estimated Annual Cost Burden: \$324,538,414.59.

¹ 15 U.S.C. 70 *et seq.*

As required by section 3506(c)(2)(A) of the PRA, 44 U.S.C. 3506(c)(2)(A), the FTC is providing this opportunity for public comment before requesting that OMB extend the existing clearance for the information collection requirements contained in the Textile Rules.

Burden Statement

FTC staff's burden estimates are based on data from the Department of Commerce's Bureau of the Census and International Trade Administration, the Department of Labor's Bureau of Labor Statistics (BLS), and data or other input from the main industry association, the American Apparel and Footwear Association (AAFA), and from *SICCode.com*, which specializes in the business classification of SIC (Standard Industrial Classification) and NAICS (North American Industry Classification System) codes for business identification, verification, and targeting. The AAFA, a national trade association that represents U.S. apparel, footwear and other sewn products companies and their suppliers, has stated that "[t]he use of labels on textiles and apparels is beneficial to consumers, manufacturers, and business in general as it allows for the necessary flow of information along the supply

chain."² The relevant information collection requirements in these Rules and staff's corresponding burden estimates follow. The estimates address the number of hours needed and the labor costs incurred to comply with the requirements. FTC staff believes that a significant portion of hours and labor costs currently attributable to burden below are time and financial resources usually and customarily incurred by persons in the course of their regular activity (*e.g.*, industry participants already have and/or would have fiber content labels regardless of the Rules) and could be excluded from PRA-related burden.³

Estimated Annual Burden Hours: 43,234,317 hours (1,180,725 recordkeeping hours + 42,053,592 disclosure hours).

Recordkeeping: FTC staff estimates that approximately 18,165 textile firms are subject to the Textile Rules' recordkeeping requirements. Based on an average burden of 65 hours per firm, the total recordkeeping burden is 1,180,725 hours.

Disclosure: Approximately 9,565 textile firms, producing or importing about 24.4 billion textile fiber products annually, are subject to the Textile Rules' disclosure requirements.⁴

FTC staff estimates that the burden of determining label content is 65 hours per year per firm, or a total of 621,725 hours, and the burden of drafting and ordering labels is 80 hours per firm per year, or a total of 765,200 hours. FTC staff believes that the process of attaching labels is now fully automated and integrated into other production steps for about 40 percent of all affected products. For the remaining 14.64 billion items (60 percent of 24.4 billion), the process is semi-automated and requires an average of approximately ten seconds per item, for a total of 40,666,667 hours per year. Thus, the total estimated annual disclosure burden for all firms is 42,053,592 hours (621,725 hours to determine label content + 765,200 hours to draft and order labels + 40,666,667 hours to attach labels).⁵ FTC staff believes that any additional burden associated with advertising disclosure requirements or the filing of generic fiber name petitions would be minimal (less than 10,000 hours) and can be subsumed within the burden estimates set forth above.

Estimated Annual Cost Burden: \$324,538,414.59. The chart below summarizes the total estimated costs.

Task	Hourly rate	Burden hours	Labor cost
Determine label content	⁶ \$31.49	621,725	\$19,578,120.25
Draft and order labels	⁷ 20.46	765,200	15,655,992.00
Attach labels	⁸ 6.52	40,666,667	265,146,668.84
Recordkeeping	⁹ 20.46	1,180,725	24,157,633.50
Total .....	.....	.....	324,538,414.59

FTC staff believes that there are no current start-up costs or other capital costs associated with the Textile Rules. Because the labeling of textile products

has been an integral part of the manufacturing process for decades, manufacturers have in place the capital equipment necessary to comply with the

Rules' labeling requirements. Industry sources indicate that much of the information required by the Textile Act and Rules would be included on the

²Page one from comment by Kevin M. Burke, President and CEO, American Apparel & Footwear Association, March 26, 2012, Advance Notice of Proposed Rulemaking; Request for Public Comment; Rules and Regulations under the Wool Products Labeling Act of 1939; 77 FR 4498 (Jan. 30, 2012).

³5 CFR 1320.3(b)(2).

⁴The estimated consumption of garments in the U.S. in 2022 was 22.8 billion. However, FTC staff estimates that 1.2 billion garments are exempt from the Textile Act (*i.e.*, any kind of headwear and garments made from something other than a textile fiber product, such as leather) or are subject to a special exemption for hosiery products sold in packages where the label information is contained on the package. Based on available data, FTC staff estimates that an additional 3.5 billion household textile products (non-garments, such as sheets, towels, blankets) were consumed. However, approximately 0.7 billion of all of these garments and household products are subject to the Wool Act, not the Textile Act, because they contain some amount of wool. Thus, the estimated net total

products subject to the Textile Act is 24.4 billion (22.8 – 1.2 + 3.5 = 25.1 – 0.7 = 24.4 billion).

⁵The Commission revised the Textile Rules in 2006 in response to amendments to the Textile Act. See 70 FR 73369 (Dec. 12, 2005). These amendments concerned the placement of labels on packages of certain types of socks and, therefore, do not place any additional disclosure burden on covered entities. In 2014, the Commission revised the Textile Rules to clarify and streamline certain provisions and to allow more flexibility in marketing textile products (*e.g.*, allowing the use of certain hang-tags that do not disclose the product's full fiber content). The Commission sought comment on the increased burden, if any, imposed by these changes but did not receive any comments asserting that the amendments would increase compliance costs. See 79 FR 18766 (Apr. 4, 2014).

⁶The wage rate for supervisors of office and administrative support workers is based on data through May 2022 from the Bureau of Labor Statistics Occupational Employment Statistics Survey at <https://www.bls.gov/news.release/ocwage.htm> (released on Apr. 25, 2023).

⁷The wage rate for correspondence clerks is based on recent data from the Bureau of Labor Statistics Occupational Employment Statistics Survey at <https://www.bls.gov/news.release/ocwage.htm>.

⁸For imported products, the labels generally are attached in the country where the products are manufactured. According to information compiled by an industry trade association using data from the U.S. Department of Commerce, International Trade Administration and the U.S. Census Bureau, approximately 97.1% of apparel used in the United States is imported. With the remaining 2.9% attributable to U.S. production at an approximate domestic hourly wage of \$12 to attach labels, FTC staff has calculated a weighted average hourly wage of \$6.52 per hour attributable to U.S. and foreign labor combined.

⁹This estimate includes the wage rate for correspondence clerks.

product label even absent their requirements. Similarly, recordkeeping, invoicing, and advertising disclosures are tasks performed in the ordinary course of business; therefore, covered firms would incur no additional capital or other non-labor costs as a result of the Rules.

Request for Comment

Pursuant to section 3506(c)(2)(A) of the PRA, the FTC invites comments on: (1) whether the disclosure and recordkeeping requirements are necessary, including whether the information will be practically useful; (2) the accuracy of our burden estimates, including whether the methodology and assumptions used are valid; (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.

For the FTC to consider a comment, we must receive it on or before March 19, 2024. Your comment, including your name and your state, will be placed on the public record of this proceeding, including the <https://www.regulations.gov> website.

You can file a comment online or on paper. Due to heightened security screening, postal mail addressed to the Commission will be subject to delay. We encourage you to submit your comments online through the <https://www.regulations.gov> website.

If you file your comment on paper, write “Textile Rules; PRA Comment: FTC File No. P072108” on your comment and on the envelope, and mail it to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC-5610 (Annex J), Washington, DC 20580.

Because your comment will become publicly available at <https://www.regulations.gov>, you are solely responsible for making sure that your comment does not include any sensitive or confidential information. In particular, your comment should not include any sensitive personal information, such as your or anyone else’s Social Security number; date of birth; driver’s license number or other state identification number, or foreign country equivalent; passport number; financial account number; or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, your comment should not include any “trade secret or any commercial or financial information

which . . . is privileged or confidential”—as provided by section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2)—including, in particular, competitively sensitive information, such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

Comments containing material for which confidential treatment is requested must (1) be filed in paper form, (2) be clearly labeled “Confidential,” and (3) comply with FTC Rule 4.9(c). In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request and must identify the specific portions of the comment to be withheld from the public record. See FTC Rule 4.9(c). Your comment will be kept confidential only if the General Counsel grants your request in accordance with the law and the public interest. Once your comment has been posted publicly at www.regulations.gov, we cannot redact or remove your comment unless you submit a confidentiality request that meets the requirements for such treatment under FTC Rule 4.9(c), and the General Counsel grants that request.

The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before March 19, 2024. For information on the Commission’s privacy policy, including routine uses permitted by the Privacy Act, see <https://www.ftc.gov/site-information/privacy-policy>.

Josephine Liu,

Assistant General Counsel for Legal Counsel.

[FR Doc. 2024-01001 Filed 1-18-24; 8:45 am]

BILLING CODE 6750-01-P

FEDERAL TRADE COMMISSION

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Extension

AGENCY: Federal Trade Commission.

ACTION: Notice.

SUMMARY: The Federal Trade Commission (“FTC” or “Commission”) requests that the Office of Management and Budget (“OMB”) extend for an additional three years the current Paperwork Reduction Act (“PRA”) clearance for information collection requirements in the Trade Regulation Rule entitled Labeling and Advertising

of Home Insulation (“R-value Rule” or “Rule”). That clearance expires on March 31, 2024.

DATES: Comments must be filed by February 20, 2024.

ADDRESSES: Interested parties may file a comment online or on paper, by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. 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:

Hampton Newsome, Attorney, Division of Enforcement, Federal Trade Commission, Room CC-9528, 600 Pennsylvania Avenue NW, Washington, DC 20580, (202) 326-2889.

SUPPLEMENTARY INFORMATION:

Title of Collection: R-value Rule, 16 CFR part 460.

OMB Control Number: 3084-0109.

Type of Review: Extension without change of currently approved collection.

Abstract: The R-value Rule establishes uniform standards for the substantiation and disclosure of accurate, material product information about the thermal performance characteristics of home insulation products. The R-value of an insulation signifies the insulation’s degree of resistance to the flow of heat. This information tells consumers how well a product is likely to perform as an insulator and allows consumers to determine whether the cost of the insulation is justified.

Affected Public: Insulation manufacturers, installers, home builders, home sellers, insulation sellers.

Estimated Annual Burden Hours: 100,874 hours.

Estimated Annual Labor Costs: \$2,424,450.68 (solely related to labor costs).

Request for Comment: On August 30, 2023, the FTC sought public comment on the information collection requirements associated with the Rule. 88 FR 59923 (Aug. 30, 2023). No relevant comments were received during the public comment period. Pursuant to OMB regulations, 5 CFR part 1320, that implement the PRA, 44 U.S.C. 3501 *et seq.*, the FTC is providing this second opportunity for public comment while seeking OMB approval to renew the pre-existing clearance for the Rule. For more details about the

Rule requirements and the basis for the calculations summarized below, see 88 FR 59923.

Your comment—including your name and your state—will be placed on the public record of this proceeding. Because your comment will be made public, you are solely responsible for making sure that your comment does not include any sensitive personal information, such as anyone's Social Security number; date of birth; driver's license number or other state identification number or foreign country equivalent; passport number; financial account number; or credit or debit card number. You are also solely responsible for ensuring that your comment does not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, your comment should not include any "[t]rade secret or any commercial or financial information which is . . . privileged or confidential"—as provided in Section 6(f) of the FTC Act 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2)—including, in particular, competitively sensitive information, such as costs, sales statistics, inventories, formulas, patterns devices, manufacturing processes, or customer names.

Josephine Liu,

Assistant General Counsel for Legal Counsel.

[FR Doc. 2024-01004 Filed 1-18-24; 8:45 am]

BILLING CODE 6750-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Toxic Substances and Disease Registry

[Docket No. ATSDR-2023-0005]

Availability of Two Draft Toxicological Profiles

AGENCY: Agency for Toxic Substances and Disease Registry (ATSDR), Department of Health and Human Services (HHS).

ACTION: Notice with comment period.

SUMMARY: The Agency for Toxic Substances and Disease Registry (ATSDR), within the Department of Health and Human Services (HHS), announces the opening of a docket to obtain comments on drafts of two updated toxicological profiles: chloroform and chloroethane. This action is necessary as this is the opportunity for members of the public and organizations to submit comments on drafts of the profiles. The intended effect of this action is to ensure that the

public can note any pertinent additional information or reports on studies about the health effects caused by exposure to the substances covered in these two profiles for review.

DATES: Written comments must be received on or before April 18, 2024.

ADDRESSES: You may submit comments, identified by Docket No. ATSDR-2023-0005 by either of the methods listed below. Do not submit comments by email. ATSDR does not accept comments by email.

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

- *Mail:* Agency for Toxic Substances and Disease Registry, Office of Innovation and Analytics, 4770 Buford Highway, Mail Stop S106-5, Atlanta, GA 30341-3717. Attn: Docket No. ATSDR-2023-0005.

Instructions: All submissions received must include the agency name and Docket Number. All relevant comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided. For access to the docket to read background documents or comments received, go to <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT:

Farhana Rahman, Agency for Toxic Substances and Disease Registry, Office of Innovation and Analytics, 4770 Buford Highway, Mail Stop S106-5, Atlanta, GA 30329-4027; Email: ATSDRToxProfileFRNs@cdc.gov; Phone: 1-800-232-4636.

SUPPLEMENTARY INFORMATION: ATSDR has prepared drafts of two updated toxicological profiles based on current understanding of the health effects and availability of new studies and other information since their initial release. All toxicological profiles issued as "Drafts for Public Comment" represent the result of ATSDR's evidence-based evaluations of the available literature to provide important toxicological information on priority hazardous substances to the public and health professionals. ATSDR considers key studies for these substances during the profile development process, using a systematic review approach. To that end, ATSDR is seeking public comments and additional information or reports on studies about the health effects of these substances for review and potential inclusion in the profiles. ATSDR will evaluate the quality and relevance of such data or studies for possible inclusion in the profile.

Legislative Background

The Superfund Amendments and Reauthorization Act of 1986 (SARA) [42

U.S.C. 9601 *et seq.*] amended the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA or Superfund) [42 U.S.C. 9601 *et seq.*] by establishing certain requirements for ATSDR and the U.S. Environmental Protection Agency (EPA) regarding the hazardous substances most commonly found at facilities on the CERCLA National Priorities List. Among these statutory requirements is a mandate for the Administrator of ATSDR to prepare toxicological profiles for each substance included on the priority list of hazardous substances [also called the Substance Priority List (SPL)]. This list identifies 275 hazardous substances that ATSDR has determined pose the most significant potential threat to human health. The SPL is available online at <http://www.atsdr.cdc.gov/SPL>. ATSDR is also mandated to revise and publish updated toxicological profiles, as necessary, to reflect updated health effects and other information.

In addition, CERCLA provides ATSDR with the authority to prepare toxicological profiles for substances not found on the SPL. CERCLA authorizes ATSDR to establish and maintain an inventory of literature, research, and studies on the health effects of toxic substances (CERCLA Section 104(i)(1)(B); 42 U.S.C. 9604(i)(1)(B)); to respond to requests for health consultations (CERCLA Section 104(i)(4); 42 U.S.C. 9604(i)(4)); and to support the site-specific response actions conducted by the agency (CERCLA Section 104(i)(6); 42 U.S.C. 9604(i)(6)).

ATSDR has now prepared drafts of two updated toxicological profiles based on current understanding of the health effects and availability of new studies and other information since their initial release.

Availability

The draft toxicological profiles and interaction profile are available online at <http://www.regulations.gov>, Docket No. ATSDR-2023-0005 and at <http://www.atsdr.cdc.gov/ToxProfiles>.

Public Participation

Interested persons or organizations are invited to participate by submitting written views, recommendations, and data. Please note that comments received, including attachments and other supporting materials, are part of the public record and are subject to public disclosure. Comments will be posted on <https://www.regulations.gov>. Therefore, do not include any information in your comment or supporting materials that you consider

confidential or inappropriate for public disclosure. If you include your name, contact information, or other information that identifies you in the body of your comments, that information will be on public display. ATSDR will review all submissions and may choose to redact, or withhold, submissions containing private or proprietary information such as Social Security numbers, medical information, inappropriate language, or duplicate/near duplicate examples of a mass-mail campaign. Do not submit comments by email. ATSDR does not accept comments by email.

Donata Green,

Associate Director, Office of Policy, Planning and Partnerships, Agency for Toxic Substances and Disease Registry.

[FR Doc. 2024-01007 Filed 1-18-24; 8:45 am]

BILLING CODE 4163-70-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Docket No. CDC-2024-0003]

Meeting of the Advisory Committee to the Director, Centers for Disease Control and Prevention

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice of meeting and request for comment.

SUMMARY: In accordance with the Federal Advisory Committee Act, the Centers for Disease Control and Prevention (CDC) announces the following meeting for the Advisory Committee to the Director, Centers for Disease Control and Prevention (ACD, CDC). This is a hybrid meeting, accessible both in person and virtually (webcast live via the World Wide Web). It is open to the public and limited only by the space available. Time will be available for public comment.

DATES: The meeting will be held on February 21, 2024, from 9 a.m. to 3 p.m., EST (times subject to change).

Written comments must be received on or before February 5, 2024.

ADDRESSES: *Meeting address:* CDC Roybal Campus, Building 21, Room 1204 A/B, 1600 Clifton Road NE, Atlanta, Georgia 30329-4027.

Please note that the meeting location, the CDC Roybal Campus, is a federal facility and in-person access is limited to United States citizens unless prior authorizations, taking up to 30 to 60

days, have been made. Visitors must follow all directions for access to CDC facilities. Directions for visitors to CDC, including safety requirements related to COVID-19; are available at <https://www.cdc.gov/screening/visitors.html>.

Registration: You must register to attend this meeting in person. If you wish to attend in person, please submit a request by email to ACDDirector@cdc.gov at least 5 business days in advance of the meeting. No registration is required to view the meeting via the World Wide Web. Information for accessing the webcast will be available at <https://www.cdc.gov/about/advisory-committee-director/>.

Written comments: You may submit comments, identified by Docket No. CDC-2024-0003, by either of the following methods below. Do not submit comments for the docket by email. CDC does not accept comments for the docket by email.

- **Federal eRulemaking Portal:** <https://www.regulations.gov>. Follow the instructions for submitting comments.
- **Mail:** Kerry Caudwell, DPA, Centers for Disease Control and Prevention, 1600 Clifton Road NE, Mailstop H21-10, Atlanta, Georgia 30329-4027. Attn: Docket number CDC-2024-0003.

Instructions: All submissions received must include the Agency name and Docket Number. All relevant comments received will be posted without change to <https://www.regulations.gov>, including any personal information provided. For access to the docket to read background documents or comments received, go to <https://www.regulations.gov>. Written comments received in advance of the meeting will be included in the official record of the meeting.

FOR FURTHER INFORMATION CONTACT: Kerry Caudwell, D.P.A., Office of the Chief of Staff, Centers for Disease Control and Prevention, 1600 Clifton Road NE, Mailstop H21-10, Atlanta, Georgia 30329-4027, Telephone: (404) 639-0390; Email Address: ACDDirector@cdc.gov.

SUPPLEMENTARY INFORMATION:

Purpose: The Advisory Committee to the Director, CDC, shall (1) make recommendations to the Director regarding ways to prioritize the activities of the agency in alignment with the CDC Strategic Plan required under section 305(c); H.R. 2617-1252; (2) advise on ways to achieve or improve performance metrics in relation to the CDC Strategic Plan, and other relevant metrics, as appropriate; (3) provide advice and recommendations on the development of the Strategic Plan, and any subsequent updates, as

appropriate; (4) advise on grant, cooperative agreements, contracts, or other transactions, as applicable; (5) provide other advice to the Director, as requested, to fulfill duties under sections 301 and 311; and (6) appoint subcommittees. The committee recommends ways to prioritize CDC's activities, improve results, and address health disparities. It also provides guidance to help CDC work more effectively with its various private and public sector constituents to make health protection a practical reality.

Matters to be Considered: The agenda includes updates on CDC programs, Director's focus areas, and the Moving Forward Initiative. Agenda items are subject to change as priorities dictate.

Public Participation

Interested persons or organizations are invited to participate by submitting written views, recommendations, and data. Please note that comments received, including attachments and other supporting materials, are part of the public record and are subject to public disclosure. Comments will be posted on <https://www.regulations.gov>. Therefore, do not include any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure. If you include your name, contact information, or other information that identifies you in the body of your comments, that information will be on public display. CDC will review all submissions and may choose to redact, or withhold, submissions containing private or proprietary information such as Social Security numbers, medical information, inappropriate language, or duplicate/near duplicate examples of a mass-mail campaign. CDC will carefully consider all comments submitted into the docket.

Written Public Comment: The docket will be opened to receive written comments on January 19, 2024 through February 5, 2024.

The Director, Office of Strategic Business Initiatives, Office of the Chief Operating Officer, Centers for Disease Control and Prevention, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and

Prevention and the Agency for Toxic Substances and Disease Registry.

Kalwant Smagh,
Director, Office of Strategic Business Initiatives, Office of the Chief Operating Officer, Centers for Disease Control and Prevention.

[FR Doc. 2024–01014 Filed 1–18–24; 8:45 am]
BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for Office of Management and Budget Review; Runaway and Homeless Youth Prevention Demonstration Prevention Plans (New Collection)

AGENCY: Family and Youth Services Bureau, Administration for Children and Families, U.S. Department of Health and Human Services.

ACTION: Request for public comments.

SUMMARY: The Family and Youth Service Bureau (FYSB) is proposing to collect comprehensive Prevention Plans from grant recipients that have been awarded funding for a new prevention demonstration project to design and implement prevention and intervention services tailored to prevent at-risk youth from experiencing homelessness.

DATES: *Comments due within 30 days of publication.* OMB must decide about the collection of information between 30 and 60 days after publication of this

document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function. You can also obtain copies of the proposed collection of information by emailing infocollection@acf.hhs.gov. Identify all emailed requests by the title of the information collection.

SUPPLEMENTARY INFORMATION:
Description: On September 29, 2023, FYSB awarded funding for the first time to Runaway and Homeless Youth-Prevention Demonstration Program (RHY–PDP) projects to design and deliver community-based demonstration initiatives to prevent youth from experiencing homelessness. Through the development and coordination of partnerships with youth and young adults, community organizations, and private and public agencies, the RHY–PDP grantees will: (1) design and develop a comprehensive community-based prevention plan to prevent youth homelessness; (2) identify young people at risk of experiencing homelessness; and (3) implement robust, holistic prevention services tailored for youth and young adults to respond to the diverse needs of youth who are at risk

of homelessness and their families. The RHY–PDP has two phases with the first phase serving as a 6-month timeline for grant recipients to develop and submit a comprehensive prevention plan to prevent youth homelessness.

- The Prevention Plans can include:
- Grantee definition of prevention
 - Summary of risk and protective factors for youth experiencing homelessness
 - How grantees will identify at risk youth to include existing data to assist in identification
 - Referral strategies for youth
 - Explanation of the process of how youth with lived experience and community partners co-designed the prevention plan
 - List of prevention interventions
 - All related goals and performances measures planned
 - List of community partners and their roles.

FYSB will utilize the Prevention Plans to provide technical assistance to grantees, as needed, and will post the Prevention Plans to the FYSB website for grantees’ peer-to-peer learning.

Respondents: All grant recipients that receive an RHY–PDP grant for the prevention demonstration.

Total Burden Estimates

FYSB awarded 11 grants in September 2023 and anticipates awarding a second cohort next year. The number of respondents reflects a potential second cohort of grant recipients that would also be required to submit the Prevention Plan.

Instrument	Total number of respondents	Total number of responses per respondent	Average burden hours per response	Total burden hours
FYSB RHY–PDP Prevention Plan	26	1	60	1,560

Authority: Section 343 of the Runaway and Homeless Youth Act authorizes the award of grants for research, evaluation, demonstration, and service projects (34 U.S.C. 11243).

Mary B. Jones,
ACF/OPRE Certifying Officer.
[FR Doc. 2024–00964 Filed 1–18–24; 8:45 am]
BILLING CODE 4182–02–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for Office of Management and Budget Review; Application Requirements for the Low Income Home Energy Assistance Program (LIHEAP) Model Plan Application (Office of Management and Budget #0970–0075)

AGENCY: Office of Community Services, Administration for Children and Families, U.S. Department of Health and Human Services.

ACTION: Request for public comments.

SUMMARY: The Office of Community Services (OCS), Administration for Children and Families (ACF), U.S. Department of Health and Human Services (HHS), is requesting to extend the currently approved Low Income Home Energy Assistance Program (LIHEAP) Model Plan Application (OMB #0970–0075, expiration 12/31/2023) through August 31, 2024, and then making significant revisions to the FY 2025 application to be effective September 1, 2024. This notice outlines the proposed revisions for FY 2025.

DATES: *Comments due within 30 days of publication.* OMB must make a decision about the collection of information between 30 and 60 days after publication of this document in the

Federal Register. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function. You can also obtain copies of the proposed collection of information by emailing infocollection@acf.hhs.gov. Identify all emailed requests by the title of the information collection.

SUPPLEMENTARY INFORMATION:

Description: States, including the District of Columbia, tribes, tribal organizations, and U.S. territories applying for LIHEAP block grant funds must, prior to receiving federal funds, submit an annual application (Model Plan) that meets the LIHEAP statutory and regulatory requirements. In addition to the Model Plan, grant recipients are also required to complete the Mandatory Grant Application, SF-424—Mandatory, which is included as the first section of the Model Plan.

The LIHEAP Model Plan is an electronic form and is submitted to ACF/OCS through the On-Line Data Collection (OLDC) system within GrantSolutions, which is currently being used by all LIHEAP grant recipients to submit other required LIHEAP reporting forms. To reduce the reporting burden, all data entries from each grant recipient’s prior year’s submission of the Model Plan in OLDC are saved and re-populated into the form for the following fiscal year’s application.

OCS is requesting the current LIHEAP Model Plan form to be extended through August 31, 2024. The currently approved form and justification package can be reviewed here: https://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=202009-0970-011.

OCS proposes the following changes to the LIHEAP Model Plan form beginning with FY 2025 reporting effective September 1, 2024:

SF-424 Model Plan

- *4a:* Change from “Federal Entity Identifier” to “Unique Entity Identifier (UEI).”
- *7b and c:* Remove UEI is requested in 4a.
- *7f:* Add after current language “(This person will be listed on Notice of Funding Awards and on the U.S.

Department of Health and Human Services’ LIHEAP contact list web page)”

- Remove Prefix, Suffix, Middle Name and Organizational Affiliation.
- *8a:* Remove the “a” after 8 “Type of Applicant”
- *Add:* 8a Is the applicant a Tribal Consortium?
 - *Add:* 8b If yes, please attach at least one the following documentation:
 - (1) Current State-Tribe Agreement between their state and the Consortium, signed by the State Chief Executive Officer (such as a Governor or the delegate) and the Consortium President;
 - (2) Consortium letter listing the Tribes and signed by the elected Tribal Chief or President of each Tribe in the Consortium and signed by the Consortium President;
 - (3) A current resolution letter from each tribe in the Consortium, signed by the elected Tribal Chief or President of that Tribe. Each resolution letter needs to state that the Consortium has the Tribes’ permission to apply for, and administer, LIHEAP on their behalf; needs to designate a time period for the permission or until rescinded or revoked.
 - *8b:* Remove, not utilized.
 - *9:* Remove “Name of Federal Agency”—not used.
 - *13:* Change to “CONGRESSIONAL DISTRICTS OF APPLICANT”
 - Eliminate 13a and b.—Already answered in #7; and Eliminate “Attach an additional list of Program/Project Congressional Districts, if needed.”
 - *15a and b:* Remove.
 - *17:* At the end of the question, change “explanation” to “If Yes, explain.”

Section 1—Program Components

Introduction: Remove reference to grant recipient filing abbreviated plan. LIHEAP does not use abbreviated plans any longer.

- *1.1 Crisis assistance:* Create one question for “Summer crisis assistance,” one question for “Winter crisis assistance,” and one for “Year-round assistance.” We are receiving increase data request to understand the type of crisis programs provided.
 - *1.2:*
 - Add a data entry column and provide the breakdown of funding from the previous year’s plan. This information is useful for the data dashboard.
 - Add language for “Tribal grant recipients: direct-grant tribes, tribal organizations, or territories with allotments of \$20,000 or less may use for planning and administration up to 20% of the funds payable. Grant

recipients that are direct-grant tribes, tribal organizations, or territories with allotments over \$20,000 may use for planning and administration purposes up to 20% of the first \$20,000 (or \$4,000) plus 10% of the funds payable that exceeds \$20,000. Any administrative costs in excess of these limits must be paid from non-Federal sources.”

- Change “Crisis Assistance” to “Summer crisis assistance,” one question for “Winter crisis assistance,” and one for “Year-round assistance.”

• *1.4:*

- Remove Other and entire column. All allowable options are listed, other is not applicable.

○ Insert “at least” before the word “one” in two places in this question. The edited question would be “Do you consider households categorically eligible if at least one household member receives at least one of the following categories of benefits in the left column below?”

• *1.4a—Add a text box* “Provide your definition of categorical eligibility. Please explain how households are categorically eligible (*i.e.*, do all household members need to receive the benefits or just one member, is there a data exchange in place?) and how categorical eligibility streamlines the LIHEAP application process.” This will ensure grant recipients understand categorical eligibility and answer the question appropriately.

• If 1.4 is answered no, do not allow the table to be completed. Caused data inconsistencies in the data dashboard and requires manual review.

• *1.7:*

- Hyperlink the word “nominal” to a description of the word: Nominal benefits are LIHEAP payments over \$20 made to SNAP households with an energy burden that allow the household to claim the SNAP “heating/cooling standard utility allowance” (SUA).

• *1.8—Add “Other—Describe.”* Grant recipients indicated there are exceptions and this box will allow those exceptions to be described and understood more clearly.

• *1.9—Remove SNAP and WIC* as they cannot be counted as income.

• *Add:* 1.10 Do you have an online application process (Yes/No)?

• *Add:* 1.10a If yes, describe the type of online application (Select all boxes that apply)

○ A PDF version of the application is available online and can be downloaded, filled out, and mailed in for processing.

○ A state-wide online application that allows a customer to complete data

entry and submit an application electronically for processing.

- One or more locally available online applications that allows a customer to complete data entry and submit an application electronically for processing.

- Online application that is also mobile friendly.

- Other, please describe.

- If any of the above boxes are checked, please include a link here:

- Add: 1.10b Can all program components be applied for online (Yes/No)? If no, explain which components can and cannot be applied for online.

- 1.11 Do you have a process for conducting and completing applications by phone (Yes/No)?

- 1.12 Do you or any of your subrecipients require in person appointments in order to apply (Yes/No)? If yes, please provide more information.

- 1.13 How can applicants submit documentation for verification? Select all that apply (in-person, mail, email, portal application, other-describe).

Section 2—Heating Assistance

- 2.2—Correct the spelling of “assistance”

- 2.3—Change “Elderly” to “Older Adults” (60 years or older)

- 2.3—Change “Disabled” to “Individuals with a disability”

- 2.4—Add space between “to” and “vulnerable”

- 2.6—Add the following sentence: “Please note: the maximum and minimum benefits must be shown in the payment matrix.”

Section 3—Cooling Assistance

- 3.3—Change “Elderly” to “Older Adults”

- 3.3—Change “Disabled” to “Individuals with a disability”

- 3.4—Add space between “to” and “vulnerable”

- 3.6—Add the following sentence: “Please note: the maximum and minimum benefits must be shown in the payment matrix.”

Section 4—Crisis Assistance

- 4.2—Add to narrative, “If you administer multiple crisis assistance programs (winter, summer, and/or year-round), Include all program definitions.”

- 4.6–4.7 and 4.10–4.13—Modify so that it is no longer “yes or no” but mirrors question 4.15 so they can select which program the response is applicable. If the component is not selected under 1.2, the boxes will be grayed out so they cannot select that option. Modify the instructions for the

section to be “Check appropriate boxes below to indicate type(s) of assistance provided”

- 4.6—Remove all CAPS from Crisis Assistance

- 4.7—Change “Elderly” to “Older Adults”

- 4.7—Change “Disabled” to “Individuals with a disability”

- 4.8—Modify “Fast Track” to “Benefit Fast Track, no separate amount of crisis funds is issued. Rather benefits are issued to crisis customers within crisis response time frames”

- 4.9—Add a box next to the question, “Amount to resolve crisis, up to a maximum amount”

- 4.11—Change “Physically Disabled” to “Individuals with a disability”

- 4.18—Add question that says, “Do you intend to utilize LIHEAP crisis funds to address disaster related crisis situations? “Yes” or “No” If yes, describe.” Add hover over box that states “OCS’ block grant funding has built in flexibility to support grant recipients in disaster response. Please visit <https://ocs-emergency-assistance-hhs-acf.hub.arcgis.com/> for additional information” (508 compliant hyperlink).

Section 5—Weatherization

- 5.3—Modify to “If yes, name the agency and attach a copy of the Internal Agreement or Contract.”

- 5.8—Change “Elderly” to “Older Adults”

- 5.8—Change “Disabled” to “Individuals with a Disability”

- 5.9—Add a 5.9a replace with current 5.10 “If yes, what is the maximum”

- 5.10—Change to “Do you use an Average Cost per Unit (ACPU).”

- 5.10a If so, what is the ACPU amount?

- 5.11—This section needs two boxes for roof top solar and community solar projects.

Section 6—Outreach

- 6.1—This section needs to include other outreach including web posting, email, texting, events, and social media.

Section 7—Coordination

- 7.1—This section needs to include data entry field next to the first two boxes.

- Joint application for multiple programs (indicate programs included)

- Intake referrals to/from other programs (indicate programs)

Section 8—Agency Designation

- 8.1—

- Add “Economic Development Agency”

- Change “Welfare” to “State Department of Welfare (administers TANF, SNAP, and/or Medicaid)”

- Eliminate space between “Energy” and “/” and “Environment Agency”

- *New Attachment:* Include current list of subrecipient name, main office address (do not list P.O. Box), phone number, county(s) served, Congressional District, and UEI number. Used for Near hotline and OCS Service Provider Tool and clearinghouse.

- Add 8.10: “If an agency is no longer providing LIHEAP, are you aware of prior-year LIHEAP funds being mismanaged or misspent? Yes or No”

- 8.10a “If yes, please explain.”

- 8.10b “Were other federal programs impacted such as CSBG, SSBG, Head Start, TANF, and Dept. of Energy Weatherization funding, etc.? Yes or No”

- 8.10c “If yes, please explain.”

- Questions added due to previous situations and questions needing a response to these specific items.

Section 9—Energy Suppliers

- Add option at the end of the section to attach a copy of the vendor agreement.

Section 10—Program, Fiscal Monitoring and Audit

- 10.1—Revise the question as, “How do you ensure proper fiscal accounting and tracking of funds?” Add the following instructional sentence: “Be specific about tracking of grant award, tracking of expenditures, tracking vendor (benefit) refunds, fiscal reporting process, and fiscal software system being used.” Clarification for grant recipients.

- 10.1a—New Question: “Provide your definitions of the following:

- Obligation (insert explanation box)

- Expenditures (insert explanation box)

- Expenditure timeframe (insert explanation box)

- Administrative costs (insert explanation box)”

- 10.2a—Add question: “If yes, describe your auditor selection process.”

- 10.3—Change wording to “Describe any audit findings of the grant recipient (*i.e.*, State/Tribe/Territory) rising to the level of material weakness or reportable condition cited in the single audits, inspector general reviews, or other government agency reviews from the most recently audited fiscal year.”

- 10.5—Change question to “Describe your monitoring process for compliance at each level below.”

- Change “Grant recipient employees” check box to state:

- Grant recipients have a policy in place for appropriate separation of duties and internal controls
- Other, describe
- 10.7—Rewrite the question as “Describe how you select local agencies for monitoring reviews. Attach a risk assessment if subrecipients are utilized.”
- 10.8—Add boxes “Annually,” “Bi-annually,” “Tri-annually,” and “Other.” Please attach a monitoring schedule if one has been developed.
- 10.9 and 10.10—Remove.
- 10.11—Revise the question to “How many local agencies are currently on corrective action plans?”
- 10.12—Remove.

Section 11—Timely and Meaningful Public Participation

- 11.1—Add explanation that Tribes do not need to hold a public hearing but must ensure participation through other means.
- 11.2—Remove. Removing because question is duplicative of 11.6.
- 11.3—Insert an option to add rows for additional dates and locations that they held public hearings on the proposed use and distribution of their LIHEAP funds.
- 11.6—Revise the question as follows: “What changes did you make to your LIHEAP plan as a result of public participation and solicitation of input?”

Section 12—Fair Hearing

- 12.4—Change question: “Describe your fair hearing procedures for households whose applications are denied and/or not acted upon in a timely manner.”
- 12.5—Remove.

- 12.6—Remove.

Section 13—Reduction of Home Energy Needs

- 13.3—Add the following instructional sentence: “Impact can be measured in many different ways by using: logic model, data tracking system, process evaluation, impact evaluation, number of households served vs applied, and performance management, etc.”
- 13.4—Add a space between “of” and “direct”
- 13.5—Remove.

Section 14—Leveraging Incentive Program

- 14.3—Add a space between “of” and “45”

Section 15—Training

- 15.1a-c—Change question to be consistent with each entity type (grant recipient, local agency, vendor)
 - Formal training provided virtually, on-site, and/or formal training conference
 - Annually
 - Biannually
 - As needed
 - Other, describe.

Section 17—Program Integrity

- 17.1b—Add “Posted in local administering agencies offices.”
- 17.4—Change “aliens” to “qualified non-citizens” in intro text. The second option in the question is phrased as “legal residence” but it needs to be changed to “U.S. Citizen or Qualified Non-Citizen.” The second box option should read “Client’s submission of certain Social Security Administration

cards is accepted as proof of U.S. Citizen or Qualified Non-Citizen.”

- 17.4—Rewrite the question as “What are your procedures for ensuring LIHEAP recipients are U.S. citizens or qualified non-citizens who are eligible to receive LIHEAP benefits?”
- 17.6—Should also include how electronic files are protected in a secure location.

Section 19—Certification Regarding Drug-Free Workplace Requirements

- 19.1—Place of Performance: Add instructional sentence that this must be physical address. No PO Boxes allowed.

Section 21—New Change Assurances to Section 21

- 21.1—Add the following acknowledgment statement and a check box: “By checking this box, the prospective primary participant is agreeing to the Assurances set out above.”

Section 22—Attachments

Add optional attachment section for the following items: Policy Manual; Subrecipient Contract; Model Plan Participation Notes for Tribes.

Respondents: States, the District of Columbia, U.S. territories, and tribal governments.

Annual Burden Estimates

The estimated time per response for the FY 2025 Model Plan has been increased based on the revisions. The estimated time per response for the FY 2026 Model Plan will reduce back after revisions are in place and respondents can duplicate response in OLDC.

Instrument	Total annual number of respondents	Total annual number of responses per respondent	Average burden hours per response	Annual burden hours for each form
LIHEAP Detailed Model Plan—FY24	207	1	.5	103.5
LIHEAP Detailed Model Plan—FY25	207	1	1	207
LIHEAP Detailed Model Plan FY26	207	1	.5	103.5
Estimated Total Burden Hours				414

Authority: 42 U.S.C. 8621.

Mary B. Jones,

ACF/OPRE Certifying Officer.

[FR Doc. 2024-00965 Filed 1-18-24; 8:45 am]

BILLING CODE 4184-80-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA-2023-N-5745]

Medical Imaging 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 Medical Imaging Drugs Advisory Committee (the 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 on March 5, 2024, from 9 a.m. to 5:30 p.m. Eastern Time.

ADDRESSES: All meeting participants will be heard, viewed, captioned, and recorded for this advisory committee meeting via an online teleconferencing and/or video conferencing platform.

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-2023-N-5745. The docket will close on March 4, 2024. Please note that late, untimely filed comments will not be considered. The <https://www.regulations.gov> electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of March 4, 2024. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are received on or before that date.

Comments received on or before February 20, 2024, will be provided to the Committee. Comments received after that date will be taken into consideration by FDA. In the event that the meeting is cancelled, FDA will continue to evaluate any relevant applications or information, and consider any comments submitted to the docket, as appropriate.

You may submit comments as follows:

Electronic Submissions

Submit electronic comments in the following way:

- **Federal eRulemaking Portal:** <https://www.regulations.gov>. Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to <https://www.regulations.gov> will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on <https://www.regulations.gov>.

- If you want to submit a comment with confidential information that you do not wish to be made available to the

public, submit the comment as a written/paper submission and in the manner detailed (see "Written/Paper Submissions" and "Instructions").

Written/Paper Submissions

Submit written/paper submissions as follows:

- **Mail/Hand delivery/Courier (for written/paper submissions):** Dockets Management Staff (HFA-305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in "Instructions."

Instructions: All submissions received must include the Docket No. FDA-2023-N-5745 for "Medical Imaging 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>.

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:

Jessica Seo, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 31, Rm. 2417, Silver Spring, MD 20993-0002, 301-796-7699, email: MIDAC@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 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 the meeting.

SUPPLEMENTARY INFORMATION:

Agenda: The meeting presentations will be heard, viewed, captioned, and recorded through an online teleconferencing and/or video conferencing platform. The Committee will discuss efficacy and safety data submitted in support of a new drug application (NDA) 214511 for pegulicanine for injection, the optical imaging drug constituent of a drug/device combination product, submitted by Lumicell, Inc. The proposed indication for pegulicanine is for use in patients with breast cancer to assist in the detection of cancerous tissue within the lumpectomy cavity following removal of the primary specimen during lumpectomy surgery.

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its website prior to the meeting, the background material will be made publicly available on FDA's website at the time of the advisory committee meeting. Background material and the link to the online teleconference and/or video conference meeting will be available at <https://www.fda.gov/AdvisoryCommittees/>

Calendar/default.htm. Scroll down to the appropriate advisory committee meeting link. The meeting will include slide presentations with audio and video components to allow the presentation of materials in a manner that most closely resembles an in-person advisory committee meeting.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the Committee. All electronic and written submissions to the Docket (see **ADDRESSES**) on or before February 20, 2024, 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 February 9, 2024. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by February 12, 2024.

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 Jessica Seo (see **FOR FURTHER INFORMATION CONTACT**) at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our website at <https://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm111462.htm> for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. 1001 *et seq.*). This meeting notice also serves as notice that, pursuant to 21 CFR 10.19, the requirements in 21 CFR 14.22(b), (f), and (g) relating to the location of advisory committee meetings are hereby waived to allow for this meeting to take place using an online meeting platform. This waiver is in the

interest of allowing greater transparency and opportunities for public participation, in addition to convenience for advisory committee members, speakers, and guest speakers. The conditions for issuance of a waiver under 21 CFR 10.19 are met.

Dated: January 16, 2024.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2024-01016 Filed 1-18-24; 8:45 am]

BILLING CODE 4164-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Indian Health Service

Notice of Proposed Purchased/ Referred Care Delivery Area Redesignation for the Mashantucket Pequot Tribal Nation in the State of Connecticut

AGENCY: Indian Health Service, Department of Health and Human Services.

ACTION: Notice.

SUMMARY: This Notice advises the public that the Indian Health Service (IHS) proposes to expand the geographic boundaries of the Purchased/Referred Care Delivery Area (PRCDA) for the Mashantucket Pequot Tribal Nation to include the counties of Fairfield, Hartford, Litchfield, Middlesex, New Haven, Tolland, and Windham in the State of Connecticut. The current PRCDA for the Mashantucket Pequot Tribal Nation includes the Connecticut county of New London. Mashantucket Pequot Tribal Nation members residing outside of the PRCDA are eligible for direct care services, however, they are not eligible for Purchased/Referred Care (PRC) services. The sole purpose of this expansion would be to authorize additional Mashantucket Pequot Tribal Nation members and IHS beneficiaries to receive PRC services.

DATES: Comments must be submitted by February 20, 2024.

ADDRESSES: Because of staff and resource limitations, we cannot accept comments by facsimile (FAX) transmission. You may submit comments in one of four ways (please choose only one of the ways listed):

1. *Electronically.* You may submit electronic comments on this regulation to <https://www.regulations.gov>. Follow the "Submit a Comment" instructions.

2. *By regular mail.* You may mail written comments to the following address ONLY: Carl Mitchell, Director, Division of Regulatory and Policy Coordination, Indian Health Service,

5600 Fishers Lane, Mail Stop: 09E70, Rockville, Maryland 20857.

Please allow sufficient time for mailed comments to be received before the close of the comment period.

3. *By express or overnight mail.* You may send written comments to the above address.

4. *By hand or courier.* If you prefer, you may deliver (by hand or courier) your written comments before the close of the comment period to the address above. If you intend to deliver your comments to the Rockville address, please call telephone number (301) 443-1116 in advance to schedule your arrival with a staff member.

FOR FURTHER INFORMATION CONTACT:

CAPT John Rael, Director, Office of Resource Access and Partnerships, Indian Health Service, 5600 Fishers Lane, Mail Stop: 10E85C, Rockville, Maryland 20857. Telephone (301) 443-0969 (This is not a toll free number).

SUPPLEMENTARY INFORMATION:

Inspection of Public Comments: All comments received before the close of the comment period are available for viewing by the public, including any personally identifiable or confidential business information that is included in a comment.

Background: The IHS provides services under regulation in effect as of September 15, 1987, and republished at 42 CFR part 136, subparts A–C. Subpart C defines a Contract Health Service Delivery Area (CHSDA), now referred to as PRCDA, as the geographic area within which PRC will be made available by the IHS to members of an identified Indian community who reside in the PRCDA. Residence within a PRCDA by a person who is within the scope of the Indian health program, as set forth in 42 CFR 136.12, creates no legal entitlement to PRC but only potential eligibility for services. Services needed, but not available at an IHS/Tribal facility, are provided under the PRC program depending on the availability of funds, the relative medical priority of the services to be provided, and the actual availability and accessibility of alternate resources in accordance with the regulations.

The regulations at 42 CFR part 136, subpart C provide that, unless otherwise designated, a PRCDA shall consist of a county which includes all or part of a reservation and any county or counties which have a common boundary with the reservation. 42 CFR 136.22(a)(6). The regulations also provide that after consultation with the Tribal governing body or bodies on those reservations included within the PRCDA, the Secretary may, from time to time,

redesignate areas within the United States for inclusion in or exclusion from a PRCDA. 42 CFR 136.22(b). The regulations require that certain criteria must be considered before any redesignation is made. The criteria are as follows:

(1) The number of Indians residing in the area proposed to be so included or excluded;

(2) Whether the Tribal governing body has determined that Indians residing in the area near the reservation are socially and economically affiliated with the Tribe;

(3) The geographic proximity to the reservation of the area whose inclusion or exclusion is being considered; and

(4) The level of funding which would be available for the provision of PRC. Additionally, the regulations require that any redesignation of a PRCDA must be made in accordance with the procedures of the Administrative Procedure Act (5 U.S.C. 553). 42 CFR 136.22(c). In compliance with this requirement, the IHS is publishing this Notice and requesting public comments.

The Mashantucket Pequot Tribal Nation's (MPTN, or Tribe) reservation is located in New London County, Connecticut. The PRC Program is operated as a Tribal Health Program by the MPTN in Mashantucket, CT. The MPTN estimates that approximately 32 Tribal members and MPTN employees who are members of other federally recognized Tribes reside in the proposed expansion counties, and would become PRC eligible through this proposal. The MPTN states that the Tribal members and American Indian and Alaska Native (AI/AN) employees who reside in the expanded counties are socially and economically affiliated with the Tribe, including through employment and the utilization of direct health care services. The MPTN would like to recognize these persons as eligible for PRC. Through communication with MPTN's representatives, the IHS also understands that MPTN's members live in all of the counties requested. Accordingly, the IHS proposes to expand the PRCDA of the Mashantucket Pequot Tribal Nation to include the Connecticut counties of Fairfield, Hartford, Litchfield, Middlesex, New Haven, Tolland, and Windham.

If the Mashantucket Pequot Tribal Nation's PRCDA expansion is finalized as proposed, the Tribe's PRCDA would overlap completely with the PRCDA of the Mohegan Tribe of Connecticut. The Mohegan Tribe of Connecticut has previously expressed support of any future request made by a federally recognized Tribe to establish the entire

state of Connecticut as a PRCDA, and has not expressed any objection to the Mashantucket Pequot Tribal Nation's proposed PRCDA expansion.

Under 42 CFR 136.23, those otherwise eligible Indians who do not reside on a reservation, but reside within a PRCDA, must be either members of the Tribe or other IHS beneficiaries who maintain close economic and social ties with the Tribe. In this case, applying the aforementioned PRCDA redesignation criteria required by operative regulations codified at 42 CFR part 136, subpart C, the following findings are made:

1. By expanding the PRCDA to include Fairfield, Hartford, Litchfield, Middlesex, New Haven, Tolland, and Windham Counties, the Mashantucket Pequot Tribal Nation's eligible population will be increased by an estimated 32 Tribal members and AI/AN employees.

2. The IHS finds that the Tribal members and AI/AN employees within the expanded PRCDA are socially and economically affiliated with the Mashantucket Pequot Tribal Nation based on a tribal resolution in which the MPTN Tribal Council identified its intent to expand the PRCDA to include all of Connecticut, and stated that the Native Americans residing in such areas are socially and economically affiliated with MPTN.

3. The expanded PRCDA counties form a contiguous area with the existing PRCDA, and within one of the smallest states. In addition to their AI/AN employees, MPTN's members reside in each of the counties proposed for inclusion. For these reasons, the IHS has determined the additional counties proposed for inclusion herein to be geographically proximate, meaning "on or near," to the existing PRCDA.

4. The MPTN has indicated that its PRC program can continue providing the same level of care to the PRC eligible population if the PRCDA is expanded as proposed, without requiring additional funding or reduction of the current medical priority level.

This Notice does not contain reporting or recordkeeping requirements subject to prior approval by the Office of Management and Budget under the Paperwork Reduction Act of 1980.

Roselyn Tso,

Director, Indian Health Service.

[FR Doc. 2024-01017 Filed 1-18-24; 8:45 am]

BILLING CODE 4166-14-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Special Emphasis Panel; Impact of Toxicants on Aging and AD-related Dementias.

Date: February 14, 2024.

Time: 10:00 a.m. to 6:00 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: Nijaguna Prasad, Ph.D., Scientific Review Officer, Scientific Review Branch, National Institute on Aging, 7201 Wisconsin Avenue, Gateway Bldg., Suite 2W200, Bethesda, MD 20892, (301) 496-9667, prasadb@nia.nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: January 12, 2024.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024-00952 Filed 1-18-24; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose

confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Genes, Genomes, and Genetics Integrated Review Group; Genomics, Computational Biology and Technology Study Section.

Date: February 13–14, 2024.

Time: 9:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Method Bacanamwo, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive Room 2200, Bethesda, MD 20892, 301–827–7088, method.bacanawmo@nih.gov.

Name of Committee: Musculoskeletal, Oral and Skin Sciences Integrated Review Group; Arthritis, Connective Tissue and Skin Study Section.

Date: February 13–14, 2024.

Time: 9:30 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: Robert Gersch, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20817, (301) 867–5309, robert.gersch@nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR Panel: Accelerating Behavioral and Social Science Through Ontology Development and Use.

Date: February 13, 2024.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: David E Pollio, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1006F, Bethesda, MD 20892, (301) 594–4002, polliode@csr.nih.gov.

Name of Committee: Digestive, Kidney and Urological Systems Integrated Review Group Kidney and Urological Systems Function and Dysfunction Study Section.

Date: February 14–15, 2024.

Time: 8:00 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: Santanu Banerjee, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2106, Bethesda, MD 20892, (301) 435–5947, banerjees5@mail.nih.gov.

Name of Committee: Brain Disorders and Clinical Neuroscience Integrated Review Group Pathophysiology of Eye Disease—2 Study Section.

Date: February 14–15, 2024.

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: Cibu Paul Thomas, Ph.D., Scientific Review Officer, Center for Scientific Review National Institutes of Health 6701 Rockledge Drive, Room 1011–H Bethesda, MD 20894 (301) 402–4341 thomascp@mail.nih.gov.

Name of Committee: Population Sciences and Epidemiology Integrated Review Group; Social and Environmental Determinants of Health Study Section.

Date: February 14–15, 2024.

Time: 9:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Ananya Paria, DHSC, MPH, MS, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1007H, Bethesda, MD 20892, (301) 827–6513, pariaa@mail.nih.gov.

Name of Committee: Integrative, Functional and Cognitive Neuroscience Integrated Review Group; Neuroscience of Basic Visual Processes Study Section.

Date: February 14–15, 2024.

Time: 10:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Kirk Thompson, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5184, MSC 7844, Bethesda, MD 20892, 301–435–1242 kgt@mail.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; RFA–NS–22–034: HEAL Initiative.

Date: February 14, 2024.

Time: 12:00 p.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: Anne-Sophie Marie Lucie Wattiez, Ph.D., Scientific Review Officer Center, for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 594–4642, anne-sophie.wattiez@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: January 16, 2024.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024–01026 Filed 1–18–24; 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 Meetings

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of General Medical Sciences Initial Review Group; Training and Workforce Development Study Section—D Training & Workforce Development Study Section D (TWD–D)—Review of B2B, B2D & IRACDA Applications.

Date: February 23, 2024.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, National Institute of General Medical Sciences, Natcher Building, 45 Center Drive, Bethesda, Maryland 20892 (Virtual Meeting).

Contact Person: Sonia Ivette Ortiz-Miranda, Ph.D., Scientific Review Officer, Scientific Review Branch, National Institute of General Medical Sciences, National Institutes of Health, 45 Center Drive, MSC 6200, Bethesda, Maryland 20892, 301–402–9448, sonia.ortiz-miranda@nih.gov.

Name of Committee: National Institute of General Medical Sciences Special Emphasis Panel; Review of PRAT and K99/R00 MOCSAC Applications.

Date: March 4–5, 2024.

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 Sciences, Natcher Building, 45 Center Drive, Bethesda, Maryland 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 3AN12F, Bethesda, Maryland 20892, 301–594–2886, tracy.koretsky@nih.gov.

Name of Committee: National Institute of General Medical Sciences Special Emphasis Panel; Review of Centers of Biomedical Research Excellence (COBRE) Phase III—Transitional Centers (P30) Applications.

Date: March 14–15, 2024.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, National Institute of General Medical Sciences, Natcher Building, 45 Center Drive, Bethesda, Maryland 20892 (Virtual Meeting).

Contact Person: John J. Laffan, Ph.D., Scientific Review Officer, Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, Natcher Building, 45 Center Drive, Room 3AN18, Bethesda, Maryland 20892, 301–594–2773, laffanjo@mail.nih.gov.

(Catalogue of Federal Domestic Assistance Program No. 93.859, Biomedical Research and Research Training, National Institutes of Health, HHS)

Dated: January 12, 2024.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024–00950 Filed 1–18–24; 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 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; Time-Sensitive Obesity Research.

Date: February 26, 2024.

Time: 3:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, NIDDK, Democracy II, Suite 7000A, 6707 Democracy Boulevard, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Michele L. Barnard, Ph.D., Scientific Review Officer, Review Branch,

Division of Extramural Activities, NIDDK, National Institutes of Health, Room 7353, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, Tel: (301) 594–8898, barnardm@extra.niddk.nih.gov.

(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: January 12, 2024.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024–00951 Filed 1–18–24; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Special Emphasis Panel; Gene-environmental interactions on Aging and AD-related Dementias.

Date: February 14, 2024.

Time: 10:00 a.m. to 6:00 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: Nijaguna Prasad, Ph.D., Scientific Review Officer, Scientific Review Branch, National Institute on Aging, 7201 Wisconsin Avenue, Gateway Bldg, Suite 2W200, Bethesda, MD 20892, (301) 496–9667, prasadnb@nia.nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: January 12, 2024.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024–00955 Filed 1–18–24; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; Notice of Closed Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel; ZNS1 SRB–B (02) NST–1 Member Conflict SEP.

Date: January 29, 2024.

Time: 4:00 p.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Alexandria Old Town, 1767 King Street, Alexandria, VA 22314.

Contact Person: William C. Benzing, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Activities, NINDS, NIH, NSC, 6001 Executive Blvd., Rockville, MD 20852, 301–496–0660, benzingw@mail.nih.gov.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS.)

Dated: January 16, 2024.

Lauren A. Fleck,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024–01025 Filed 1–18–24; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Surgical Sciences, Biomedical Imaging and Bioengineering Integrated Review Group Bioengineering, Technology and Surgical Sciences Study Section.

Date: February 12–13, 2024.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency, Bethesda, One Bethesda Metro Center, Bethesda, MD 20814.

Contact Person: Khalid Masood, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5120, MSC 7854, Bethesda, MD 20892, 301–435–2392, masoodk@csr.nih.gov.

Name of Committee: Brain Disorders and Clinical Neuroscience Integrated Review Group; Pathophysiology of Eye Disease—1 Study Section.

Date: February 12–13, 2024.

Time: 8:30 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.

Contact Person: Afia Sultana, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4189, Bethesda, MD 20892, (301) 827–7083, sultanaa@mail.nih.gov.

Name of Committee: Brain Disorders and Clinical Neuroscience Integrated Review Group; Acute Neural Injury and Epilepsy Study Section.

Date: February 12–13, 2024.

Time: 9:00 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: Integrative, Functional and Cognitive Neuroscience Integrated Review Group Auditory System Study Section.

Date: February 12–13, 2024.

Time: 9:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: 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.

Name of Committee: Biobehavioral and Behavioral Processes Integrated Review Group; Child Psychopathology and Developmental Disabilities Study Section.

Date: February 12–13, 2024.

Time: 9:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Karen Elizabeth Seymour, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1000–E, Bethesda, MD 20892, (301) 443–9485, karen.seymour@nih.gov.

Name of Committee: Healthcare Delivery and Methodologies Integrated Review Group; Clinical Management in General Care Settings Study Section.

Date: February 12–13, 2024.

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: Jessica Campbell Chambers, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 496–5693, jessica.chambers@nih.gov.

Name of Committee: Population Sciences and Epidemiology Integrated Review Group; Analytics and Statistics for Population Research Panel B Study Section.

Date: February 12–13, 2024.

Time: 10:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Victoriya Volkova, Ph.D., DVM, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20817, (301) 594–7781, volkovav2@csr.nih.gov.

Name of Committee: Cardiovascular and Respiratory Sciences Integrated Review Group; Lung Cellular, Molecular, and Immunobiology Study Section.

Date: February 12–13, 2024.

Time: 10:00 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: Stefania Senger, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive Bethesda, MD 20892, (301) 867–5309, stefania.senger@nih.gov.

Name of Committee: Brain Disorders and Clinical Neuroscience Integrated Review Group; Brain Injury and Neurovascular Pathologies Study Section.

Date: February 12–13, 2024.

Time: 10:00 a.m. to 6:00 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: Alexander Yakovlev, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5206, MSC 7846, Bethesda, MD 20892, 301–435–1254, yakovleva@csr.nih.gov.

Name of Committee: Endocrinology, Metabolism, Nutrition and Reproductive Sciences Integrated Review Group; Integrative and Clinical Endocrinology and Reproduction Study Section.

Date: February 12–13, 2024.

Time: 10:00 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: Victoria Martinez Virador, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 594–4703, victoria.virador@nih.gov.

Name of Committee: Genes, Genomes, and Genetics Integrated Review Group; Prokaryotic Cell and Molecular Biology Study Section.

Date: February 12–13, 2024.

Time: 10:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Rebecca Catherine Burgess, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 480–8034, rebecca.burgess@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: January 16, 2024.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024–01027 Filed 1–18–24; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Special Emphasis Panel; Environmental factors on Aging and AD-related Dementias.

Date: February 13, 2024.

Time: 10:00 a.m. to 6:00 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: Nijaguna Prasad, Ph.D., Scientific Review Officer, Scientific Review Branch, National Institute on Aging, 7201 Wisconsin Avenue, Gateway Bldg. Suite 2W200, Bethesda, MD 20892, (301) 496-9667, prasadnb@nia.nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024-00954 Filed 1-18-24; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial

property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Special Emphasis Panel; Measuring Financial Hardship with AD/ADRD.

Date: February 23, 2024.

Time: 12:30 p.m. to 4:30 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: Janetta Lun, Ph.D., Scientific Review Officer, Scientific Review Branch, National Institute on Aging, 7201 Wisconsin Avenue, Gateway Bldg. Suite 213, Bethesda, MD 20892, (301) 496-9666, janetta.lun@nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: January 16, 2024.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024-01049 Filed 1-18-24; 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; Notice of Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the NIH Clinical Center Research Hospital Board.

This will be a hybrid meeting held in-person and virtually and will be open to the public as indicated below. Individuals who plan to attend in-person or view the virtual meeting and need special assistance or other reasonable accommodations, should notify the Contact Person(s) listed below in advance of the meeting. The meeting can be accessed from the NIH Videocast at the following link: <https://videocast.nih.gov/>.

Name of Committee: NIH Clinical Center Research Hospital Board.

Date: February 16, 2024.

Time:

Time: 9:00 a.m. to 1:00 p.m.

Agenda: NIH and Clinical Center (CC) Leadership Announcements, CC CEO Update of Recent Activities and Organizational Priorities, Status Report on Key CC Strategic Plan Initiatives, and Other Business of the Clinical Center Research Hospital Board (CCRHB).

Place: National Institutes of Health, Building 31, Conference Room 6C02 A & B,

9000 Rockville Pike, Bethesda, MD 20892 (Hybrid Meeting).

Contact Persons: Patricia Piringner, RN, MSN (C), National Institutes of Health Clinical Center, 10 Center Drive, Bethesda, MD 20892, ppiringner@cc.nih.gov, (301) 402-2435, (202) 460-7542 (direct).

Natascha Pointer, Management Analyst, Executive Assistant to Dr. Gilman, Office of the Chief Executive Officer, National Institutes of Health Clinical Center, 10 Center Drive, Bethesda, MD 20892, npointer@cc.nih.gov, (301) 496-4114, (301) 402-2434 (direct).

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person(s) listed on this notice. The statement should include the name, address, telephone number and, when applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has procedures at <https://www.nih.gov/about-nih/visitor-information/campus-access-security> for entrance into on-campus and off-campus facilities. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors attending a meeting on campus or at an off-campus federal facility will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

Information is also available on the CCRHB website: <https://www.ccrhb.od.nih.gov/> where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.14, Intramural Research Training Award; 93.22, Clinical Research Loan Repayment Program for Individuals from Disadvantaged Backgrounds; 93.232, Loan Repayment Program for Research Generally; 93.39, Academic Research Enhancement Award; 93.936, NIH Acquired Immunodeficiency Syndrome Research Loan Repayment Program; 93.187, Undergraduate Scholarship Program for Individuals from Disadvantaged Backgrounds, National Institutes of Health, HHS)

Dated: January 16, 2024.

Patricia B. Hansberger,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2024-01024 Filed 1-18-24; 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 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; Ancillary Studies to the IBD Genetics Consortium.

Date: March 11, 2024.

Time: 1:00 p.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, NIDDK, Democracy II, Suite 7000A, 6707 Democracy Boulevard, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Maria E. Davila-Bloom, Ph.D., Scientific Review Officer, Review Branch, Division of Extramural Activities, NIDDK, National Institutes of Health, Room 7017, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–7637, davila-bloomm@extra.niddk.nih.gov.

(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: January 12, 2024.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024–00953 Filed 1–18–24; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which

would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Digestive, Kidney and Urological Systems Integrated Review Group; Environmental Determinants of Disease Study Section.

Date: February 8–9, 2024.

Time: 9:30 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: Jodie Michelle Fleming, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 812R, Bethesda, MD 20892, (301) 867–5309, flemingjm@csr.nih.gov.

Name of Committee: Musculoskeletal, Oral and Skin Sciences Integrated Review Group; Musculoskeletal Rehabilitation Sciences Study Section.

Date: February 8–9, 2024.

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: Richard Michael Lovering, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1000J, Bethesda, MD 20892, (301) 867–5309, loveringrm@mail.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR Panel: Hypersensitivity, Allergies and Mucosal Immunology (HAMI).

Date: February 8, 2024.

Time: 10:00 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: Velasco Cimica, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 594–1760, velasco.cimica@nih.gov.

Name of Committee: Genes, Genomes, and Genetics Integrated Review Group; Maximizing Investigators' Research Award—F Study Section.

Date: February 8–9, 2024.

Time: 10:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Brian Paul Chadwick, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 594–3586, chadwickbp@csr.nih.gov.

Name of Committee: Population Sciences and Epidemiology Integrated Review Group; Population Based Research in Infectious Disease Study Section.

Date: February 8–9, 2024.

Time: 10:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Lisa Steele, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3139, MSC 7770, Bethesda, MD 20892, (301) 257–2638, steeleln@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Societal and Ethical Issues in Research.

Date: February 8, 2024.

Time: 10:00 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: Maria De Jesus Diaz Perez, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1000G, Bethesda, MD 20892, (301) 496–4227, diazperez2@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; RFA–NS–22–070–HEAL Initiative: Development and Validation of Non-Rodent Mammalian Models of Pain.

Date: February 8, 2024.

Time: 10:00 a.m. to 6:00 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: Jennifer Kielczewski, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 435–1042, jennifer.kielczewski@nih.gov.

Name of Committee: Oncology 1-Basic Translational Integrated Review Group; Cancer Cell Biology Study Section.

Date: February 8–9, 2024.

Time: 10:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Charles Morrow, MD, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6202, MSC 7804, Bethesda, MD 20892, 301–408–9850, morrowcs@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; RFA: Tobacco Regulatory Fund K Awards.

Date: February 8, 2024.

Time: 12:00 p.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: Sara Ahlgren, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of

Health, 6701 Rockledge Drive, RM 4136, Bethesda, MD 20892, 301-435-0904, sara.ahlgren@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: January 11, 2024.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024-00948 Filed 1-18-24; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Special Emphasis Panel; Primate Aging Networking and Infrastructure.

Date: February 21, 2024.

Time: 12:00 p.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: Kaitlyn Noel Lewis Hardell, Ph.D., M.P.H., Scientific Review Officer, Scientific Review Branch, National Institute on Aging, 7201 Wisconsin Avenue, Gateway Bldg, Suite 2E405, Bethesda, MD 20892, (301) 555-1234, kaitlyn.hardell@nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: January 16, 2024.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024-01050 Filed 1-18-24; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Special Emphasis Panel; Consortium for Economic Research on AD_ADRD Research.

Date: April 2, 2024.

Time: 11:00 a.m. to 5:00 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: Joshua Jin-Hyoun Park, Ph.D., Scientific Review Officer, Scientific Review Branch, National Institute on Aging, 7201 Wisconsin Avenue, Gateway Bldg, Suite 2W200, Bethesda, MD 20892, (301) 496-6208, joshua.park4@nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: January 12, 2024.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024-00956 Filed 1-18-24; 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 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and

the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; PAR-22-069 High Impact, Interdisciplinary Science in NIDDK Research Areas (RC2 Clinical Trial Optional).

Date: February 22, 2024.

Time: 10:00 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, NIDDK, Democracy II, Suite 7000A, 6707 Democracy Boulevard, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Tori Stone, Ph.D., Scientific Review Officer, Review Branch, Division of Extramural Activities NIDDK, National Institutes of Health, Room 7017, 6707 Democracy Boulevard, Bethesda, MD 20892-5452, (301) 827-0994, tori.stone@nih.gov.

(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: January 12, 2024.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024-00949 Filed 1-18-24; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Solicitation for Public Comments on Questions From the Task Force on Maternal Mental Health; Correction

AGENCY: Office on Women's Health, Office of the Assistant Secretary for Health, Office of the Secretary; Substance Abuse and Mental Health Services Administration (SAMHSA), U.S. Department of Health and Human Services (HHS)

ACTION: Notice of correction for request for information.

SUMMARY: The Substance Abuse and Mental Health Services Administration published a document in the **Federal Register** of January 9, 2024, announcing the solicitation for public comments on questions from the Task Force on Maternal Health. The document

contained incorrect date in the **DATES** section.

FOR FURTHER INFORMATION CONTACT:

Valerie Kolick, Designated Federal Officer, Advisory Committee for Women's Services, U.S. Department of Health and Human Services, Substance Abuse and Mental Health Services Administration, 5600 Fishers Lane, Suite 18E01, Rockville, MD 20857. Phone: 240-276-1738 or Email: valerie.kolick@samhsa.hhs.gov

SUPPLEMENTARY INFORMATION:

Correction, from FR Doc. 2023-28890, Vol.89, No.6, pages 1110 and 1111.

In the **Federal Register** of January 9, 2024, in FR Doc. 2023-28890, on page 1110, in the second column, correct the **DATES** caption to read:

DATES: Electronic or written/paper comments will be accepted through midnight eastern standard time (EST), Thursday, February 8, 2024.

Dated: January 16, 2024.

Carlos Castillo,

Committee Management Officer.

[FR Doc. 2024-01010 Filed 1-18-24; 8:45 am]

BILLING CODE 4162-20-P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA-2024-0003]

Assistance to Firefighters Grant Program

AGENCY: Federal Emergency Management Agency (FEMA), Department of Homeland Security (DHS).

ACTION: Notice.

SUMMARY: Pursuant to the Federal Fire Prevention and Control Act of 1974, as amended, the Administrator of FEMA is publishing this notice describing the fiscal year (FY) 2023 Assistance to Firefighters Grant (AFG) program application process, deadlines, and award selection criteria. This notice explains the differences, if any, between these guidelines and those recommended by representatives of the national fire service leadership during the annual meeting of the Criteria Development Panel (CDP), which was held July 18-19, 2023. The application period for the FY 2023 AFG Program is Jan. 29, 2024-March 8, 2024, and was announced on the FEMA AFG Program website at <https://www.fema.gov/grants/preparedness/firefighters>, as well as at <https://www.grants.gov>.

DATES: Grant applications for the FY 2023 AFG Program are being accepted electronically through the FEMA Grant Outcomes (FEMA GO) system at <https://go.fema.gov/>, through 5 p.m. ET on March 8, 2024.

ADDRESSES: DHS/FEMA/GPD, Assistance to Firefighters Grants Branch, 400 C St. SW, 3N, FEMA Headquarters, Washington, DC 20472-3635.

FOR FURTHER INFORMATION CONTACT: Paul Parsons, Chief, Assistance to Firefighters Grants Branch, 1-866-274-0960 or FireGrants@fema.dhs.gov.

SUPPLEMENTARY INFORMATION: The AFG program awards grants directly to fire departments, nonaffiliated emergency medical service (EMS) organizations, and state fire training academies (SFTA) for enhancing the health and safety of first responders and improving their abilities to the public from fire and fire-related hazards. Applications for the FY 2023 AFG program are submitted and processed online through <https://go.fema.gov/>. Before the application period started, the FY 2023 AFG Program Notice of Funding Opportunity was published on FEMA's AFG Program website at <https://www.fema.gov/grants/preparedness/firefighters/assistance-grants>. The AFG Program website provides additional information and materials useful for FY 2023 AFG Program applicants, including a Fact Sheet, Frequently Asked Questions, Application Checklist, AFG Narrative Development Toolkit, Self-Evaluation Sheets for Vehicle Acquisition and Operations Safety, and a Cost-Share Calculator. Based on past AFG Program application periods, FEMA anticipates receiving 8,000 to 10,000 AFG applications this year and available funding will support approximately 2,000 grant awards.

Congressional Appropriations

For the FY 2023 AFG program, Congress appropriated \$360 million through the Department of Homeland Security Appropriations Act, 2023, Public Law 117-328. From this amount, \$324 million will be made available for FY 2023 AFG Program awards. In addition, section 33 of the Federal Fire Prevention and Control Act of 1974, as amended (15 U.S.C. 2229), requires that a minimum of 10% of available funds be expended for Fire Prevention and Safety (FP&S) Program grants. FP&S Program awards will be made directly to local fire departments and to local, regional, state, or national entities recognized for their expertise in the fields of fire prevention and firefighter safety research and development. The funds

appropriated for FY 2023 are available for obligation and award until Sept. 30, 2024.

The Federal Fire Prevention and Control Act of 1974 further directs FEMA to administer these appropriations according to the following requirements:

- *Career fire departments:* Not less than 25% of available grant funds.
- *Volunteer fire departments:* Not less than 25% of available grant funds.
- *Combination fire departments and departments using paid-on-call firefighting personnel:* Not less than 25% of available grant funds.
- *Open competition (career, volunteer, and/or combination fire departments and departments using paid-on-call firefighting personnel):* Not less than 10% of available grant funds awarded.
- *EMS providers including fire departments and nonaffiliated EMS organizations:* Not less than 3.5% of available grant funds awarded.
- *Nonaffiliated EMS providers:* Not more than 2% of the total available grant funds.
- *SFTAs:* Not more than 3% of available grant funds shall be collectively awarded to SFTA applicants, with a maximum of \$500,000 per applicant.
- *Vehicles:* Not more than 25% of available grant funds may be used for the purchase of vehicles; by policy and based on recommendations, FEMA intends to dedicate 10% of those vehicle funds for ambulances.
- *Micro grants:* This is a voluntary funding limitation choice made by the applicant for requests submitted within the operations and safety activity. It is not an additional funding opportunity. Micro grants are awards that have a Federal participation (share) that does not exceed \$50,000. Applicants that select micro grants may receive additional consideration for award. If an applicant selects micro grants in their application, they will be limited in the total amount of funding their organization can be awarded. If they are requesting funding in excess of \$50,000 Federal participation, they should not select micro grants.

Background of AFG

Since 2001, AFG has awarded approximately \$8.4 billion in grant funding to help firefighters and other first responders obtain critically needed equipment, protective gear, emergency vehicles, training, and other resources needed to protect the public and emergency personnel from fire and fire-related hazards. FEMA awards grants on a competitive basis to the applicants

that best address the AFG Program's priorities and provide the most compelling justification. Applications that best address AFG Program priorities, as identified in the Application Evaluation Criteria, are reviewed by a panel composed of fire service personnel. The AFG Program has three program activities:

- Operations and Safety;
- Vehicle Acquisition; and
- Regional Projects.

The priorities for each activity are fully outlined in the funding notice.

Application Evaluation Criteria

Before making a grant award, FEMA is required by 31 U.S.C. 3354, as amended by the Payment Integrity Information Act of 2019, *Public Law 116-117* (2020), 41 U.S.C. 2313, and 2 CFR 200.206 to review information available through any Office of Management and Budget-designated repositories of government-wide eligibility qualification or financial integrity information. Therefore, application evaluation criteria may include the following risk-based considerations of the applicant: (1) financial stability; (2) quality of management systems and ability to meet management standards; (3) history of performance in managing Federal awards; (4) reports and findings from audits; and (5) ability to effectively implement statutory, regulatory, or other requirements.

FEMA will rank all complete and submitted applications based on how well they align with program priorities for the type of jurisdiction(s) served. Answers to activity-specific questions provide information used to determine each application's ranking relative to the stated program priorities.

Funding priorities and criteria for evaluating AFG applications are established by FEMA based on the recommendations from the Criteria Development Panel (CDP). The CDP is composed of fire service professionals who make recommendations to FEMA regarding creating new, or modifying previously established, funding priorities, as well as developing criteria for awarding grants. The content of the funding notice reflects implementation of the CDP's recommendations with respect to the priorities and evaluation criteria for awards.

The nine major fire service organizations represented on the CDP:

- Congressional Fire Service Institute
- International Association of Arson Investigators
- International Association of Fire Chiefs

- International Association of Fire Fighters
- International Society of Fire Service Instructors
- National Association of State Fire Marshals
- National Fire Protection Association
- National Volunteer Fire Council
- North American Fire Training Directors

Review and Selection Process

AFG applications are reviewed through a multi-phase process. All applications are electronically pre-scored and ranked based on how well they align with the funding priorities outlined in the funding notice. Applications with the highest pre-score rankings are then scored competitively by no less than three members of a Peer Review Panel. Applications are also evaluated through a series of internal FEMA review processes for completeness, adherence to programmatic guidelines, technical feasibility, and anticipated effectiveness of the proposed project(s). Below is the process by which applications are reviewed:

i. Pre-Scoring Process

The application undergoes an electronic pre-scoring process based on established program priorities listed in the funding notice and answers to activity-specific questions within the online application. Application narratives are not reviewed during pre-scoring. Request details and budget information should comply with program guidance and statutory funding limitations. The pre-score is 50% of the total application score.

ii. Peer Review Panel Process

Applications with the highest pre-score undergo peer review. The peer review is comprised of fire service representatives recommended by the organizations represented on the CDP. The panelists assess the merits of each application based on the narrative section of the application, including the evaluation elements listed in the Narrative Evaluation Criteria below. Panelists independently score each project within the application, discuss the merits and/or shortcomings of the application with their peers, and document the findings. A consensus is not required. The panel score is 50% of the total application score.

iii. Technical Evaluation Process

The highest ranked applications will be considered within the fundable range. Applications that are in the fundable range will undergo both a

Technical Review by a subject-matter expert as well as a FEMA Program Office review before being recommended for award. The FEMA Program Office will assess the request with respect to costs, quantities, feasibility, eligibility, and recipient responsibility prior to recommending any application for award. Once the Technical Evaluation Process is complete, each application's cumulative score will be determined and a final ranking of applications will be created. FEMA will award grants based on this final ranking and the ability to meet statutorily required funding limitations outlined in the funding notice.

Narrative Evaluation Criteria

1. Financial Need (25%)

Applicants should describe their financial need and how consistent it is with the intent of the AFG program. This statement should include details describing the applicant's financial distress, summarized budget constraints, unsuccessful attempts to secure other funding, and proof that their financial distress is out of their control.

2. Project Description and Budget (25%)

This statement should clearly explain the applicant's project objectives and the relationship between those objectives and the applicant's budget and risk analysis. The applicant should describe the activities, including program priorities or facility modifications, ensuring consistency with project objectives, the applicant's mission, and any national, state and/or local requirements. Applicants should link the proposed expenses to operations and safety, as well as the completion of the project goals.

3. Cost Benefit (25%)

Applicants should describe how they plan to address the operations and personal safety needs of their organization, including cost effectiveness and sharing assets. This statement should also include details about gaining the maximum benefits from grant funding by citing reasonable or required costs, such as specific overhead and administrative costs. The applicant's request should also be consistent with their mission and identify how funding will benefit their organization and personnel.

4. Statement of Effect on Daily Operations (25%)

This statement should explain how these funds will enhance the applicant's overall effectiveness. It should address how an award will improve daily

operations and reduce the applicant's risks. Applicants should include how frequently the requested items will be used, and in what capacity. Applicants should also indicate how the requested items will help the community and increase the organization's ability to save additional lives or property. Jurisdictions that demonstrate their commitment and proactive posture to reducing fire risk, by explaining their code enforcement (to include Wildland Urban Interface code enforcement) and mitigation strategies (including whether the jurisdiction has a FEMA-approved mitigation strategy) may receive stronger consideration under this criterion.

Eligible Applicants

Fire Departments: Fire departments operating in any of the 50 states, as well as fire departments in the District of Columbia, the Commonwealth of the Northern Mariana Islands, the U.S. Virgin Islands, Guam, American Samoa, the Commonwealth of Puerto Rico, or any federally recognized Indian Tribe or tribal organization. A fire department is an agency or organization having a formally recognized arrangement with a state, territory, local (city, county, parish, fire district, township, town or other governing body), or tribal authority to provide fire suppression to a population within a geographically fixed primary first due response area.

Nonaffiliated EMS organizations: Nonaffiliated EMS organizations operating in any of the 50 states, as well as the District of Columbia, the Commonwealth of the Northern Mariana Islands, the U.S. Virgin Islands, Guam, American Samoa, the Commonwealth of Puerto Rico, or any federally recognized Indian Tribe or tribal organization. A nonaffiliated EMS organization is an agency or organization that is a public or private nonprofit emergency medical services entity providing medical transport that is not affiliated with a hospital and does not serve a geographic area in which emergency medical services are adequately provided by a fire department. FEMA considers the following as hospitals under the AFG Program:

- Clinics;
- Medical centers;
- Medical colleges or universities;
- Infirmaries;
- Surgery centers; and
- Any other institutions, associations, or foundations providing medical, surgical, or psychiatric care and/or treatment for the sick or injured

State Fire Training Academies: SFTAs operating in any of the 50 states, as well as the District of Columbia, the Commonwealth of the Northern Mariana

Islands, the U.S. Virgin Islands, Guam, American Samoa, or the Commonwealth of Puerto Rico. Applicants must be designated either by legislation or by a Governor's declaration as the sole fire service training agency within a state, territory, or the District of Columbia. The designated SFTA shall be the only agency/bureau/division, or entity within that state, territory, or the District of Columbia.

Non-Federal airport and/or port authority fire or EMS organizations are eligible only if they have a formally recognized arrangement with the local jurisdiction to provide fire suppression or emergency medical services on a first-due basis outside the confines of the airport or port facilities. Airport or port authority fire and EMS organizations whose sole responsibility is suppression of fires or EMS response on the airport grounds or port facilities are not eligible for funding under the AFG Program.

Ineligibility

FEMA considers two or more separate fire departments or nonaffiliated EMS organizations with different funding streams, personnel rosters, and Employer Identification Numbers (EIN) but sharing the same facilities as being separate organizations for the purposes of AFG eligibility. If two or more organizations share facilities and each submits an application in the same program area (*i.e.*, Equipment, Modifications to Facilities, Personal Protective Equipment (PPE), Training, or Wellness and Fitness Programs), FEMA reserves the right to review all of those program area applications for eligibility. This determination is designed to avoid the duplication of benefits.

Examples of ineligible applications and/or organizations include:

- Nonaffiliated EMS organization requests for any activity that is specific or unique to structural/proximity/wildlands firefighting gear.
- Fire departments that are a Federal Government entity, or contracted by the Federal Government, and are solely responsible under a formally recognized agreement for suppression of fires on Federal installations or land.
- Fire departments or nonaffiliated EMS organizations that are not independent entities but are part of, controlled by, or under the day-to-day operational command and control of a larger department, agency or Authority Having Jurisdiction (AHJ).

○ However, if a fire department is considered to be the same legal entity as a municipality or other governmental organization, and otherwise meets the

eligibility criteria, that municipality or other governmental organization may apply on behalf of that fire department as long as the application clearly states that the fire department is considered part of the same legal entity.

- Fire-based EMS organization applying as a nonaffiliated EMS organization.
- Auxiliaries, hospitals or fire service associations or interest organizations that are not the AHJ over the applicant.
- Dive teams, search and rescue squads, or similar organizations that do not provide medical transport.
- Fire departments, regional or nonaffiliated EMS organizations that are for profit.
- State or local agencies, or subsets of any governmental entity, or any authority that do not meet the requirements as defined by 15 U.S.C. 2229(a), (c).
- If an applicant submits two or more applications for the same equipment or other eligible activity (for example, if an applicant submits two or more applications, one under the Regional activity, and one under the Operations and Safety activity for self-contained breathing apparatus [SCBA]), both applications may be disqualified. If an applicant submits two separate applications for the same activity (*i.e.*, two separate vehicle applications for the same vehicle) during the same application period, both applications may be disqualified.
- This is different from when an entity is applying on behalf of other organizations that are agencies or instrumentalities of the applicant (*e.g.*, multiple fire departments under the same county, city, borough, parish, or other municipality). In that situation, the applicant may request similar or the same equipment as long as the application clearly states which equipment (including quantities) is for which agency/instrumentality. This is permissible even if that entity submits multiple applications across regional versus direct applications.
- Eligible Fire Department and nonaffiliated EMS applicants may submit only one application for each of the following application types: Individual Operations and Safety, Individual Vehicle, Regional Operations and Safety, and Regional Vehicle. Under the Operations and Safety applications, applicants may submit for multiple activities and for multiple items within each activity. Under the Vehicle application, applicants may submit one application for a vehicle activity (or activities) for their department and one separate application for a regional vehicle (the same vehicle(s) may not be

requested for both purposes). All duplicate application submissions may be disqualified.

Statutory Limits to Funding

Congress has enacted statutory limits to the amount of funding that a grant recipient may receive from AFG in any single fiscal year based on the population served (*15 U.S.C. 2229(c)(2)*). Awards will be limited based on the size of the population protected by the applicant, as indicated below. Notwithstanding the annual limits stated below, the FEMA Administrator may not award a grant in an amount that exceeds 1% of the available grant funds in such fiscal year, except where it is determined that such recipient has an extraordinary need for a grant in an amount that exceeds the 1% aggregate limit.

- In the case of a recipient that serves a jurisdiction with 100,000 people or fewer, the amount of available grant funds awarded to such recipient shall not exceed \$1 million in any fiscal year.

- In the case of a recipient that serves a jurisdiction with more than 100,000 people, but not more than 500,000 people, the amount of available grant funds awarded to such recipient shall not exceed \$2 million in any fiscal year.

- In the case of a recipient that serves a jurisdiction with more than 500,000 people, but not more than 1 million people, the amount of available grant funds awarded to such recipient shall not exceed \$3 million in any fiscal year.

- In the case of a recipient that serves a jurisdiction with more than 1 million people, but not more than 2.5 million people, the amount of available grant funds awarded to such recipient is subject to the 1% aggregate cap of \$3.24 million for FY 2023. FEMA may waive this aggregate cap in individual cases where FEMA determines that a recipient has an extraordinary need for a grant that exceeds the aggregate cap. If FEMA waives the aggregate cap, the amount of grant funds awarded to such a recipient shall not exceed \$6 million for any fiscal year.

- In the case of a recipient that serves a jurisdiction with more than 2.5 million people, the amount of available grant funds awarded to such recipient is subject to the 1% aggregate cap of \$3.24 million for FY 2023. FEMA may waive this aggregate cap in individual cases where FEMA determines that a recipient has an extraordinary need for a grant that exceeds the aggregate cap. If FEMA waives the aggregate cap, the amount of grant funds awarded to such recipient shall not exceed \$9 million for any fiscal year.

- FEMA may not waive the population-based limits on the amount of grant funds awarded as set by *15 U.S.C. 2229(c)(2)(A)*.

The cumulative total of the Federal share of awards in Operations and Safety, Regional, and Vehicle Acquisition activities will be considered when assessing award amounts and any limitations thereto. Applicants may request funding up to the statutory limit on each of their applications.

For example, an applicant that serves a jurisdiction with more than 100,000 people, but not more than 500,000 people, may request up to \$2 million on their Operations and Safety Application and up to \$2 million on their Vehicle Acquisition request. However, should both grants be awarded, the applicant would have to choose which award to accept if the cumulative value of both applications exceeds the statutory limits.

Cost Sharing and Maintenance of Effort

Grant recipients must share in the costs of the projects funded under this grant program as required by *15 U.S.C. 2229(k)(1)* and in accordance with applicable Federal regulations at *2 CFR part 200*, but they are not required to have the cost-share at the time of application nor at the time of award. However, before a grant is awarded, FEMA validates that the grant recipient has provided sufficient evidence that the cost-share requirement will be fulfilled during the performance period of the grant award.

In general, an eligible applicant seeking a grant shall agree to make available non-Federal funds equal to not less than 15% of the grant awarded. However, the cost share will vary as follows based on the size of the population served by the organization, with exceptions to this general requirement for entities serving smaller communities:

- Applicants that serve populations of 20,000 or less shall agree to make available non-Federal funds in an amount equal to not less than 5% of the grant awarded.

- Applicants serving areas with populations above 20,000, but not more than 1 million, shall agree to make available non-Federal funds in an amount equal to not less than 10% of the grant awarded.

- Applicants serving areas with populations above 1 million shall agree to make available non-Federal funds in an amount equal to not less than 15% of the grant awarded.

The cost share for SFTAs will apply the requirements above based on the total population of the state.

The cost share for a regional application will apply the requirements above based on the aggregate population of the primary first due response areas of the host and participating partner organizations that execute a Memorandum of Understanding as described in Appendix B, Section g., Regional Applications, of the FY 2023 AFG funding notice.

On a case-by-case basis, FEMA may allow a grant recipient that may already own assets (equipment or vehicles), acquired with non-Federal cash, to use the trade-in allowance/credit value of those assets as “cash” for the purpose of meeting the cost-share obligation of their AFG Program award. In-kind, cost-share matches are not allowed. Grant recipients under this grant program must also agree to a maintenance of effort requirement as required by *15 U.S.C. 2229(k)(3)* (referred to as a “maintenance of expenditure” requirement in that statute). A grant recipient shall agree to maintain during the term of the grant the applicant’s aggregate expenditures relating to the activities allowable under the funding notice at not less than 80% of the average amount of such expenditures in the two fiscal years preceding the fiscal year in which the grant amounts are received.

In cases of demonstrated economic hardship, and at the request of the grant recipient, the Administrator of FEMA may waive or reduce a grant recipient’s cost-share requirement or maintenance of effort requirement. AFG applicants for FY 2023 must indicate at the time of application whether they are requesting a waiver and whether the waiver is for the cost-share requirement, for the maintenance of effort requirement, or both. As required by statute, the Administrator of FEMA is required to establish guidelines for determining what constitutes economic hardship. FEMA has published these guidelines on FEMA’s website at https://www.fema.gov/sites/default/files/2020-04/Eco_Hardship_Waiver_FPS_SAFER_AFG_IB_FINAL.pdf.

Before the start of the FY 2023 AFG application period, FEMA conducted applicant internet webinars to inform potential applicants. In addition, FEMA provided applicants with information at the AFG website, <https://www.fema.gov/grants/preparedness/firefighters>, to help them prepare quality grant applications. The AFG Program Help Desk is staffed throughout the application period to assist applicants with the automated application process as well as answer any questions.

Applicants can reach the AFG Program Help Desk through a toll-free

telephone number Monday through Friday, 8 a.m.–4:30 p.m. ET at 866–274–0960 or electronic mail at firegrants@fema.dhs.gov.

Application Process

Organizations may submit one application per application period in each of the three AFG Program activities (e.g., one application for Operations and Safety, one for Vehicle Acquisition, and/or a separate application to be a Joint/Regional project host). If an organization submits more than one application for any single AFG Program activity (e.g., two applications for Operations and Safety, two for Vehicles), either intentionally or unintentionally, both applications may be disqualified.

Applicants may access the grant application electronically at <https://go.fema.gov/>. New applicants must register and establish a username and password for secure access to the grant application. Previous AFG Program applicants must use their previously established username and password.

Applicants are expected to answer questions about their grant request that reflect the AFG Program funding priorities. In addition, each applicant must complete four separate narratives for each project or grant activity requested. Grant applicants will also provide relevant information about their organization's characteristics, call volume, and existing organizational capabilities.

System for Award Management (SAM)

Per 2 CFR 25.200, all Federal grant applicants and recipients must register at <https://sam.gov/content/home>. SAM is the Federal Government's System for Award Management, and registration is free of charge.

Effective April 4, 2022, the Federal Government transitioned from using the Data Universal Numbering System or DUNS number, to a new, non-proprietary identifier known as a Unique Entity Identifier or UEI. For entities that had an active registration in SAM.gov before this date, the UEI has automatically been assigned and no action is necessary. For all entities filing a new registration in SAM.gov, the UEI will be assigned to that Entity as part of the SAM.gov registration process.

FEMA will not make a Federal award until the applicant has complied with all applicable SAM requirements. Therefore, an applicant's SAM registration must be active not only at the time of application, but also during the application review period and when FEMA is ready to make a Federal award.

Criteria Development Panel Recommendations

If there are any differences between the published AFG Program guidelines and the recommendations made by the CDP, FEMA must explain them and publish the information in the **Federal Register** before awarding any AFG grant.

Adopted Recommendations for FY 2023

Below is a list of changes between FY 2022 and FY 2023 to the AFG Program. The FY 2023 AFG Program funding notice contains some changes to definitions, descriptions, and priority categories. Changes include:

- **Under Eligible Applicants:** Definition of a state fire training academy was updated to include that recognition by the National Fire Training Academy is now an eligibility requirement.
- **Under Management and Administration (M&A) Costs:** Reimbursement for fees associated with hiring grants management services is now capped at \$1,500. Requests that are simple percentages of the award, without supporting justification or adequate documentation, will not be allowed or considered for an award.
- **Under Other Direct Costs, Allocations and Restrictions of Available Grant Funds:** Micro Grants cumulative funding threshold was raised from \$50,000 to \$75,000.
- **Under Restrictions on Uses of Awarded Funds:** Clarification was added that items must be requested using correct dropdown selections in the application and that bundled items must have details regarding type, cost and quantity of all items in the bundle to be considered for funding.
- **Under Supporting Definitions:** Definition of Authority Having Jurisdiction was updated to match NFPA 101, 2021 edition.
- **Under Training Activity:** Various NFPA standards were updated to reflect the most recent editions.
- **Under Equipment Activity:** Various priority changes were made to equipment for Fire Department and Regional Fire Department applicants. The following items remain as High Priority:

- Appliance(s)/Nozzle(s)
- Basic Hand Tools (Structural/Wildland)
- Hose (Attack/Supply)
- Immediately Dangerous to Life or Health (IDLH) Monitoring Equipment
- IDLH Protection for Investigators (This is single-use respiratory protection)
- PPE Washer/Extractor/Dryer (Turnout)

- Rapid Intervention Team (RIT) Pack/Cylinder
- Thermal Imaging Camera (Must be NFPA 1801 compliant)
- Portable Radios (must be P–25 compliant)
- Vehicle Mounted Exhaust Systems
- Skid Unit
- Air Compressor/Fill Station/Cascade (fixed or mobile) is High Priority for Regional Fire Department applicants and Medium Priority for Fire Department applicants.

Other equipment items were moved to Medium Priority. EMS equipment priority levels remain unchanged. Priority changes did not affect SFTA, and NAEMS applicants.

- Phones (telephone/satellite/cell), carrier plans and vehicle mounted fans were added as ineligible items.

- Clarity for reason for funding request (purpose) was added. Funding notice and application text updated from “Obtain equipment to achieve minimum operational and deployment standards for existing missions” to “Obtain equipment needed but not currently owned or replace equipment that is broken and/or damaged beyond repair to achieve minimum operational and deployment standards for existing missions” to better define the funding priorities.

- Computing devices necessary to operate the awarded equipment were added as eligible.

• Under Personal Protective Equipment Activity:

- Replacement of damaged/unsafe/unreparable PPE (including SCBA) regardless of age is now allowable.
- Language regarding PFAS in PPE was moved from the Application Tips section to PPE Activity section and updated to encourage award recipients to seek acquisition of PFAS-free gear when possible.

- NFPA standard was added to the Chemical/Biological Suites under Specialized PPE.

- **Under Wellness and Fitness Activity:** Whole-body MRI was added to Ineligible activities.

- **Under Vehicle Acquisition Activity:** NFPA standards 1901, 1906 and 1917 were replaced by the consolidated NFPA standard 1900.

Recommendations Not Adopted for FY 2023

- Recommendation to allow applicants replacement or new purchase of a second set of firefighter PPE was not adopted for FY 2023. This recommendation requires predictive modeling not currently available.

- Combination of the weapons of mass destruction (WMD) training line

item with the chemical, biological, radiological, nuclear and explosive (CBRNE) training line item into one line item was not adopted. Both line items will remain available separately.

- Addition of the following EMS equipment line items as a Medium Priority was not adopted:

- O2 kit
- Stair chair
- Stretcher (non-powered)
- Backboard
- Trauma bag
- Mass casualty kit
- CPAP
- Suction unit
- Non-disposable splints

- Recommendation from the National Volunteer Fire Council to reduce application requirements to simplify the process for the applicants was deferred until FEMA Grants Outcomes system is operating at full capacity.

Authority: 15 U.S.C. 2229.

Deanne Criswell,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2024-00998 Filed 1-18-24; 8:45 am]

BILLING CODE 9111-64-P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-7092-N-08]

Privacy Act of 1974; System of Records

AGENCY: Public Indian Housing (PIH) Real Estate Assessment Center (REAC), HUD.

ACTION: Notice of a rescindment of a systems of records.

SUMMARY: Pursuant to the provisions of the Privacy Act of 1974, as amended, the Department of the Housing and Urban Development (HUD) is issuing a public notice of its intent to rescind the Privacy Act system of records, Housing and Urban Development—Veterans Affairs Supportive Housing System (HUD-VASH), because the project was terminated and never went into development.

DATES: Comments will be accepted on or before February 20, 2024. This proposed action will be effective immediately upon publication.

ADDRESSES: You may submit comments, identified by one of the following methods:

Federal e-Rulemaking Portal: <http://www.regulations.gov>. Follow the instructions provided on that site to submit comments electronically.

Fax: 202-619-8365.

Email: privacy@hud.gov.

Mail: Attention: Privacy Office; LaDonne White, Chief Privacy Officer; The Executive Secretariat; 451 Seventh Street SW, Room 10139; Washington, DC 20410-0001.

Instructions: All submissions received must include the agency name and docket number for this rulemaking. All comments received will be posted without change to <http://www.regulations.gov> including any personal information provided.

Docket: For access to the docket to read background documents or comments received go to <http://www.regulations.gov>

FOR FURTHER INFORMATION CONTACT:

LaDonne White, Chief Privacy Officer, 451 Seventh Street SW, Room 10139; Washington, DC 20410; telephone number (202) 708-3054 (this is not a toll-free number). HUD welcomes and is prepared to receive calls from individuals who are deaf or hard of hearing, as well as individuals with speech or communication disabilities. To learn more about how to make an accessible telephone call, please visit <https://www.fcc.gov/consumers/guides/telecommunications-relay-service-trs>.

SUPPLEMENTARY INFORMATION: The HUD-VASH SORN is being terminated because the project never went into development. Back in 2012 when this SORN was published, the intent was to create the HUD-VASH system. HUD never developed the HUD-VASH system. Records are no longer maintained by HUD and have run the record retention period. All data containing PII has been deleted.

SYSTEM NAME AND NUMBER:

HUD-VASH system does not exist; it was never created hence a system number was not created/assigned.

HISTORY:

Agency Docket Number FR-5613-N-03, 77 FR 26029 (June 01, 2012).

LaDonne White,

Chief Privacy Officer, Office of Administration.

[FR Doc. 2024-00996 Filed 1-18-24; 8:45 am]

BILLING CODE 4210-67-P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-7080-N-02]

30-Day Notice of Proposed Information Collection: Build America Buy America Waiver Form; OMB Control No.: 2511-0002

AGENCY: Office of Policy Development and Research, Chief Data Officer, HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for an additional 30 days of public comment.

DATES: *Comments Due Date:* February 20, 2024.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting "Currently under 30-day Review—Open for Public Comments" or by using the search function. Interested persons are also invited to submit comments regarding this proposal and comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Colette Pollard, Clearance Officer, REE, Department of Housing and Urban Development, 451 7th Street SW, Room 8210, Washington, DC 20410; email PaperworkReductionActOffice@hud.gov.

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@hud.gov or telephone 202-402-3400. This is not a toll-free number. HUD welcomes and is prepared to receive calls from individuals who are deaf or hard of hearing, as well as individuals with speech or communication disabilities. To learn more about how to make an accessible telephone call, please visit: <https://www.fcc.gov/consumers/guides/telecommunications-relay-service-trs>. Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on August 31, 2023 at 88 FR 18778.

A. Overview of Information Collection

Title of Information Collection: Build America Buy America Waiver Form.
OMB Approval Number: 2511-0002.
Type of Request: Renewal.
Description of the need for the information and proposed use: The Department of Housing and Urban Development (HUD) requests an extension of the 6-month PRA Emergency approval pursuant to the Build America, Buy America (BABA)

Act. The waiver form gathers essential information for HUD to determine grounds to waive grantees' application of a Buy America preference due to public interest, nonavailability, or unreasonable cost, allowing grantees to remain in compliance with BABA when they are unable to use American-made materials in infrastructure projects.

Respondents: Federal Government; State, Local, or Tribal Government.

Information collection	Number of respondents	Frequency of response	Responses per annum	Burden hour per response	Annual burden hours	Hourly cost per response	Annual cost
HUD—27054e	5,000.00	1.00	5,000.00	1.00	5,000.00	\$53.67	\$268,350.00
Total .....	.....	.....	.....	.....	5,000.00	53.67	268,350.00

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

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

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

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

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

(5) Ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

HUD encourages interested parties to submit comment in response to these questions.

C. Authority

Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. chapter 35.

Colette Pollard,

*Department Reports Management Officer,
Office of Policy Development and Research,
Chief Data Officer.*

[FR Doc. 2024-00974 Filed 1-18-24; 8:45 am]

BILLING CODE 4210-67-P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-7080-N-03]

30-Day Notice of Proposed Information Collection: Compliance Inspection Report and Mortgagee's Assurance of Completion; Forms HUD-92051 and HUD-92300; OMB Control No.: 2502-0189

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: The Department of Housing and Urban Development (HUD) is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. This notice follows a proposed notice published on September 5, 2023, requesting comments on the renewal of this information collection. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 30 days of public comment.

DATES: *Comments Due Date:* February 20, 2024.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting "Currently under 30-day Review—Open for Public Comments" or by using the search function. Interested persons are also invited to submit comments regarding this proposal and comments should refer to the proposal by name

and/or OMB Control Number and should be sent to: Colette Pollard, Clearance Officer, REE, Department of Housing and Urban Development, 451 7th Street SW, Room 8210, Washington, DC 20410; email: PaperworkReductionActOffice@hud.gov.

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@hud.gov or telephone 202-402-3400. This is not a toll-free number. HUD welcomes and is prepared to receive calls from individuals who are deaf or hard of hearing, as well as individuals with speech and communication disabilities. To learn more about how to make an accessible telephone call, please visit: <https://www.fcc.gov/consumers/guides/telecommunications-relay-service-trs>. Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A. The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on September 5, 2023 at 88 FR 60704.

A. Overview of Information Collection

Title of Information Collection: Compliance Inspection Report and Mortgagee's Assurance of Completion.
OMB Approval Number: 2502-0189.
OMB Expiration Date: 01/31/2024.
Type of Request: Extension of currently approved collection.
Form Numbers: HUD-92051, HUD-92300.

Description of the need for the information and proposed use: Accurate and thorough property information is critical to the accuracy of underwriting for the mortgage insurance process. This information collection is needed to ensure newly built homes financed with FHA-insured mortgages are constructed in accordance with acceptable building standards and that any deficiencies found in newly constructed and existing dwellings are corrected.

Respondents: Mortgagees.

Estimated Number of Respondents: 2814.

Estimated Number of Responses: 16,237.

Frequency of Response: Varies.

Average Hours per Response: 0.10 to 0.25 hours.

Total Estimated Burden: 3,158.

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 and more specifically regarding:

(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.

(5) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

HUD encourages interested parties to submit comment in response to these questions.

C. Authority Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. chapter 35.

The public comment period for the notice published on September 5, 2023, closed on November 6, 2023.

D. Summary of Utilizing Forms HUD-92051, Fannie Mae 1004D, or a Letter of Attestation.

Comments and HUD Responses:

Comment: Mortgage Bankers Association (MBA) recommends that HUD give lenders the flexibility to

utilize either Form 92051 or Fannie Mae's Form 1004D, or, in certain circumstances a letter of attestation when certifying the completion of construction in the case of new construction properties.

HUD Response: HUD appreciates this feedback. HUD also notes that there are multiple options to demonstrate compliance with the required inspections for new construction financing. The form HUD-92051, *Compliance Inspection Report* is only applicable when the inspection is performed by an ICC certified RCI or CI or a third-party, who is a registered architect, a structural engineer, or a qualified trades person or contractor, and appropriate state-sanctioned inspection form is an alternative to the HUD-92051.

Comment: MBA recommends that HUD allow lenders to also utilize attestation letters which would not only bring FHA more in line with the government-sponsored enterprises but would also enhance the experience of FHA borrowers.

HUD Response: HUD appreciates this comment and will consider for future policy enhancements.

Comment: MBA recommends that HUD discontinue its Mortgagee's Assurance of Completion Form 92300 due to its redundant nature in certifying necessary repairs or alterations for new construction properties.

HUD Response: HUD appreciates this comment and will consider for future policy enhancements.

Colette Pollard,

Department Reports Management Officer, Office of Policy Development and Research, Chief Data Officer.

[FR Doc. 2024-01003 Filed 1-18-24; 8:45 am]

BILLING CODE 4210-67-P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-7080-N-04]

30-Day Notice of Proposed Information Collection: FHA-Insured Mortgage Loan Servicing for Performing Loans; MIP Processing, Escrow Administration, Customer Service, Servicing Fees, and 235 Loans, OMB Control No.: 2502-0583

AGENCY: Office of Policy Development and Research, Chief Data Officer, HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the

Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for an additional 30 days of public comment.

DATES: *Comments Due Date:* February 20, 2024.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting "Currently under 30-day Review—Open for Public Comments" or by using the search function. Interested persons are also invited to submit comments regarding this proposal and comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Colette Pollard, Clearance Officer, REE, Department of Housing and Urban Development, 451 7th Street SW, Room 8210, Washington, DC 20410-5000; email PaperworkReductionActOffice@hud.gov.

FOR FURTHER INFORMATION CONTACT:

Colette Pollard, Reports Management Officer, REE, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410; email Colette.Pollard@hud.gov or telephone (202) 402-3400. This is not a toll-free number. HUD welcomes and is prepared to receive calls from individuals who are deaf or hard of hearing, as well as individuals with speech or communication disabilities. To learn more about how to make an accessible telephone call, please visit: <https://www.fcc.gov/consumers/guides/telecommunications-relay-service-trs>.

Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on August 30, 2023 at 88 FR 59937.

A. Overview of Information Collection

Title of Information Collection: FHA-Insured Mortgage Loan Servicing for Performing Loans; MIP Processing, Escrow Administration, Customer Services, Servicing Fees, and 235 Loans.
OMB Approval Number: 2502-0583.

OMB Expiration Date: 1/31/2024.
Type of Request: Revision of currently approved collection.

Form Number: HUD-92210.01.

Description of the need for the information and proposed use: This information request is a comprehensive collection for FHA-approved Mortgagees that service FHA-insured mortgages and the Mortgagors (borrowers) who are involved with collection and payment

of mortgage insurance premiums, payment processing, escrow account administration, Section 235, and assumptions. The data and information provided are essential for managing HUD's Single Family loan programs and other systems of record. Mortgagees service FHA insured loans and have varied sizes of loan portfolios. Information is routinely reported to

HUD, generally on a monthly basis through Electronic Data Interchange (EDI) or HUD's online systems, FHA Connection and FHA Catalyst. The information is used by HUD to administer MIP premium remittances, analyze Mortgagees servicing performance and to update HUD's loan records with any changes in borrower(s) or loan data.

Information collection	Number of respondents	Frequency of response	Total annual responses	Hours per response	Total annual hours
FHA-Insured Mortgage Loan Servicing for Performing Loans; MIP Processing, Escrow Administration, Customer Services, Servicing Fees, and 235 Loans	6,280	Monthly	66,245,946	0.005	333,950
Totals	6,280	.....	66,245,946	.....	333,950

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

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

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

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

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

(5) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

HUD encourages interested parties to submit comment in response to these questions.

C. Authority

Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. chapter 35.

Colette Pollard,

Department Reports Management Officer,
Office of Policy Development and Research,
Chief Data Officer.

[FR Doc. 2024-01000 Filed 1-18-24; 8:45 am]

BILLING CODE 4210-67-P

DEPARTMENT OF THE INTERIOR

Geological Survey

[GX23ZQ00F080400, OMB Control Number 1028-NEW]

Agency Information Collection Activities: User Testing of Graphics for USGS Aftershock Forecasts

AGENCY: U.S. Geological Survey, Department of the Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (PRA), the U.S. Geological Survey (USGS) is proposing a new information collection.

DATES: Interested persons are invited to submit comments on or before February 20, 2024.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting "Currently under Review—Open for Public Comments" or by using the search function. Please provide a copy of your comments by mail to USGS, Information Collections Clearance Officer, 12201 Sunrise Valley Drive, MS 159, Reston, VA 20192 or by email to gs-info_collections@usgs.gov. Please reference OMB Control Number 1028-New User Testing of Graphics for USGS Aftershock Forecasts in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this Information Collection Request (ICR), contact Sara McBride by email at skmcbride@usgs.gov or by telephone at

650-750-5270. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States. You may also view the ICR at <http://www.reginfo.gov/public/do/PRAMain>.

SUPPLEMENTARY INFORMATION: In accordance with the PRA (44 U.S.C. 3501 *et seq.*) and 5 CFR 1320.8(d)(1), we provide the general public and other federal agencies with an opportunity to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

A Federal Register notice with a 60-day public comment period soliciting comments on this collection of information was published on January 17, 2023. (88 FR 2636). No comments were received.

As part of our continuing effort to reduce paperwork and respondent burdens, we are again soliciting comments from the public and other Federal agencies on the proposed ICR that is described below. We are especially interested in public comment addressing the following:

(1) Whether or not the collection of information is necessary for the proper performance of the functions of the agency, including whether or not the information will have practical utility;

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

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

(4) How the agency might minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of response.

Comments that you submit in response to this notice are a matter of public record. Before including your address, phone number, email address, or other personally identifiable information (PII) in your comment, you should be aware that your entire comment—including your PII—may be made publicly available at any time. While you can ask us in your comment to withhold your PII from public review, we cannot guarantee that we will be able to do so.

Abstract: The USGS produces and releases forecasts for earthquake aftershocks following damaging earthquakes in an automated manner. Currently, these forecasts are communicated to the public and to specialized users in the form of text and tables. The aim of this project is to produce graphics and maps for aftershock forecasts that can best serve user needs and ensure their usability through online user testing. In this information collection, the USGS will ask users questions about the forecast using a variety of graphical representations. This will help identify how different graphics affect how users understand and use aftershock forecast information. The results of this user testing will improve the way the USGS communicates aftershock forecasts to the public.

Title of Collection: User testing of graphics for USGS aftershock forecasts.
OMB Control Number: 1028–NEW.

Form Number: None.

Type of Review: New.

Respondents/Affected Public: Individuals/households.

Total Estimated Number of Annual Respondents: 400.

Total Estimated Number of Annual Responses: 400.

Estimated Completion Time per Response: 15 minutes.

Total Estimated Number of Annual Burden Hours: 100.

Respondent's Obligation: Voluntary.

Frequency of Collection: One-time, in an online survey.

Total Estimated Annual Nonhour Burden Cost: 0.

An agency may not conduct or sponsor, nor is a person required to respond to, a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the PRA.

Shane Detweiler,

Director, Earthquake Science Center, U.S. Geological Survey.

[FR Doc. 2024–00946 Filed 1–18–24; 8:45 am]

BILLING CODE 4388–11–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[BLM_NV_FRN_MO#4500176350]

Notice of Intent To Amend the Carson City Field Office Consolidated Resource Management Plan and Prepare an Associated Environmental Assessment for the Dodge Flat II Solar Energy Center in Washoe County, NV

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent.

SUMMARY: In compliance with the National Environmental Policy Act of 1969, as amended (NEPA), and the Federal Land Policy and Management Act of 1976, as amended (FLPMA), the Bureau of Land Management (BLM) Nevada State Director intends to prepare a resource management plan (RMP) amendment with an associated Environmental Assessment for the Dodge Flat II Solar Energy Center and by this notice is announcing the beginning of the scoping period to solicit public comments and identify issues, and is providing the planning criteria for public review.

DATES: The BLM requests the public submit comments concerning the scope of the analysis, potential alternatives, and identification of relevant information and studies by February 20, 2024. To afford the BLM the opportunity to consider issues raised by the public, please ensure your comments are received prior to the close of the 30-day scoping period.

ADDRESSES: You may submit comments on issues and planning criteria related to the Dodge Flat II Solar Energy Center by any of the following methods:

- **Website:** <https://eplanning.blm.gov/eplanning-ui/project/2027081/510>.
- **Email:** BLM_NV_CCDO_Dodge_Flat_Solar@blm.gov.
- **Mail:** BLM, Carson City District Office, Attn: Dodge Flat II Solar Energy

Center, 5665 Morgan Mill Rd., Carson City, NV 89701.

Documents pertinent to this proposal may be examined online at <https://eplanning.blm.gov/eplanning-ui/project/2027081/510> and at the Carson City District Office.

FOR FURTHER INFORMATION CONTACT: Katy Paiva, Realty Specialist, telephone (775) 885–6034; address 5665 Morgan Mill Rd., Carson City, NV 89701; email kpaiva@blm.gov. Contact Katy Paiva to have your name added to our mailing list. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION: This document provides notice that the BLM Nevada State Director intends to prepare an RMP amendment with an associated Environmental Assessment for the Dodge Flat II Solar Energy Center, announces the beginning of the scoping process, and seeks public input on issues and planning criteria. The RMP amendment is being considered to allow the BLM to evaluate the use of approximately 71 acres of public land that are identified as “exclusion lands” in the 2012 “Final Programmatic Environmental Impact Statement for Solar Energy Development in Six Southwestern States (Arizona, California, Colorado, Nevada, New Mexico, and Utah)” (Solar Programmatic EIS) Record of Decision due to slope criteria. The use of these exclusion lands for solar power generation would require amending the existing 2001 Carson City Field Office Consolidated Resource Management Plan, as amended by the Solar Programmatic EIS Record of Decision. The planning area is located in Washoe County, Nevada, and encompasses approximately 700 acres of public land. The scope of this land use planning process does not include addressing the evaluation or designation of Areas of Critical Environmental Concern (ACECs), and the BLM is not considering ACEC nominations as part of this process.

Purpose and Need

The BLM's purpose for this Federal action is to respond to the right-of-way application submitted under Title V of the FLPMA (43 U.S.C. 1761), and to amend the slope management direction in the 2001 Carson City Field Office

Consolidated Resource Management Plan in compliance with the BLM right-of-way regulations (43 CFR 2800) and other applicable Federal and State laws and policies. In accordance with FLPMA, there is a need to consider the long-term needs of future generations for renewable and non-renewable resources in the context of the multiple resource objectives in the 2001 Carson City Field Office Consolidated Resource Management Plan planning area.

Preliminary Alternatives

Under the No Action alternative, the BLM would not approve the proposed Dodge Flat II Solar Energy Center on public lands that are currently excluded from utility-scale solar energy development due to slopes exceeding 5 percent and would not amend the slope management direction in the 2001 Carson City Field Office Consolidated Resource Management Plan. Under the proposed action alternative, the BLM would change the slope management direction in the 2001 Carson City Field Office Consolidated Resource Management Plan to allow for the Dodge Flat II Solar Energy Center to be developed as currently proposed. The BLM welcomes comments and suggestions for additional alternatives.

Planning Criteria

The planning criteria guide the planning effort and lay the groundwork for effects analysis by identifying the preliminary issues and their analytical frameworks. Preliminary issues for the planning area have been identified by BLM personnel and from early engagement conducted for this planning effort with Federal, State, and local agencies; Tribes; and other stakeholders. The BLM has identified 10 preliminary issues for this planning effort's analysis. The planning criteria are available for public review and comment on the National NEPA Register website (see **ADDRESSES**).

Public Scoping Process

This notice of intent initiates the scoping period and public review of the planning criteria, which guide the development and analysis of the RMP amendment and associated Environmental Assessment. The BLM will be holding one virtual scoping meeting. The specific date and time of the scoping meeting will be announced at least 15 days in advance through the National NEPA Register project web page <https://eplanning.blm.gov/eplanning-ui/project/2027081/510>.

Interdisciplinary Team

The BLM will use an interdisciplinary approach to develop the plan amendment in order to consider the variety of resource issues and concerns identified. Specialists with expertise in the following disciplines will be involved in this planning effort: air quality, cultural resources, botany, climate change (greenhouse gases), environmental justice, grazing, human health and safety, land use and authorizations, migratory birds, noise impacts, socioeconomics, transportation, visual resources, water quality, and wildlife.

Additional Information

The BLM will identify, analyze, and consider mitigation to address the reasonably foreseeable impacts to resources from the proposed plan amendment and all analyzed reasonable alternatives and, in accordance with 40 CFR 1502.14(e), include appropriate mitigation measures not already included in the proposed plan amendment or alternatives. Mitigation may include avoidance, minimization, rectification, reduction or elimination over time, and compensation; and may be considered at multiple scales, including the landscape scale.

The BLM will utilize and coordinate the NEPA and land use planning processes for this planning effort to help support compliance with applicable procedural requirements under the Endangered Species Act (16 U.S.C. 1536) and section 106 of the National Historic Preservation Act (54 U.S.C. 306108) as provided in 36 CFR 800.2(d)(3), including public involvement requirements of section 106. The information about historic and cultural resources and threatened and endangered species within the area potentially affected by the proposed plan amendment will assist the BLM in identifying and evaluating impacts to such resources.

The BLM will consult with Indian Tribes on a government-to-government basis in accordance with Executive Order 13175, BLM MS 1780, and other Departmental policies. Tribal concerns, including impacts on Indian trust assets and potential impacts to cultural resources, will be given due consideration. Federal, State, and local agencies, along with Indian Tribes and other stakeholders that may be interested in or affected by the proposed Dodge Flat II Solar Energy Center project that the BLM is evaluating, are invited to participate in the scoping process and, if eligible, may request or be requested by the BLM to participate

in the development of the environmental analysis as a cooperating agency.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

(Authority: 40 CFR 1501.7 and 43 CFR 1610.2)

Jon K. Raby,
State Director.

[FR Doc. 2024–00942 Filed 1–18–24; 8:45 am]

BILLING CODE 4331–21–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[BLM_HQ_FRN_MO4500177363]

Notice of Availability of the Draft Programmatic Environmental Impact Statement for Utility-Scale Solar Energy Development and Notice of Public Meetings

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability.

SUMMARY: In compliance with the National Environmental Policy Act of 1969, as amended (NEPA), and the Federal Land Policy and Management Act of 1976, as amended (FLPMA), the Bureau of Land Management (BLM) has prepared a Draft Programmatic Environmental Impact Statement (EIS) for Utility-scale Solar Energy Development and associated Resource Management Plan (RMP) Amendments and by this notice is providing information announcing the opening of the comment period on the Draft Programmatic EIS.

DATES: This notice announces the opening of a 90-day comment period for the Draft Programmatic EIS beginning with the date following the Environmental Protection Agency's (EPA) publication of its Notice of Availability (NOA) in the **Federal Register**.

To afford the BLM the opportunity to consider comments in the course of preparing the Proposed RMP Amendments/Final Programmatic EIS, please ensure your comments are received prior to the close of the 90-day

comment period or 15 days after the last public meeting, whichever is later.

The BLM will hold two virtual and six in-person public meetings during the comment period. Public meetings will commence on February 5, 2024, with the first being a virtual meeting. In-person public meetings will be held in the following cities:

- Boise, Idaho;
- Cedar City, Utah;
- Las Vegas, Nevada;
- Yuma, Arizona;
- Grand Junction, Colorado; and
- Albuquerque, New Mexico.

Additional information for all public meetings is available at the project website listed in the addresses section below.

ADDRESSES: The Draft Programmatic EIS is available for review on the BLM ePlanning project website at <https://eplanning.blm.gov/eplanning-ui/project/2022371/510>.

Written comments related to the Draft Programmatic EIS may be submitted by any of the following methods:

- **Website:** <https://eplanning.blm.gov/eplanning-ui/project/2022371/510>.
- **Email:** solar@blm.gov.
- **Mail:** BLM, Attn: Draft Solar EIS, 1849 C Street NW, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT:

Jeremy Bluma, Senior Advisor, National Renewable Energy Coordination Office, BLM Headquarters, email: jbluma@blm.gov or telephone: (208) 789-6014. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services for contacting Mr. Bluma. Individuals outside the United States should use the relay services offered within their country to make international calls to the point of contact in the United States.

SUPPLEMENTARY INFORMATION: This document provides notice that the BLM has prepared, in collaboration with Cooperating Agencies, a Draft Programmatic EIS and is announcing the opening of the comment period. The Final Programmatic EIS may support a series of RMP amendments following its completion. The Draft Programmatic EIS identifies the land use plans that may be amended.

The planning area is located within the 11 States of Arizona, California (excluding the lands covered by the Desert Renewable Energy Conservation Plan in seven southern California counties), Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming and

encompasses approximately 162 million acres of BLM-administered public land.

The BLM is undertaking this programmatic evaluation to assess the potential environmental, cultural, and economic impacts of modifying its current solar energy program across the 11 Western States. Potential modifications, through land use plan amendments, are being considered to improve management consistency regarding utility-scale solar energy development, advance national renewable energy development priorities and goals, and address changes in solar technologies that have occurred since the BLM's last solar energy planning effort in 2012. Potential land use plan amendments would align with the principles of multiple use and sustained yield, consistent with FLPMA. Under FLPMA, the BLM strives to make land use decisions that meet the Nation's many needs, are environmentally responsible, and take into account the use and enjoyment of the public lands by present and future generations. The BLM seeks to advance its solar energy program consistent with balanced management for other important land uses such as recreational use; agricultural use, such as grazing; other energy and mineral development; resource protection, including National Monuments and National Conservation Areas; wilderness areas and wilderness study areas; other specially designated areas; wildlife and big game; water resources; cultural, historical, and paleontological resources; and restoration of lands and resources where appropriate.

Purpose and Need

The purpose of the proposed action is to facilitate improved siting of utility-scale solar energy development by identifying areas of BLM-administered lands where solar energy development proposals may encounter fewer resource conflicts as "solar application areas" and identifying areas of public lands with known high potential for resource conflicts as "exclusion areas." There is a need to improve the solar development application process by providing development opportunities in specified "solar application areas" while maintaining sufficient flexibility to account for site-specific resource considerations on a case-by-case basis as part of subsequent project-specific decisions. Although additional site-specific environmental analysis under NEPA will be needed to support project-level decisions to authorize utility-scale solar energy development, this macro-scale programmatic land use planning effort will provide a framework for

making those decisions in a systematic and consistent way. Applications processed under this framework are expected to have a higher likelihood of alignment with the BLM's multiple use and sustained yield mission than under current land use plans, leading to more expedient processing without jeopardizing critical resources or other uses of public lands.

This programmatic planning effort also responds to changes that have occurred since the BLM's last programmatic solar development planning effort. First, utility-scale solar energy development on and off public lands has significantly increased and is expected to continue to increase in view of a growing public interest in carbon pollution-free energy generation. Second, due to technological advancements and economic forces affecting power markets, the composition of proposed solar energy generation projects is now different, with one example being a focus by solar developers in the United States on using photovoltaic technology rather than solar thermal facilities. Third, due to some of the technological advancements mentioned above, the BLM is receiving increased interest in utility-scale solar energy development on public lands at more northern latitudes.

In response to these changes, the BLM needs to update its administration of the public lands to facilitate responsible siting of solar energy development. The BLM seeks to accomplish this by amending its land use plans in the 11 Western States to identify areas more suitable for solar development while appropriately excluding solar energy development applications from areas where protection is warranted based on critical need(s). Potential land use plan amendments may also involve updating design features and environmental evaluation processes and incorporating new information and additional environmental analysis.

Alternatives Including the Preferred Alternative

The BLM has analyzed six alternatives in detail, including the no action alternative. Each alternative makes available varying amounts of public lands for solar development applications. In descending order from the most available public lands for solar development application, Alternative 1 would make available approximately 55 million acres; the No Action Alternative would maintain the availability of approximately 47 million acres; Alternative 2 would make available approximately 36 million acres; Alternative 3 would make available

approximately 22 million acres; Alternative 4 would make available approximately 11 million acres; and Alternative 5 would make available approximately 8 million acres. The BLM considered six additional alternatives but did not carry those alternatives forward for detailed analysis for the reasons discussed in the Draft Programmatic EIS.

A reasonably foreseeable development scenario (RFDS) was developed as part of the Draft Programmatic EIS to help define the potential magnitude of solar energy development that could occur within the 11-State study area by 2045. Based on the RFDS, the estimated demand for solar energy generation on public lands by 2045 will be approximately 93,000 megawatts, which would require making approximately 700,000 acres of public land available for utility-scale solar development.

The BLM has identified Alternative 3 as the preferred alternative in the Draft Programmatic EIS. Alternative 3 would make public lands within 10 miles of existing and planned transmission lines over 100 kilovolts available for solar applications unless otherwise excluded based on the resource-based exclusion criteria identified in the EIS. Alternative 3 would improve the solar development application process by excluding solar energy development applications from areas where protection is warranted and providing development siting opportunities in specified "solar application areas" while maintaining sufficient siting flexibility to account for site-specific resource considerations on a case-by-case basis under subsequent project-specific decisions.

Mitigation

Mitigation under the Programmatic EIS would generally take the form of avoidance and minimization. Avoidance would be achieved by excluding certain areas of public lands from solar energy development applications, depending on the alternative, based on defined criteria. Minimization would be achieved by requiring that various programmatic design features be incorporated into solar development proposals. Additional mitigation, including further avoidance, minimization, and compensation, may be required and incorporated into a solar development proposal at the project approval stage.

Schedule for the Decision-Making Process

The BLM will provide this and additional opportunities for public participation consistent with NEPA and land use planning processes, including

a 30-day public protest period and a 60-day Governor's consistency review on the Final Programmatic EIS and Proposed RMP Amendments. The Proposed RMP Amendments/Final Programmatic EIS is anticipated to be available for public protest in August 2024.

The BLM will continue to consult with Indian Tribal Nations on a government-to-government basis in accordance with Executive Order 13175, BLM MS 1780, and other Departmental policies. Tribal concerns, including impacts on Indian trust assets and potential impacts to cultural resources, will be given due consideration. Consultation will continue on an individual basis with interested Tribes.

Comments on the Draft Programmatic EIS would be most helpful if provided at a level similar to that of master planning and zoning and with a focus on where solar development on public lands is most appropriate and where it should be disallowed and precluded from consideration. Comments about suggested design features that may be appropriate for the BLM to require are also encouraged.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

(Authority: 40 CFR 1506.6, 40 CFR 1506.10, 43 CFR 1610.2)

Benjamin E. Gruber,

Acting Assistant Director, Energy, Minerals, and Realty Management.

[FR Doc. 2024-00730 Filed 1-18-24; 8:45 am]

BILLING CODE 4331-29-P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[BLM_CO_FRN_MO4500176823]

Notice of Availability of the Record of Decision for the Approved Eastern Colorado Resource Management Plan for the Royal Gorge Field Office, Colorado

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability.

SUMMARY: The Bureau of Land Management (BLM) announces the

availability of the Record of Decision (ROD) for the approved Resource Management Plan (RMP) for the Royal Gorge Field Office located in eastern Colorado. The Colorado State Director signed the ROD on January 9, 2024, which constitutes the final decision of the BLM and makes the approved RMP effective immediately.

DATES: The Colorado State Director signed the ROD on January 9, 2024.

ADDRESSES: The ROD/approved RMP is available online at <https://eplanning.blm.gov/eplanning-ui/project/39877/510>. Printed copies of the ROD/approved RMP are available for public inspection at Royal Gorge Field Office, Bureau of Land Management, 3028 E. Main, Cañon City, CO 81212 or can be provided upon request by contacting BLM Project Manager John Smeins at jsmeins@blm.gov or 719-252-8212.

A copy of the Protest Resolution Report is available at: <https://www.blm.gov/programs/planning-and-nepa/public-participation/protest-resolution-reports>.

FOR FURTHER INFORMATION CONTACT: John Smeins, Project Manager, telephone 719-252-8212; address 3028 E Main St., Cañon City, CO 81212; email jsmeins@blm.gov. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services for contacting Mr. Smeins. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION: The BLM prepared the Eastern Colorado proposed RMP/final environmental impact statement (EIS) to evaluate and revise the management strategy for resources, resource uses, and special designations on public lands managed by the Royal Gorge Field Office, which is the planning area for the RMP. Existing management decisions for public lands and resources in the Royal Gorge Field Office are currently described in two documents: the 1986 Northeast RMP, as amended; and the 1996 Royal Gorge RMP, as amended.

The planning area encompasses approximately 35 million acres of land under various jurisdictions, including the BLM, U.S. Forest Service, National Park Service, State of Colorado, and local government, and private lands in 37 counties across south-central and eastern Colorado. The Browns Canyon National Monument is not part of the planning area for this RMP/EIS, as it is

the subject of a separate plan. The Eastern Colorado RMP will provide management direction for approximately 658,200 acres of BLM-administered surface land and approximately 3,311,900 acres of BLM-administered mineral estate. The decision area includes all BLM public lands and approximately 2,673,000 acres of split-estate Federal minerals on private, local government, and State lands. It does not include National Forest System land and other Federal land where the BLM does not make planning decisions about oil and gas management and other uses. The BLM typically adopts the requirements determined by those Federal surface-managing agencies when leasing the associated mineral estate; while such lands are within the planning area, they are outside the decision area for this RMP.

The approved RMP emphasizes balancing resources and resource use among competing human interests, land uses, and the conservation of natural and cultural resource values, while sustaining and enhancing ecological integrity across the landscape, including plant, wildlife, and fish habitat. This plan has four geographic landscapes with distinct management and incorporates a balanced level of protection, restoration, and enhancement, as well as the use of resources and services to meet ongoing programs and land uses with an emphasis on local community visions for the future of public lands.

Through this collaborative planning effort, the approved RMP describes the actions to guide future management and meet desired resource conditions. The preferred alternative for the draft plan was carried forward into the final with modifications.

The BLM provided the proposed RMP/final EIS on July 7, 2023, for a 30-day public protest period and received five protest letters. The BLM's Assistant Director for Resources and Planning resolved all protests. Responses to protest issues have been compiled and documented in a Protest Resolution Report (see **ADDRESSES**). No changes to the Eastern Colorado proposed RMP/EIS were necessary as a result of protests.

The BLM provided the proposed RMP/final EIS to the Governor of Colorado for a 60-day Governor's consistency review. No inconsistencies with State or local plans, policies, or programs were identified during the Governor's consistency review of the proposed RMP/final EIS. No changes to the Eastern Colorado proposed RMP/EIS were necessary as a result of the Governor's consistency review.

The decisions limiting camping are implementation decisions and are appealable under 43 CFR part 4. These decisions are contained in Tables II-16 and II-17 of the approved RMP. Any party adversely affected by the proposed camping limitations may appeal within 30 days of publication of this Notice of Availability pursuant to 43 CFR, part 4, subpart E. The appeal must be filed with the Royal Gorge Field Manager at the above listed address. Please consult the appropriate regulations (43 CFR, part 4, subpart E) for further appeal requirements.

(Authority: 40 CFR 1506.6, 40 CFR 1506.10, 43 CFR 1610.2)

Douglas J. Vilsack,

BLM Colorado State Director.

[FR Doc. 2024-00745 Filed 1-18-24; 8:45 am]

BILLING CODE 4331-16-P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[BLM_MT_FRN_MO4500177558]

Notice of Proposed Filing of Plats of Survey; South Dakota

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of proposed official filing.

SUMMARY: The plats of surveys for the lands described in this notice are scheduled to be officially filed 30 calendar days after the date of this publication in the BLM Montana State Office, Billings, Montana. The surveys, which were executed at the request of the Bureau of Indian Affairs, Great Plains Region, Aberdeen, South Dakota are necessary for the management of these lands.

DATES: A person or party who wishes to protest this decision must file a notice of protest in time for it to be received in the BLM Montana State Office no later than February 20, 2024.

ADDRESSES: A copy of the plats may be obtained from the Public Room at the BLM Montana State Office, 5001 Southgate Drive, Billings, Montana 59101, upon required payment. The plats may be viewed at this location at no cost.

FOR FURTHER INFORMATION CONTACT: Joshua Alexander, BLM Chief Cadastral Surveyor for South Dakota; telephone: (406) 896-5123; email: jalexand@blm.gov. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay

services for contacting Mr. Alexander. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION: The lands surveyed are:

Fifth Principal Meridian, South Dakota

T. 124 N., R. 53 W.,
Sec. 21.

A person or party who wishes to protest an official filing of a plat of survey identified earlier must file a written notice of protest with the BLM Chief Cadastral Surveyor for South Dakota at the address listed in the **ADDRESSES** section of this notice. The notice of protest must identify the plat(s) of survey that the person or party wishes to protest. The notice of protest must be received in the BLM Montana State Office no later than the date described in the **DATES** section of this notice; If received after regular business hours, a notice of protest will be considered filed the next business day. A written statement of reasons in support of the protest, if not filed with the notice of protest, must be filed with the BLM Chief Cadastral Surveyor for South Dakota within 30 calendar days after the notice of protest is received.

If a notice of protest of the plat(s) of survey is received prior to the scheduled date of official filing or during the 10 calendar day grace period provided in 43 CFR 4.401(a) and the delay in filing is waived, the official filing of the plat(s) of survey identified in the notice of protest will be stayed pending consideration of the protest. Upon receipt of a timely protest, and after a review of the protest, the Authorized Officer will issue a decision either dismissing or otherwise resolving the protest. A plat of survey will then be officially filed 30 days after the protest decision has been issued in accordance with 43 CFR part 4.

If a notice of protest is received after the date described in the **DATES** section of this notice and the 10-calendar-day grace period provided in 43 CFR 4.401(a), the notice of protest will be untimely, may not be considered, and may be dismissed.

Before including your address, phone number, email address, or other personal identifying information in a notice of protest or statement of reasons, you should be aware that the documents you submit—including your personal identifying information—may be made publicly available in their entirety at any time. While you can ask us to withhold your personal identifying information from public review, we

cannot guarantee that we will be able to do so.

(Authority: 43 U.S.C. chapter 3)

Joshua F. Alexander,
Chief Cadastral Surveyor for South Dakota.

[FR Doc. 2024-01033 Filed 1-18-24; 8:45 am]

BILLING CODE 4331-20-P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[BLM_NV_FRN_MO4500175965]

Notice of Availability of the Draft Environmental Impact Statement for the Libra Solar Project, Lyon and Mineral Counties, NV

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability.

SUMMARY: In compliance with the National Environmental Policy Act of 1969, as amended (NEPA), and the Federal Land Policy and Management Act of 1976, as amended (FLPMA), the Bureau of Land Management (BLM) announces the availability of the Draft Environmental Impact Statement (EIS) for the Libra Solar Project, Lyon and Mineral Counties, Nevada.

DATES: To afford the BLM the opportunity to consider comments in the final EIS, please ensure that the BLM receives your comments within 45 days following the date the Environmental Protection Agency (EPA) publishes its Notice of Availability (NOA) of the Draft EIS in the **Federal Register**. The EPA usually publishes its NOAs on Fridays.

ADDRESSES: The Draft EIS is available for review on the BLM National NEPA Register Website at <https://eplanning.blm.gov/eplanning-ui/project/2022592/570>.

Written comments related to the Libra Solar Project may be submitted by any of the following methods:

- **BLM National NEPA Register Website:** <https://eplanning.blm.gov/eplanning-ui/project/2022592/570>.
- **Email:** blm_nv_ccdo_libra_solar@blm.gov.
- **Mail:** Attn: Libra Solar Project, 5665 Morgan Mill Road, Carson City, Nevada 89701.

Documents pertinent to this proposal may be examined online at the BLM National NEPA Register website at <https://eplanning.blm.gov/eplanning-ui/project/2022592/570> and at the BLM Carson City District Office.

FOR FURTHER INFORMATION CONTACT: Melanie Hornsby, BLM Project Manager,

telephone (775) 885-6024; address 5665 Morgan Mill Road, Carson City, NV 89701; email blm_nv_ccdo_libra_solar@blm.gov. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services for contacting Ms. Hornsby. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION: Libra Solar LLC (Applicant) submitted a right-of-way (ROW) application to construct, operate, maintain, and decommission a 700-megawatt alternating current solar photovoltaic power generating facility with battery storage and associated components on approximately 5,114 acres of BLM-managed land in Mineral and Lyon counties, Nevada. The proposal also includes the development of a 24.1-mile-long generation tie line, of which 22.9 miles would be located on BLM managed lands, to connect the solar site to the Fort Churchill Substation in Lyon County. The total right-of-way requested for the project is 5,778 acres. The project would sit approximately 55 miles southeast of the Reno metropolitan area, 11 miles southeast of the town of Yerington, 7 miles west of U.S. Route 95, and 8 miles east of State Route 208.

Purpose and Need

The BLM's purpose and need is to respond to the ROW application submitted by the Applicant under FLPMA Title V (43 U.S.C. 1761) (serial number NVNV105844599, legacy serial number NVN-099846). The need for this action is to fulfill the BLM's responsibility under FLPMA and its ROW regulations to manage the public lands for multiple uses, including the generation of electric energy. FLPMA, as amended, established a multiple-use mandate for the BLM's management of Federal lands, including "systems for generation, transmission, and distribution of electric energy, except that the proponent shall also comply with all applicable requirements of the Federal Energy Regulatory Commission under the Federal Power Act, including part I thereof (41 Stat. 1063, 16 U.S.C. 791a-825r)." (43 U.S.C. 1761(a)(4)). The BLM must consider compliance with FLPMA, BLM ROW regulations, the BLM NEPA Handbook (BLM 2008), Department of Interior NEPA regulations, and other applicable Federal and State laws and policies.

Proposed Action and Alternatives, Including the Preferred Alternative

The BLM has analyzed the No Action Alternative, the proposed Action as submitted by the Applicant, and three action alternatives. Under the No Action Alternative, the solar facility, generation tie-line, battery storage, substation, and associated facilities would not be developed because the BLM would not issue the ROW grant. The three action alternatives analyzed in the draft EIS are as follows: Action Alternative 1: Major Drainage Avoidance, Fenced Corridors, and Vegetation and Topography Maintenance; Action Alternative 2: Alternative Supplemental Access During Construction; and Action Alternative 3: Alternative Gen-tie Connecting to proposed Greenlink West. Action Alternative 1 includes the use of specific construction methods to reduce impacts to vegetation, drainage, and topography within the solar array areas. Action Alternative 2 focuses on reduction of impacts associated with East Walker Road (the project's mostly unpaved access road) by providing supplemental access during construction. Action Alternative 3 entails connecting the generation tie-line from the project to the proposed Greenlink West Transmission Project through a new switching station under the proposed Greenlink West line, which would reduce impacts to air, vegetation, soils, wildlife, visual resources, and other resource areas from the 24.1-mile-long generation tie-line under the Proposed Action.

The BLM Preferred Alternative is a modification of the Proposed Action that combines Action Alternative 1 and Action Alternative 2 for the use of specific construction methods, as well as provides supplemental access to reduce total traffic on East Walker Road during construction. An overlay of Alternative 1 and Alternative 2 is the preferred alternative since it reduces many of the resource impacts, including to vegetation communities, wildlife, hydrology, and other resources. It also allows for faster and more successful restoration at decommissioning, allowing for future uses of the land under multiple use. Alternative 2 reduces traffic impacts as well. Several additional action alternatives were considered, including alternative sites, technologies, and methods, but were eliminated as described in Chapter 2: Proposed Action of the Draft EIS.

Design Features and Mitigation

This section includes Applicant-committed design features and mitigation measures. Key mitigation for

the project includes development of a Workforce Housing and Transportation Plan as well as Cooperative Services Agreements, since the project would bring a large construction workforce of a few hundred people into the Yerington area. The Workforce Housing and Transportation Plan would identify the housing options and allow the Applicant to plan construction housing needs that could alleviate the project's contribution to housing impacts. Alternative transportation options, including carpooling, park-and-ride, bus, shuttle, and other forms, would also be assessed to reduce the project's contribution to traffic impacts. The Cooperative Services Agreements would require the Applicant to coordinate with Mineral and Lyon counties to determine increased demands for services such as fire protection, law enforcement, and emergency medical services, and shall include a fee based on the likely point of service and estimated increases in service needs.

While no federally or State-listed threatened or endangered species have the potential to occur on-site that could be impacted by the project, several mitigation measures have been added to reduce effects to special status species, wildlife, and vegetation communities. These measures include development of a Site Restoration Plan and Integrated Weed Management Plan, development of a Worker Environmental Awareness Program, pre-construction surveys and avoidance where feasible for special status plants, and development of a Bird and Bat Conservation Strategy. To address conflicts with grazing permit holders, mitigation includes measures to work with the permit holder to provide infrastructure upgrades to move livestock around the solar facility.

Anticipated Permits and Authorizations

If approved, the BLM would issue a ROW for the project. The term for the ROW would be for 30 years.

Schedule for Decision-Making Process

The final EIS is anticipated to be available in summer 2024 with a Record of Decision in summer or fall 2024.

Public Involvement Process

The BLM will hold one virtual public meeting and one in-person public meeting during the public comment period. The BLM will announce the exact dates, times, and link for these meetings at least 15 days prior to the events. Announcements will be made by news release to the media and posting on the BLM National NEPA Register website: <https://eplanning.blm.gov/eplanning-ui/project/2022592/570>.

The BLM will continue to consult with Indian Tribal Nations on a government-to-government basis in accordance with Executive Order 13175, BLM MS 1780 and other Departmental policies. Tribal concerns, including impacts on Indian trust assets and potential impacts to cultural resources, will be given due consideration.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

(Authority: 40 CFR 1506.6, 40 CFR 1506.10)

Kimberly D. Dow,

Carson City District Manager.

[FR Doc. 2024-00656 Filed 1-18-24; 8:45 am]

BILLING CODE 4331-21-P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 332-602]

Apparel: Export Competitiveness of Certain Foreign Suppliers to the United States

AGENCY: United States International Trade Commission

ACTION: Notice of investigation and scheduling of a public hearing.

SUMMARY: Following receipt on December 20, 2023, of a request from the U.S. Trade Representative (the Trade Representative), under section 332(g) of the Tariff Act of 1930, the U.S. International Trade Commission (Commission) instituted Investigation No. 332-602, *Apparel: Export Competitiveness of Certain Foreign Suppliers to the United States*. The Trade Representative requested that the Commission conduct an investigation and prepare a report that examines the export competitiveness of the apparel industries in Bangladesh, Cambodia, India, Indonesia, and Pakistan, all of which are current leading suppliers to the U.S. market.

DATES:

February 21, 2024: Deadline for filing requests to appear at the public hearing.

February 23, 2024: Deadline for filing prehearing briefs and statements.

February 29, 2024: Deadline for filing electronic copies of oral hearing statements.

March 7, 2024: Public hearing.
March 22, 2024: Deadline for filing posthearing briefs, statements, and all other written submissions.

August 30, 2024: Transmittal of Commission report to the Trade Representative.

ADDRESSES: All Commission offices, including the Commission's hearing rooms, are located in the U.S. International Trade Commission Building, 500 E Street SW, Washington, DC. All written submissions should be addressed to the Secretary, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <https://edis.usitc.gov>.

FOR FURTHER INFORMATION CONTACT: Project Leader Alissa Tafti (202-205-3244 or alissa.tafti@usitc.gov) or Deputy Project Leaders Elizabeth Howlett (202-205-3458 or elizabeth.howlett@usitc.gov) and Junie Joseph (202-205-3363 or junie.joseph@usitc.gov) for information specific to this investigation. For information on the legal aspects of this investigation, contact Brian Allen (202-205-3034 or brian.allen@usitc.gov) or William Gearhart (202-205-3091 or william.gearhart@usitc.gov) of the Commission's Office of the General Counsel. The media should contact Jennifer Andberg, Office of External Relations (202-205-3404 or jennifer.andberg@usitc.gov). Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-205-1810. General information concerning the Commission may be obtained by accessing its internet address (<https://www.usitc.gov>). Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000.

SUPPLEMENTARY INFORMATION:

Background: As requested by the Trade Representative, the Commission has instituted an investigation under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)) to provide statistical and qualitative information on factors underlying the export competitiveness of the apparel industries in Bangladesh, Cambodia, India, Indonesia, and Pakistan, all of which are current leading suppliers to the U.S. market. Specifically, the Trade Representative has requested that the Commission prepare a report that provides:

- A comparison of the relative U.S. market share of each of the above-listed

suppliers currently (up to and including calendar year 2023, if available) and five (2018) and ten (2013) years ago; and an analysis of changing patterns in market share and trade including against other top suppliers, noting any significant shifts;

- Country-specific profiles of the apparel industries in the above-listed countries, including an assessment of the export competitiveness of each country in the U.S. market, using available statistical and qualitative information and taking into account major factors of competitiveness, including trade, industry structure, price and costs, product differentiation, and reliability;

- The profiles should include information on investment, vertical integration, duty-free access to the U.S. market, wages and labor productivity, and sourcing of inputs;

- A review of general literature on the key determinants driving export competitiveness in the global apparel industry, to the extent that it is relevant to conditions in the selected countries; and

- To the degree that additional data relevant to competitiveness are identified by the review of the literature and are available, these should be released as a data appendix accompanying the report.

As requested by the Trade Representative, the Commission will deliver the report no later than August 30, 2024. The Trade Representative asked that the Commission not include confidential business or national security classified information in its report. However, as detailed below, participants may submit confidential information to the Commission to inform its understanding of these issues, and such information will be protected in accordance with the Commission's *Rules of Practice and Procedure*. Participants are strongly encouraged to provide any supporting data and information along with their views.

Public Hearing: A public hearing in connection with this investigation will be held beginning at 9:30 a.m., March 7, 2024, in the Main Hearing Room of the U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. The hearing can also be accessed remotely using the WebEx videoconference platform. A link to the hearing will be posted on the Commission's website at <https://www.usitc.gov/calendarpad/calendar.html>.

Requests to appear at the hearing should be filed with the Secretary to the Commission no later than 5:15 p.m., February 21, 2024, in accordance with

the requirements in the "Written Submissions" section below. Any requests to appear as a witness via videoconference must be included with your request to appear. Requests to appear as a witness via videoconference must include a statement explaining why the witness cannot appear in person; the Chairman, or other person designated to conduct the investigation, may at their discretion for good cause shown, grant such requests. Requests to appear as a witness via videoconference due to illness or a positive COVID-19 test result may be submitted by 3 p.m. the business day prior to the hearing.

All prehearing briefs and statements should be filed no later than 5:15 p.m., February 23, 2024. To facilitate the hearing, including the preparation of an accurate written public transcript of the hearing, oral testimony to be presented at the hearing must be submitted to the Commission electronically no later than noon, February 29, 2024. All posthearing briefs and statements should be filed no later than 5:15 p.m., March 22, 2024. Posthearing briefs and statements should address matters raised at the hearing. For a description of the different types of written briefs and statements, see the "Definitions" section below.

In the event that, as of the close of business on February 21, 2024, no witnesses are scheduled to appear at the hearing, the hearing will be canceled. Any person interested in attending the hearing as an observer or nonparticipant should check the Commission website as indicated above for information concerning whether the hearing will be held.

Written Submissions: In lieu of or in addition to participating in the hearing, interested persons are invited to file written submissions concerning this investigation. All written submissions should be addressed to the Secretary, and should be received no later than 5:15 p.m., March 22, 2024. All written submissions must conform to the provisions of section 201.8 of the Commission's *Rules of Practice and Procedure* (19 CFR 201.8), as temporarily amended by 85 FR 15798 (March 19, 2020). Under that rule waiver, the Office of the Secretary will accept only electronic filings at 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 electronic filing should contact the Office of the Secretary, Docket Services Division (202–205–

1802), or consult the Commission's Handbook on Filing Procedures.

Definitions of types of documents that may be filed; Requirements: In addition to requests to appear at the hearing, this notice provides for the possible filing of four types of documents: prehearing briefs, oral hearing statements, posthearing briefs, and other written submissions.

(1) *Prehearing briefs* refers to written materials relevant to the investigation and submitted in advance of the hearing, and includes written views on matters that are the subject of the investigation, supporting materials, and any other written materials that you consider will help the Commission in understanding your views. You should file a prehearing brief particularly if you plan to testify at the hearing on behalf of an industry group, company, or other organization, and wish to provide detailed views or information that will support or supplement your testimony.

(2) *Oral hearing statements (testimony)* refers to the actual oral statement that you intend to present at the hearing. Do not include any confidential business information (CBI) in that statement. If you plan to testify, you must file a copy of your oral statement by the date specified in this notice. This statement will allow Commissioners to understand your position in advance of the hearing and will also assist the court reporter in preparing an accurate transcript of the hearing (e.g., names spelled correctly).

(3) *Posthearing briefs* refers to submissions filed after the hearing by persons who appeared at the hearing. Such briefs: (a) should be limited to matters that arose during the hearing; (b) should respond to any Commissioner and staff questions addressed to you at the hearing; (c) should clarify, amplify, or correct any statements you made at the hearing; and (d) may, at your option, address or rebut statements made by other participants in the hearing.

(4) *Other written submissions* refers to any other written submissions that interested persons wish to make, regardless of whether they appeared at the hearing, and may include new information or updates of information previously provided.

In accordance with the provisions of section 201.8 of the Commission's *Rules of Practice and Procedure* (19 CFR 201.8) the document must identify on its cover (1) the investigation number and title and the type of document filed (i.e., prehearing brief, oral statement of (name), posthearing brief, or written submission), (2) the name and signature of the person filing it, (3) the name of the organization that the submission is

filed on behalf of, and (4) whether it contains CBI. If it contains CBI, it must comply with the marking and other requirements set out below in this notice relating to CBI. Submitters of written documents (other than oral hearing statements) are encouraged to include a short summary of their position or interest at the beginning of the document, and a table of contents when the document addresses multiple issues.

Confidential Business Information:

Any submissions that contain CBI must also conform to the requirements of section 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6). Section 201.6 of the rules requires that the cover of the document and the individual pages be clearly marked as to whether they are the "confidential" or "nonconfidential" version, and that the CBI is clearly identified by means of brackets. All written submissions, except for CBI, will be made available for inspection by interested persons.

As requested by the Trade Representative, the Commission will not include any CBI in its report. However, all information, including CBI, submitted in this investigation may be disclosed to and used by: (i) 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) U.S. government employees and contract personnel for cybersecurity purposes. The Commission will not otherwise disclose any CBI in a way that would reveal the operations of the firm supplying the information.

Summaries of Written Submissions:

Persons wishing to have a summary of their position included in the report should include a summary with their written submission on or before March 22, 2024, and should mark the summary as having been provided for that purpose. The summary should be clearly marked as "summary for inclusion in the report" at the top of the page. The summary may not exceed 500 words and should not include any CBI. The summary will be published as provided if it meets these requirements and is germane to the subject matter of the investigation. The Commission will list the name of the organization furnishing the summary and will include a link where the written submission can be found.

By order of the Commission.

Issued: January 16, 2024.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2024-00999 Filed 1-18-24; 8:45 am]

BILLING CODE 7020-02-P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 731-TA-1602, 1604-1606 (Final)]

Tin Mill Products From the Netherlands, Taiwan, Turkey, and the United Kingdom Termination of Investigations

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: On January 10, 2024, the Department of Commerce published notice in the **Federal Register** of negative final determinations of less than fair value (LTFV) in connection with the subject investigations concerning the Netherlands, Taiwan, Turkey, and the United Kingdom. Accordingly, the antidumping duty investigations concerning tin mill products from the Netherlands, Taiwan, Turkey, and the United Kingdom (Investigation Nos. 731-TA-1602, 1604-1606 (Final)) are terminated.

DATES: January 10, 2024.

FOR FURTHER INFORMATION CONTACT:

Caitlyn Hendricks-Costello (202-205-2058), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000. General information concerning the Commission may also be obtained by accessing its internet server (<https://www.usitc.gov>). The public record for these investigations may be viewed on the Commission's electronic docket (EDIS) at <https://edis.usitc.gov>.

Notice of these determinations was published in the **Federal Register** on January 10, 2024 at 89 FR 1524, 89 FR 1526, 89 FR 1520, and 89 FR 1535.

Authority: These investigations are being terminated under authority of title VII of the Tariff Act of 1930 and pursuant to section 207.40(a) of the Commission's Rules of Practice and Procedure (19 CFR 207.40(a)). This

notice is published pursuant to section 201.10 of the Commission's rules (19 CFR 201.10).

By order of the Commission.

Issued: January 12, 2024.

Sharon Bellamy,

Supervisory Hearings and Information Officer.

[FR Doc. 2024-00911 Filed 1-18-24; 8:45 am]

BILLING CODE 7020-02-P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA-1311]

Bulk Manufacturer of Controlled Substances Application: Arista Biologicals

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of application.

SUMMARY: Arista Biologicals has applied to be registered as a bulk manufacturer of basic class(es) of controlled substance(s). Refer to **SUPPLEMENTARY INFORMATION** listed below for further drug information.

DATES: Registered bulk manufacturers of the affected basic class(es), and applicants therefore, may submit electronic comments on or objections to the issuance of the proposed registration on or before March 19, 2024. Such persons may also file a written request for a hearing on the application on or before March 19, 2024.

ADDRESSES: The Drug Enforcement Administration requires that all comments be submitted electronically through the Federal eRulemaking Portal, which provides the ability to type short comments directly into the comment field on the web page or attach a file for lengthier comments. Please go to <https://www.regulations.gov> and follow the online instructions at that site for submitting comments. Upon submission of your comment, you will receive a Comment Tracking Number. Please be aware that submitted comments are not instantaneously available for public view on <https://www.regulations.gov>. If you have received a Comment Tracking Number, your comment has been successfully submitted and there is no need to resubmit the same comment.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.33(a), this is notice that on November 28, 2023, Arista Biologicals, 1101 Hamilton Street, Allentown, Pennsylvania 18101-1043 applied to be registered as a bulk manufacturer of the following basic class(es) of controlled substance(s):

Controlled substance	Drug code	Schedule
4-Anilino-N-Phenethyl-4-Piperidine (ANPP).	8333	II
Norfentanyl (N-phenyl-N-(piperidin-4-yl) propionamide).	8366	II

The company plans to bulk manufacture the listed controlled substances for the internal use as intermediates for formulation and analytical development purposes. No other activities for these drug codes are authorized for this registration.

Claude Redd,

Acting Deputy Assistant Administrator.

[FR Doc. 2024-00994 Filed 1-18-24; 8:45 am]

BILLING CODE 4410-09-P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA-1310]

Bulk Manufacturer of Controlled Substances Application: Siegfried USA, LLC

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of application.

SUMMARY: Siegfried USA, LLC has applied to be registered as a bulk manufacturer of basic class(es) of controlled substance(s). Refer to **SUPPLEMENTARY INFORMATION** listed below for further drug information.

DATES: Registered bulk manufacturers of the affected basic class(es), and applicants therefore, may submit electronic comments on or objections to the issuance of the proposed registration on or before March 19, 2024. Such persons may also file a written request for a hearing on the application on or before March 19, 2024.

ADDRESSES: The Drug Enforcement Administration requires that all comments be submitted electronically through the Federal eRulemaking Portal, which provides the ability to type short comments directly into the comment field on the web page or attach a file for lengthier comments. Please go to <https://www.regulations.gov> and follow the online instructions at that site for submitting comments. Upon submission of your comment, you will receive a Comment Tracking Number. Please be aware that submitted comments are not instantaneously available for public view on <https://www.regulations.gov>. If you have received a Comment Tracking Number, your comment has been

successfully submitted and there is no need to resubmit the same comment.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.33(a), this is notice that on November 28, 2023, Siegfried USA, LLC, 33 Industrial Park Road, Pennsville, New Jersey 08070-3244, applied to be registered as a bulk manufacturer of the following basic class(es) of controlled substance(s):

Controlled substance	Drug code	Schedule
Gamma Hydroxybutyric Acid.	2010	I
Noroxymorphone	9145	I
Hydromorphinol	9301	I
Amphetamine	1100	II
Lisdexamfetamine	1205	II
Methylphenidate	1724	II
Amobarbital	2125	II
Pentobarbital	2270	II
Secobarbital	2315	II
Codeine	9050	II
Oxycodone	9143	II
Hydromorphone	9150	II
Hydrocodone	9193	II
Methadone	9250	II
Methadone intermediate ..	9254	II
Morphine	9300	II
Oripavine	9330	II
Thebaine	9333	II
Opium tincture	9630	II
Oxymorphone	9652	II
Tapentadol	9780	II

The company plans to bulk manufacture the listed controlled substances in bulk for sale to its customers. No other activities for these drug codes are authorized for this registration.

Claude Redd,

Acting Deputy Assistant Administrator.

[FR Doc. 2024-00990 Filed 1-18-24; 8:45 am]

BILLING CODE P

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Information Collection Activities; Comment Request

AGENCY: Bureau of Labor Statistics, Department of Labor.

ACTION: Notice of information collection; request for comment.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995. This

program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. The Bureau of Labor Statistics (BLS) is soliciting comments concerning the proposed revision of the International Price Program (IPP) U.S. Import and Export Price Indexes. A copy of the proposed information collection request can be obtained by contacting the individual listed below in the **ADDRESSES** section of this notice.

DATES: Written comments must be submitted to the office listed in the Addresses section of this notice on or before March 19, 2024.

ADDRESSES: Send comments to Nora Kincaid, BLS Clearance Officer, Division of Management Systems, Bureau of Labor Statistics, Room G225, 2 Massachusetts Avenue NE, Washington, DC 20212. Written comments also may be transmitted by email to BLS_PRA_Public@bls.gov.

FOR FURTHER INFORMATION CONTACT: Nora Kincaid, BLS Clearance Officer, at 202-691-7628 (this is not a toll free number). (See **ADDRESSES** section.)

SUPPLEMENTARY INFORMATION:

I. Background

The U.S. Import and Export Price Indexes, produced by the Bureau of Labor Statistics' International Price Program (IPP), measure price change over time for all categories of imported and exported products, as well as selected services. The IPP has produced the U.S. Import Price Indexes (MPI) continuously since 1973 and the U.S. Export Price Indexes (XPI) continuously since 1971. The Office of Management and Budget has listed the Import and Export Price Indexes (MXPI) as a Principal Federal Economic Indicator since 1982. The indexes are widely used in both the public and private sectors. The primary public sector use is the deflation of the U.S. monthly trade statistics and the quarterly estimates of U.S. Gross Domestic Product; the indexes also are used in formulating U.S. trade policy and in trade negotiations with other countries. In the private sector, uses of the Import Price Indexes include market analysis, inflation forecasting, contract escalation, and replacement cost accounting.

The MXPI are closely followed statistics and are viewed as a key indicator of the economic environment. The U.S. Department of Commerce uses the monthly statistics to produce monthly and quarterly estimates of

inflation-adjusted trade flows. Without continuation of data collection, it would be extremely difficult to construct accurate estimates of the U.S. Gross Domestic Product. In fact, a budget proposal to curtail publication of the export price indexes beginning in FY15 was not supported by the Commerce Department which explained that a viable substitute is not available.

Additionally, Federal policymakers in the Department of Treasury, the Council of Economic Advisers, and the Federal Reserve Board utilize these statistics on a regular basis to improve these agencies' formulation and evaluation of monetary and fiscal policy and evaluation of the general business environment.

II. Current Action

Office of Management and Budget clearance is being sought for a revision of the U.S. Import and Export Price Indexes information collection. The IPP revision is a transition from using survey data as a source of prices for approximately a third of the current sample of merchandise goods to using administrative data from the Census Bureau as an alternative source. This revision to data collection is in line with past actions to modernize data collection and to reduce reporter burden. Modernization was introduced in 2003 with the IPP web application. In 2018, paper surveys were eliminated, and the web application became the near universal method for respondents to update their data online and more rapidly than previously.

The IPP has implemented several systems changes over the years in order to reduce burden for web respondents. In 2019, the IPP adopted the use of a new web application format/layout. Previously, the web survey used separate pages for each part of the repricing process; now, the web application utilizes modal windows in combination with separate pages. In September 2022, the Program introduced new functionality (referred to internally as "Web Lite"), which allows respondents to upload files of price information without using a login; the files are reviewed by analysts who manually enter the price data into IPP's repricing application.

The current revision is focused on the planned implementation of an alternative data source for some of the Import and Export Price Indexes (MXPI); the data source is administrative data in the form of trade transaction records of shipments reported by U.S. importers and

exporters. Beginning in fiscal year 2025, the IPP will calculate unit value indexes based on the trade transaction records from the Department of Commerce for a range of homogenous commodity and product areas and will calculate upper level price indexes by blending these unit value indexes with directly collected survey data for the other product areas, to calculate and publish the MXPI for merchandise goods. This approach is based on new research and new statistical methods.

Historically, unit value indexes have not been considered a good substitute for directly collected data in the calculation of price indexes for any but the most homogenous of commodities. The use of unit value indexes in the statistical community has been limited to homogenous commodities due primarily to the potential for unit value bias, which is a measurement of a price trend that imprecisely measures price changes due to product composition or quality change, instead of price changes due to markets. Advances and improvements in coverage, accuracy, and level of detail of the trade transaction records have improved, and new statistical methods for addressing and mitigating unit value bias have recently been developed. The necessity to address a recent downward trend in IPP's traditional data collection, in light of these improvements, prompted the Program to consider the use of unit value indexes in the MXPI.

In 2018, the IPP launched a major research initiative to analyze the fitness for use of unit value indexes based on administrative trade data in place of directly collected data for more homogenous product areas. With the application of new methods for mitigating unit value bias, the IPP has constructed research import and export price indexes based on administrative trade data for January 2012 through December 2021. Comparison of the research data sets to official (published and unpublished) import and export price indexes were sufficiently robust to indicate that unit value indexes based on administrative trade data can be used in place of directly collected data for many of IPP's homogenous product price indexes. Additional details and research data sets are accessible from the MXP Research page (<https://www.bls.gov/mxp/data/research.htm>).

This new data source also allows for the expansion of published lower-level indexes and improves index quality; while the existing MXPI are based entirely on a modified Laspeyres formula (as current trade weights are not

available), the availability of current period weights in the administrative trade data allows the IPP to apply a Tornqvist formula to lower-level aggregates. (The Tornqvist formula is considered superior to the Laspeyres formula for handling substitution bias, a well-known problem for fixed-basket price indexes which do not account for consumer expenditure switching from relatively more expensive products to cheaper ones as prices change.)

In addition to the expansion of published indexes and improvement in index quality, the implementation of the unit value indexes will result in a considerable drop in respondent burden as fewer companies will be contacted because fewer survey-based prices will be needed to support publication of the MXPI. A detailed technical explanation regarding the use of the alternative administrative data source and the methodological approach used to integrate the data source into the official MXPI are available in IPP's **Federal Register** Notice published on September 11, 2023 (<https://www.federalregister.gov/documents/2023/09/11/2023-19486/comment-request>).

III. Desired Focus of Comments

The Bureau of Labor Statistics 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.

- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

Title of Collection: International Price Program (IPP) U.S. Import and Export Price Indexes.

OMB Number: 1220-0025.

Type of Review: Revision of a currently approved collection.

Affected Public: Private Sector, Business or other for-profits.

Form	Total respondents	Frequency	Total responses	Average time per response (hours)	Estimated total burden hours
Form 3008 .....	.....	Annually.	.....	.....	.....
Imports	900	.....	900	1.0	900
Exports	400	.....	400	1.0	400
Total	1,300	.....	1,300	.....	1,300
Repricing Form .....	.....	Monthly.	.....	.....	.....
Imports	1,200	8.8 ¹	10,560	² 4.777	5,045
Exports	850	9.0 ¹	7,650	³ 4.320	3,305
Total	2,050	.....	18,210	.....	8,350
Totals .....	.....	.....	19,510	.....	9,650

¹ During initiation, the respondent determines how many months he/she will need to supply data in a given year based upon how often the company changes its pricing information. The average company is requested to supply information 9.0 months per year for exports and 8.8 months per year for imports.

² Time to reprice is based upon 5 minutes of response time per item \times 5,732 items = 28,660 minutes/60 = 4.777 hours.

³ Time to reprice is based upon 5 minutes of response time per item \times 5,184 items = 25,920 minutes/60 = 4.320 hours.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they also will become a matter of public record.

Signed at Washington, DC, on this 12th day of January 2024.

Leslie Bennett,

Chief, Division of Management Systems.

[FR Doc. 2024-00940 Filed 1-18-24; 8:45 am]

BILLING CODE 4510-24-P

DEPARTMENT OF LABOR

Agency Information Collection Activities; Comment Request; Honoring Investments in Recruiting and Employing American Veterans (HIRE Vets) Medallion Program

AGENCY: Veterans' Employment and Training Service (VETS), United States Department of Labor (DOL).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the DOL is soliciting public comments regarding this VETS-sponsored information collection to the Office of Management and Budget (OMB) for review and approval.

DATES: Comments pertaining to this information collection are due on or before March 19, 2024.

ADDRESSES:

Electronic submission: You may submit comments and attachments electronically at <http://www.regulations.gov>. Follow the online instructions for submitting comments.

Mail submission: 200 Constitution Ave. NW, Room S-5315, Washington, DC 2020.

Comments are invited on: (1) whether the collection of information is necessary for the proper performance of the functions of the DOL, 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 DOL'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:

Randall Smith by telephone at 202-693-4745 (this is not a toll-free number) or by email at HIREVets@dol.gov.

SUPPLEMENTARY INFORMATION: The HIRE Vets Medallion Program is a voluntary employer recognition program administered by the Department of Labor—Veteran's Employment and Training Service (VETS). Through the HIRE Vets Medallion Program, VETS will solicit voluntary applications from employers for an award called the HIRE Vets Medallion Award. These awards are intended to recognize employer efforts to recruit, employ, and retain our Nation's veterans. All employers who employ at least one employee are eligible to apply for the Award.

This information collection is subject to the Paperwork Reduction Act (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.

The DOL seeks PRA authorization for this information collection for three (3) years. OMB authorization for an Information Collection Review cannot be for more than three (3) years without renewal. The DOL notes that currently approved information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review.

Agency: DOL-VETS.

Type of Review: Extension without changes.

Title of Collection: HIRE Vets Medallion Program.

OMB Control Number: 1293-0015.

Total Estimated Number of Respondents: 7,236.

Total Estimated Number of Responses: 34,711.

Total Estimated Annual Time Burden: 59,571 hours.

Total Estimated Annual Other Costs Burden: \$0.

Authority: 44 U.S.C. 3506(c)(2)(A).

Dated: January 12, 2024.

Julian Purdy,

Deputy Assistant Secretary, Veterans' Employment and Training Service.

[FR Doc. 2024-00937 Filed 1-18-24; 8:45 am]

BILLING CODE 4510-79-P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Humanities

Meeting of Humanities Panel

AGENCY: National Endowment for the Humanities; National Foundation on the Arts and the Humanities.

ACTION: Notice of meeting.

SUMMARY: The National Endowment for the Humanities (NEH) will hold one meeting of the Humanities Panel, a federal advisory committee, during

February 2024. The purpose of the meeting is for panel review, discussion, evaluation, and recommendation of applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965.

DATES: See **SUPPLEMENTARY INFORMATION** for the meeting date. The meeting will open at 8:30 a.m. and will adjourn by 5 p.m. on the date specified below.

FOR FURTHER INFORMATION CONTACT: Elizabeth Voyatzis, Committee Management Officer, 400 7th Street SW, Room 4060, Washington, DC 20506; (202) 606-8322; evoyatzis@neh.gov.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. 10), notice is hereby given of the following meeting:

1. Date: February 1, 2024

This video meeting will discuss applications for the National Digital Newspaper grant program, submitted to the Division of Preservation and Access.

Because this meeting will include review of personal and/or proprietary financial and commercial information given in confidence to the agency by grant applicants, the meeting will be closed to the public pursuant to sections 552b(c)(4) and 552b(c)(6) of Title 5, U.S.C., as amended. I have made this determination pursuant to the authority granted me by the Chair's Delegation of Authority to Close Advisory Committee Meetings dated April 15, 2016.

Dated: January 12, 2024.

Jessica Graves,

Paralegal Specialist, National Endowment for the Humanities.

[FR Doc. 2024-00957 Filed 1-18-24; 8:45 am]

BILLING CODE 7536-01-P

PEACE CORPS

Information Collection Request; Submission for OMB Review

AGENCY: Peace Corps.

ACTION: 60-Day notice and request for comments.

SUMMARY: The Peace Corps will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval. The purpose of this notice is to allow 60 days for public comment in the **Federal Register** preceding submission to OMB. We are conducting this process in accordance with the Paperwork Reduction Act of 1995.

DATES: Submit comments on or before March 19, 2024.

ADDRESSES: Comments should be addressed to James Olin, FOIA/Privacy Act Officer. James Olin can be contacted by email at pcf@peacecorps.gov or by telephone at (202) 692-2507. Email comments must be made in text and not in attachments.

FOR FURTHER INFORMATION CONTACT:

James Olin, Peace Corps, at pcf@peacecorps.gov or by telephone at (202) 692-2507.

SUPPLEMENTARY INFORMATION:

Title: Peace Corps Returned Volunteer Impact Survey.

OMB Number: 0420-0569.

Type of Request: Reapproval.

Affected Public: Individuals.

Respondents Obligation to Reply: Voluntary.

Burden to the Public:

Estimated burden (hours) of the collection of information:

a. *Number of respondents:* 966.

b. *Frequency of response:* 1 time.

c. *Completion time:* 15 minutes.

d. *Annual burden hours:* 242 hours.

General Description of Collection:

Information will be collected from a sample of Returned Peace Corps Volunteers (RPCVs) through an online survey that will be administered by the Peace Corps. As mandated by the Sam Farr and Nick Castle Peace Corps Reform Act of 2018 (22 U.S.C. 2501; Pub. L. 115-256, section 1(a), Oct. 9, 2018, 132 Stat. 3650), the Peace Corps will conduct the survey to assess the impact of the Peace Corps on the RPCV, including the RPCV's well-being, career, civic engagement, and commitment to public service. By measuring and documenting such impact, the agency will have data that allows it to assess the continuing impact of the Peace Corps on American society, through the lives and careers that Peace Corps Volunteers build after they return to the United States from Peace Corps service. The online survey was previously administered in 2020 and 2022. Peace Corps is seeking approval to administer the survey to a new subset of RPCVs in Fall 2024.

Request for Comment: The Peace Corps invites comments on whether the proposed collections of information are necessary for proper performance of the functions of the Peace Corps, including whether the information will have practical use; the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity 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 automated collection techniques, when

appropriate, and other forms of information technology.

This notice is issued in Washington, DC, on January 16, 2024.

James Olin,

FOIA/Privacy Act Officer.

[FR Doc. 2024-00982 Filed 1-18-24; 8:45 am]

BILLING CODE 6051-01-P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2024-165 and CP2024-171; MC2024-166 and CP2024-172; MC2024-167 and CP2024-173; MC2024-168 and CP2024-174]

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:* January 23, 2024.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at <http://www.prc.gov>. Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

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

SUPPLEMENTARY INFORMATION:

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- I. Introduction
- II. Docketed Proceeding(s)

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 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)*: MC2024–165 and CP2024–171; *Filing Title*: USPS Request to Add Priority Mail & USPS Ground Advantage Contract 174 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date*: January 12, 2024; *Filing Authority*: 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative*: Jennaca D. Upperman; *Comments Due*: January 23, 2024.

2. *Docket No(s)*: MC2024–166 and CP2024–172; *Filing Title*: USPS Request to Add Priority Mail Express International, Priority Mail International & First-Class Package International Service Contract 35 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date*: January 12, 2024; *Filing Authority*: 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative*: Jennaca D. Upperman; *Comments Due*: January 23, 2024.

3. *Docket No(s)*: MC2024–167 and CP2024–173; *Filing Title*: USPS Request to Add Priority Mail & USPS Ground Advantage Contract 175 to Competitive

Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date*: January 12, 2024; *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*: January 23, 2024.

4. *Docket No(s)*: MC2024–168 and CP2024–174; *Filing Title*: USPS Request to Add Priority Mail Express, Priority Mail & USPS Ground Advantage Contract 43 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date*: January 12, 2024; *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*: January 23, 2024.

This Notice will be published in the **Federal Register**.

Erica A. Barker,
Secretary.

[FR Doc. 2024–01011 Filed 1–18–24; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL REGULATORY COMMISSION

[Docket No. T2024–1; Order No. 6939]

Income Tax Review

AGENCY: Postal Regulatory Commission.
ACTION: Notice.

SUMMARY: The Commission is recognizing a recent Postal Service filing concerning the calculation of the assumed Federal income tax on competitive products income for Fiscal Year 2023. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* March 5, 2024.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at <https://www.prc.gov>. Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

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

SUPPLEMENTARY INFORMATION:

Table of Contents

- I. Introduction
- II. Notice of Commission Action
- III. Ordering Paragraphs

I. Introduction

In accordance with 39 U.S.C. 3634 and 39 CFR 3060.40 *et seq.*, the Postal

Service filed its calculation of the assumed Federal income tax on Competitive products income for Fiscal Year (FY) 2023.¹ The calculation details the FY 2023 Competitive product revenue and expenses, the Competitive products net income before tax, and the assumed Federal income tax on that net income.

II. Notice of Commission Action

In accordance with 39 CFR 3060.42, the Commission establishes Docket No. T2024–1 to review the calculation of the assumed Federal income tax and supporting documentation.

The Commission invites comments on whether the Postal Service's filing in this docket is consistent with the policies of 39 U.S.C. 3634 and 39 CFR 3060.40 *et seq.* Comments are due no later than March 5, 2024. The Postal Service's filing can be accessed via the Commission's website (<https://www.prc.gov>).

The Commission appoints Jennaca D. Upperman to serve as Public Representative in this docket.

III. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket No. T2024–1 to consider the calculation of the assumed Federal income tax on Competitive products for FY 2023.

2. Pursuant to 39 U.S.C. 505, Jennaca D. Upperman is appointed to serve as an officer of the Commission to represent the interests of the general public in this proceeding (Public Representative).

3. Comments are due no later than March 5, 2024.

4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Jennie L. Jbara,
Alternate Certifying Officer.

[FR Doc. 2024–00944 Filed 1–18–24; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL SERVICE

Product Change—Priority Mail and USPS Ground Advantage® Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a

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).

¹ See Notice of the United States Postal Service of Submission of the Calculation of the FY 2023 Assumed Federal Income Tax on Competitive Products, January 11, 2024.

domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of required notice:* January 19, 2024.

FOR FURTHER INFORMATION CONTACT: Sean Robinson, 202–268–8405.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on January 9, 2024, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail & USPS Ground Advantage® Contract 171 to Competitive Product List*. Documents are available at www.prc.gov, Docket Nos. MC2024–162, CP2024–168.

Sean Robinson,
Attorney, Corporate and Postal Business Law.
[FR Doc. 2024–00932 Filed 1–18–24; 8:45 am]
BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail Express, Priority Mail, and USPS Ground Advantage® Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of required notice:* January 19, 2024.

FOR FURTHER INFORMATION CONTACT: Sean C. Robinson, 202–268–8405.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on January 12, 2024, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail Express, Priority Mail & USPS Ground Advantage® Contract 43 to Competitive Product List*. Documents are available at www.prc.gov, Docket Nos. MC2024–168, CP2024–174.

Sean C. Robinson,
Attorney, Corporate and Postal Business Law.
[FR Doc. 2024–00947 Filed 1–18–24; 8:45 am]
BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail, USPS Ground Advantage® & Parcel Select Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of required notice:* January 19, 2024.

FOR FURTHER INFORMATION CONTACT: Sean Robinson, 202–268–8405.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on January 8, 2024, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail, USPS Ground Advantage® & Parcel Select Contract 3 to Competitive Product List*. Documents are available at www.prc.gov, Docket Nos. MC2024–161, CP2024–167.

Sean Robinson,
Attorney, Corporate and Postal Business Law.
[FR Doc. 2024–00931 Filed 1–18–24; 8:45 am]
BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail and USPS Ground Advantage® Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of required notice:* January 19, 2024.

FOR FURTHER INFORMATION CONTACT: Sean Robinson, 202–268–8405.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on January 10, 2024, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail & USPS Ground Advantage® Contract 172 to Competitive Product List*. Documents

are available at www.prc.gov, Docket Nos. MC2024–163, CP2024–169.

Sean Robinson,
Attorney, Corporate and Postal Business Law.
[FR Doc. 2024–00933 Filed 1–18–24; 8:45 am]
BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail and USPS Ground Advantage® Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of required notice:* January 19, 2024.

FOR FURTHER INFORMATION CONTACT: Sean Robinson, 202–268–8405.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on January 10, 2024, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail & USPS Ground Advantage® Contract 173 to Competitive Product List*. Documents are available at www.prc.gov, Docket Nos. MC2024–164, CP2024–170.

Sean Robinson,
Attorney, Corporate and Postal Business Law.
[FR Doc. 2024–00934 Filed 1–18–24; 8:45 am]
BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail and USPS Ground Advantage® Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of required notice:* January 19, 2024.

FOR FURTHER INFORMATION CONTACT: Sean Robinson, 202–268–8405.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C.

3642 and 3632(b)(3), on January 12, 2024, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail & USPS Ground Advantage® Contract 174 to Competitive Product List*. Documents are available at www.prc.gov, Docket Nos. MC2024–165, CP2024–171.

Sean Robinson,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2024–00935 Filed 1–18–24; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail and USPS Ground Advantage® Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List. **DATES:** *Date of required notice:* January 19, 2024.

FOR FURTHER INFORMATION CONTACT:

Sean Robinson, 202–268–8405.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on January 12, 2024, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail & USPS Ground Advantage® Contract 175 to Competitive Product List*. Documents are available at www.prc.gov, Docket Nos. MC2024–167, CP2024–173.

Sean Robinson,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2024–00936 Filed 1–18–24; 8:45 am]

BILLING CODE 7710–12–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. IA–6529]

Notice of Intention To Cancel Registrations of Certain Investment Advisers Pursuant to Section 203(H) of the Investment Advisers Act of 1940

January 12, 2024.

Notice is given that the Securities and Exchange Commission (the “Commission”) intends to issue an order, pursuant to section 203(h) of the Investment Advisers Act of 1940 (the “Act”), cancelling the registrations of

the investment advisers whose names appear in the attached Appendix, hereinafter referred to as the “registrants.”

Section 203(h) of the Act provides, in pertinent part, that if the Commission finds that any person registered under section 203, or who has pending an application for registration filed under that section, is no longer in existence, is not engaged in business as an investment adviser, or is prohibited from registering as an investment adviser under section 203A, the Commission shall by order cancel the registration of such person.

Each registrant listed in the attached Appendix either (a) has not filed a Form ADV amendment with the Commission as required by rule 204–1 under the Act¹ and appears to be no longer engaged in business as an investment adviser or (b) has indicated on Form ADV that it is no longer eligible to remain registered with the Commission as an investment adviser but has not filed Form ADV–W to withdraw its registration. Accordingly, the Commission believes that reasonable grounds exist for a finding that these registrants are no longer in existence, are not engaged in business as investment advisers, or are prohibited from registering as investment advisers under section 203A, and that their registrations should be cancelled pursuant to section 203(h) of the Act.

Notice is also given that any interested person may, by February 6, 2024, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the cancellation of the registration of any registrant listed in the attached Appendix, accompanied by a statement as to the nature of such person's interest, the reason for such person's request, and the issues, if any, of fact or law proposed to be controverted, and the writer may request to be notified if the Commission should order a hearing thereon. Any such communication should be emailed to the Commission's Secretary at Secretaries-Office@sec.gov.

At any time after February 6, 2024, the Commission may issue an order or orders cancelling the registrations of any or all of the registrants listed in the attached Appendix, upon the basis of the information stated above, unless an order or orders for a hearing on the cancellation shall be issued upon request or upon the Commission's own motion. Persons who requested a

¹ Rule 204–1 under the Act requires any adviser that is required to complete Form ADV to amend the form at least annually and to submit the amendments electronically through the Investment Adviser Registration Depository.

hearing, or who requested to be advised as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof. Any registrant whose registration is cancelled under delegated authority may appeal that decision directly to the Commission in accordance with rules 430 and 431 of the Commission's rules of practice (17 CFR 201.430 and 431).

ADDRESSES: The Commission: Secretaries-Office@sec.gov.

FOR FURTHER INFORMATION CONTACT: Matthew Cook, Senior Counsel, at 202–551–6825; Division of Investment Management, Chief Counsel's Office, 100 F Street NE, Washington, DC 20549–8549.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.²

Sherry R. Haywood,
Assistant Secretary.

Appendix

SEC No.	Full legal name
801–71955	HNW MANAGEMENT INC.
801–77029	TAYLOR, BERNARD.
801–81137	STADDEN FORBES WEALTH MANAGEMENT LTD.
801–110315	YCAP ASSET MANAGEMENT SA.
801–111825	WESTOR COMPLIANCE SERVICES LLC.
801–117520	MICKEY BARRETO MISSIONS.
801–71553	VII PEAKS CAPITAL LLC.

[FR Doc. 2024–00941 Filed 1–18–24; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 35090; File No. 812–15477]

GC Advisors LLC and Golub Capital Private Credit Fund

January 16, 2024.

AGENCY: Securities and Exchange Commission (“Commission” or “SEC”).

ACTION: Notice.

Notice of an application under section 6(c) of the Investment Company Act of 1940 (the “Act”) for an exemption from sections 18(a)(2), 18(c), 18(i) and section 61(a) of the Act.

SUMMARY OF APPLICATION: Applicants request an order to permit certain closed-end management investment companies that have elected to be regulated as business development companies to issue multiple classes of

² 17 CFR 200.30–5(e)(2).

shares with varying sales loads and asset-based distribution and/or service fees.

APPLICANTS: GC Advisors LLC and Golub Capital Private Credit Fund.

FILING DATES: The application was filed on July 3, 2023, and amended on September 28, 2023.

HEARING OR NOTIFICATION OF HEARING:

An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing on any application by emailing the SEC's Secretary at Secretaries-Office@sec.gov and serving the Applicants with a copy of the request by email, if an email address is listed for the relevant applicant below, or personally or by mail, if a physical address is listed for the relevant Applicant below. Hearing requests should be received by the Commission by 5:30 p.m. on February 12, 2024, and should be accompanied by proof of service on Applicants, in the form of an affidavit or, for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by emailing the Commission's Secretary.

ADDRESSES: The Commission: Secretaries-Office@sec.gov. The Applicants: Joshua M. Levinson, jlevinson@golubcapital.com and Nathan Briggs, Nathan.Briggs@stblaw.com.

FOR FURTHER INFORMATION CONTACT: Shayna Gilmore, Senior Counsel, or Kyle R. Ahlgren, Branch Chief, at (202) 551–6825 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: For Applicants' representations, legal analysis, and condition, please refer to Applicants' amended and restated application, dated September 28, 2023, which may be obtained via the Commission's website by searching for the file number at the top of this document, or for an Applicant using the Company name search field, on the SEC's EDGAR system. The SEC's EDGAR system may be searched at <https://www.sec.gov/edgar/searchedgar/legacy/companysearch.html>. You may also call the SEC's Public Reference Room at (202) 551–8090.

For the Commission, by the Division of Investment Management, under delegated authority.

Sherry R. Haywood,
Assistant Secretary.

[FR Doc. 2024–01022 Filed 1–18–24; 8:45 am]

BILLING CODE 8011–01–P

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

AGENCY: Small Business Administration.

ACTION: 30-Day notice.

SUMMARY: The Small Business Administration (SBA) is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act and OMB procedures, SBA is publishing this notice to allow all interested members of the public an additional 30 days to provide comments on the proposed collection of information.

DATES: Submit comments on or before February 20, 2024.

ADDRESSES: Written comments and recommendations for this information collection request should be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find this particular information collection request by selecting “Small Business Administration”; “Currently Under Review,” then select the “Only Show ICR for Public Comment” checkbox. This information collection can be identified by title and/or OMB Control Number.

FOR FURTHER INFORMATION CONTACT: You may obtain a copy of the information collection and supporting documents from the Agency Clearance Office at Curtis.Rich@sba.gov; (202) 205–7030, or from www.reginfo.gov/public/do/PRAMain.

SUPPLEMENTARY INFORMATION: To obtain the information needed to carry out its oversight and risk management responsibilities under the Small Business Investment Act of 1958, as amended (the Act), the SBA requires applicants to the Small Business Investment Company (SBIC) program to submit information necessary for SBA to make decisions regarding the approval or denial of an applicant for an SBIC license. SBA uses this information to assess an applicant's ability to successfully operate an SBIC within the scope of the Act.

Solicitation of Public Comments:

Comments may be submitted on (a) whether the collection of information is necessary for the Agency to properly perform its functions; (b) whether the burden estimates are accurate; (c) whether there are ways to minimize the burden, including through the use of automated techniques or other forms of information technology; and (d) whether there are ways to enhance the quality, utility, and clarity of the information.

OMB Control Number: 3245–0062.

Title: SBIC Management Assessment Questionnaire (MAQ) and License Application.

Description of Respondents: Small Business Investment Company Applicants.

SBA Form Number: 2181 (Short Form, Long Form, and Subsequent Fund MAQ).

Estimated Number of Respondents: 275.

Estimated Annual Responses: 275.

Estimated Annual Hour Burden: 17,750.

Curtis Rich,

Agency Clearance Officer.

[FR Doc. 2024–01020 Filed 1–18–24; 8:45 am]

BILLING CODE 8026–09–P

DEPARTMENT OF STATE

[Public Notice: 12304]

Notice of Public Meeting in Preparation for the Eleventh Session of the International Maritime Organization (IMO) Sub-Committee on Pollution Prevention and Response (PPR 11)

The Department of State will conduct a public meeting at 1:00 p.m. EST on Tuesday, February 06, 2024, virtually via Microsoft Teams. The primary purpose of the meeting is to prepare for the eleventh session of the IMO Sub-Committee on Pollution Prevention and Response (PPR 11) to be held at IMO Headquarters in London, United Kingdom from February 19th to 23rd, 2024.

Members of the public may participate up to the capacity of the Microsoft Teams line. To RSVP, participants should contact the meeting coordinator, Ms. Nicole M. Schindler, by email at Nicole.M.Schindler@uscg.mil. Ms. Schindler will provide access information for the virtual attendance.

—The agenda items to be considered at this meeting mirror those to be considered at PPR 11, and include:
—Adoption of the agenda;
—Decisions of other IMO bodies;
—Safety and pollution hazards of chemicals and preparation of

consequential amendments to the IBC Code;

- Amendments to MARPOL Annex II in order to improve the effectiveness of cargo tank stripping, tank washing operations and prewash procedures for products with a high melting point and/or high viscosity;
- Development of guidance on matters relating to in-water cleaning;
- Reduction of the impact on the Arctic of Black Carbon emissions from international shipping;
- Evaluation and harmonization of rules and guidance on the discharge of discharge water from EGCS into the aquatic environment, including conditions and areas;
- Development of amendments to MARPOL Annex VI and the NO_x Technical Code on the use of multiple engine operational profiles for a marine diesel engine test cycles;
- Development of a guide compiling best practices to develop local-level marine spill contingency plans to aid States, particularly local governments and key institutions, in implementing the OPRC Convention and OPRC–HNS Protocol;
- Development of measures to reduce risks of use and carriage of heavy fuel oil as fuel by ships in Arctic waters (7.11);
- Review of the IBTS Guidelines and amendments to the IOPP Certificate and Oil Record Book (2.13);
- Revision of MARPOL Annex IV and associated guidelines (1.26);
- Follow-up work emanating from the Action Plan to address marine plastic litter from ships (4.3);
- Unified interpretation of provisions of IMO environment-related conventions (7.1);
- Biennial agenda and provisional agenda for PPR 11;
- Election of Chair and Vice-Chair for 2024;
- Any other business; and
- Report to the Marine Environment Protection Committee.

Please note: The IMO may, on short notice, adjust the PPR 11 agenda to accommodate the constraints associated with the meeting format. Any changes to the agenda will be reported to those who RSVP.

Those who plan to participate should contact the meeting coordinator, Ms. Nicole M. Schindler, by email at Nicole.M.Schindler@uscg.mil, by phone at (202) 372–1403, or in writing at United States Coast Guard (CG–OES), ATTN: Ms. Nicole M. Schindler, 2703 Martin Luther King Jr. Ave. SE, Stop 7509, Washington DC 20593–7509, not later than Thursday, February 1, 2024.

Additional information regarding this and other IMO public meetings may be found at: <https://www.dco.uscg.mil/IMO>.

(Authority: 22 U.S.C. 2656 and 5 U.S.C. 552)

Leslie W. Hunt,

Coast Guard Liaison Officer, Office of Ocean and Polar Affairs, Department of State.

[FR Doc. 2024–00975 Filed 1–18–24; 8:45 am]

BILLING CODE 4710–09–P

DEPARTMENT OF STATE

[Public Notice: 12308]

Notice of Determinations; Culturally Significant Object Being Imported for Exhibition—Determinations: “George Gershwin and Modern Art: A Rhapsody in Blue” Exhibition

SUMMARY: Notice is hereby given of the following determinations: I hereby determine that a certain object being imported from abroad pursuant to an agreement with its foreign owner or custodian for temporary display in the exhibition “George Gershwin and Modern Art: A Rhapsody in Blue” at Artis—Naples, The Baker Museum, in Naples, Florida, and at possible additional exhibitions or venues yet to be determined, is of cultural significance, and, further, that its temporary exhibition or display within the United States as aforementioned is in the national interest. I have ordered that Public Notice of these determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT:

Reed Liriano, Program Coordinator, Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6471; email: section2459@state.gov). The mailing address is U.S. Department of State, L/PD, 2200 C Street NW (SA–5), Suite 5H03, Washington, DC 20522–0505.

SUPPLEMENTARY INFORMATION: The foregoing determinations were made pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236–3 of August 28, 2000, and Delegation of

Authority No. 523 of December 22, 2021.

Nicole L. Elkon,

Deputy Assistant Secretary for Professional and Cultural Exchanges, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2024–00962 Filed 1–18–24; 8:45 am]

BILLING CODE 4710–05–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Notice of Conforming Amendment To Reinstated Exclusion: China’s Acts, Policies and Practices Related to Technology Transfer, Intellectual Property, and Innovation

AGENCY: Office of the United States Trade Representative (USTR).

ACTION: Notice.

SUMMARY: Effective January 1, 2024, the U.S. International Trade Commission (USITC) implemented certain changes to statistical reporting categories in the Harmonized Tariff Schedule of the United States (HTSUS). As a result of these changes, USTR is making a conforming amendment to one previously reinstated exclusion associated with the Section 301 investigation of China Acts, Policies and Practices Related to Technology Transfer, Intellectual Property, and Innovation.

DATES: The conforming amendment in the Annex to this notice is applicable as of January 1, 2024. Customs and Border Protection (CBP) will issue instructions on entry guidance and implementation.

FOR FURTHER INFORMATION CONTACT: For general questions about this notice, contact Senior Associate General Counsel Philip Butler or Assistant General Counsel Rachel Hasandras at (202) 395–5725. For specific questions on customs classification or implementation of the product exclusion identified in the Annex to this notice, contact traderemedy@cbp.dhs.gov.

SUPPLEMENTARY INFORMATION:

A. Background

Effective January 1, 2024, the USITC implemented certain changes to ten-digit statistical reporting categories of the HTSUS in accordance with its responsibility under section 484(f) of the Tariff Act of 1930, 19 U.S.C. 1484(f). One of the previously reinstated exclusions in the Section 301 investigation of China’s Acts, Policies and Practices Related to Technology Transfer, Intellectual Property, and

Innovation, as set out at 87 FR 17380 (March 28, 2022), is affected by the amended statistical reporting categories.

B. Conforming Amendment To Reinstated Exclusion Extension

To maintain the pre-existing product coverage of the China 301 actions, one conforming amendment to the corresponding note provision in the HTSUS is required. In particular, the Annex to this notice makes one conforming amendment to U.S. note 20(ttt)(iii)(27) to subchapter III of chapter 99 of the HTSUS, as set out in the Annex at 87 FR 17380 (March 28, 2022).

Annex

Effective with respect to goods entered for consumption, or withdrawn from the warehouse for consumption, on or after 12:01 a.m. eastern standard time on January 1, 2024, and before 11:59 p.m. eastern daylight time on May 31, 2024, U.S. note 20(ttt)(iii)(27) to subchapter III of Chapter 99 of the Harmonized Tariff Schedule of the United States is amended by deleting “2929.90.5090” and by inserting “2929.90.5090 prior to January 1, 2024; described in statistical reporting number 2929.90.5095 effective January 1, 2024” in lieu thereof.

Juan Millan,

Acting General Counsel, Office of the United States Trade Representative.

[FR Doc. 2024–01023 Filed 1–18–24; 8:45 am]

BILLING CODE 3390–F4–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2010–0027]

Hours of Service of Drivers: WestRock Application for Renewal of Exemption

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), Department of Transportation (DOT).

ACTION: Notice of provisional renewal of exemption; request for comments.

SUMMARY: FMCSA announces its decision to provisionally renew the exemption currently held by WestRock from the hours-of-service (HOS) regulations that prohibit drivers from operating property-carrying commercial motor vehicles (CMVs) after 14 hours on duty and require 10 hours off duty before resuming driving. FMCSA renews this limited exemption for WestRock’s shipping department employees and occasional substitute

commercial driver’s license (CDL) holders who transport paper mill products short distances on a public road between its shipping and receiving locations. The exemption is restricted to a specific route, measuring less than 300 feet in one direction, in Chattanooga, Tennessee. This exemption will allow these individuals to occasionally work up to 16 consecutive hours and be allowed to return to work with less than the mandatory 10 consecutive hours off duty. The Agency previously determined that the CMV operations of WestRock’s drivers under this exemption would likely maintain a level of safety equivalent to or greater than the level of safety that would be achieved in the absence of the exemption. The exemption renewal is for 5 years.

DATES: This renewed exemption is effective from April 17, 2024, and expires on April 16, 2029. Comments must be received on or before February 20, 2024.

ADDRESSES: You may submit comments identified by Federal Docket Management System Number FMCSA–2010–0027 by any of the following methods:

- *Federal eRulemaking Portal:* www.regulations.gov. See the Public Participation and Request for Comments section below for further information.
- *Mail:* Dockets Operations, 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, Washington, DC 20590–0001 between 9 a.m. and 5 p.m. E.T., Monday through Friday, except Federal holidays.
- *Fax:* (202) 493–2251.

Each submission must include the Agency name and the docket number for this notice (FMCSA–2010–0027). Note that DOT posts all comments received without change to www.regulations.gov, including any personal information included in a comment. Please see the Privacy Act heading below.

Docket: For access to the docket to read background documents or comments, go to www.regulations.gov at any time or visit the ground level of the U.S. Department of Transportation, West Building, at 1200 New Jersey Avenue SE, Washington, DC 20590–0001 between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366–9317 or (202) 366–9826 before visiting Dockets Operations.

Privacy Act: In accordance with 49 U.S.C. 31315(b)(6), DOT solicits comments from the public on the exemption renewal request. DOT posts these comments, including any personal information the commenter provides, to www.regulations.gov, as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed under the “Department Wide System of Records Notices” at www.dot.gov/privacy/privacy-act-system-records-notices. The comments are searchable by the name of the submitter and are posted without edit.

FOR FURTHER INFORMATION CONTACT:

Pearlie Robinson, Driver and Carrier Operations Division; Office of Carrier, Driver and Vehicle Safety Standards; FMCSA; (202) 366–4225; pearlie.robinson@dot.gov. If you have questions on viewing or submitting material to the docket, contact Dockets Operations, (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation and Request for Comments

FMCSA encourages you to participate by submitting comments and related materials.

Submitting Comments

If you submit a comment, please include the docket number for this notice (FMCSA–2010–0027), indicate the specific section of this document to which the comment applies and provide a reason for suggestions or recommendations. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so the Agency can contact you if it has questions regarding your submission.

To submit your comment online, go to www.regulations.gov and put the docket number FMCSA–2010–0027 in the “Search” box, and click “Search.” When the new screen appears, click on “Documents” button, then click the “Comment” button associated with the latest notice posted. Another screen will appear, on which you will insert the required information. Choose whether you are submitting your comment as an individual, an organization, or anonymous. Click “Submit Comment.”

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to

know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope. FMCSA will consider all comments and material received during the comment period.

II. Legal Basis

FMCSA has authority under 49 U.S.C. 31136(e) and 31315 to grant exemptions from the Federal Motor Carrier Safety Regulations. FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public an opportunity to inspect the information relevant to the application, including any safety analyses that have been conducted. The Agency must also provide an opportunity for public comment on the request.

The Agency reviews the safety analyses and the public comments, and determines whether granting the exemption would likely maintain a level of safety equivalent to, or greater than, the level that would be achieved by the current regulation (49 CFR 381.305).

The Agency must publish the decision in the **Federal Register** (49 CFR 381.315(b)), including the reason for the grant or denial; if granted, the specific person or class of persons receiving the exemption; and the regulatory provision or provisions from which exemption is granted. The notice must also specify the effective period of the exemption (up to 5 years) and explain the terms and conditions of the exemption. The exemption may be renewed for up to 5 years pursuant to 49 CFR 381.300(b). WestRock has requested a five-year extension of the current exemption in Docket No. FMCSA–2010–0027.

III. Background

Current Regulatory Requirements

Under 49 CFR 395.3(a)(2) non-short haul drivers may not drive after having been on duty for a period of 14 consecutive hours until they have been off duty for a minimum of 10 consecutive hours, or the equivalent of at least 10 consecutive hours off duty. However, certain short-haul drivers are allowed a 16-hour driving window once a week, and other short-haul drivers not requiring a commercial driver's license are allowed two 16-hour duty periods per week provided specified conditions are met. (49 CFR 395.1).

Application for Renewal of Exemption

WestRock (USDOT 153734) operates a paper mill located in Chattanooga, Tennessee. Its shipping and receiving departments are on opposite sides of the paper mill, requiring driver-employees to travel on a public road to shuttle

trailers as needed. These drivers utilize a public road—Compress Street—an average of forty times per day to travel between WestRock's manufacturing facility, and shipping and receiving docks. These drivers do not transport any material farther than the paper mill lots and/or Compress Street. The distance traveled on Compress Street is approximately 275 feet in one direction, and one tractor is used to perform this work. Because the material being transported is received from or destined for other States, the local travel is interstate in nature.

WestRock's shipping department currently works 12-hour shifts for 4 days, and then allows employees 4 days off duty. However, this schedule is subject to change. There are usually two shipping department employees on each shift, one of whom drives a fork-lift truck loading trailers with finished goods, and another who operates the tractor shuttling trailers. These employees do not drive a CMV continuously during their shift(s).

At times, WestRock may operate on three 8-hour shifts with employees working a double (16-hour) shift when "rotating back." According to WestRock, the problem arises because of the double-shift, and also on occasion when a shipping department driver does not report for work as scheduled. On a Monday, for example, if an individual worked the weekend, their shift would normally have to "hurry back" within 8 hours. As a result of the mandatory 10 hours off-duty requirement for drivers, without the exemption WestRock would be required to schedule these drivers' shifts to start later than other employees. This would create at least 2 hours when the company could not load or transport trailers with finished goods due to the absence of the drivers. Furthermore, as a result of the 14-hour driving window, they would "work short" without the exemption, creating on-time delivery issues for other employees, who are allowed to work an entire "double shift" (16 hours) when necessary.

WestRock (then known as RockTenn) submitted its initial exemption application for relief from the HOS rules in 2009; a copy of the application is in the docket. That application fully describes the nature of shipping operations encountered by CMV drivers employed by WestRock. On May 29, 2012, FMCSA granted WestRock the limited exemption (77 FR 31684). FMCSA has since renewed this limited exemption on three occasions: April 22, 2014 (77 FR 22571); July 25, 2016 (81 FR 48496) and July 29, 2019 (84 FR

36655). The current exemption expires on April 16, 2024.

WestRock has requested an additional five-year renewal of the exemption for its shipping department employees and occasional substitute CDL holders who transport paper mill products short distances (less than 300 feet in one direction) between its shipping and receiving locations on a public road. The exemption allows these employees to work up to 16 consecutive hours in a duty period and return to work with a minimum of at least 8 hours off duty when necessary for efficient operations.

IV. Equivalent Level Safety

Since 2012, FMCSA has determined that the operations of WestRock's drivers would likely maintain a level of safety equivalent to, or greater than, the level of safety achieved without the exemption. WestRock's shipping department employees and occasional substitute CDL holders covered by the exemption are exclusively assigned to a specific route on a public road for brief periods of time. This route is entirely on one street (Compress Street), between the shipping and receiving departments, measuring approximately 275 feet in one direction. FMCSA previously noted that the exemption is comparable to current HOS regulations that allow certain "short-haul" drivers a 16-hour driving "window" once a week and other non-CDL short-haul drivers two 16-hour duty periods per week, provided specified conditions are met.

FMCSA is unaware of any evidence of a degradation of safety attributable to the current exemption for WestRock's drivers. Further, WestRock asserted that, since the initial approval of its waiver, it has operated safely without incident. There is no indication of an adverse impact on safety while operating under the terms and conditions specified in the initial exemption or exemption renewals.

FMCSA therefore concludes that provisionally renewing the exemption granted on July 29, 2019, for another five years, under the terms and conditions listed below, will likely maintain a level of safety that is equivalent to, or greater than, the level of safety achieved without the exemption.

V. Exemption Decision

A. Grant of Provisional Renewal of Exemption

FMCSA provisionally renews the exemption for a period of five years, subject to the terms and conditions of this decision and the absence of adverse public comments that would cause the

Agency to terminate the exemption. If comments are received to the public docket, FMCSA will publish a second **Federal Register** notice affirming or revoking the renewal. The exemption from the requirements of 49 CFR 395.3(a)(1) (the 10-hour off-duty rule) and (a)(2) (the “14-hour rule”) is otherwise effective beginning April 17, 2024, through April 16, 2029, 11:59 p.m. local time, unless previously revoked.

B. Applicability of Exemption

During the exemption period, WestRock’s shipping department employees and occasional substitute CDL holders who transport paper mill products between the shipping and receiving locations along the designated route on Compress Street in Chattanooga, TN, may work up to 16 consecutive hours in a duty period and return to work with a minimum of at least 8 hours off duty when necessary.

C. Terms and Conditions

The exemption is restricted to shipping department employees and occasional substitute CDL holders employed by WestRock who are exclusively assigned to a specific route. This specific route is entirely on Compress Street, between WestRock’s shipping and receiving departments, measuring approximately 275 feet in one direction.

D. Preemption

In accordance with 49 U.S.C. 31315(d), as implemented by 49 CFR 381.600, during the period this exemption is in effect, no State shall enforce any law or regulation that conflicts with or is inconsistent with this exemption with respect to a firm or person operating under the exemption.

E. Notification to FMCSA

WestRock must notify FMCSA within 5 business days of any accident (as defined in 49 CFR 390.5), involving any of the motor carrier’s CMVs operating under the terms of this exemption. The notification must include the following information:

- (a) Name of the exemption: “WestRock”;
- (b) Date of the accident;
- (c) City or town, and State, in which the accident occurred, or which is closest to the accident scene;
- (d) Driver’s name and license number;
- (e) Vehicle number and State license number;
- (f) Number of individuals suffering physical injury;
- (g) Number of fatalities;
- (h) The police-reported cause of the accident;

(i) Whether the driver was cited for violation of any traffic laws, motor carrier safety regulations; and

(j) The driver’s total driving time and total on-duty time prior to the accident.

Reports filed under this provision shall be emailed to MCPSD@DOT.GOV.

F. Termination

FMCSA does not believe the drivers covered by this exemption will experience any deterioration of their safety record. The exemption will be rescinded if: (1) WestRock and drivers operating under the exemption fail to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objects of 49 U.S.C. 31136(e) and 31315(b).

VI. Request for Comments

FMCSA requests public comment from all interested persons regarding WestRock’s application for a renewal of the exemption. The Agency will evaluate any adverse evidence submitted and, if it determines safety is being compromised or if continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315(b), FMCSA may take immediate steps to revoke or modify the exemption.

Robin Hutcheson,

Administrator.

[FR Doc. 2024–00939 Filed 1–18–24; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Preparation of an Environmental Impact Statement for the Austin Light Rail Project in Austin, Texas

AGENCY: Federal Transit Administration (FTA), DOT.

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

SUMMARY: The Federal Transit Administration (FTA), as lead Federal agency, and the Austin Transit Partnership (ATP), as local project sponsor and joint lead agency (collectively, the Agencies), issue this notice to advise the public that they intend to prepare an environmental impact statement (EIS) for Phase 1 of the Austin Light Rail Project (the Project) in Austin, Texas (City) pursuant to the National Environmental Policy Act (NEPA). The Project is a proposed 9.8-

mile light rail transit (LRT) branched line, including 15 stations, from points north, south, and east of downtown Austin, as well as an operations and maintenance facility (OMF), maintenance of way (MOW) shops, and associated LRT equipment storage functions. FTA has determined that the Project is sufficiently developed to allow for meaningful public comment and requires an EIS.

DATES: Comments related to the NEPA review of the Project must be received on or before March 4, 2024.

ADDRESSES: Comments on the scope of the EIS should be sent to: Austin Transit Partnership, 203 Colorado St., Austin, TX 78701 or via email at input@atptx.org.

FOR FURTHER INFORMATION CONTACT: For FTA: Mr. Terence Plaskon, Federal Transit Administration, Region VI, 819 Taylor Street, Fort Worth, TX 76102, at (817) 978–0573 or terence.plaskon@dot.gov. For ATP: Mr. Deron Lozano, Austin Transit Partnership, 203 Colorado Street, Austin, TX 78701, at (512) 923–3257 or deron.lozano@atptx.org.

SUPPLEMENTARY INFORMATION: The Agencies will prepare the EIS in accordance with NEPA and its implementing regulations. The EIS will evaluate two alternatives: a No Build Alternative and a Build Alternative. After circulation of the draft EIS (DEIS) and consideration of comments received, FTA intends to issue a combined final EIS (FEIS)/Record of Decision (ROD) document pursuant to 23 U.S.C. 139(n)(2), unless statutory criteria preclude issuance of a combined document (*i.e.*, the FEIS makes substantial changes to the proposed action that are relevant to environmental or safety concerns or there is a significant new circumstance or information relevant to environmental concerns that affect the proposed action or its impacts). FTA is currently evaluating the Project’s eligibility for discretionary Federal funding under FTA’s Capital Investment Grants program.

I. Purpose and Need for the Proposed Action

The Project is part of the Project Connect Long-Term Vision Plan (Project Connect). Project Connect includes high-capacity transit (HCT) corridors and is an integral part of the Austin Strategic Mobility Plan that was approved by the Austin City Council in 2019. In 2020, the Capital Area Metropolitan Planning Organization adopted its 2045 Regional Transportation Plan which included

HCT corridors as priority transit capital investments. On November 3, 2020, City of Austin voters approved a ballot measure (Proposition A) to increase the City's property tax rate to provide a dedicated local funding source for Project Connect, including LRT. ATP, an independent local government corporation, is responsible for the financing, design, and construction of the Project. Respective obligations and roles related to operation and maintenance of the Project, including future funding obligations of ATP, will be detailed in a binding implementation agreement between ATP, the City, and the Capital Metropolitan Transportation Authority (CapMetro), the local transportation authority.

In 2020, FTA and CapMetro completed two Planning and Environmental Linkages (PEL) studies following Federal guidance that documented the alternatives analysis, the purpose and needs, and public outreach which led to the selection of a locally preferred alternative for an LRT system. The PEL process resulted in broad public support of the purpose and needs and the alternatives analysis. However, as the initial environmental review process unfolded and design work for LRT advanced, the estimated project construction costs increased. The primary cost drivers were increasing real estate costs, inflation, supply chain cost escalations, and desired scope refinements. Due to this material change in circumstances, it became clear the LRT alignment and design warranted adjustment to ensure ATP could deliver a project that was fiscally feasible and responsive to the needs of the public. In July 2022, taking the original PEL studies and cost escalation factors into account, ATP commenced community-driven planning efforts to develop a viable and affordable alternative LRT implementation plan that addresses the purpose and need of providing quality and reliable HCT to the Austin metropolitan area. On June 6, 2023, the City, ATP, and CapMetro unanimously approved the advancement of the Project into the next phase of implementation.

The purpose of the Project is to meet growing corridor travel demand with a reliable, safe, cost-effective, time competitive, sustainable, and equitable LRT system. The lack of transportation options and limited roadway capacity to accommodate growth in central Texas may hinder the continued vitality and economic health of the City and surrounding areas in the future. Inadequate transit access coupled with rising travel demand have resulted in

longer travel times, decreased mobility, and additional travel costs for residents and businesses. The Project is needed to:

- increase transportation network capacity to meet existing travel demand;
- sustainably support the Austin area's population and employment growth;
- improve transit access between affordable housing and jobs; and
- support growth of and connectivity to regional activity centers designated in local land use plans.

II. Description of Proposed Action and Alternatives

The EIS will evaluate two alternatives: a No Build Alternative and a Build Alternative. The No Build, or No Action, Alternative includes existing and committed improvements to the regional transportation network, not including the Project, that are expected to be operational by 2045. The No Build Alternative is included as a benchmark against which the impacts of the Build Alternative can be compared. The Build Alternative is a 9.8-mile LRT branched line (see the project website at <https://www.atptx.org/about/light-rail/>). Beginning at the intersection of Guadalupe Street and 38th Street, the in-street, LRT-dedicated, double-tracked alignment would extend south past the University of Texas and the Texas State Capitol. At the intersection of Guadalupe and 3rd Streets, the alignment would extend east on 3rd Street, cross Congress Avenue, and connect to Trinity Street. The alignment would continue south on Trinity Street and cross Lady Bird Lake on a new LRT-dedicated bridge. On the south shore of Lady Bird Lake, the alignment would connect to and split on East Riverside Drive, where it would split into two branches. The western branch of the split would cross East Bouldin Creek and extend south on South Congress Avenue with a terminus at the intersection of South Congress Avenue and Oltorf Street. The eastern branch of the split would continue southeast along East Riverside Drive with a terminus just west of SH-71 at the Yellow Jacket station.

An OMF would be located in the vicinity of the US-183/SH-71 interchange near Airport Commerce Drive in a light-industrial use area. The proposed site would include space for administration, operations and maintenance staff, an LRT control center, and light rail vehicle (LRV) maintenance. The OMF would also serve as an LRV storage yard with the capacity to support both LRV operations and fleet storage. The OMF would

include MOW shops and associated LRT equipment storage functions.

III. Summary of Expected Impacts

The Agencies will evaluate the No Build and Build Alternatives for potential direct, indirect, and cumulative impacts (including benefits) to the natural, built, and social environments. Resources to be evaluated and potential impact areas include, but are not limited to, transportation, land use, socioeconomics and economic development, parklands and recreational facilities, neighborhoods and community facilities, environmental justice, noise and vibration, hazardous materials, ecosystems, water resources, residential and commercial displacements and relocations, historic and archaeological resources, visual quality, vegetation, air quality (including greenhouse gas emissions), and energy. The potential effects of the construction and operation of the Project on these resources will be evaluated for the short-term construction period and long-term operation of each alternative. Measures to avoid, minimize, or mitigate potential adverse impacts will be evaluated and proposed.

IV. Anticipated Permits and Other Authorizations

The Agencies anticipate that required permits and other authorizations may include:

- U.S. Department of Transportation section 4(f) determination;
- U.S. Department of Interior approval under section 6(f) of the Land and Water Conservation Act;
- U.S. Army Corps of Engineers approval under section 404 of the Clean Water Act and/or section 10 of the River and Harbors Act.
- Memorandum of Agreement with the State Historic Preservation Officer under section 106 of the National Historic Preservation Act; and

V. Schedule for Decision-Making Process

Below is a tentative schedule of major milestones for the EIS:

- *Scoping Period*: January 19, 2024 to March 4, 2024.
- *DEIS Release, Public Hearing, and DEIS Public Comment Period*: Fall 2024.
- *FEIS/ROD*: Fall 2025.

As noted in the tentative schedule, the Agencies intend to complete the EIS for the Project within two years, measured from the date of the publication of this notice to the date the ROD is signed. The Agencies will accept public comments on the scope of the

EIS at <https://www.atptx.org/> until March 4, 2024. The Environmental Protection Agency will publish a notice of availability of the DEIS in the **Federal Register** and via local media outlets. ATP expects the DEIS will be available for a minimum of 45 days for the public comment period by Fall 2024. The DEIS will be distributed electronically and made available for public and agency review and comment prior to a public hearing. The Agencies will consider substantive comments timely submitted during the public comment period and then anticipate preparing a combined FEIS/ROD by Fall 2025. The FEIS/ROD will identify the NEPA preferred alternative and any necessary mitigation commitments. The Agencies expect that all Federal environmental authorization decisions for the construction of the Project will be completed within a reasonable period following issuance of the FEIS/ROD.

Notices of public meetings, including hearings, have been, and will continue to be, given through a variety of media providing the time and place of the meeting along with other relevant information. Meeting date, time, and location information can be found on the Project website, Meetings and Events page, at <https://www.atptx.org/>. Public meeting locations will comply with the Americans with Disabilities Act. Persons needing special accommodations should contact Ms. Sophie Petkus at sophie.petkus@atptx.org or (512) 917-2492.

VI. Request for Identification of Potential Alternatives, Information, and Analysis

The Agencies invite all State, Tribal, local governments, and the public to comment on potential alternatives, information, impacts, and analyses to be considered in the EIS, as well as any other relevant information, studies, or analyses with respect to the proposed agency action.

Gail Lyssy,

Regional Administrator, FTA Region VI.

[FR Doc. 2024-00963 Filed 1-18-24; 8:45 am]

BILLING CODE 4910-57-P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

FEDERAL RESERVE SYSTEM

FEDERAL DEPOSIT INSURANCE CORPORATION

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Office of the Comptroller of the Currency (OCC), Treasury; Board of Governors of the Federal Reserve System (Board); and Federal Deposit Insurance Corporation (FDIC).

ACTION: Joint notice and request for comment.

SUMMARY: In accordance with the requirements of the Paperwork Reduction Act of 1995 (PRA), the OCC, the Board, and the FDIC (collectively, the “agencies”) 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 Federal Financial Institutions Examination Council (FFIEC), of which the agencies are members, has approved the agencies’ publication for public comment of a proposal to revise and extend for three years, the Foreign Branch Report of Condition (FFIEC 030) and the Abbreviated Foreign Branch Report of Condition (FFIEC 030S), which are currently approved collections of information. The agencies are requesting comment on proposed revisions to the FFIEC 030 report that would incorporate new line items from the FR 2502q, Quarterly Report of Assets and Liabilities of Large Foreign Offices of U.S. Banks (OMB Control No. 7100-0079). The revisions are proposed to take effect as of the June 30, 2024, report date. There are no proposed revisions to the FFIEC 030S at this time.

DATES: Comments must be submitted on or before March 19, 2024.

ADDRESSES: Interested parties are invited to submit written comments to any or all of the agencies. All comments, which should refer to the “FFIEC 030 or FFIEC 030S,” will be shared among the agencies.

OCC: You may submit comments, which should refer to “FFIEC 030 or FFIEC 030S,” by any of the following methods:

- **Email:** prainfo@occ.treas.gov.
- **Mail:** Chief Counsel’s Office,

Attention: Comment Processing, Office of the Comptroller of the Currency,

Attention: 1557-0099, 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) 293-4835.

Instructions: You must include “OCC” as the agency name and “1557-0099” 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.

Following the close of this notice’s 60-day comment period, the OCC will publish a second notice with a 30-day comment period. You may review comments and other related materials that pertain to this information collection beginning on the date of publication of the second notice for this collection 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 OMB control number “1557-0099” or “FFIEC 030 or FFIEC 030S.” 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.

Board: You may submit comments, which should refer to “FFIEC 030 or FFIEC 030S,” by any of the following methods:

• **Agency Website:** <http://www.federalreserve.gov>. Follow the instructions for submitting comments at: <http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm>.

• **Email:** regs.comments@federalreserve.gov. Include “FFIEC 030 or FFIEC 030S” in the subject line of the message.

- *Fax:* (202) 395–6974.

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

All public comments are available on the Board's Website at <https://www.federalreserve.gov/apps/foia/proposedregs.aspx> as submitted, unless modified for technical reasons.

Accordingly, your comments will not be edited to remove any identifying or contact information.

FDIC: You may submit comments, which should refer to "FFIEC 030 or FFIEC 030S," by any of the following methods:

- *Agency Website:* <https://www.fdic.gov/resources/regulations/federal-register-publications/>. Follow the instructions for submitting comments on the FDIC's website.

- *Email:* comments@FDIC.gov.

Include "FFIEC 030 or FFIEC 030S" in the subject line of the message.

- *Mail:* Manuel E. Cabeza, Counsel, Attn: Comments, Room MB–3128, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429.

- *Hand Delivery:* Comments may be hand delivered to the guard station at the rear of the 550 17th Street Building (located on F Street) on business days between 7:00 a.m. and 5:00 p.m.

- *Public Inspection:* All comments received will be posted without change to <https://www.fdic.gov/resources/regulations/federal-register-publications/> including any personal information provided. Paper copies of public comments may be requested from the FDIC Public Information Center by telephone at (877) 275–3342 or (703) 562–2200.

Additionally, commenters may send a copy of their comments to the OMB desk officer for the agencies by mail to the Office of Information and Regulatory Affairs, U.S. Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW, Washington, DC 20503; by fax to (202) 395–6974; or by email to oira_submission@omb.eop.gov.

FOR FURTHER INFORMATION CONTACT: For further information about the proposed revisions to the information collections discussed in this notice, please contact any of the agency staff whose names appear below. In addition, copies of the report forms for the FFIEC 030 and FFIEC 030S can be obtained at the FFIEC's website (https://www.ffiec.gov/ffiec_report_forms.htm).

OCC: Kevin Korzeniewski, Counsel, (202) 649–5490, Chief Counsel's Office,

Office of the Comptroller of the Currency. If you are deaf, hard of hearing, or have a speech disability, please dial 7–1–1 to access telecommunications relay services.

Board: Nuha Elmaghrabi, Federal Reserve Board Clearance Officer, (202) 452–3884, Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, 20th and C Streets NW, Washington, DC 20551. Telecommunications Device for the Deaf (TDD) users may call (202) 263–4869.

FDIC: Manuel E. Cabeza, Counsel, (202) 898–3767, Legal Division, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429.

SUPPLEMENTARY INFORMATION: The agencies propose to extend for three years, with revision, the FFIEC 030 and the FFIEC 030S.

Report Title: Foreign Branch Report of Condition.

Form Number: FFIEC 030 and FFIEC 030S.

Frequency of Response: Annually, and quarterly for significant branches.

Affected Public: Business of other for profit.

OCC

OMB Control Number: 1557–0099.

Estimated Number of Respondents: 58 quarterly respondents (FFIEC 030); 45 annual respondents (FFIEC 030); 9 annual respondents (FFIEC 030S).

Estimated Average Burden per Response: 3.91 burden hours (FFIEC 030 Quarterly); 2.98 burden hours (FFIEC 030 Annual); 0.95 burden hours (FFIEC 030S).

Estimated Total Annual Burden: 1,049.77 burden hours.

Board

OMB Control Number: 7100–0071.

Estimated Number of Respondents: 21 quarterly respondents (FFIEC 030); 12 annual respondents (FFIEC 030); 10 annual respondents (FFIEC 030S).

Estimated Average Burden per Response: 3.91 burden hours (FFIEC 030 Quarterly); 2.98 burden hours (FFIEC 030 Annual); 0.95 burden hours (FFIEC 030S).

Estimated Total Annual Burden: 373.70 burden hours.

FDIC

OMB Control Number: 3064–0011 (FDIC).

Estimated Number of Respondents: 0 quarterly respondents (FFIEC 030); 3 annual respondents (FFIEC 030); 3 annual respondents (FFIEC 030S).

Estimated Average Burden per Response: 3.91 burden hours (FFIEC 030 Quarterly); 2.98 burden hours (FFIEC 030 Annual); 0.95 burden hours (FFIEC 030S).

Estimated Total Annual Burden: 11.79 burden hours.

I. Legal Basis and Need for Collection

This information collection is mandatory: 12 U.S.C. 602 (Board); 12 U.S.C. 161 and 602 (OCC); and 12 U.S.C. 1828 (FDIC). This information collection is given confidential treatment under 5 U.S.C. 552(b)(4) and (8).

The FFIEC 030 collects asset and liability information for foreign branches of insured U.S. banks and insured U.S. savings associations (U.S. depository institutions) and is required for regulatory and supervisory purposes. The information is used to analyze the foreign operations of U.S. institutions. All foreign branches of U.S. institutions regardless of charter type file this report as provided in the instructions to the FFIEC 030 and FFIEC 030S.

A U.S. depository institution generally must file a separate report for each foreign branch, but in some cases may consolidate filing for multiple foreign branches in the same country, as described below.

A branch with either total assets of at least \$2 billion or commitments to purchase foreign currencies and U.S. dollar exchange of at least \$5 billion as of the end of a calendar quarter is considered a "significant branch" and an FFIEC 030 report is required to be filed quarterly. A U.S. depository institution with a foreign branch having total assets in excess of \$250 million that does not meet either of the criteria to file quarterly must file the entire FFIEC 030 report for this foreign branch on an annual basis as of December 31, with respect to this foreign branch.

A U.S. depository institution with a foreign branch having total assets of \$50 million, but less than or equal to \$250 million that does not meet the criteria to file the FFIEC 030 report must file the FFIEC 030S report for this foreign branch on an annual basis as of December 31, with respect to this foreign branch. A U.S. depository institution with a foreign branch having total assets of less than \$50 million is exempt from filing the FFIEC 030 and 030S reports.

II. Current Actions

The FR 2502q collects data on the claims and liabilities with U.S.-resident versus foreign-resident counterparties on the balance sheets of major foreign branches and large banking subsidiaries of U.S. head offices of bank holding companies, commercial banks and Edge and agreement corporations.¹ For the

¹ Prior to 2015, the FR 2502q collected a full geographic distribution of claims and liabilities

reporting purposes of the FR 2502q, large foreign branches are currently defined as those that file the Foreign Branch Report of Condition (FFIEC 030; OMB No. 7100-0071) with total assets, Schedule BS, item 11, of \$2 billion or more. Large banking subsidiaries are defined as those that file the Financial Statements of Foreign Subsidiaries of U.S. Banking Organizations (FR 2314; OMB No. 7100-0073) quarterly, have a banking charter, and have assets of \$2 billion or more and deposits of \$10 million or more, Schedule BS, item 10, and Schedule BS-M, item 6, respectively.

The Division of International Finance at the Board has an interest in knowing the amounts of the claims and liabilities of U.S.-chartered banks with respect to residents of the U.S. The FR 2502q provides data about activities in foreign offices by location and type of offices that are unavailable from other reporting forms. For example, because banks' submissions that underlie the quarterly Federal Financial Institutions Examination Council (FFIEC) Country Exposure Report (FFIEC 009; OMB No. 7100-0035) are consolidated on a worldwide basis, they do not indicate which particular offices are involved in lending to or borrowing from U.S. or foreign residents.

Following a 2015 revision that substantially reduced the size of the FR 2502q report, the Board has assessed its use of the data collected in the FR 2502q and has determined that the data could instead be effectively collected through the FR 2314 and FFIEC 030, and that doing so would reduce overall respondent burden.

In addition, standardizing the collection of foreign branch lending data through the FFIEC reporting process will improve useability by the OCC and FDIC. The current 2502q collection is managed and run solely by the Board. The proposed shift of certain items to the FFIEC 030 will make it easier for the OCC and FDIC to use the data reported in those items, as well as providing those agencies with a more direct role in proposing changes to the data items to improve the usefulness of the collection for all three agencies.

Therefore, the agencies propose to add a new schedule to the FFIEC 030 to collect the information currently collected by the FR 2502q and add additional line items to collect granular detail related to loans and lease receivables. The title of the new

schedule would be: "Schedule RAL—A—Due From, Due To, and Other." In addition, the agencies are adding a schedule name to the current Assets; Liabilities; Derivatives and Off-Balance-Sheet Items; and Memoranda section of the report form. The title of this schedule will be "RAL—Assets and Liabilities." Adding a schedule name to this section will help separate the current items from the proposed new items that will only be applicable to respondents that are required to submit their FFIEC 030 report on a quarterly basis. Respondents that submit their FFIEC 030 report on an annual basis will not need to complete the proposed new schedule.

Eight of the proposed line items would provide a granular breakout of what is currently collected on line items 8, 9, 16, and 17. The remaining six proposed line items would be new to the FFIEC 030 report. The agencies propose to incorporate the following line items from the FR 2502q into FFIEC 030, Schedule RAL—A—Due From, Due To, and Other:

Item 1a: Gross due from head office and U.S. branches of this bank

Item 1b: Gross due from other foreign branches of this bank

Item 2a: Gross due from consolidated subsidiaries of this bank in the U.S.

Item 2b: Gross due from consolidated subsidiaries of this bank in foreign countries

Item 3a: Gross due to head office and U.S. branches of this bank

Item 3b: Gross due to other foreign branches of this bank

Item 4a: Gross due from consolidated subsidiaries of this bank in the U.S.

Item 4b: Gross due from consolidated subsidiaries of this bank in foreign countries

Item 5: Assets that are claims on U.S. addressees other than depository institutions

Item 6: Liabilities to U.S. addressees other than depository institutions

In addition, the proposed line items below would provide the agencies with more granular data about certain categories of loans and lease receivables, which is expected to be reported in the balance of line item 5 above. Collection of the additional line items would provide the agencies with the ability to analyze lending by foreign branches of U.S. banks to U.S. addresses in different sectors. For example, it is not uncommon for foreign branches to make loans secured by U.S. real estate. As lending to nondepository institutions continues to increase, segmenting the lending between foreign and U.S. addresses improves the ability of agencies to assess risks to this type of lending. The same reasoning applies to

commercial and industrial loans and all other loans and leases. The proposed sub-set of line items are as follows:

Assets that are claims on U.S. addressees other than depository institutions:

Item 5a: Loans secured by real estate

Item 5b: Loans to nondepository financial institutions

Item 5c: Commercial and industrial loans

Item 5d: All other loans and all leases

These proposed revisions would reduce the burden on respondents and assist the agencies in meeting shared data needs with shared resources. The Board will propose similar revisions to the FR 2314 in a separate notice. If these revisions are adopted, the Board expects to discontinue the FR 2502q, effective as of June 30, 2024.

III. Timing

The proposed revisions to the FFIEC 030 would first take effect as of the June 30, 2024, report date. The agencies invite comment on any difficulties that institutions would expect to encounter in implementing the systems changes necessary to accommodate the proposed revisions to the FFIEC 030.

IV. Request for Comment

Public comment is requested on all aspects of this joint notice. Comment is specifically invited on:

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

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

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

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

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

Comments submitted in response to this joint notice will be shared among the agencies.

from these respondents. However, data on individual foreign counterparty countries became redundant with the expansion of other international data collections.

Dated at Washington, DC, on January 10, 2024.

Theodore J. Dowd,

*Deputy Chief Counsel, Office of the
Comptroller of the Currency.*

Board of Governors of the Federal Reserve
System.

Michele Taylor Fennell,

Deputy Associate Secretary of the Board.

Federal Deposit Insurance Corporation.

James P. Sheesley,

Assistant Executive Secretary.

[FR Doc. 2024–00970 Filed 1–18–24; 8:45 am]

BILLING CODE 4810–33–P; 6210–01–P; 6714–01–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Notice of OFAC Sanctions Action

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 a removal of an aircraft currently included on OFAC's Specially Designated Nationals and Blocked Persons List (SDN List).

DATES: See **SUPPLEMENTARY INFORMATION** section for applicable date(s).

FOR FURTHER INFORMATION CONTACT:

OFAC: Bradley T. Smith, 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 SDN List and additional information concerning OFAC sanctions programs are available on OFAC's website (<https://www.treasury.gov/ofac>).

Notice of OFAC Action(s)

A. On January 8, 2024, OFAC removed from the SDN List the aircraft listed below, which was subject to prohibitions imposed pursuant to Executive Order 14024 of April 15, 2021, “Blocking Property With Respect To Specified Harmful Foreign Activities of the Government of the Russian Federation,” 86 FR 20249, 3 CFR, 2021 Comp., p. 542 (Apr. 15, 2021) (E.O. 14024).

1. 9H–OKO; Aircraft Manufacture Date 2018; Aircraft Model G650; Aircraft Manufacturer's Serial Number (MSN) 6356; Aircraft Tail Number 9H–OKO (aircraft) [RUSSIA–EO14024] (Linked To: EMPEROR AVIATION LTD).

Dated: January 12, 2024.

Bradley T. Smith,

*Director, Office of Foreign Assets Control,
U.S. Department of the Treasury.*

[FR Doc. 2024–00971 Filed 1–18–24; 8:45 am]

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Part II

Department of Energy

10 CFR Parts 429 and 431

Energy Conservation Program: Energy Conservation Standards for Fans and Blowers; Proposed Rule

DEPARTMENT OF ENERGY**10 CFR Parts 429 and 431****[EERE–2022–BT–STD–0002]****RIN 1904–AF40****Energy Conservation Program: Energy Conservation Standards for Fans and Blowers**

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Notice of proposed rulemaking and announcement of public meeting.

SUMMARY: The Energy Policy and Conservation Act, as amended (“EPCA”), prescribes energy conservation standards for various consumer products and certain commercial and industrial equipment, including fans and blowers. EPCA also requires the U.S. Department of Energy (“DOE”) to periodically determine whether more stringent standards would be technologically feasible and economically justified and would result in significant energy savings. In this notice of proposed rulemaking (“NOPR”), DOE proposes energy conservation standards for two categories of fans and blowers: air circulating fans (“ACFs”), and fans and blowers that are not ACFs, referred to as general fans and blowers (“GFBs”) throughout this document. DOE also announces a public meeting to receive comment on these proposed standards and associated analyses and results.

DATES: *Comments:* DOE will accept comments, data, and information regarding this NOPR no later than March 19, 2024.

Meeting: DOE will hold a public meeting on Wednesday, February 21, 2024, from 10 a.m. to 4 p.m., in Washington, DC. This meeting will also be broadcast as a webinar.

Comments regarding the likely competitive impact of the proposed standard should be sent to the Department of Justice contact listed in the **ADDRESSES** section on or before February 20, 2024.

ADDRESSES: The public meeting will be held at the U.S. Department of Energy, Forrestal Building, Room 6E–069, 1000 Independence Avenue SW, Washington, DC 20585. See section VII of this document, “Public Participation,” for further details, including procedures for attending the in-person meeting, webinar registration information, participant instructions, and information about the capabilities available to webinar participants.

Interested persons are encouraged to submit comments using the Federal eRulemaking Portal at www.regulations.gov under docket number EERE–2022–BT–STD–0002. Follow the instructions for submitting comments. Alternatively, interested persons may submit comments, identified by docket number EERE–2022–BT–STD–0002, by any of the following methods:

Email:

FansAndBlowers2022STD0002@ee.doe.gov. Include docket number EERE–2022–BT–STD–0002 in the subject line of the message.

No telefacsimiles (“faxes”) will be accepted. For detailed instructions on submitting comments and additional information on this process, see section VII of this document.

Docket: The docket for this activity, which includes **Federal Register** notices, comments, and other supporting documents/materials, is available for review at www.regulations.gov. All documents in the docket are listed in the www.regulations.gov index. However, not all documents listed in the index may be publicly available, such as information that is exempt from public disclosure.

The docket web page can be found at www.regulations.gov/docket/EERE–2022–BT–STD–0002. The docket web page contains instructions on how to access all documents, including public comments, in the docket. See section VII of this document for information on how to submit comments through www.regulations.gov.

EPCA requires the Attorney General to provide DOE a written determination of whether the proposed standard is likely to lessen competition. The U.S. Department of Justice Antitrust Division invites input from market participants and other interested persons with views on the likely competitive impact of the proposed standard. Interested persons may contact the Division at energy.standards@usdoj.gov on or before the date specified in the **DATES** section. Please indicate in the “Subject” line of your email the title and Docket Number of this proposed rulemaking.

FOR FURTHER INFORMATION CONTACT: Mr. Jeremy Domm, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Office, EE–5B, 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.

For further information on how to submit a comment, review other public comments and the docket, or participate in the public meeting, contact the Appliance and Equipment Standards Program staff at (202) 287–1445 or by email: ApplianceStandardsQuestions@ee.doe.gov.

SUPPLEMENTARY INFORMATION: DOE maintains previously approved incorporations by reference (AMCA 210–16, AMCA 214–21, and ISO 5801:2017) and incorporates by reference the following material into part 431:

IEC 61800–9–2:2023, *Adjustable speed electrical power drive systems (PDS)—Part 9–2: Ecodesign for motor systems—Energy efficiency determination and classification*, Edition 2.0, 2023–10.

IEC TS 60034–30–2:2016, *Rotating electrical machines—Part 30–2: Efficiency classes of variable speed AC motors (IE-code)*, Edition 1.0, 2016–12.

IEC TS 60034–31:2021, *Rotating electrical machines—Part 31: Selection of energy-efficient motors including variable speed applications—Application guidelines*, Edition 2.0, 2021–03.

Copies of IEC 61800–9–2:2023, IEC TS 60034–30–2:2016 and IEC TS 60034–31:2021 are available from the International Electrotechnical Committee (IEC), Central Office, 3, rue de Varembe, P.O. Box 131, CH–1211 GENEVA 20, Switzerland; + 41 22 919 02 11; webstore.iec.ch.

For a further discussion of these standards, see section VI.M of this document.

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- I. Synopsis of the Proposed Rule**

The Energy Policy and Conservation Act, Public Law 94–163, as amended (“EPCA”),¹ authorizes DOE to regulate the energy efficiency of a number of consumer products and certain industrial equipment. (42 U.S.C. 6291–6317) Title III, Part C² of EPCA established the Energy Conservation Program for Certain Industrial Equipment. (42 U.S.C. 6311–6317) Such equipment includes fans and blowers. This proposed rule concerns two categories of fans and blowers: air circulating fans (“ACFs”), and fans and blowers that are not ACFs, which are referred to as general fans and blowers (“GFBs”) throughout this document.

Pursuant to EPCA, any new or amended energy conservation standard must be designed to achieve the maximum improvement in energy efficiency that DOE determines is technologically feasible and economically justified. (42 U.S.C. 6316(a); 42 U.S.C. 6295(o)(2)(A)) Furthermore, the new or amended standard must result in a significant conservation of energy. (42 U.S.C.

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 C was redesignated Part A–1.

6316(a); 42 U.S.C. 6295(o)(3)(B)) EPCA also provides that not later than 6 years after issuance of any final rule establishing or amending a standard, DOE must publish either a notice of determination that standards for the product do not need to be amended, or a notice of proposed rulemaking including new proposed energy conservation standards (proceeding to a final rule, as appropriate). (42 U.S.C. 6316(a); 42 U.S.C. 6295(m))

In accordance with these and other statutory provisions discussed in this document, DOE analyzed the benefits and burdens of six trial standard levels

(“TSLs”) for two categories of fans and blowers: GFBs and ACFs. The TSLs and their associated benefits and burdens are discussed in detail in sections V.A through V.C of this document. As discussed in section V.C, DOE has tentatively determined that TSL 4 represents the maximum improvement in energy efficiency that is technologically feasible and economically justified. The proposed standards, which are expressed in terms of a fan energy index (“FEI”) for GFBs, are shown in Table I–1 through Table I–3. The proposed standards, which are expressed in terms of efficacy in cubic

feet per minute per watt (“CFM/W”) at maximum speed for ACFs, are shown in Table I–3. These proposed standards, if adopted, would apply to all GFBs listed in Table I–1 and Table I–2 and ACFs listed in Table I–3 manufactured in, or imported into, the United States starting on the date 5 years after the publication of the final rule for this rulemaking. For GFBs, DOE proposes that every duty point at which the basic model is offered for sale would need to meet the proposed energy conservation standards. (See section III.C.1 of this document).

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Table I-1 Proposed Energy Conservation Standards for GFBs

Equipment Class	With or Without Motor Controller	Fan Energy Index (FEI)*
Axial Inline	Without	1.18 * A
Axial Panel	Without	1.48 * A
Axial Power Roof Ventilator	Without	0.85 * A
Centrifugal Housed	Without	1.31 * A
Centrifugal Unhoused	Without	1.35 * A
Centrifugal Inline	Without	1.28 * A
Radial Housed	Without	1.17 * A
Centrifugal Power Roof Ventilator - Exhaust	Without	1.00 * A
Centrifugal Power Roof Ventilator - Supply	Without	1.19 * A
Axial Inline	With	1.18 * A* B
Axial Panel	With	1.48 * A* B
Axial Power Roof Ventilator	With	0.85 * A* B
Centrifugal Housed	With	1.31 * A* B
Centrifugal Unhoused	With	1.35 * A* B
Centrifugal Inline	With	1.28 * A* B
Radial Housed	With	1.17 * A* B
Centrifugal Power Roof Ventilator - Exhaust	With	1.00 * A* B
Centrifugal Power Roof Ventilator - Supply	With	1.19 * A* B

*A is a constant representing an adjustment in FEI for motor hp, which can be found in Table I-2. B is a constant representing an adjustment in FEI for motor controllers, which can be found in Table I-2

Table I-2 Constants for GFB Proposed Energy Conservation Standards

Constant	Condition		Value
A	Motor hp < 100 hp		$A = 1.00$
	Motor hp ≥ 100 hp and ≤ 250 hp		$A = \frac{\eta_{mtr,2023act}}{\eta_{mtr,2014ref}}$
B	With Motor Controller	FEPact of < 20 kW (26.8 hp)	$B = \frac{FEP_{act} - Credit}{FEP_{act}}$; where: $Credit = 0.03 \times FEP_{act} + 0.08$ [SI] $Credit = 0.03 \times FEP_{act} + 0.08 \times 1.341$ [IP]
		FEPact of ≥ 20 kW (26.8 hp)	$B = 0.966$

$\eta_{mtr,2023}$ is the motor efficiency in accordance with table 8 at 10 CFR 431.25, $\eta_{mtr,2014}$ is the motor efficiency in accordance with table 5 at 10 CFR 431.25, which DOE is proposing to adopt into 10 CFR 431.175, and FEP_{act} is determined according to the DOE test procedure in appendix A to subpart J of part 431.

Table I-3 Proposed Energy Conservation Standards for ACFs

Equipment Class*	Efficacy at Maximum Speed (CFM/W)
Axial ACFs; 12 inches $\leq D < 36$ inches	12.2
Axial ACFs; 36 inches $\leq D < 48$ inches	17.3
Axial ACFs; 48 inches $\leq D$	21.5
Housed Centrifugal ACFs	N/A

*D: Diameter in inches

N/A: Not applicable; DOE is not proposing to set a standard for this equipment class.

A. Benefits and Costs to Consumers

Table I-4 and Table I-5 present DOE's evaluation of the economic impacts of the proposed standards on consumers of

GFBs and ACFs, as measured by the average life-cycle cost ("LCC") savings and the simple payback period ("PBP").³ The average LCC savings are positive for all equipment classes, and

the PBP is less than the average lifetime of the considered equipment, which is estimated to be 16.0 years for GFBs and 6.3 years for ACFs (see section IV.F.6 of this document).

³ The average LCC savings refer to consumers that are affected by a standard and are measured relative to the efficiency distribution in the no-new-standards case, which depicts the market in the

compliance year in the absence of new or amended standards (see section IV.E.9 of this document). The simple PBP, which is designed to compare specific efficiency levels, is also measured relative to the no-

new-standards case (see section IV.C of this document).

Table I-4 Impacts of Proposed Energy Conservation Standards on Consumers of GFBs

Equipment Class	Average LCC Savings 2022\$	Simple Payback Period Years
Axial Inline	550	9.6
Axial Panel	1,702	1.7
Centrifugal Housed	2,423	0.6
Centrifugal Inline	955	6.1
Centrifugal Unhoused	1,170	1.2
Axial Power Roof Ventilator	945	7.0
Centrifugal Power Roof Ventilator - Exhaust	154	8.9
Centrifugal Power Roof Ventilator - Supply	973	1.7
Radial Housed	3,714	1.7

Table I-5 Impacts of Proposed Energy Conservation Standards on Consumers of ACFs

Equipment Class*	Average LCC Savings 2022\$	Simple Payback Period Years
Axial ACFs; 12 inches \leq D < 36 inches	327	0.5
Axial ACFs; 36 inches \leq D < 48 inches	478	0.2
Axial ACFs; 48 inches \leq D	668	0.1
Housed Centrifugal ACFs	N/A	N/A

*D: diameter in inches

N/A: Not applicable; DOE is not proposing to set a standard for this equipment class.

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DOE's analysis of the impacts of the proposed standards on consumers is described in section IV.F of this document.

B. Impact on Manufacturers

The industry net present value ("INPV") is the sum of the discounted cash flows to the industry from the base year through the end of the analysis period (2024–2059). Using a real discount rate of 11.4 percent, DOE estimates that the INPV for manufacturers of fans and blowers in the case without new standards is \$649 million in 2022 dollars for ACFs and \$4,935 million in 2022 dollars for GFBs. Under the proposed standards, the change in INPV is estimated to range from –10.9 percent to less than 0.1 percent for ACFs, which represents a change in INPV of approximately –\$71 million to less than \$0.1 million, and from –9.2 percent to less than 0.1 percent for GFBs, which represents a change in INPV of approximately –\$455 million to \$1 million. In order to bring products into compliance with new standards, it is estimated that the

industry would incur total conversion costs of \$118 million for ACFs and \$770 million for GFBs.

DOE's analysis of the impacts of the proposed standards on manufacturers is described in section IV.J of this document. The analytic results of the manufacturer impact analysis ("MIA") are presented in section V.B.2 of this document.

C. National Benefits and Costs⁴

This section presents the combined results for GFBs and ACFs. Specific results for GFBs and ACFs are also discussed in sections I.C.1 and I.C.2 of this document, respectively.

DOE's analyses indicate that the proposed energy conservation standards for GFBs and ACFs would save a significant amount of energy. Relative to the case without new standards, the lifetime energy savings for GFBs and ACFs purchased in the 30-year period that begins in the anticipated first full year of compliance with the new standards (2030–2059) amount to 18.3

quadrillion British thermal units ("Btu"), or quads.⁵

The cumulative net present value ("NPV") of total consumer benefits of the proposed standards for GFBs and ACFs ranges from \$19.0 billion (at a 7 percent discount rate) to \$49.5 billion (at a 3 percent discount rate). This NPV expresses the estimated total value of future operating cost savings minus the estimated increased equipment and installation costs for GFBs and ACFs purchased in 2030–2059.

In addition, the proposed standards for GFBs and ACFs are projected to yield significant environmental benefits. DOE estimates that the proposed standards would result in cumulative emission reductions (over the same period as for energy savings) of 317.9

⁵ The quantity refers to full-fuel-cycle ("FFC") energy savings. FFC energy savings includes the energy consumed in extracting, processing, and transporting primary fuels (*i.e.*, coal, natural gas, petroleum fuels), and, thus, presents a more complete picture of the impacts of energy efficiency standards. For more information on the FFC metric, see section IV.G.1 of this document.

⁴ All monetary values in this document are expressed in 2022 dollars.

million metric tons (“Mt”)⁶ of carbon dioxide (“CO₂”), 92.7 thousand tons of sulfur dioxide (“SO₂”), 598.9 thousand tons of nitrogen oxides (“NO_x”), 2,760.5 thousand tons of methane (“CH₄”), 2.9 thousand tons of nitrous oxide (“N₂O”), and 0.6 tons of mercury (“Hg”).⁷

DOE estimates the value of climate benefits from a reduction in greenhouse gases (“GHG”) using four different estimates of the social cost of CO₂ (“SC-CO₂”), the social cost of methane (“SC-CH₄”), and the social cost of nitrous oxide (“SC-N₂O”). Together these represent the social cost of GHG (“SC-GHG”). DOE used interim SC-GHG values developed by an Interagency Working Group on the Social Cost of

Greenhouse Gases (“IWG”).⁸ The derivation of these values is discussed in section IV.L of this document. For presentational purposes, the climate benefits associated with the average SC-GHG at a 3 percent discount rate are estimated to be \$16.3 billion. DOE does not have a single central SC-GHG point estimate and it emphasizes the importance and value of considering the benefits calculated using all four sets of SC-GHG estimates.

DOE estimated the monetary health benefits of SO₂ and NO_x emissions reductions using benefit per ton estimates from the scientific literature, as discussed in section IV.L of this document. DOE did not monetize the reduction in mercury emissions because the quantity is very small. DOE

estimated the present value of the health benefits would be \$11.4 billion using a 7 percent discount rate, and \$31.6 billion using a 3 percent discount rate.⁹ DOE is currently only monetizing (for SO₂ and NO_x) PM_{2.5} precursor health benefits and (for NO_x) ozone precursor health benefits, but will continue to assess the ability to monetize other effects such as health benefits from reductions in direct PM_{2.5} emissions.

Table I-6 summarizes the monetized benefits and costs expected to result from the proposed standards for GFBs and ACFs. There are other important unquantified effects, including certain unquantified climate benefits, unquantified public health benefits from the reduction of toxic air pollutants and other emissions, unquantified energy security benefits, and distributional effects, among others.

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⁹ DOE estimates the economic value of these emissions reductions resulting from the considered trial standards levels (“TSLs”) for the purpose of complying with the requirements of Executive Order 12866.

⁶ A metric ton is equivalent to 1.1 short tons. Results for emissions other than CO₂ are presented in short tons.

⁷ DOE calculated emissions reductions relative to the no-new-standards case, which reflects key assumptions in the *Annual Energy Outlook 2023* (“AEO2023”). AEO2023 represents current Federal and State legislation and final implementation of regulations as of the time of its preparation. See section IV.J of this document for further discussion of AEO2023 assumptions that affect air pollutant emissions.

⁸ To monetize the benefits of reducing GHG emissions, this analysis uses the interim estimates presented in the *Technical Support Document: Social Cost of Carbon, Methane, and Nitrous Oxide Interim Estimates Under Executive Order 13990*, published in February 2021 by the IWG (“February 2021 SC-GHG TSD”). www.whitehouse.gov/wp-content/uploads/2021/02/TechnicalSupportDocument_SocialCostofCarbonMethaneNitrousOxide.pdf.

Table I-6 Present Value of Monetized Benefits and Costs of Proposed Energy Conservation Standards for GFBs and ACFs (TSL 4)

	Billion \$2022
3% discount rate	
Consumer Operating Cost Savings	55.8
Climate Benefits*	16.3
Health Benefits**	31.6
Total Monetized Benefits†	103.7
Consumer Incremental Equipment Costs‡	6.3
Net Monetized Benefits	97.4
Change in Producer Cashflow (INPV‡‡)	(0.5) - 0
7% discount rate	
Consumer Operating Cost Savings	22.2
Climate Benefits* (3% discount rate)	16.3
Health Benefits**	11.4
Total Monetized Benefits†	49.8
Consumer Incremental Equipment Costs‡	3.2
Net Monetized Benefits	46.6
Change in Producer Cashflow (INPV‡‡)	(0.5) - 0

Note: This table presents the costs and benefits associated with GFBs and ACFs shipped in 2030–2059. These results include consumer, climate, and health benefits that accrue after 2059 from the products shipped in 2030–2059.

* Climate benefits are calculated using four different estimates of the social cost of carbon (SC-CO₂), methane (SC-CH₄), and nitrous oxide (SC-N₂O) (model average at 2.5 percent, 3 percent, and 5 percent discount rates; 95th percentile at 3 percent discount rate) (*see* section IV.L of this document). Together these represent the global SC-GHG. For presentational purposes of this table, the climate benefits associated with the average SC-GHG at a 3-percent discount rate are shown, but DOE does not have a single central SC-GHG point estimate. To monetize the benefits of reducing GHG emissions, this analysis uses the interim estimates presented in the *Technical Support Document: Social Cost of Carbon, Methane, and Nitrous Oxide Interim Estimates Under Executive Order 13990*, published in February 2021 by the IWG.

** Health benefits are calculated using benefit-per-ton values for NO_x and SO₂. DOE is currently only monetizing (for SO₂ and NO_x) PM_{2.5} precursor health benefits and (for NO_x) ozone precursor health benefits, but will continue to assess the ability to monetize other effects such as health benefits from reductions in direct PM_{2.5} emissions. *See* section IV.L of this document for more details.

† Total and net benefits include those consumer, climate, and health benefits that can be quantified and monetized. For presentation purposes, total and net benefits for both the 3 percent and 7 percent cases are presented using the average SC-GHG with a 3 percent discount rate, but DOE does not have a single central SC-GHG point estimate. DOE emphasizes the importance and value of considering the benefits calculated using all four sets of SC-GHG estimates.

‡ Costs include incremental equipment costs as well as installation costs.

‡‡ Operating Cost Savings are calculated based on the life cycle costs analysis and national impact analysis as discussed in detail below. *See* sections IV.F and IV.H of this document. DOE's NIA includes all

impacts (both costs and benefits) along the distribution chain beginning with the increased costs to the manufacturer to manufacture the equipment and ending with the increase in price experienced by the consumer. DOE also separately conducts a detailed analysis on the impacts on manufacturers (the MIA). See section IV.J of this document. In the detailed MIA, DOE models manufacturers' pricing decisions based on assumptions regarding investments, conversion costs, cashflow, and margins. The MIA produces a range of impacts, which is the rule's expected impact on the INPV. The change in INPV is the present value of all changes in industry cash flow, including changes in production costs, capital expenditures, and manufacturer profit margins. Change in INPV is calculated using the industry weighted average cost of capital value of 11.4 percent that is estimated in the MIA (see chapter 12 of the NOPR TSD for a complete description of the industry weighted average cost of capital). For GFB & ACF, those values are -\$526 million and \$1 million. DOE accounts for that range of likely impacts in analyzing whether a TSL is economically justified. See section V.C of this document. DOE is presenting the range of impacts to the INPV under two markup scenarios: the Conversion Cost Recovery scenario, which is the manufacturer markup scenario where manufacturers increase their markups in response to changes in energy conservation standards, and the Preservation of Operating Profit scenario, where DOE assumed manufacturers would not be able to increase per-unit operating profit in proportion to increases in manufacturer production costs. DOE includes the range of estimated INPV in the above table, drawing on the MIA explained further in section IV.J of this document, to provide additional context for assessing the estimated impacts of this rule to society, including potential changes in production and consumption, which is consistent with OMB's Circular A-4 and E.O. 12866. If DOE were to include the INPV into the net benefit calculation for this proposed rule, the net benefits would range from \$96.9 billion to \$97.4 billion at 3-percent discount rate and would range from \$46.1 billion to \$46.6 billion at 7-percent discount rate. Parentheses indicate negative values.

The benefits and costs of the proposed standards can also be expressed in terms of annualized values. The monetary values for the total annualized net benefits are (1) the reduced consumer operating costs, minus (2) the increase in product purchase prices and installation costs, plus (3) the monetized value of climate and health benefits of emission reductions, all annualized.¹⁰

The national operating cost savings are domestic private U.S. consumer monetary savings that occur as a result of purchasing the covered products and are measured for the lifetime of GFBs and ACFs shipped in 2030–2059. The benefits associated with reduced emissions achieved as a result of the proposed standards are also calculated based on the lifetime of GFBs and ACFs

shipped in 2030–2059. Total benefits for both the 3 percent and 7 percent cases are presented using the average GHG social costs with a 3-percent discount rate.¹¹ Estimates of total benefits are presented for all four SC–GHG discount rates in section V.B.6 of this document.

Table I–7 presents the total estimated monetized benefits and costs associated with the proposed standard, expressed in terms of annualized values. The results under the primary estimate are as follows.

Using a 7 percent discount rate for consumer benefits and costs and health benefits from reduced NO_x and SO₂ emissions, and the 3 percent discount rate case for climate benefits from reduced GHG emissions, the estimated cost of the standards proposed in this

rule is \$360 million per year in increased equipment costs, while the estimated annual benefits are \$2,506 million in reduced equipment operating costs, \$963 million in monetized climate benefits, and \$1,285 million in monetized health benefits. In this case, the monetized net benefit would amount to \$4,394 million per year.

Using a 3 percent discount rate for all benefits and costs, the estimated cost of the proposed standards is \$374 million per year in increased equipment costs, while the estimated annual benefits are \$3,302 million in reduced operating costs, \$963 million in monetized climate benefits, and \$1,869 million in monetized health benefits. In this case, the monetized net benefit would amount to \$5,760 million per year.

¹⁰ To convert the time-series of costs and benefits into annualized values, DOE calculated a present value in 2024, the year used for discounting the NPV of total consumer costs and savings. For the benefits, DOE calculated a present value associated with each year's shipments in the year in which the shipments occur (e.g., 2030), and then discounted

the present value from each year to 2024. Using the present value, DOE then calculated the fixed annual payment over a 30-year period, starting in the compliance year, that yields the same present value.

¹¹ As discussed in section IV.L.1 of this document, DOE agrees with the IWG that using consumption-based discount rates (e.g., 3 percent) is

appropriate when discounting the value of climate impacts. Combining climate effects discounted at an appropriate consumption-based discount rate with other costs and benefits discounted at a capital-based rate (i.e., 7 percent) is reasonable because of the different nature of the types of benefits being measured.

Table I-7 Annualized Monetized Benefits and Costs of Proposed Energy Conservation Standards for GFBs and ACFs (TSL 4)

	Million 2022\$/year		
	Primary Estimate	Low-Net-Benefits Estimate	High-Net-Benefits Estimate
3% discount rate			
Consumer Operating Cost Savings	3,302	3,074	3,521
Climate Benefits*	963	926	1,002
Health Benefits**	1,869	1,796	1,945
Total Benefits†	6,134	5,796	6,469
Consumer Incremental Equipment Costs‡	374	478	276
Net Benefits	5,760	5,317	6,192
Change in Producer Cashflow (INPV‡‡)	(62) - 0	(62) - 0	(62) - 0
7% discount rate			
Consumer Operating Cost Savings	2,506	2,346	2,658
Climate Benefits* (3% discount rate)	963	926	1,002
Health Benefits**	1,285	1,240	1,330
Total Benefits†	4,754	4,513	4,991
Consumer Incremental Equipment Costs‡	360	441	280
Net Benefits	4,394	4,072	4,710
Change in Producer Cashflow (INPV‡‡)	(62) - 0	(62) - 0	(62) - 0

Note: This table presents the costs and benefits associated with GFBs and ACFs shipped in 2030–2059. These results include consumer, climate, and health benefits that accrue after 2059 from the products shipped in 2030–2059. The Primary, Low Net Benefits, and High Net Benefits Estimates utilize projections of energy prices from the *AEO2023* Reference case, Low Economic Growth case, and High Economic Growth case, respectively. In addition, incremental equipment costs reflect a constant rate in the Primary Estimate, an increasing rate in the Low Net Benefits Estimate, and a declining rate in the High Net Benefits Estimate for GFBs, and a low declining rate in the Primary Estimate, an increasing rate in the Low Net Benefits Estimate, and a high declining rate in the High Net Benefits Estimate for ACFs. The methods used to derive projected price trends are explained in sections IV.F.1 and IV.H.3 of this document. Note that the Benefits and Costs may not sum to the Net Benefits due to rounding.

* Climate benefits are calculated using four different estimates of the global SC-GHG (see section IV.L of this document). For presentational purposes of this table, the climate benefits associated with the average SC-GHG at a 3 percent discount rate are shown, but DOE does not have a single central SC-GHG point estimate, and it emphasizes the importance and value of considering the benefits calculated using all four sets of SC-GHG estimates. To monetize the benefits of reducing GHG emissions, this analysis uses the interim estimates presented in the *Technical Support Document: Social Cost of Carbon, Methane, and Nitrous Oxide Interim Estimates Under Executive Order 13990*, published in February 2021 by the IWG.

** Health benefits are calculated using benefit-per-ton values for NO_x and SO₂. DOE is currently only monetizing (for SO₂ and NO_x) PM_{2.5} precursor health benefits and (for NO_x) ozone precursor health benefits, but will continue to assess the ability to monetize other effects such as health benefits from reductions in direct PM_{2.5} emissions. See section IV.L of this document for more details.

† Total benefits for both the 3 percent and 7 percent cases are presented using the average SC-GHG with a 3 percent discount rate, but DOE does not have a single central SC-GHG point estimate.

‡ Costs include incremental equipment costs as well as installation costs.

‡‡ Operating Cost Savings are calculated based on the life cycle costs analysis and national impact analysis as discussed in detail below. See sections IV.F and IV.H of this document. DOE's NIA includes all impacts (both costs and benefits) along the distribution chain beginning with the increased costs to the manufacturer to manufacture the equipment and ending with the increase in price experienced by the consumer. DOE also separately conducts a detailed analysis on the impacts on manufacturers (the MIA). See section IV.J of this document. In the detailed MIA, DOE models manufacturers' pricing decisions based on assumptions regarding investments, conversion costs, cashflow, and margins. The MIA produces a range of impacts, which is the rule's expected impact on the INPV. The change in INPV is the present value of all changes in industry cash flow, including changes in production costs, capital expenditures, and manufacturer profit margins. The annualized change in INPV is calculated using the industry weighted average cost of capital value of 11.4 percent that is estimated in the MIA (see chapter 12 of the NOPR TSD for a complete description of the industry weighted average cost of capital). For GFB & ACF, those values are -\$62 million and less than \$0.1 million. DOE accounts for that range of likely impacts in analyzing whether a TSL is economically justified. See section V.C of this document. DOE is presenting the range of impacts to the INPV under two markup scenarios: the Conversion Cost Recovery scenario, which is the manufacturer markup scenario where manufacturers increase their markups in response to changes in energy conservation standards, and the Preservation of Operating Profit Markup scenario, where DOE assumed manufacturers would not be able to increase per-unit operating profit in proportion to increases in manufacturer production costs. DOE includes the range of estimated annualized change in INPV in the above table, drawing on the MIA explained further in section IV.J of this document, to provide additional context for assessing the estimated impacts of this rule to society, including potential changes in production and consumption, which is consistent with OMB's Circular A-4 and E.O. 12866. If DOE were to include the INPV into the annualized net benefit calculation for this proposed rule, the annualized net benefits would range from \$5,698 million to \$5,760 million at 3-percent discount rate and would range from \$4,332 million to \$4,394 million at 7-percent discount rate. Parentheses indicate negative values.

DOE's analysis of the national impacts of the proposed standards is described in sections IV.H, IV.K and IV.L of this document.

1. General Fans and Blowers

DOE's analyses indicate that the proposed energy conservation standards for GFBs would save a significant amount of energy. Relative to the case without new standards, the lifetime energy savings for GFBs purchased in the 30-year period that begins in the anticipated first full year of compliance with the new standards (2030–2059) amount to 13.8 quadrillion British thermal units ("Btu"), or quads.¹² This represents a savings of 11.4 percent relative to the energy use of these products in the case without standards (referred to as the "no-new-standards case").

The cumulative net present value ("NPV") of total consumer benefits of the proposed standards for GFBs ranges from \$13.7 billion (at a 7 percent discount rate) to \$36.9 billion (at a 3

percent discount rate). This NPV expresses the estimated total value of future operating cost savings minus the estimated increased equipment and installation costs for GFBs purchased in 2030–2059.

In addition, the proposed standards for GFBs are projected to yield significant environmental benefits. DOE estimates that the proposed standards would result in cumulative emission reductions (over the same period as for energy savings) of 239.4 Mt of CO₂, 73.1 thousand tons of SO₂, 450.9 thousand tons of NO_x, 2,073.9 thousand tons of CH₄, 2.3 thousand tons of N₂O, and 0.5 tons of Hg.¹³

DOE estimates the value of climate benefits from a reduction in greenhouse gases ("GHG") using four different estimates of the social cost of CO₂ ("SC-CO₂"), the social cost of methane ("SC-CH₄"), and the social cost of nitrous oxide ("SC-N₂O"). Together these represent the social cost of GHG ("SC-GHG"). DOE used interim SC-GHG values developed by an Interagency

Working Group on the Social Cost of Greenhouse Gases ("IWG").¹⁴ The derivation of these values is discussed in section IV.K of this document. For presentational purposes, the climate benefits associated with the average SC-GHG at a 3 percent discount rate are estimated to be \$11.9 billion. DOE does not have a single central SC-GHG point estimate and it emphasizes the importance and value of considering the benefits calculated using all four sets of SC-GHG estimates.

DOE estimated the monetary health benefits of SO₂ and NO_x emissions reductions using benefit per ton estimates from the scientific literature, as discussed in section IV.L of this document. DOE did not monetize the reduction in mercury emissions because the quantity is very small. DOE estimated the present value of the health benefits would be \$8.2 billion using a 7 percent discount rate, and \$23.4 billion

¹² The quantity refers to full-fuel-cycle ("FFC") energy savings. FFC energy savings includes the energy consumed in extracting, processing, and transporting primary fuels (i.e., coal, natural gas, petroleum fuels), and, thus, presents a more complete picture of the impacts of energy efficiency standards. For more information on the FFC metric, see section IV.G.1 of this document.

¹³ DOE calculated emissions reductions relative to the no-new-standards case, which reflects key assumptions in AEO 2023. AEO2023 represents current Federal and State legislation and final implementation of regulations as of the time of its preparation. See section IV.J of this document for further discussion of AEO2023 assumptions that affect air pollutant emissions.

¹⁴ To monetize the benefits of reducing GHG emissions, this analysis uses the interim estimates presented in the *Technical Support Document: Social Cost of Carbon, Methane, and Nitrous Oxide Interim Estimates Under Executive Order 13990*, published in February 2021 by the IWG ("February 2021 SC-GHG TSD"). www.whitehouse.gov/wp-content/uploads/2021/02/TechnicalSupportDocument_SocialCostofCarbonMethaneNitrousOxide.pdf.

using a 3 percent discount rate.¹⁵ DOE is currently only monetizing (for SO₂ and NO_x) PM_{2.5} precursor health

¹⁵ DOE estimates the economic value of these emissions reductions resulting from the considered trial standards levels (“TSLs”) for the purpose of complying with the requirements of Executive Order 12866.

benefits and (for NO_x) ozone precursor health benefits, but will continue to assess the ability to monetize other effects such as health benefits from reductions in direct PM_{2.5} emissions. Table I–8 summarizes the monetized benefits and costs expected to result from the proposed standards for GFBs.

There are other important unquantified effects, including certain unquantified climate benefits, unquantified public health benefits from the reduction of toxic air pollutants and other emissions, unquantified energy security benefits, and distributional effects, among others.

Table I-8 Present Value of Monetized Benefits and Costs of Proposed Energy Conservation Standards for GFBs (TSL 4)

	Billion \$2022
3% discount rate	
Consumer Operating Cost Savings	42.7
Climate Benefits*	11.9
Health Benefits**	23.4
Total Monetized Benefits†	78.0
Consumer Incremental Equipment Costs‡	5.7
Net Monetized Benefits	72.2
Change in Producer Cashflow (INPV‡‡)	(0.5) – 0.0
7% discount rate	
Consumer Operating Cost Savings	16.6
Climate Benefits* (3% discount rate)	11.9
Health Benefits**	8.2
Total Monetized Benefits†	36.8
Consumer Incremental Equipment Costs‡	2.9
Net Monetized Benefits	33.8
Change in Producer Cashflow (INPV‡‡)	(0.5) – 0.0

Note: This table presents the costs and benefits associated with GFBs shipped in 2030–2059. These results include consumer, climate, and health benefits that accrue after 2059 from the products shipped in 2030–2059.

* Climate benefits are calculated using four different estimates of the social cost of carbon (SC-CO₂), methane (SC-CH₄), and nitrous oxide (SC-N₂O) (model average at 2.5 percent, 3 percent, and 5 percent discount rates; 95th percentile at 3 percent discount rate) (see section IV.L of this document). Together these represent the global SC-GHG. For presentational purposes of this table, the climate benefits associated with the average SC-GHG at a 3-percent discount rate are shown, but DOE does not have a single central SC-GHG point estimate. To monetize the benefits of reducing GHG emissions, this analysis uses the interim estimates presented in the *Technical Support Document: Social Cost of Carbon, Methane, and Nitrous Oxide Interim Estimates Under Executive Order 13990*, published in February 2021 by the IWG.

** Health benefits are calculated using benefit-per-ton values for NO_x and SO₂. DOE is currently only monetizing (for SO₂ and NO_x) PM_{2.5} precursor health benefits and (for NO_x) ozone precursor health benefits, but will continue to assess the ability to monetize other effects such as health benefits from reductions in direct PM_{2.5} emissions. See section IV.L of this document for more details.

† Total and net benefits include those consumer, climate, and health benefits that can be quantified and monetized. For presentation purposes, total and net benefits for both the 3 percent and 7 percent cases are presented using the average SC-GHG with a 3 percent discount rate, but DOE does not have a single central SC-GHG point estimate. DOE emphasizes the importance and value of considering the benefits calculated using all four sets of SC-GHG estimates.

‡ Costs include incremental equipment costs as well as installation costs.

‡‡ Operating Cost Savings are calculated based on the life cycle costs analysis and national impact analysis as discussed in detail below. See sections IV.F and IV.H of this document. DOE's NIA includes all impacts (both costs and benefits) along the distribution chain beginning with the increased costs to the

manufacturer to manufacture the GFB and ending with the increase in price experienced by the consumer. DOE also separately conducts a detailed analysis on the impacts on manufacturers (the MIA). See section IV.J of this document. In the detailed MIA, DOE models manufacturers' pricing decisions based on assumptions regarding investments, conversion costs, cashflow, and margins. The MIA produces a range of impacts, which is the rule's expected impact on the INPV. The change in INPV is the present value of all changes in industry cash flow, including changes in production costs, capital expenditures, and manufacturer profit margins. Change in INPV is calculated using the industry weighted average cost of capital value of 11.4 percent that is estimated in the MIA (see chapter 12 of the final rule TSD for a complete description of the industry weighted average cost of capital). For GFB, those values are -\$455 million and \$1 million. DOE accounts for that range of likely impacts in analyzing whether a TSL is economically justified. See section V.C. DOE is presenting the range of impacts to the INPV under two markup scenarios: the Conversion Cost Recovery scenario, which is the manufacturer markup scenario where manufacturers increase their markups in response to changes in energy conservation standards, and the Preservation of Operating Profit scenario, where DOE assumed manufacturers would not be able to increase per-unit operating profit in proportion to increases in manufacturer production costs. DOE includes the range of estimated INPV in the above table, drawing on the MIA explained further in section IV.J of this document, to provide additional context for assessing the estimated impacts of this rule to society, including potential changes in production and consumption, which is consistent with OMB's Circular A-4 and E.O. 12866. If DOE were to include the INPV into the net benefit calculation for this proposed rule, the net benefits would range from \$71.7 billion to \$72.2 billion at 3-percent discount rate and would range from \$33.3 billion to \$33.8 billion at 7-percent discount rate. Parentheses indicate negative values.

The benefits and costs of the proposed standards can also be expressed in terms of annualized values. The monetary values for the total annualized net benefits are (1) the reduced consumer operating costs, minus (2) the increase in product purchase prices and installation costs, plus (3) the monetized value of climate and health benefits of emission reductions, all annualized.¹⁶

The national operating cost savings are domestic private U.S. consumer monetary savings that occur as a result of purchasing the covered products and are measured for the lifetime of GFBs shipped in 2030–2059. The benefits associated with reduced emissions achieved as a result of the proposed standards are also calculated based on the lifetime of GFBs shipped in 2030–

2059. Total benefits for both the 3 percent and 7 percent cases are presented using the average GHG social costs with a 3-percent discount rate.¹⁷ Estimates of total benefits are presented for all four SC–GHG discount rates in section V.B.6 of this document.

Table I–9 presents the total estimated monetized benefits and costs associated with the proposed standard, expressed in terms of annualized values. The results under the primary estimate are as follows.

Using a 7 percent discount rate for consumer benefits and costs and health benefits from reduced NO_x and SO₂ emissions, and the 3 percent discount rate case for climate benefits from reduced GHG emissions, the estimated cost of the standards proposed in this

rule is \$329 million per year in increased equipment costs, while the estimated annual benefits are \$1,880 million in reduced equipment operating costs, \$703 million in monetized climate benefits, and \$932 million in monetized health benefits. In this case, the monetized net benefit would amount to \$3,185 million per year.

Using a 3 percent discount rate for all benefits and costs, the estimated cost of the proposed standards is \$340 million per year in increased equipment costs, while the estimated annual benefits are \$2,524 million in reduced operating costs, \$703 million in monetized climate benefits, and \$1,384 million in monetized health benefits. In this case, the monetized net benefit would amount to \$4,271 million per year.

¹⁶ To convert the time-series of costs and benefits into annualized values, DOE calculated a present value in 2024, the year used for discounting the NPV of total consumer costs and savings. For the benefits, DOE calculated a present value associated with each year's shipments in the year in which the shipments occur (e.g., 2030), and then discounted

the present value from each year to 2024. Using the present value, DOE then calculated the fixed annual payment over a 30-year period, starting in the compliance year, that yields the same present value.

¹⁷ As discussed in section IV.L.1 of this document, DOE agrees with the IWG that using consumption-based discount rates e.g., 3 percent) is

appropriate when discounting the value of climate impacts. Combining climate effects discounted at an appropriate consumption-based discount rate with other costs and benefits discounted at a capital-based rate (i.e., 7 percent) is reasonable because of the different nature of the types of benefits being measured.

Table I-9 Annualized Monetized Benefits and Costs of Proposed Energy Conservation Standards for GFBs (TSL 4)

	Million 2022\$/year		
	Primary Estimate	Low-Net-Benefits Estimate	High-Net-Benefits Estimate
3% discount rate			
Consumer Operating Cost Savings	2,524	2,321	2,724
Climate Benefits*	703	666	742
Health Benefits**	1,384	1,311	1,461
Total Benefits†	4,611	4,297	4,927
Consumer Incremental Equipment Costs‡	340	442	243
Net Benefits	4,271	3,855	4,684
Change in Producer Cashflow (INPV‡‡)	(53) - 0	(53) - 0	(53) - 0
7% discount rate			
Consumer Operating Cost Savings	1,880	1,739	2,017
Climate Benefits* (3% discount rate)	703	666	742
Health Benefits**	932	888	978
Total Benefits†	3,515	3,293	3,736
Consumer Incremental Equipment Costs‡	329	409	251
Net Benefits	3,185	2,884	3,486
Change in Producer Cashflow (INPV‡‡)	(53) - 0	(53) - 0	(53) - 0

Note: This table presents the costs and benefits associated with GFBs shipped in 2030–2059. These results include consumer, climate, and health benefits that accrue after 2059 from the products shipped in 2030–2059. The Primary, Low Net Benefits, and High Net Benefits Estimates utilize projections of energy prices from the *AEO2023* Reference case, Low Economic Growth case, and High Economic Growth case, respectively. In addition, incremental equipment costs reflect a constant rate in the Primary Estimate, an increasing rate in the Low Net Benefits Estimate, and a declining rate in the High Net Benefits Estimate. The methods used to derive projected price trends are explained in sections IV.F.1 and IV.H.3 of this document. Note that the Benefits and Costs may not sum to the Net Benefits due to rounding.

* Climate benefits are calculated using four different estimates of the global SC-GHG (see section IV.L of this document). For presentational purposes of this table, the climate benefits associated with the average SC-GHG at a 3 percent discount rate are shown, but DOE does not have a single central SC-GHG point estimate, and it emphasizes the importance and value of considering the benefits calculated using all four sets of SC-GHG estimates. To monetize the benefits of reducing GHG emissions, this analysis uses the interim estimates presented in the *Technical Support Document: Social Cost of Carbon, Methane, and Nitrous Oxide Interim Estimates Under Executive Order 13990*, published in February 2021 by the IWG.

** Health benefits are calculated using benefit-per-ton values for NO_x and SO₂. DOE is currently only monetizing (for SO₂ and NO_x) PM_{2.5} precursor health benefits and (for NO_x) ozone precursor health benefits, but will continue to assess the ability to monetize other effects such as health benefits from reductions in direct PM_{2.5} emissions. See section IV.L of this document for more details.

† Total benefits for both the 3 percent and 7 percent cases are presented using the average SC-GHG with a 3 percent discount rate, but DOE does not have a single central SC-GHG point estimate.

‡ Costs include incremental equipment costs as well as installation costs.

‡‡ Operating Cost Savings are calculated based on the life cycle costs analysis and national impact analysis as discussed in detail below. See sections IV.F and IV.H of this document. DOE's NIA includes all impacts (both costs and benefits) along the distribution chain beginning with the increased costs to the manufacturer to manufacture the equipment and ending with the increase in price experienced by the consumer. DOE also separately conducts a detailed analysis on the impacts on manufacturers (the MIA). See section IV.J of this document. In the detailed MIA, DOE models manufacturers' pricing decisions based on assumptions regarding investments, conversion costs, cashflow, and margins. The MIA produces a range of impacts, which is the rule's expected impact on the INPV. The change in INPV is the present value of all changes in industry cash flow, including changes in production costs, capital expenditures, and manufacturer profit margins. The annualized change in INPV is calculated using the industry weighted average cost of capital value of 11.4 percent that is estimated in the MIA (see chapter 12 of the NOPR TSD for a complete description of the industry weighted average cost of capital). For GFB, those values are - \$53 million and less than \$0.1 million. DOE accounts for that range of likely impacts in analyzing whether a TSL is economically justified. See section V.C of this document. DOE is presenting the range of impacts to the INPV under two markup scenarios: the Conversion Cost Recovery scenario, which is the manufacturer markup scenario where manufacturers increase their markups in response to changes in energy conservation standards, and the Preservation of Operating Profit Markup scenario, where DOE assumed manufacturers would not be able to increase per-unit operating profit in proportion to increases in manufacturer production costs. DOE includes the range of estimated annualized change in INPV in the above table, drawing on the MIA explained further in section IV.J of this document, to provide additional context for assessing the estimated impacts of this rule to society, including potential changes in production and consumption, which is consistent with OMB's Circular A-4 and E.O. 12866. If DOE were to include the INPV into the annualized net benefit calculation for this proposed rule, the annualized net benefits would range from \$4,218 million to \$4,271 million at 3-percent discount rate and would range from \$3,132 million to \$3,185 million at 7-percent discount rate. Parentheses indicate negative values.

DOE's analysis of the national impacts of the proposed standards is described in sections IV.H, IV.K and IV.L of this document.

2. Air Circulating Fans

DOE's analyses indicate that the proposed energy conservation standards for ACFs would save a significant amount of energy. Relative to the case without new standards, the lifetime energy savings for ACFs purchased in the 30-year period that begins in the anticipated first full year of compliance with the new standards (2030–2059) amount to 4.5 quadrillion British thermal units ("Btu"), or quads.¹⁸ This represents a savings of 37.3 percent relative to the energy use of these products in the case without standards (referred to as the "no-new-standards case").

The cumulative net present value ("NPV") of total consumer benefits of the proposed standards for ACFs ranges from \$5.3 billion (at a 7 percent discount rate) to \$12.6 billion (at a 3

percent discount rate). This NPV expresses the estimated total value of future operating-cost savings minus the estimated increased equipment costs for ACFs purchased in 2030–2059.

In addition, the proposed standards for ACFs are projected to yield significant environmental benefits. DOE estimates that the proposed standards would result in cumulative emission reductions (over the same period as for energy savings) of 78.5 Mt¹⁹ of CO₂, 19.7 thousand tons of SO₂, 148.0 thousand tons of NO_x, 686.7 thousand tons of CH₄, 0.6 thousand tons of N₂O, and 0.1 tons of mercury Hg.²⁰

DOE estimates the value of climate benefits from a reduction in greenhouse gases (GHG) using four different estimates of the social cost of CO₂ ("SC-CO₂"), the social cost of methane ("SC-CH₄"), and the social cost of nitrous oxide ("SC-N₂O"). Together these represent the social cost of GHG (SC-

GHG). DOE used interim SC-GHG values developed by an Interagency Working Group on the Social Cost of Greenhouse Gases (IWG).²¹ The derivation of these values is discussed in section IV.L of this document. For presentational purposes, the climate benefits associated with the average SC-GHG at a 3 percent discount rate are estimated to be \$4.4 billion. DOE does not have a single central SC-GHG point estimate and it emphasizes the importance and value of considering the benefits calculated using all four sets of SC-GHG estimates.

DOE estimated the monetary health benefits of SO₂ and NO_x emissions reductions using benefit per ton estimates from the scientific literature, as discussed in section IV.L of this document. DOE did not monetize the reduction in mercury emissions because the quantity is very small. DOE estimated the present value of the health benefits would be \$3.1 billion using a 7-percent discount rate, and \$8.2 billion using a 3-percent discount rate.²² DOE

¹⁸ The quantity refers to full-fuel-cycle ("FFC") energy savings. FFC energy savings includes the energy consumed in extracting, processing, and transporting primary fuels (i.e., coal, natural gas, petroleum fuels), and, thus, presents a more complete picture of the impacts of energy efficiency standards. For more information on the FFC metric, see section IV.H.2 of this document.

¹⁹ A metric ton is equivalent to 1.1 short tons. Results for emissions other than CO₂ are presented in short tons.

²⁰ DOE calculated emissions reductions relative to the no-new-standards case, which reflects key assumptions in *AEO2023*. *AEO2023* represents current Federal and State legislation and final implementation of regulations as of the time of its preparation. See section IV.K of this document for further discussion of *AEO2023* assumptions that affect air pollutant emissions.

²¹ To monetize the benefits of reducing GHG emissions, this analysis uses the interim estimates presented in the *Technical Support Document: Social Cost of Carbon, Methane, and Nitrous Oxide Interim Estimates Under Executive Order 13990*, published in February 2021 by the IWG.

²² DOE estimates the economic value of these emissions reductions resulting from the considered

is currently only monetizing (for SO₂ and NO_x) PM_{2.5} precursor health benefits and (for NO_x) ozone precursor health benefits, but will continue to

TSLs for the purpose of complying with the requirements of Executive Order 12866.

assess the ability to monetize other effects such as health benefits from reductions in direct PM_{2.5} emissions.

Table I–10 summarizes the monetized benefits and costs expected to result from the proposed standards for ACFs. There are other important unquantified

effects, including certain unquantified climate benefits, unquantified public health benefits from the reduction of toxic air pollutants and other emissions, unquantified energy security benefits, and distributional effects, among others.

Table I-10 Present Value of Monetized Benefits and Costs of Proposed Energy Conservation Standards for ACFs (TSL 4)

	Billion \$2022
3% discount rate	
Consumer Operating Cost Savings	13.2
Climate Benefits*	4.4
Health Benefits**	8.2
Total Monetized Benefits†	25.8
Consumer Incremental Equipment Costs‡	0.6
Net Monetized Benefits	25.2
Change in Producer Cashflow (INPV††)	(0.1) - 0
7% discount rate	
Consumer Operating Cost Savings	5.5
Climate Benefits* (3% discount rate)	4.4
Health Benefits**	3.1
Total Monetized Benefits†	13.1
Consumer Incremental Equipment Costs‡	0.3
Net Monetized Benefits	12.8
Change in Producer Cashflow (INPV††)	(0.1) - 0

Note: This table presents the costs and benefits associated with ACFs shipped in 2030–2059. These results include consumer, climate, and health benefits that accrue after 2059 from the products shipped in 2030–2059.

* Climate benefits are calculated using four different estimates of the social cost of carbon (SC-CO₂), methane (SC-CH₄), and nitrous oxide (SC-N₂O) (model average at 2.5 percent, 3 percent, and 5 percent discount rates; 95th percentile at 3 percent discount rate) (see section IV.L of this document). Together these represent the global SC-GHG. For presentational purposes of this table, the climate benefits associated with the average SC-GHG at a 3 percent discount rate are shown; however, DOE emphasizes the importance and value of considering the benefits calculated using all four sets of SC-GHG estimates. To monetize the benefits of reducing GHG emissions, this analysis uses the interim estimates presented in the *Technical Support Document: Social Cost of Carbon, Methane, and Nitrous Oxide Interim Estimates Under Executive Order 13990* published in February 2021 by the IWG.

** Health benefits are calculated using benefit-per-ton values for NO_x and SO₂. DOE is currently only monetizing (for SO₂ and NO_x) PM_{2.5} precursor health benefits and (for NO_x) ozone precursor health benefits, but will continue to assess the ability to monetize other effects such as health benefits from reductions in direct PM_{2.5} emissions. See section IV.L of this document for more details.

† Total and net benefits include those consumer, climate, and health benefits that can be quantified and monetized. For presentation purposes, total and net benefits for both the 3 percent and 7 percent cases are presented using the average SC-GHG with a 3 percent discount rate.

‡ Costs include incremental equipment costs.

†† Operating Cost Savings are calculated based on the life cycle costs analysis and national impact analysis as discussed in detail below. See sections IV.F and IV.H of this document. DOE's NIA includes all impacts (both costs and benefits) along the distribution chain beginning with the increased costs to the

manufacturer to manufacture the equipment and ending with the increase in price experienced by the consumer. DOE also separately conducts a detailed analysis on the impacts on manufacturers (the MIA). See section IV.J of this document. In the detailed MIA, DOE models manufacturers' pricing decisions based on assumptions regarding investments, conversion costs, cashflow, and margins. The MIA produces a range of impacts, which is the rule's expected impact on the INPV. The change in INPV is the present value of all changes in industry cash flow, including changes in production costs, capital expenditures, and manufacturer profit margins. Change in INPV is calculated using the industry weighted average cost of capital value of 11.4 percent that is estimated in the MIA (see chapter 12 of the NOPR TSD for a complete description of the industry weighted average cost of capital). For ACF, those values are -\$71 million and no change in INPV. DOE accounts for that range of likely impacts in analyzing whether a TSL is economically justified. See section V.C. DOE is presenting the range of impacts to the INPV under two markup scenarios: the Conversion Cost Recovery scenario, which is the manufacturer markup scenario where manufacturers increase their markups in response to changes in energy conservation standards, and the Preservation of Operating Profit scenario, where DOE assumed manufacturers would not be able to increase per-unit operating profit in proportion to increases in manufacturer production costs. DOE includes the range of estimated INPV in the above table, drawing on the MIA explained further in section IV.J of this document, to provide additional context for assessing the estimated impacts of this rule to society, including potential changes in production and consumption, which is consistent with OMB's Circular A-4 and E.O. 12866. If DOE were to include the INPV into the net benefit calculation for this proposed rule, the net benefits would range from \$25.1 billion to \$25.2 billion at 3-percent discount rate and would range from \$12.7 billion to \$12.8 billion at 7-percent discount rate. Parentheses indicate negative values.

The benefits and costs of the proposed standards can also be expressed in terms of annualized values. The monetary values for the total annualized net benefits are (1) the reduced consumer operating costs, minus (2) the increase in product purchase prices and installation costs, plus (3) the monetized value of climate and health benefits of emission reductions, all annualized.²³

The national operating cost savings are domestic private U.S. consumer monetary savings that occur as a result of purchasing the covered products and are measured for the lifetime of GFBs shipped in 2030–2059. The benefits associated with reduced emissions achieved as a result of the proposed standards are also calculated based on the lifetime of GFBs shipped in 2030–

2059. Total benefits for both the 3 percent and 7 percent cases are presented using the average GHG social costs with 3 percent discount rate.²⁴ Estimates of total benefits are presented for all four SC–GHG discount rates in section V.B.6 of this document.

Table I–11 presents the total estimated monetized benefits and costs associated with the proposed standard, expressed in terms of annualized values. The results under the primary estimate are as follows.

Using a 7-percent discount rate for consumer benefits and costs and health benefits from reduced NO_x and SO₂ emissions, and the 3-percent discount rate case for climate benefits from reduced GHG emissions, the estimated cost of the standards proposed in this

rule is \$31 million per year in increased equipment costs, while the estimated annual benefits are \$626 million in reduced equipment operating costs, \$261 million in monetized climate benefits, and \$353 million in monetized health benefits. In this case, the net monetized benefit would amount to \$1,209 million per year.

Using a 3-percent discount rate for all benefits and costs, the estimated cost of the proposed standards is \$34 million per year in increased equipment costs, while the estimated annual benefits are \$778 million in reduced operating costs, \$261 million in monetized climate benefits, and \$485 million in monetized health benefits. In this case, the monetized net benefit would amount to \$1,489 million per year.

²³ To convert the time-series of costs and benefits into annualized values, DOE calculated a present value in 2022, the year used for discounting the NPV of total consumer costs and savings. For the benefits, DOE calculated a present value associated with each year's shipments in the year in which the shipments occur (e.g., 2030), and then discounted

the present value from each year to 2022. Using the present value, DOE then calculated the fixed annual payment over a 30-year period, starting in the compliance year, that yields the same present value.

²⁴ As discussed in section IV.L.1 of this document, DOE agrees with the IWG that using consumption-based discount rates e.g., 3 percent) is

appropriate when discounting the value of climate impacts. Combining climate effects discounted at an appropriate consumption-based discount rate with other costs and benefits discounted at a capital-based rate (i.e., 7 percent) is reasonable because of the different nature of the types of benefits being measured.

Table I-11 Annualized Monetized Benefits and Costs of Proposed Energy Conservation Standards for ACFs (TSL 4)

	Million 2022\$/year		
	Primary Estimate	Low-Net-Benefits Estimate	High-Net-Benefits Estimate
3% discount rate			
Consumer Operating Cost Savings	778	753	796
Climate Benefits*	261	261	261
Health Benefits**	485	485	485
Total Benefits†	1,523	1,498	1,542
Consumer Incremental Equipment Costs‡	34	36	33
Net Benefits	1,489	1,462	1,509
Change in Producer Cashflow (INPV‡‡)	(8) - 0	(8) - 0	(8) - 0
7% discount rate			
Consumer Operating Cost Savings	626	607	641
Climate Benefits* (3% discount rate)	261	261	261
Health Benefits**	353	353	353
Total Benefits†	1,239	1,221	1,254
Consumer Incremental Equipment Costs‡	31	32	30
Net Benefits	1,209	1,188	1,225
Change in Producer Cashflow (INPV‡‡)	(8) - 0	(8) - 0	(8) - 0

Note: This table presents the costs and benefits associated with ACFs shipped in 2030–2059. These results include consumer, climate, and health benefits that accrue after 2059 from the products shipped in 2030–2059. The Primary, Low Net Benefits, and High Net Benefits Estimates utilize projections of energy prices from the *AEO2023* Reference case, Low Economic Growth case, and High Economic Growth case, respectively. In addition, incremental equipment costs reflect a low declining rate in the Primary Estimate, an increasing rate in the Low Net Benefits Estimate, and a high declining rate in the High Net Benefits Estimate. The methods used to derive projected price trends are explained in sections IV.F.1 and IV.H.3 of this document. Note that the Benefits and Costs may not sum to the Net Benefits due to rounding.

* Climate benefits are calculated using four different estimates of the global SC-GHG (see section IV.L of this document). For presentational purposes of this table, the climate benefits associated with the average SC-GHG at a 3 percent discount rate are shown; however, DOE emphasizes the importance and value of considering the benefits calculated using all four sets of SC-GHG estimates. To monetize the benefits of reducing GHG emissions, this analysis uses the interim estimates presented in the *Technical Support Document: Social Cost of Carbon, Methane, and Nitrous Oxide Interim Estimates Under Executive Order 13990* published in February 2021 by the IWG.

** Health benefits are calculated using benefit-per-ton values for NO_x and SO₂. DOE is currently only monetizing (for SO₂ and NO_x) PM_{2.5} precursor health benefits and (for NO_x) ozone precursor health benefits, but will continue to assess the ability to monetize other effects such as health benefits from reductions in direct PM_{2.5} emissions. See section IV.L of this document for more details.

† Total benefits for both the 3 percent and 7 percent cases are presented using the average SC-GHG with a 3 percent discount rate.

‡ Costs include incremental equipment costs.

‡‡ Operating Cost Savings are calculated based on the life cycle costs analysis and national impact analysis as discussed in detail below. See sections IV.F and IV.H document. DOE's NIA includes all impacts (both costs and benefits) along the distribution chain beginning with the increased costs to the manufacturer to manufacture the equipment and ending with the increase in price experienced by the consumer. DOE also separately conducts a detailed analysis on the impacts on manufacturers' pricing decisions based on assumptions regarding investments, conversion costs, cashflow, and margins. The MIA produces a range of impacts, which is the rule's expected impact on the INPV. The change in INPV is the present value of all changes in industry cash flow, including changes in production costs, capital expenditures, and manufacturer profit margins. The annualized change in INPV is calculated using the industry weighted average cost of capital value of 11.4 percent that is estimated in the MIA (see chapter 12 of the NOPR TSD for a complete description of the industry weighted average cost of capital). For ACF, those values are -\$8 million and no annualized change in INPV. DOE accounts for that range of likely impacts in analyzing whether a TSL is economically justified. See section V.C of this document. DOE is presenting the range of impacts to the INPV under two markup scenarios: the Conversion Cost Recovery scenario, which is the manufacturer markup scenario where manufacturers increase their markups in response to changes in energy conservation standards, and the Preservation of Operating Profit Markup scenario, where DOE assumed manufacturers would not be able to increase per-unit operating profit in proportion to increases in manufacturer production costs. DOE includes the range of estimated annualized change in INPV in the above table, drawing on the MIA explained further in section IV.J of this document, to provide additional context for assessing the estimated impacts of this rule to society, including potential changes in production and consumption, which is consistent with OMB's Circular A-4 and E.O. 12866. If DOE were to include the INPV into the annualized net benefit calculation for this proposed rule, the annualized net benefits would range from \$1,481 million to \$1,489 million at 3-percent discount rate and would range from \$1,201 million to \$1,209 million at 7-percent discount rate. Parentheses indicate negative values.

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DOE's analysis of the national impacts of the proposed standards is described in sections IV.H, IV.K and IV.L of this document.

D. Conclusion

DOE has tentatively concluded that the proposed standards represent the maximum improvement in energy efficiency that is technologically feasible and economically justified, and would result in the significant conservation of energy. Specifically, with regards to technological feasibility products achieving these standard levels are already commercially available for all equipment classes covered by this proposal. As for economic justification, DOE's analysis shows that the benefits of the proposed standard exceed, to a great extent, the burdens of the proposed standards.

Using a 7-percent discount rate for consumer benefits and costs and NO_x and SO₂ reduction benefits, and a 3-percent discount rate case for GHG social costs, the estimated cost of the proposed standards for GFBs is \$329 million per year in increased GFB costs, while the estimated annual benefits are \$1,880 million in reduced GFB operating costs, \$703 million in monetized climate benefits and \$932 million in monetized health benefits.

The net monetized benefit amounts to \$3,185 million per year. DOE notes that the net benefits are substantial even in the absence of the climate benefits,²⁵ and DOE would adopt the same standards in the absence of such benefits.

Using a 7-percent discount rate for consumer benefits and costs and NO_x and SO₂ reduction benefits, and a 3-percent discount rate case for GHG social costs, the estimated cost of the proposed standards for ACFs is \$31 million per year in increased ACF costs, while the estimated annual benefits are \$626 million in reduced ACF operating costs, \$261 million in monetized climate benefits and \$353 million in monetized health benefits. The net monetized benefit amounts to \$1,209 million per year.

The significance of energy savings offered by a new or amended energy conservation standard cannot be determined without knowledge of the specific circumstances surrounding a given rulemaking.²⁶ For example, some covered products and equipment have

substantial energy consumption occur during periods of peak energy demand. The impacts of these products on the energy infrastructure can be more pronounced than products with relatively constant demand. Accordingly, DOE evaluates the significance of energy savings on a case-by-case basis.

As previously mentioned, the proposed standards are projected to result in estimated national energy savings of 13.8 quad FFC for GFBs and 4.5 quads FFC for ACFs, the equivalent of the primary annual energy use of 148 and 48 million homes, respectively. In addition, they are projected to reduce CO₂ emissions by 239.4 Mt and 78.5 Mt, for GFBs and ACFs, respectively. Based on these findings, DOE has initially determined the energy savings from the proposed standard levels are "significant" within the meaning of 42 U.S.C. 6295(o)(3)(B). A more detailed discussion of the basis for these tentative conclusions is contained in the remainder of this document and the NOPR TSD.

DOE also considered more-stringent energy efficiency levels as potential standards, and is still considering them in this rulemaking. However, DOE has tentatively concluded that the potential burdens of the more stringent energy

²⁵ The information on climate benefits is provided in compliance with Executive Order 12866.

²⁶ Procedures, Interpretations, and Policies for Consideration in New or Revised Energy Conservation Standards and Test Procedures for Consumer Products and Commercial/Industrial Equipment, 86 FR 70892, 70901 (Dec. 13, 2021).

efficiency levels would outweigh the projected benefits.

Based on consideration of the public comments DOE receives in response to this document and related information collected and analyzed during the course of this rulemaking effort, DOE may adopt energy efficiency levels presented in this document that are either higher or lower than the proposed standards, or some combination of level(s) that incorporate the proposed standards in part.

II. Introduction

The following section briefly discusses the statutory authority underlying this proposed rule, as well as some of the relevant historical background related to the establishment of standards for fans and blowers.

A. Authority

EPCA authorizes DOE to regulate the energy efficiency of a number of consumer products and certain industrial equipment. Title III, Part C 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.

EPCA specifies a list of equipment that constitutes covered equipment (hereafter referred to as “covered equipment”).²⁷ EPCA also provides that “covered equipment” includes any other type of industrial equipment for which the Secretary of Energy (“the Secretary”) determines inclusion is necessary to carry out the purpose of Part A–1. (42 U.S.C. 6311(1)(L); 42 U.S.C. 6312(b)) EPCA specifies the types of industrial equipment that can be classified as covered in addition to the equipment enumerated in 42 U.S.C. 6311(1). This industrial equipment includes fans and blowers, the subjects of this document. (42 U.S.C. 6311(2)(B)(ii) and (iii)) Additionally, industrial equipment must be of a type that consumes, or is designed to consume, energy in operation; is distributed in commerce for industrial

or commercial use; and is not a covered product as defined in 42 U.S.C.

6291(a)(2) other than a component of a covered product with respect to which there is in effect a determination under 42 U.S.C. 6312(c). (42 U.S.C. 6311(2)(A)) On August 19, 2021, DOE published a final determination concluding that the inclusion of fans and blowers as covered equipment was necessary to carry out the purpose of Part A–1 and classifying fans and blowers as covered equipment. 86 FR 46579, 46588.

The energy conservation program under EPCA consists essentially of four parts: (1) testing, (2) labeling, (3) the establishment of Federal energy conservation standards, and (4) certification and enforcement procedures. Relevant provisions of EPCA 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).

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 (b); 42 U.S.C. 6297) There are currently no Federal energy conservation standards for fans and blowers. However, as noted in the Existing Efficiency Standards subsection of section IV.C.1.b of this document, the California Energy Commission (“CEC”) has finalized a rulemaking that requires manufacturers to report fan operating boundaries that result in operation at a FEI of greater than or equal to 1.00 for all fans within the scope of that rulemaking.²⁸ The scope of the CEC rulemaking includes some, but not all, GFBs that are considered in the scope of this energy conservation rulemaking. The CEC rulemaking goes into effect on November 1, 2023. However, if the Federal standards in this NOPR are finalized and made effective, they will supersede the CEC standard requirements. The CEC standards with respect to fans and blowers covered by a standard set in a final rule would be superseded once the Federal standard takes effect, meaning on the compliance date applicable to GFBs, which is expected to be 5 years after the

publication of any final rule. 42 U.S.C. 6316(a)(10).

Furthermore, EPCA prescribes that all representations of energy efficiency and energy use, including those made on marketing materials and product labels, for certain equipment, including fans and blowers, 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)) DOE notes that Federal test procedures generally supersede any State regulation insofar as such State regulation provides for the disclosure of information with respect to any measure of energy consumption or water use of any covered product (42 U.S.C. 6297(a)(1)) The Federal test procedure for fans and blowers was published on May 1, 2023, and all representations of energy efficiency and energy use, including those made on marketing materials and product labels, must be made in accordance with this test procedure beginning October 30, 2023. 88 FR 27312. Therefore, DOE notes that any disclosure of information regarding any measure of energy consumption for fans required by the CEC must be tested in accordance with the Federal test procedure beginning October 30, 2023.

DOE may, however, grant waivers of Federal preemption for particular State laws or regulations, in accordance with the procedures and other provisions set forth under EPCA. (See 42 U.S.C. 6316(a) (applying the preemption waiver provisions of 42 U.S.C. 6297).)

Subject to certain criteria and conditions, DOE is required to develop test procedures to measure the energy efficiency, energy use, or estimated annual operating cost of each covered equipment. (42 U.S.C. 6295(o)(3)(A) and 42 U.S.C. 6295I) Manufacturers of covered equipment must use the Federal test procedures 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 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)) The DOE test procedures for fans and blowers appear at title 10 of the Code of Federal Regulations (“CFR”) part 431, subpart J, appendices A and B.

DOE must follow specific statutory criteria for prescribing new or amended standards for covered equipment, including fans and blowers. Any new or

²⁷ “Covered equipment” means one of the following types of industrial equipment: electric motors and pumps; small commercial package air conditioning and heating equipment; large commercial package air conditioning and heating equipment; very large commercial package air conditioning and heating equipment; commercial refrigerators, freezers, and refrigerator-freezers; automatic commercial ice makers; walk-in coolers and walk-in freezers; commercial clothes washers; packaged terminal air-conditioners and packaged terminal heat pumps; warm air furnaces and packaged boilers; and storage water heaters, instantaneous water heaters, and unfired hot water storage tanks. (42 U.S.C. 6311(1)(A)–(K))

²⁸ California Energy Commission. Commercial and Industrial Fans and Blowers. Docket No. 22–AAER–01. Available at efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=22-AAER-01.

amended standard for covered equipment must be designed to achieve the maximum improvement in energy efficiency that the Secretary of Energy determines is technologically feasible and economically justified. (42 U.S.C. 6316(a); 42 U.S.C. 6295(o)(2)(A) and 42 U.S.C. 6295(o)(3)(B)) Furthermore, DOE may not adopt any standard that would not result in the significant conservation of energy. (42 U.S.C. 6316(a); 42 U.S.C. 6295(o)(3))

Moreover, DOE may not prescribe a standard: (1) for certain equipment, including fans and blowers, if no test procedure has been established for the equipment, or (2) if DOE determines by rule that the standard is not technologically feasible or economically justified. (42 U.S.C. 6316(a); 42 U.S.C. 6295(o)(3)(A)–(B)) In deciding whether a proposed standard is economically justified, DOE must determine whether the benefits of the standard exceed its burdens. (42 U.S.C. 6316(a); 42 U.S.C. 6295(o)(2)(B)(i)) DOE must make this determination after receiving comments on the proposed standard, and by considering, to the greatest extent practicable, the following seven statutory factors:

- (1) The economic impact of the standard on manufacturers and consumers of the equipment subject to the standard;
- (2) The savings in operating costs throughout the estimated average life of the covered equipment in the type (or class) compared to any increase in the price, initial charges, or maintenance expenses for the covered equipment that are likely to result from the standard;
- (3) The total projected amount of energy (or, as applicable, water) savings likely to result directly from the standard;
- (4) Any lessening of the utility or the performance of the covered equipment likely to result from the standard;
- (5) The impact of any lessening of competition, as determined in writing by the Attorney General, that is likely to result from the standard;
- (6) The need for national energy and water conservation; and
- (7) Other factors the Secretary of Energy (“Secretary”) considers relevant. (42 U.S.C. 6316(a); 42 U.S.C. 6295(o)(2)(B)(i)–(VII))

Further, EPCA establishes a rebuttable presumption that a standard is economically justified if the Secretary finds that the additional cost to the consumer of purchasing equipment complying with an energy conservation standard level will be less than three times the value of the energy savings during the first year that the consumer

will receive as a result of the standard, as calculated under the applicable test procedure. (42 U.S.C. 6316(a); 42 U.S.C. 6295(o)(2)(B)(iii))

EPCA also contains what is known as an “anti-backsliding” provision, which prevents the Secretary from prescribing any amended standard that either increases the maximum allowable energy use or decreases the minimum required energy efficiency of covered equipment. (42 U.S.C. 6316(a); 42 U.S.C. 6295(o)(1)) Also, the Secretary may not prescribe an amended or new standard if interested persons have established by a preponderance of the evidence that the standard is likely to result in the unavailability in the United States in any covered equipment type (or class) of performance characteristics (including reliability), features, sizes, capacities, and volumes that are substantially the same as those generally available in the United States. (42 U.S.C. 6316(a); 42 U.S.C. 6295(o)(4))

Additionally, EPCA specifies requirements when promulgating an energy conservation standard for covered equipment that has two or more subcategories. DOE must specify a different standard level for a type or class of equipment that has the same function or intended use, if DOE determines that equipment within such group: (A) consume a different kind of energy from that consumed by other covered equipment within such type (or class); or (B) have a capacity or other performance-related feature which other equipment within such type (or class) do not have and such feature justifies a higher or lower standard. (42 U.S.C. 6316(a); 42 U.S.C. 6295(q)(1)) In determining whether a performance-related feature justifies a different standard for a group of equipment, DOE must consider such factors as the utility to the consumer of the feature and other factors DOE deems appropriate. *Id.* Any rule prescribing such a standard must include an explanation of the basis on which such higher or lower level was established. (42 U.S.C. 6316(a); 42 U.S.C. 6295(q)(2))

B. Background

1. Current Standards

DOE does not currently have energy conservation standards for fans and blowers. The following section summarizes relevant background information regarding DOE’s consideration of energy conservation standards for fans and blowers.

On May 10, 2021, DOE published a request for information requesting comments on a potential fan or blower definition. 86 FR 24752. DOE followed

this with a publication of a final determination on August 19, 2021, classifying fans and blowers as covered equipment (“August 2021 Final Coverage Determination”). 86 FR 46579. At this time, DOE determined that the term “blower” is used interchangeably in the U.S. market with the term “fan.” 86 FR 46579, 46583. DOE defines a fan (or blower) as a rotary bladed machine used to convert electrical or mechanical power to air power, with an energy output limited to 25 kilojoule (“kJ”) per kilogram (“kg”) of air. It consists of an impeller, a shaft and bearings and/or driver to support the impeller, as well as a structure or housing. A fan (or blower) may include a transmission, driver, and/or motor controller. 10 CFR 431.172.

2. History of Standards Rulemaking for Fans and Blowers

In considering whether to establish standards, on June 28, 2011 DOE published a notice of proposed determination of coverage to initiate an energy conservation standards rulemaking for fans, blowers, and fume hoods. 76 FR 37678. Subsequently, DOE published a notice of public meeting and availability of the Framework document for GFBs in the **Federal Register**. 78 FR 7306 (February 1, 2013). In the Framework document (“2013 Framework Document”), DOE requested feedback from interested parties on many issues, including the engineering analysis, the MIA, the LCC and PBP analyses, and the national impact analysis (“NIA”).

On December 10, 2014, DOE published a notice of data availability (“December 2014 NODA”) that estimated the potential economic impacts and energy savings that could result from promulgating energy conservation standards for fans. 79 FR 73246. The December 2014 NODA analysis used FEI, a “wire-to-air” fan electrical input power metric, to characterize fan performance.

In October 2014, several representatives of fan manufacturers and energy efficiency advocates²⁹ (“Joint Stakeholders”) presented DOE with an alternative metric approach, the “Fan Efficiency Ratio,” which included a fan efficiency-only metric approach (“FER_H”) and a wire-to-air metric approach (“FER_w”).³⁰ On May 1, 2015,

²⁹ The Air Movement and Control Association (AMCA), New York Blower Company, Natural Resources Defense Council (NRDC), the Appliance Standards Awareness Project (ASAP), and the Northwest Energy Efficiency Alliance (NEEA).

³⁰ Supporting documents from this meeting, including presentation slides are available at

based on the additional information received and comments to the December 2014 NODA, DOE published a second NODA (“May 2015 NODA”) that announced data availability from DOE analyses conducted using a modified FEI metric, similar to the FER_w metric presented by the Joint Stakeholders. 80 FR 24841, 24843.

Concurrent with these efforts, DOE established an Appliance Standards Rulemaking Federal Advisory Committee (“ASRAC”) Working Group (“Working Group”) to discuss negotiated energy conservation standards and test procedures for fans.³¹

The Working Group concluded its negotiations on September 3, 2015, and, by consensus vote,³² approved a term sheet containing 27 recommendations related to scope, test procedure, and energy conservation standards (“term sheet”). (See Docket No. EERE–2013–

BT–STD–0006, No. 179.) ASRAC approved the term sheet on September 24, 2015. (Docket No. EERE–2013–BT–NOC–0005; Public Meeting Transcript, No. 58, at p. 29)

On November 1, 2016, DOE published a third notification of data availability (“November 2016 NODA”) that presented a revised analysis for GFBs consistent with the scope and metric recommendations in the term sheet. 81 FR 75742, 75743. As recommended by the working group, the November 2016 NODA used the fan electrical input power metric (FEP)³³ in conjunction with FEI to characterize fan performance. DOE made several additional updates to the November 2016 NODA to address the term sheet recommendations developed by the Working Group as well as stakeholder feedback submitted via public comment. Specifically, the analysis presented in the November 2016 NODA was updated to include (1) augmentation of the Air Movement and Control Association International (“AMCA”) sales data used in the May 2015 NODA to better account for fans made by companies that incorporate those fans for sale in their own equipment, (2) augmentation

of the AMCA sales data to represent additional sales of forward-curved fans, and (3) inclusion of original equipment manufacturer (“OEM”) conversion costs. *Id.* The November 2016 NODA evaluated only fans with a fan shaft input power equal to, or greater than, 1 horsepower (“hp”) and a fan airpower equal to or less than 150 hp. 81 FR 75742, 75746.

On October 1, 2021, DOE published a request for information pertaining to test procedures for fans and blowers (“October 2021 TP RFI”). 86 FR 54412. As part of the October 2021 TP RFI, DOE discussed definitions and potential scope for ACFs. 86 FR 54412, 54414–54415. DOE published a separate request for information on February 8, 2022 (“February 2022 RFI”), to seek input to aid in its development of the technical and economic analyses regarding whether standards for ACFs may be warranted. 87 FR 7048. On October 13, 2022, DOE published a notice of data availability (“October 2022 NODA”) to present its preliminary engineering analysis for ACFs and to seek input to support DOE in completing a notice of proposed rulemaking analysis for all fans and blowers. 87 FR 62038.

DOE received comments in response to the October 2022 NODA from the interested parties listed in Table II–1.

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www.regulations.gov/document?D=EERE-2013-BT-STD-0006-0029.

³¹ Information on the ASRAC, the commercial and industrial fans Working Group, and meeting dates is available at: energy.gov/eere/buildings/appliance-standards-and-rulemaking-federal-advisory-committee.

³² At the beginning of the negotiated rulemaking process, the Working Group defined that before any vote could occur, the Working Group must establish a quorum of at least 20 of the 25 members and defined consensus as an agreement with less than 4 negative votes. Twenty voting members of the Working Group were present for this vote. Two members (Air-Conditioning, Heating, and Refrigeration Institute and Ingersoll Rand/Trane) voted no on the term sheet.

³³ The FEP metric represents the electrical input power of the fan and includes the performance of the motor, and any transmission and/or control if integrated, assembled, or packaged with the fan. In the November 2016 NODA, DOE developed standards based on FEI values evaluated relative to the EL 3 standard FEP.

Table II-1 October 2022 NODA Written Comments

Commenter(s)	Abbreviation	Comment No. in the Docket	Commenter Type
Association of Home Appliance Manufacturers	AHAM	123	Trade Association
Air-Conditioning, Heating, and Refrigeration Institute	AHRI	130	Trade Association
Air Movement and Control Association International	AMCA	132	Trade Association
Appliance Standards Awareness Project, American Council for an Energy-Efficient Economy, Consumer Federation of America, National Consumer Law Center, Natural Resources Defense Council	Efficiency Advocates	126	Efficiency Organizations
Ava Rohleder*	Rohleder	13	Individual
Brandon Damas, P.E. and Jeff Boldt, P.E.	Damas and Boldt	131	Individuals
California Investor-Owned Utilities: Pacific Gas and Electric Company, San Diego Gas and Electric, and Southern California Edison	CA IOUs	127	Utilities
Ethan Dwyer*	Dwyer	119	Individual
Greenheck Group	Greenheck	122	Manufacturer
Madison Indoor Air Quality	MIAQ	124	Manufacturer
Morrison Products Inc.	Morrison	128	Manufacturer
National Electrical Manufacturers Association	NEMA	125	Trade Association
Northwest Energy Efficiency Alliance	NEEA	129	Efficiency Organization

* DOE reviewed the comments from Rohleder, who supports adopting energy conservation standards for ACFs. However, Rohleder's comments otherwise do not provide information or feedback that could be used for this NOPR analysis and instead encouraged DOE to conduct ASRAC negotiations. Similarly, DOE reviewed the comments from Dwyer and determined that Dwyer's comments summarize the October 2022 NODA and otherwise generally note their support of DOE regulating fans and blowers, are out of scope of this rulemaking, or do not provide concrete recommendations that DOE could use in the development of this NOPR analysis. Therefore, comments from these stakeholders are not summarized in the document.

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DOE also acknowledges that it received numerous identical comments via a mass email campaign stating that standards for fans and blowers is an important issue and requesting that DOE pursue an approach that is fair and equitable to both businesses and consumers.³⁴

A parenthetical reference at the end of a comment quotation or paraphrase provides the location of the item in the public record.³⁵

C. Deviation From Process Rule

In accordance with section 3(a) of 10 CFR part 430, subpart C, appendix A (“Process Rule”), DOE notes that it is deviating from the provision in the Process Rule regarding the pre-NOPR and NOPR stages for an energy conservation standards rulemaking.

1. Framework Document

Section 6(a)(2) of the Process Rule states that if DOE determines it is appropriate to proceed with a rulemaking, the preliminary stages of a rulemaking to issue or amend an energy conservation standard that DOE will undertake will be a framework document and preliminary analysis, or an advance notice of proposed rulemaking.

As described in section II.B.2 of this document, DOE published the 2013 Framework Document, the December 2014 NODA, the May 2015 NODA, and the November 2016 NODA for GFBs. 78 FR 7306; 79 FR 73246; 80 FR 24841; 81 FR 75742. The three NODAs presented DOE’s analysis at various points, provided stakeholders opportunity to review and provide comment. Furthermore, while DOE published the February 2022 RFI and October 2022 NODA for ACFs, DOE did not publish a framework document in conjunction with the NODA for ACFs. 87 FR 62038. DOE notes that ACFs and GFBs are analyzed separately, however, the general analytical framework that DOE uses in evaluating and developing potential new energy conservation standards for both GFBs and ACFs is similar. As such, publication of a separate framework document for ACFs would be largely redundant of previously published documents.

³⁴ Comment numbers 14–118 in the docket (Docket No. EERE–2022–BT–STD–0002, maintained at www.regulations.gov).

³⁵ The parenthetical reference provides a reference for information located in the docket of DOE’s rulemaking to develop energy conservation standards for fans and blowers. (Docket No. EERE–2022–BT–STD–0002, maintained at www.regulations.gov). The references are arranged as follows: (commenter name, comment docket ID number, page of that document).

2. Public Comment Period

Section 6(f)(2) of the Process Rule specifies that the length of the public comment period for a NOPR will be not less than 75 calendar days. For this NOPR, DOE is instead providing a 60-day comment period, consistent with EPCA requirements. 42 U.S.C. 6316(a); 42 U.S.C. 6295(p). DOE is opting to deviate from the 75-day comment period because of the robust opportunities already afforded to stakeholders to provide comments on this proposed rulemaking.

DOE is providing a 60-day comment period, which DOE believes is appropriate given the substantial stakeholder engagement for general fans and blowers to date, as discussed in section II.B.2 of this document. Furthermore, the request for information on air circulating fans that was published on February 8, 2022, provided early notice to interested parties that DOE was interested in evaluating potential energy conservation standards for air circulating fans. DOE also provided a 45-day comment period for the notice of data availability that was published on October 13, 2022. Therefore, DOE believes a 60-day comment period is appropriate and will provide interested parties with a meaningful opportunity to comment on the proposed rule.

III. General Discussion

DOE developed this proposal after considering oral and written comments, data, and information from interested parties that represent a variety of interests. The following discussion addresses issues raised by these commenters.

A. General Comments

This section summarizes general comments received from interested parties in response to the October 2022 NODA regarding rulemaking timing, process, and impact.

In response to many of DOE’s requests for comment, AMCA recommended that DOE obtain the requested information through confidential interviews with fan manufacturers. (AMCA, No. 132 at pp. 6–14) DOE notes that it used information collected during manufacturer interviews to inform its engineering, market, and manufacturer analyses.

NEMA commented that its interpretation of DOE’s analysis in the October 2022 NODA was that DOE was proposing energy efficiency requirements for motors that are used in ACFs, which would be confusing and problematic for the motor industry,

since there is a separate rulemaking for motors. (NEMA, No. 125 at pp. 2, 4). Additionally, NEMA stated that DOE’s inclusion of higher efficiency small, non-“small electric motor” electric motors (“SNEMs”) as a technology option for increasing the efficiency of ACFs could be an issue because of an ongoing rulemaking for SNEMs. (NEMA, No. 125 at p. 2) DOE notes that in a NOPR for expanded scope electric motors (“ESEMs”) published on December 15, 2023 (“December 2023 ESEM NOPR”), motors that were previously referred to as SNEMs were redefined to be ESEMs. 88 FR 87062 DOE will use the term “ESEM” throughout the remainder of this document to refer to these motors. Morrison commented that it is concerned about the small motors rulemaking being in progress at the same time as this fans and blowers rulemaking. (Morrison, No. 128 at p. 1)

DOE notes that it is proposing energy conservation standards for fans and blowers, including ACFs and GFBs, and that it is not proposing energy conservation standards for motors in this rulemaking. DOE typically defines a likely design path to structure its engineering analysis; however, DOE notes that this design path is not prescriptive. DOE heard from ACF manufacturers that replacing a less efficient motor with a more efficient motor would be one of the first options they would evaluate. Therefore, DOE considered more efficient motors as an option that a manufacturer might apply to reach a given ACF efficiency level. DOE acknowledges that the electric motors rulemaking involving ESEMs is ongoing (*see* EERE–2020–BT–STD–0007) and that stakeholders made a joint recommendation for the efficiencies at which they believe the standards for ESEMs should be set. (Docket No. EERE–2020–BT–STD–0007, Joint Stakeholders, No. 38 at p. 6, Table 2) As discussed in section IV.C.2.c, DOE defined an efficiency level (EL 2) in its ACF engineering analysis based on the efficiencies recommended for ESEMs by the Joint Stakeholders. DOE may consider adjusting the baseline efficiency level for ACFs if it sets a standard in the ESEM rulemaking at the recommended ESEM levels.

AMCA commented that it generally supports NEMA’s comments. (AMCA, No. 132 at pp. 2, 21) DOE therefore notes that throughout this document, reference to comments made by NEMA are understood to be representative of the viewpoints of AMCA as well.

Greenheck stated that it would be beneficial for the ACF rulemaking to be delayed until after AMCA 230–2023 is

published. (Greenheck, No. 122 at p. 1) AMCA commented that DOE should finalize a test procedure before proceeding with its fans and blowers energy conservation standards rulemaking so that stakeholders can make informed comments on the energy conservation standards rulemaking. (AMCA, No. 132 at p. 10) DOE notes that ACMA 230–23 was published on February 10, 2023, and that DOE has since published its test procedure final rule for fans and blowers, on May 1, 2023. 88 FR 27312.

MIAQ commented that it disagrees with DOE's decision to provide a 45-day comment period instead of the usual 75-day comment period for the October 2022 NODA. (MIAQ, No. 124 at p. 2) In the October 2022 NODA, DOE discussed its decision to deviate from section 3(a) of appendix A to subpart C of 10 CFR part 430 and reduce the comment period. 87 FR 62038, 62039. DOE provided a 45-day comment period given the substantial stakeholder engagement prior to the publication of the NODA and to provide DOE with ample time to review comments to inform this NOPR analysis. *Id.*

The CA IOUs commented that they are concerned that the energy conservation standards may supersede the fan input power limits currently in place for building codes, such as the California Building Energy Code (Title 24), American Society of Heating, Refrigerating, and Air-Conditioning Engineers (“ASHRAE”) Standard 90.1, “Energy Standard for Buildings Except Low-Rise Residential Buildings,” and the International Energy Conservation Code (“IECC”) 2021, which would reduce the influence of these building codes and ultimately result in an increase in the energy consumption of the equipment in which fans are embedded because the fan power limits in those codes are significantly more stringent than the FEI requirements and ensure the overall fan system in a building is designed efficiently. (CA IOUs, No. 127 at p. 6) Damas and Boldt also expressed their concern that energy conservation standards may preempt the limits on fan system power in building energy codes such as ASHRAE 90.1 and therefore could potentially increase energy use in new construction. (Damas and Boldt, No. 131 at p. 5) AHRI commented that an energy conservation standard is not needed for fans because all States are obligated to comply with ASHRAE 90.1. (AHRI, No. 130 at pp. 16–17)

DOE notes that neither ASHRAE 90.1 nor IECC 2021 are federally mandated standards. Although ASHRAE 90.1 and IECC 2021 may be incorporated into

municipal and/or building codes, this is not required and is performed on a State and local level. Furthermore, their incorporation does not always mandate standard efficiency requirements. DOE also acknowledges that as stated in section II.A, 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 (b); 42 U.S.C. 6297) Therefore, if energy conservation standards for fans and blowers were to be adopted, they would supersede State laws and regulations for the efficiency of individual fans and blowers at the product or equipment level. DOE considered the fan efficiency requirements in ASHRAE 90.1 and IECC 2021 in its analysis, as discussed in section IV.C.1.b of this document. With regard to CA IOUs concern that DOE's regulation would supersede current regulations for fan input power limits, DOE notes that the standards proposed in this NOPR apply only to individual fans, whether embedded or standalone, that are within the proposed scope of this rulemaking. DOE is not proposing minimum input power requirements for fan systems that may be incorporated into buildings. Therefore, although the individual fans used in fan systems would be required to comply with DOE's minimum FEI requirements if the fan is within the proposed scope of this rulemaking, DOE's proposed regulations would not supersede input power requirements for fan systems.

B. Scope of Coverage

This NOPR covers those commercial and industrial equipment that meet the definition of “fan” or “blower,” as codified at 10 CFR 431.172 and for which DOE has finalized test procedures in subpart J of 10 CFR part 431.

As discussed, DOE defines a “fan” or “blower” as a rotary bladed machine used to convert electrical or mechanical power to air power, with an energy output limited to 25 kJ/kg of air. It consists of an impeller, a shaft and bearings and/or driver to support the impeller, as well as a structure or housing. A fan or blower may include a transmission, driver, and/or motor controller. 10 CFR 431.172. DOE separates fans and blowers into general fans and blowers and air circulating fans.

An “air circulating fan” means a fan that has no provision for connection to ducting or separation of the fan inlet from its outlet using a pressure boundary, operates against zero external

static pressure loss, and is not a jet fan. 10 CFR 431.172. Fans and blowers that are not ACFs are referred to as general fans and blowers (“GFBs”) throughout this document.

In response to the October 2022 NODA, DOE received comments on the fans considered within the scope of its analysis.

Greenheck, AMCA, and Morrison commented that ACFs should be considered in a separate rule from GFBs since ACFs and GFBs are utilized in different applications and use different industry test procedures (*i.e.*, AMCA 230 for ACFs and AMCA 214 for GFBs). (Greenheck, No. 122 at p. 1; AMCA, No. 132 at pp. 1, 20–21; Morrison, No. 128 at p. 2)

DOE acknowledges that ACFs and GFBs have separate utilities and test procedures. In the test procedure final rule that was published on May 1, 2023 (“May 2023 TP Final Rule”), DOE adopted separate test procedures for GFBs and ACFs (*see* appendix A and appendix B, respectively, to subpart J of 10 CFR part 431). 88 FR 27312. Similarly, in this NOPR, separate analyses were conducted for ACFs and GFBs to account for the difference in test procedures, metrics, and utility. DOE is proposing separate standards for GFBs and ACFs, expressed in different metrics, as discussed in later sections.

1. General Fans and Blowers

In the May 2023 TP Final Rule, DOE established the scope of the test procedure. 88 FR 27312. In this NOPR, DOE is proposing energy conservation standards for GFBs consistent with the scope of coverage defined in the May 2023 TP Final Rule.

Specifically, in this NOPR, DOE proposes energy conservation standards for the following GFB categories, as defined in the DOE test procedure: (1) axial inline fan; (2) axial panel fan; (3) centrifugal housed fan; (4) centrifugal unhoused fan; (5) centrifugal inline fan; (6) radial housed fan; and (7) power roof/wall ventilator (“PRV”). Furthermore, consistent with the DOE test procedure, DOE proposes that the scope of this energy conservation standards rulemaking for GFBs would apply to fans with duty points with a fan shaft input power equal to or greater than 1 hp and a fan static or total air power equal to or less than 150 hp.

Additionally, DOE did not evaluate or consider potential energy conservation standards for GFBs that were not included in the scope of its test procedure. *See* 10 CFR 431.174. DOE notes that its test procedure excludes fans that create a vacuum of 30 inches water gauge or greater. 10 CFR

<p>431.174(a)(2)(vii) In this NOPR, DOE proposes to further clarify that this provision excludes fans that are manufactured and marketed exclusively to create a vacuum of 30 inches water gauge or greater.</p> <p>DOE requests comment on its proposed clarification for fans that create a vacuum. Specifically, DOE requests comment on whether fans that</p>	<p>are manufactured and marketed exclusively to create a vacuum of 30 inches water gauge or greater could also be used in positive pressure applications. Additionally, DOE requests information on the applications in which a fan not manufactured or marketed exclusively for creating a vacuum would be used to create a</p>	<p>vacuum of 30 inches water gauge or greater.</p> <p>Consistent with the test procedure, DOE has excluded certain embedded fans, listed in Table III–1, from its analysis. <i>See</i> the May 2023 TP Final Rule for a detailed discussion of these exclusions. 88 FR 27312, 27322–27331.</p> <p>BILLING CODE 6450–01–P</p>
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Table III-1 Embedded Fans Proposed for Exclusion from the Scope of the Energy Conservation Standards Rulemaking

Fans embedded in:
Direct-expansion dedicated outdoor air systems (“DX-DOASes”) subject to any DOE test procedures in appendix B to subpart F of part 431
Single-phase central air conditioners and heat pumps rated with a certified cooling capacity less than 65,000 British thermal units per hour (“Btu/h”), that are subject to DOE’s energy conservation standard at 10 CFR 430.32(e)
Three-phase, air-cooled, small commercial packaged air-conditioning and heating equipment rated with a certified cooling capacity less than 65,000 Btu/h, that are subject to DOE’s energy conservation standard at 10 CFR 431.97(b)
Transport refrigeration (<i>i.e.</i> , Trailer refrigeration, Self-powered truck refrigeration, Vehicle-powered truck refrigeration, Marine/Rail container refrigerant), and fans exclusively powered by combustion engines
Vacuum cleaners
Heat Rejection Equipment: <ul style="list-style-type: none"> • Packaged evaporative open circuit cooling towers • Evaporative field-erected open circuit cooling towers • Packaged evaporative closed-circuit cooling towers • Evaporative field-erected closed-circuit cooling towers • Packaged evaporative condensers • Field-erected evaporative condensers • Packaged air-cooled (dry) coolers • Field-erected air-cooled (dry) coolers • Air-cooled steam condensers • Hybrid (water saving) versions of all of the previously listed equipment that contain both evaporative and air-cooled heat exchange sections
Air curtains
*Air-cooled commercial package air conditioners and heat pumps (CUAC, CUHP) with a certified cooling capacity between 5.5 tons (65,000 Btu/h) and 63.5 tons (760,000 Btu/h) that are subject to DOE’s energy conservation standard at 10 CFR 431.97(b)
*Water-cooled and evaporatively cooled commercial air conditioners and water-source commercial heat pumps that are subject to DOE’s energy conservation standard at 10 CFR 431.97(b)
*Single package vertical air conditioners and heat pumps that are subject to DOE’s energy conservation standard at 10 CFR 431.97(d)
*Packaged terminal air conditioners (PTAC) and packaged terminal heat pumps (PTHP) that are subject to DOE’s energy conservation standard at 10 CFR 431.97(e)
*Computer room air conditioners that are subject to DOE’s energy conservation standard at 10 CFR 431.97(e)
*Variable refrigerant flow multi-split air conditioners and heat pumps that are subject to DOE’s energy conservation standard at 10 CFR 431.97(f)

* The exclusion only applies to supply and condenser fans embedded in this equipment.

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In response to the October 2022 NODA, DOE received comments

regarding the scope of the energy conservation standards for GFBs.

AHAM agreed with DOE’s proposal to only cover GFBs that were rated at 1 hp

or higher because it effectively excluded most fans used in consumer product applications. (AHAM, No. 123 at p. 5) AHRI commented that regulating GFBs

with an input power of less than 1 hp would include residential fans. (AHRI, No. 130 at p. 3) Morrison expressed concern with the minimum power limit for GFBs being 0.1 hp instead of 1 hp since most GFBs with input powers less than 1 hp are not commercial or industrial. (Morrison, No. 128 at p. 1). DOE interprets Morrison's reference to a 0.1 hp limit to be a reference to the 0.1 hp representative unit for ACFs in the October 2022 NODA. DOE notes that a minimum power limit of 0.1 hp for GFBs was not proposed in the October 2022 NODA. As discussed, GFBs with an input power of less than 1 hp are excluded from the scope of this rulemaking, which is consistent with the scope of coverage in the DOE test procedure. See 10 CFR 431.174(a)(4)(i).

In response to both the October 2022 NODA and the July 2022 TP NOPR, AHRI and Morrison commented that they were concerned about how energy conservation standards would apply to replacement fans. (Morrison, No. 128 at p. 2; AHRI, No. 130 at pp. 2, 5, 12) Morrison and AHRI stated that replacement fans should be exempt from the standards rulemaking because a fan with the same specific performance and safety devices needs to be used for replacement in order to achieve the same system performance and to comply with safety requirements. *Id.* DOE notes that the comments from AHRI and Morrison submitted in response to the October 2022 NODA are identical in content to the comments submitted from these and other stakeholders to the July 2022 NOPR. These comments are fully summarized in the May 2023 TP Final Rule. 88 FR 27312, 27334.

CA IOUs stated that consumers seeking to replace low-pressure fans in constrained spaces may not be able to find replacement fans that meet a higher FEI. Since a more efficient fan may require a larger diameter, it might not fit in the constrained space. Therefore, either the constrained space will need to be enlarged to fit the larger fan (which is likely to be costly for the consumer) or the consumer would select a replacement fan of the same size but with higher pressure (resulting in more power use to achieve the same airflow). (CA IOUs, No. 127 at p. 6) CA IOUs therefore proposed a narrow exception for [non-embedded] centrifugal fans with a rated pressure not greater than 1.5 inches water gauge. (CA IOUs, No. 127 at p. 7)

Consistent with DOE's response to these comments in the April 2023 Final Rule, DOE is proposing to exclude certain embedded fans from potential energy conservation standards in this

rulemaking, whether sold for incorporation into the equipment or already incorporated in the equipment, if embedded in equipment listed in Table III-1. This approach would exclude replacement fans for the equipment listed in Table III-1. For equipment not listed in Table III-1, DOE notes that it is not excluding replacement fans from the scope of the rulemaking, consistent with the scope of the DOE test procedure. In its analysis, which is discussed in further detail in section IV.C.1 of this document, DOE evaluated improved efficiency options while maintaining constant diameter and duty point (*i.e.*, air flow and operating pressures remained constant as efficiency increased); therefore, DOE has tentatively concluded that a compliant fan of the same size and performance would be available for use as an embedded fan or replacement for an embedded fan. Additionally, DOE does not expect that manufacturers of equipment that contain embedded fans would need to redesign their equipment. Furthermore, DOE is not excluding centrifugal fans based on its rated pressure. In its analysis, DOE specifically examined centrifugal housed fans designed at both lower- and higher-pressure duty points. Based on that analysis, DOE did not find a significant difference in the achievable FEI values between the higher- and lower-pressure duty points. Accordingly, DOE has tentatively determined that centrifugal housed fans do not require an exclusion based on rated pressure. Additional details on DOE's analysis are presented in chapter 3 of the accompanying TSD.

DOE also received multiple comments from stakeholders about fans that should be excluded from the scope of the rulemaking; these comments were similar to the comments received in response to the July 2022 TP NOPR. Morrison and AHRI commented that they are concerned over double regulation of products. (Morrison, No. 128 at pp. 2-3; AHRI, No. 130 at p. 2) AHRI commented that fans embedded in boilers and commercial water heaters should be excluded. (AHRI, No. 130 at pp. 10-11) DOE notes that these comments were summarized and responded to in the May 2023 TP Final Rule. 88 FR 27312, 27329-27330. Additionally, AHRI commented that the regulation of fans within air-cooled water chillers would not improve the efficiency of the entire equipment, nor would it lead to net energy savings because ASHRAE 90.1 already sets efficiency standards for the equipment and the entire system is designed to

meet the ASHRAE 90.1 efficiency standards. (AHRI, No. 130 at pp. 9-10) MIAQ commented that energy conservation standards for embedded fans would not necessarily improve the performance of the products in which the fans are embedded if the products are already regulated. (MIAQ, No. 124 at p. 4)

As previously discussed, DOE is exempting fans embedded in the equipment listed in Table III-1, consistent with the DOE test procedure, and continues to exclude fans in covered equipment in which the fan energy use is already captured in the equipment-specific test procedures. Furthermore, as discussed in section III.A of this document, ASHRAE 90.1 is not a federally mandated standard, though it may be adopted by State and local governments, and therefore DOE is not specifically exempting fans that are in equipment that are regulated by IECC and ASHRAE 90.1.

More details regarding the scope of GFBs that are included in this NOPR can be found in the May 2023 TP Final Rule. 88 FR 27312, 27317-27336.

2. Air Circulating Fans

In the October 2022 NODA, DOE stated that it was considering all air circulating fans in its analysis of potential energy conservation standards for fans and blowers, including unhooded air circulating fan heads and hooded air circulating fan heads. 87 FR 62038, 62041. DOE received comments from stakeholders in response to the scope discussion in the October 2022 NODA.

AHAM commented there is a lack of clarity about which products are included and excluded in DOE's proposed scope and that DOE was improperly expanding the scope of products included in the fans and blowers category by including residential products. AHAM stated that it did not believe that the metric, technology options, assumptions, and test procedure discussed in the October 2022 NODA are relevant to residential fans. (AHAM, No. 123 at pp. 1-2) Specifically, AHAM commented that the proposed test procedure from the July 2022 TP NOPR and AMCA 214-21 are not applicable to residential fans and that no energy conservation standards should be set for residential fans until a test procedure for residential fans is established. (AHAM, No. 123 at pp. 5, 9) AHAM, Greenheck, and AMCA also commented that ACFs with an input power less than 125 W should be excluded from scope to coincide with the scope limit in AMCA 230-23 and IEC 60879. (AHAM, No. 123

at pp. 5–6; Greenheck, No. 122 at p. 2; AMCA, No. 132 at pp. 1–2, 19–20) AHAM noted that this would effectively differentiate between residential and consumer products, so long as the 125 W threshold applies to the fan rating alone and not to the entire product or the fan and motor. (AHAM, No. 123 at p. 5) DOE notes that ACFs are tested in a configuration that measures electrical input power to the fan, inclusive of the motor, and that the existing test procedures (*i.e.*, AMCA 230–23 or IEC 60879:2019) do not allow measuring the mechanical shaft power to the fan, exclusive of the motor. Therefore, DOE has determined that a limit in terms of electrical input power (applicable to the fan and motor) is more appropriate. DOE notes that AHAM submitted additional comments recommending exclusion of residential fans and fans embedded in residential products that were also submitted in response to the July 2022 TP NOPR. (AHAM, No. 123 at pp. 2–5) DOE addressed those comments in the May 2023 TP Final Rule. 88 FR 27312, 27326. In the May 2023 TP Final Rule, DOE established the scope of the test procedure for ACFs and excluded ACFs with an input power of less than 125 W at maximum speed. 88 FR 27312, 27331. In this NOPR, DOE is proposing energy conservation standards for ACFs consistent with the scope of coverage defined in the May 2023 TP Final Rule. (*see* 10 CFR 431.174(b)). Therefore, DOE proposes that ACFs with an input power of less than 125 W at maximum speed are excluded from the scope of this standards rulemaking. DOE is aware, however, that ACFs with an input power less than 125 W at maximum speed could be distributed in commerce for industrial and commercial use, and that ACFs with an input power greater than 125 W at maximum speed could be distributed in commerce for residential use. However, any equipment that meets the definition of air circulating fan, has an input power greater than or equal to 125 W at maximum speed, as measured by the test procedure at high speed, and is of a type that is not a covered consumer product and is, to any significant extent, distributed in commerce for industrial or commercial purposes would be subject to these proposed energy conservation standards, regardless of whether it is sold for use in commercial, industrial, or residential settings.

AHAM commented that the terminology used in the October 2022 NODA for fan head diameter, rather than fan blade diameter, is inconsistent with how residential ACFs are typically

analyzed. (AHAM, No. 123 at p. 8) DOE notes that while it works to use terminology that is consistent with industry terminology, it is not always possible given the size and maturity of test standards development in a given industry. DOE clarifies that its usage of the term “fan head diameter” in the October 2022 NODA was intended to be analogous to “fan blade diameter.” Additionally, DOE notes that it is proposing a definition for “diameter” for fans and blowers that is consistent with the term “fan blade diameter” in this NOPR, which is discussed in section IV.A.1.b of this document.

AHAM also commented that it did not believe that DOE has enough data on residential fans to analyze them. AHAM stated that DOE’s analysis in the October 2022 NODA had an ACF with a 24-inch (“in.”) blade and a 0.5 hp motor, which is not representative of residential ACFs. (AHAM, No. 123 at p. 8) DOE notes that in the October 2022 NODA, it analyzed ACFs at multiple representative sizes and motor horsepowers, including a 12 in. diameter, 0.1 motor hp unit; a 20 in. diameter, 0.33 motor hp unit; a 24 in. diameter, 0.5 motor hp unit; a 36 in. diameter, 0.5 motor hp unit; and 50 in. diameter, 1 motor hp unit. 87 FR 62038, 62046. DOE had determined that these diameters and motor horsepowers were representative of the full scope of ACFs considered in the October 2022 NODA. *Id.*

AHAM stated that the size of motors that are typically used in residential ACFs are excluded from the scope of the ongoing electric motors rulemaking; therefore, residential ACFs should be excluded from this rulemaking since DOE would not see potential savings. (AHAM, No. 123 at p. 9) DOE notes that this is a rulemaking for fans and blowers. For ACFs, DOE considers higher-efficiency motors as a design option as well as other design options but emphasizes that the approach that DOE uses to evaluate potential efficiency standards is not prescriptive (*see* section IV.A.3 of this document). Furthermore, DOE considers both potential economic and energy savings in its analysis, which is discussed in section IV.G of this document.

Additionally, AHAM commented that it was their understanding that the proposed definitions for ACFs in the July 2022 TP NOPR did not include bladeless fans and agreed with the exclusion of bladeless ACFs from scope. (AHAM, No. 123 at p. 5) The definition of air circulating fan, “a fan that has no provision for connection to ducting or separation of the fan inlet from its outlet using a pressure boundary, operates

against zero external static pressure loss, and is not a jet fan,” does not exclude bladeless fans. *See* 10 CFR 431.172.

However, as discussed above, ACFs with input powers less than 125 W at maximum speed are excluded from the scope of this rulemaking. Therefore, bladeless fans, which have input power less than 125 W are excluded from the scope of this NOPR.

NEMA expressed concern that the July 2022 TP NOPR proposed only including fans with a shaft input power between 1 hp and 150 hp, but that the October 2022 NODA proposed including fans with a shaft input power of less than 1 hp. (NEMA, No. 125 at p. 2). DOE notes that, as specified in the test procedure, the 1 hp and 150 hp limits are applicable to GFBs, and that GFBs with an input power of less than 1 hp are excluded from scope. *See* 10 CFR 431.174(a)(4)(i). Additionally, DOE clarifies that the 150-hp limit applies to the fan air power. 10 CFR 431.174(a)(4)(ii) DOE notes that the ACF scope evaluated in this NOPR is consistent with the scope DOE adopted in the May 2023 TP Final Rule, which excludes ACFs with an input power of less than 125 W. 88 FR 27312, 27333.

a. Ceiling Fan Distinction

DOE explained in the coverage determination that fans and blowers, the subjects of this rulemaking, do not include ceiling fans, as defined at 10 CFR 430.2. *See* 86 FR 46579, 46586 and 10 CFR 431.171. Therefore, as stated in the May 2023 TP Final Rule, equipment that meets the definition of a ceiling fan would be excluded from the scope of equipment included under “fan and blower”. 88 FR 27312, 27365. A ceiling fan means a nonportable device that is suspended from a ceiling for circulating air via the rotation of fan blades. 10 CFR 430.2. In the ceiling fan test procedure final rule published on August 16, 2022, DOE finalized an amendment to the ceiling fan definition at 10 CFR 430.2 to specify that a ceiling fan provides “circulating air,” which means “the discharge of air in an upward or downward direction. A ceiling fan that has a ratio of fan blade span (in inches) to maximum rotation rate (in revolutions per minute) greater than 0.06 provides circulating air.” 87 FR 50396, 50402. Specifically, the 0.06 in/RPM ratio was added in the ceiling fans definition to distinguish fans with directional airflow from circulating airflow. *Id.*

DOE also finalized a definition for “high-speed belt-driven ceiling fan” (“HSBD”) and added language to clarify that high-speed belt-driven ceiling fans were to be subject to the AMCA 230–15

test procedure and subject to a similar efficiency metric as large-diameter ceiling fans (namely the ceiling fan energy index “CFEI”). *Id.* at 87 FR 50424, 50426, 50431.

In the May 2023 TP Final Rule, DOE established the definitions of ACF and related terms. DOE defined the term air circulating fan as “a fan that has no provision for connection to ducting or separation of the fan inlet from its outlet using a pressure boundary, operates against zero external static pressure loss, and is not a jet fan”. In addition, DOE defined an unhooded circulating fan as “an air circulating fan without housing, having an axial impeller with a ratio of fan blade span (in inches) to maximum rate of rotation (in revolutions per minute) less than or equal to 0.06. The impeller may or may not be guarded.” 88 FR 27312, 27389–27390. DOE relied on the blade span to maximum rpm ratio to distinguish these ACFs from ceiling fans. 87 FR 44194, 44216. For hooded ACFs however, DOE defined a hooded ACF as an air circulating fan with an axial or centrifugal impeller, and a housing. 88 FR 27312, 27390. This definition aligns with the hooded ACF definition in AMCA 230–23 and does not specify a diameter to speed ratio limit because hooded ACFs can have blade span to maximum rpm ratios that are in the same range as ceiling fans (*i.e.*, greater than 0.06).

In the Ceiling Fan ECS NOPR published on June 22, 2023, DOE noted that that a ceiling fan must be “distributed in commerce with components that enable it to be suspended from a ceiling.” 88 FR 40932, 40943. Belt-driven fans are often distributed in commerce without components that enable the fan to be suspended from a ceiling. For example, some belt-driven fans are sold connected to wheels or to a pedestal base. In this case, such a fan would not meet the definition of a ceiling fan because it has not been manufactured to be suspended from the ceiling, and therefore would not be subject to the HSBD test procedure or any potential energy conservation standards for HSBDs even though a consumer could independently purchase their own straps or chains and elect to hang this fan from the ceiling. 88 FR 40932, 40943.

DOE stated that HSBD ceiling fans, in contrast to belt-driven fans connected to wheel or a pedestal base, are distributed in commerce with specific straps, chains, or other similar components that are designed and tested by the manufacturer to safely support the weight of the ceiling fan in an overhead configuration. Further, they circulate air

since they meet the 0.06 blade span to maximum rpm ratio. 88 FR 40932, 40943.

Many belt-driven fans are housed (*i.e.*, the fan blades are contained within a cylindrical enclosure, often with solid metal sides and a cage on the front and back). However, the presence of a housing is not relevant in determining whether a product meets the definition of ceiling fan. While a housing is generally included to better direct air, a housing could be added to a ceiling fan, including those that are clearly intended to circulate air. As such, DOE emphasizes that the definition of a ceiling fan requires that fan to be “suspended from a ceiling” and to “circulate air”, rather than the presence or absence of a fan housing. 88 FR 40932, 40943.

In response to the June 2023 Ceiling Fan ECS NOPR (88 FR 40932), CA IOUs commented that CFEI is not intended for small-diameter ceiling fans.³⁶ (CA IOUs, No. EERE–2021–BT–STD–0011–0049 at p. 3). All HSBD ceiling fans identified by DOE would be small-diameter ceiling fans. Therefore, DOE interprets CA IOU’s comment to mean that the CFEI metric is not intended for HSBD ceiling fans. VES also pointed out in response to the September 2019 Ceiling Fan TP NOPR (84 FR 51440) that they sell shrouded fans that currently are not subject to ceiling fan energy conservation standards because they are belt-driven. VES added that if they transition to a direct-drive motor they would be subject to high-speed small-diameter ceiling fan standards, which are not appropriate as the airflow of their products is significantly higher than high-speed small-diameter ceiling fans given the intended directional application. (VES, No. EERE–2013–BT–TP–0050–0026 at pp. 1–2)

DOE notes that VES did not make a statement as to whether or not the 0.06 blade span to rpm ratio would appropriately distinguish between their circulating fans and traditional ceiling fans. However, as the air circulating fan definitions have pointed out, the 0.06 blade span to rpm ratio is most appropriate for distinguishing between unhooded air circulating fans. Hooded air circulating fans may exceed the 0.06 blade span to rpm ratio and commonly do, despite the fact that they are typically thought of in industry as air circulating fans and not ceiling fans, even if they are ceiling mounted.

³⁶ According to the DOE test procedure for ceiling fans at appendix U to subpart B of 10 CFR part 430, a small diameter ceiling fan means “a ceiling fan that has a represented value of blade span, as determined in 10 CFR 429.32(a)(3)(i), less than or equal to seven feet.”

Based on the interpretation of the ceiling fan definition in the June 2023 Ceiling Fan ECS NOPR, an identical fan product could switch between being regulated as a high-speed belt-driven ceiling fan and a hooded air circulating fan based only on if the equipment is sold with straps or chains for mounting overhead. Similarly, an identical direct drive fan product could switch between being regulated as a high-speed small-diameter ceiling fan and a hooded air circulating fan based only on the if the product is sold with straps or chains for mounting overhead. Further complicating the analysis is the fact that high-speed belt-driven ceiling fans, air circulating fans and high-speed small-diameter ceiling fans are subject to different test procedures and different efficiency standards. DOE believes this confusion necessitates further refinement.

To avoid this confusion, DOE is reinterpreting the scope of the ceiling fan definition based on the potential overlap of products with hooded air circulating fans. As DOE noted in the September 2019 Ceiling Fan TP NOPR, the intent of the ceiling fan definition is to be limited to “nonportable” devices that “circulate air”. 84 FR 51440, 51444. Specifically, to clarify the distinction between air circulating fans and ceiling fans, DOE is interpreting the elements of the ceiling fan definition in the following way:

- **Portable**—means: (1) that a fan is offered for mounting on surfaces other than or in addition to the ceiling; and (2) that a consumer can vary the location of the product/equipment throughout the product/equipment lifetime. A ceiling fan is only mounted to the ceiling and is not intended to be installed in any other mounting configuration or change location after it’s been installed. This is in contrast to hooded air circulating fans sold with straps and chains, where the products are intended to be regularly modified to direct air in different directions or move airflow around different obstacles or in different areas. DOE also notes that once a ceiling fan is mounted to the ceiling, it is often hard-wired in place;

- **Not for the purpose of circulating air**—While DOE has traditionally emphasized the 0.06 fan blade span to maximum rotation rate ratio as the distinction between circulating air and directional airflow, DOE notes that the definition of “circulating air” in the ceiling fan definition is provided in contrast to directional airflow. DOE is interpreting the presence of a housing as evidence of airflow that is intended to be directional. In addition, DOE is interpreting the ability for the consumer

to easily modify the direction of the airflow via mounting by ceiling mounted chains, straps or via a ceiling bracket wherein the fan is able to be pointed in different directions as evidence that the fan is providing directional airflow.³⁷

Based on the interpretation, the scope of the ceiling fan definition would be limited to only traditional ceiling fan products that are connected to the ceiling via a downrod, flush mounting, or similar, non-portable device. All other portable ceiling mounted fans that provide directional airflow would be regulated under the air circulating fan regulation. While the June 2023 Ceiling Fan ECS NOPR included proposed efficiency standards for high-speed belt-driven ceiling fans, under the proposed interpretation of the ceiling fan definition, all high-speed belt-driven ceiling fan products identified by DOE would not be within the scope of the ceiling fan definition and would instead meet the definition of housed air-circulating fans. Further, any direct-drive ceiling-mounted fan that is portable and provides directional airflow (*i.e.*, with a housing) would meet the housed air circulating fan definition and be subject to the air circulating fan test procedure and standards. In line with this interpretation of the ceiling fan definition, all housed air-circulating fans have been included within this NOPR analysis regardless of whether they are sold with a straps or chains to hang them from the ceiling or with wheels or other mounting configurations.

C. Test Procedure and Metric

EPCA sets forth generally applicable criteria and procedures for DOE's adoption and amendment of test procedures. (42 U.S.C. 6314(a)) Manufacturers of covered products must use these test procedures to certify to DOE that their product complies with energy conservation standards and to quantify the efficiency of their product.

As previously discussed, DOE published its test procedure final rule on May 1, 2023, which established separate uniform test procedures for GFBs and ACFs. 88 FR 27312. The test procedure for GFBs is based on American National Standards Institute ("ANSI")/AMCA Standard 214–21 "Test Procedure for Calculating Fan Energy Index (FEI) for Commercial and Industrial Fans and Blowers" ("AMCA 214–21") with some modification and

prescribes test methods for measuring the fan electrical input power and determining the FEI of GFBs. The test procedure for ACFs is based on ANSI/AMCA Standard 230–23 "Laboratory Methods of Testing Air Circulating Fans for Rating and Certification" ("AMCA 230–23") with some modification and prescribes test methods for measuring the fan airflow in cubic feet per minute per watt ("CFM/W") of electric input power to an ACF. (See 10 CFR part 431, subpart J, appendices A and B, respectively.) 88 FR 27312, 27315.

In response to the October 2022 NODA, AHAM commented that the test procedure proposed in the July 2022 TP NOPR was inconsistent with agreements made in the 2015 ASRAC negotiations, which diminishes the value of participating in ASRAC negotiations. (AHAM, No. 123 at pp. 10–11) DOE notes that the context of this comment is the same as an AHAM comment submitted by AHAM to the July 2022 TP NOPR that DOE summarized and responded to in the May 2023 TP Final Rule. 88 FR 27312, 27377.

1. General Fans and Blowers

a. General

DOE is proposing energy conservation standards for GFBs in terms of FEI, which is calculated in accordance with the DOE test procedure. See 10 CFR part 431, subpart J, appendix A. In accordance with the DOE test procedure, the FEI metric would be evaluated at each duty point as specified by the manufacturer and, if adopted, DOE proposes that each duty point at which the fan is offered for sale would need to meet the proposed energy conservation standards.

FEI provides for evaluation of the efficiency of a GFB across a range of operating conditions, captures the performance of the motor, transmission, or motor controllers (if any), and allows for the differentiation of fans with motors, transmissions, and motor controllers with differing efficiency levels. FEI is a wire-to-air metric, which means that it considers the efficiency from the input power to the output power of a fan, including the efficiencies of the motor, motor controller (if included), transmission, and fan itself. The inclusion of all of these components encourages the improvement of motor, motor controller, and transmission efficiencies, in addition to the improvement of a fan's aerodynamic efficiency. In addition, FEI aligns with the industry test standard (AMCA 214–21) and can help drive better fan selections by making it easier to compare performance of different

fans. AMCA 214–21 defines FEI as the ratio of the electrical input power ("FEP") of a reference fan to the FEP of the fan for which the FEI is calculated, both established at the same duty point. The DOE test procedure provides methods to calculate both FEP and FEI of a fan at a given duty point.

In response to the October 2022 NODA, DOE received comment on the metric used for GFBs. Morrison and AHRI commented that they disagreed with using the weighted FEI ("WFEI") metric that was discussed in the July 2022 TP NOPR. (Morrison, No. 128 at pp. 1, 3; AHRI, No. 130 at p. 2–3). DOE notes that these comments are similar to the comments submitted to the July 2022 TP NOPR that DOE summarized in the May 2023 TP Final Rule. MIAQ commented in support of using FEI as the metric used for regulation and disagreed with the use of WFEI because it has not been evaluated by fan manufacturers or their customers (MIAQ, No. 124 at p. 2). In the May 2023 TP Final Rule, DOE responded to similar comments and ultimately defined FEI as the metric for general fans and blowers. 88 FR 27312, 27367–27369.

Morrison commented that the FEI metric aligned well with the agreements made in the ASRAC Term Sheet and that FEI is now being used by numerous standards as the metric for efficiency. (Morrison, No. 128 at pp. 2–3) DOE interprets Morrison's comment as support for using the FEI metric.

Morrison commented that variable-frequency drive ("VFD") control provides a good method to dynamically achieve part-load operation to promote energy savings. Morrison stated that since the FEP calculation metric penalizes the use of VFDs, DOE should consider providing an equivalent bonus factor, at a minimum, to gain back the losses in the calculation. Morrison commented that operating at part load saves significantly more energy than any other efficiency change. (Morrison, No. 128 at p. 3) As discussed in the May 2023 TP Final Rule, DOE is not adopting a control credit in the calculation of FEP for fans with a motor controller, such as a VFD; however, as shown in Table I–1, DOE is proposing lower standards for fans sold with motor controllers to account for the motor controller losses in the FEP metric associated with testing a fan with a controller.

As discussed in the May 2023 TP Final Rule, to the extent that manufacturers of general fans and blowers are making voluntary representations of FEI, then they would need to ensure that the product is tested in accordance with the DOE test

³⁷ See example of "ceiling mounted fans" that are intended to provide directional, rather than circulating air at www.trianglefans.com/type/ceiling-mounted-fans.

procedure and that any voluntary representations of FEI (such as in marketing materials or on any label affixed to the product) disclose the results of such testing. DOE recognizes that the ability to make an additional voluntary representation of the EU metric in marketing materials and on product labels may limit manufacturer burden. DOE is clarifying that manufacturers may represent the additional EU metric, but if doing so they must also represent the FEI metric in accordance with the existing DOE test procedure.

b. Combined Motor and Motor Controller Efficiency Calculation

For fans with a polyphase regulated motor and a controller, AMCA 214–21 allows testing these fans using a shaft-to-air test (*i.e.*, a test that does not include the motor and controller performance). When conducting a shaft-to-air test, the mechanical fan shaft input power is measured and the FEP is calculated by using a mathematical model to represent the performance of the combined motor and controller (*i.e.*, its part-load efficiency). The FEP is then used to calculate the FEI of the fan.

Section 6.4.2.4 of AMCA 214–21, which relies on Annex B, “Motor Constants if Used With VFD (Normative),” and Annex C, “VFD Performance Constants (Normative),” provides a method to estimate the combined motor and controller part-load efficiency for certain electric motors and controller combinations that meet the requirements in sections 6.4.1.3 and 6.4.1.4 of AMCA 214–21, which specify that the motor must be polyphase regulated motor (*i.e.*, an electric motor subject to energy conservation standards at 10 CFR 431.25).

In the July 2022 TP NOPR, DOE stated its concerns that the equations described in section 6.4.2.4 of AMCA 214–21 may not be appropriately representative, resulting in FEI ratings that would be higher than FEI ratings obtained using the wire-to-air test method described in section 6.1 of AMCA 214–21. Therefore, in the July 2022 TP NOPR, DOE did not propose to allow the use of section 6.4.2.4 of AMCA 214–21. Instead, DOE proposed that fans with a motor and controller be tested in accordance with section 6.1 of AMCA 214–21. DOE indicated that manufacturers would still be able to rely on a mathematical model (including the same mathematical model as described in section 6.4.2.4 of AMCA 214–21, if the mathematical model met the AEDM requirements) in lieu of testing to determine the FEI of a fan with a motor

and controller. 87 FR 44194, 44223. In the July 2022 TP NOPR, DOE also reviewed the reference motor and controller (“power drive system”) efficiency provided in IEC 61800–9–2:2017 “Adjustable speed electrical power drive systems Part 9–2: Ecodesign for power drive systems, motor starters, power electronics and their driven applications—Energy efficiency indicators for power drive systems and motor starters,” which also provides equations to represent the performance of a motor and controller used with fans, and found that the IEC model predicted values of efficiency that were significantly lower (more than 10 percent on average) than the model included in AMCA 214–21. *Id.*

In the May 2023 TP Final Rule, DOE further reviewed the model in AMCA 214–21 section 6.4.2.4 and stated that it continued to have concerns that applying the model in section 6.4.2.4 of AMCA 214–21 may result in fan FEI ratings that would be higher than FEI ratings obtained using the wire-to-air test method described in section 6.1 of AMCA 214–21. 88 FR 27312, 27347. Specifically, DOE reviewed information provided by AMCA analyzing the AHRI 1210 database of certified motor controllers and providing graphical representations comparing the AHRI data to the AMCA 207 model and found that there were several AHRI-certified motor and motor controller combinations that had a tested efficiency that is lower than the model in section 6.4.2.4 of AMCA 214–21. (Docket No. EERE–2021–BT–TP–0021–0046, AMCA, No. 41 at pp. 18–19) In their comments, AMCA stated that the model in AMCA 214–21, section 6.4.2.4, was not intended to be a conservative estimate of losses. Instead, according to AMCA, the model was intended to provide a level playing field between manufacturers that chose to test wire-to-air and those that chose to test fan shaft power and calculate wire-to-air losses. (Docket No. EERE–2021–BT–TP–0021–0046, AMCA, No. 41 at p. 18) 88 FR 27312, 27348.

Therefore, to minimize the possibility that using the calculation approach would result in better energy efficiency ratings than when testing the equipment inclusive of the motor and controller, in the May 2023 TP Final Rule, DOE did not allow the use of section 6.4.2.4 of AMCA 214–21. Instead, DOE required that fans with motor and controller be tested in accordance with section 6.1 of AMCA 214–21. DOE noted that manufacturers would still be able to rely on a mathematical model (including the same mathematical model as described in section 6.4.2.4 of AMCA 214–21) in

lieu of testing to determine the FEI of a fan with a motor and controller, as long as the mathematical model meets the AEDM requirements. *Id.* In other words, manufacturers would not be able to generally apply the model in section 6.4.2.4 of AMCA 214–21. Manufacturers would have to first go through the AEDM validation process to demonstrate that the FEI as established by the AEDM (or a calculation method that would rely on the model in section 6.4.2.4 of AMCA 214–21) would be less than or equal to 105 percent of the FEI determined from the wire-to-air test of the basic models used to validate the AEDM. See 10 CFR 429.70(n).

Since the publication of the May 2023 Final Rule, the IEC published a new version of IEC 61800–9–2 (“IEC 61800–9–2: 2023”). Compared to IEC 61800–9–2:2017, which included a calculation method to directly establish typical losses of a reference motor and motor controller combination (or “Power Drive System”, “PDS”), this version provides the reference motor controller. It also points to a separate IEC publication (IEC TS 60034–30–2:2016 “Rotating electrical machines—Part 30–2: Efficiency classes of variable speed AC motors (IE-code)”) for establishing the reference motor losses. The detailed calculations of losses for a reference motor and motor controller are also described in IEC TS 60034–31: 2021 (“Rotating electrical machines—Part 31: Selection of energy-efficient motors including variable speed applications—Application guidelines”).

IEC 61800–9–2:2023 also characterizes the reference motor controller or “complete drive module” (“CDM”) as corresponding to an IE1 efficiency class.³⁸ See section 6.2 of IEC 61800–9–2:2023. IEC 61800–9–2:2023 further establishes efficiency classes for PDS based on pairing different levels of efficiency motors to baseline efficiency CDMs at IE2 levels. See section 6.5 of IEC 61800–9–2:2023. DOE reviewed a report from the International Energy Agency, Electric Motor Systems Annex³⁹ which included test data from 179 tests on 57 motor controllers, as well as additional market data and showed that VFDs on the market today are all within the same efficiency class corresponding to “IE2”, in line with the baseline levels used in IEC 61800–9–2

³⁸ IEC 61900–9–2 Ed.2:2023 establishes three efficiency classes (IE0, IE1, and IE2) to characterize the different efficiency levels of CDMs on the market.

³⁹ International Energy Agency, Electric Motor Systems Annex, Report on Round Robin of Converter Losses, Final Report of Results. www.iea-4e.org/wp-content/uploads/2022/11/rrc_report_final_2022dec.pdf.

Ed. 2:2023. Therefore, DOE has tentatively determined that the IE2 level is appropriate to represent a baseline CDM or motor controller.

In order to support an alternative credit calculation (See discussion in section IV.C.1.b) and potentially reduce test burden, DOE evaluated the model in IEC 61800–9–2:2023 assuming a polyphase regulated motor that exactly meets the standards at 10 CFR 431.25, and a motor controller at IE2 level. In addition, DOE adjusted the IE3 levels⁴⁰ to exactly match the standards at 10 CFR 431.25 and be comparable to the motor losses in AMCA 214–21.⁴¹ DOE found that compared to the AMCA model, the IEC 61800–9–2:2023 model resulted in generally lower combined motor and motor controller efficiencies.⁴² Based on this analysis, DOE has tentatively determined that the IEC model provides a better representation of a baseline motor and VFD combination (*i.e.*, resulting in a conservative estimate of losses) as by definition it relies on a regulated polyphase motor that exactly meets the standards at 10 CFR 431.25 and on a baseline IE2 motor controller.

Therefore, DOE proposes to reduce test burden by adding a combined motor and controller efficiency calculation to allow establishing the FEI of fans sold with a regulated polyphase motor and a motor controller based on a shaft-to-air test and calculated motor and controller efficiency. DOE proposes that the performance of the motor and motor controller combination be allowed for certain electric motors and controller combinations that meet the requirements in sections 6.4.1.3 and 6.4.1.4 of AMCA 214–21, which specify that the motor must be polyphase regulated motor (*i.e.*, an electric motor subject to energy conservation standards at 10 CFR 431.25). To support this approach, DOE proposes that the performance of the motor and motor controller combination be calculated in accordance with the model described in

IEC 61800–9–2:2023 and the calculation in IEC TS 60034–31: 2016, and assuming a regulated polyphase motor that exactly meets the standards at 10 CFR 431.25 and a baseline IE2 motor controller. For the final rule, DOE may also consider an approach where the calculation of AMCA 214–21 would be preserved but adjusted (*i.e.*, same equations but with different coefficients) to align with the results of the IEC 61800–9–2:2023 model as proposed.

DOE requests comments and feedback on the proposed methodology and calculation of motor and motor controller losses as well as potentially using an alternative calculation based on adjusted AMCA 214–21 equations.

2. Air Circulating Fans

In the October 2022 NODA, DOE used FEI as the metric for ACFs in its analysis. DOE requested feedback on the FEI values that it determined and its approach for estimating FEI values for ACFs. 87 FR 62038, 62050.

AHAM commented that FEI is not an appropriate metric to use for residential ACFs because the reference fan used for FEI is based on a commercial fan. (AHAM, No. 123 at p. 7) Furthermore, AHAM commented that the AMCA 214–21 test procedure, which DOE proposed to incorporate by reference in the July 2022 TP NOPR, is not applicable to residential ACFs. (AHAM, No. 123 at p. 6) DOE notes that, as discussed in section III.B.2 of this document, ACFs with an input power of less than 125 W are excluded from the scope of the rulemaking.

The CA IOUs and AMCA commented that the reason FEI values are much higher for ACFs at diameters less than 20 in. is because the airflow constant in the FEI calculation (3,210 CFM) is more impactful for ACFs with lower CFM. (CA IOUs, No. 127 at pp. 4–5; AMCA, No. 132 at pp. 10–11, 19) To support their comment, the CA IOUs provided data demonstrating how, at lower airflows, there is a “bonus” value added to reference shaft input power as a result of the airflow constant. (CA IOUs, No. 127 at pp. 4–5) Ultimately, the CA IOUs recommended that DOE consider using a different airflow constant for lower airflow fans to counter this effect. *Id.* Greenheck explained that the airflow constant in AMCA 214–21 is higher than the 12-in. representative unit can generate; therefore, Greenheck would expect that efficiencies of the 12-in. representative unit would be greater than the efficiencies of larger units, which is why AMCA 214–21 limits the application of FEI to fans with airpowers of at least 125 W. (Greenheck,

No. 122 at p. 2) NEEA suggested that DOE review and confirm the increases in FEI for ACFs at diameters of 20 in. or less. (NEEA, No. 129 at p. 4) AMCA commented that there was a discrepancy between the airflow constant defined for ACFs in the July 2022 TP NOPR (3,210 CFM) and the airflow constant that DOE used in the October 2022 NODA (3,201 CFM). (AMCA, No. 132 at p. 10) In response, DOE confirms that the airflow constant used in the October 2022 NODA is consistent with that in the July 2022 TP NOPR (3,210 CFM) and that the value of 3,201 CFM was a typographical error in the October 2022 NODA. Greenheck commented that using the FEI metric for both GFBs and ACFs would cause confusion regarding which constants should be used for GFBs and which constants should be used for ACFs. (Greenheck, No. 122 at p. 1)

Based on additional evaluation and stakeholder feedback on the airflow constant in the FEI calculation, DOE has adopted the efficacy metric in terms of CFM/W at maximum speed for ACFs in appendix B to subpart J of 10 CFR part 431 (*see* section 2.2). In the May 2023 TP Final Rule, DOE explained that it has concerns over the readiness of an FEI metric for ACFs and acknowledged the uncertainty regarding the airflow and pressure constant values that should be used when calculating FEI for ACFs. Additionally, the efficacy metric is consistent with the metric used in the ACF industry. 88 FR 27312, 27371. Therefore, DOE conducted its analysis for this NOPR and is proposing standards in efficacy in terms of CFM/W at maximum speed.

D. Technological Feasibility

1. General

In each energy conservation standards rulemaking, DOE conducts a screening analysis based on information gathered on all current technology options and prototype designs that could improve the efficiency of the equipment that is the subject of the rulemaking. As the first step in such an analysis, DOE develops a list of technology options for consideration in consultation with manufacturers, design engineers, and other interested parties. DOE then determines which of those means for improving efficiency are technologically feasible. DOE considers technologies incorporated in commercially available equipment or in working prototypes to be technologically feasible. 10 CFR 431.4; 10 CFR part 430, subpart C, appendix A, section 6I(3)(i) and 7(b)(1) (“Process Rule”).

⁴⁰ The IEC defines motor efficiency classes. See IEC TS 60034–30–2:2016, Rotating electrical machines—Part 30–2: Efficiency classes of variable speed AC motors (IE-code).

⁴¹ For the purposes of this analysis, DOE considered a 4-pole motor. DOE relied on the coefficients provided in the EXCEL sheet accompanying the IEC TS 60034–31 Ed.2:2021 to calculate the motor losses equivalent to an IE3 motor (See Table 4 of IEC TS 60034–30–2:2016) and multiplied each coefficient by $((100-\eta_r)/((100-\eta_{IE3})\eta_r))$, where η_r is the minimum value of full-load efficiency at 10 CFR 431.25 at a given horsepower across open and enclosed enclosure categories and η_{IE3} is the IE3 full load efficiency at the same horsepower and pole configuration.

⁴² Two percent lower on average for 4 poles motors at 1, 10, 15, 25, 75, and 200 hp for loads between 0.25 and 1.

After DOE has determined that particular technology options are technologically feasible, it further evaluates each technology option in light of the following additional screening criteria: (1) practicability to manufacture, install, and service; (2) adverse impacts on product utility or availability; (3) adverse impacts on health or safety, and (4) unique-pathway proprietary technologies. 10 CFR 431.4; Sections 6(b)(3)(ii)–(v) and 7(b)(2)–(5) of the Process Rule. Section IV.B of this document discusses the results of the screening analysis for fans and blowers, particularly the designs DOE considered, those it screened out, and those that are the basis for the standards considered in this rulemaking. For further details on the screening analysis for this rulemaking, see chapter 4 of the NOPR technical support document (“TSD”).

2. Maximum Technologically Feasible Levels

When DOE proposes to adopt a standard for a type or class of covered equipment, it must determine the maximum improvement in energy efficiency or maximum reduction in energy use that is technologically feasible for such equipment. (42 U.S.C. 6316(a); 42 U.S.C. 6295(p)(1)) Accordingly, in the engineering analysis, DOE determined the maximum technologically feasible (“max-tech”) improvements in energy efficiency for fans and blowers, using the design parameters for the most efficient products available on the market or in working prototypes. The max-tech levels that DOE determined for this rulemaking are described in section IV.C of this proposed rule and in chapter 5 of the NOPR TSD.

E. Energy Savings

1. Determination of Savings

For each trial standard level (“TSL”), DOE projected energy savings from application of the TSL to fans and blowers purchased in the 30-year period that begins in the first full year of compliance with the proposed standards (2030–2059).⁴³ The savings are measured over the entire lifetime of fans and blowers purchased in the previous 30-year period. DOE quantified the energy savings attributable to each TSL as the difference in energy consumption between each standards

case and the no-new-standards case. The no-new-standards case represents a projection of energy consumption that reflects how the market for equipment would likely evolve in the absence of energy conservation standards.

DOE used its national impact analysis (“NIA”) spreadsheet model to estimate national energy savings (“NES”) from potential new standards for fans and blowers. The NIA spreadsheet model (described in section IV.I of this document) calculates energy savings in terms of site energy, which is the energy directly consumed by equipment at the locations where they are used. For electricity, DOE reports national energy savings in terms of primary energy savings, which is the savings in the energy that is used to generate and transmit the site electricity. DOE also calculates NES in terms of FFC energy savings. The FFC metric includes the energy consumed in extracting, processing, and transporting primary fuels (*i.e.*, coal, natural gas, petroleum fuels), and thus presents a more complete picture of the impacts of energy conservation standards.⁴⁴ DOE’s approach is based on the calculation of an FFC multiplier for each of the energy types used by covered products or equipment. For more information on FFC energy savings, see section IV.H.2 of this document.

2. Significance of Savings

To adopt any new or amended standards for covered equipment, DOE must determine that such action would result in significant energy savings. (42 U.S.C. 6316(a); 42 U.S.C. 6295(o)(3)(B))

The significance of energy savings offered by a new or amended energy conservation standard cannot be determined without knowledge of the specific circumstances surrounding a given rulemaking.⁴⁵ For example, some covered equipment have most of their energy consumption occur during periods of peak energy demand. The impacts of these equipment on the energy infrastructure can be more pronounced than equipment with relatively constant demand. Accordingly, DOE evaluates the significance of energy savings on a case-by-case basis, taking into account the significance of cumulative FFC national energy savings, the cumulative FFC

emissions reductions, and the need to confront the global climate crisis, among other factors. DOE has initially determined the energy savings from the proposed standard levels are “significant” within the meaning of 42 U.S.C. 6316(a); 42 U.S.C. 6295(o)(3)(B).

F. Economic Justification

1. Specific Criteria

As noted previously, EPCA provides seven factors to be evaluated in determining whether a potential energy conservation standard is economically justified. (42 U.S.C. 6316(a); 42 U.S.C. 6295(o)(2)(B)(i)(I)–(VII)) The following sections discuss how DOE has addressed each of those seven factors in this rulemaking.

a. Economic Impact on Manufacturers and Consumers

In determining the impacts of a potential new standard on manufacturers, DOE conducts an MIA, as discussed in section IV.J of this document. DOE first uses an annual cash flow approach to determine the quantitative impacts. This step includes both a short-term assessment—based on the cost and capital requirements during the period between when a regulation is issued and when entities must comply with the regulation—and a long-term assessment over a 30-year period. The industry-wide impacts analyzed include (1) INPV, which values the industry on the basis of expected future cash flows, (2) cash flows by year, (3) changes in revenue and income, and (4) other measures of impact, as appropriate. Second, DOE analyzes and reports the impacts on different types of manufacturers, including impacts on small manufacturers. Third, DOE considers the impact of standards on domestic manufacturer employment and manufacturing capacity, as well as the potential for standards to result in plant closures and loss of capital investment. Finally, DOE takes into account cumulative impacts of various DOE regulations and other regulatory requirements on manufacturers.

For individual consumers, measures of economic impact include the changes in LCC and PBP associated with new standards. These measures are discussed further in the following section. For consumers in the aggregate, DOE also calculates the national net present value of the consumer costs and benefits expected to result from particular standards. DOE also evaluates the impacts of potential standards on identifiable subgroups of consumers that may be affected disproportionately by a standard.

⁴³ Each TSL is composed of specific efficiency levels for each product class. The TSLs considered for this NOPR are described in section V.A of this document. DOE conducted a sensitivity analysis that considers impacts for products shipped in a 9-year period.

⁴⁴ The FFC metric is discussed in DOE’s statement of policy and notice of policy amendment. 76 FR 51282 (August 18, 2011), as amended at 77 FR 49701 (August 17, 2012).

⁴⁵ The numeric threshold for determining the significance of energy savings established in a final rule published on February 14, 2020 (85 FR 8626, 8670), was subsequently eliminated in a final rule published on December 13, 2021 (86 FR 70892).

b. Savings in Operating Costs Compared To Increase in Price (LCC and PBP)

EPCA requires DOE to consider the savings in operating costs throughout the estimated average life of the covered equipment in the type (or class) compared to any increase in the price of, or in the initial charges for, or maintenance expenses of, the covered equipment that are likely to result from a standard. (42 U.S.C. 6316(a); 42 U.S.C. 6295(o)(2)(B)(i)(II)) DOE conducts this comparison in its LCC and PBP analysis.

The LCC is the sum of the purchase price of equipment (including its installation) and the operating expense (including energy, maintenance, and repair expenditures) discounted over the lifetime of the equipment. The LCC analysis requires a variety of inputs, such as equipment prices, equipment energy consumption, energy prices, maintenance and repair costs, equipment lifetime, and discount rates appropriate for consumers. To account for uncertainty and variability in specific inputs, such as equipment lifetime and discount rate, DOE uses a distribution of values, with probabilities attached to each value.

The PBP is the estimated amount of time (in years) it takes consumers to recover the increased purchase cost (including installation) of more efficient equipment through lower operating costs. DOE calculates the PBP by dividing the change in purchase cost due to a more-stringent standard by the change in annual operating cost for the year that standards are assumed to take effect.

For its LCC and PBP analysis, DOE assumes that consumers will purchase the covered equipment in the first full year of compliance with new standards. The LCC savings for the considered efficiency levels are calculated relative to the case that reflects projected market trends in the absence of new or amended standards. DOE's LCC and PBP analysis is discussed in further detail in section IV.F of this document.

c. Energy Savings

Although significant conservation of energy is a separate statutory requirement for adopting an energy conservation standard, EPCA requires DOE, in determining the economic justification of a standard, to consider the total projected energy savings that are expected to result directly from the standard. (42 U.S.C. 6316(a); 42 U.S.C. 6295(o)(2)(B)(i)(III)) As discussed in section III.E, DOE uses the NIA spreadsheet models to project national energy savings.

d. Lessening of Utility or Performance of Products

In establishing equipment classes and in evaluating design options and the impact of potential standard levels, DOE evaluates potential standards that would not lessen the utility or performance of the considered equipment. (42 U.S.C. 6316(a); 42 U.S.C. 6295(o)(2)(B)(i)(IV)) Based on data available to DOE, the standards proposed in this document would not reduce the utility or performance of the equipment under consideration in this rulemaking.

e. Impact of Any Lessening of Competition

EPCA directs DOE to consider the impact of any lessening of competition, as determined in writing by the Attorney General, that is likely to result from a proposed standard. (42 U.S.C. 6316(a); 42 U.S.C. 6295(o)(2)(B)(i)(V)) It also directs the Attorney General to determine the impact, if any, of any lessening of competition likely to result from a proposed standard and to transmit such determination to the Secretary within 60 days of the publication of a proposed rule, together with an analysis of the nature and extent of the impact. (42 U.S.C. 6316(a); 42 U.S.C. 6295(o)(2)(B)(ii)) DOE will transmit a copy of this proposed rule to the Attorney General with a request that the Department of Justice ("DOJ") provide its determination on this issue. DOE will publish and respond to the Attorney General's determination in the final rule. DOE invites comment from the public regarding the competitive impacts that are likely to result from this proposed rule. In addition, stakeholders may also provide comments separately to DOJ regarding these potential impacts. See the **ADDRESSES** section for information to send comments to DOJ.

f. Need for National Energy Conservation

DOE also considers the need for national energy and water conservation in determining whether a new or amended standard is economically justified. (42 U.S.C. 6316(a); 42 U.S.C. 6295(o)(2)(B)(i)(VI)) The energy savings from the proposed standards are likely to provide improvements to the security and reliability of the Nation's energy system. Reductions in the demand for electricity also may result in reduced costs for maintaining the reliability of the Nation's electricity system. DOE conducts a utility impact analysis to estimate how standards may affect the Nation's needed power generation

capacity, as discussed in section IV.M of this document.

DOE maintains that environmental and public health benefits associated with the more efficient use of energy are important to take into account when considering the need for national energy conservation. The proposed standards are likely to result in environmental benefits in the form of reduced emissions of air pollutants and greenhouse gases ("GHGs") associated with energy production and use. DOE conducts an emissions analysis to estimate how potential standards may affect these emissions, as discussed in section IV.K; the estimated emissions impacts are reported in section V.B.6 of this document. DOE also estimates the economic value of emissions reductions resulting from the considered TSLs, as discussed in section V.C.1 of this document.

g. Other Factors

In determining whether an energy conservation standard is economically justified, DOE may consider any other factors that the Secretary deems to be relevant. (42 U.S.C. 6316(a); 42 U.S.C. 6295(o)(2)(B)(i)(VII)) To the extent DOE identifies any relevant information regarding economic justification that does not fit into the other categories described previously, DOE could consider such information under "other factors."

2. Rebuttable Presumption

EPCA creates a rebuttable presumption that an energy conservation standard is economically justified if the additional cost to the equipment that meets the standard is less than three times the value of the first year's energy savings resulting from the standard, as calculated under the applicable DOE test procedure. (42 U.S.C. 6316(a); 42 U.S.C. 6295(o)(2)(B)(iii)) DOE's LCC and PBP analyses generate values used to calculate the effects that proposed energy conservation standards would have on the payback period for consumers. These analyses include, but are not limited to, the 3-year payback period contemplated under the rebuttable-presumption test. In addition, DOE routinely conducts an economic analysis that considers the full range of impacts to consumers, manufacturers, the Nation, and the environment, as required under 42 U.S.C. 6316(a); 42 U.S.C. 6295(o)(2)(B)(i). The results of this analysis serve as the basis for DOE's evaluation of the economic justification for a potential standard level (thereby supporting or rebutting the results of any preliminary determination of

economic justification). The rebuttable presumption payback calculation is discussed in section V.B.1.c of this proposed rule.

IV. Methodology and Discussion of Related Comments

This section addresses the analyses DOE has performed for this rulemaking with regard to fans and blowers. Separate subsections address each component of DOE's analyses.

DOE used several analytical tools to estimate the impact of the standards proposed in this document. The first tool is a spreadsheet that calculates the LCC savings and PBP of potential new energy conservation standards. The national impacts analysis uses a second spreadsheet set that provides shipments projections and calculates national energy savings and net present value of total consumer costs and savings expected to result from potential energy conservation standards. DOE uses the third spreadsheet tool, the Government Regulatory Impact Model ("GRIM"), to assess manufacturer impacts of potential standards. These three spreadsheet tools are available on the DOE website for this proposed rulemaking: www1.eere.energy.gov/buildings/appliance_standards/standards.aspx?productid=51&action=viewlive. Additionally, DOE used output from the latest version of the Energy Information Administration's ("EIA's") *Annual Energy Outlook* ("AEO"), a widely known energy projection for the United States, for the emissions and utility impact analyses.

A. Market and Technology Assessment

DOE develops information in the market and technology assessment that provides an overall picture of the market for the equipment concerned, including the purpose of the equipment, the industry structure, manufacturers, market characteristics, and technologies used in the equipment. This activity includes both quantitative and qualitative assessments, based primarily on publicly available information. The subjects addressed in the market and technology assessment for this rulemaking include (1) determination of equipment classes, (2) scope of the analysis and data availability, and (3) technology and design options that could improve the energy efficiency of fans and blowers. The key findings of DOE's market assessment are summarized in the following sections. See chapter 3 of the NOPR TSD for further discussion of the market and technology assessment.

1. Equipment Classes

When evaluating and establishing energy conservation standards, DOE is required to establish separate standards for a group of covered equipment (*i.e.*, establish a separate equipment class) based on the type of energy used. DOE may also establish separate standards if DOE determines that an equipment's capacity or other performance-related feature that other equipment lacks justifies a different standard. (42 U.S.C. 6316(a); 42 U.S.C. 6295(q)) In making a determination whether a performance-related feature justifies a different standard, DOE must consider such factors as the utility of the feature to the consumer and other factors DOE determines are appropriate. (*Id.*)

a. General Fans and Blowers

As discussed, DOE develops equipment classes based on specific performance-related features that impact utility and may necessarily impact efficiency in serving that utility. For GFBs, DOE identified the direction of airflow through the fan, the outlet configuration of the fan, housing features, and impeller features as characteristics that may justify establishing separate equipment classes. DOE also considered the presence of motor controllers as an additional factor for developing equipment classes.

Based on the direction of airflow through a fan impeller, the classification of a fan may be either axial or centrifugal. Axial fans move air parallel to their axis of rotation and are suitable for applications requiring high airflow at relatively low pressures. Alternatively, centrifugal fans move air radially outward from the axis of rotation, resulting in a change in direction of the air from the inlet of the fan to the impeller edge occurring at or close to 90 degrees. This air is often redirected by a housing, which may concentrate the airflow into a perpendicular outlet, as in the case of a scroll housing, or again redirect the air to move parallel to the inlet flow, as in the case of an inline fan. Centrifugal fans can overcome much higher pressures than axial fans, but operate at lower airflow, resulting in a difference in utility where different airflows and pressures are required. DOE has tentatively determined that the differences between axial- and centrifugal-flow fans result in a difference in utility based on the pressure and airflow ranges under which they are able to operate. For example, an axial fan may be better suited for a general-purpose ventilation application, in which large volumes of

air are required at low pressure, whereas a centrifugal fan may be more appropriate for an air conditioning application, which may require a greater operating pressure than could be achieved by an axial fan. Mixed-flow fans utilize a combination of axial and centrifugal flows to provide similar pressures at higher airflows compared to centrifugal fans where the outlet flow is parallel to the inlet flow. Based on a review of the market, DOE has tentatively determined that mixed-flow fans do not provide a unique utility from centrifugal fans in similar arrangements, due to their similar operating pressure and airflow ranges. Therefore, DOE separated GFBs into equipment classes based on whether they utilize an axial or centrifugal airflow in this NOPR.

The outlet configuration of a fan can also affect its efficiency. In the DOE test procedure, DOE established test configuration and measurement requirements based on whether the immediate outlet of a fan is ducted or not ducted.⁴⁶ See appendix A to subpart J of 10 CFR part 431. For GFBs, ducted fans may be utilized to move air directly from the outlet of the fan through HVAC ducting internal to a building, while not ducted fans discharge air into a plenum or open space. For example, not ducted fans may be utilized to exhaust large quantities of air from a building. Not ducted fans are also better suited for applications in which the fan discharge needs to split into multiple directions, such as ventilation systems which recirculate air from one room to other parts of a building via multiple branching outlets. When a fan outlet is ducted, the outlet air moves through the duct system, and the velocity pressure associated with that air can be regained as static pressure as it travels through the ducting. In this case, FEI is calculated based on a total pressure basis accounting for both the static pressure and the pressure associated with the speed of the outlet air of the fan.⁴⁷ When a fan outlet is not ducted,

⁴⁶ For the purposes of DOE's test procedure, ducting refers to the immediate discharge of a fan and not the fan's application. For example, a centrifugal unhooded fan which exhausts air in all directions into a plenum or open space would be considered not ducted, and tested via the corresponding test configuration, even if that fan is ultimately installed in ducted ventilation system.

⁴⁷ Static pressure is defined as the pressure exerted by a fluid that is not in motion. Total pressure is defined as the sum of the static pressure and the pressure that arises from the movement of a fluid, or the velocity pressure. A fan's static pressure is the static pressure at the outlet of the fan minus the total pressure at the inlet of the fan. The total pressure of a fan is the total pressure at the outlet of the fan minus the total pressure at the inlet of the fan.

the outlet air is immediately released into the surroundings, and the velocity pressure of this air is lost to its surroundings. In this case, FEI is calculated only on a static pressure basis since the pressure associated with the outlet speed of the air is not aiding the system. Because these outlet configurations have different utilities, and in providing this utility the efficiency is calculated differently according to the DOE test procedure, DOE is proposing to separate GFBs into equipment classes based on their outlet configuration.

DOE has determined that a fan's housing may also impact utility. A fan housing is the structure that encloses and guides the airflow of a fan. Fans require certain housing features for specific utilities. For example, PRVs require a special housing to prevent precipitation from entering buildings. Further, different fan housings result in different outlet directions for airflow. For example, centrifugal fans with a scroll-shaped housing redirect airflow perpendicular to the fan inlet, while centrifugal fans with a cylindrical or inline housing have parallel inlet and outlet airflow. In applications that require continuous airflow in a single direction, such as in a long ventilation duct, a centrifugal fan with inline housing could be directly placed in the duct to push air along the single direction. Inserting a centrifugal fan with a scroll housing in the same application, however, would create

unnecessary complexity because it would create multiple changes of direction of airflow, may require changes to the ducting work, and could lead to reduced performance in a space-constrained environment. Because the described housings have specific utilities and DOE has observed different FEI ranges for fans with the described housings, DOE is proposing to separate GFBs into separate equipment classes by whether they are housed or unhoused, and to further separate GFBs by the types of housings described.

DOE also considered impeller features for separating fans into equipment classes. DOE identified that radial impellers as defined in AMCA 214–21 offer unique self-cleaning characteristics that allow them to be utilized with significantly less maintenance in airstreams with a high density of particulate matter, such as fume exhaust from a mine.⁴⁸ However, these impellers are also less efficient than other centrifugal impellers. Therefore, DOE is proposing a separate equipment class for fans that use a radial impeller.

The last feature that DOE evaluated for separating GFBs into equipment classes was the use of motor controllers, which allow a fan to adapt to changing

load requirements. This enables a fan to run at lower speed when the system requirements allow, thus saving energy. While this may result in energy savings during operation, the DOE test procedure for fans does not account for these possible changes in operation and energy savings. Furthermore, FEI is a wire-to-air metric, as discussed in section III.C.1 of this document, which means that the use of a motor controller would act to reduce the FEI of a fan at each of its individual operating points. Any efficiency standard set without consideration of the motor controller would be more stringent. DOE recognizes the energy savings benefits of using a motor controller with a fan to allow the energy consumption of fan to be adjusted based on the changing load requirements of the system; therefore, to avoid penalizing the use of such technology, DOE proposes to create equipment classes for GFBs sold with and without motor controllers.

In the DOE Test Procedure, DOE adopted definitions consistent with AMCA 214–21 for several categories of fans and blowers that are within the scope of this NOPR. *See* 10 CFR 431.172. DOE also established a modified definition for axial-panel fans to distinguish these fans from ACFs. *Id.* Table IV–1 presents the fan categories and corresponding definitions adopted by DOE.

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⁴⁸ AMCA 214–21 defines a radial impeller as a form of centrifugal impeller with several blades extending radially from a central hub. Airflow enters axially through a single inlet and exits radially at the impeller periphery into a housing with impeller blades; the blades are positioned so their outward direction is perpendicular within 25 degrees to the axis of rotation.

Table IV-1 Fan Category Definitions

Fan Category	Definition from test procedure
Axial Inline Fan	A fan with an axial impeller and a cylindrical housing with or without turning vanes.
Panel Fan	An axial fan, without cylindrical housing, that includes a panel, orifice plate, or ring with brackets for mounting through a wall, ceiling, or other structure that separates the fan’s inlet from its outlet.
Centrifugal Housed Fan	A fan with a centrifugal or mixed flow impeller in which airflow exits into a housing that is generally scroll-shaped to direct the air through a single fan outlet. A centrifugal housed fan does not include a radial impeller.*
Centrifugal Unhoused Fan	A fan with a centrifugal or mixed flow impeller in which airflow enters through a panel and discharges into free space. Inlets and outlets are not ducted. This fan type also includes fans designed for use in fan arrays that have partition walls separating the fan from other fans in the array.**
Centrifugal Inline Fan	A fan with a centrifugal or mixed flow impeller in which airflow enters axially at the fan inlet and the housing redirects radial airflow from the impeller to exit the fan in an axial direction.
Radial Housed Fan	A fan with a radial impeller in which airflow exits into a housing that is generally scroll-shaped to direct the air through a single fan outlet. Inlets and outlets can optionally be ducted.
Power Roof Ventilators (“PRVs”)	A fan with an internal driver and a housing to prevent precipitation from entering the building. It has a base designed to fit over a roof or wall opening, usually by means of a roof curb.

* The inclusion of “scroll-shaped” in this definition excludes inline fans.

** Radial fans are housed and therefore not included in this definition.

During its analysis, DOE tentatively determined that additional definitions would help to clarify certain fan equipment classes. DOE is proposing in

this NOPR to adopt the definitions for “radial impeller”, “mixed-flow impeller” and “housing” presented in Table IV–2. DOE notes that these

proposed definitions are consistent with those in AMCA 214–21, with some minor modifications for clarity.

Table IV-2 Proposed Definitions for Fan Features

Characteristic	Proposed Definition
Radial Impeller	A form of centrifugal impeller with several blades extending radially from a central hub. Airflow enters axially through a single inlet and exits radially at the impeller periphery into a housing; the blades are positioned so their outward direction is perpendicular within 25 degrees to the axis of rotation. Impellers can have a back plate and/or shroud.
Mixed Flow Impeller	An impeller featuring construction characteristics between those of an axial and centrifugal impeller. A mixed-flow impeller has a fan flow angle ⁴⁹ greater than 20 degrees and less than 70 degrees. Airflow enters axially through a single inlet and exits with combined axial and radial directions at a mean diameter greater than the inlet diameter.
Fan Housing	Any fan component(s) that direct airflow into or away from the impeller and/or provide(s) protection for the internal components of a fan or blower that is not an air circulating fan. A housing may serve as a fan’s structure.

DOE found some fans are sold as radial fans but have impellers that incorporate both radial and non-radial

features, such as blades with a slight backward-inclined design or blades with both straight and backward-curved

portions. To ensure that these fans are properly and consistently classified as either radial or centrifugal housed, DOE

⁴⁹ AMCA 214–21 defines fan flow angle as the angle of the centerline of the air-conducting surface

of a fan blade measured at the midpoint of its trailing edge with the centerline of the rotation axis

in a plane through the rotation axis and the midpoint of the trailing edge.

is proposing a definition for “radial impeller”.

Additionally, DOE is proposing to define “mixed flow impeller” to distinguish mixed flow impellers from axial and centrifugal impellers and to ensure that fans sold with a mixed flow impeller are correctly classified. DOE notes that, as defined in Table IV–1, inline fans with mixed flow impellers are considered in the centrifugal inline equipment class.

Lastly, DOE is proposing to define “fan housing” since housing is a criterion used to separate equipment classes. In its evaluation of the market, DOE found some fans that may not be easily classified without a clear and consistent definition for housing. For example, cabinet fans are sold with an enclosure surrounding their internal

moving components and an additional enclosure further directing airflow. DOE has observed that cabinet fans are commonly marketed as inline fans since the outermost enclosure directs the airflow to be inline; however, the internal enclosure, which directs airflow into and out of the impeller, directs airflow at a 90-degree angle, which would be consistent with a centrifugal housed fan. Based on DOE’s proposed definitions, cabinet fans would be part of the centrifugal housed equipment class.

DOE evaluated each of the fan categories defined in the DOE test procedure using the identified GFB performance features and proposes that each fan category defined in the test procedure will be evaluated as a

separate equipment class. For PRVs, DOE has found that they can be either axial or centrifugal, and their outlets can either be ducted or not ducted. PRVs used for supply will have a ducted outlet, while PRVs used for exhaust will not have a ducted outlet. DOE notes that while centrifugal PRVs serve both supply and exhaust functions, DOE did not find a significant number of axial PRVs being used for supply in the market. Therefore, DOE is proposing to further divide PRVs into three distinct equipment classes: axial PRVs, centrifugal PRV exhaust fans, and centrifugal PRV supply fans. Table IV–3 presents the proposed definitions for each of the three PRV fan equipment classes, which align with the definitions in AMCA 214–21.

Table IV-3 Proposed PRV Fan Categories and Definitions

Fan Equipment Class	Proposed Definition
Axial PRV	A PRV with an axial impeller that either supplies or exhausts air to a building where the inlet and outlet are not typically ducted.
Centrifugal PRV Exhaust Fan	A PRV with a centrifugal or mixed-flow impeller that exhausts air from a building and which is typically mounted on a roof or a wall.
Centrifugal PRV Supply Fan	A PRV with a centrifugal or mixed-flow impeller that supplies air to a building and which is typically mounted on a roof or a wall.

Additionally, DOE is proposing that each GFB equipment class be split into a class of fans that are sold with motor controllers and a class of fans that are sold without motor controllers. For example, there would be two equipment classes for axial PRVs—one for axial PRVs sold with motor controllers and

one for axial PRVs sold without motor controllers. This would be the same for all remaining proposed GFB equipment classes.

In summary, DOE is proposing to separate GFBs into 18 equipment classes in this NOPR. These equipment classes are shown in Table IV–4. As just

discussed, DOE notes that each equipment class shown in the table has a variable-speed and a constant-speed variant. As mentioned previously, these equipment classes directly correspond to the GFB fan categories defined in the DOE test procedure, with the exception of PRVs.

Table IV-4 Proposed Equipment Classes for General Fans and Blowers

Equipment Class*	Airflow	Outlet Configuration	Housing	Impeller Feature
Axial Inline	Axial	Ducted	Inline	Standard
Panel	Axial	Not Ducted	none	Standard
Axial Power Roof Ventilator	Axial	Not Ducted	Precipitation protection	Standard
Centrifugal Inline**	Centrifugal	Ducted	Inline	Standard
Centrifugal Power Roof Ventilator – Supply	Centrifugal	Ducted	Precipitation protection	Standard
Centrifugal Housed	Centrifugal	Ducted	Scroll	Standard
Radial Housed	Centrifugal	Ducted	Scroll	Self-Cleaning
Centrifugal Unhoused	Centrifugal	Not Ducted	none	Standard
Centrifugal Power Roof Ventilator – Exhaust	Centrifugal	Not Ducted	Precipitation protection	Standard

* Each equipment class is further separated by whether the fan is sold with motor controllers as discussed below

** Includes mixed-flow fans

Although GFBs were not discussed in the October 2022 NODA, DOE received comment on GFB equipment classes. Specifically, AHRI commented that forward-curved fans, which are typically used in low-pressure applications, could be removed from the market by energy conservation standards. (AHRI, No. 130 at pp. 12–13) AHRI stated that forward-curved fans should have a separate equipment class because they provide code-required sound quality in low-pressure and low-speed ranges. *Id.* Morrison and AHRI also commented that return or relief fans, which are commonly used for energy-saving economizer functions in systems, could be removed from the market if they are regulated by a DOE energy conservation standard. (Morrison, No. 128 at p. 2; AHRI, No. 130 at p. 2, 13)

DOE notes that the FEI metric is a function of the operating pressure. As mentioned in section III.C.1 of this document, FEI is the ratio of the reference FEP to the actual FEP. The reference fan is used to normalize the FEI calculation by evaluating fan performance compared to a consistent reference fan at each duty point and configuration. Evaluating FEI in this manner allows for comparison of different fans independent of the wide

variety of fan types and duty points. Consequently, a return or relief fan operating at a lower pressure than a supply fan at a given airflow would be compared to a reference FEP specific to that duty point, which accounts for the lower operating pressure and mitigates disproportionate impacts; therefore, DOE has tentatively concluded that return and relief fans do not need a separate equipment class.

To address AHRI's comment that forward-curved fans provide code-required sound quality in low-pressure and low-speed ranges, DOE evaluated data on inlet and outlet noise obtained from manufacturer fan selection software for centrifugal-housed fans at low-pressure duty points. Based on this analysis, DOE observed centrifugal-housed fans with both backward-inclined and airfoil impellers that provided equivalent or nearly equivalent noise levels, in A-weighted decibels, to forward-curved fans operating at the same duty point. Furthermore, DOE observed that noise levels significantly decreased as the FEI of the fan increased, indicating that energy conservation standards would not inhibit fans from complying with sound quality requirements. Therefore, DOE has tentatively determined that forward-curved fans do not require a

separate equipment class. However, to ensure that forward-curved fans were adequately evaluated, DOE evaluated a parallel design path in which it assumed that all forward-curved fans would be redesigned to meet any proposed energy conservation standards, rather than replacing the forward-curved impeller with another impeller topology such as airfoil or backward-inclined. DOE evaluated this parallel design path to consider the costs required to preserve forward-curved fans in the market. Additional details on the parallel design path for forward-curved fans are provided in section IV.C.1.b of this document and chapter 5 of the NOPR TSD.

DOE received no further comments on GFB equipment classes and is therefore proposing the equipment classes in Table IV-4.

b. Air Circulating Fans

In response to the October 2022 NODA, AMCA recommended that DOE use the same ACF definitions as those used in AMCA 230–23. (AMCA, No. 132 at pp. 2, 18) As discussed in the May 2023 Test Procedure Final Rule, the definitions that DOE adopted for ACF, unhoused air circulating fan head (“ACFH”), housed ACFH, air circulating axial panel fan, box fan, cylindrical

ACF, and housed centrifugal ACF align with the definitions published in AMCA 230–23. 88 FR 27312, 27339. DOE additionally adopted definitions for air

circulating axial panel fan, box fan, cylindrical ACF, and housed centrifugal ACF in the DOE test procedure, as defined in Annex B of AMCA 230–23.

See 10 CFR 431.172. These definitions are reproduced Table IV–5.

Table IV-5 ACF Definitions in DOE Fans Test Procedure (10 CFR 431.172)

ACF Term	Definitions
Air Circulating Fan	A fan that has no provision for connection to ducting or separation of the fan inlet from its outlet using a pressure boundary, operates against zero external static pressure loss, and is not a jet fan.
Unhoused Air Circulating Fan Head	An ACF without a housing, having an axial impeller with a ratio of fan-blade span (in inches) to maximum rate of rotation (in revolutions per minute) less than or equal to 0.06. This impeller may or may not be guarded.
Housed Air Circulating Fan Head	An ACF with an axial or centrifugal impeller and a housing.
Air circulating axial panel fan	An axial housed ACFH without a cylindrical housing or box housing that is mounted on a panel, orifice plate, or ring.
Box fan	An axial housed ACFH without a cylindrical housing that is mounted on a panel, orifice plate, or ring and is mounted in a box housing.
Cylindrical Air Circulating Fan*	An axial housed ACFH with a cylindrical housing that is not a Positive Pressure Ventilator as defined in ANSI/AMCA Standard 240-15, Laboratory Methods of Testing Positive Pressure Ventilators for Aerodynamic Performance Rating.
Housed centrifugal Air Circulating Fan	A housed ACFH with a centrifugal or radial impeller in which airflow exits into a housing that is generally scroll shaped to direct the air through a single, narrow fan outlet.

*AMCA 230–23, which is referenced in the DOE test procedure, lists personnel coolers, barrel fans, drum fans, high velocity fans, portable coolers, thermal mixing fans, destratification fans, and down-blast fans as examples of cylindrical ACFs in Annex B.3.2.3.

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In the October 2022 NODA, DOE did not evaluate separate equipment classes for housed and unhoused ACFs and requested comment and supporting data on whether housed and unhoused ACFs have significant differences in utility and/or efficiency. 87 FR 62038, 62045. NEEA stated that DOE should analyze unhoused and housed ACFs separately in its analysis because the efficiencies of housed and unhoused fans differ enough that an analysis of both together could result in non-representative EL values. To support this point, NEEA referenced a plot that was included in the supplementary spreadsheet for the October 2022 NODA that showed ACF efficiency distribution overlaid on the efficiency levels analyzed in the NODA⁵⁰ and stated that the efficiency distributions in the plot were wide for all diameters. (NEEA, No. 129 at p. 1–2) NEEA commented that, given the

many performance-related features with unquantifiable impacts on the fan efficiency data DOE used for its analysis, DOE should separate housed and unhoused ACFs into separate equipment classes to ensure that housed and unhoused ACFs are fairly analyzed. NEEA added that the separation of housed and unhoused fans aligns with the approach taken for GFBs in NODA 3. (NEEA, No. 129 at p. 2–3)

The Efficiency Advocates commented that DOE should group ACFHs, box fans, panel fans, and personnel coolers together into a single axial ACF class since they are all axial fans that provide directional airflow and do not differ significantly in FEI. (Efficiency Advocates, No. 126 at p. 3) They noted that the ACF subcategories in AMCA 230 are delineated in AMCA 230 primarily for descriptive purposes and not for regulatory purposes. *Id.* DOE interprets ACFHs and personnel coolers, as referenced by the Efficiency Advocates, to align with the definitions given for unhoused ACFHs and

cylindrical ACFs, respectively, in Table IV–5. DOE therefore interprets the Efficiency Advocates' comment as a recommendation to combine all axial ACFs into a single equipment class.

DOE's review of the ACF market generally indicated that air circulating axial panel fans, box fans, cylindrical ACFs, and unhoused ACFHs could all be used interchangeably for air circulation applications. DOE did observe that cylindrical ACFs are sometimes marketed toward high-velocity applications. To verify whether design in high-velocity applications would warrant separating cylindrical ACFs into their own equipment class, DOE reviewed available air velocity and thrust data for air circulating axial panel fans, box fans, cylindrical ACFs, and unhoused ACFHs. Based on this analysis, DOE did not find a consistent trend of one or more of these subcategories of ACFs producing more air velocity or thrust than another, further indicating that they may be used interchangeably. DOE therefore

⁵⁰ See Docket No. EERE–2022–BT–STD–0002, No. 11 for the supplementary spreadsheet associated with the October 2022 NODA.

evaluated air circulating axial panel fans, box fans, cylindrical ACFs, and unhoused ACFs as a single “axial ACF” equipment class in this NOPR. DOE is therefore proposing that an axial ACF be defined as “an ACF with an axial impeller that is either housed or unhoused.” DOE considers all fans that meet the axial ACF definition to be subject to the DOE test procedure, and these fans, unless specifically excluded, would be subject to any future energy conservation standards.

DOE requests comment on whether there are specific fans that meet the axial ACF definition that provide utility substantially different from the utility provided from other axial ACFs and that would impact energy use. If so, DOE requests information on how the utility of these fans differs from other axial ACFs and requests data showing the differences in energy use due to differences in utility between these fans and other axial ACFs.

In the October 2022 NODA, DOE also requested comment on whether each of the following design characteristics may impact the utility of air circulating fans: presence or absence of a safety guard, presence or absence of housing, housing design, blade type, power requirements, and air velocity or throw. 87 FR 62038, 62045. Additionally, DOE requested information on any additional design characteristics that may impact ACF utility. *Id.* In response, AMCA commented that all the design variables on which DOE requested comment are combined to influence an ACF’s performance characteristics. (AMCA, No. 132 at p. 6–7). DOE reviewed the market and found that adjusting these design variables while keeping other design parameters constant did not produce a significant difference in efficiency, impact the operation, or impact the fan’s application. Therefore, DOE has tentatively decided not to delineate separate equipment classes for axial ACFs based on safety guards, housing, blade type, power requirements, or air velocity and throw.

In the October 2022 NODA, DOE additionally requested comment and supporting data on whether belt-driven and direct-driven ACFs have significant differences in utility or efficiency. 87 FR 62038, 62045. The Efficiency Advocates commented that DOE should not consider belt-driven fans as a separate equipment class because those fans are merely a low-cost alternative to the

more efficient direct-drive fans rather than a different performance or utility consideration, and that a separate equipment class for belt-driven ACFs could undermine the potential energy savings for larger diameter ACFs. (Efficiency Advocates, No. 126 at p. 3) DOE’s review of belt-driven ACFs on the market indicated that, while belt drives do provide a utility for adjusting the rotational speed of the ACF, VFDs also allow users to adjust the rotational speed of the ACF. Therefore, DOE has tentatively determined that belt drives do not provide a unique utility and DOE did not treat belt-driven ACFs as an equipment class in its NOPR analysis. The shift from belt drive to direct drive is instead discussed as a design option in section IV.C.2.b of this document.

DOE further reviewed the ACF market to determine if additional equipment classes were appropriate for axial ACFs. DOE observed that axial ACFs with larger impeller diameters tended to be more efficient than axial ACFs with smaller impeller diameters. DOE also received feedback during manufacturer interviews that fans with larger diameters are generally more efficient. Therefore, DOE considered diameter as a class-setting variable for axial ACFs in this NOPR. DOE found multiple efficiency incentive programs that provide rebates to agricultural fan manufacturers if they meet certain efficiency targets.⁵¹ For axial ACFs, these agricultural rebate programs typically define four diameter ranges to which the rebate efficiency levels applied: “12-inch to less than 24-inch diameter range,” “24-inch to less than 36-inch diameter range,” “36-inch to less than 48-inch diameter range,” and “48-inch diameter or greater range.” To align with these programs, DOE initially considered four different equipment classes for axial ACFs, one for each diameter range. However, after reviewing efficacy data for axial ACFs, DOE did not find a significant difference in efficacy between axial ACFs in the 12-inch to less than 24-inch diameter range and the 24-inch to less than 36-inch diameter range. Therefore, DOE combined these two diameter ranges into a single equipment class: the “12-inch to less than 36-inch diameter axial ACF” class. DOE assigned the 36-inch to less than 48-inch diameter range to a “36-inch to less than 48-inch diameter axial ACF” class and the 48-inch

diameter or greater range to a “48-inch diameter or greater axial ACF” class.

The term “diameter” in the context of fans and blowers refers to the impeller diameter of a fan. Impeller diameter is typically determined by measuring the radial distance from the tip of one of the impeller blades to the center of the impeller hub and doubling that value. DOE is therefore proposing to define diameter for fans and blowers as “the impeller diameter of a fan, which is twice the measured radial distance between the tip of one of the impeller blades of a fan to the center axis of its impeller hub.” DOE notes that impeller diameter may often be different than nominal diameter.

Additionally, in the October 2022 NODA, DOE summarized a comment from the Efficiency Advocates stating that portable blowers may require an equipment class separate from other ACFs because they provide a unique application (*i.e.*, drying floors), have centrifugal rather than axial construction, and are relatively low in efficiency. 87 FR 62038, 62045. DOE understands the term “portable blower” to be a housed centrifugal ACF. As discussed in section IV.A.1.a of this document, DOE tentatively determined that axial and centrifugal fans generally have different utilities. DOE also reviewed the housed centrifugal ACF market and found that housed-centrifugal ACFs are used primarily as carpet dryers. Additionally, DOE observed that housed-centrifugal ACFs with input powers greater than or equal to 125 W typically have impeller diameters of 4 in. to 20 in., while axial ACFs with input powers greater than 125 W often have impeller diameters exceeding 20 in. DOE also reviewed housed centrifugal ACF efficiency data and found that the most efficient housed centrifugal ACFs can be 3 to 4 times less efficient than the most efficient axial ACFs with a comparable diameter. Since housed centrifugal ACFs have a different construction, are only used as carpet dryers, are smaller, and are less efficient than axial ACFs, DOE has created a separate equipment class for housed centrifugal ACFs. DOE did not consider different diameter ranges for the housed centrifugal ACF equipment class because it did not observe a significant variation in efficiency for housed centrifugal ACFs with diameter. The proposed equipment classes for ACFs are summarized in Table IV–6.

⁵¹ See cecnec.net/agriculture; www.ecirec.coop/rebate-forms-and-specifications; and www.tiprec.com/rebates.

Table IV-6 Proposed Equipment Classes for ACFs

Equipment Class	Equipment Categories Grouped into Equipment Class, as defined in TP Final Rule
12-in. to less than 36-in. diameter axial ACFs	Axial Air Circulating Axial Panel Fans Box Fans Cylindrical ACFs Unhoused ACFHs
36-in. to less than 48-in. diameter axial ACFs	
48-in. diameter or greater axial ACFs	
Housed Centrifugal ACFs	Housed Centrifugal ACFs

2. Scope of Analysis and Data Availability

a. General Fans and Blowers

DOE conducted the GFB engineering analysis for this NOPR using a database of confidential sales information provided by AMCA (“AMCA sales database”), performance data from manufacturer online fan selection software, and performance data provided from confidential manufacturer interviews.

In response to the July 2022 TP NOPR, DOE received comments about the data used in its historical analyses. Specifically, AHRI expressed concern with DOE’s use of the AMCA sales database in the December 2014 NODA, the May 2015 NODA, and the November 2016 NODA, which contains efficiencies established at a variety of different speeds. (Docket No. EERE–2021–BT–TP–0021, AHRI, No. 40 at p. 13). AHRI stated that this approach was inconsistent with the ASRAC Working Group agreement for establishing product performance and, as disclosed during ASRAC negotiations, much of the data in the database was not certified performance and may not be reliable for evaluating the impact of efficiency standards. (*Id.*)

With respect to the AMCA sales database providing efficiency data at a variety of speeds, DOE notes that, in accordance with the DOE test procedure, fans must be tested at a range of duty points over which they may operate. Duty points are characterized by a given airflow and pressure at a corresponding operating speed. In other words, fans could be tested at a variety of different speeds depending on the duty point at which the fan is being operated. As discussed in section IV.B of this document, DOE evaluated the entire range of duty points when developing the proposed efficiency levels for each class; therefore, DOE has used the performance data provided in the AMCA sales database as a basis for its engineering analysis. Furthermore, in response to the data in the database not being certified performance data, DOE

compared the fan models in the AMCA sales database with the fan models in the AMCA Certified Rating Program.⁵² DOE found that the fan models in the AMCA sales database are certified as part of AMCA’s Certified Rating Program.

The AMCA sales database that DOE used in this analysis is the same database that was used in the May 2015 NODA and the November 2016 NODA. To validate that the AMCA sales database remains representative of the current market, DOE verified the data with current manufacturer product literature. DOE selected several fans from the AMCA sales database from each manufacturer and equipment class and verified that those fans are currently available with the same performance data. DOE specifically checked that the model, diameter, operating pressure, airflow, and brake horsepower (“bhp”) aligned between the AMCA sales database and current product literature. DOE was able to verify a majority of the fans selected from each manufacturer and equipment class. Additionally, DOE obtained recent performance and sales data from confidential manufacturer interviews and determined that the data were consistent with the data in the AMCA sales database; therefore, DOE has tentatively concluded that the AMCA sales database that it uses in its engineering analysis for this NOPR is representative of the current market.

DOE notes that it made some updates to the AMCA sales database to ensure consistency with the proposed scope and equipment classes for PRVs. The AMCA sales database grouped all centrifugal PRVs together; however, as discussed in section IV.A.1.a, DOE has separated centrifugal PRVs by whether they are supply or exhaust (ducted or non-ducted). To separately analyze the two classes, DOE manually recategorized the centrifugal PRVs as either supply or exhaust fans using the manufacturer and model provided in the AMCA sales database for most fans

to identify from manufacturer literature which centrifugal PRVs were supply and which were exhaust. Centrifugal PRVs that could not be identified by their model name were left categorized as exhaust for the analysis since, based on data collected during confidential manufacturer interviews, DOE believes that there are more centrifugal PRV exhaust fan product lines and models than centrifugal PRV supply fans.

Additionally, DOE determined that the AMCA sales database included many radial fans that are considered out of scope in the DOE test procedure. 10 CFR 431.174((a)2)(i). As discussed in section III.B.1, radial fans that are unshrouded and have an impeller diameter less than 30 in. or a blade width of less than 3 in. are excluded from the scope of the DOE test procedure. DOE identified these radial fans by looking up each model in manufacturer product literature to determine whether it contained a shrouded impeller. Some fans in the database could not be identified by model, or the impeller characteristics could not be determined from their catalogs. DOE opted to include these fans in the database for analysis because including them likely results in a more conservative estimate of FEI since DOE has found that unshrouded impellers typically have lower FEI.

DOE acknowledges that there are limitations to the data provided in the AMCA sales database. For example, factors such as drive type, motor horsepower, and the presence of motor controllers were not specified in the AMCA sales database, unless indicated by the model number. Additionally, DOE estimates that AMCA members make up 60 percent of fan manufacturers. DOE understands that the AMCA sales database includes only a portion of the sales data from AMCA members; however, given the range in equipment classes, FEIs, and costs in the AMCA sales database, DOE believes that the data are representative of the U.S. GFB market. Furthermore, to supplement the data from the AMCA sales database, DOE also pulled

⁵² Detail on AMCA’s Certified Ratings Program can be found at www.amca.org/certify/#about-crp (last accessed September 2022).

performance data from online fan manufacturer selection software. DOE notes that it did not select representative units, such as a particular fan model, to conduct its analysis since fan performance relies on fan diameter and operating point. Instead, DOE identified between three and ten representative diameters and operating points for each equipment class in the AMCA sales database and pulled additional performance data for these operating points from manufacturer fan selection software. Each representative operating point was defined by equipment class, diameter, operating pressure, and airflow. DOE analyzed data points from multiple fan models and manufacturers for each representative diameter and operating point representing a variety of fan designs and efficiencies. Using the data from manufacturer fan selection software, DOE was able to identify the drive type, motor horsepower, and whether or not motor controllers were present for each evaluated fan.

More detail on the databases DOE used in its analyses can be found in chapter 5 of the NOPR TSD.

b. Air Circulating Fans

During manufacturer interviews conducted prior to the October 2022 NODA, manufacturers recommended that DOE use ACF data from a publicly available database provided by the Bioenvironmental and Structural Systems Laboratory associated with the University of Illinois-Champaign (“BESS Labs database”).⁵³ Based on this feedback, DOE conducted its October 2022 NODA analyses using data from the BESS Labs database and data collected from ACF testing performed by DOE at BESS Labs. DOE referred to this collective database as the “BESS Labs combined database” in the October 2022 NODA. DOE notes that, although BESS Labs uses the test setups defined in the 2012 edition of AMCA 230 for its testing, BESS Labs does not apply standard air density conversions to its measurements, which are required by the DOE test procedure. See section 2.2.2 of appendix B to subpart J to 10 CFR part 431. Therefore, in the October 2022 NODA, DOE applied conversion formulas to the BESS Labs combined database performance data to align the airflow and input power calculations with the DOE test procedure. Details on

these conversions can be found in chapter 5 of the TSD.

As discussed in section III.B.2, all ACFs with input power less than 125 W are outside the proposed scope of this rulemaking. Therefore, DOE removed all ACFs with input powers less than 125 W from the BESS Labs combined database prior to its analysis for this NOPR.

In the October 2022 NODA, DOE requested comment on whether the BESS Labs combined database was representative of the performance of the entire ACF market. 87 FR 62038, 62045. In response, AMCA commented that it expects the fan efficiencies reported in the BESS Labs database to be higher than the typical efficiencies seen on the market for ACFs. AMCA stated that this is because the fans in the BESS Labs database are typically agricultural fans, and these fans are the subject of utility rebates to encourage the production of higher-efficiency fans. AMCA further stated that it is unlikely performance data for a fan was voluntarily added to the public BESS Labs database unless the fan was eligible for these utility rebates. (AMCA, No. 132 at p. 4–5) Greenheck also commented that the ACF efficiencies in the BESS Labs database would generally be higher than typical ACFs on the market because of their participation in rebate efficiency incentive programs, and Greenheck suggested that DOE utilize more data sources than just the BESS Labs combined database. (Greenheck, No. 122 at p. 2)

In the October 2022 NODA, DOE also requested information on ACF performance data. 87 FR 62038, 62045. In response, AMCA commented that ACF catalog data is publicly available. However, AMCA also stated that it believes that public performance data for fans not listed in the BESS Labs database was likely either not collected using the most recent version of AMCA 230 or not collected using any version of AMCA 230 at all. AMCA further commented that testing of ACFs at an AMCA-accredited facility yielded performance data that was inconsistent with the performance data published in catalogs for certain tested fans, and because of this, AMCA cautioned DOE on the use of catalog data that has not been certified by a third party. (AMCA, No. 132 at p. 5–6) Similarly, Greenheck recommended that DOE only use ACF data that has been certified by an independent performance certification program to ensure that the data are accurate. (Greenheck, No. 122 at p. 2) In the October 2022 NODA, DOE discussed a comment from AMCA stating that ACF product literature may advertise

performance calculated using outdated versions of AMCA 230 and that all versions aside from AMCA 230–15 had at least one error pertaining to the calculations of thrust, airflow, or input power. 87 FR 62038, 62043–62044. A table summarizing these errors can be found in the October 2022 NODA. *Id.*

In the October 2022 NODA, DOE also requested comment on whether the fan affinity laws could be used to extrapolate ACF performance data to smaller and larger diameters to increase the size of its ACF dataset. 87 FR 62038, 62045. In response, NEEA stated that since the fan affinity laws assume that efficiency remains constant, utilizing them for determining efficiency gains would be incorrect. Instead, NEEA recommended that DOE obtain data on smaller- and larger-diameter ACFs by either testing additional smaller- and larger-diameter ACFs or by using empirical relationships to extrapolate data to smaller and larger diameters. (NEEA, No. 129 at p. 3–4) AMCA stated that the fan affinity laws require knowledge of the impeller shaft power, which is often not measured for ACFs. AMCA added that electrical input power, which is often measured for ACFs, cannot be scaled to obtain reasonable estimates. (AMCA, No. 132 at p. 6) In response to this feedback, DOE did not utilize the fan affinity laws to extrapolate fan performance data to different diameters and instead included catalog data in its dataset for this NOPR.

DOE acknowledges that the BESS Labs combined database likely contains higher efficiency fans than the overall ACF market, since many agricultural incentive programs require that fans be tested at BESS Labs and meet certain performance requirements. Additionally, DOE notes that the BESS Labs combined database contains data on axial ACFs only. Therefore, to supplement the BESS Labs combined database and gain additional information representative of the ACF market, DOE collected ACF catalog data from manufacturer and distributor websites. DOE did not consider catalog data in the October 2022 NODA because catalog data did not include information on the air density measured during testing, which is required to calculate FEI. Since DOE updated the ACF metric to be efficacy instead of FEI, DOE was able to use catalog data for this NOPR. In response to AMCA and Greenheck’s concerns about the accuracy of catalog data that have not been certified by a third party, DOE notes that, while the catalog data it collected is not certified by a third party, there were no ACFs listed in AMCA’s certified product

⁵³ BESS Labs is a research, product testing, and educational laboratory. BESS Labs provides engineering data to aid in the selection and design of agricultural buildings and assists equipment manufacturers in developing better products. Test reports for ACFs are publicly available at bess.illinois.edu/searchc.asp.

database at the time of DOE's market review,⁵⁴ and DOE is not aware of any other certification programs for ACFs.

In response to AMCA's concerns about manufacturers' use of outdated and inaccurate versions of AMCA 230 to generate catalog data, DOE applied a correction factor to some catalog data. DOE is aware that many ACF manufacturers may use an outdated version of AMCA 230 and that the calculation methods used in these older versions do not align with AMCA 230–15 or with AMCA 230–23, which is referenced by the DOE test procedure. See section 2.2.2 of appendix B to subpart J of 10 CFR part 431. In DOE's review of the ACF market and product literature, it observed that the 1999 edition of AMCA 230 ("AMCA 230–99") was the most common test method manufacturers cited in their product literature for measurement of ACF performance data, while a small number of manufacturers cited AMCA 230–15. DOE did not find any other methods that manufacturers cited for measuring ACF performance. Therefore, for all manufacturers that did not explicitly state in their product literature that they collected their ACF performance data using AMCA 230–15, DOE applied a correction factor to the catalog data to account for differences in the calculation methods between AMCA 230–99 and the DOE test procedure. DOE acknowledges that this approach may result in lower efficacy values for ACFs where a correction factor was already applied; however, DOE notes that it lacks other sources of ACF performance data aside from the BESS Labs combined database and this catalog data. DOE combined the corrected catalog data and the BESS Labs data, herein referred to as the "updated ACF database," and used this database for its analysis of ACFs in this NOPR.

DOE also removed outliers from the dataset using a box plot approach. For axial ACF catalog data, DOE removed extremely high-efficacy outliers and did not identify any extremely low-efficacy outliers. For axial ACFs from the BESS Labs combined database, DOE only removed extremely high-efficacy outliers because ACFs in the BESS Labs combined database are generally expected to have higher efficacies than the overall ACF market. DOE did not remove outliers for housed centrifugal ACFs.

3. Technology Options

In the February 2022 RFI, DOE identified five technology options that would be expected to improve the efficiency of ACFs, as expected to be measured by a future DOE test procedure. These technology options were improved aerodynamic design, blade shape, more efficient motors, material selection, and variable-speed drives ("VSDs"). 87 FR 7048, 7052. In the October 2022 NODA, DOE focused its analyses on aerodynamic redesign and more efficient motors. 87 FR 62038, 62042. In response to the October 2022 NODA, the CA IOUs suggested that DOE investigate individual components of improved aerodynamic design so that incremental efficiency levels could be evaluated in the engineering analysis. (CA IOUs, No. 127 at p. 2) DOE has since identified several additional technology options that would be expected to improve the efficiency of GFBs and ACFs, including options that are components of aerodynamic design. The technology options that DOE considered for this NOPR are:

- Improved housing design;
- Reduced manufacturing tolerances;
- Addition of guide vanes;
- Addition of appurtenances;
- Improved impeller design;
- Impeller topology;
- Increased impeller diameter;
- Impeller material;
- More efficient transmissions;
- More efficient motors; and
- Motor controllers.

DOE notes that not every technology option listed above will be analyzed for each equipment class in this NOPR. For example, DOE did not analyze increased impeller diameter for ACFs because impeller diameter is used to separate ACF equipment classes (see section IV.A.1.b). The following discussion provides a brief overview of the technology options under consideration and addresses stakeholder comments that DOE has received on the October 2022 NODA.

Improved housing design includes any changes to the enclosure of a fan, such as modifying the volute⁵⁵ for centrifugal fans or reducing the blade-to-housing clearance for axial fans. In response to the October 2022 NODA, the CA IOUs stated that a fan's blade-to-housing clearance determines its static pressure capabilities and efficiency, and fans with larger clearances generally have lower efficiency. They also stated that the use of a wall ring can improve the efficiency of an ACF. (CA IOUs, No. 127 at pp. 2–3) DOE has considered the

addition of a wall ring under the "improved housing design" technology option. Additionally, DOE considered the effects of reduced running clearances as a component of the "reduced manufacturing tolerances" technology option. During manufacturer interviews, manufacturers stated that reducing the manufacturing tolerances for fan components can increase efficiency. Therefore, DOE considered reduced manufacturing tolerances as a technology option for this NOPR.

The addition of guide vanes reduces pressure loss by directing and smoothing airflow as it exits a fan. DOE observed in its market research that the integration of guide vanes into the outlet of a fan can improve efficiency by over 10 percent. For example, DOE observed that vane axial fans can achieve up to 20-percent higher FEIs than similarly sized tube axial fans. Appurtenances are similar to guide vanes but are not integral to the fan—rather, appurtenances can be added to change the performance of a fan and fans may be sold with different appurtenances to provide the end user with the desired effect. In the October 2022 NODA, DOE summarized a comment from ebm-papst stating that the use of outlet guide vanes or appurtenances, such as inlet cones on housings or winglets on impellers, could improve the fan efficiency. 87 FR 62038, 62042. DOE recognizes that the addition of appurtenances described by ebm-papst has the potential to increase fan efficiency. Therefore, DOE considered the addition of guide vanes and appurtenances as technology options in this NOPR.

Regarding impeller design, DOE considered any aerodynamic improvement of an impeller that does not include a change to its topology under the impeller design technology option. This includes modifications, such as incorporating beneficial ridges into the blade surface as well as improving impeller blade surface quality. DOE observed the presence of these modifications to blade design during teardowns of GFBs and ACFs. Therefore, DOE considered improved impeller design as a technology option in this NOPR.

Regarding fan impeller topology, DOE considered changes in the orientation or basic shape of the blades, such as switching from a backward-curved blade to an airfoil blade. In the October 2022 NODA, DOE summarized a comment from the Joint Commenters encouraging DOE to evaluate more efficient blade designs as a technology option because of their energy savings potential. The Joint Commenters added that the use of advanced blade designs,

⁵⁴ AMCA's certified product database for ACFs can be found at www.amca.org/certify/certified-product-search/product-type/air-circulating-fan.html (last accessed 4/10/23).

⁵⁵ A volute is a spiral or scroll-shaped housing used with centrifugal fans.

such as airfoil blades, can improve the efficiency of a fan relative to traditional single-thickness blades. 87 FR 62038, 62042. In addition, DOE received comment from the CA IOUs in response to the October 2022 NODA stating that impeller blades may have either a “true” or “progressive” pitch, and that the pitch of the blades will affect efficiency. (CA IOUs, No. 127 at p. 2) DOE’s research and feedback received during manufacturer interviews also indicated that certain impeller topologies can be more efficient than others. Therefore, DOE considered impeller topology as a technology option.

In response to the October 2022 NODA, AHAM commented that DOE’s use of general blade design as a technology option for ACFs did not factor in specific differences in application of different blade shapes between unique fan configurations, including ACFs with horizontal axes, ACFs with vertical axes, or bladeless ACFs. AHAM added that DOE has not tested these different fan configurations. (AHAM, No. 123 at p. 8) DOE notes that the DOE test procedure specifies testing ACFs only in a horizontal configuration. DOE also notes that bladeless fans are excluded from the proposed scope for ACFs, as discussed in section III.B.2 of this document. Therefore, DOE did not consider differences in axis orientation or bladeless fans in its evaluation of ACF impeller topology or improved impeller design.

DOE received feedback during confidential GFB manufacturer interviews that increasing the diameter of a fan impeller can improve the efficiency of a fan. Additionally, when comparing fans on the market with different diameters and otherwise similar characteristics, DOE observed that fans with larger diameters were typically more efficient for certain equipment classes; therefore, DOE considered increased impeller diameter as a technology option in this NOPR.

When reviewing available data from the market, its databases, and information received during confidential manufacturer interviews, DOE could not distinguish between the effects of improved housing design, reduced manufacturing tolerances, addition of appurtenances, and improved impeller design on the performance of GFBs; therefore, DOE has grouped these technology options together and collectively refers to them as “aerodynamic redesign” for GFBs in the remainder of this document. For ACFs, DOE additionally lacked quantitative efficiency data regarding specific impeller topologies and the

addition of guide vanes, and therefore grouped the addition of guide vanes as well as any blade adjustments that improve the efficiency of ACFs, such as the curvature or pitch, along with improved housing design, reduced manufacturing tolerances, addition of appurtenances, and improved impeller design under the umbrella of aerodynamic redesign for ACFs in the remainder of this document. The technology options considered under aerodynamic redesign for both GFBs and ACFs are summarized in Table IV–7.

DOE previously considered “material selection” in general as a technology option in the February 2022 RFI. 87 FR 7048, 7052. For this NOPR, DOE is clarifying that material selection is specific to impeller materials. DOE did not receive comments from stakeholders pertaining to material selection for either the February 2022 RFI or the October 2022 NODA; however, during confidential interviews, manufacturers stated that minimal efficiency gains would be achieved by changing the blade material. When reviewing manufacturer fan selection software data, DOE identified similar fans with different blade materials and investigated the impact of different materials on FEI. Consistent with manufacturer feedback, DOE found that material selection of the impeller had minimal or no impact on efficiency for either GFBs or ACFs. Therefore, DOE did not consider material selection as a technology option in this NOPR.

With regard to transmissions, DOE notes that the DOE test procedure includes a loss factor associated with belt-drive transmissions, while direct-drive transmissions are treated as having no loss when calculating efficiency. This indicates that replacing a belt-drive with a direct-drive transmission can improve efficiency. For ACFs, DOE considered the change from belt-drive to direct-drive as a technology option. For GFBs, as discussed in section IV.A.1.a, DOE is proposing to establish separate equipment classes for GFBs sold with or without motor controllers to account for the added utility provided by GFBs with motor controllers (*i.e.*, variable-speed operation to allow a fan to adapt to changing load requirements). Belt-drive transmissions can be manually adjusted during installation to achieve all airflow and pressure operating requirements in a fan’s operating range for different field applications, whereas direct-drive fans would only be able to achieve all operating points within the fan’s operating range if paired with a motor controller. As a result, DOE did not

consider the shift from belt-drive to direct-drive transmission as a technology option for GFBs to maintain the added utility provided by belt-drive transmission.

Regarding motors, motor efficiency can depend on motor topology as well as the individual design features of a single motor topology. For example, most motors used in ACFs are permanent split capacitor (“PSC”) motors, and these motors have a wide range of operating efficiencies. In addition, some ACFs use electronically commutated motors (“ECMs”). ECMs operate in a higher efficiency range than PSC motors, so using an ECM may improve the overall efficiency of an ACF. In this NOPR, DOE considers both switching to a more efficient motor topology and improved efficiency of a single motor topology in the more efficient motors technology option.

For GFBs, DOE learned from confidential manufacturer interviews that motors are not always sold as integral parts of a fan. Many sales of GFBs do not include a motor and require the customer to provide this part. Furthermore, the motors used for GFBs are nearly all 3-phase induction motors currently regulated by DOE, including motors between 100 and 150 hp. *See* 10 CFR 431.25. On June 1, 2023, DOE published an energy efficiency standards direct final rule for these electric motors. 88 FR 36066. In this rule, DOE increased the minimum required efficiency of induction motors between 100 and 250 hp from IE 3 to IE 4. 88 FR 36066, 36144. IE 3 and IE 4 motor efficiencies are defined in IEC 60034–30–1:2014: “Rotating Electrical Machines—Part 30–1: Efficiency classes of line operated AC motors (IE code),” (“IEC 60034–30–1:2014”) published by the International Electrotechnical Commission. The compliance date of this rule is June 1, 2027 and any standards promulgated as a result of this fans rulemaking would take effect after that date.

Because of the new 2027 electric motor standards, there will be impacts on the motor market from a product availability, size, and technology standpoint as the efficiency moves from IE 3 to IE 4. These changes would need to be considered in this rulemaking, but electric motor manufacturers are still in the design and planning process to migrate their product offerings to be in compliance with the 2027 electric motors standards recently adopted. If DOE were closer to the 2027 compliance date or this was a first-time regulation for these induction motors, DOE would be able to better understand how manufacturers were going to fully

respond and the innovations that may be introduced into the market to be able to carefully consider how the motors offerings could be considered as part of the CIBB designs affecting the fan efficiencies. At this time, DOE does not have sufficient data to fully evaluate the impact of those efficiency and technology changes on the proposed efficiency levels (“ELs”). DOE has therefore not evaluated more efficient motors as a technology option for GFBs in this NOPR; however, DOE may consider more efficient motors as a viable technology option for improving GFB efficiency in a future rulemaking.

DOE evaluated more efficient motors for ACFs in the October 2022 NODA. 87 FR 62038, 62042. DOE also assumed that all ACFs are sold with a motor. *Id.* Furthermore, DOE requested comment on its estimated base manufacturer production cost for ACFs excluding motors. 87 FR 62038, 62053. In response, AMCA commented that, to the best of its knowledge, ACFs are always sold with motors. (AMCA, No. 132 at p. 12) In this NOPR, DOE therefore continued with its assumption that all ACFs are sold with motors.

In the October 2022 NODA, DOE assumed that most motors paired with ACFs are lower efficiency induction motors that were not regulated by DOE and requested comment on that assumption. 87 FR 62038, 62042. DOE also requested data on the percentage of ACFs sold with split-phase, PSC, shaded-pole and ECMs. 87 FR 62038, 62049. In response, AMCA commented that some of its members sell ACFs with shaded-pole motors, PSC motors, polyphase motors, or ECMs. (AMCA, No. 132 at p. 3) NEMA commented that, depending on the horsepower requirements, a split-phase, shaded-pole, capacitor start/capacitor run, or three-phase motor could be used for

ACFs. NEMA added that shaded-pole motors are often used at 0.1 hp and under for ACFs, while PSC motors are very common for 1 hp and under. (NEMA, No. 125 at p. 3) In response to this feedback, DOE conducted a review of its updated ACF database (discussed further in section IV.A.2.b) and identified ACFs sold with multiple different motor topologies, including PSC, polyphase, and EC motors. Additionally, DOE identified many ACFs using PSC motors at high and low motor efficiencies. Because DOE has identified that ACF motor efficiency may be improved through changing motor topology as well as improving efficiency within a single motor topology, it considered both switching to a more efficient motor topology and improving efficiency within a single motor topology as components of the more efficient motors technology option for ACFs.

Regarding motor controllers, motor controllers are used to change the operating point of fans by altering their motor speed. This allows a fan to operate at a lower speed when possible, which can result in a reduction of power consumption. In response to the October 2022 NODA, the Efficiency Advocates encouraged DOE to evaluate fans that operate at multiple speeds, rather than just the highest speed, because lowering the fan speed can significantly reduce the amount of power used by a fan. (Efficiency Advocates, No. 126 at p. 2–3) Conversely, AMCA stated that the utility of ACFs to provide the necessary air-throw distance and air velocity may be diminished or removed entirely by reducing the fan speed with motor controllers, which is a negative impact on product utility. (AMCA, No. 132 at p. 3) While DOE acknowledges that fan power consumption can be reduced by

lowering the speed of a fan, it notes that the DOE test procedure for ACFs specifies testing and reporting efficacy for ACFs at the maximum speed of the fan. *See* appendix B to subpart J of 10 CFR part 431, section 2.2.1. DOE’s analysis in this NOPR remains consistent with the DOE test procedure for ACFs, so DOE did not evaluate efficiencies at less than maximum speed. Therefore, DOE did not consider motor controllers as a technology option for ACFs in this NOPR.

In response to the October 2022 NODA, the CA IOUs commented that choosing a low-speed range for a particular impeller improves its efficiency. (CA IOUs, No. 127 at p. 2) DOE notes the speed and operating point of a fan are strongly related and that any change to the speed of a fan will likely change the utility of that fan. Therefore, DOE did not consider reduced speed as a technology option for this NOPR.

As discussed in section IV.A.1.a, GFBs with motor controllers allow a fan to adapt to changing load requirements. While this may result in energy savings during application, the DOE test procedure for fans does not account for these possible changes in operation and energy savings. As a result, DOE is proposing to establish separate equipment classes for GFBs sold with and without motor controllers and is not considering motor controllers as a technology option.

Table IV–7 lists the technology options for GFBs and ACFs that DOE evaluated in its screening analysis. Both GFBs and ACFs include an aerodynamic redesign technology option, which contains technology options that DOE determined to be viable, but for which DOE lacked sufficient data to fully analyze individually.

Table IV-7 Technology Options Evaluated in this NOPR

GFBs	ACFs
<ul style="list-style-type: none"> • Aerodynamic redesign <ul style="list-style-type: none"> ○ improved housing design ○ reduced manufacturing tolerances ○ addition of appurtenances ○ improved impeller design • Addition of guide vanes • Impeller topology • Increased impeller diameter 	<ul style="list-style-type: none"> • Aerodynamic redesign <ul style="list-style-type: none"> ○ improved housing design ○ reduced manufacturing tolerances ○ addition of appurtenances ○ improved impeller design ○ addition of guide vanes ○ impeller topology • Increased impeller diameter • More efficient transmissions • More efficient motors

Further details on technology options that DOE considered for this NOPR can be found in chapter 3 of the NOPR TSD.

B. Screening Analysis

DOE uses the following five screening criteria to determine which technology options are suitable for further consideration in an energy conservation standards rulemaking:

(1) *Technological feasibility.* Technologies that are not incorporated in industrial equipment or in commercially viable, existing prototypes will not be considered further.

(2) *Practicability to manufacture, install, and service.* If it is determined that mass production of a technology in industrial equipment and reliable installation and servicing of the technology could not be achieved on the scale necessary to serve the relevant market at the time of the projected compliance date of the standard, then that technology will not be considered further.

(3) *Impacts on product utility.* If a technology is determined to have a significant adverse impact on the utility of the equipment to subgroups of consumers, or results in the unavailability of any covered equipment type with performance characteristics (including reliability), features, sizes, capacities, and volumes that are substantially the same as products generally available in the United States at the time, it will not be considered further.

(4) *Safety of technologies.* If it is determined that a technology would have significant adverse impacts on

health or safety, it will not be considered further.

(5) *Unique-pathway proprietary technologies.* If a technology has proprietary protection and represents a unique pathway to achieving a given efficiency level, it will not be considered further, due to the potential for monopolistic concerns.

10 CFR 431.4; 10 CFR part 430, subpart C, appendix A, sections 6(c)(3) and 7(b).

In summary, if DOE determines that a technology, or a combination of technologies, fails to meet one or more of the listed five criteria, it will be excluded from further consideration in the engineering analysis.

Through a review of each technology, DOE tentatively concludes that the technologies listed in Table IV–7 of this document met all five screening criteria to be examined further as design options in DOE's NOPR analysis. Comments DOE received regarding screening for these technologies are discussed below.

In response to the October 2022 NODA, DOE received several comments pertaining to how the screening criteria apply to aerodynamic redesign, blade shape, and motors. AMCA stated that aerodynamic efficiency improvements can often lead to an increase in the cost and complexity of manufacturing, which can have an adverse impact on the practicability of manufacturing. AMCA added that some ACF components that can be adjusted to improve efficiency are patentable, including impellers, impeller blades, impeller rings, housings, outlet appurtenances, and motors, which relates to the screening criteria for

unique-pathway proprietary technologies. (AMCA, No. 132 at p. 3). AMCA also commented that the removal of a safety guard on an ACF to increase its efficiency would decrease the safety of an ACF, which is an adverse impact on health or safety. *Id.*

Regarding AMCA's comment on the potential for increased cost or complexity of manufacturing associated with an aerodynamic redesign, DOE notes that it accounted for this increased cost and complexity through conversion costs, which are discussed in section IV.J. Regarding patentable technologies, DOE notes that in manufacturer interviews, it specifically asked about whether patentable technologies could pose a problem in meeting energy conservation standards. In response, no GFB or ACF manufacturers expressed concerns regarding patents. Therefore, DOE has tentatively concluded that none of the proposed design options meet the unique pathway-proprietary technologies screening criteria.

In terms of safety guards, DOE agrees that the removal of a safety guard would compromise the safety of a fan.

DOE notes that the motor efficiency technology options are based on general industry standards rather than specific motor designs that could be patented; therefore, DOE has tentatively concluded that the unique-pathway proprietary technologies screening criterion does not apply to the more-efficient motor technology option.

DOE did not receive comment related to screening for any other technology options. The remaining technology options that DOE did not screen from its analysis are listed in Table IV–8.

Table IV-8 Remaining Technology Options for GFBs and ACFs

GFBs	ACFs
<ul style="list-style-type: none"> • Aerodynamic redesign <ul style="list-style-type: none"> ○ improved housing design ○ reduced manufacturing tolerances ○ addition of appurtenances ○ improved impeller design • Addition of guide vanes • Impeller topology • Increased impeller diameter 	<ul style="list-style-type: none"> • Aerodynamic redesign <ul style="list-style-type: none"> ○ improved housing design ○ reduced manufacturing tolerances ○ addition of appurtenances ○ improved impeller design ○ addition of guide vanes ○ impeller topology • Increased impeller diameter • More efficient motors • More efficient transmissions

DOE has initially determined that these technology options are technologically feasible because they are being used or have previously been used in commercially available equipment or working prototypes. DOE also finds that

all of the remaining technology options meet the other screening criteria (*i.e.*, practicable to manufacture, install, and service and do not result in adverse impacts on consumer utility, product availability, health, or safety, unique-

pathway proprietary technologies). For additional details, see chapter 4 of the NOPR TSD.

C. Engineering Analysis

The purpose of the engineering analysis is to establish the relationship between the efficiency and cost of fans and blowers. There are two elements to consider in the engineering analysis; the selection of efficiency levels to analyze (*i.e.*, the “efficiency analysis”) and the determination of equipment cost at each efficiency level (*i.e.*, the “cost analysis”). In determining the performance of higher-efficiency equipment, DOE considers technologies and design option combinations not eliminated by the screening analysis. For each equipment class, DOE estimates the baseline cost, as well as the incremental cost for the equipment at efficiency levels above the baseline. The output of the engineering analysis is a set of cost-efficiency “curves” that are used in downstream analyses (*i.e.*, the LCC and PBP analyses and the NIA).

1. General Fans and Blowers

a. Baseline Efficiency

For each equipment class, DOE generally selects a baseline model as a reference point for each class, and measures changes resulting from potential energy conservation standards against the baseline. The baseline model in each equipment class represents the typical characteristics of that class (*e.g.*, capacity, physical size). Generally, a baseline model is one that just meets current energy conservation standards, or, if no standards are in place, the baseline is typically the most common or least efficient unit on the market.

As discussed in section II.B.1, there are currently no energy conservation standards for GFBs. In this analysis, DOE set the baseline efficiency as the lowest reasonable efficiency on the market after removing potential outliers for each analyzed equipment class.

DOE established baseline ELs using performance data in the AMCA sales database. DOE filtered the database by equipment class and evaluated the fan performance range for each equipment class. Additionally, as described in section IV.A.3, DOE based its GFB analysis on design options that specifically improve fan performance. DOE did not consider improvements to the motor, transmission, or motor controllers. Therefore, for this analysis, DOE calculated FEI according to the bare shaft method described in the DOE Test Procedure. See sections 2.2 and 2.6 of appendix A to subpart J of 10 CFR part 431. For both the AMCA sales database and any manufacturer fan selection software data, DOE recalculated FEI on a bare shaft basis. Accordingly, the standards proposed in

this notice are based only on fan design and exclude any impact that the motor, transmission, or motor controllers may have on fan efficiency.

Based on a review of the market, DOE tentatively determined that the FEI values corresponding to the 5th percentile in the AMCA sales database were generally representative of baseline efficiency across all diameters and duty points within a given equipment class. Defining baseline efficiency at the 5th percentile enabled DOE to remove potential outlier fans and fans that may no longer exist on the market. DOE compared the 5th percentile for each equipment class to data retrieved from manufacturer fan selection software to ensure that baseline efficiencies were representative of the current market. In instances where the 5th percentile removed a substantial number of models that had FEI values consistent with what was seen on the market, DOE adjusted the baseline efficiency to align with the distribution of FEIs observed in the manufacturer fan selection software. Additional details on the development of baseline efficiency levels for each equipment class are included in chapter 5 of the NOPR TSD.

b. Selection of Efficiency Levels

DOE typically uses one of two approaches to develop energy efficiency levels for the engineering analysis: (1) relying on observed efficiency levels in the market (*i.e.*, the efficiency-level approach), or (2) determining the incremental efficiency improvements associated with incorporating specific design options to a baseline model (*i.e.*, the design-option approach). Using the efficiency-level approach, the efficiency levels established for the analysis are determined based on the market distribution of existing equipment (in other words, based on the range of efficiencies and efficiency level “clusters” that already exist on the market). Using the design option approach, the efficiency levels established for the analysis are determined through detailed engineering calculations and/or computer simulations of the efficiency improvements from implementing specific design options that have been identified in the technology assessment. DOE may also rely on a combination of these two approaches. For example, the efficiency-level approach (based on actual equipment on the market) may be extended using the design option approach to “gap fill” levels (to bridge large gaps between other identified efficiency levels) and/or to extrapolate to the max-tech level (particularly in

cases where the max-tech level exceeds the maximum efficiency level currently available on the market).

In this NOPR, DOE relied on a combination of the efficiency level and design-option approaches. DOE used the efficiency level approach to determine the baseline, max-tech, and aerodynamic redesign efficiency levels and used the design-option approach to gap fill intermediate efficiency levels.

General Approach

DOE applied design options to the initial efficiency levels evaluated above baseline for each equipment class. As discussed in section IV.A.3, DOE has identified the following design options for GFBs:

- Impeller topology;
- Addition of guide vanes;
- Increased impeller diameter; and
- Aerodynamic redesign (improved housing design, reduced manufacturing tolerances, addition of appurtenances, improved impeller design).

For each equipment class, DOE evaluated both the AMCA sales database as a whole and data from manufacturer fan selection software for specific representative diameters and operating points to set the efficiency levels and associated design options for its analysis. DOE used data pulled from manufacturer fan selection software to understand the incremental impact of design options on fan performance and cost. DOE then applied these incremental FEI increases to the baseline fan for each equipment class to set intermediate efficiency levels.

To estimate the incremental increases in FEI, DOE first selected between three and six representative operating points based on the fan diameters, operating pressures, and airflows that were most common for each equipment class in the AMCA sales database, as discussed in section IV.A.2.a. DOE then used manufacturer fan selection software to obtain data for each representative operating point at a specific diameter, airflow, and pressure. From the manufacturer fan selection software, DOE evaluated how FEI changed as various design options were applied while holding constant the diameter (for all equipment classes except PRVs) and duty point. DOE calculated bare shaft FEI for fans evaluated using manufacturer fan selection software to eliminate the effects of transmission on the efficiency. Additional details on how manufacturer fan selection software was evaluated and used in the development of intermediate efficiency levels are included in chapter 5 of the NOPR TSD.

DOE recognizes that relying on data from fans at representative diameters and operating points to characterize efficiency improvements may not sufficiently account for the entire range of duty points and diameters typical for each equipment class. Therefore, after determining the impact of potential design options on fan efficiency using the manufacturer fan selection software, DOE used the AMCA sales database to validate the estimated incremental FEI increases for each design option. In its review of the market, DOE found that most manufacturer model numbers correspond to a specific impeller type and design. To make comparisons between fan models in the AMCA sales database, DOE used the model numbers included in the AMCA sales database to characterize each fan's impeller. DOE then evaluated the potential efficiency gain of each design option across the entire range of operating points in the AMCA sales database. For example, for centrifugal housed fans, DOE calculated the average increase in FEI that would be observed for a fan with a backward-inclined impeller at a given diameter compared to a fan with a forward-curved impeller at the same diameter. DOE evaluated the AMCA sales database in this way to confirm that its estimated increases in FEI seemed feasible across the range of operating duty points, since the AMCA sales database contains data points at a variety of duty points for each equipment class.

In response to the July 2022 TP NOPR, AHRI commented that fan performance in the AMCA sales database was never confirmed to be reflective of embedded fans, including system effect, and that finalizing the determination using the analysis conducted to date, especially if embedded fans are within the scope, would be inappropriate. (Docket No. EERE-2021-BT-TP-0021, AHRI, No. 40 at p. 13) DOE notes that, as discussed in III.B.1, embedded fans listed in Table III-1 are outside the scope of this analysis. All other fans within the scope of this rulemaking would be tested in accordance with the DOE test procedure, which reflects performance of fans outside of equipment into which they may be installed and does not evaluate system effects.

Additionally, in response to the October 2022 NODA, Morrison suggested that the data evaluation and analysis conducted in the 2016 NODA should be restarted to address current stakeholder concerns and account for changes in the market environment, including widespread adoption of building codes and use of the FEI

metric. (Morrison, No. 128 at p. 3) In response to the July 2022 TP NOPR, AHRI commented that it is not reasonable to assume that substitutions can be made for any fan within 20 percent of static pressure or airflow requirements and within two inches of the original diameter tolerances. AHRI stated that selecting a fan that two inches larger in diameter would translate to a four-inch increase in housing size. Additionally, AHRI commented that commercial heating, ventilation, and air conditioning ("HVAC") equipment fan selection requires design to a specific airflow and static pressure and that in virtually all cases, a two-percent selection window is required so the 20 percent selection window would not satisfy the heating, cooling or ventilation needs for the application. (Docket No. EERE-2021-BT-TP-0021, AHRI, No. 40 at p. 12-13) Furthermore, AHRI commented that variable air volume systems and systems with economizers need to operate over a range of airflow. Low static, high airflow fans (forward-curved fans) are used in these applications; therefore, the number of fans that would require redesign is closer to 100 percent than the 30 percent included in the NODA 3 (2016 NODA) analysis. (*Id.*)

DOE notes that all analyses from the 2016 NODA have been reevaluated in this NOPR to reflect current market trends and industry standards. While DOE maintained some structural elements from the 2016 NODA, such as some equipment classes and use of the AMCA sales database, DOE updated its efficiency levels and cost analyses based on manufacturer feedback from recent interviews, publicly available sales data, and a thorough review of the current market. Additionally, in this analysis, DOE did not assume that static pressure or airflow could vary by 20 percent or that the diameter of embedded fans could increase by any amount. In its analysis for this NOPR, DOE evaluated efficiency increases with operating point and diameter remaining constant for fan equipment classes that could be embedded in equipment, which is discussed in more detail in section IV.C.1.b (subsection Determination of Efficiency Levels). Additionally, DOE's analysis reflects that forward-curved fans should be preserved in the market and would likely be redesigned to do so. In section IV.C.1.b (see subsection Parallel Design Path for Forward-curved Fans), DOE describes how it analyzed forward-curved fans. DOE also evaluated the potential impact of duty point on whether a fan could be redesigned to higher FEI levels. Using

the AMCA sales database, DOE developed FEI distributions for each equipment class to evaluate how FEI varied with specified design pressure, airflow, and diameter. Based on these FEI distributions, DOE was not able to identify any duty point ranges with disproportionately lower fan availability at higher FEI values for any equipment class. DOE has tentatively determined that the efficiency relationships it developed based on the selected representative operating points could be applied to fans at other diameters and duty points; therefore, there is only one set of efficiency levels for each equipment class.

Determination of Efficiency Levels

The first design option that DOE evaluated for most equipment classes was changing the fan impeller. Based on its review of the market, DOE determined that manufacturers often have a variety of impeller topologies available for each fan class. For example, some manufacturers have economy impellers, which are less efficient and less expensive than other available impellers. DOE also found that manufacturers may have impellers that are designed to operate at different duty points, such as high-pressure impellers. These impellers achieve different levels of performance based on blade shape, blade pitch, number of blades, etc. Therefore, rather than attempt to characterize each of these individual impellers and how they may impact FEI, DOE evaluated manufacturer fan selection software to estimate the average increase in FEI for a typical impeller change for each equipment class and then used the AMCA sales database to validate that these increases are applicable to the broader fans market. DOE notes that the centrifugal housed equipment class is the only equipment class for which specific impeller changes were characterized. This is because DOE was able to identify distinct differences in efficiency between forward-curved, backward-inclined or backward-curved,⁵⁶ and airfoil impellers for centrifugal housed fans. The impeller change design options were either applied to the baseline fan or applied successively to a previous impeller change.

⁵⁶ In reviewing both the AMCA sales database and manufacturer fan selection software, DOE was unable to distinguish between backward-inclined and backward-curved impellers for many fan models. It is also DOE's understanding that both backward-inclined and backward-curved impellers perform similarly regarding fan efficiency. Therefore, DOE considered both backward-inclined and backward-curved impellers together as a single design option.

DOE followed a similar method of analyzing both the manufacturer fan selection software and the AMCA sales database to estimate the increase in FEI that could be achieved for design options other than impeller changes, including substituting a tube axial fan for a vane axial fan, substituting a mixed flow fan for a centrifugal inline fan, and increasing the PRV fans diameter. Additional details on how DOE estimated the incremental increases in FEI for each design option and for each equipment class are included in chapter 5 of the NOPR TSD.

For many categories of fans, increasing the diameter of a fan could increase efficiency when a fan operates at the same duty point; however, during manufacturer interviews, DOE received feedback that increasing the diameter of a fan is only applicable to certain fan classes. Specifically, DOE learned that increasing the diameter of a fan that would be embedded in OEM equipment could impact the overall performance of the equipment, could impact its utility for use in space-constrained OEM equipment, and would substantially increase OEM redesign costs. Alternatively, for fan types that do not have space constraints, a fan could typically be increased by one or two sizes without impacting the utility of the fan.

For fan equipment classes that could be embedded, either into other equipment or into spaced constrained applications, such as ducted ventilation systems, DOE did not consider increased impeller diameter as a design option. These types of fans include axial inline, panel, centrifugal housed, centrifugal unhoused, and centrifugal inline fans.

For radial fans, DOE analyzed the diameter increase design option since this fan class is typically not used in space-constrained applications; However, DOE did not observe consistent efficiency changes with increased diameter for radial fans; therefore, DOE did not consider larger fan diameter as a design option for radial fans.

In general, PRVs (axial PRV, centrifugal PRV exhaust, and centrifugal PRV supply) are not subject to the same size and weight constraints experienced by other embedded fan classes. These units are placed in open air environments to supply or exhaust air from the top of a building, which enables them to increase in size. DOE found that increasing PRV diameter consistently increases the efficiency; therefore, DOE considered diameter increase as a design option for axial and centrifugal PRVs.

DOE requests comment on its understanding that the diameter increase design option could be applied to non-embedded, non-space-constrained equipment classes.

In its analysis for axial and centrifugal PRVs, DOE used an 18-percent increase in diameter to represent a diameter increase and rounded the impeller diameter to the nearest whole number, since DOE found that the 18-percent increase was representative of the fan sizes available on the market. For example, the increased diameter design option for a 15-in. diameter fan would increase the fan diameter to 18-in. and a 36-in. diameter fan would increase to a 42-in. diameter fan. When analyzing its data sources, DOE found that this 18 percent diameter increase when maintaining the operating point could result in a range of FEI increases, from as low as 4-percent to as high as 30-percent, corresponding to a FEI increase of approximately 0.03 to 0.30. For this NOPR analysis, DOE assumed that a diameter increase for centrifugal PRV exhaust and supply fans would result in a 0.03 increase in FEI and a diameter increase for axial PRV fans would result in a 0.09–0.10 increase in FEI. DOE recognizes that initial diameter size, operating airflow, and operating pressure may impact how effective an impeller diameter increase is for increasing FEI. Specifically, the duty points that DOE chose to evaluate may be duty points where a diameter increase is very effective at increasing fan efficiency or may be duty points where a diameter increase has minimal impact on fan efficiency. DOE could adjust the efficiency gains from an impeller diameter increase in its analysis so that there is a larger FEI gain for all PRVs, and where PRVs could reach higher FEI values for a lower cost. Alternately, DOE could decrease the FEI gain for axial PRVs from an impeller diameter increase, allowing axial PRVs to reach higher FEI values for a higher cost since the impeller diameter increase would no longer provide such a large increase in FEI.

DOE requests comment on whether the FEI increases associated with an impeller diameter increase for centrifugal PRVs and for axial PRVs are realistic. Specifically, DOE requests comment on whether it is realistic for axial PRVs to have a FEI increase that is 3 times greater than that for centrifugal PRVs when starting at the same initial diameter. Additionally, DOE requests comment on the factors that may impact how much an impeller diameter increase impacts a FEI increase.

In its analysis, DOE applied the impeller changes and aerodynamic redesigns for PRVs to the baseline fan such that PRVs could reach higher efficiency levels while maintaining the baseline impeller diameter. While manufacturers would have the option of achieving higher efficiencies by increasing fan diameter, DOE assumed that if manufacturers were to change the impeller or redesign a PRV, manufacturers would apply these design changes to their entire diameter range, enabling the baseline diameter fan to reach the higher efficiency levels.

The design path for all PRVs is shown in Table IV–11. For the PRV equipment classes, the impeller change(s) and diameter increase(s) are ordered by FEI increase, where the design option with the smallest FEI increase is ordered first. DOE could consider an analysis with a different ordering of design option based on MSP increase or cost-effectiveness. Alternately, DOE could consider an analysis that does not include increased fan diameter as a design option. In this alternative analysis, DOE could consider an additional impeller change as a design option to increase FEI. However, based on its analysis, DOE expects that removing increased fan diameter as a design option in its analysis would increase the cost to achieve a higher efficiency of a PRV.

DOE requests comment on the ordering and implementation of design options for centrifugal PRV exhaust and supply fans and axial PRV fans.

DOE additionally determined that manufacturers may improve efficiency through aerodynamic redesign, as described in section IV.A.3 of this document. It is DOE's understanding that aerodynamic redesign may require significant product and capital investment. Accordingly, DOE only applied aerodynamic redesign after applying the design options DOE expected would be less cost-intensive for manufacturers. Additionally, the impact of aerodynamic redesign on efficiency is expected to vary significantly depending on the design choices made by the manufacturer. Therefore, DOE determined that the design option approach would not be appropriate for evaluating efficiency improvements for aerodynamic redesign. Instead, DOE evaluated aerodynamic redesign using the efficiency level approach. Generally, DOE set the FEIs for aerodynamic redesigns by assigning evenly spaced FEIs between the highest non-redesign EL (*i.e.*, the EL immediately before the first aerodynamic redesign) and the max-tech EL. A numerical example

demonstrating how FEIs were assigned to the aerodynamic redesign ELs for the centrifugal PRV exhaust equipment class is provided in the following section.

Existing Efficiency Standards

DOE also evaluated other efficiency programs to inform the development of its efficiency levels. Energy efficiency provisions for commercial fans are prescribed in U.S. building codes, primarily developed by the International Code Council and specified in the International Energy Conservation Code (“IECC”). The IECC was most recently updated in 2021 (“IECC–2021”) and specifies that commercial buildings shall comply with the requirements of ASHRAE 90.1.⁵⁷ The most recent edition of ASHRAE 90.1 was published in September 2022, and sets an FEI target of 1.00 for all fans within the scope of ASHRAE 90.1.⁵⁸ While the standards established under IECC and ASHRAE 90.1 are not federally mandated, they are used by individual States and municipalities to support the development of local building codes. DOE is also aware that the CEC has finalized a rulemaking, which requires manufacturers to report fan operating boundaries that result in operation at an FEI of greater than or equal to 1.00 for all fans within the scope of that rulemaking.⁵⁹ Furthermore, during confidential manufacturer interviews, DOE received feedback that an FEI of 1.00 is a realistic efficiency target and DOE does not have any indication that an FEI of 1.00 would not be achievable for all fan equipment classes.

Based on this feedback and to align with the aforementioned standards, DOE elected to evaluate an efficiency level at an FEI of 1.00 for all fan classes. The efficiency level and design option that corresponds to an FEI of 1.00 differs for each equipment class depending on the FEI difference between the baseline and max-tech efficiency levels for each equipment class and the efficiency gain identified for each design option. For the axial inline, centrifugal inline, and centrifugal unhooded equipment

classes, DOE determined that an FEI of 1.00 could be achieved using the identified design options. Therefore, each of these equipment classes has specific design options associated with the EL set at an FEI of 1.00. For example, for the centrifugal inline equipment class, DOE tentatively determined through the design option approach that an FEI of 1.00 could be achieved by using a mixed flow impeller (EL 3). For all other equipment classes, DOE assumed that manufacturers could achieve an FEI of 1.00 through an aerodynamic redesign.

For equipment classes that had an aerodynamic redesign assigned at an EL with an FEI of 1.00, DOE evenly spaced all other aerodynamic redesign ELs at FEIs above and below a value of 1.00, where applicable. For example, the centrifugal PRV exhaust equipment class has a total of four aerodynamic redesign ELs, with the second aerodynamic redesign (EL 4) corresponding to an FEI of 1.00. The highest non-redesign EL occurs at EL 2, corresponding to an FEI of 0.76, and max-tech occurs at EL 6, corresponding to an FEI of 1.37. Therefore, the first aerodynamic redesign was set at the midpoint between EL 2 and EL 4, corresponding to an FEI of 0.88, and the third aerodynamic redesign was set as the midpoint between an FEI of 1.00 and the max-tech EL, corresponding to an FEI of 1.19.

Parallel Design Path for Forward-Curved Fans

DOE received feedback during interviews that forward-curved impellers should be preserved in the market because they offer distinct utility over backward-inclined or airfoil impellers and typically operate at lower pressures where efficiency is inherently lower. However, as discussed in section IV.A.1.a, DOE has tentatively determined that forward-curved fans do not require a separate equipment class since the FEI metric is a function of operating pressure and accounts for the inherently lower efficiency at lower pressures.

Instead, to assess any costs associated with preserving forward-curved fans, DOE evaluated two parallel design paths for centrifugal housed fans. DOE used the first design path (hereafter referred to as the “primary design path”) to evaluate all fans with impellers other than forward-curved impellers. For the primary design path, DOE observed a significant number of fans with backward-inclined impellers that exhibited FEIs similar to those with forward-curved impellers, despite backward-inclined impellers generally

being more efficient. Therefore, DOE assigned the same baseline FEI to both design paths and assumed baseline efficiency on the primary design path to be represented by an inefficient backward-inclined fan which would meet EL 1 via aerodynamic redesign of the backward-inclined impeller. EL 2 on the primary design path represents substituting a more typical backward-inclined impeller with an airfoil impeller to achieve an FEI of 1.00.

For the second design path (hereafter referred to as the “forward-curved design path”), DOE assumed that the baseline efficiency was represented by a forward-curved fan that would meet all subsequent ELs via aerodynamic redesign while maintaining a forward-curved impeller. The design options for both design paths are summarized in Table IV–9 and additional details on how DOE defined the efficiency levels for the separate centrifugal housed design paths are provided in chapter 5 of the NOPR TSD.

Additionally, for the forward-curved design path, EL 4 approaches max-tech for forward-curved fans. Although DOE identified fans with forward-curved impellers above this EL, DOE could not confirm that forward-curved fans could be designed above this EL at all duty points. Therefore, DOE defined the third aerodynamic redesign on the forward-curved design path (EL 4) as the max-tech for forward-curved impellers and assumed that any fans above this FEI would need to transition to a backward-inclined or airfoil impeller. As such, all fans above EL 4 were analyzed using the primary design path.

DOE notes that, in practice, manufacturers may substitute forward-curved impellers with a backward-inclined or airfoil impeller to improve efficiency. However, based on DOE’s review of the market and stakeholder feedback on the importance of maintaining fans with forward-curved impellers, DOE could not determine a representative percentage of forward-curved fans that would be redesigned versus substituted with a different impeller. Therefore, to avoid underestimating the costs required to preserve forward-curved impellers, DOE assumed that all forward-curved fans currently on the market would maintain their impellers and follow the forward-curve design path.

DOE utilized a dual-design path approach for centrifugal housed fans to consider the fact that manufacturers may be required to incur higher conversion costs to maintain use of forward-curved impellers. DOE estimated the costs associated with redesigning forward-curved fans using

⁵⁷ International Code Council. “2021 International Energy Conservation Code Chapter 4: Commercial Energy Efficiency”. September 2021. Available at codes.iccsafe.org/content/IECC2021P2/chapter-4-ce-commercial-energy-efficiency.

⁵⁸ ASHRAE. “Standard 90.1–2022—Energy Standard for Sites and Buildings Except Low-Rise Residential Buildings.” September 2022. Available at www.ashrae.org/technical-resources/bookstore/standard-90-1.

⁵⁹ California Energy Commission. Commercial and Industrial Fans and Blowers. Docket No. 22–AAER–01. Available at efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=22-AAER-01.

the same method used to estimate aerodynamic redesign conversion costs for all other equipment classes and product types, as discussed in section IV.J.2.c. However, DOE may revise its analysis to consider additional conversion costs for forward-curved fans if sufficient data is provided to demonstrate that these fans may

experience unique challenges in meeting higher FEI values.

DOE requests comment on its approach for estimating the industry-wide conversion costs that may be necessary to redesign fans with forward-curved impellers to meet higher FEI values. Specifically, DOE is interested in the costs associated with any capital equipment, research and development,

or additional labor that would be required to design more efficient fans with forward-curved impellers. DOE additionally requests comment and data on the percentage of forward-curved impellers that manufacturers would expect to maintain as a forward-curved impeller relative to those expected to transition to a backward-inclined or airfoil impeller.

Table IV-9 Centrifugal Housed Fan Design Paths

EL	Design Options – Primary Design Path	Design Options– Forward-curved Design Path
EL0	Inefficient Backward-inclined Impeller	Baseline Forward-curved Impeller
EL1	Typical Backward-inclined Impeller	Aerodynamic Redesign 1*
EL2	Airfoil Impeller	Aerodynamic Redesign 1*
EL3	Aerodynamic Redesign 1	Aerodynamic Redesign 2
EL4	Aerodynamic Redesign 2	Aerodynamic Redesign 3
EL5**	Aerodynamic Redesign 3	-

*The first aerodynamic redesign for the forward-curved design path was split into two ELs to maintain alignment with the main design path. Equivalent conversion costs were assumed for EL 1 and EL 2.

**EL 4 is assumed to approach max-tech for forward-curved fans. Therefore, all forward-curved fans are assumed to transition to a backward-inclined or airfoil impeller above EL 4 and both the primary and forward-curved design paths converge for EL 5.

Efficiency Levels for General Fans and Blowers Sold With a Motor

As discussed in the May 2023 TP Final Rule, DOE adopted the FEP and FEI calculations specified in AMCA 214–21, which provides a method for calculating the FEI of fans sold with motors based on a table of polyphase regulated motors (See Annex A of AMCA 214–21). 88 FR 27312, 27348. However, as discussed in the May 2023 TP Final Rule, the DOE test procedure replaces Annex A of AMCA 214–21 with a reference to the current energy conservation standards for polyphase regulated motors in 10 CFR 431.25, with the intention that the values of regulated polyphase motor efficiencies would remain up to date with any potential future updates established by DOE. 88 FR 27312, 27349.

In a final rule published on June 1, 2023, DOE finalized amended energy conservation standards for electric motors. These standards adopted amended efficiency requirements for motors rated at or between 100 hp and 250 hp. Therefore, for GFBs sold with a motor rated at or between 100 hp and 250 hp, FEI would be evaluated using the amended efficiencies specified in table 8 of 10 CFR 431.25, in accordance with the DOE test procedure. However,

the motor efficiencies used to calculate the reference fan FEP have not been similarly updated based on the amended standards for electric motors. Therefore, the reference fan FEP for GFBs with a motor rated at or between 100 hp and 250 hp would be calculated using a motor efficiency that would not be compliant with the adopted energy conservation standards for electric motors and would no longer be available on the market. In other words, the reference fan used in the FEI calculation would have a lower efficiency than that required for electric motors, resulting in an inappropriately greater FEI for the tested fan.

To avoid providing an unintended advantage to these GFBs, DOE proposes that the FEI level for GFBs sold with a motor rated at or between 100 hp and 250 hp would be calculated by applying a correction factor to the FEI standard for GFBs sold with any other sized motor. This correction factor would be designed to offset the difference in motor efficiencies specified for the reference fan versus the amended motor efficiency standards. DOE found that, at a given duty point, the correction factor, A, can be expressed as a function of the motor efficiency as follows:

$$A = \frac{\eta_{mtr,2023}}{\eta_{mtr,2014}}$$

Where $\eta_{mtr,2023}$ is the motor efficiency in accordance with table 8 at 10 CFR 431.25, and $\eta_{mtr,2014}$ is the motor efficiency in accordance with table 5 at 10 CFR 431.25 and Annex A of AMCA 214–21, and FEP_{act} is determined according to the DOE test procedure in appendix A to subpart J of part 431. The FEI in accordance with the proposed TSL would be multiplied by this correction factor to result in the FEI standard. For fans with motors rated below 100 hp, the correction factor, A, would be equal to 1.00. DOE is also proposing to add the motor efficiency requirements specified in Table 5 at 10 CFR 431.25 for motors rated at or between 100 hp and 250 hp in 10 CFR 431.175 and reference these values for the correction factor calculation to ensure that these motor efficiency values are not inadvertently removed in any separate motors rulemakings.

Efficiency Levels for General Fans and Blowers With a Motor Controller

As discussed in the May 2023 TP Final Rule, DOE adopted the FEP and FEI calculation as specified in AMCA 214–21 but did not develop a control credit for fans with a controller to offset

the losses inherent to the motor controller when calculating the FEI of these fans at a given duty point. In the May 2023 TP Final Rule, DOE stated that, to the extent use of a controller impacts the energy use characteristics of a fan or blower, the test procedure should account for such impact and that appropriate consideration of any such impact would be part of the evaluation of potential energy conservation standards. 88 FR 27312, 27371. DOE further stated that the FEP [and FEI] metric penalizes the use of VFDs (variable speed drives which are a category of motor controller), since these metrics incorporate the losses from the VFD and that appropriate consideration of any such impact would

be part of the evaluation of potential energy conservation standards. 88 FR 27312, 27372.
To avoid penalizing GFBs sold with a motor controller, DOE proposes that the FEI standard for GFBs sold with a motor controller be calculated by applying a credit to the FEI standard for GFBs sold without a motor controller, where the credit is designed to offset the losses inherent to the motor controller. To determine the credit, DOE compared the FEP values of fans with a motor controller ($FEP_{act,mc}$) to the FEP values of the same fans without a motor controller, as calculated in accordance with section 6.4.2.4 of AMCA 214–21 which represents typical motor and motor controller performance, and using

the fan selection duty points provided in the sample of consumers.⁶⁰ (See section IV.E.1). DOE found that, at a given duty point, the credit can be expressed as a function of the FEP, in kW, as follows:

$$Credit = 0.03 \times FEP_{act} + 0.08$$

Where FEP_{act} is the actual fan electrical input power of the fan with a motor controller at the given duty point.

To convert the credit into a multiplier to the FEI and to calculate the FEI values at each efficiency level considered for GFBs with a motor controller, DOE relied on the following equation:

$$FEI_{EL_{mc}} = FEI_{EL_{no_{mc}}} \times \frac{FEP_{act} - Credit}{FEP_{act}}$$

Where $FEI_{EL_{no_{mc}}}$ is the FEI value at a given EL for a fan without a motor controller.
When applying this equation, DOE observed that for GFBs with a motor

controller and with FEP values above 20 kW, the value of the multiplier to the FEI is approximately constant and equal to 0.966. Therefore, DOE proposes to simplify the calculation of FEI standards

for fans with motor controllers as follows:

Table IV-10: FEI levels for GFBs with Motor Controller

Fans with motor controller with:	FEI level for Fans with motor controller*
$FEP_{act} < 20 \text{ kW (26.8 hp)}$	$B = \frac{FEP_{act} - Credit}{FEP_{act}}$; where: $Credit = 0.03 \times FEP_{act} + 0.08 \text{ [SI]}$ $Credit = 0.03 \times FEP_{act} + 0.08 \times 1.341 \text{ [IP]}$
$FEP_{act} \geq 20 \text{ kW (26.8 hp)}$	$FEI_{EL_{no_{mc}}} \times 0.966$

*Rounded to the hundredth

Further, considering the proposed addition of default calculation methods to represent the combined motor and motor controller efficiency (see section III.C.1.b), in the final rule, DOE may also consider an alternative credit calculation based on the proposed equations in section III.C.1.b which represent baseline (and not typical)

motor and motor controller performance, and would potentially result in a higher credit.
DOE requests comment on the equations developed to calculate the credit for determining the FEI standard for GFBs sold with a motor controller and with an FEP_{act} less than 20 kW and on potentially using an alternative

credit calculation based on the proposed equations in section III.C.1.b of this document. Additionally, DOE requests comment on its use of a constant value, and its proposed value, of the credit applied for determining the FEI standard for GFBs with a motor controller and an FEP_{act} of greater than or equal for 20 kW.

⁶⁰For this calculation, DOE used the AMCA 214–21 equations for the motor and motor controller which are representative of the losses of typical

variable frequency drives instead of equations discussed in section III.C.1 which were developed as representative of less efficient, baseline, motor

and motor controller combinations (*i.e.*, representative of lowest market efficiency).

c. Higher Efficiency Levels

As part of DOE's analysis, the maximum available efficiency level is the highest efficiency unit currently available on the market. DOE also defines a "max-tech" efficiency level to represent the maximum possible efficiency for a given product. Similar to the baseline efficiency levels, DOE established max-tech efficiency levels by reviewing the performance data in the AMCA sales database. DOE initially evaluated max-tech for each class using

the FEI corresponding to the 95th percentile (*i.e.*, the FEI resulting in a 5-percent pass rate). DOE used the 95th percentile instead of the absolute maximum FEI observed in the AMCA sales database to avoid setting a max-tech FEI that may not be achievable across most of a fan's operating range. DOE further refined these levels based on manufacturer fan selection software performance data collected at the representative diameters and operating points for each class. Additional details on the selection of max-tech efficiency

levels can be found in chapter 5 of the NOPR TSD.

As previously described, DOE assigned design options and corresponding FEIs to each equipment class based on the analysis described in sections IV.C.1.a–b. DOE conducted this analysis up to a max-tech EL for each equipment class. Final results are shown in Table IV–11. These results were used in all downstream analyses for this NOPR.

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Table IV-11 Summary of Efficiency Levels for All GFB Equipment Classes

		EL0	EL1	EL2	EL3	EL4	EL5†	EL6†	EL7†
Axial Inline	Design Option	Baseline: tube axial	Impeller change	Switch to vane axial	1 st Aero redesign	2 nd Aero redesign	3 rd Aero redesign	-	-
	FEI	0.84	0.87	1.00	1.18	1.36	1.55	-	-
Panel	Design Option	Baseline	Impeller change	1 st Aero redesign	2 nd Aero redesign	3 rd Aero redesign	4 th Aero redesign	-	-
	FEI	0.80	0.86	1.00	1.24	1.48	1.73	-	-
Axial PRV	Design Option	Baseline	Impeller change 1	Impeller change 2	Diameter Increase*	Diameter Increase*	1 st Aero redesign	2 nd Aero redesign	3 rd Aero redesign
	FEI	0.66	0.69	0.72	0.75	0.85	1.00	1.25	1.49
Centrifugal PRV Exhaust	Design Option	Baseline	Diameter Increase	Impeller change*	1 st Aero redesign	2 nd Aero redesign	3 rd Aero redesign	4 th Aero redesign	-
	FEI	0.67	0.7	0.72	0.86	1.00	1.20	1.39	-
Centrifugal PRV Supply	Design Option	Baseline	Diameter Increase	Impeller change*	1 st Aero redesign	2 nd Aero redesign	3 rd Aero redesign	4 th Aero redesign	-
	FEI	0.69	0.72	0.76	0.88	1.00	1.19	1.37	-
Centrifugal 1 Housed Main Path	Design Option	Baseline	Impeller change	Airfoil Impeller	1 st Aero redesign	2 nd Aero redesign	3 rd Aero redesign	-	-
	FEI	0.63	0.93	1.00	1.15	1.31	1.46	-	-
Centrifugal 1 Housed FC Path**	Design Option	Baseline	Impeller change	1 st Aero redesign	2 nd Aero redesign	3 rd Aero redesign	-	-	-
	FEI	0.63	0.93	1.00	1.15	1.31	-	-	-
Centrifugal 1 Unhoused	Design Option	Baseline	Impeller change 1	Impeller change 2	1 st Aero redesign	2 nd Aero redesign	3 rd Aero redesign	-	-
	FEI	0.94	1.00	1.10	1.23	1.35	1.49	-	-
Centrifugal 1 Inline	Design Option	Baseline	Impeller Change	Guide Vanes	Mixed flow*	MF with guide vanes	1 st Aero redesign	2 nd Aero redesign	-
	FEI	0.65	0.70	0.77	1.00	1.07	1.28	1.46	-
Radial	Design Option	Baseline	Impeller change 1	Impeller change 2	1 st Aero redesign	2 nd Aero redesign	3 rd Aero redesign	-	-
	FEI	0.82	0.87	0.93	1.00	1.17	1.34	-	-

*Design option applied relative to baseline fan instead of previous EL.

** The centrifugal housed forward-curved path was applied to uniquely consider the costs associated with redesigning forward-curved fans. See section IV.C.1.b for additional details.

† Dash marks are used to indicate that the specified EL does not apply to the corresponding equipment class.

Potential Adjustments to Efficiency Levels Based on AMCA 211 Tolerances

GFBs can be certified by AMCA to bear the AMCA certified ratings seal. AMCA publishes a manual prescribing the technical procedures to be used in connection with the AMCA Certified Ratings Program for fan air performance: “AMCA 211–22 (Rev. 01–23)—Certified Ratings Program—Product Rating Manual for Fan Air Performance” (“AMCA 211–22”).

Certified AMCA GFBs are subject to precertification and periodic check tests as defined in section 10 of AMCA 211–22. When products are check tested, the check test performance must be within the tolerance for airflow, pressure, and power when compared with the manufacturer’s catalog data. Specifically, section 10 of AMCA 211–22 allows for a 5 percent tolerance on the fan shaft power when conducting a precertification check test and a 7.5 percent tolerance when conducting a periodic check test.

As discussed in section IV.A.2.a, DOE conducted the GFB engineering analysis for this NOPR primarily using a database of confidential sales information provided by AMCA, which includes AMCA certified data related to fan shaft power at a given duty point. DOE also relied on manufacturer fan

selection software from manufacturers that are AMCA members, which frequently provided data that was AMCA certified.

DOE understands that it may be common practice for manufacturers to include the AMCA 211–22 tolerance when submitting performance data to AMCA. As a result, the fan shaft power data included in the AMCA sales database and manufacturer fan selection software may include a 5 to 7.5-percent tolerance and may be underestimated.⁶¹ For the final rule, DOE is considering adjusting the fan shaft power values included in the performance data used in its analysis to account for this tolerance. In the final rule, DOE is also considering adjusting the values of FEI associated to each efficiency level analyzed to account for this tolerance.

DOE may consider revising the brake horsepower values in the AMCA sales database and from manufacturer fan selection software by increasing each value by 5 percent. DOE used the 5-percent precertification check test tolerance for the adjustments, as DOE expects this would be the tolerance applied to any ratings certified to

⁶¹ For example, a manufacturer may report a value of 92.5 instead of 100 to incorporate a 7.5 percent tolerance.

AMCA. This would result in lower FEI values for each data point and could result in lower FEI values associated with each EL.

To determine how this may impact the analysis, DOE increased the brake horsepower values in the AMCA sales database by 5 percent and recalculated the bare shaft FEIs of all fans in the database. As discussed in section IV.C.1, the baseline and max-tech FEIs of all equipment classes were determined based on percentiles in the AMCA sales database. DOE used the same percentiles to determine the baseline and max-tech for each equipment class using the recalculated bare shaft FEIs. For efficiency levels that were based on the design option approach (*e.g.*, impeller changes), DOE maintained the percent increases in FEI associated with each design option to determine the adjusted FEI. For ELs that were based on the efficiency level approach (*i.e.*, aerodynamic redesigns), DOE adjusted the FEI levels to maintain the same percentage of models that meet each aerodynamic redesign efficiency level (*i.e.*, pass rate). The FEI values in Table IV–12 show what the results of the engineering analysis may look like if the tolerance that is allowed in AMCA 211–22 is considered in the databases.

**Table IV-12 Summary of Efficiency Levels for All GFB Equipment Classes
Considering a 5-percent AMCA 211-22 Tolerance Allowance**

	EL0	EL1	EL2	EL3	EL4	EL5	EL6	EL7
Axial Inline	0.80	0.83	0.96	1.12	1.30	1.48	-	-
Panel	0.76	0.82	0.95	1.18	1.41	1.65	-	-
Axial PRV	0.63	0.67	0.69	0.72	0.82	0.95	1.19	1.42
Centrifugal PRV Exhaust	0.64	0.67	0.68	0.82	0.95	1.14	1.33	-
Centrifugal PRV Supply	0.65	0.68	0.72	0.83	0.95	1.13	1.29	-
Centrifugal Housed Main Path	0.60	0.90	0.96	1.09	1.24	1.39	-	-
Centrifugal Housed FC Path*	0.60	0.90	0.96	1.09	1.24	1.39	-	-
Centrifugal Unhoused	0.89	0.94	1.04	1.17	1.28	1.42	-	-
Centrifugal Inline	0.62	0.66	0.73	0.95	1.02	1.22	1.39	-
Radial	0.78	0.83	0.89	0.95	1.11	1.27	-	-

*Design option applied relative to baseline fan instead of previous EL.

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DOE requests comments on whether it should apply a correction factor to the analyzed efficiency levels to account for the tolerance allowed in AMCA 211-22 and if so, DOE requests comment on the appropriate correction factor. DOE requests comment on the potential revised levels as presented in Table IV-12. Additionally, DOE requests comments on whether it should continue to evaluate an FEI of 1.00 for all fan classes if it updates the databases used in its analysis to consider the tolerance allowed in AMCA 211-22.

Additionally, DOE does not anticipate that the efficiency levels captured in Table IV-12 would impact the cost, energy, and economic analyses presented in this document. As such, DOE considers the results of these analyses presented throughout this document applicable to the efficiency levels with a 5% tolerance allowance. DOE seeks comment on the analyses as applied to the efficiency levels in Table IV-12.

d. Cost Analysis

The cost analysis portion of the engineering analysis is conducted using one or a combination of cost approaches. The selection of cost approach depends on a suite of factors,

including the availability and reliability of public information, characteristics of the regulated equipment, and the availability and timeliness of purchasing the equipment on the market. The cost approaches are summarized as follows:

- *Physical teardowns:* Under this approach, DOE physically dismantles commercially available equipment, component-by-component, to develop a detailed bill of materials for the equipment.

- *Catalog teardowns:* In lieu of physically deconstructing equipment, DOE identifies each component using parts diagrams (available from manufacturer websites or appliance repair websites, for example) to develop the bill of materials for the equipment.

- *Price surveys:* If neither a physical nor catalog teardown is feasible (for example, for tightly integrated products such as fluorescent lamps, which are infeasible to disassemble and for which parts diagrams are unavailable) or cost-prohibitive and otherwise impractical (e.g., large commercial boilers), DOE conducts price surveys using publicly available pricing data published on major online retailer websites and/or by soliciting prices from distributors and other commercial channels.

In the present case, DOE conducted its analysis for GFBs using a combination of price surveys from manufacturer fan selection software, the AMCA sales database, and physical teardowns. DOE notes that due to time constraints and the variety of fans available in the market (e.g., commercial or industrial application, construction class, equipment class), DOE was unable to conduct sufficient teardowns to rely solely on a manufacturer production cost ("MPC") approach informed by physical teardowns. Therefore, DOE used manufacturer sales prices ("MSP") for its cost analysis since DOE had substantially more MSP data than MPC data available for GFBs. When DOE pulled data from manufacturer fan selection software, the fan MSP was typically included; if the MSP was not included, DOE requested quotes to obtain a sales price. The AMCA sales database includes confidential total sales value and total sales volume for each fan model. DOE divided the total sales value by the sales volume to calculate the MSP for a single fan. MSPs from the AMCA sales database were

adjusted to 2022 dollars to account for inflation.⁶²

DOE recognizes that fan costs would not follow a simple scaling model as there are several factors that could impact the sales price of a fan, including construction class,⁶³ drive assembly, production volume, manufacturer purchasing power, mark-up, commercial or industrial application, etc. To account for these factors, DOE averaged MSPs from the AMCA sales database at each diameter for each fan equipment class to conduct its cost analysis. Average MSPs were obtained at a range of duty points that DOE determined to be reflective of the entire market, rather than only at the specific representative operating points that DOE selected. Additionally, based on its analysis of manufacturer fan selection software, DOE determined that fans may be sold with a variety of motors, each with a distinct cost that contributes to the overall selling price. Therefore, DOE decided to use average MSPs to account for the variety of motors on the market, rather than attempt to evaluate fan costs without a motor by subtracting an assumed unique motor cost from each fan in the AMCA sales database. This process was completed to ensure that all fan design options were evaluated with constant motor and motor controller cost estimates and DOE notes that the MSP change from EL to EL ultimately drives the downstream analyses. While DOE recognizes that an average is not representative of all fan designs, DOE had limited data and therefore determined that an average would provide the most representative estimate based on the data available.

DOE used data from both the AMCA sales database and sales data pulled from manufacturer fan selection software to create an MSP versus diameter curve for each equipment class. First, DOE averaged the MSPs in the AMCA sales database, as discussed earlier, to generate an MSP-versus-diameter curve. DOE then calibrated this curve with MSPs from manufacturer fan selection software. DOE used the MSP-versus-diameter curves to determine the baseline MSP

for each equipment class at a given diameter.

As discussed in section IV.C.1.b, DOE used individual design options for the lower ELs in each class and aerodynamic redesign for the higher ELs. To determine the incremental costs associated with the design option ELs above baseline, DOE compared the MSPs of similarly constructed fans operating at the same duty point. For example, DOE evaluated the increase in MSP for impeller changes by calculating the percentage change in MSP for two fans operating at the same duty point and with similar housings, but different impeller designs. DOE averaged changes in MSP for each analyzed fan within each equipment class to obtain typical incremental costs for each design option, which were applied above baseline to obtain MSPs for each efficiency level. For fans where diameter increases were evaluated as a design option, DOE used the diameter-versus-MSP curves to estimate the increase in MSP relative to the baseline fan. As discussed in section IV.C.1.b, DOE used an 18-percent increase as the standard value for each impeller diameter increase. MSPs corresponding to each EL assume no change in motor or drive costs since DOE kept the motor and drive costs constant over all ELs; therefore, the change in MSP at each design option EL is reflective of the cost of incorporating the corresponding design option.

DOE additionally conducted teardowns to validate the MSPs applied to each EL. For axial inline fans, DOE initially estimated a high MSP from manufacturer fan selection software for replacing a tube axial fan with a vane axial fan; however, teardown data suggested that a lower MSP would be more realistic. DOE believes this discrepancy is due to differences in production volume between tube axial and vane axial fans, with vane axial fans having lower production volumes in the current market. In the presence of energy conservation standards, however, DOE expects that production volumes for vane axial fans would increase, reducing this price difference. Therefore, DOE adjusted the MSP for substituting a tube axial fan with a vane axial fan assuming equivalent production volumes in the presence of energy conservation standards.

Similarly, for centrifugal inline fans, DOE found that the average MSP when substituting a centrifugal inline impeller with a mixed-flow impeller was higher than would have been expected based on the teardown data. DOE believes this may be due to a mix of lower production volumes in the current

market, underlying conversion costs, and increased markups for mixed-flow fans in the current market. Therefore, DOE reduced the MSP when substituting a centrifugal inline impeller with a mixed-flow impeller. To account for any costs associated with redesigning a centrifugal inline fan, DOE modelled most costs for applying a mixed-flow impeller as conversion costs, similar to those applied for aerodynamic redesigns.

As discussed, DOE evaluated aerodynamic redesigns as the final ELs for all equipment classes. DOE assumed a constant MSP for each aerodynamic redesign EL, with no change in MSP from the last design option EL to the first aerodynamic redesign EL. DOE assumed that the redesign, reengineering, and new production equipment required for aerodynamic redesign efficiency levels would result in significant one-time capital and product conversion costs. To account for expected manufacturer markups at these ELs, DOE applied a conversion cost markup that increases as capital costs increase. Aerodynamic redesign conversion costs are further discussed in section IV.J.2.c of this NOPR.

DOE assumed that shipping costs remained constant over all analyzed ELs for all equipment classes except for PRVs, where the increased diameter design options are expected to have a substantial impact on equipment dimensions and weight. To estimate shipping costs for PRVs, DOE used data from product teardowns and product literature for the representative operating points. DOE compared measured shipping dimensions from physical teardowns with listed unit dimensions in manufacturers' product literature and extrapolated the difference between them to estimate representative shipping dimensions for the units that DOE did not tear down. These dimensions were then used to estimate the number of PRVs that could be shipped per truck load. Based on this analysis, an additional shipping cost for each individual PRV was then applied to DOE's estimated MSPs.

DOE requests comment on its method to use both the AMCA sales database and sales data pulled from manufacturer fan selection data to estimate MSP. DOE also requests comment on the use of the MSP approach for its cost analysis for GFBs or whether an MPC-based approach would be appropriate. If interested parties believe an MPC-based approach would be more appropriate, DOE requests MPC data for the equipment classes and efficiency levels analyzed, which may be confidentially

⁶² DOE used the Federal Reserve Economic Data's "Producer Price Index by Industry: Fan, Blower, Air Purification Equipment Manufacturing" to account for inflation to 2022 dollars. DOE used a multiplication factor of 1.4 to convert from 2012 dollars to 2022 dollars. (fred.stlouisfed.org/series/PCU333413333413)

⁶³ Fans can be grouped into three AMCA construction classes (Class I–III) based on operation static pressure and outlet velocity. A Class I fan would have a lower operating static pressure and outlet velocity than a Class III fan. As a result, Class I fans tend to have a less-rugged construction than Class II–III fans.

submitted to DOE using the confidential business information label.

2. Air Circulating Fans

In the following sections, DOE discusses the engineering analysis performed to establish a relationship between ACF efficacy and MPC.

a. Representative Units

When performing engineering analyses for energy conservation standards rulemakings, rather than model every possible set of characteristics an equipment could have, DOE often evaluates the efficiency and cost of specific units that are most representative of the equipment. These representative units are typically chosen based on size or performance-related features. In the October 2022 NODA, DOE modeled five ACF representative units: a 12-in. ACF with a 0.01 hp motor; a 20-in. ACF with a 0.33 hp motor; a 24-in. ACF with a 0.5 hp motor, a 36-in. ACF with a 0.5 hp motor; and a 50-in. ACF with a 1 hp motor. 87 FR 62038, 62046. In the October 2022 NODA, DOE requested comment on whether the motor hp it has associated with each representative diameter (*i.e.*, 0.1 hp for 12 in., 0.33 hp for 20 in., 0.5 hp for 24 in. and 36 in., and 1 hp for 50 in.) appropriately represented the motor hp for fans sold with those corresponding diameters. *Id.*

In response to the October 2022 NODA, AMCA commented that DOE should consider decoupling fan size and motor nameplate hp for its representative units because the motor nameplate hp is not always representative of how much loading is placed on the motors and may therefore mislead any estimates of efficiency. (AMCA, No. 132 at p. 7)

In response to stakeholder concerns about establishing representative motor powers for the engineering analysis, DOE reevaluated its approach. After reviewing the updated ACF database, which contains catalog data not included in the October 2022 NODA analysis, DOE found that motor nameplate power may vary too much from fan to fan to establish a single representative motor power for a given fan diameter. Instead, for this NOPR analysis, DOE used the distribution of motor nameplate powers for each representative diameter to determine weighted averages for motor efficiency and motor costs. Further details on these distributions and their use can be found in chapter 5 of the NOPR TSD.

For this NOPR, DOE evaluated slightly different representative units than it evaluated in the October 2022 NODA analysis. DOE did not consider a

12-in. representative unit for the NOPR because ACFs with input powers less than 125 W were excluded from the scope, which significantly reduced the number of in-scope 12-in. ACFs in DOE's updated ACF database. As discussed in section IV.A.1.b, DOE identified three equipment classes for axial ACFs, a 12-in. to less than 36-in. diameter axial ACF class, a 36-in. to less than 48-in. diameter axial ACF class, and a 48-in. diameter or greater axial ACF class. DOE defined a single representative unit for each axial ACF equipment class. DOE reviewed ACF diameters in its updated ACF database and determined that the most common diameters for the 12-in. to less than 36-in. diameter range, the 36-in. to less than 48-in. diameter range, and the 48-in. diameter or greater range were 24 in., 36 in., and 52 in., respectively. Therefore, DOE used these three diameters as its representative units for the ACF analysis. DOE did not consider the 20-in. or 50-in. representative units included in the October 2022 NODA because neither of these sizes were the most common diameter for axial ACFs in the corresponding diameter range. For housed centrifugal ACFs, DOE chose 11 in. as the representative unit, since it is the most common diameter for housed centrifugal ACFs in the updated ACF database. Further details regarding the selection of representative units can be found in chapter 5 of the NOPR TSD.

b. Baseline Efficiency and Efficiency Level 1

Motors

As discussed in section IV.C.1.a, baseline models are typically either the most common or the least efficient units on the market. In the October 2022 NODA, DOE assigned split-phase motors to be the baseline technology option for ACFs because split-phase motors are the least efficient type of motor used for ACFs. 87 FR 62038, 62048. As discussed in the October 2022 NODA, the BESS Labs combined database contained ACFs sold with PSC motors, polyphase motors, and ECMs, but no split-phase motors. *Id.* Therefore, DOE used the lowest efficiencies observed in the BESS Labs combined database, associated with low-efficiency PSC motors, to establish EL 1. To estimate baseline efficiencies from EL 1, DOE applied an efficiency loss associated with switching from a low-efficiency PSC motor to a split-phase motor. 87 FR 62038, 62049.

In the October 2022 NODA, DOE requested feedback on the methodology used to determine the baseline

efficiency values for the representative units and on the expected average improvement in ACF efficiency when a split-phase motor is replaced by a low-efficiency PSC motor. 87 FR 62038, 62049. In response, the Efficiency Advocates stated that, since DOE utilized the BESS Labs combined database to determine efficiency in the October 2022 NODA, that baseline efficiency could be higher than the actual least efficient ACFs on the market. (Efficiency Advocates, No. 126 at p. 1) In response to stakeholder feedback and after reviewing its updated ACF database, DOE utilized a different methodology for determining baseline efficiency in this NOPR. Rather than determining EL 1 and back-calculating baseline from EL 1, DOE defined the baseline efficiencies for each representative unit using the minimum efficiency values in its updated ACF database. Additionally, as discussed in section IV.A.3 of this NOPR, additional review of the ACF market indicated that very few ACFs use split-phase motors compared to the number of ACFs that use PSC motors. Therefore, DOE decided to consider low-efficiency PSC motors as a baseline design option for ACFs in this NOPR.

As discussed in section IV.A.2.b, DOE included catalog data in its updated ACF database to supplement the BESS Labs combined database. DOE did not consider catalog data in the October 2022 NODA because catalog data did not include information on the air density measured during testing, which is required when calculating FEI. Since DOE updated the ACF efficiency metric to be efficacy instead of FEI, DOE was able to use catalog data for efficiency information for this NOPR. Therefore, DOE expects the minimum efficacy values used in this NOPR analysis to be more representative of the baseline fans on the market than those used in the October 2022 NODA.

Transmission

In the October 2022 NODA, since DOE did not consider more efficient transmissions as a design option, the baseline fan was not defined by a transmission type. However, in this NOPR analysis, DOE is considering more-efficient transmissions as a design option for ACFs. As discussed in section IV.A.3, using a direct-drive transmission instead of a belt-drive transmission can increase the efficiency of a fan. Manufacturers also indicated in interviews that the fan industry is transitioning away from using belt-drive transmissions in favor of direct-drive transmissions. Therefore, DOE decided to assign a belt-drive transmission as a

baseline design option and tentatively determined that a change from belt-drive to direct-drive would be the first design change ACF manufacturers would make to improve efficiency. Therefore, DOE chose a direct-drive transmission as the EL 1 design option. DOE notes, however, that not all the equipment classes it analyzed typically use belt drives. DOE reviewed the housed centrifugal ACF market and concluded that belt drives are not used for housed centrifugal ACFs. Additionally, DOE's review of the axial ACF market indicated that belt drives are not commonly used for axial ACFs less than 36 in. in diameter. DOE found that only 2 percent of ACF models in its updated ACF database with a diameter less than 36 in. had belt drives, while 66 percent of ACF models in its updated ACF database with a diameter of 36 in. or larger had belt drives. Therefore, DOE has determined that a direct-driven fan is representative of both the baseline and EL 1 for the 24-in. axial ACF and centrifugal housed ACF representative units.

For the 36-in. and 52-in. axial ACF representative units, DOE determined EL 1 by applying an efficacy delta to the baseline efficacy representing a transition from a belt-drive transmission to a direct-drive transmission. To estimate this incremental impact on efficacy when transitioning from a belt-drive transmission to a direct-drive transmission, DOE used the equations defined in sections 6.3.1 and 6.3.2 of AMCA 214–21. The equations in section 6.3.1 of AMCA 214–21 define the efficiency of direct-drive transmissions as 100 percent and define the efficiency of belt-drive transmissions based on the shaft power of the fan. Since shaft powers are generally unknown for ACFs, DOE used the equation defined in section 6.3.2 of AMCA 214–21 to determine theoretical motor output powers associated with given shaft powers and transmission efficiencies. DOE then plotted a curve to estimate belt-drive transmission efficiency as a function of motor output power, which was used to estimate the belt-drive efficiencies for all motor hp values in its updated ACF database. To account for the range of motor hp values that could be used in ACFs for each representative unit, DOE determined the percentage of fans in its updated ACF database that corresponded to each motor hp in the database. DOE then used these percentages as weights to calculate a weighted-average belt-drive efficiency for each motor hp.

DOE evaluated the relationship between transmission efficiency and fan efficacy and determined that

transmission efficiency and fan efficacy are directly proportional. Therefore, the percent increase in fan efficacy associated with using a more efficient transmission is equal to the percent increase in transmission efficiency. Further details of this analysis can be found in chapter 5 of the NOPR TSD. DOE applied the percent increase in efficiency when transitioning from a belt-drive transmission to a direct-drive transmission to the baseline efficacies for the 36-in. axial ACF and 52-in. axial ACF representative units to determine EL 1. DOE used the resulting weighted-average belt-drive efficiency to determine the percent difference in efficiency between a belt-drive transmission and a direct-drive transmission. Based on this approach, DOE estimated 13.5-percent and 10.4-percent improvements in efficacy when changing from a belt-drive transmission to a direct-drive transmission for the 36-in. axial ACF and 52-in. axial ACF representative units, respectively.

As mentioned previously, DOE defined both the baseline fan and EL 1 as direct driven for the 24-in. axial ACF and the housed centrifugal ACF representative units. Therefore, for these two representative units, DOE set EL 1 equal to the baseline efficacy to account for the fact that there would be no efficacy gain associated with the more-efficient transmission design option. This was done to maintain consistent design options for each EL for all ACF equipment classes.

Further discussion of DOE's methodology for determining baseline efficiency and EL 1 can be found in chapter 5 of the NOPR TSD.

c. Selection of Efficiency Levels

In this section, DOE discusses comments it received on its ACF efficiency analysis in the October 2022 NODA and describes the efficiency analysis methodology it used for this NOPR. As discussed in section IV.C.1.b, DOE typically uses either an efficiency-level approach, a design-option approach, or a combination of the two for its efficiency analysis. In this NOPR, DOE used a combination efficiency-level and design-option approach for its analysis of ACFs. DOE used the efficiency-level approach to determine the baseline and aerodynamic redesign ELs and used the design-option approach to gap fill intermediate ELs. For the design-option approach, DOE used the efficiencies determined for the baseline design options and more-efficient design options to assign incremental efficiency gains for each EL.

General Approach and Related Comments

In the October 2022 NODA, DOE evaluated more-efficient motors and aerodynamic redesign as options for increasing ACF efficiency. 87 FR 62038, 62048. DOE did not conduct a formal screening analysis in the October 2022 NODA; however, as discussed in section IV.B, DOE conducted a formal screening analysis for this NOPR, and screened in the following design options for ACFs:

- Aerodynamic redesign (improved housing design, reduced manufacturing tolerances, addition of appurtenances, improved impeller design, addition of guide vanes, impeller topology);
- Increased impeller diameter;
- More-efficient transmissions (belt drive and direct drive); and
- More-efficient motors.

DOE did not evaluate the efficiency impacts of all these design options in the engineering analysis for ACFs. Specifically, DOE did not consider the efficiency impacts of increased impeller diameter since DOE defined equipment classes based on diameter in section IV.A.1.b. Therefore, when developing the proposed ELs, DOE only considered more-efficient transmissions, more-efficient motors, and aerodynamic redesign as design options for its analysis of ACFs in this NOPR. More-efficient transmissions were associated with EL 0 and EL 1, which were discussed in section IV.C.2.b.

Regarding motors, DOE evaluated multiple motor options for ACFs in the October 2022 NODA, specifically split-phase motors at baseline, PSC 1 motors at EL 1, PSC 2 motors at EL 2, and ECMs at EL 3. 87 FR 62038, 62048. PSC 1 motors were defined as basic PSC motors, while PSC 2 motors were defined as "more efficient PSC motors". *Id.* In this NOPR, DOE refers to basic PSC motors as "low-efficiency PSC motors" and refers to more-efficient PSC motors as "high-efficiency PSC motors." In the October 2022 NODA, DOE also assumed that airflow, pressure, motor speed, and motor inrush current remained constant when replacing a less-efficient motor with a more-efficient motor and requested feedback on these assumptions. 87 FR 62038, 62049.

In response, AMCA commented that, provided the shaft speed does not change much, the fan affinity laws can be used to predict airflow and total pressure. However, AMCA added that there can be discrepancies between the torque required by the load and the torque produced by the motor for low-power motors. AMCA further stated that, given the very low starting torque

of ACFs, inrush current is likely insignificant for ACF motors. (AMCA, No. 132 at p. 9) NEMA stated that while motor performance can be optimized, changing the motor may impact other aspects of fan performance. NEMA specifically stated that more-efficient motors will typically have higher speeds, which may require a redesign of the fan. (NEMA, No. 125 at p. 5) AMCA also stated that motors with higher rotational speeds will generally be more efficient. (AMCA, No. 132 at pp. 16–17) NEMA commented that changing the efficiencies of motors used for ACFs could require the use of a larger, heavier motor and could therefore require other design changes to the fan. (NEMA, No. 125 at p. 2) AMCA also stated that replacing a motor with a more-efficient motor may result in the need for aerodynamic redesign or redesign of the mounting and supports of an ACF because of differences in motor size, shape, or weight. (AMCA, No. 132 at p. 12)

DOE investigated the issue of higher-efficiency motors having higher speeds in the December 2023 ESEMs NOPR TSD.⁶⁴ For the typical motor types and sizes used in ACF applications,⁶⁵ DOE found only a 0.5-percent to 0.7-percent increase from the minimum full-load speed to the maximum full-load speed. Given the relatively small speed changes between ESEMs with different efficiencies, DOE has tentatively concluded that increases in motor speed associated with transitioning to more-efficient motors would be insignificant and would not require additional changes to fan design.

DOE requests feedback on whether using a more efficient motor would require an ACF redesign. Additionally, DOE requests feedback on what percentage of motor speed change would require an ACF redesign.

Regarding stakeholder feedback that ACFs may need to be redesigned to accommodate differences in motor size or shape when changing to more-efficient motors, DOE expects this type of redesign could be done with minimal efficiency impact because it expects that only motor supports would be redesigned. As discussed in section IV.C.2.d, DOE found that there is sufficient space for an increase in motor volume without needing to redesign

other fan components, such as housing or safety guards. Consequently, DOE assumed that the only redesign required for an ACF when switching to a larger motor would be to increase the weight of the motor supports to accommodate an increase motor weight. Therefore, DOE assumed that when changing to a more-efficient motor, the only significant impact to the efficiency of an ACF was the efficiency gained from the motor.

Additionally, AMCA commented in response to the October 2022 NODA that motor nameplate information is generally not very relevant for ACFs because ACF manufacturers often use motors in power ranges outside those listed on motor nameplates. AMCA stated that operating motors above their nameplate load may provide the best material efficiency and that this is possible for ACFs because motors are very well ventilated when used for ACFs. AMCA also stated that the use of a flatter pitch blade may not load a fan to its listed motor horsepower, while a steeper pitch blade may load the motor past its listed horsepower. (AMCA, No. 132 at pp. 6–8) Further, AMCA stated that motor nameplate efficiencies depend on the number of phases and the synchronous speed of the motors and that the actual motor efficiency would be different since motors are used at higher power ratings than their nameplate power ratings for ACFs. (AMCA, No. 132 at pp. 16–17)

In consideration of AMCA's comments, DOE analyzed confidential ESEM testing data to examine how motor efficiency is impacted when motors are operated at loads above their nameplate rating. DOE compared the efficiencies of motors tested at nameplate load, 115 percent of nameplate load, and 125 percent of nameplate load. Through its analysis, DOE found that, on average, motor efficiency increased by a percent change of 1.01 percent for motors tested at 115 percent of nameplate load and motor efficiency increased by a percent change of 1.23 percent for motors tested at 125 percent of nameplate load. DOE notes that these percentages represent percentage changes, rather than nominal changes in motor efficiency. For example, a 0.25 hp motor might have an efficiency of 72.84 percent when tested at 100 percent load compared to an efficiency of 73.54 percent when tested at 115 percent load, representing a percentage increase in efficiency of 0.96 percent (*i.e.*, $[73.54 - 72.84]/72.84 = 0.96\%$). The positive percentage change found for motors tested at both 115 percent and 125 percent of rated load indicates that, up to 125 percent rated

load, efficiency generally increases for motors operated at loads above their nameplate rating. Hence, representations of motor efficiency calculated at nameplate load may provide a more conservative estimate of motor efficiency. For the motors that exhibited a decrease in efficiency at 125 percent of rated load, DOE further investigated the percentage change in motor efficiency. For these motors, the average percentage change in motor efficiency remained under 1.5 percent for motors tested at both 115 percent and 125 percent of their rated load, with a maximum percentage change in efficiency of 2.3 percent. Since the average percentage change in motor efficiency from the rated efficiency is small when motors are operated at above their rated loads, DOE has tentatively determined that motor efficiencies calculated at rated load represent adequate estimates of true motor efficiency, even if those motors are operated above their rated loads.

As discussed in section IV.A.3, DOE considered split-phase motors, low-efficiency PSC motors, high-efficiency PSC motors, and ECMs in its October 2022 NODA analysis. 87 FR 62038, 62048. DOE has since reviewed its updated ACF database in response to comments from AMCA and NEMA about motors used in ACFs. Based on the distribution of motor types in the database, DOE tentatively concluded that very few ACFs use shaded-pole, split-phase, or capacitor start/capacitor run motors. Rather, DOE found that the most common motors used in ACFs are PSC motors, and that some ACFs utilize polyphase motors and ECMs. Specific percentages of ACFs in the updated ACF database with each motor type can be found in Chapter 5 of the NOPR TSD.

Furthermore, in the October 2022 NODA, DOE requested comment on whether ACFs with single-phase motors and polyphase motors would be used for different utilities or have different efficiencies because of their end-use applications. 87 FR 62038, 62045. In response, NEMA stated that three-phase motors typically have slightly higher efficiencies than single-phase motors but added that if only a single-phase power supply is available, a three-phase motor could not be used in place of a single-phase motor. NEMA added that at higher motor powers (1.5 hp and above), three-phase motors tend to be equally as or slightly less expensive than single-phase motors. (NEMA, No. 125 at p. 4). DOE's review of motor literature and testing data for motors used in ACFs indicated that polyphase motors are generally more efficient than PSC motors, as stated by NEMA.

⁶⁴ The ESEMs NOPR TSD can be found at www.regulations.gov/document/EERE-2020-BT-STD-0007-0056.

⁶⁵ DOE's review of the ACF market indicated that low-torque, 6-pole, air-over ESEMs are the most commonly used motor types for ACFs. Table 5.4.2 of the December 2023 ESEM NOPR TSD shows the full-load speeds for these motors at different efficiency levels.

Additionally, DOE acknowledges that, as NEMA stated, in situations where only single-phase power is available, a polyphase motor could not be used in place of a single-phase motor without the use of additional electronics, such as a phase converter. As such, DOE did not consider a change from PSC motor to polyphase motor as a design option for improving efficiency. Additionally, as discussed above, the majority of the ACFs in DOE's updated ACF database utilize PSC motors; therefore, DOE used PSC motors to generally model the efficiencies of induction motors used in ACFs. DOE notes that this approach provides conservative estimates of induction motor efficiency relative to an approach that includes polyphase motor efficiencies since polyphase motors are generally more efficient than PSC motors. DOE considered low-efficiency PSC motors and high-efficiency PSC motors as induction motor design options. Additionally, DOE considered ECMs as a motor design option since they are the most efficient type of motor used in ACFs.

Determination of Efficiency Levels

As discussed in section IV.C.2.b, DOE considered low-efficiency PSC motors and belt-drive transmissions as baseline design options and considered direct-drive transmissions as the design option for EL 1.

DOE received feedback during confidential manufacturer interviews that ACF manufacturers were more likely to improve the efficiency of a motor before performing an aerodynamic redesign. Therefore, DOE considered a high-efficiency PSC motor as the design option for EL 2, prior to considering aerodynamic redesign. DOE modeled the efficiency gain associated with changing from a low-efficiency PSC motor to a high-efficiency PSC motor. DOE determined the efficacy for EL 2 for all equipment classes by estimating efficiencies for low-efficiency PSC motors and high-efficiency PSC motors, determining the efficiency delta between them, and applying that efficiency delta to EL 1. In the October 2022 NODA, DOE estimated the efficiencies of low-efficiency PSC motors and high-efficiency PSC motors using DOE's database of catalog motor data ("motors database"). 87 FR 62038, 62049. DOE associated low-efficiency PSC motors with EL 1 and high-efficiency PSC motors with EL 2 in the October 2022 NODA analysis. DOE estimated the increase in FEI from EL 1 to EL 2 by applying the percent increase in efficiency from a low-efficiency PSC motor to a high-efficiency PSC motor directly to the EL 1 FEI value. DOE

requested comment on its determined efficiency gains when replacing a low-efficiency PSC motor with a high-efficiency PSC motor and whether catalog performance data for PSC motors were representative of the performance of motors used in ACFs. *Id.*

In response, NEEA commented that it agreed with DOE's approach to model the efficiency improvements for the overall fan as equal to the motor efficiency improvements when only the motor is changed and nothing else, such as the duty point, motor speed, drive type, etc. (NEEA, No. 129 at p. 3) Greenheck expressed concern that the motor efficiencies used by DOE in its analysis may not have been accurate and stated that Greenheck could not confirm the accuracy of the efficiencies used since the motor database was not included with the supplementary information. Greenheck also requested clarity on which motors were included in DOE's analyses of low-efficiency PSC and high-efficiency PSC motors. Specifically, Greenheck stated motors that DOE deemed low-efficiency PSC motors should be analyzed as a separate dataset from high-efficiency PSC motors, rather than determining low-efficiency PSC motor performance from the average efficiency of all PSC motors. (Greenheck, No. 122 at p. 2) AMCA commented that determining general values for the change in efficiency between one motor type and another is difficult to do with confidence because motors with the same topology and power rating can have different efficiencies. (AMCA, No. 132 at p. 8–9) NEMA commented that the efficiencies of fan motors are often not quantified and that it is incorrect to assume that all ACFs use low-efficiency motors. (NEMA, No. 125 at p. 3) NEMA added that the source of DOE's ESEM catalog data is unclear, given that most motor manufacturers do not publish performance information for the fractional horsepower, single-phase motors that DOE assumed were used for ACFs in its October 2022 NODA analysis. NEMA further stated that catalog motors typically meet or exceed the ratings listed for them in catalogs. (NEMA, No. 125 at p. 3)

In response to stakeholder feedback, DOE adjusted its methodology for determining efficiencies associated with low-efficiency PSC motors and high-efficiency PSC motors in this NOPR. In the October 2022 NODA, DOE determined low-efficiency PSC motor efficiency from the average of all air-over PSC motors in the motors database. 87 FR 62038, 62049. For this NOPR, DOE instead determined low-efficiency PSC motor efficiency from the minimum

efficiency of all 6-pole, fan-specific motors in the motors database. The use of the minimum efficiency, rather than the average efficiency, produced a more conservative estimate for low-efficiency PSC motor efficiency. DOE analyzed 6-pole motors specifically because DOE's review of the ACF market indicated that 6-pole motors are most common for ACFs. DOE determined low-efficiency PSC motor efficiencies at all motor powers in its updated ACF database and calculated a weighted average efficiency using the distribution of motor powers for each representative unit. Regarding Greenheck and NEMA's concerns about the accuracy of the motor data in the motors database, DOE acknowledges that the motors in the database are unregulated and therefore the data may be inaccurate. However, DOE notes that it received no additional information on ACF motor efficiencies from stakeholders that it could use instead of the information in the motors database. Regarding NEMA's concerns about the source of the PSC motor data in the motors database, DOE notes that the information it compiled from the database for fan-specific, 6-pole PSC motors consisted of published catalog data from four different motor brands. In response to AMCA's concerns about variations in motor efficiency with the same topology and power rating, DOE acknowledges that motors with the same topology and power rating can have different efficiencies. Therefore, DOE used weighted-average motor efficiencies in this NOPR analysis, which allowed DOE to consider the effects of a wide range of motor efficiencies across many power ratings for a particular motor topology.

Unlike low-efficiency PSC motors, DOE did not use the motors database to determine efficiencies for high-efficiency PSC motors in this NOPR. As part of the electric motors rulemaking, stakeholders made a joint recommendation for the efficiencies at which they believe the standards for ESEMs should be set. (Docket No. EERE-2020-BT-STD-0007, Joint Stakeholders, No. 38 at p. 6, Table 2) The joint recommendation represented the motors industry, energy efficiency organizations and utilities (collectively, "the Electric Motors Working Group") and addressed energy conservation standards for high-torque, medium-torque, low-torque, and polyphase ESEMs that are 0.25–3 hp and polyphase, and air-over ESEMs. In reference to this ongoing rulemaking, DOE has tentatively defined its high-efficiency PSC motor efficiencies using the efficiencies recommended by the

ESEM Joint Stakeholders. DOE used the average of the recommended efficiencies for enclosed and open 6-pole PSC motors since DOE's review of the ACF market indicated that both enclosed and open motors are used for ACFs. DOE then calculated weighted-average high-efficiency PSC motor efficiencies using the average recommended efficiencies at different motor powers for each representative unit. DOE then determined the percent difference in efficiency between high-efficiency PSC motors and low-efficiency PSC motors.

DOE evaluated the relationship between motor efficiency and fan efficacy and determined that motor efficiency and fan efficacy are directly proportional. Therefore, the percent increase in efficacy associated with changing to a more efficient motor is equal to the percent increase in motor efficiency. Further details of this analysis can be found in chapter 5 of the NOPR TSD. DOE applied the percent increase in motor efficiency when transitioning from a low-efficiency PSC motor to a high-efficiency PSC motor to EL 1 to determine EL 2 for each representative unit.

DOE recognizes that if it sets a standard at the recommended ESEM efficiencies, high-efficiency PSC motors would effectively become the baseline motor for ACFs. DOE performed a sensitivity analysis to evaluate the impact of setting ESEM standards at the recommended efficiencies on its ACF analysis. DOE found that, given the small number of shipments at EL 0 and EL 1 for ACFs, if EL 2 were set as the baseline EL, there would be a minimal impact on proposed ACF standards due to the low shipments below EL2 (see IV.F.8). DOE notes that if it sets a standard in the ESEM rulemaking at the recommended ESEM levels, DOE may consider using EL2 proposed in this NOPR as baseline for ACFs in a future final rule.

In response to the October 2022 NODA, NEEA commented that DOE's assumption that the least-efficient fans in the BESS Labs combined database used the least-efficient motors may be incorrect, since these fans could instead have non-motor-related performance features that caused them to have low efficiencies. NEEA added that this could cause non-representative ELs in DOE's analysis since some of DOE's ELs are based on motor efficiency increases. (NEEA, No. 129 at p. 2) DOE notes that information on the specific motor models integrated into ACFs, including motor efficiency, is not often publicly available. DOE also notes that it requested quantitative efficiency data on ACF motors in the October 2022 NODA,

and it has not received any quantitative information on motor efficiency from stakeholders. 87 FR 62038, 62063. As discussed in section IV.A.2.b, DOE's dataset now includes catalog data in addition to the BESS Labs combined database. Therefore, as discussed in section IV.C.2.b, DOE expects the baseline efficacies that it used in this analysis to be more representative of the least efficient ACFs on the market than the baseline used in the October 2022 NODA. Additionally, as previously discussed, DOE updated its methodology for determining motor efficiencies for low-efficiency and high-efficiency PSC motors. Given these adjustments, DOE expects that the EL 2 efficacies are representative of ACFs with high-efficiency PSC motors.

In the October 2022 NODA, DOE considered ECMs as the design option for EL 3 and considered aerodynamic redesign as the design option for EL 4. In response, the CA IOUs commented that DOE should consider aerodynamic efficiency improvements at ELs lower than max-tech because they expect that manufacturers would consider aerodynamic redesigns before switching to ECMs. The CA IOUs also recommended that DOE consider intermediate aerodynamic redesign levels rather than a single "maximum" option. (CA IOUs, No. 127 at p. 2) The Efficiency Advocates recommended that DOE consider more ELs in its efficiency analysis to better represent the range of ACF efficiencies presented in its analysis, and that DOE specifically consider aerodynamic redesign. The Efficiency Advocates stated that additional ELs could be used to bridge the large gap between EL 3 and EL 4 in the October 2022 NODA. (Efficiency Advocates, No. 126 at p. 2)

In response to this feedback, DOE did not consider ECMs as a design option immediately after considering high-efficiency PSC motors in this NOPR; rather, DOE evaluated three aerodynamic redesign ELs—EL 3, EL 4, and EL 5—and considered ECMs as the max-tech design option at EL 6. DOE assumed that more complex aerodynamic redesign would be needed for EL 4 compared to EL 3 and for EL 5 compared to EL 4.

In response to the October 2022 NODA, NEEA stated that the wide distribution of efficiencies in the BESS Labs combined database was likely due to factors other than variation in motor efficiency since the database consists of fans that use the same kind of motor (PSC). DOE infers from this comment that variations in ACF efficiency in the updated ACF database, which, like the BESS Labs combined database,

contained many ACFs with PSC motors, can largely be attributed to differences in aerodynamic efficiency between fans. Therefore, although DOE could not relate specific design options to a given efficacy for its three aerodynamic redesign levels, DOE defined aerodynamic redesign levels using an efficiency-level approach from its updated ACF database. Since DOE anticipated that more complex redesigns would be required at EL 4 than EL 3, DOE defined EL 3 as 33 percent of the way between EL 2 and EL 4 for all equipment classes.

DOE took different approaches for establishing EL 4 for axial ACFs and housed centrifugal ACFs. For axial ACFs, DOE referenced agricultural fan efficiency incentive programs to set the efficacies at EL 4. All agricultural fan efficiency incentive programs that DOE found use units of thrust per kilowatt ("thrust/kW") to define minimum performance targets to qualify for the incentives. DOE converted these targets into units of CFM/W. Details of this conversion can be found in chapter 5 of the NOPR TSD. As discussed in section IV.C.2.a of this NOPR, ACF performance targets are defined by diameter. To be consistent with its lowest-diameter equipment class, DOE averaged the incentive program performance targets for the 12-in. to less than 24-in. diameter range and the 24-in. to less than 36-in. diameter range to estimate EL 4 for the 24-in. axial ACF representative unit. DOE used the performance targets for the 36-in. to 48-in. diameter range and 48-in. or greater diameter range to estimate EL 4 for the 36-in. axial ACF and 52-in. axial ACF representative units, respectively.

For housed centrifugal ACFs, DOE could not use the agricultural fan efficiency incentive programs to define EL 4 because housed centrifugal ACFs are not used in agricultural applications. Since DOE assumed that more complex redesigns would be required at EL 5 than EL 4, DOE also assumed that the efficiency gain between EL 5 and EL 4 would be greater than the efficiency gain between EL 4 and EL 3. To reflect this assumption, DOE defined EL 4 as halfway between EL 2 and EL 5 for housed centrifugal ACFs.

DOE defined EL 5 for each equipment class based on the maximum efficacies in the updated ACF database. DOE used the maximum efficacies in the updated ACF database to define EL 5 since DOE found that the maximum efficacy ACFs in the updated ACF database did not have ECMs. Therefore, these ACFs did not correspond to the max-tech level, and DOE instead assumed that these ACFs utilized highly efficient

aerodynamic designs to achieve high efficacies. As discussed in section IV.A.2.b, DOE removed some high-efficacy outliers from the ACF database prior to determining the maximum efficacies for EL5.

As discussed previously, DOE considered an ACF with an ECM and a highly efficient aerodynamic design to be the max-tech design option. DOE's research indicated that ECMs are the most efficient type of motor used in ACFs, and, as indicated in the CA IOUs' comment on aerodynamic redesign, ACF manufacturers may consider implementing aerodynamic redesign prior to switching to an ECM. To determine the max-tech efficiency, DOE applied an incremental efficiency gain associated with changing from a high-efficiency PSC motor to an ECM to EL 5 for each equipment class.

In the October 2022 NODA, DOE used a database of dedicated-purpose pool pump ("DPPP") motors to determine efficiencies for ECMs and high-efficiency PSC motors and the efficiency gain expected when switching from a high-efficiency PSC motor to an ECM. 87 FR 62038, 62050. DOE requested comment on its use of DPPP motors for comparing efficiencies of PSC motors and ECMs. *Id.* In response, NEMA commented that DPPP motor efficiency

levels should not be used to compare PSC to ECM motor efficiency. NEMA stated that the DPPP efficiency regulations define system (motor and pump) efficiency levels and not standalone motor efficiencies. NEMA also stated that it had concerns with applying a market like DPPP, which has a dedicated purpose and experiences less variety of designs and manufacturers, to the much more diverse market of fans and blowers. (NEMA, No. 125 at p. 5)

In response to NEMA's concerns about its use of DPPP motors to model the efficiencies of ECMs, DOE adjusted its methodology for determining ECM efficiencies. To determine the efficiencies of ECMs, DOE first considered the motor efficiencies specified in IEC 60034–30–1:2014. The motor efficiencies defined in the IE code are intended to serve as reference points for governments to use when defining efficiency standards. DOE understands that the current IE 1 through IE 4 efficiencies defined in IEC 60034–30–1:2014 are intended to represent induction motor efficiencies. DOE also understands that, should a higher IE motor efficiency, IE 5, be defined in a future standard, the IE 5 efficiencies would likely align with ECM efficiencies. DOE used theoretical IE 5

efficiencies to estimate the efficiencies of ECMs and assumed that the efficiencies included the effects of ECM controllers. The IE 1 through IE 4 levels defined in IEC 60034–30–1:2014 are based on a 20-percent reduction in power losses going from one IE level to the next. For example, IE 4-level efficiency is determined from IE 3-level efficiency by assuming a 20-percent reduction in power losses. Therefore, DOE estimated IE 5 efficiency by assuming a 20-percent reduction in power losses from the IE 4 efficiency. DOE determined the percent difference between the estimated IE 5 efficiency and the estimated high-efficiency PSC motor efficiency. As discussed previously, DOE determined that a percent increase in motor efficiency corresponds to an equal percent increase in efficacy. Therefore, DOE applied the percent increase in motor efficiency when transitioning from a high-efficiency PSC motor to an ECM to EL 5 to determine EL 6. Further details on the methodology DOE used to determine the efficacies for each EL can be found in chapter 5 of the NOPR TSD. The efficacies determined for each EL and representative unit and design options associated with each EL are shown in Table IV–13.

Table IV-13 Summary of Efficiency Levels for all ACF Representative Units (CFM/W)

EL	Design Option	Representative Units			
		24-in. axial ACF	36-in. axial ACF	52-in. axial ACF	11-in. housed centrifugal ACF
0	Baseline	2.98	5.21	8.39	1.33
1	Direct-drive	2.98	5.91	9.26	1.33
2	High-efficiency PSC motor	3.18	6.48	10.6	1.44
3	Aerodynamic redesign 1	6.14	10.1	14.2	2.17
4	Aerodynamic redesign 2	12.2	17.3	21.5	3.65
5	Aerodynamic redesign 3	20.0	25.2	27.2	5.87
6	ECM	24.3	29.8	30.8	7.02

As discussed in section V.C.1.b, DOE notes that the standards it is proposing for axial ACFs are discrete efficacy values in CFM/W. This approach aligns with the method used by agricultural fan efficiency incentive programs, where performance targets are specified for certain diameter ranges. However, DOE notes that setting a standard for efficacy in this way may not fully

incorporate the effect of diameter on the ACF efficacy. Setting a standard using this approach could also make it easier for larger diameter fans to meet the standard and more difficult for smaller diameter fans to meet the standard. DOE recognizes that there is generally a linear relationship between efficacy in CFM/W and fan diameter. DOE notes that it is additionally considering setting

efficacy standards for axial ACFs as a linear function of diameter, similar to the approach used for ceiling fans (*see* 10 CFR 430.32(s)(1)). To establish a linear equation for efficacy as a function of diameter, DOE may consider in the final rule, for example, plotting efficacies for each representative unit versus the representative unit diameters and determining a best-fit line through

these points. The efficacy standard would then change continuously as a function of diameter. While this approach would not align with the approach used by agricultural fan efficiency incentive programs, it might better incorporate the effect of diameter when setting standards for ACFs, specifically for ACFs with diameters at the periphery of the diameter range.

DOE requests feedback on whether setting an ACF standard using discrete efficacy values over a defined diameter range appropriately represents the differences in efficacy between axial ACFs with different diameters, and if not, would a linear equation for efficacy as a function of diameter be appropriate.

Input Power Estimation

In addition to determining efficacy values associated with each EL, DOE also developed estimates of input power associated with each EL. These input power estimates were used in the LCC and PBP analyses, discussed in section IV.F. For each representative unit, DOE developed input power versus efficacy curves based on the data in the updated ACF database and then estimated the input powers associated with each efficiency level. Further details on DOE's methodology for estimating input powers are discussed in chapter 5 of the NOPR TSD.

d. Cost Analysis

In this section, DOE discusses its approach to estimating MPCs for ACFs in this NOPR and discusses comments relating to its cost analysis in the October 2022 NODA. As discussed in section IV.C.1.d, the cost analysis portion of the engineering analysis is conducted using physical teardowns, catalog teardowns, price surveys, or a combination of these approaches. In the case of ACFs, DOE conducted its analysis using physical teardowns, which involve deconstructing equipment and recording every part and material used to make them. The resulting bill of materials ("BOM") provided the basis for DOE's MPC estimates. DOE builds these MPCs based on the cumulative estimated cost of materials, labor, depreciation, and overhead for each equipment. Further details on these cost inputs can be found in chapter 5 of the NOPR TSD.

To support the October 2022 NODA, DOE estimated the MPCs of unboxed and boxed ACFs across all efficiency levels and representative diameters using data gathered from teardowns of nine ACFs. 87 FR 62038, 62052. In the October 2022 NODA, DOE assumed that all ACFs were manufactured in China and that all materials and parts were

sourced from China. DOE used the BOMs developed for each ACF and catalog teardowns to estimate MPCs for baseline ACFs. DOE then used incremental MPCs estimated for each design option to estimate MPCs for higher efficiency levels. *Id.*

DOE made several updates to its MPC estimation approach pertaining to axial ACFs in this NOPR. First, DOE adjusted how it considered ACF housings compared to the October 2022 NODA. As discussed in section IV.A.1.b, DOE considered air circulating axial panel fans, box fans, cylindrical ACFs, and unboxed ACFHs under the axial ACFs class. To account for the different housing configurations used in these four subcategories, DOE developed separate MPC estimates for boxed ACFs with panel housing, boxed ACFs with cylindrical housing, and unboxed ACFHs. DOE assumed that the costs of box housing and panel housing were comparable; therefore, DOE did not generate separate MPC estimates for ACFs with box housing. DOE averaged the MPCs of air circulating axial panel fans (and box fans), cylindrical ACFs, and unboxed ACFHs to estimate an overall MPC for axial ACFs. DOE did not include the cost of mounting gear, casters, or wheels in its MPC estimates for any equipment class because these features do not affect the efficacy of an ACF. Second, based on information received during confidential manufacturer interviews and further review of the ACF market, DOE updated its assumptions about manufacturing location and the source of purchased parts for this NOPR. Specifically, DOE concluded that most ACFs are made in the United States and that most ACF manufacturers source parts from suppliers in the United States and abroad. DOE understands that there are variations between OEMs in the ACF industry and chose production factors and modeling methods to reflect the range of OEMs. Further details on the development of the MPC estimates for axial ACFs can be found in chapter 5 of the NOPR TSD.

DOE did not evaluate boxed centrifugal ACFs in the October 2022 NODA. To develop the MPC estimates for boxed centrifugal ACFs, DOE performed teardowns on three boxed centrifugal ACFs and created BOMs for each. DOE assumed that all boxed centrifugal ACFs are manufactured in China and that all parts were purchased in China based on its review of the boxed centrifugal market. DOE used these BOMs and catalog teardowns to estimate MPCs for boxed centrifugal ACFs. Further details of the development of the MPC estimates for

boxed centrifugal ACFs can be found in chapter 5 of the NOPR TSD.

In the October 2022 NODA, DOE assumed that motors included in ACFs are purchased parts and determined the incremental MPCs associated with changing from a split-phase motor to a low-efficiency PSC motor, high-efficiency PSC motor, or ECM using data in its internal parts database. 87 FR 62038, 62053. DOE did not have sufficient pricing information for split-phase motors, so DOE approximated the split-phase motor MPC using prices for shaded-pole motors for the October 2022 NODA. *Id.* DOE estimated low-efficiency PSC motor MPCs by developing a best-fit line for motor price as a function of motor power and used this line to estimate low-efficiency PSC motor MPCs at the representative motor powers. DOE estimated high-efficiency PSC motor MPCs by determining the 95th percentile PSC motor MPC of the data it had available for each representative motor power and establishing a best-fit line for the 95th percentile MPCs as a function of motor power. DOE estimated ECM MPCs by establishing a best-fit line for the MPCs of ECMs as a function of motor power. 87 FR 62038, 62053. *Id.*

In response to the October 2022 NODA, NEMA commented that DOE's estimated motor costs were lower than actual motor costs. NEMA further stated that the cost of motors for commercial applications would generally be lower than those for industrial applications. (NEMA, No. 125 at p. 6) In response to this feedback, DOE reevaluated its motor costs for this NOPR. DOE's research indicates that most ACFs are sold in higher volumes, which suggests a commercial market, rather than an industrial market. In general, DOE finds that industrial equipment is sold in lower volumes and is manufactured for specific applications, and DOE has not observed that ACFs are typically sold or manufactured in this way. Therefore, DOE did not consider a separate MPC for industrial ACFs in this NOPR. DOE reviewed market information for fan motors and determined current fan motor sales prices. As such, DOE believes that its updated motor costs are more representative of the current fan motor market than those estimated in the October 2022 NODA.

In this NOPR, DOE also reevaluated how it estimated motor costs. For both low-efficiency PSC motors and high-efficiency PSC motors, DOE identified specific PSC fan motors and used the costs of these motors to estimate MPCs. Rather than using a single motor cost, DOE determined a weighted-average motor cost at each hp in its updated

ACF database. As discussed in section IV.C.2.c, DOE determined the percentage of motor hp values in the updated ACF database for each representative unit. DOE used these percentages and the MPCs determined for each motor type to calculate the weighted-average motor MPCs for each representative unit. Further details of DOE's modeling of ACF motor costs can be found in chapter 5 of the NOPR TSD.

Additionally, as discussed in section IV.C.2.c of this NOPR, DOE received feedback from NEMA and AMCA that changing to a more-efficient motor could also require changes to fan design. Specifically, NEMA commented that changing ACF motor efficiencies could require the use of a larger, heavier motor and could therefore require other design changes to the fan. (NEMA, No. 125 at p. 2) AMCA stated that replacing a motor with a more-efficient motor may result in the need for aerodynamic redesign or redesign of a fan's mounting and supports because of differences in motor size, shape, or weight. (AMCA, No. 132 at p. 12)

To evaluate these concerns, DOE estimated costs to redesign an ACF if a larger motor replaced a smaller motor. DOE evaluated the effects of motor volume and motor weight when considering a change from a smaller motor to a larger motor. DOE found during ACF teardowns that there is sufficient space for an increase in motor volume without needing to redesign other fan components, such as housing or safety guards. Therefore, DOE assumed that the only redesign required for an ACF when switching to a larger motor would be to increase the weight of the motor supports to accommodate an increased motor weight, which is consistent with what DOE has observed in teardowns. DOE used data gathered during ACF teardowns to approximate a relationship between motor weight and the cost of motor support materials. DOE used this relationship to estimate the increase in cost that would be expected for a given increase in motor weight. DOE found that even for a 100-percent increase in motor weight, which DOE believes is highly conservative, motor support costs increased fan MPC by 1.5 percent or less. Therefore, DOE

has tentatively concluded that additional material costs would be minimal if a manufacturer incorporated a heavier motor into an ACF.

For this NOPR, DOE evaluated belt drives and low-efficiency PSC motors as the baseline design options, as discussed in section IV.C.2.c. To determine the baseline costs, DOE first determined the cost of a baseline ACF without a motor or transmission ("bare-shaft ACF") for each representative unit. Then, DOE added the costs determined for a belt drive and a low-efficiency PSC motor to the base-shaft ACF to calculate the MPC of the baseline ACF for each representative unit. DOE did not find a significant difference in MPC between belt drives associated with different motor hp, so DOE chose a single belt drive cost for each representative unit. Further details on belt drive costs and baseline MPCs can be found in chapter 5 of the NOPR TSD.

For this NOPR, DOE assigned a direct-drive transmission as the design option for EL 1. DOE assumed that a change from a belt-drive transmission to a direct-drive transmission would involve the removal of the belt drive with no other adjustments to the ACF. Therefore, for the 36-in. and 52-in. axial ACF representative units, DOE estimated the cost associated with this design option by subtracting the belt drive MPC from the baseline MPC. For the 24-in. axial ACF and housed centrifugal ACF representative units, DOE set the EL 1 MPC equal to the baseline MPC.

DOE assigned a high-efficiency PSC motor as the ACF design option for EL 2 in this NOPR. For all equipment classes, DOE determined the EL 2 MPC by adding the estimated cost difference between a high-efficiency PSC motor and a low-efficiency PSC motor to the EL 1 MPC. The MPCs DOE estimated for low-efficiency PSC motors and high-efficiency PSC motors are included in chapter 5 of the NOPR TSD.

DOE associated EL 3, EL 4, and EL 5 in this NOPR with three different levels of aerodynamic redesign. In the October 2022 NODA, DOE defined a single aerodynamic redesign level at max-tech. DOE assumed that the redesign, reengineering, and new equipment that

could be required for the aerodynamic redesign would result in a significant one-time conversion cost, such that aerodynamic redesigns would have a significantly greater impact on conversion costs than they would on MPCs. Therefore, DOE assumed that the change in MPC associated with the aerodynamic redesign was negligible compared to the conversion costs incurred by the manufacturer to implement this redesign. In this NOPR, DOE assumed that MPCs for EL 3, EL 4, and EL 5 were equal to the MPC for EL 2 for all equipment classes. DOE assumed that the complexity of ACF redesign would increase as ELs increase; therefore, DOE estimated that manufacturer investment in engineer time and equipment would increase with each EL. Information on DOE's estimated conversion costs can be found in section IV.J.2.c of this NOPR and in chapter 12 of the NOPR TSD.

DOE defined an ECM as the design option for EL 6. For all equipment classes, DOE determined the EL 6 MPC by adding the estimated cost delta between an ECM and a high-efficiency PSC motor to the EL 5 MPC. The MPCs DOE estimated for high-efficiency PSC motors and ECMs can be found in chapter 5 of the NOPR TSD.

To account for manufacturers' non-production costs and profit margin, DOE applies a multiplier (the manufacturer markup) to the MPC. The resulting manufacturer selling price ("MSP") is the price at which the manufacturer distributes a unit into commerce. DOE developed an average manufacturer markup by examining the annual Securities and Exchange Commission (SEC) 10-K reports filed by publicly traded manufacturers primarily engaged in air circulating fan manufacturing. DOE then adjusted these manufacturer markups based on feedback from manufacturers during interviews. DOE used a manufacturer markup of 1.5 in this NOPR analysis. The manufacturer markups used in this NOPR are discussed in more detail in section IV.J.2.a of this document and in chapter 12 of the NOPR TSD. The MSPs determined for ACFs are shown in Table IV-14.

Table IV-14 Estimated MSPs for ACF Equipment Classes and ELs

Representative Unit	EL 0	EL 1	EL 2	EL 3	EL 4	EL 5	EL 6
24-inch axial ACF	\$166.67	\$166.67	\$193.94	\$193.94	\$193.94	\$193.94	\$239.99
36-inch axial ACF	\$412.43	\$319.29	\$346.68	\$346.68	\$346.68	\$346.68	\$396.86
52-inch axial ACF	\$644.45	\$549.53	\$589.74	\$589.74	\$589.74	\$589.74	\$650.82
11-inch housed centrifugal ACF	\$119.70	\$119.70	\$169.49	\$169.49	\$169.49	\$169.49	\$216.09

3. Cost-Efficiency Results

The results of the engineering analysis are reported as cost-efficiency data (or “curves”) in the form of FEI versus MSP (in dollars) for GFBs or efficacy versus MSP for ACFs.

For GFBs, as discussed in section IV.C.1.d, DOE developed baseline MSP versus diameter curves and incremental costs for each design option for each equipment class. DOE used these correlations to estimate the MSP at each EL for each equipment class at all nominal impeller diameters. As such, each equipment class has multiple MSP versus FEI curves representing the range of impeller diameters that exist on the market. As discussed in section IV.C.1.b, the FEIs at each EL remain constant for each equipment class, regardless of impeller diameter. These FEIs were developed by determining the

FEIs for the baseline equipment and implementing design options above baseline until all available design options were employed (*i.e.*, at the max-tech level). In contrast to the ACF analysis which used MPCs, DOE directly estimated MSPs for GFBs using the AMCA sales database and manufacturer fan selection software.

For ACFs, DOE developed curves for each representative unit. The methodology for developing the curves started with determining the efficacy for baseline equipment and the MPCs for this equipment. Above the baseline, DOE implemented design options until all available design options were employed (*i.e.*, at the max-tech level). To convert from MPCs to MSPs, DOE applied manufacturer markups as described in section 0.

Table IV-15 provides example cost-efficiency results from the GFB

engineering analysis for the axial inline equipment class. Results are provided at an impeller diameter of 15 in. and an impeller diameter of 48 in.; however, as noted previously, DOE applied the same relative increases in MSP to obtain results at all impeller diameters for GFBs.

Table IV-16 contains example cost-efficiency results from the ACF engineering analysis for the 24-in. representative unit. As noted previously, ACF results were not scaled to all impeller diameters. Rather, the cost-efficiency results in Table IV-16 are relevant to all ACFs with an impeller diameter greater than or equal to 12 in. and less than 36 in.

See chapter 5 of the NOPR TSD for additional detail on the engineering analysis and appendix 5A of the NOPR TSD for complete cost-efficiency results.

Table IV-15 Axial PRV Example Engineering Results

EL	Design Option	FEI	MSP at 24 inches (\$2022)	MSP at 48 inches (\$2022)
0	Baseline	0.66	\$2,522	\$4,180
1	Blade change 1	0.69	\$3,751	\$6,144
2	Blade change 2	0.72	\$3,800	\$6,222
3	+1 Diameter increase	0.75	\$2,733	\$5,106
4	+2 Diameter increase	0.85	\$3,028	\$6,491
5	Aerodynamic redesign 1	1.00	\$3,800	\$6,222
6	Aerodynamic redesign 2	1.25	\$3,800	\$6,222
7	Aerodynamic redesign 3	1.49	\$3,800	\$6,222

Table IV-16 Air Circulating Fan Engineering Results - Impeller Diameter \geq 12 in. and $<$ 36 in.

EL	Design Options	Efficacy (CFM/W)	MSP (\$2022)
0	Baseline – Baseline Motor with Direct Drive*	2.98	\$111.11
1	Baseline Motor with Direct Drive	2.98	\$111.11
2	More Efficient Induction Motor, Direct Drive	3.18	\$129.29
3	More Efficient Induction Motor, Direct Drive, Aerodynamic Redesign 1	6.14	\$129.29
4	More Efficient Induction Motor, Direct Drive, Aerodynamic Redesign 2	12.2	\$129.29
5	More Efficient Induction Motor, Direct Drive, Aerodynamic Redesign 3	20.0	\$129.29
6	ECM, Direct-Drive, Aerodynamic Redesign 3	24.3	\$159.99

* EL0 is equivalent to EL1 because DOE found that belt drives are uncommon for ACFs with an impeller diameter $<$ 36 inches.

D. Markups Analysis

The markups analysis develops appropriate markups (e.g., retailer markups, distributor markups, contractor markups) in the distribution chain and sales taxes to convert the MSP estimates derived in the engineering analysis to consumer prices, which are then used in the LCC and PBP analysis and in the manufacturer impact analysis. At each step in the distribution channel, companies mark up the price of the product to cover business costs and profit margin.

For GFBs, the main parties in the distribution chain are OEMs, distributors (including manufacturer in-house distributors), and contractors. DOE distinguished fan manufacturers in-house by OEMs from other fans and blowers and identified the distribution channels and associated fraction of shipments (i.e., percentage of sales going through each channel) by equipment class.

For ACFs, the main parties in the distribution chain distributors (including ACF manufacturer in-house distributors) and contractors. In the October 2022 NODA, DOE identified the distribution channels and fraction of shipments associated with each channel based on feedback from manufacturer interviews. 87 FR 62038, 62054. DOE did not receive any comments on these channels and relied on the same distribution channels for this NOPR. In addition, as discussed in section IV.F.5 of this document, DOE included a motor or belt replacement as potential repairs for ACFs. Therefore, DOE additionally identified distribution channels associated with the purchase of a replacement motor or belt.

DOE developed baseline and incremental markups for each actor in the distribution chain. Baseline markups are applied to the price of equipment with baseline efficiency, while incremental markups are applied to the difference in price between baseline and higher-efficiency models (the incremental cost increase). The incremental markup is typically less than the baseline markup and is designed to maintain similar per-unit operating profit before and after new or amended standards.⁶⁶

DOE relied on economic data from the U.S. Census Bureau as well as data from RS Means⁶⁷ to estimate average baseline and incremental markups.

Chapter 6 of the NOPR TSD provides details on DOE's development of markups for fans and blowers.

DOE seeks comment on the distribution channels identified for GFBs and ACFs and fraction of sales that go through each of these channels.

E. Energy Use Analysis

The purpose of the energy use analysis is to determine the annual energy consumption of fans and blowers at different efficiencies in representative applications, and to assess the energy savings potential of increased fan and blower efficiency. The energy use analysis estimates the range of energy use of fans and blowers in the field (i.e.,

⁶⁶ Because the projected price of standards-compliant products is typically higher than the price of baseline products, using the same markup for the incremental cost and the baseline cost would result in higher per-unit operating profit. While such an outcome is possible, DOE maintains that in reasonably competitive markets, it is unlikely that standards would lead to a sustainable increase in profitability in the long run.

⁶⁷ RS Means Electrical Cost Data 2023. Available at: www.rsmeans.com.

as they are actually used by consumers). The energy use analysis provides the basis for other analyses DOE performed, particularly assessments of the energy savings and the savings in consumer operating costs that could result from adoption of amended or new standards.

To characterize variability and uncertainty, the energy use is calculated for a representative sample of fan and blower consumers. This method of analysis, referred to as a Monte Carlo method, is explained in more detail in section IV.F of this document. Results of the energy use analysis for each equipment class group or representative unit were derived from a sample of 10,000 consumers. This section presents DOE's approach to develop consumer samples and energy use inputs that DOE applied in the energy use analysis.

1. General Fans and Blowers

For GFBs, annual energy use depends on the annual hours of operation, operating pressure and airflow, and load profile. It includes the electricity consumed by the motor driving the fan, as well as losses related to any belts and motor controller (e.g., variable speed drive or "VFD") included in the fan.

Sample of Consumers

DOE developed a consumer sample to represent consumers of GFBs in the commercial and industrial sectors. DOE used the sample to determine fan and blower annual energy consumption as well as to conduct the LCC and PBP analyses.

To develop this sample, DOE used 2012 sales data from AMCA corresponding to 92,287 units sold

(“2012 AMCA sales data”).⁶⁸ The data included information on the design operating flow, operating pressure, and shaft input power for which each fan was purchased and representative of fans sold as standalone equipment (*i.e.*, not incorporated in another equipment). In addition, to represent fans sold incorporated in other equipment (*i.e.*, embedded fans manufactured in-house by OEMs or “OEM fans”), DOE used data specific to HVAC equipment in which these fans are used to characterize the fan impeller topology (*i.e.*, category code) typically used in HVAC equipment and in the scope of this analysis to identify the range of operating flow, pressure, and shaft input power specific to these fans. Based on this information, DOE identified fan models from the 2012 AMCA sales data with the same equipment class, category code and shaft input power. DOE used these models to develop a sample representative of OEM fans. DOE then used sales data for the whole U.S. market to develop weights for each fan model and develop the fan consumer sample (where each consumer is

assigned with a fan model and associated fan equipment class, category code, power bin, design operating flow, operating pressure, and shaft input power). Specifically, DOE developed the weights such that for each equipment class, the sample included the same proportions of GFBs by market segment (*i.e.*, fans sold as standalone equipment and OEM fans), category code, and power bin as in the total U.S. market.

In addition, each consumer in the sample was assigned a sector and a configuration (*i.e.*, direct or belt driven and with or without VFD). The sector determines the field use characteristics, such as annual operating hours, load profile, and equipment lifetimes as well as the economic parameters (*i.e.*, electricity prices and discount rates). To estimate the percentage of consumers in the industrial and commercial sectors, DOE primarily relied on data from the DOE-AMO report “U.S. Industrial and Commercial Motor System Market Assessment Report Volume 1: Characteristics of the Installed Base” (“MSMA report”).⁶⁹ To estimate the percentage of consumers that operate a

fan with or without belts, and with or without VFDs, DOE relied on information from manufacturer interviews.

Annual Operating Hours

To develop distributions of annual operating hours, DOE relied on information from the MSMA report, which provides distributions of annual operating hours for fans used in the commercial and industrial sector.

Load Profiles

DOE relied on the design flow and pressure, associated shaft input power, and fan configuration information of each fan in the sample to characterize the operating flow and pressure and associated shaft input power. DOE further relied on information from manufacturer interviews to estimate the share of fans that operate at constant load or at variable load by equipment class.⁷⁰ Based on this information, DOE estimated the percentage of fans operating at variable load as shown in Table IV–17.

Table IV-17: Load characterization by Equipment Class

Equipment Class	Variable Load	Constant Load
Axial Inline Fans	49.1%	50.9%
Axial Panel Fans	22.6%	77.4%
Centrifugal Housed Fans	40.1%	59.9%
Centrifugal Inline Fans	15.0%	85.0%
Centrifugal Unhoused Fans	65.2%	34.8%
Axial Power Roof Ventilator - Exhaust	23.0%	77.0%
Centrifugal Power Roof Ventilator - Exhaust	23.0%	77.0%
Centrifugal Power Roof Ventilator - Supply	34.0%	66.0%
Radial Housed Fans	0.3%	99.7%

For fans operating at constant load, DOE reviewed information from the MSMA report which indicates that the majority of constant load fans operate at or above 75 percent of the motor full load.⁷¹ This indicates that constant load fans primarily operate near the design point. Therefore, in this NOPR, for both the commercial and industrial sectors, DOE assumed that all constant load fans operate at the design point.⁷²

For fans used at variable load, in the commercial sector, DOE relied on information previously provided by AHRI to develop a variable load profile (Docket No. EERE–2013–BT–STD–0006, AHRI, No. 129, at p. 2). In the industrial sector, DOE did not find any data to characterize the typical load profile and given the wide range of possible applications, DOE assumed equal weights at each of the considered load

points.⁷³ DOE has tentatively determined that while DOE has not found data to characterize the field operating loads of GFBs used in the industrial sector, using a weighted-average across multiple load points and weighting all those points equally is a more representative load profile when compared to calculating the efficiency at a single point.

⁶⁸ Air Movement and Control Association (AMCA). 2012 Detailed Confidential Fan Sales Data from 17 Manufacturers. November 2014.

⁶⁹ Prakash Rao et al., “U.S. Industrial and Commercial Motor System Market Assessment Report Volume 1: Characteristics of the Installed Base,” January 12, 2021. Available at: doi.org/10.2172/1760267.

⁷⁰ DOE also reviewed information from the MSMA report. However, the information provided

in the MSMA report did not differentiate fans by equipment class, and DOE therefore relied on the information collected during manufacturer interviews instead.

⁷¹ See: motors.lbl.gov/analyze/kb-0q19q1M.

⁷² Based on typical motor sizing practices, which suggest a motor horsepower equal to 1.2 (*i.e.*, the design fan shaft input power), DOE believes that the design point represents $1/1.2 = 83$ percent of the motor full load. The 1.2 sizing factor is based on

input from the Working Group (Docket No. EERE–2013–BT–STD–0006; No. 179, Recommendation #10 at p. 6).

⁷³ The load profile is represented by four load points defined as 25, 50, 75, and 100 percent of the design flow as well as the percentage annual operating hours spent at each of these points (*i.e.*, weights).

NEEA commented that the assumptions made for the load profiles presented in the 2016 NODA LCC are outdated and that DOE should collect additional information on load profiles for fans and blowers.⁷⁴ NEEA recommended that DOE collect end-user data, use information on fan loading information from the MSMA report, or reach out to fan operation professionals in order to update DOE's load profile assumptions. (NEEA, No. 129 at p. 7) DOE reviewed the energy use data provided in the MSMA report. However, DOE notes that the load fraction provided in the MSMA report are in terms of average fraction of motor full load output power and are not expressed in terms of percentage time spent at a given percentage of design flow.⁷⁵ Therefore, DOE could not use this information to develop the load profiles for variable load fans. In addition, DOE did not receive any data on load profile in response to the February 2022 RFI.⁷⁶ Instead, as previously stated, in this NOPR, for fans used in the commercial sector with VFDs, DOE relied on information previously provided by AHRI to develop a variable load profile in the commercial sector (Docket No. EERE-2013-BT-STD-0006, AHRI, No. 129, at p. 2). In the industrial sector, as stated previously, DOE did not find any information to help characterize the load profile and assumed equal weights at each of the considered load points.

In response to the October 2022 NODA, NEEA commented that DOE should account for different power load relationships associated with different fan control methods. NEEA stated that fans can operate below 100 percent of the design flow. NEEA noted that DOE captured this operation in its 2016 NODA analysis through the use of load profiles.⁷⁷ NEEA noted that in its previous annual energy use calculation, DOE relied on the affinity laws as representative of the power load

relationship for all fans, regardless of the control method. NEEA added that while the installation of variable speed control can dramatically reduce a fan's energy consumption, in DOE's analysis its power load relationship (and therefore energy use) is assumed to be equal to that of the same fan operating with a more consumptive control strategy. NEEA commented that using the fan laws is an unreasonable proxy for other power load relationships. Instead, NEEA commented that various equipment and appurtenances allow fans to meet reduced flow rates, and the relationship between the required flow and a fan's power draw is unique to each equipment or "control method" (e.g., the use of outlet vanes, disc throttle, inlet vanes, and controllable pitch blades). NEEA provided further examples of such relationships and associated references.⁷⁸ NEEA added that the installation of a drive is often considered an energy efficiency opportunity for fan systems. NEEA stated that the installation of VFDs has been identified as the measure with the largest savings opportunity for industrial fans and the second largest savings for commercial fans.⁷⁹ NEEA commented that the savings associated with installing a VFD are directly related to a more efficient power-load relationship, and that assuming all load control methods follow the fan laws would understate the energy use of fans without VFDs. Therefore, NEEA commented that DOE should account for the different power-load relationships associated with different load control methods and applying different power-load relationships based on the distribution of flow control methods seen in the market. In addition, NEEA recommended that DOE consider the power-load relationship for fans operating without a load control method by developing "representative" fan performance curves to model the energy consumption of fans that do not have load control. NEEA recommended that DOE develop representative fan curves, similar to those developed for the energy use analysis in the December

2015 Pumps Final Rule,⁸⁰ which would enable DOE to account for fan-specific performance. NEEA noted that this performance curve method was used in DOE's first NODA⁸¹ but was removed in the second NODA.⁸² Lastly, NEEA recommended that DOE utilize published power load equations to determine energy uses for fans with non-VFD controls.⁸³ (NEEA, No. 129 at pp. 4–7)

As noted by NEEA, different categories of controls result in different energy savings, which do not always follow the fan affinity laws. However, based on the MSMA report, DOE estimates that the majority of fans do not have load control (88 percent), and that the majority of fans with load control utilize VFDs (9 percent), while 1 percent of fans with load control rely on other categories of controls and another 1 percent of fans had an unknown configuration.⁸⁴ Therefore, in this NOPR, for fans with load control (and operating at variable load) DOE only considered VFDs as the primary load control equipment and applied the affinity laws when calculating the resulting savings. For fans without load control and operating at constant load, as stated earlier, DOE believes the majority of these fans operate near the design point. In addition, although DOE developed information on typical fan curves as part of previous analysis as noted by NEEA, the AMCA data did not provide sufficient information to relate the design point to a location on the fan curve. Therefore, for constant load fans, DOE was unable to utilize this information in combination with the 2012 AMCA data to estimate the energy use at a reduced flow and thus assumed operation at the design point.⁸⁵

⁷⁴ NEEA cited: 2016 NODA Life-Cycle Cost (LCC) and Payback Period (PBP) Analyses Spreadsheet, Tab "Sectors and Applications," Notes cell B49. Available at: www.regulations.gov/document/EERE-2013-BT-STD-0006-0190.

⁷⁵ See for example: motors.lbl.gov/analyze/3-0819.

⁷⁶ DOE notes that although the February 2022 RFI did not specifically request feedback on such load profiles, DOE stated that it received written comments from the public on any subject within the scope of this document (including those topics not specifically raised in the RFI), as well as the submission of data and other relevant information. 87 FR 7048.

⁷⁷ NEEA cited the November 2016 NODA Life-Cycle Cost (LCC) and Payback Period (PBP) Analyses Spreadsheet. Available at: www.regulations.gov/document/EERE-2013-BT-STD-0006-0190.

⁷⁸ *Improving Fan System Performance: A Sourcebook for Industry*, Figure 2–20, Page 43. May 2014. Available at: www.energy.gov/sites/default/files/2014/05/f16/fan_sourcebook.pdf; and *The Uniform Methods Project: Methods for Determining Energy Efficiency Savings for Specific Measures*. Chapter 18: Variable Frequency Drive Evaluation Protocol, Table 1, Page 12. Available at: www.nrel.gov/docs/fy17osti/68574.pdf.

⁷⁹ NEEA cited: U.S. Industrial and Commercial Motor System Market Assessment Report Volume 3: Energy Saving Opportunity, 7/2022, Figure 17 and Figure 18. Available at: eta-publications.lbl.gov/sites/default/files/u.s._industrial_and_commercial_motor_system_market_assessment_report_volume_3_energy_saving_opportunity_p_rao.pdf.

⁸⁰ NEEA referenced: 2015–12–30 Final Rule Technical Support Document: Energy Efficiency Program for Consumer Products and Commercial and Industrial Equipment: Pumps. NEEA commented that section 7.2.1.3 outlined the process to develop representative performance curves. Available at: www.regulations.gov/document/EERE-2011-BT-STD-0031-0056.

⁸¹ NEEA cited: 2014–12–03 NODA Life-Cycle Cost (LCC) Spreadsheet. Available at: www.regulations.gov/document/EERE-2013-BT-STD-0006-0034.

⁸² See: 2015–04–21 NODA Life-Cycle Cost (LCC) Spreadsheet. Available at: www.regulations.gov/document/EERE-2013-BT-STD-0006-0060.

⁸³ NEEA referenced this study: *The Uniform Methods Project: Methods for Determining Energy Efficiency Savings for Specific Measures*. Chapter 18: Variable Frequency Drive Evaluation Protocol, Table 1, Page 12. Available at: www.nrel.gov/docs/fy17osti/68574.pdf.

⁸⁴ See: motors.lbl.gov/analyze/4b-0j0Bd0.

⁸⁵ As noted by NEEA, DOE updated its methodology between its first NODA and second NODA in order to enable the utilization of the AMCA 2012 data which represented thousands of fan selection data. While the first NODA relied on

Drive Components

The fan energy use calculation includes motor, VFD (if present) and transmission (*i.e.*, belt) losses. To represent the performance of the motor and belts, DOE used the mathematical models from the DOE test procedure (*See* 87 FR 27312) which assumes the motor is compliant with the upcoming DOE standard for electric motors at 10 CFR 431.25 and characterizes belt efficiency based on a model published in AMCA 214–21 as referenced in the DOE test procedure.⁸⁶ To represent the performance of the motor combined with a VFD, DOE used the mathematical models from section 6.4 of AMCA 214–21 which is representative of typical motor and VFD combinations, as referenced in the DOE test procedure. DOE further relied on information from manufacturer interviews to estimate the share of belt-driven fans.

2. Air-Circulating Fans

DOE calculated the energy use of ACFs by combining ACF input power consumption from the engineering analysis with annual operating hours. For each consumer in the sample, DOE associates a value of ACF annual operating hours drawn from statistical distributions as described in the remainder of this section.

Sample of Consumers

In the October 2022 NODA, DOE included commercial, industrial, and agricultural applications in the energy use analysis of ACFs with input power greater than or equal to 125 W. 87 FR 62038, 62056. DOE did not receive any comments on this approach. Accordingly, in the NOPR, DOE created a sample of 10,000 consumers for each representative unit to represent the range of air-circulating fan energy use in the commercial, industrial, and agricultural sectors.

Annual Operating Hours

In the October 2022 NODA, DOE estimated that air circulating fans with input power greater than or equal to 125 W operate, on average, 12 hours per day, consistent with the hours of use estimated for large-diameter ceiling fans in the Ceiling Fan Preliminary

Analysis.⁸⁷ To represent a range of possible operating hours around this representative value, DOE relied on a uniform distribution between 6 hours per day and 18 hours per day (assuming a uniform distribution of operating hours due to the limited availability of information). 87 FR 62038, 62056–62057

In response to the October 2022 NODA, ebm-papst stated that the usages of agricultural fans, residential fans, commercial fans, and basket fans used for distribution transformers are all very different. (ebm-papst, No. 8 at p. 4) AMCA commented that ACFs and ceiling fans in commercial and industrial buildings serve similar functions during warmer months, which is to provide a low-energy method for cooling. AMCA added however that ACFs are often not used during cooler months, while ceiling fans are either used in a reversed direction mode or run at a lower speed. Therefore, only ceiling fan usage during warmer months can be used as a proxy for ACF usage, and the annual operating hours of ceiling fans will be greater than those of ACFs. AMCA added that ACFs used for horticulture applications may have different usage hours than that of other ACFs or ceiling fans. (AMCA, No. 132 at p. 13)

DOE established the annual operating hours as the product of the daily operating hours and the number of operating days per year. In line with the information presented in the October 2022 NODA, for all ACFs except centrifugal housed ACFs, DOE assumed average daily operating hours of 12 hours per day. To reflect the variability in usage by application as noted by ebm-papst, DOE relied on a uniform distribution between 6 and 18 hours per day. For centrifugal housed ACFs, DOE relied on lower operating hours as these fans are primarily used for carpet drying applications and are less likely to operate 12 hours per day on average. DOE did not receive any feedback on daily operating hours and assumed average daily operating hours of 6 hours per day. To represent a range of possible operating hours around this representative value, DOE relied on a uniform distribution between 0 hours per day and 12 hours per day.

With the exception of centrifugal housed ACFs, ACFs are primarily used for cooling purposes in the commercial sector (*e.g.*, to cool people in loading docks, warehouses, gyms, etc.), in the

industrial sector, (*e.g.*, to cool people in factory workstations, etc.), and in the agricultural sector (*e.g.*, to reduce livestock heat stress). To establish the number of annual operating days for ACFs other than centrifugal housed ACFs, and to reflect AMCA's note that these ACFs are not used in cooler months, DOE relied on weather data to estimate a distribution of annual operating days for ACFs. While some ACFs may also be used for non-cooling purposes,⁸⁸ DOE did not find any data to establish the market share of such applications and assumed all ACFs are used for cooling purposes, as this is the primary application of ACFs. Based on input from manufacturer interviews, DOE further estimated that 20 percent of ACFs are used in the commercial sector, 20 percent in the industrial sector, and 60 percent in the agricultural sector. In the case of centrifugal housed ACFs, which are primarily used for carpet drying, DOE assumed these are exclusively used in the commercial sector and throughout the year.

Input Power

In the October 2022 NODA, DOE described that DOE may consider calculating the energy use by combining air circulating fan input power consumption in each mode (*e.g.*, high speed, medium speed, low speed) from the engineering analysis with operating hours spent in each mode and assuming an equal amount of time spent at each tested speed. 87 FR 62038, 62055–62057. Consistent with the May 2023 TP Final Rule, DOE estimates that these fans are primarily used at high speed and assumed operation at high speed only.

Chapter 7 of the NOPR TSD provides details on DOE's energy use analysis for fans and blowers.

DOE seeks comment on the overall methodology and inputs used to estimate GFBs and ACFs energy use. Specifically, for GFBs, DOE seeks feedback on the methodology and assumptions used to determine the operating point(s) both for constant and variable load fans. For ACFs, DOE requests feedback on the average daily operating hours, annual days of operation by sector and application, and input power assumptions. In addition, DOE requests feedback on the market share of GFBs and ACFs by sector (*i.e.*, commercial, industrial, and agricultural).

⁸⁸ This includes fans that are also used for cooling and may be left on during cooler months as they are also used for non-cooling applications (*e.g.*, ACFs used for reducing foul odors/manure gases/moisture/dust, drying, cooling machinery).

representative units and representative fans curves, as well as confidential data from a single manufacturer to develop distributions of operating points, the second NODA relies on fan selection data and sales data from 17 manufacturers to inform the LCC sample and location of the operating points.

⁸⁶ ANSI/AMCA Standard 214–21 “Test Procedure for Calculating Fan Energy Index (FEI) for Commercial and Industrial Fans and Blowers.”

⁸⁷ See section 7.4.2 of Chapter 7 of the Ceiling Fan Preliminary Analysis Technical Support Document. Available at: www.regulations.gov/document/EERE-2021-BT-STD-0011-0015.

F. Life-Cycle Cost and Payback Period Analyses

DOE conducted LCC and PBP analyses to evaluate the economic impacts on individual consumers of potential energy conservation standards for fans and blowers. The effect of new or amended energy conservation standards on individual consumers usually involves a reduction in operating costs and an increase in purchase cost. DOE used the following two metrics to measure consumer impacts:

- The LCC is the total consumer expense of the equipment over the life of that equipment, consisting of total installed cost (manufacturer selling price, distribution chain markups, sales tax, and installation costs) plus operating costs (expenses for energy use, maintenance, and repair). To compute the operating costs, DOE discounts future operating costs to the time of purchase and sums them over the lifetime of the equipment.

- The PBP is the estimated amount of time (in years) it takes consumers to recover the increased purchase cost (including installation) of more efficient equipment through lower operating costs. DOE calculates the PBP by dividing the change in purchase cost at higher efficiency levels by the change in annual operating cost for the year that amended or new standards are assumed to take effect.

For any given efficiency level, DOE measures the change in LCC relative to the LCC in the no-new-standards case, which reflects the estimated efficiency distribution of fans and blowers in the absence of new or amended energy conservation standards. The PBP for a given efficiency level is also measured

relative to the no-new-standards case efficiency distribution.

For each considered TSL in each equipment class, DOE calculated the LCC and PBP for a nationally representative set of consumers. As stated previously, DOE developed consumer samples from a variety of data sources as described in section IV.F of this document. For each sample consumer, DOE determined the energy consumption for the fans and blowers and the appropriate energy price. By developing a representative sample of consumers, the analysis captured the variability in energy consumption and energy prices associated with the use of fans and blowers.

Inputs to the calculation of total installed cost include the cost of the equipment—which includes MPCs, manufacturer markups (including the additional manufacturer conversion cost markups where appropriate), retailer and distributor markups, and sales taxes—and installation costs. Inputs to the calculation of operating expenses include annual energy consumption, energy prices and price projections, repair and maintenance costs, equipment lifetimes, and discount rates. DOE created distributions of values for equipment lifetime, discount rates, and sales taxes, with probabilities attached to each value, to account for their uncertainty and variability.

The computer model DOE uses to calculate the LCC relies on a Monte Carlo simulation to incorporate uncertainty and variability into the analysis. The Monte Carlo simulations randomly sample input values from the probability distributions and fan and blower user samples. The model calculates the LCC for equipment at each efficiency level for 10,000

consumers per simulation run and equipment class. The analytical results include a distribution of 10,000 data points showing the range of LCC savings for a given efficiency level relative to the no-new-standards case efficiency distribution. In performing an iteration of the Monte Carlo simulation for a given consumer, equipment efficiency is chosen based on its probability. If the chosen equipment efficiency is greater than or equal to the efficiency of the standard level under consideration, the LCC calculation reveals that a consumer is not impacted by the standard level. By accounting for consumers who already purchase more efficient equipment, DOE avoids overstating the potential benefits from increasing equipment efficiency.

DOE calculated the LCC and PBP for consumers of fans and blowers as if each were to purchase new equipment in the expected year of required compliance with new or amended standards. New standards would apply to fans and blowers manufactured 5 years after the date on which any new standard is published. (42 U.S.C. 6316(a); 42 U.S.C. 6295(l)(2)) At this time, DOE estimates publication of a final rule in the second half of 2024. Therefore, for the purposes of its analysis, DOE used 2030 as the first full year of compliance with any new standards for fans and blowers.

Table IV–18 Summary of Inputs and Methods for the LCC and PBP Analysis* summarizes the approach and data DOE used to derive inputs to the LCC and PBP calculations. The subsections that follow provide further discussion. Details of the spreadsheet model, and of all the inputs to the LCC and PBP analyses, are contained in chapter 8 of the NOPR TSD and its appendices.

Table IV-18 Summary of Inputs and Methods for the LCC and PBP Analysis*

Inputs	Source/Method
Equipment Cost	Derived by multiplying MPCs by manufacturer (including a manufacturer conversion markup where appropriate) and distribution channel markups and sales tax. Used historical data to derive a price index to project product costs.
Installation Costs	Assumed no change with efficiency level, except for PRVs where there is an increase in size.
Annual Energy Use	Fan electrical input power multiplied by the annual operating hours at the considered operating point(s); Variability: By sector and application.
Energy Prices	Electricity: Based on EEI data for 2022. Variability: By sector.
Energy Price Trends	Based on <i>AEO2023</i> price projections.
Repair and Maintenance Costs	GFBs: Assumed no change with efficiency level. ACFs: Relied on different belt and motor repair costs by EL.
Equipment Lifetime	Average for GFBs: 16.0 years. Average for ACFs: 6.3 years.
Discount Rates	Calculated as the weighted average cost of capital for entities purchasing fans. Primary data source was Damodaran Online.
Compliance Date	2030 (first full year)

* References for the data sources mentioned in this table are provided in the sections following the table or in chapter 8 of the NOPR TSD.

In response to the October 2022 NODA, AMCA commented that DOE should refer to interviews with individual manufacturers for feedback on the inputs and considered methods used for the LCC and PBP analyses. (AMCA, No. 132 at p. 14) As noted throughout this section, DOE relied on input from manufacturer interviews where available.

1. Equipment Cost

To calculate equipment costs, DOE multiplied the MSPs developed in the engineering analysis by the distribution channel markups described previously (along with sales taxes). DOE used different markups for baseline equipment and higher-efficiency equipment because DOE applies an incremental markup to the increase in MSP associated with higher-efficiency equipment. Further, as described in section IV.C of this document, at ELs with associated manufacturer conversion costs, DOE applied a manufacturer conversion markup when calculating the equipment price of re-designed units.

Economic literature and historical data suggest that the real costs of many products may trend downward over time according to “learning” or “experience” curves. Experience curve analysis implicitly includes factors such as efficiencies in labor, capital investment, automation, materials

prices, distribution, and economies of scale at an industry-wide level.

For GFBs, to develop an equipment price trend for the NOPR, DOE derived an inflation-adjusted index of the Producer Price Index (PPI) for industrial and commercial fans and blowers equipment over the period 2003–2022.⁸⁹ These data show a general price index increase from 2003 through 2009, a slower growth trend over the period 2009–2020, and a high increase since 2020. However, the outbreak of COVID–19 pandemic caused immense uncertainties in global supply chain and international trade resulting in price surges across all sectors since 2020. DOE believes that the extent to which these macroeconomic trends will continue in the future is very uncertain. Therefore, DOE used a constant price assumption as the default trend to project future fan prices. Thus, for GFBs, prices projected for the LCC and PBP analysis are equal to the 2022 values for each efficiency level in each equipment class.

For ACFs, DOE did not find PPI data specific to ACFs, and instead, DOE adopted a component-based approach to develop a price trend by identifying ACF components most likely to undergo a price variation over the forecast period. Using this approach, the price trend only applies to the cost of the

component and not to the total cost of the ACF. For EL0 through EL5, which are efficiency levels that assume AC induction motors, DOE determined that ACF motors are the most likely component to undergo price variation over time and analyzed long-term trends in the integral and fractional horsepower motors PPI series.⁹⁰ The deflated price index for integral and fractional horsepower motors was found to align with the copper, steel, and aluminum deflated price indices. DOE believes that the extent to which these commodity price trends will continue in the future is very uncertain and therefore does not project commodity prices. In addition, the deflated price index for fractional horsepower motors was mostly flat during the entire period from 1967 to 2020. Therefore, DOE relied on a constant price assumption as the default price factor index to project future ACF prices at EL 0 through EL 5. At EL 6, which assumes an ECM motor, DOE did not find any historical data specifically regarding ECM motors. For its analysis, DOE assumed that the circuitry and electronic controls associated with ECM motors would potentially be the most affected by price trends driven by the larger electronics industry as a whole. DOE obtained PPI data on “Semiconductors and related

⁸⁹ Series ID PCU3334133334132. Available at: www.bls.gov/ppi/.

⁹⁰ Series ID PCU3353123353123 and PCU3353123353121. Available at: www.bls.gov/ppi/.

device manufacturing”⁹¹ between 1967 and 2022 to estimate the historic price trend in electronic components. These data show a price decline over the entire period. Therefore, DOE applied a decreasing price trend for the controls portion of the ECM price. *See* chapter 8 for more details on the price trends.

DOE requests feedback on the price trends developed for GFBs and ACFs.

2. Installation Cost

Installation cost includes labor, overhead, and any miscellaneous materials and parts needed to install the equipment.

For GFBs, DOE found no evidence that installation costs would be impacted with increased efficiency levels and did not include installation costs in its analysis, except at efficiency levels where an increase in size is assumed (*i.e.*, for PRVs). In this case, DOE incorporated higher installation (*i.e.*, shipping) costs due to the change in size.

For ACFs, DOE stated in the October 2022 NODA that it found no evidence that installation costs would be impacted with increased efficiency levels and, as a result, DOE was not planning on including installation costs in the LCC. 87 FR 62038, 62058. DOE did not receive any comments to the October 2022 NODA related to installation costs and continued with this approach for ACFs.

DOE requests feedback on the installation costs developed for GFBs and on whether installation costs of ACFs may increase at higher ELs.

3. Annual Energy Consumption

For each sampled consumer, DOE determined the energy consumption for a fan at different efficiency levels using the approach described previously in section IV.E of this document.

4. Energy Prices

Because marginal electricity prices more accurately capture the incremental savings associated with a change in energy use from higher efficiency, they provide a better representation of incremental change in consumer costs than average electricity prices. Therefore, DOE applied average electricity prices for the energy use of the equipment purchased in the no-new-standards case, and marginal electricity prices for the incremental change in energy use associated with the other efficiency levels considered.

DOE derived electricity prices in 2022 using data from EEI Typical Bills and

Average Rates reports. Based upon comprehensive, industry-wide surveys, this semi-annual report presents typical monthly electric bills and average kilowatt-hour costs to the customer as charged by investor-owned utilities. For the commercial and industrial sector, DOE calculated electricity prices using the methodology described in Coughlin and Beraki (2019).⁹²

DOE’s methodology allows electricity prices to vary by sector, region, and season. In the analysis, variability in electricity prices is chosen to be consistent with the way the consumer economic and energy use characteristics are defined in the LCC analysis. For fans and blowers, DOE considered sector-specific electricity prices. *See* chapter 8 of the NOPR TSD for details.

To estimate energy prices in future years, DOE multiplied the 2022 energy prices by the projection of annual average price changes from the Reference case in *AEO2023*, which has an end year of 2050.⁹³ To estimate price trends after 2050, the 2050 prices were held constant.

5. Maintenance and Repair Costs

Repair costs are associated with repairing or replacing equipment components that have failed in an appliance; maintenance costs are associated with maintaining the operation of the equipment. Typically, small incremental increases in equipment efficiency entail no, or only minor, changes in repair and maintenance costs compared to baseline efficiency equipment.

For GFBs, DOE found no evidence that maintenance and repair costs would be impacted with increased efficiency levels. Therefore, because DOE expresses results in terms of LCC savings, DOE did not account for maintenance and repair costs in the LCC.

For ACFs, in the October 2022 NODA, DOE stated that it did not find any information supporting changes in maintenance costs as a function of efficiency. 87 FR 62038, 62058. DOE did not receive any comments in response to the October 2022 NODA related to maintenance costs; DOE continues to believe these do not vary by efficiency and did not include maintenance costs in its analysis.

⁹² Coughlin, K. and B. Beraki. 2019. Non-residential Electricity Prices: A Review of Data Sources and Estimation Methods. Lawrence Berkeley National Lab. Berkeley, CA. Report No. LBNL–2001203. Available at: ees.lbl.gov/publications/non-residential-electricity-prices.

⁹³ EIA. *Annual Energy Outlook 2023 with Projections to 2050*. Washington, DC. Available at: www.eia.gov/forecasts/aeo/ (last accessed June 6, 2023).

In the October 2022 NODA, DOE identified the motor replacement as a potential repair for ACFs. DOE requested feedback on its assumptions about repair practices of ACFs. 87 FR 62038, 62058.

In response, AMCA commented that belt replacement could be the only significant maintenance or repair necessary for ACFs. AMCA added that DOE should reference manufacturer interviews for further information. AMCA added that ACFs are often used in environments with harsher conditions than other fans and experience higher temperatures, higher moisture content, higher particulate concentrations, and more power source fluctuations than do other fans. Because of this, AMCA stated that ACF repairs and replacements are more frequent than for other fans. (AMCA, No. 132 at pp. 14–15)

For ACFs, DOE found no evidence that maintenance costs would be impacted with increased efficiency levels and did not include maintenance costs in its analysis. However, DOE did include repair costs associated with belt repair at EL 0, which represents belt driven ACFs as appropriate. In addition, although stakeholder feedback did not indicate the possibility of a motor repair for ACFs, DOE identified several ACF manufacturers offering replacement motors. DOE assumed such repair is not frequent as it was not identified as a potential repair by stakeholders. Therefore, DOE assumed that only 5 percent of ACFs include a motor repair and estimated the repair costs associated with motor replacement. In order to calculate these repair costs, DOE relied on inputs from the engineering analysis.

DOE requests feedback on whether the maintenance and repair costs of GFBs may increase at higher ELs. Specifically, DOE requests comments on the frequency of motor replacements for ACFs. DOE also requests comments on whether the maintenance and repair costs of ACFs may increase at higher ELs and on the repair costs developed for ACFs.

6. Equipment Lifetime

For GFBs, in the NODA DOE used average lifetimes of 30 years in the industrial sector based on input from a subject matter expert, and 15 years in the commercial sector based on the expected lifetimes of HVAC equipment. Across all sectors and equipment classes, the average lifetime for GFBs is 16 years. To characterize the range of possible lifetimes, DOE developed Weibull distributions of equipment lifetimes.

⁹¹ Series ID: PCU334413334413. Available at www.bls.gov/ppi/.

For ACFs, in the October 2022 NODA, DOE stated that it did not find lifetime data specific to ACFs and was considering using 30 years, similar to GFBs lifetimes in a previous DOE analysis. (November 2016 NODA)

In response to the October 2022 NODA, AMCA commented that DOE should assume a lifetime of 10 years instead of 30, because ACFs often are used in non-conditioned spaces or agricultural environments that expose them to dust, debris, moisture, and other debilitating factors. In addition, AMCA stated that in a previous report,⁹⁴ DOE estimated average lifetimes of fractional (*i.e.*, less than 1 horsepower) electric motors to 10 to 15 years. AMCA added that ACFs are typically used in areas without air conditioning and experience higher air temperatures, higher humidity, higher concentrations of particulate matter in the air, and greater fluctuations in power quality, compared to fans in buildings with full HVAC systems and tight envelopes. For these reasons, AMCA stated that it is unlikely for an ACF to have a lifetime of 30 years. Instead, AMCA recommended using a value of 10 years, which is the lower end of the motor life expectancy in the DOE report. (AMCA, No. 132 at pp. 2, 18–19)

In this analysis, as suggested by AMCA, DOE relied on separate lifetimes for ACFs and GFBs. DOE considered two separate lifetimes for ACFs depending on whether the lifetime included a motor replacement or not. For ACFs that do not include a motor replacement, DOE assumed the average lifetime was equal to the estimated average motor lifetime of 6 years based on input from manufacturer interviews. DOE believes this value is more representative of ACF motor lifetimes as it is more recent and specific to the ACFs compared to the estimate provided by AMCA, which relied on a general motor and pump study published in 1980. For ACFs that include a motor replacement, DOE assumed an average lifetime of 12 years (*i.e.*, twice the motor lifetime). DOE further assumed 5 percent of ACFs have a motor repair (*see* section IV.F.5 of this

document), while 95 percent of ACFs do not, resulting in an overall average lifetime of 6.3 years. To characterize the range of possible lifetimes, DOE developed Weibull distributions of equipment lifetimes.

DOE requests comments on the average lifetime estimates used for GFBs and ACFs.

7. Discount Rates

In the calculation of LCC, DOE applies discount rates appropriate for consumers to estimate the present value of future operating cost savings. DOE estimated a distribution of discount rates for fans and blowers based on the opportunity cost of consumer funds.

DOE applies weighted average discount rates calculated from consumer debt and asset data, rather than marginal or implicit discount rates.⁹⁵ The LCC analysis estimates net present value over the lifetime of the product, so the appropriate discount rate will reflect the general opportunity cost of household funds, taking this time scale into account. Given the long-time horizon modeled in the LCC analysis, the application of a marginal interest rate associated with an initial source of funds is inaccurate. Regardless of the method of purchase, consumers are expected to continue to rebalance their debt and asset holdings over the LCC analysis period, based on the restrictions consumers face in their debt payment requirements and the relative size of the interest rates available on debts and assets. DOE estimates the aggregate impact of this rebalancing using the historical distribution of debts and assets.

To establish commercial, industrial, and agricultural discount rates for fans and blowers, DOE estimated the weighted-average cost of capital using data from Damodaran Online.⁹⁶ The weighted-average cost of capital is commonly used to estimate the present value of cash flows to be derived from a typical company project or investment. Most companies use both debt and equity capital to fund investments, so their cost of capital is the weighted average of the cost to the

firm of equity and debt financing. DOE estimated the cost of equity using the capital asset pricing model, which assumes that the cost of equity for a particular company is proportional to the systematic risk faced by that company. The average discount rates in the commercial, industrial, and agricultural sectors are 6.77, 7.25, and 7.15 percent, respectively.

DOE did not receive any comments related to discount rates.

See chapter 8 of the NOPR TSD for further details on the development of discount rates.

8. Energy Efficiency Distribution in the No-New-Standards Case

To accurately estimate the share of consumers that would be affected by a potential energy conservation standard at a particular efficiency level, DOE's LCC analysis considered the projected distribution (market shares) of equipment efficiencies under the no-new-standards case (*i.e.*, the case without new energy conservation standards).

To estimate the energy efficiency distribution of GFBs for 2030, DOE relied on the 2012 AMCA sales data from the sample (*see* section IV.E.1 of this document). DOE notes that since 2012, the ASHRAE Standard 90.1–2010 *Energy Standard for Buildings Except Low-Rise Residential Building* (“ASHRAE Standard 90.1”) includes limits on the FEI of certain fans and has been adopted in some States.⁹⁷ In addition, the California Energy Commission recently finalized reporting requirements to promote fan selections at duty points with FEI ratings greater than or equal to 1.00.⁹⁸ However, DOE reviewed recent manufacturer catalogs and found that the market has not changed significantly since 2012 (*see* detailed discussion in section IV.A.2.a of this document). Therefore, in this NOPR, DOE relied on the 2012 efficiency distributions to characterize the no-new-standards case in 2030. The estimated market shares for the no-new-standards case for GFBs are shown in Table IV–19.

⁹⁴ AMCA referenced the following study: 1980. “Classification and evaluation of electric motors and pumps.” United States. Available at: doi.org/10.2172/6719781.

⁹⁵ The implicit discount rate is inferred from a consumer purchase decision between two otherwise identical goods with different first cost and operating cost. It is the interest rate that equates the increment of first cost to the difference in net present value of lifetime operating cost, incorporating the influence of several factors: transaction costs; risk premiums and response to

uncertainty; time preferences; interest rates at which a consumer is able to borrow or lend. The implicit discount rate is not appropriate for the LCC analysis because it reflects a range of factors that influence consumer purchase decisions, rather than the opportunity cost of the funds that are used in purchases.

⁹⁶ Damodaran Online, *Data Page: Costs of Capital by Industry Sector* (2021). Available at: pages.stern.nyu.edu/~adamodar/ (last accessed April 22, 2022).

⁹⁷ *See* 2020 Florida Building Code, Energy Conservation, 7th edition—Section C403.2.12.3 Fan Efficiency, effective December 31, 2020; 2021 Oregon Efficiency Specialty Code (OEESC): The 2021 OEESC, based on ASHRAE Standard 90.1–2019, effective April 1, 2021.

⁹⁸ These requirements take effect in November 2023. *See* www.energy.ca.gov/rules-and-regulations/appliance-efficiency-regulations-title-20/appliance-efficiency-proceedings-11.

Table IV-19: No New Standards Case Efficiency Distribution in 2030 - GFBs

Equipment Class	EL0	EL1	EL2	EL3	EL4	EL5	EL6	EL7
Axial Inline	5.2%	7.4%	20.8%	37.4%	24.5%	4.8%	N/A	N/A
Axial Panel	8.1%	11.7%	31.6%	32.0%	13.2%	3.4%	N/A	N/A
Centrifugal Housed	20.8%	5.6%	22.8%	31.9%	16.6%	2.5%	N/A	N/A
Centrifugal Inline	8.4%	5.9%	32.7%	13.7%	26.9%	10.2%	2.3%	N/A
Centrifugal Unhoused	4.2%	6.0%	21.8%	50.1%	15.4%	2.5%	N/A	N/A
Axial Power Roof Ventilator	6.1%	4.4%	2.5%	13.0%	24.5%	30.9%	13.4%	5.3%
Centrifugal Power Roof Ventilator - Exhaust	7.9%	1.3%	9.7%	16.6%	33.8%	24.8%	6.0%	N/A
Centrifugal Power Roof Ventilator – Supply	6.3%	3.8%	16.2%	25.6%	35.6%	9.1%	3.3%	N/A
Radial Housed	7.3%	3.5%	7.0%	32.7%	27.2%	22.2%	N/A	N/A

The entry “N/A” indicates the EL is not available for the considered equipment class.

In the October 2022 NODA, DOE stated that it would rely on information from the BESS Labs dataset to develop efficiency distribution and that it would randomly assign an equipment efficiency to each consumer drawn from the consumer samples. 87 FR 62038, 62060. DOE did not receive any comments on this topic.

For ACFs, DOE collected model performance data from the BESS Labs database as well as information from

manufacturer catalogs. As noted in section IV.A.1.a, the BESS Labs database contains fans with higher efficiencies than the overall ACF market and is not representative of the ACF market as a whole. DOE collected catalog data from manufacturer and distributor websites to supplement the BESS Labs database. DOE relied on the performance data from both datasets establish the no-new-standards case efficiency distribution of ACFs in 2030 and used a weighted

average when calculating the overall efficiency distributions to reflect that fact that the models in the BESS Labs database are representative of the top of the market in terms of efficiency.⁹⁹ DOE did not find historical performance data for ACFs and assumed the efficiency distribution would remain the same over time. The resulting market shares for the no-new-standards case for ACFs are shown in Table IV-20.

Table IV-20: No New Standards Case Efficiency Distribution in 2030 - ACFs

Equipment Class*	EL0	EL1	EL2	EL3	EL4	EL5	EL6
Axial ACFs; 12” ≤ D < 36”	0%	1%	6%	41%	45%	6%	2%
Axial ACFs; 36” ≤ D < 48”	5%	3%	9%	52%	31%	0%	0%
Axial ACFs; 48” ≤ D	6%	0%	19%	57%	17%	1%	0%
Housed Centrifugal ACFs	5%	0%	24%	48%	21%	2%	0%

*D: diameter in inches

See chapter 8 of the NOPR TSD for further information on the derivation of the efficiency distributions.

The LCC Monte Carlo simulations draw from the efficiency distributions and randomly assign an efficiency to the fans and blowers purchased by each sample consumer in the no-new-standards case. The resulting percentage shares within the sample match the market shares in the efficiency distributions.

DOE requests feedback and information on the no-new-standards case efficiency distributions used to characterize the market of GFBs and ACFs. DOE requests information to

support any efficiency trends over time for GFBs and ACFs.

9. Payback Period Analysis

The payback period is the amount of time (expressed in years) it takes the consumer to recover the additional installed cost of more-efficient equipment, compared to the no-new-standards case equipment, through energy cost savings. Payback periods that exceed the life of the equipment mean that the increased total installed cost is not recovered in reduced operating expenses.

The inputs to the PBP calculation for each efficiency level are the change in total installed cost of the equipment and the change in the first-year annual

operating expenditures relative to the baseline. DOE refers to this as a “simple PBP” because it does not consider changes over time in operating cost savings. The PBP calculation uses the same inputs as the LCC analysis when deriving first-year operating costs.

As noted previously, EPCA establishes a rebuttable presumption that a standard is economically justified if the Secretary finds that the additional cost to the consumer of purchasing equipment complying with an energy conservation standard level will be less than three times the value of the first year’s energy savings resulting from the standard, as calculated under the applicable test procedure. (42 U.S.C

⁹⁹ Specifically, to reflect that the BESS data is not representative of the majority of the ACF market, DOE assumed that a quarter of ACFs are

represented by the BESS labs data and applied a weight of 0.25 to the BESS Labs database and a

weight of 0.75 to the catalog data collected from manufacturer and distributor websites.

6316(a); 42 U.S.C. 6295(o)(2)(B)(iii)) For each considered efficiency level, DOE determined the value of the first year's energy savings by calculating the energy savings in accordance with the applicable DOE test procedure, and multiplying those savings by the average energy price projection for the year in which compliance with the standards would be required.

G. Shipments Analysis

DOE uses projections of annual equipment shipments to calculate the national impacts of potential amended or new energy conservation standards on energy use, NPV, and future manufacturer cash flows.¹⁰⁰ The shipments model takes an accounting approach, tracking market shares of each equipment class and the vintage of units in the stock. Stock accounting uses equipment shipments as inputs to estimate the age distribution of in-service equipment stocks for all years. The age distribution of in-service equipment stocks is a key input to calculations of both the NES and NPV, because operating costs for any year depend on the age distribution of the stock.

1. General Fans and Blowers

DOE first estimated total shipments in the base year. For fans sold as a standalone equipment by equipment class, DOE relied on the estimate in the November 2016 NODA, which relied on a market research report,¹⁰¹ and AMCA confidential sales data from 2012. To estimate the shipments of fans sold incorporated in other equipment ("OEM fans"), DOE first identified HVAC equipment that incorporate the embedded fans in the scope of analysis (i.e., HVAC equipment not listed in Table III-1). DOE then determined the average quantity of fans used in each of the identified HVAC equipment and estimated the total number of HVAC fans as the product of HVAC equipment sales and average number of fans per equipment. The OEM fan shipments in scope were then calculated by subtracting the estimated number of standalone fans purchased by OEMs from the total number of fans in HVAC equipment, to avoid double counting. See chapter 9 for more details.

AHRI provided feedback on shipments values published in the November 2016 NODA. Specifically, AHRI disagreed with DOE's estimate of

air handling units and estimated the shipments to be 65,000 units per year. AHRI further commented that 75 percent of these units have variable air volume ("VAV") capability, and that 60–70% of those are equipped with variable speed drives; AHRI questioned whether DOE accounted for this in its energy use analysis. Finally, AHRI commented that they identified approximately 40 percent of air handling units with either a return or an exhaust fan, as opposed to 50 percent assumed in the November 2016 NODA. (AHRI, No. 130 at pp. 7–8)

DOE reviewed the information provided by AHRI and agrees with the more recent shipments estimate of 65,000 units per year. In addition, DOE accounted for variable load operation in its energy use analysis as described in section IV.E.1 of this document. However, DOE did not estimate the percentage of VAV units by HVAC equipment but by GFBs equipment class (up to 65 percent depending on the equipment class). Finally, for this NOPR, DOE estimated the percentage of air handling units with either a return or an exhaust fan as 30 percent based on more recent input from manufacturer interviews.

AHRI disagreed with DOE's estimate of panel fans per air-cooled water chiller and the number of air-cooled water chillers shipped. AHRI stated that the average number of panel fans per unit is seven instead of the DOE estimate of 14 in the November 2016 NODA. AHRI also stated that the number of air-cooled chillers shipped is 26,000 per year. (AHRI, No. 130 at pp. 9–10)

DOE reviewed the information provided by AHRI as well as additional information from previous comments estimating average annual shipments of air-cooled chillers to 27,000 units per year based on the U.S. Census MA35M/MA333M series.¹⁰² DOE agrees with the more recent shipments estimate of 26,000–27,000 units per year and 7 fans per unit for air-cooled water chillers. As such, DOE relied on this estimate (27,000) rather than on the values published in the November 2016 NODA.

AHRI disagreed with DOE's estimate of commercial unitary air conditioners and heat pumps with and without return/exhaust fans. AHRI stated that less than 10 percent of units under 240,000 Btu/h have return/exhaust fans and about 70 percent of units over 240,000 Btu/h have return/exhaust fans. AHRI also commented that 80 percent of

units over 240,000 Btu/h have variable speed drives and VAVs. AHRI commented that these estimates were based on a survey of its members. (AHRI, No. 130 at p. 9)

DOE reviewed the information provided by AHRI and agrees with the more recent percentage values to estimate the fraction of units with a return or exhaust fan. As such DOE relied on these estimates rather than on the values published in the November 2016 NODA to estimate the number of fans per unit in commercial unitary air conditioners and heat pumps.

To project shipments of fans in the industrial sector, DOE assumed in the no-new-standards case that the long-term growth of fan shipments will be driven by long-term growth of fixed investments in equipment including fans, which follow the same trend as the gross domestic product ("GDP"). DOE relied on fixed investment data from the Bureau of Economic Analysis and AEO2023 forecast of GDP through 2050 to inform its shipments projection. For the commercial sector, DOE projected shipments using AEO2023 projections of commercial floor space. In 2030, DOE estimates the total shipments of GFBs to 1.38 million units.

DOE also derived high and low shipments projections based on AEO2023 economic growth scenarios.

DOE further assumed that standards would have a negligible impact on fan shipments and applied a zero price-elasticity under standards cases. It is likely that following a standard, rather than foregoing a fan purchase under a standards case, a consumer might simply switch brands or fans to purchase a fan that is best suited for their application. As a result, DOE used the same shipments projections in the standards case as in the no-new-standards case.

DOE requests feedback on the methodology and inputs used to project shipments of GFBs in the no-new-standards case. DOE requests comments and feedback on the potential impact of standards on GFB shipments and information to help quantify these impacts.

2. Air Circulating Fans

In the October 2022 NODA, DOE estimated total shipments of ACFs to over 2 million using information from manufacturer interviews indicating shipments estimates of 494,950 units of unhoused air circulating fan heads and 255,100 units of cylindrical air circulating fans and applying expansion factors to determine the shipments of other categories of ACFs included in the scope. 87 FR 62038, 62061. DOE did not

¹⁰⁰ DOE uses data on manufacturer shipments as a proxy for national sales, as aggregate data on sales are lacking. In general, one would expect a close correspondence between shipments and sales.

¹⁰¹ IHS Technology (March 2014), Fans and Blowers, World.

¹⁰² See: AHRI data, CEC Docket 17-AAER-06, TN#221201-1, p.10 <https://efiling.energy.ca.gov/GetDocument.aspx?tn=221201-1&DocumentContentId=26700>.

receive any feedback or information on shipments in response to the October 2022 NODA.

For this NOPR, DOE reviewed the information from manufacturer interviews and has determined that the shipments estimates provided were for the total market of axial ACFs (rather than specific to unhooused air circulating fan heads and cylindrical air circulating fans only, as previously determined). In addition, DOE estimated that housed centrifugal ACFs represent one percent of the total ACF market based on the small number of manufacturers identified in the catalog data collected by DOE from manufacturer and distributor websites.

In the October 2022 NODA, DOE estimated that shipments of ACFs follow similar trends as shipments of large-diameter ceiling fans. Therefore, DOE stated that it was considering projecting shipments of air circulating fans with input power greater than or equal to 125 W based on the growth rates projected for shipments of large-diameter ceiling fans.¹⁰³ 87 FR 62038, 62061. In response to the October 2022 NODA, ebm-papst suggested that the growth of indoor horticulture, a need for farm animal cooling due to climate change, and a need for auxiliary cooling on distribution transformers due to electrification, as well as climate change could all be reasons for possible growth in the ACFs market. (ebm-papst, No. 8 at p. 4)

DOE agrees with the qualitative comment from ebm-papst regarding the potential causes for future ACF market

growth. However, DOE notes that this information does not allow for a quantitative estimation of projected shipments. DOE did not receive any additional feedback on this approach and applied this methodology in the NOPR. In 2030, DOE estimates the total shipments of fans to be 1.30 million units.

DOE requests feedback on the methodology and inputs used to estimate and project shipments of ACFs in the no-new-standards case. DOE requests comments and feedback on the potential impact of standards on ACF shipments and information to help quantify these impacts.

H. National Impact Analysis

The NIA assesses the national energy savings (“NES”) and the NPV from a national perspective of total consumer costs and savings that would be expected to result from new or amended standards at specific efficiency levels.¹⁰⁴ (“Consumer” in this context refers to consumers of the equipment being regulated.) DOE calculates the NES and NPV for the potential standard levels considered based on projections of annual equipment shipments, along with the annual energy consumption and total installed cost data from the energy use and LCC analyses. For the present analysis, DOE projected the energy savings, operating cost savings, equipment costs, and NPV of consumer benefits over the lifetime of fans and

blowers sold from 2030 through 2059.¹⁰⁵

DOE evaluates the impacts of new or amended standards by comparing a case without such standards with standards-case projections. The no-new-standards case characterizes energy use and consumer costs for each equipment class in the absence of new or amended energy conservation standards. For this projection, DOE considers historical trends in efficiency and various forces that are likely to affect the mix of efficiencies over time. DOE compares the no-new-standards case with projections characterizing the market for each equipment class if DOE adopted new or amended standards at specific energy efficiency levels (*i.e.*, the TSLs or standards cases) for that class. For the standards cases, DOE considers how a given standard would likely affect the market shares of equipment with efficiencies greater than the standard.

DOE uses a spreadsheet model to calculate the energy savings and the national consumer costs and savings from each TSL. Interested parties can review DOE’s analyses by changing various input quantities within the spreadsheet. The NIA spreadsheet model uses typical values (as opposed to probability distributions) as inputs.

Table IV–21 summarizes the inputs and methods DOE used for the NIA analysis for the NOPR. Discussion of these inputs and methods follows the table. *See* chapter 10 of the NOPR TSD for further details.

¹⁰⁵ Because the anticipated compliance date is late in the year, for analytical purposes, DOE conducted the analysis for shipments from 2030 through 2059.

¹⁰³ *See* docket No. EERE–2021–BT–STD–0011–0015.

¹⁰⁴ The NIA accounts for impacts in the 50 States and U.S. territories.

Table IV-21 Summary of Inputs and Methods for the National Impact Analysis

Inputs	Method
Shipments	Annual shipments from shipments model.
Compliance Date of Standard	2030 (first full year)
Efficiency Trends	No-new-standards case: constant trend Standards cases: constant trend
Annual Energy Consumption per Unit	Annual weighted-average values are a function of energy use at each TSL.
Total Installed Cost per Unit	Annual weighted-average values are a function of cost at each TSL. Incorporates projection of future product prices based on historical data.
Annual Energy Cost per Unit	Annual weighted-average values as a function of the annual energy consumption per unit and energy prices.
Repair and Maintenance Cost per Unit	Annual values do not change with efficiency level.
Energy Price Trends	<i>AEO2023</i> projections (to 2050) and held constant thereafter.
Energy Site-to-Primary and FFC Conversion	A time-series conversion factor based on <i>AEO2023</i> .
Discount Rate	3 percent and 7 percent
Present Year	2024

1. Equipment Efficiency Trends

A key component of the NIA is the trend in energy efficiency projected for the no-new-standards case and each of the standards cases. Section IV.F.8 of this document describes how DOE developed an energy efficiency distribution for the no-new-standards case (which yields a shipment-weighted average efficiency) for each of the considered equipment classes for the first full year of anticipated compliance with an amended or new standard. To project the trend in efficiency absent amended standards for GFBs and ACFs over the entire shipments projection period, DOE assumed a constant efficiency trend. The approach is further described in chapter 10 of the NOPR TSD.

For the standards cases, DOE used a “roll-up” scenario to establish the shipment-weighted efficiency for the first full year that standards are assumed to become effective (2030). In this scenario, the market shares of equipment in the no-new-standards case that do not meet the standard under consideration would “roll up” to meet the new standard level, and the market share of equipment above the standard would remain unchanged.

To develop standards case efficiency trends after 2030, DOE assumed a constant efficiency trend, similar to the no-new standards case.

2. National Energy Savings

The national energy savings analysis involves a comparison of national energy consumption of the considered equipment between each potential standards case (“TSL”) and the case

with no new or amended energy conservation standards. DOE calculated the national energy consumption by multiplying the number of units (stock) of each equipment (by vintage or age) by the unit energy consumption (also by vintage). DOE calculated annual NES based on the difference in national energy consumption for the no-new standards case and for each higher efficiency standard case. DOE estimated energy consumption and savings based on site energy and converted the electricity consumption and savings to primary energy (*i.e.*, the energy consumed by power plants to generate site electricity) using annual conversion factors derived from *AEO2023*. Cumulative energy savings are the sum of the NES for each year over the timeframe of the analysis.

Use of higher-efficiency equipment is sometimes associated with a direct rebound effect, which refers to an increase in utilization of the equipment due to the increase in efficiency. For example, when a consumer realizes that a more efficient fan used for cooling will lower the electricity bill, that person may opt for increased comfort in the building by using the equipment more, thereby negating a portion of the energy savings. In commercial buildings, however, the person owning the equipment (*i.e.*, the building owner) is usually not the person operating the equipment (*i.e.*, the renter). Because the operator usually does not own the equipment, that person will not have the operating cost information necessary to influence how they operate the equipment. Therefore, DOE believes that a rebound effect is unlikely to occur in

commercial buildings. In the industrial and agricultural sectors, DOE believes that fans are likely to be operated whenever needed for the required application, so a rebound effect is also unlikely to occur in the industrial and agricultural sectors. Therefore, DOE did not apply a rebound effect for fans and blowers.

DOE requests comment and data regarding the potential increase in utilization of GFBs and ACFs due to any increase in efficiency.

In 2011, in response to the recommendations of a committee on “Point-of-Use and Full-Fuel-Cycle Measurement Approaches to Energy Efficiency Standards” appointed by the National Academy of Sciences, DOE announced its intention to use FFC measures of energy use and greenhouse gas and other emissions in the national impact analyses and emissions analyses included in future energy conservation standards rulemakings. 76 FR 51281 (Aug. 18, 2011). After evaluating the approaches discussed in the August 18, 2011 notice, DOE published a statement of amended policy in which DOE explained its determination that EIA’s National Energy Modeling System (“NEMS”) is the most appropriate tool for its FFC analysis and its intention to use NEMS for that purpose. 77 FR 49701 (Aug. 17, 2012). NEMS is a public domain, multi-sector, partial equilibrium model of the U.S. energy sector¹⁰⁶ that EIA uses to prepare its

¹⁰⁶ For more information on NEMS, refer to *The National Energy Modeling System: An Overview 2009*, DOE/EIA–0581(2009), October 2009.

Annual Energy Outlook. The FFC factors incorporate losses in production and delivery in the case of natural gas (including fugitive emissions) and additional energy used to produce and deliver the various fuels used by power plants. The approach used for deriving FFC measures of energy use and emissions is described in appendix 10B of the NOPR TSD.

3. Net Present Value Analysis

The inputs for determining the NPV of the total costs and benefits experienced by consumers are (1) total annual installed cost, (2) total annual operating costs (energy costs and repair and maintenance costs), and (3) a discount factor to calculate the present value of costs and savings. DOE calculates net savings each year as the difference between the no-new-standards case and each standards case in terms of total savings in operating costs versus total increases in installed costs. DOE calculates operating cost savings over the lifetime of each equipment shipped during the projection period.

As discussed in section IV.F.1 of this document, DOE developed price trends for GFBs and ACFs based on historical PPI data. DOE applied the same trends to project prices for each equipment class at each considered efficiency level.

For GFBs, DOE applied constant equipment price trends. For ACFs, DOE also applied a constant price trend except for ACFs at EL6 where a declining price trend was used. By 2059, which is the end date of the projection period, the average ACF price at EL6 is projected to drop 14 percent relative to 2022. DOE's projection of product prices is described in appendix 10C of the NOPR TSD.

To evaluate the effect of uncertainty regarding the price trend estimates, DOE investigated the impact of different product price projections on the consumer NPV for the considered TSLs for GFBs and ACFs. In addition to the default price trend, DOE considered two product price sensitivity cases: (1) a high price decline case based on historical PPI data and (2) a low price decline case based on the *AEO2023* "deflator—industrial equipment" forecast for GFBs and historical PPI data for ACFs. The derivation of these price trends and the results of these sensitivity cases are described in appendix 10C of the NOPR TSD.

The energy cost savings are calculated using the estimated energy savings in each year and the projected price of the

appropriate form of energy. To estimate energy prices in future years, DOE multiplied the average regional energy prices by the projection of annual national-average commercial and industrial energy price changes in the Reference case from *AEO2023*, which has an end year of 2050. To estimate price trends after 2050, the 2050 price was used for all years. As part of the NIA, DOE also analyzed scenarios that used inputs from variants of the *AEO2023* Reference case that have lower and higher economic growth. Those cases have lower and higher energy price trends compared to the Reference case. NIA results based on these cases are presented in appendix 10C of the NOPR TSD.

In addition, for ACFs, the NPV calculation also includes the total repair costs which are calculated based on the outputs from the life-cycle analysis.

In calculating the NPV, DOE multiplies the net savings in future years by a discount factor to determine their present value. For this NOPR, DOE estimated the NPV of consumer benefits using both a 3-percent and a 7-percent real discount rate. DOE uses these discount rates in accordance with guidance provided by the Office of Management and Budget ("OMB") to Federal agencies on the development of regulatory analysis.¹⁰⁷ The discount rates for the determination of NPV are in contrast to the discount rates used in the LCC analysis, which are designed to reflect a consumer's perspective. The 7-percent real value is an estimate of the average before-tax rate of return to private capital in the U.S. economy. The 3-percent real value represents the "social rate of time preference," which is the rate at which society discounts future consumption flows to their present value.

I. Consumer Subgroup Analysis

In analyzing the potential impact of new or amended energy conservation standards on consumers, DOE evaluates the impact on identifiable subgroups of consumers that may be disproportionately affected by a new or amended national standard. The purpose of a subgroup analysis is to determine the extent of any such disproportional impacts. DOE evaluates impacts on particular subgroups of consumers by analyzing the LCC impacts and PBP for those particular consumers from alternative standard levels. For this NOPR, DOE analyzed the

impacts of the considered standard levels on small businesses. DOE used the LCC and PBP spreadsheet model to estimate the impacts of the considered efficiency levels on these subgroups, and used inputs specific to that subgroup. Chapter 11 in the NOPR TSD describes the consumer subgroup analysis.

J. Manufacturer Impact Analysis

1. Overview

DOE performed an MIA to estimate the financial impacts of new energy conservation standards on manufacturers of fans and blowers and to estimate the potential impacts of such standards on employment and manufacturing capacity. The MIA has both quantitative and qualitative aspects and includes analyses of projected industry cash flows, the INPV, investments in research and development ("R&D") and manufacturing capital, and domestic manufacturing employment. Additionally, the MIA seeks to determine how new energy conservation standards might affect manufacturing employment, capacity, and competition, as well as how standards contribute to overall regulatory burden. Finally, the MIA serves to identify any disproportionate impacts on manufacturer subgroups, including small business manufacturers.

The quantitative part of the MIA primarily relies on the GRIM, an industry cash flow model with inputs specific to this rulemaking. The key GRIM inputs include data on the industry cost structure, unit production costs, equipment shipments, manufacturer markups, and investments in R&D and manufacturing capital required to produce compliant equipment. The key GRIM outputs are the INPV, which is the sum of industry annual cash flows over the analysis period, discounted using the industry-weighted average cost of capital, and the impact on domestic manufacturing employment. The model uses standard accounting principles to estimate the impacts of new energy conservation standards on a given industry by comparing changes in INPV and domestic manufacturing employment between a no-new-standards case and the various standards cases (*i.e.*, TSLs). To capture the uncertainty relating to manufacturer pricing strategies following new standards, the GRIM estimates a range of possible impacts under different markup scenarios.

The qualitative part of the MIA addresses manufacturer characteristics and market trends. Specifically, the MIA

¹⁰⁷ Office of Management and Budget. *Circular A-4: Regulatory Analysis*. September 17, 2003. Section E. Available at https://www.whitehouse.gov/wp-content/uploads/legacy_drupal_files/omb/circulars/A4/a-4.pdf.

considers such factors as a potential standard's impact on manufacturing capacity, competition within the industry, the cumulative impact of other DOE and non-DOE regulations, and impacts on manufacturer subgroups. The complete MIA is outlined in chapter 12 of the NOPR TSD.

DOE conducted the MIA for this rulemaking in three phases. In Phase 1 of the MIA, DOE prepared a profile of the fan and blower manufacturing industry based on the market and technology assessment, preliminary manufacturer interviews, and publicly available information. This included a top-down analysis of fan and blower manufacturers that DOE used to derive preliminary financial inputs for the GRIM (e.g., revenues; materials, labor, overhead, and depreciation expenses; selling, general, and administrative expenses ("SG&A"); and R&D expenses). DOE also used public sources of information to further calibrate its initial characterization of the fan and blower manufacturing industry, including company filings of form 10-K from the SEC,¹⁰⁸ corporate annual reports, the U.S. Census Bureau's *Economic Census*,¹⁰⁹ and reports from D&B Hoovers.¹¹⁰

In Phase 2 of the MIA, DOE prepared a framework industry cash flow analysis to quantify the potential impacts of new energy conservation standards. The GRIM uses several factors to determine a series of annual cash flows starting with the announcement of the standard and extending over a 30-year period following the compliance date of the standard. These factors include annual expected revenues, costs of sales, SG&A and R&D expenses, taxes, and capital expenditures. In general, energy conservation standards can affect manufacturer cash flow in three distinct ways: (1) creating a need for increased investment, (2) raising production costs per unit, and (3) altering revenue due to higher per-unit prices and changes in sales volumes.

In addition, during Phase 2, DOE developed interview guides to distribute to manufacturers of fans and blowers in order to develop other key GRIM inputs, including capital and product conversion costs, and to gather additional information on the anticipated effects of energy conservation standards on revenues, direct employment, capital assets, industry competitiveness, and subgroup impacts.

In Phase 3 of the MIA, DOE conducted structured, detailed interviews with representative manufacturers. During these interviews, DOE discussed engineering, manufacturing, procurement, and financial topics to validate assumptions used in the GRIM and to identify key issues or concerns. See section IV.J.3 of this document for a description of the key issues raised by manufacturers during the interviews. As part of Phase 3, DOE also evaluated subgroups of manufacturers that may be disproportionately impacted by new energy conservation standards or that may not be accurately represented by the average cost assumptions used to develop the industry cash flow analysis. Such manufacturer subgroups may include small business manufacturers, low-volume manufacturers ("LVMs"), niche players, and/or manufacturers exhibiting a cost structure that largely differs from the industry average. DOE identified one subgroup for a separate impact analysis: small business manufacturers. The small business subgroup is discussed in section VI.B, "Review under the Regulatory Flexibility Act" and in chapter 12 of the NOPR TSD.

2. Government Regulatory Impact Model and Key Inputs

DOE uses the GRIM to quantify the changes in cash flow due to new energy conservation standards that result in a higher or lower industry value. The GRIM uses a standard, annual discounted cash flow analysis that incorporates manufacturer costs, markups, shipments, and industry financial information as inputs. The GRIM models changes in costs, distribution of shipments, investments, and manufacturer margins that could result from new energy conservation standards. The GRIM spreadsheet uses the inputs to arrive at a series of annual cash flows, beginning in 2024 (the base year of the analysis) and continuing to 2059. DOE calculated INPVs by summing the stream of annual discounted cash flows during this period. For manufacturers of fans and blowers, DOE used a real discount rate of 11.4 percent, which was derived from industry financials and then modified according to feedback received during manufacturer interviews.

The GRIM calculates cash flows using standard accounting principles and compares changes in INPV between the no-new-standards case and each standards case. The difference in INPV between the no-new-standards case and a standards case represents the financial impact of the new energy conservation

standards on manufacturers. As discussed previously, DOE developed critical GRIM inputs using a number of sources, including publicly available data, results of the engineering analysis, and information gathered from industry stakeholders during the course of manufacturer interviews and subsequent Working Group meetings. The GRIM results are presented in section V.B.2. Additional details about the GRIM, the discount rate, and other financial parameters can be found in chapter 12 of the NOPR TSD.

a. Manufacturer Production Costs

Manufacturing more efficient equipment is typically more expensive than manufacturing baseline equipment due to the use of more complex components, which are typically more costly than baseline components. The changes in the MPCs of covered equipment can affect the revenues, gross margins, and cash flow of the industry.

For GFBs, DOE developed baseline MSP versus diameter curves and incremental costs for each design option for each equipment class. DOE used these correlations to estimate the MSP at each EL for each equipment class at all nominal impeller diameters. As such, each equipment class has multiple MSP versus FEI curves representing the range of impeller diameters that exist on the market. For ACFs, DOE developed curves for each representative unit. The methodology for developing the curves started with determining the efficiency for baseline equipment and the MPCs for this equipment. Above the baseline, DOE implemented design options until all available design options were employed (*i.e.*, at the max-tech level).

For a complete description of the MPCs, see chapter 5 of the NOPR TSD.

b. Shipments Projections

The GRIM estimates manufacturer revenues based on total unit shipment projections and the distribution of those shipments by efficiency level. Changes in sales volumes and efficiency mix over time can significantly affect manufacturer finances. For this analysis, the GRIM uses the NIA's annual shipment projections derived from the shipments analysis from 2024 (the base year) to 2059 (the end year of the analysis period). See chapter 9 of the NOPR TSD for additional details.

c. Product and Capital Conversion Costs

New energy conservation standards could cause manufacturers to incur conversion costs to bring their production facilities and equipment designs into compliance. DOE evaluated the level of conversion-related

¹⁰⁸ See www.sec.gov/edgar.

¹⁰⁹ See www.census.gov/programs-surveys/asm/data/tables.html.

¹¹⁰ See app.avenion.com.

expenditures that would be needed to comply with each considered efficiency level in each equipment class. For the MIA, DOE classified these conversion costs into two major groups: (1) product conversion costs; and (2) capital conversion costs. Product conversion costs are investments in research, development, testing, marketing, and other non-capitalized costs necessary to make equipment designs comply with new energy conservation standards. Capital conversion costs are investments in property, plant, and equipment necessary to adapt or change existing production facilities such that new compliant equipment designs can be fabricated and assembled.

In response to the October 2022 NODA, AMCA commented that DOE should conduct interviews with individual manufacturers to gather information regarding potential conversion costs for fan and blower manufacturers. (AMCA, No. 132 at p. 12) DOE conducted manufacturer interviews with several interested parties, including several fan and blower manufacturers, after the publication of the October 2022 NODA and prior to conducting this NOPR analysis. The results and methodology for estimating conversion costs are described in this section.

DOE used a bottom-up cost estimate to arrive at a total product conversion cost at each EL for all equipment classes. DOE first estimated the number of unique basic models for each equipment class and at each EL using the AMCA sales database for GFBs and the updated ACF database for ACFs. Next, DOE estimated the percentage of models that would not meet each analyzed EL based on information from the appropriate database. DOE also estimated the percentage of failing models that are assumed to be redesigned at each analyzed EL. DOE then estimated the amount of engineering time needed to redesign and test a single non-compliant basic model into a compliant model and the time necessary to conduct additional air, sound, and certification testing once the model is redesigned. DOE used data from the U.S. Bureau of Labor Statistics¹¹¹ ("BLS") to estimate the total hourly employer compensation to conduct the redesign and to conduct testing. DOE based the number of hours associated with a per model redesign and per model testing estimates on information received during manufacturer interviews. DOE estimated that longer per model redesign

engineering hours would be required to achieve higher ELs, since more engineering resources would be required to achieve higher ELs. However, DOE assumed the same per model testing cost for all ELs, since DOE did not assume the testing cost will increase at higher ELs. Lastly, DOE multiplied the per model redesign (for each EL) and per model testing costs by the number models that are estimated to be redesigned at each EL.

DOE estimated the capital conversion costs based on information received during manufacturer interviews. During manufacturer interviews, manufacturers provided estimates on the percentage of total conversion costs that would be associated with the purchasing on equipment and machinery (capital conversion costs) and the percentage of total conversion costs that would be associated with engineering resources to conduct redesigns and testing (product conversion costs). In addition to assuming increased product costs at higher ELs, DOE also assumed that the ratio of product conversion costs to capital conversion costs would decrease at higher ELs (*i.e.*, higher ELs are expected to have higher capital conversion costs since manufacturers would be expected to increase investments in new tooling and potentially different production processes). In sum, DOE used these percentage estimates provided during manufacturer interviews and the product conversion cost estimates previously described to estimate the total capital conversion costs for each equipment class at each analyzed EL.

CA IOUs stated that some ACF manufacturers purchase the impellers that they use rather than design and manufacture them in-house. Therefore, CA IOUs stated purchasing more efficient impeller designs may be possible without significant design and capital costs. (CA IOUs, No. 127 at p.3) DOE conducted manufacturer interviews with a variety of ACF manufacturers. The cost estimates included in this analysis assume that ACF manufacturers produce their impellers in-house. While some ACF manufacturers might purchase impellers from another company, whatever company that is manufacturing the more efficient impellers is will incur additional product and capital conversion costs and those costs will likely be passed on to their customers. Section IV.J.2.d discusses how an increase in product and capital conversion costs (regardless of if an impeller manufacturer or an ACF manufacturer incurs them) could result in an increased ACF MSP that is

incorporated into all down-stream and consumer analyses.

In general, DOE assumes all conversion-related investments occur between the year of publication of the final rule and the year by which manufacturers must comply with the new standard. The conversion cost figures used in the GRIM can be found in section V.B.2 of this document. For additional information on the estimated capital and product conversion costs, see chapter 12 of the NOPR TSD.

d. Markup Scenarios

MSPs include direct manufacturing production costs (*i.e.*, labor, materials, and overhead estimated in DOE's MPCs) and all non-production costs (*i.e.*, SG&A, R&D, and interest), along with profit. To calculate the MSPs in the GRIM, DOE applied non-production cost markups to the MPCs estimated in the engineering analysis for ACFs at each equipment class and efficiency level. For GFBs, the engineering analysis estimated the MSPs. Therefore, the MIA did not calculate the MSPs for GFBs using the MPCs. Instead, the MIA estimated the MPC by dividing the MSPs, which were estimated in the engineering analysis, by a manufacturer markup. For GFBs, DOE estimated a manufacturer markup of 1.35 for all equipment classes in the no-new-standards case. This corresponds to a manufacturer gross margin percentage of approximately 25.9 percent. For ACFs, DOE estimated a manufacturer markup of 1.50 for all equipment classes in the no-new-standards case. This corresponds to a manufacturer gross margin percentage of approximately 33.3 percent. DOE estimated these manufacturers markups based on information obtained during manufacturer interviews. Modifying these manufacturer markups in the standards case yields different sets of impacts on manufacturers. For the MIA, DOE modeled two standards-case markup scenarios to represent uncertainty regarding the potential impacts on prices and profitability for manufacturers following the implementation of new energy conservation standards: (1) a conversion cost recovery markup scenario; and (2) a preservation of operating profit markup scenario. These scenarios lead to different manufacturer markup values that, when applied to the MPCs, result in varying revenue and cash flow impacts.

Under the conversion cost recovery markup scenario, DOE modeled a scenario in which manufacturers increase their markups in response to new energy conservation standards. For

¹¹¹ See www.bls.gov/oes/current/oes_stru.htm and www.bls.gov/bls/news-release/eccec.htm#current.

ELs that DOE's engineering analysis assumed would require an aerodynamic redesign, the engineering analysis assumed there is no increase in the MPCs (for the ELs that are assumed would require an aerodynamic redesign). However, DOE did assume that fan and blower manufacturers will incur conversion costs to redesign non-compliant models. Therefore, DOE modeled a manufacturer markup scenario in which fan and blower manufacturers attempt to recover the investments they must make to conduct these aerodynamic redesigns through an increase in their manufacturer markup. Therefore, in the standards cases, the manufacturer markup of models that would need to be re-designed is larger than the manufacturer markup used in the no-new-standards case. DOE calibrated these manufacturer markups, in the standards case conversion cost recovery scenario, for each equipment class at each EL to cause the manufacturer INPV in the standards cases to be approximately equal to the manufacturer INPV in the no-new-standards case. In this markup scenario, manufacturers earn additional revenue in the standards cases after the compliance date that offsets the conversion costs that were incurred prior to the compliance date. This represents the upper-bound of manufacturer profitability, as in this manufacturer markup scenario as measured by INPV, fan and blower manufacturers are able to fully recover their conversion costs by the end of the 30-year analysis period.

Under the preservation of operating profit markup scenario, DOE modeled a markup scenario where manufacturers are not able to increase their per-unit operating profit in proportion to increases in MPCs. Under this scenario, as the MPCs increase, manufacturers reduce their markups (on a percentage basis) to a level that maintains the no-new-standards operating profit (in absolute dollars). The implicit assumption behind this manufacturer markup scenario is that the industry can only maintain its operating profit in absolute dollars after compliance with new standards. Therefore, the percentage of the operating margin is reduced between the no-new-standards case and the analyzed standards cases. DOE adjusted the manufacturer markups in the GRIM at each TSL to yield approximately the same earnings before interest and taxes in the standards case as in the no-new-standards case. This manufacturer markup scenario represents the lower

bound to industry profitability under new energy conservation standards.

A comparison of industry financial impacts under the two manufacturer markup scenarios is presented in section V.B.2.a of this document.

3. Manufacturer Interviews

DOE interviewed a variety of fan and blower manufacturers prior to conducting this NOPR analysis. During these interviews, DOE asked manufacturers to describe their major concerns regarding this rulemaking. The following section highlights manufacturer concerns that helped inform the projected potential impacts of a new standard on the industry. Manufacturer interviews are conducted under non-disclosure agreements ("NDAs"), so DOE does not document these discussions in the same way that it does public comments in the comment summaries and DOE's responses throughout the rest of this document.

Embedded Fans

Several fan and blower manufacturers stated that they are concerned that including fans and blowers that are embedded in other products or equipment already regulated by DOE creates redundant regulations. Additionally, manufacturers stated that the electricity used by the fan or blower in these systems is a relatively insignificant portion of the energy consumed by the entire system. Lastly, manufacturers stated that increasing the efficiency of a fan or blower used in a product or equipment already regulated by DOE could limit the effectiveness of a future energy conservation standard on the performance of those products or equipment covered by DOE.

DOE is proposing to exclude fans and blowers that are embedded in specific types of equipment. Table III-1 lists the embedded fans and blowers that are excluded from the scope of this energy conservation standards rulemaking.

Testing Costs and Burden

Several fan and blower manufacturers stated that a concern that compliance with energy conservation standards would require fan and blower manufacturers to test all covered fans and blowers. Manufacturers specifically are concerned that the legacy testing data that they have already conducted for the AMCA certification testing program would need to be re-tested to demonstrate compliance with a DOE energy conservation standard. As stated in the May 2023 TP Final Rule, DOE understands that manufacturers of fans and blowers likely have historical test

data which were developed with methods consistent with the DOE test procedure adopted in the May 2023 Final Rule, and does not expect manufacturers to regenerate all of the historical test data unless the rating resulting from the historical methods would no longer be valid. 88 FR 27312, 27378.

Additionally, manufacturers were concerned that requiring a test sample of two fans or blowers would be overly burdensome for manufacturers to comply with an energy conservation standard. As stated in the May 2023 TP Final Rule "DOE believe it is appropriate to allow a minimum of one unit for fans and blowers other than air circulating fans" to be tested to comply with any DOE energy conservation standard. 88 FR 27312, 27378.

Lastly, some manufacturers were concerned that if DOE did not allow the use of an alternative energy determination method ("AEDM") to determine fan performance, manufacturers would have to physically test all covered fans and blowers. Manufacturers stated that physically testing every fan and blower would place a larger and costly testing burden on manufacturers. As stated in the May 2023 TP Final Rule, "DOE allows the use of an AEDM in lieu of testing to determine fan performance, which would mitigate the potential cost associated with having to physically test units." 88 FR 27312, 27372.

4. Discussion of MIA Comments

AHRI stated that for end-use products (*i.e.*, a product or equipment that has a fan or blower embedded in it) testing must take place following internal component swaps or cabinet redesigns. This testing could include seismic and wind load testing for HVAC equipment installed exterior to the building; electric heat, safety, refrigerant, and sound testing for heating equipment; and transportation, vibration, and sound testing for most end-use products. AHRI stated that testing lab availability is limited at this time, given the wide-ranging changes in refrigerant and safety standards requirements, and standards that result in a redesign to accommodate a new fan will impact virtually every model of HVACR product on the market. (AHRI, No. 130 at pp. 5-6) DOE acknowledges that end-use products may have to be re-test if the current fan that they use does not meet the adopted energy conservation standards. However, DOE's engineering analysis primarily examined replacement fans and blowers with the same diameter and would not require a cabinet redesign for an end-use product.

AHRI stated that there is a significant monetary impact for OEMs for a fan swap, as a significant amount of re-testing and potential re-certification would need to be conducted for a fan swap, even if the size of the cabinet does not change. AHRI stated that based on a review of their AHRI Certification Program they identified approximately 6,000 basic models that have a covered fan embedded in these end-use products. AHRI continued by stating they estimate it would cost approximately \$300,000 for each end-use product basic model that would be required to incorporate a new fan if the existing fan used in their end-use product does not comply with DOE's energy conservation standards for that fan. (AHRI, No. 130 at p. 6–7) DOE acknowledges that OEMs may incur re-testing and re-certification costs if the fan used in their equipment does not meet the adopted energy conservation standard for fans. The MIA for this rulemaking specifically examines the conversion costs that fan and blower manufacturers would incur due to the analyzed energy conservation standards for fans and blowers in comparison to the revenue and free cash fan and blower manufacturers receive. The OEM testing and certification costs were not included in the MIA, and neither were the OEM revenues and free cash flows, as these costs and revenue are not specific to fan and blower manufacturers.

MIAQ also stated that redesign of the end-use product to accommodate a new fan will result in retesting and possible recertification and model number changes for end-use products, which will be a massive, costly, and time-consuming undertaking (and could even cause a disruption in the market) as there would be changes to electrical, physical, or functional characteristics of the end-use product that affect energy consumption/efficiency. (MIAQ, No. 124 at pp. 2–3) DOE is proposing to exclude fans that are embedded in commercial HVAC equipment that is already covered by DOE energy conservation standards as well as a variety of other products. The full list of embedded fans proposed for exclusion from the scope of this energy conservation standards rulemaking can be found in Table III–1.

DOE requests comment on the number of end-use product (*i.e.*, a product or equipment that has a fan or blower embedded in it) basic models that would not be excluded by the list of products or equipment listed in Table III–1.

MIAQ and AHRI stated that it was not realistic to expect manufacturers to

comply with any energy conservation standards within 180 days. (MIAQ, No. 124 at p. 2–3; AHRI, No. 130 at p. 5) DOE notes that the May 2023 TP Final Rule stated that beginning 180 days after the publication of the May 2023 TP Final Rule, any representations made with respect to energy use or efficiency of fans or blowers must be made based on testing in accordance with the May 2023 TP Final Rule. Neither the May 2023 TP Final Rule nor this NOPR requires that fan and blower manufacturers meet a minimum energy conservation standard 180 days after the publication of the May 2023 TP Final Rule. Compliance with any energy conservation standards would not be required until 5 years after publication of the energy conservation standard final rule.

AHRI expressed concern about unfair advantage given to imported HVAC products that may not need to comply with components regulations. AHRI stated that imported HVAC products with embedded fans are excluded from the fan and blower energy conservation standard, but fans assembled into similar equipment manufactured domestically would be subject to DOE energy conservation standards (AHRI, No. 130, at p. 4) DOE is proposing to require fans and blowers that are imported in HVAC products to comply with the energy conservation standards established in this rulemaking as long as those products or equipment are not listed in Table III–1. This is the same requirement that applies to fans and blowers that are assembled into the same equipment manufactured domestically.

K. Emissions Analysis

The emissions analysis consists of two components. The first component estimates the effect of potential energy conservation standards on power sector and site (where applicable) combustion emissions of CO₂, NO_x, SO₂, and Hg. The second component estimates the impacts of potential standards on emissions of two additional greenhouse gases, CH₄ and N₂O, as well as the reductions to emissions of other gases due to “upstream” activities in the fuel production chain. These upstream activities comprise extracting, processing, and transporting fuels to the site of combustion.

The analysis of electric power sector emissions of CO₂, NO_x, SO₂, and Hg uses emissions factors intended to represent the marginal impacts of the change in electricity consumption associated with amended or new standards. The methodology is based on results published for the *AEO*, including

a set of side cases that implement a variety of efficiency-related policies. The methodology is described in appendix 13A of the NOPR TSD. The analysis presented in this notice uses projections from *AEO2023*. Power sector emissions of CH₄ and N₂O from fuel combustion are estimated using Emission Factors for Greenhouse Gas Inventories published by the Environmental Protection Agency (EPA).¹¹²

FFC upstream emissions, which include emissions from fuel combustion during extraction, processing, and transportation of fuels, and “fugitive” emissions (direct leakage to the atmosphere) of CH₄ and CO₂, are estimated based on the methodology described in chapter 15 of the NOPR TSD.

The emissions intensity factors are expressed in terms of physical units per MWh or MMBtu of site energy savings. For power sector emissions, specific emissions intensity factors are calculated by sector and end use. Total emissions reductions are estimated using the energy savings calculated in the national impact analysis.

1. Air Quality Regulations Incorporated in DOE's Analysis

DOE's no-new-standards case for the electric power sector reflects the *AEO*, which incorporates the projected impacts of existing air quality regulations on emissions. *AEO2023* generally represents current legislation and environmental regulations, including recent government actions, that were in place at the time of preparation of *AEO2023*, including the emissions control programs discussed in the following paragraphs.¹¹³

SO₂ emissions from affected electric generating units (“EGUs”) are subject to nationwide and regional emissions cap-and-trade programs. Title IV of the Clean Air Act sets an annual emissions cap on SO₂ for affected EGUs in the 48 contiguous States and the District of Columbia (DC). (42 U.S.C. 7651 *et seq.*) SO₂ emissions from numerous States in the eastern half of the United States are also limited under the Cross-State Air Pollution Rule (“CSAPR”). 76 FR 48208 (Aug. 8, 2011). CSAPR requires these States to reduce certain emissions, including annual SO₂ emissions, and

¹¹² Available at: www.epa.gov/sites/production/files/2021-04/documents/emission-factors_apr2021.pdf (last accessed July 12, 2021).

¹¹³ For further information, see the Assumptions to *AEO2023* report that sets forth the major assumptions used to generate the projections in the Annual Energy Outlook. Available at: www.eia.gov/outlooks/aeo/assumptions/ (last accessed February 6, 2023).

went into effect as of January 1, 2015.¹¹⁴ *AEO2023* incorporates implementation of CSAPR, including the update to the CSAPR ozone season program emission budgets and target dates issued in 2016. 81 FR 74504 (Oct. 26, 2016). Compliance with CSAPR is flexible among EGUs and is enforced through the use of tradable emissions allowances. Under existing EPA regulations, any excess SO₂ emissions allowances resulting from the lower electricity demand caused by the adoption of an efficiency standard could be used to permit offsetting increases in SO₂ emissions by another regulated EGU.

However, beginning in 2016, SO₂ emissions began to fall as a result of the Mercury and Air Toxics Standards (“MATS”) for power plants. 77 FR 9304 (Feb. 16, 2012). In the MATS final rule, EPA established a standard for hydrogen chloride as a surrogate for acid gas hazardous air pollutants (“HAP”), and also established a standard for SO₂ (a non-HAP acid gas) as an alternative equivalent surrogate standard for acid gas HAP. The same controls are used to reduce HAP and non-HAP acid gas; thus, SO₂ emissions are being reduced as a result of the control technologies installed on coal-fired power plants to comply with the MATS requirements for acid gas. In order to continue operating, coal power plants must have either flue gas desulfurization or dry sorbent injection systems installed. Both technologies, which are used to reduce acid gas emissions, also reduce SO₂ emissions. Because of the emissions reductions under the MATS, it is unlikely that excess SO₂ emissions allowances resulting from the lower electricity demand would be needed or used to permit offsetting increases in SO₂ emissions by another regulated EGU. Therefore, energy conservation standards that decrease electricity generation would generally reduce SO₂ emissions. DOE estimated SO₂ emissions reduction using emissions factors based on *AEO2023*.

CSAPR also established limits on NO_x emissions for numerous States in the

eastern half of the United States. Energy conservation standards would have little effect on NO_x emissions in those States covered by CSAPR emissions limits if excess NO_x emissions allowances resulting from the lower electricity demand could be used to permit offsetting increases in NO_x emissions from other EGUs. In such case, NO_x emissions would remain near the limit even if electricity generation goes down. A different case could possibly result, depending on the configuration of the power sector in the different regions and the need for allowances, such that NO_x emissions might not remain at the limit in the case of lower electricity demand. In this case, energy conservation standards might reduce NO_x emissions in covered States. Despite this possibility, DOE has chosen to be conservative in its analysis and has maintained the assumption that standards will not reduce NO_x emissions in States covered by CSAPR. Energy conservation standards would be expected to reduce NO_x emissions in the States not covered by CSAPR. DOE used *AEO2023* data to derive NO_x emissions factors for the group of States not covered by CSAPR.

The MATS limit mercury emissions from power plants, but they do not include emissions caps and, as such, DOE’s energy conservation standards would be expected to slightly reduce Hg emissions. DOE estimated mercury emissions reduction using emissions factors based on *AEO2023*, which incorporates the MATS.

L. Monetizing Emissions Impacts

As part of the development of this proposed rule, for the purpose of complying with the requirements of Executive Order 12866, DOE considered the estimated monetary benefits from the reduced emissions of CO₂, CH₄, N₂O, NO_x, and SO₂ that are expected to result from each of the TSLs considered. In order to make this calculation analogous to the calculation of the NPV of consumer benefit, DOE considered the reduced emissions expected to result over the lifetime of products shipped in the projection period for each TSL. This section summarizes the basis for the values used for monetizing the emissions benefits and presents the values considered in this NOPR.

To monetize the benefits of reducing GHG emissions, this analysis uses the interim estimates presented in the *Technical Support Document: Social Cost of Carbon, Methane, and Nitrous Oxide Interim Estimates Under Executive Order 13990* published in February 2021 by the IWG.

1. Monetization of Greenhouse Gas Emissions

DOE estimates the monetized benefits of the reductions in emissions of CO₂, CH₄, and N₂O by using a measure of the SC of each pollutant (e.g., SC–CO₂). These estimates represent the monetary value of the net harm to society associated with a marginal increase in emissions of these pollutants in a given year, or the benefit of avoiding that increase. These estimates are intended to include (but are not limited to) climate-change-related changes in net agricultural productivity, human health, property damages from increased flood risk, disruption of energy systems, risk of conflict, environmental migration, and the value of ecosystem services.

DOE exercises its own judgment in presenting monetized climate benefits as recommended by applicable Executive orders, and DOE would reach the same conclusion presented in this proposed rulemaking in the absence of the social cost of greenhouse gases. That is, the social costs of greenhouse gases, whether measured using the February 2021 interim estimates presented by the Interagency Working Group on the Social Cost of Greenhouse Gases or by another means, did not affect the rule ultimately proposed by DOE.

DOE estimated the global social benefits of CO₂, CH₄, and N₂O reductions using SC–GHG values that were based on the interim values presented in the *Technical Support Document: Social Cost of Carbon, Methane, and Nitrous Oxide Interim Estimates under Executive Order 13990*, published in February 2021 by the IWG. The SC–GHGs is the monetary value of the net harm to society associated with a marginal increase in emissions in a given year, or the benefit of avoiding that increase. In principle, SC–GHGs includes the value of all climate change impacts, including (but not limited to) changes in net agricultural productivity, human health effects, property damage from increased flood risk and natural disasters, disruption of energy systems, risk of conflict, environmental migration, and the value of ecosystem services. The SC–GHGs therefore reflects the societal value of reducing emissions of the gas in question by one metric ton. The SC–GHGs is the theoretically appropriate value to use in conducting benefit-cost analyses of policies that affect CO₂, N₂O and CH₄ emissions. As a member of the IWG involved in the development of the February 2021 SC–GHG TSD, DOE agrees that the interim SC–GHG estimates represent the most appropriate estimate of the SC–GHG until revised

¹¹⁴ CSAPR requires States to address annual emissions of SO₂ and NO_x, precursors to the formation of fine particulate matter (PM_{2.5}) pollution, in order to address the interstate transport of pollution with respect to the 1997 and 2006 PM_{2.5} National Ambient Air Quality Standards (“NAAQS”). CSAPR also requires certain States to address the ozone season (May–September) emissions of NO_x, a precursor to the formation of ozone pollution, in order to address the interstate transport of ozone pollution with respect to the 1997 ozone NAAQS. 76 FR 48208 (Aug. 8, 2011). EPA subsequently issued a supplemental rule that included an additional five States in the CSAPR ozone season program; 76 FR 80760 (Dec. 27, 2011) (Supplemental Rule).

estimates have been developed reflecting the latest, peer-reviewed science.

The SC–GHGs estimates presented here were developed over many years, using transparent process, peer-reviewed methodologies, the best science available at the time of that process, and with input from the public. Specifically, in 2009, the IWG, which included the DOE and other executive branch agencies and offices, was established to ensure that agencies were using the best available science and to promote consistency in the social cost of carbon (SC–CO₂) values used across agencies. The IWG published SC–CO₂ estimates in 2010 that were developed from an ensemble of three widely cited integrated assessment models (IAMs) that estimate global climate damages using highly aggregated representations of climate processes and the global economy combined into a single modeling framework. The three IAMs were run using a common set of input assumptions in each model for future population, economic, and CO₂ emissions growth, as well as equilibrium climate sensitivity—a measure of the globally averaged temperature response to increased atmospheric CO₂ concentrations. These estimates were updated in 2013 based on new versions of each IAM. In August 2016, the IWG published estimates of the social cost of methane (SC–CH₄) and nitrous oxide (SC–N₂O) using methodologies that are consistent with the methodology underlying the SC–CO₂ estimates. The modeling approach that extends the IWG SC–CO₂ methodology to non-CO₂ GHGs has undergone multiple stages of peer review. The SC–CH₄ and SC–N₂O estimates were developed by Marten *et al.*¹¹⁵ and underwent a standard double-blind peer review process prior to journal publication. In 2015, as part of the response to public comments received to a 2013 solicitation for comments on the SC–CO₂ estimates, the IWG announced a National Academies of Sciences, Engineering, and Medicine review of the SC–CO₂ estimates to offer advice on how to approach future updates to ensure that the estimates continue to reflect the best available science and methodologies. In January 2017, the National Academies released their final report, *Valuing Climate Damages: Updating Estimation of the Social Cost of Carbon Dioxide*, and

recommended specific criteria for future updates to the SC–CO₂ estimates, a modeling framework to satisfy the specified criteria, and both near-term updates and longer-term research needs pertaining to various components of the estimation process (National Academies, 2017).¹¹⁶ Shortly thereafter, in March 2017, President Trump issued Executive Order 13783, which disbanded the IWG, withdrew the previous TSDs, and directed agencies to ensure SC–CO₂ estimates used in regulatory analyses are consistent with the guidance contained in OMB’s Circular A–4, “including with respect to the consideration of domestic versus international impacts and the consideration of appropriate discount rates” (E.O. 13783, Section 5(c)). Benefit-cost analyses following E.O. 13783 used SC–GHG estimates that attempted to focus on the U.S.-specific share of climate change damages as estimated by the models and were calculated using two discount rates recommended by Circular A–4, 3 percent and 7 percent. All other methodological decisions and model versions used in SC–GHG calculations remained the same as those used by the IWG in 2010 and 2013, respectively.

On January 20, 2021, President Biden issued Executive Order 13990, which re-established the IWG and directed it to ensure that the U.S. Government’s estimates of the social cost of carbon and other greenhouse gases reflect the best available science and the recommendations of the National Academies (2017). The IWG was tasked with first reviewing the SC–GHG estimates currently used in Federal analyses and publishing interim estimates within 30 days of the E.O. that reflect the full impact of GHG emissions, including by taking global damages into account. The interim SC–GHG estimates published in February 2021 are used here to estimate the climate benefits for this proposed rulemaking. The E.O. instructs the IWG to update the interim SC–GHG estimates by January 2022 taking into consideration the advice of the National Academies of Science, Engineering, and Medicine as reported in *Valuing Climate Damages: Updating Estimation of the Social Cost of Carbon Dioxide* (2017) and other recent scientific literature. The February 2021 SC–GHG TSD provides a complete discussion of the IWG’s initial review conducted under

E.O. 13990. In particular, the IWG found that the SC–GHG estimates used under E.O. 13783 fail to reflect the full impact of GHG emissions in multiple ways.

First, the IWG found that the SC–GHG estimates used under E.O. 13783 fail to fully capture many climate impacts that affect the welfare of U.S. citizens and residents, and those impacts are better reflected by global measures of the SC–GHG. Examples of omitted effects from the E.O. 13783 estimates include direct effects on U.S. citizens, assets, and investments located abroad; supply chains, U.S. military assets and interests abroad, and tourism; and spillover pathways such as economic and political destabilization and global migration that can lead to adverse impacts on U.S. national security, public health, and humanitarian concerns. In addition, assessing the benefits of U.S. GHG mitigation activities requires consideration of how those actions may affect mitigation activities by other countries, as those international mitigation actions will provide a benefit to U.S. citizens and residents by mitigating climate impacts that affect U.S. citizens and residents. A wide range of scientific and economic experts have emphasized the issue of reciprocity as support for considering global damages of GHG emissions. If the United States does not consider impacts on other countries, it is difficult to convince other countries to consider the impacts of their emissions on the United States. The only way to achieve an efficient allocation of resources for emissions reduction on a global basis—and so benefit the United States and its citizens—is for all countries to base their policies on global estimates of damages. As a member of the IWG involved in the development of the February 2021 SC–GHG TSD, DOE agrees with this assessment and, therefore, in this proposed rule DOE centers attention on a global measure of SC–GHG. This approach is the same as that taken in DOE regulatory analyses from 2012 through 2016. A robust estimate of climate damages that accrue only to U.S. citizens and residents does not currently exist in the literature. As explained in the February 2021 TSD, existing estimates are both incomplete and an underestimate of total damages that accrue to the citizens and residents of the U.S. because they do not fully capture the regional interactions and spillovers discussed above, nor do they include all of the important physical, ecological, and economic impacts of climate change recognized in the climate change literature. As noted in the February 2021 SC–GHG TSD, the

¹¹⁵ Marten, A.L., E.A. Kopits, C.W. Griffiths, S.C. Newbold, and A. Wolverton. Incremental CH₄ and N₂O mitigation benefits consistent with the US Government’s SC–CO₂ estimates. *Climate Policy*. 2015. 15(2): pp. 272–298.

¹¹⁶ National Academies of Sciences, Engineering, and Medicine. *Valuing Climate Damages: Updating Estimation of the Social Cost of Carbon Dioxide*. 2017. The National Academies Press: Washington, DC.

IWG will continue to review developments in the literature, including more robust methodologies for estimating a U.S.-specific SC–GHG value, and explore ways to better inform the public of the full range of carbon impacts. As a member of the IWG, DOE will continue to follow developments in the literature pertaining to this issue.

Second, the IWG found that the use of the social rate of return on capital (7 percent under current OMB Circular A–4 guidance) to discount the future benefits of reducing GHG emissions inappropriately underestimates the impacts of climate change for the purposes of estimating the SC–GHG. Consistent with the findings of the National Academies (2017) and the economic literature, the IWG continued to conclude that the consumption rate of interest is the theoretically appropriate discount rate in an intergenerational context¹¹⁷ and recommended that discount rate uncertainty and relevant aspects of intergenerational ethical considerations be accounted for in selecting future discount rates.

Furthermore, the damage estimates developed for use in the SC–GHG are estimated in consumption-equivalent terms, and so an application of OMB Circular A–4’s guidance for regulatory analysis would then use the consumption discount rate to calculate the SC–GHG. DOE agrees with this assessment and will continue to follow developments in the literature pertaining to this issue. DOE also notes that while OMB Circular A–4, as published in 2003, recommends using 3 percent and 7 percent discount rates as

“default” values, Circular A–4 also reminds agencies that “different regulations may call for different emphases in the analysis, depending on the nature and complexity of the regulatory issues and the sensitivity of the benefit and cost estimates to the key assumptions.” On discounting, Circular A–4 recognizes that “special ethical considerations arise when comparing benefits and costs across generations,” and Circular A–4 acknowledges that analyses may appropriately “discount future costs and consumption benefits . . . at a lower rate than for intragenerational analysis.” In the 2015 Response to Comments on the Social Cost of Carbon for Regulatory Impact Analysis, OMB, DOE, and the other IWG members recognized that “Circular A–4 is a living document” and “the use of 7 percent is not considered appropriate for intergenerational discounting. There is wide support for this view in the academic literature, and it is recognized in Circular A–4 itself.” Thus, DOE concludes that a 7% discount rate is not appropriate to apply to value the social cost of greenhouse gases in the analysis presented in this analysis.

To calculate the present and annualized values of climate benefits, DOE uses the same discount rate as the rate used to discount the value of damages from future GHG emissions, for internal consistency. That approach to discounting follows the same approach that the February 2021 SC–GHG TSD recommends “to ensure internal consistency—i.e., future damages from climate change using the SC–GHG at 2.5 percent should be discounted to the base year of the analysis using the same 2.5 percent rate.” DOE has also consulted the National Academies’ 2017 recommendations on how SC–GHG estimates can “be combined in RIAs with other cost and benefits estimates that may use different discount rates.” The National Academies reviewed several options, including “presenting all discount rate combinations of other costs and benefits with [SC–GHG] estimates.” As a member of the IWG involved in the development of the February 2021 SC–GHG TSD, DOE agrees with the above assessment and will continue to follow developments in the literature pertaining to this issue. While the IWG works to assess how best to incorporate the latest, peer-reviewed science to develop an updated set of SC–GHG estimates, it set the interim estimates to be the most recent estimates developed by the IWG prior to the group being disbanded in 2017. The estimates rely on the same models and harmonized inputs and are calculated

using a range of discount rates. As explained in the February 2021 SC–GHG TSD, the IWG has recommended that agencies revert to the same set of four values drawn from the SC–GHG distributions based on three discount rates as were used in regulatory analyses between 2010 and 2016 and were subject to public comment. For each discount rate, the IWG combined the distributions across models and socioeconomic emissions scenarios (applying equal weight to each) and then selected a set of four values recommended for use in benefit-cost analyses: an average value resulting from the model runs for each of three discount rates (2.5 percent, 3 percent, and 5 percent), plus a fourth value, selected as the 95th percentile of estimates based on a 3 percent discount rate. The fourth value was included to provide information on potentially higher-than-expected economic impacts from climate change. As explained in the February 2021 SC–GHG TSD, and DOE agrees, this update reflects the immediate need to have an operational SC–GHG for use in regulatory benefit-cost analyses and other applications that is developed using a transparent process, peer-reviewed methodologies, and the science available at the time of that process. Those estimates were subject to public comment in the context of dozens of proposed rulemakings as well as in a dedicated public comment period in 2013.

There are a number of limitations and uncertainties associated with the SC–GHG estimates. First, the current scientific and economic understanding of discounting approaches suggests discount rates appropriate for intergenerational analysis in the context of climate change are likely to be less than 3 percent, near 2 percent or lower.¹¹⁸ Second, the IAMs used to produce these interim estimates do not include all of the important physical, ecological, and economic impacts of climate change recognized in the climate change literature and the science underlying their “damage functions” (i.e., the core parts of the IAMs that map global mean temperature changes and other physical impacts of climate change into economic (both market and nonmarket) damages) lags behind the most recent research. For

¹¹⁷ Interagency Working Group on Social Cost of Carbon. *Social Cost of Carbon for Regulatory Impact Analysis under Executive Order 12866*. 2010. United States Government. Available at: www.epa.gov/sites/default/files/2016-12/documents/sc_csd_2010.pdf (last accessed April 15, 2022); Interagency Working Group on Social Cost of Carbon. *Technical Update of the Social Cost of Carbon for Regulatory Impact Analysis Under Executive Order 12866*. 2013. Available at: www.federalregister.gov/documents/2013/11/26/2013-28242/technical-support-document-technical-update-of-the-social-cost-of-carbon-for-regulatory-impact (last accessed April 15, 2022); Interagency Working Group on Social Cost of Greenhouse Gases, United States Government. *Technical Support Document: Technical Update on the Social Cost of Carbon for Regulatory Impact Analysis Under Executive Order 12866*. August 2016. Available at: www.epa.gov/sites/default/files/2016-12/documents/sc_co2_tsd_august_2016.pdf (last accessed January 18, 2022); Interagency Working Group on Social Cost of Greenhouse Gases, United States Government. *Addendum to Technical Support Document on Social Cost of Carbon for Regulatory Impact Analysis under Executive Order 12866: Application of the Methodology to Estimate the Social Cost of Methane and the Social Cost of Nitrous Oxide*. August 2016. Available at: www.epa.gov/sites/default/files/2016-12/documents/addendum_to_sc-ghg_tsd_august_2016.pdf (last accessed January 18, 2022).

¹¹⁸ Interagency Working Group on Social Cost of Greenhouse Gases (IWG). 2021. *Technical Support Document: Social Cost of Carbon, Methane, and Nitrous Oxide Interim Estimates under Executive Order 13990*. February. United States Government. Available at: www.whitehouse.gov/briefing-room/blog/2021/02/26/a-return-to-science-evidence-based-estimates-of-the-benefits-of-reducing-climate-pollution/.

example, limitations include the incomplete treatment of catastrophic and non-catastrophic impacts in the integrated assessment models, their incomplete treatment of adaptation and technological change, the incomplete way in which inter-regional and intersectoral linkages are modeled, uncertainty in the extrapolation of damages to high temperatures, and inadequate representation of the relationship between the discount rate and uncertainty in economic growth over long-time horizons. Likewise, the socioeconomic and emissions scenarios used as inputs to the models do not reflect new information from the last decade of scenario generation or the full

range of projections. The modeling limitations do not all work in the same direction in terms of their influence on the SC-CO₂ estimates. However, as discussed in the February 2021 TSD, the IWG has recommended that, taken together, the limitations suggest that the interim SC-GHG estimates used in this proposed rule likely underestimate the damages from GHG emissions. DOE concurs with this assessment.

DOE's derivations of the SC-CO₂, SC-N₂O, and SC-CH₄ values used for this NOPR are discussed in the following sections, and the results of DOE's analyses estimating the benefits of the reductions in emissions of these GHGs

are presented in section IV.L.1.a of this document.

a. Social Cost of Carbon

The SC-CO₂ values used for this NOPR were based on the values presented for the IWG's February 2021 TSD. Table IV shows the updated sets of SC-CO₂ estimates from the IWG's TSD in 5-year increments from 2020 to 2050. The full set of annual values that DOE used is presented in appendix 14-A of the NOPR TSD. For purposes of capturing the uncertainties involved in regulatory impact analysis, DOE has determined it is appropriate include all four sets of SC-CO₂ values, as recommended by the IWG.¹¹⁹

Table IV-22 Annual SC-CO₂ Values from 2021 Interagency Update, 2020–2050 (2020\$ per Metric Ton CO₂)

Year	Discount Rate and Statistic			
	5%	3%	2.5%	3%
	Average	Average	Average	95 th percentile
2020	14	51	76	152
2025	17	56	83	169
2030	19	62	89	187
2035	22	67	96	206
2040	25	73	103	225
2045	28	79	110	242
2050	32	85	116	260

For 2051 to 2070, DOE used SC-CO₂ estimates published by EPA, adjusted to 2020\$.¹²⁰ These estimates are based on methods, assumptions, and parameters identical to the 2020–2050 estimates published by the IWG (which were based on EPA modeling). DOE expects additional climate benefits to accrue for any longer-life fans and blowers after 2070, but a lack of available SC-CO₂ estimates for emissions years beyond 2070 prevents DOE from monetizing these potential benefits in this analysis.

DOE multiplied the CO₂ emissions reduction estimated for each year by the

SC-CO₂ value for that year in each of the four cases. DOE adjusted the values to 2022 dollars using the implicit price deflator for gross domestic product (“GDP”) from the Bureau of Economic Analysis. To calculate a present value of the stream of monetary values, DOE discounted the values in each of the four cases using the specific discount rate that had been used to obtain the SC-CO₂ values in each case.

b. Social Cost of Methane and Nitrous Oxide

The SC-CH₄ and SC-N₂O values used for this NOPR were based on the values

developed for the February 2021 TSD. Table IV–23 shows the updated sets of SC-CH₄ and SC-N₂O estimates from the latest interagency update in 5-year increments from 2020 to 2050. The full set of annual values used is presented in appendix 14–A of the NOPR TSD. To capture the uncertainties involved in regulatory impact analysis, DOE has determined it is appropriate to include all four sets of SC-CH₄ and SC-N₂O values, as recommended by the IWG. DOE derived values after 2050 using the approach described above for the SC-CO₂.

¹¹⁹ For example, the February 2021 TSD discusses how the understanding of discounting approaches suggests that discount rates appropriate for

intergenerational analysis in the context of climate change may be lower than 3 percent.

¹²⁰ See EPA, *Revised 2023 and Later Model Year Light-Duty Vehicle GHG Emissions Standards*:

Regulatory Impact Analysis, Washington, DC, December 2021. Available at: <https://nepis.epa.gov/Exe/ZyPDF.cgi?Dockkey=P1013ORN.pdf> (last accessed January 13, 2023).

Table IV-23 Annual SC-CH₄ and SC-N₂O Values from 2021 Interagency Update, 2020–2050 (2020\$ per Metric Ton)

Year	SC-CH ₄				SC-N ₂ O			
	Discount Rate and Statistic				Discount Rate and Statistic			
	5%	3%	2.5%	3%	5%	3%	2.5 %	3%
	Average	Average	Average	95 th percentile	Average	Average	Average	95 th percentile
2020	670	1500	2000	3900	5800	18000	27000	48000
2025	800	1700	2200	4500	6800	21000	30000	54000
2030	940	2000	2500	5200	7800	23000	33000	60000
2035	1100	2200	2800	6000	9000	25000	36000	67000
2040	1300	2500	3100	6700	10000	28000	39000	74000
2045	1500	2800	3500	7500	12000	30000	42000	81000
2050	1700	3100	3800	8200	13000	33000	45000	88000

DOE multiplied the CH₄ and N₂O emissions reduction estimated for each year by the SC-CH₄ and SC-N₂O estimates for that year in each of the cases. DOE adjusted the values to 2022 dollars using the implicit price deflator for gross domestic product (“GDP”) from the Bureau of Economic Analysis. To calculate a present value of the stream of monetary values, DOE discounted the values in each of the cases using the specific discount rate that had been used to obtain the SC-CH₄ and SC-N₂O estimates in each case.

2. Monetization of Other Emissions Impacts

For the NOPR, DOE estimated the monetized value of NO_x and SO₂ emissions reductions from electricity generation using the latest benefit per ton estimates for that sector from the EPA’s Benefits Mapping and Analysis Program.¹²¹ DOE used EPA’s values for PM_{2.5}-related benefits associated with NO_x and SO₂ and for ozone-related benefits associated with NO_x for 2025, 2030, and 2040, calculated with discount rates of 3 percent and 7 percent. DOE used linear interpolation to define values for the years not given in the 2025 to 2040 period; for years beyond 2040 the values are held constant. DOE combined the EPA benefit per ton estimates with regional information on electricity consumption and emissions to define weighted-average national values for NO_x and SO₂ as a function of sector (see appendix 14B of the NOPR TSD). DOE multiplied the site emissions reduction (in tons) in each year by the associated \$/ton values, and then discounted each series using discount rates of 3 percent and 7 percent as appropriate.

¹²¹ See *Estimating the Benefit per Ton of Reducing PM_{2.5} Precursors from 21 Sectors*. Available at: www.epa.gov/benmap/estimating-benefit-ton-reducing-pm25-precursors-21-sectors.

M. Utility Impact Analysis

The utility impact analysis estimates the changes in installed electrical capacity and generation projected to result for each considered TSL. The analysis is based on published output from the NEMS associated with *AEO2023*. NEMS produces the *AEO* Reference case, as well as a number of side cases that estimate the economy-wide impacts of changes to energy supply and demand. For the current analysis, impacts are quantified by comparing the levels of electricity sector generation, installed capacity, fuel consumption and emissions in the *AEO2023* Reference case and various side cases. Details of the methodology are provided in the appendices to chapters 13 and 15 of the NOPR TSD.

The output of this analysis is a set of time-dependent coefficients that capture the change in electricity generation, primary fuel consumption, installed capacity and power sector emissions due to a unit reduction in demand for a given end use. These coefficients are multiplied by the stream of electricity savings calculated in the NIA to provide estimates of selected utility impacts of potential new or amended energy conservation standards.

N. Employment Impact Analysis

DOE considers employment impacts in the domestic economy as one factor in selecting a proposed standard. Employment impacts from new or amended energy conservation standards include both direct and indirect impacts. Direct employment impacts are any changes in the number of employees of manufacturers of the equipment subject to standards, their suppliers, and related service firms. The MIA addresses those impacts. Indirect employment impacts are changes in national employment that occur due to the shift in expenditures and capital

investment caused by the purchase and operation of more efficient appliances. Indirect employment impacts from standards consist of the net jobs created or eliminated in the national economy, other than in the manufacturing sector being regulated, caused by (1) reduced spending by consumers on energy, (2) reduced spending on new energy supply by the utility industry, (3) increased consumer spending on the equipment to which the new standards apply and other goods and services, and (4) the effects of those three factors throughout the economy.

One method for assessing the possible effects on the demand for labor of such shifts in economic activity is to compare sector employment statistics developed by the Labor Department’s Bureau of Labor Statistics (“BLS”). BLS regularly publishes its estimates of the number of jobs per million dollars of economic activity in different sectors of the economy, as well as the jobs created elsewhere in the economy by this same economic activity. Data from BLS indicate that expenditures in the utility sector generally create fewer jobs (both directly and indirectly) than expenditures in other sectors of the economy.¹²² There are many reasons for these differences, including wage differences and the fact that the utility sector is more capital-intensive and less labor-intensive than other sectors. Energy conservation standards have the effect of reducing consumer utility bills. Because reduced consumer expenditures for energy likely lead to increased expenditures in other sectors of the economy, the general effect of efficiency standards is to shift economic

¹²² See U.S. Department of Commerce–Bureau of Economic Analysis. *Regional Multipliers: A User Handbook for the Regional Input-Output Modeling System (RIMS II)*. 1997. U.S. Government Printing Office: Washington, DC. Available at: <https://apps.bea.gov/scb/pdf/regional/perinc/meth/rims2.pdf> (last accessed March 27, 2023).

activity from a less labor-intensive sector (*i.e.*, the utility sector) to more labor-intensive sectors (*e.g.*, the retail and service sectors). Thus, the BLS data suggest that net national employment may increase due to shifts in economic activity resulting from energy conservation standards.

DOE estimated indirect national employment impacts for the standard levels considered in this NOPR using an input/output model of the U.S. economy called Impact of Sector Energy Technologies version 4 (“ImSET”).¹²³ ImSET is a special-purpose version of the “U.S. Benchmark National Input-Output” (“I-O”) model, which was designed to estimate the national employment and income effects of energy-saving technologies. The ImSET software includes a computer-based I-O model containing structural coefficients that characterize economic flows among 187 sectors most relevant to industrial, commercial, and residential building energy use.

DOE notes that ImSET is not a general equilibrium forecasting model, and that the uncertainties involved in projecting employment impacts especially changes in the later years of the analysis. Because ImSET does not incorporate price changes, the employment effects predicted by ImSET may overestimate actual job impacts over the long run for

this rule. Therefore, DOE used ImSET only to generate results for near-term timeframes (2034), where these uncertainties are reduced. For more details on the employment impact analysis, *see* chapter 16 of the NOPR TSD.

V. Analytical Results and Conclusions

The following section addresses the results from DOE’s analyses with respect to the considered energy conservation standards for GFBs and ACFs. It addresses the TSLs examined by DOE, the projected impacts of each of these levels if adopted as energy conservation standards for GFBs and ACFs, and the standards levels that DOE is proposing to adopt in this NOPR. Additional details regarding DOE’s analyses are contained in the NOPR TSD supporting this document.

A. Trial Standard Levels

In general, DOE typically evaluates potential standards for products and equipment by grouping individual efficiency levels for each class into TSLs. Use of TSLs allows DOE to identify and consider manufacturer cost interactions between the equipment classes, to the extent that there are such interactions, and market cross elasticity from consumer purchasing decisions

that may change when different standard levels are set.

For GFBs, in the analysis conducted for this NOPR, DOE analyzed the benefits and burdens of 6 TSLs. DOE developed TSLs that combine efficiency levels for each analyzed equipment class.

Table V–1 presents the TSLs and the corresponding efficiency levels that DOE has identified for potential new energy conservation standards for GFBs. TSL 6 represents the max-tech energy efficiency for all product classes. TSL 5 represents the highest efficiency level with positive LCC savings. TSL 4 is an intermediate level consisting of the next level below TSL 5 with positive LCC savings. TSL 3 is an intermediate level consisting of the same level as TSL 4 or in the next level below TSL 4 with positive LCC savings and above TSL 2, where available. TSL 2 represents a combination of efficiency levels that correspond to a FEI of 1 across all equipment classes as required in ASHRAE 90.1, except for Axial Power Roof Ventilator—Exhaust, where it is set one efficiency level lower due to negative LCC savings at the EL corresponding to a FEI value of 1 (EL 5). TSL 1 represents combination of efficiency levels that corresponds to one efficiency level below the efficiency level corresponding to a FEI value of 1.

Table V-1 Trial Standard Levels for GFBs

Equipment Class	TSL1	TSL2	TSL3	TSL4	TSL5	TSL6
Axial Inline Fans	EL1	EL2	EL3	EL3	EL4	EL5
Axial Panel Fans	EL1	EL2	EL3	EL4	EL5	EL5
Centrifugal Housed Fans	EL1	EL2	EL3	EL4	EL5	EL5
Centrifugal Inline Fans	EL2	EL3	EL4	EL5	EL6	EL6
Centrifugal Unhoused Fans	EL1	EL1	EL3	EL4	EL5	EL5
Axial Power Roof–Ventilator - Exhaust	EL4	EL4	EL4	EL4	EL4	EL7
Centrifugal Power Roof–Ventilator - Exhaust	EL3	EL4	EL4	EL4	EL4	EL6
Centrifugal Power Roof–Ventilator - Supply	EL3	EL4	EL5	EL5	EL6	EL6
Radial Housed Fans	EL2	EL3	EL4	EL4	EL5	EL5

DOE constructed the TSLs for this NOPR to include ELs representative of ELs with similar characteristics (*i.e.*, using similar technologies and/or efficiencies, and having roughly

comparable equipment availability). The use of representative ELs provided for greater distinction between the TSLs. DOE did not consider ELs for which the average LCC savings were negative other

than for TSL 6 (max-tech). While representative ELs were included in the TSLs, DOE considered all efficiency levels as part of its analysis.¹²⁴

¹²³ Livingston, O.V., S.R. Bender, M.J. Scott, and R.W. Schultz. *ImSET 4.0: Impact of Sector Energy Technologies Model Description and User Guide*.

2015. Pacific Northwest National Laboratory: Richland, WA. PNNL–24563.

¹²⁴ Efficiency levels that were analyzed for this NOPR are discussed in section IV.C of this

document. Results by efficiency level are presented in NOPR TSD chapter 8.

For ACFs, in the analysis conducted for this NOPR, DOE analyzed the benefits and burdens of six TSLs. DOE developed TSLs that combine efficiency levels for each analyzed equipment class.

Table V–2 presents the TSLs and the corresponding efficiency levels that

DOE has identified for potential new energy conservation standards for ACFs. TSL 6 represents the max-tech energy efficiency for all equipment classes. TSL 5 represents a level corresponding to EL 5 for all axial ACFs and EL 3 for housed centrifugal ACFs. It represents the highest EL below max-tech with

positive LCC savings. TSL 4 is constructed with the same efficiency level EL 4 for all axial ACFs and represents EL 0 for housed centrifugal ACFs. Similarly, TSL 3 through TSL 1 represent levels corresponding to EL 3 through EL 1 for all axial ACFs and EL 0 for housed centrifugal ACFs.

Table V-2 Trial Standard Levels for ACFs

Equipment Class	TSL1	TSL2	TSL3	TSL4	TSL5	TSL6
Axial ACFs; 12" ≤ D < 36" (ACF1)	EL1	EL2	EL3	EL4	EL5	EL6
Axial ACFs; 36" ≤ D < 48" (ACF2)	EL1	EL2	EL3	EL4	EL5	EL6
Axial ACFs; 48" ≤ D (ACF3)	EL1	EL2	EL3	EL4	EL5	EL6
Housed Centrifugal ACFs (ACF4)	EL0	EL0	EL0	EL0	EL3	EL6

DOE constructed the TSLs for this NOPR to include ELs representative of ELs with similar characteristics (*i.e.*, using similar technologies within similar equipment classes). DOE did not consider EL 1 through EL 2 for housed centrifugal ACFs as the average LCC savings are negative at these levels for this equipment class. While representative ELs were included in the TSLs, DOE considered all efficiency levels as part of its analysis.¹²⁵

B. Economic Justification and Energy Savings

1. Economic Impacts on Individual Consumers

DOE analyzed the economic impacts on fan and blower consumers by looking at the effects that potential new standards at each TSL would have on the LCC and PBP. DOE also examined the impacts of potential standards on

selected consumer subgroups. These analyses are discussed in the following sections.

a. Life-Cycle Cost and Payback Period

In general, higher-efficiency equipment affects consumers in two ways: (1) purchase price increases and (2) annual operating costs decrease. Inputs used for calculating the LCC and PBP include total installed costs (*i.e.*, product price plus installation costs), and operating costs (*i.e.*, annual energy use, energy prices, energy price trends, repair costs, and maintenance costs). The LCC calculation also uses equipment lifetime and a discount rate. Chapter 8 of the NOPR TSD provides detailed information on the LCC and PBP analyses.

Table V–3 through Table V–20 show the LCC and PBP results for the TSLs considered for each equipment class for

GFBs. Table V–21 through Table V–28 show the LCC and PBP results for the TSLs considered for each equipment class for ACFs. The simple payback and other impacts are measured relative to the efficiency distribution in the no-new-standards case in the compliance year (*see* section IV.F.8 of this document). Because the average LCC savings refer only to consumers who are affected by a standard at a given TSL, the average savings are greater than the difference between the average LCC in the no-new-standards case and the average LCC at each TSL. The savings refer only to consumers who are affected by a standard at a given TSL. Those who already purchase equipment with efficiency at or above a given TSL are not affected. Consumers for whom the LCC increases at a given TSL experience a net cost.

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Table V-3 Average LCC and PBP Results for Axial Inline Fans

TSL	Efficiency Level	Average Costs (2022\$)				Simple Payback Period (years)	Average Lifetime (years)
		Installed Cost	First Year's Operating Cost	Lifetime Operating Cost	LCC		
-	0	11,748	1,690	20,464	32,212	-	27.6
1	1	11,756	1,682	20,364	32,120	1.0	27.6
2	2	11,873	1,669	20,209	32,082	5.8	27.6
3-4	3	12,465	1,616	19,563	32,028	9.6	27.6
5	4	13,704	1,490	18,034	31,738	9.8	27.6
6	5	18,129	1,334	16,148	34,276	17.9	27.6

Note: The results for each TSL are calculated considering all consumers. The PBP is measured relative to the no-new-standards case.

¹²⁵ Efficiency levels that were analyzed for this NOPR are discussed in section IV.C.1.b of this

document. Results by efficiency level are presented in NOPR TSD chapters 8.

Table V-4 Average LCC Savings Relative to the No-New-Standards Case for Axial Inline Fans

TSL	Efficiency Level	Life-Cycle Cost Savings	
		Average LCC Savings* (2022\$)	Percent of Consumers that Experience Net Cost
-	0	-	-
1	1	1,766	0.9%
2	2	1,029	7.5%
3-4	3	550	23.6%
5	4	670	51.3%
6	5	-2,169	79.3%

* The savings represent the average LCC for affected consumers.

Table V-5 Average LCC and PBP Results for Axial Panel Fans

TSL	Efficiency Level	Average Costs (2022\$)				Simple Payback Period (years)	Average Lifetime (years)
		Installed Cost	First Year's Operating Cost	Lifetime Operating Cost	LCC		
-	0	6,304	782	7,575	13,879	-	15.2
1	1	6,434	770	7,461	13,895	10.9	15.2
2	2	6,452	750	7,268	13,720	4.7	15.2
3	3	6,499	688	6,654	13,153	2.1	15.2
4	4	6,597	607	5,864	12,460	1.7	15.2
5-6	5	6,922	530	5,120	12,042	2.5	15.2

Note: The results for each TSL are calculated considering all consumers. The PBP is measured relative to the no-new standards case.

Table V-6 Average LCC Savings Relative to the No-New-Standards Case for Axial Panel Fans

TSL	Efficiency Level	Life-Cycle Cost Savings	
		Average LCC Savings* (2022\$)	Percent of Consumers that Experience Net Cost
-	0	-	-
1	1	-194	6.3%
2	2	802	7.3%
3	3	1,413	11.0%
4	4	1,702	19.5%
5-6	5	1,902	29.9%

* The savings represent the average LCC for affected consumers.

Table V-7 Average LCC and PBP Results for Centrifugal Housed Fans

TSL	Efficiency Level	Average Costs (2022\$)				Simple Payback Period (years)	Average Lifetime (years)
		Installed Cost	First Year's Operating Cost	Lifetime Operating Cost	LCC		
-	0	9,734	1,750	17,492	27,227	-	15.0
1	1	9,742	1,710	17,128	26,871	0.2	15.0
2	2	9,755	1,692	16,951	26,706	0.4	15.0
3	3	9,779	1,636	16,421	26,200	0.4	15.0
4	4	9,868	1,531	15,397	25,266	0.6	15.0
5-6	5	10,825	1,397	14,065	24,890	3.1	15.0

Note: The results for each TSL are calculated considering all consumers. The PBP is measured relative to the no-new standards case.

Table V-8 Average LCC Savings Relative to the No-New-Standards Case for Centrifugal Housed Fans

TSL	Efficiency Level	Life-Cycle Cost Savings	
		Average LCC Savings* (2022\$)	Percent of Consumers that Experience Net Cost
-	0	-	-
1	1	1,714	1.5%
2	2	1,977	2.4%
3	3	2,092	6.0%
4	4	2,423	12.9%
5-6	5	2,398	41.5%

* The savings represent the average LCC for affected consumers.

Table V-9 Average LCC and PBP Results for Centrifugal Inline Fans

TSL	Efficiency Level	Average Costs (2022\$)				Simple Payback Period (years)	Average Lifetime (years)
		Installed Cost	First Year's Operating Cost	Lifetime Operating Cost	LCC		
-	0	10,598	1,180	11,996	22,593	-	16.7
-	1	10,623	1,168	11,880	22,503	2.2	16.7
1	2	10,751	1,159	11,791	22,542	7.6	16.7
2	3	10,674	1,107	11,267	21,941	1.1	16.7
3	4	11,325	1,080	10,993	22,318	7.3	16.7
4	5	11,858	972	9,899	21,757	6.1	16.7
5-6	6	13,457	865	8,809	22,265	9.1	16.7

Note: The results for each TSL are calculated considering all consumers. The PBP is measured relative to the no-new standards case.

Table V-10 Average LCC Savings Relative to the No-New-Standards Case for Centrifugal Inline Fans

TSL	Efficiency Level	Life-Cycle Cost Savings	
		Average LCC Savings* (2022\$)	Percent of Consumers that Experience Net Cost
-	0	-	-
-	1	1,073	3.4%
1	2	355	9.9%
2	3	1,389	4.6%
3	4	454	36.6%
4	5	955	49.2%
5-6	6	335	66.7%

* The savings represent the average LCC for affected consumers.

Table V-11 Average LCC and PBP Results for Centrifugal Unhoused Fans

TSL	Efficiency Level	Average Costs (2022\$)				Simple Payback Period (years)	Average Lifetime (years)
		Installed Cost	First Year's Operating Cost	Lifetime Operating Cost	LCC		
-	0	8,983	1,482	14,318	23,301	-	14.9
1-2	1	9,006	1,475	14,252	23,258	3.5	14.9
-	2	9,085	1,466	14,172	23,256	6.7	14.9
3	3	9,086	1,441	13,932	23,018	2.6	14.9
4	4	9,118	1,368	13,223	22,341	1.2	14.9
5-6	5	9,199	1,257	12,148	21,346	1.0	14.9

Note: The results for each TSL are calculated considering all consumers. The PBP is measured relative to the no-new standards case.

Table V-12 Average LCC Savings Relative to the No-New-Standards Case for Centrifugal Unhoused Fans

TSL	Efficiency Level	Life-Cycle Cost Savings	
		Average LCC Savings* (2022\$)	Percent of Consumers that Experience Net Cost
-	0	-	-
1-2	1	1,009	2.2%
-	2	433	7.0%
3	3	884	4.8%
4	4	1,170	10.5%
5-6	5	2,004	13.7%

* The savings represent the average LCC for affected consumers.

Table V-13 Average LCC and PBP Results for Axial Power Roof-Ventilator - APRV

TSL	Efficiency Level	Average Costs (2022\$)				Simple Payback Period (years)	Average Lifetime (years)
		Installed Cost	First Year's Operating Cost	Lifetime Operating Cost	LCC		
-	0	9,488	1,085	11,173	20,661	-	17.5
-	1	9,652	1,063	10,940	20,592	7.5	17.5
-	2	9,665	1,058	10,884	20,549	6.5	17.5
-	3	9,470	1,050	10,803	20,273	N/A	17.5
1-5	4	9,958	1,017	10,458	20,416	7.0	17.5
-	5	11,695	945	9,704	21,399	15.8	17.5
-	6	14,382	802	8,232	22,614	17.3	17.5
6	7	22,584	687	7,046	29,630	32.9	17.5

Note: The results for each TSL are calculated considering all consumers. The PBP is measured relative to the no-new standards case. The entry "N/A" means not applicable because there is a decrease in average installed costs at higher TSLs compared to the no-new-standards case.

Table V-14 Average LCC Savings Relative to the No-New-Standards Case for Axial Power Roof-Ventilator - APRV

TSL	Efficiency Level	Life-Cycle Cost Savings	
		Average LCC Savings* (2022\$)	Percent of Consumers that Experience Net Cost
-	0	-	-
-	1	1,132	4.0%
-	2	1,076	5.9%
-	3	2,988	1.8%
1-5	4	945	14.3%
-	5	-1,463	41.7%
-	6	-2,402	68.3%
6	7	-9,470	89.0%

* The savings represent the average LCC for affected consumers.

Table V-15 Average LCC and PBP Results for Centrifugal Power Roof Ventilator – Exhaust CPRV

TSL	Efficiency Level	Average Costs (2022\$)				Simple Payback Period (years)	Average Lifetime (years)
		Installed Cost	First Year's Operating Cost	Lifetime Operating Cost	LCC		
-	0	7,213	582	5,809	13,023	-	16.0
-	1	7,303	575	5,746	13,049	14.0	16.0
-	2	7,248	574	5,732	12,980	4.4	16.0
1	3	7,409	560	5,591	13,000	9.0	16.0
2-5	4	7,608	537	5,360	12,968	8.9	16.0
-	5	8,267	490	4,879	13,146	11.5	16.0
6	6	10,570	434	4,326	14,896	22.8	16.0

Note: The results for each TSL are calculated considering all consumers. The PBP is measured relative to the no-new standards case.

Table V-16 Average LCC Savings Relative to the No-New-Standards Case for Centrifugal Power Roof Ventilator – Exhaust CPRV

TSL	Efficiency Level	Life-Cycle Cost Savings	
		Average LCC Savings* (2022\$)	Percent of Consumers that Experience Net Cost
-	0	-	-
-	1	-339	5.8%
-	2	468	4.9%
1	3	122	13.1%
2-5	4	154	25.8%
-	5	-178	53.7%
6	6	-1,992	84.7%

* The savings represent the average LCC for affected consumers.

Table V-17 Average LCC and PBP Results for Centrifugal Power Roof Ventilator – Supply CPRV

TSL	Efficiency Level	Average Costs (2022\$)				Simple Payback Period (years)	Average Lifetime (years)
		Installed Cost	First Year's Operating Cost	Lifetime Operating Cost	LCC		
-	0	6,538	529	5,239	11,777	-	15.9
-	1	6,680	522	5,175	11,855	22.9	15.9
-	2	6,541	519	5,141	11,682	0.3	15.9
1	3	6,577	503	4,981	11,558	1.5	15.9
2	4	6,613	478	4,734	11,347	1.5	15.9
3-4	5	6,714	426	4,211	10,925	1.7	15.9
5-6	6	6,961	377	3,727	10,688	2.8	15.9

Note: The results for each TSL are calculated considering all consumers. The PBP is measured relative to the no-new standards case.

Table V-18 Average LCC Savings Relative to the No-New-Standards Case for Centrifugal Power Roof Ventilator – Supply CPRV

TSL	Efficiency Level	Life-Cycle Cost Savings	
		Average LCC Savings* (2022\$)	Percent of Consumers that Experience Net Cost
-	0	-	-
-	1	-1,228	5.5%
-	2	932	3.1%
1	3	831	8.8%
2	4	827	16.5%
3-4	5	973	24.9%
5-6	6	1,126	32.3%

* The savings represent the average LCC for affected consumers.

Table V-19 Average LCC and PBP Results for Radial Housed Fans

TSL	Efficiency Level	Average Costs (2022\$)				Simple Payback Period (years)	Average Lifetime (years)
		Installed Cost	First Year's Operating Cost	Lifetime Operating Cost	LCC		
-	0	11,072	2,498	31,987	43,059	-	28.7
-	1	11,111	2,487	31,851	42,962	3.6	28.7
1	2	11,131	2,478	31,743	42,874	3.0	28.7
2	3	11,177	2,459	31,499	42,676	2.7	28.7
3-4	4	11,349	2,330	29,831	41,180	1.7	28.7
5-6	5	11,944	2,104	26,923	38,867	2.2	28.7

Note: The results for each TSL are calculated considering all consumers. The PBP is measured relative to the no-new standards case.

Table V-20 Average LCC Savings Relative to the No-New-Standards Case for Radial Housed Fans

TSL	Efficiency Level	Life-Cycle Cost Savings	
		Average LCC Savings* (2022\$)	Percent of Consumers that Experience Net Cost
-	0	-	-
-	1	1,337	2.8%
1	2	1,708	3.3%
2	3	2,145	5.1%
3-4	4	3,714	13.3%
5-6	5	5,391	24.4%

* The savings represent the average LCC for affected consumers.

Table V-21 Average LCC and PBP Results for Equipment Class: Axial ACF, 12" ≤ D <36" (ACF1)

TSL	Efficiency Level	Average Costs (2022\$)				Simple Payback Period (years)	Average Lifetime (years)
		Installed Cost	First Year's Operating Cost	Lifetime Operating Cost	LCC		
-	0	297	95	498	795	-	6.3
1	1*	297	95	498	795	-	6.3
2	2	297	95	497	794	2.7	6.3
3	3	298	88	461	759	0.2	6.3
4	4	313	62	327	640	0.5	6.3
5	5	445	41	219	664	2.8	6.3
6	6	484	35	188	672	3.1	6.3

Note: The results for each TSL are calculated considering all consumers. The PBP is measured relative to the no-new standards case.

* EL0 = EL1

Table V-22 Average LCC Savings Relative to the No-New-Standards Case for Axial ACF, 12" ≤ D <36" (ACF1)

TSL	Efficiency Level	Life-Cycle Cost Savings	
		Average LCC Savings* (2022\$)	Percent of Consumers that Experience Net Cost
-	0	-	-
1	1**	-	-
2	2	35	0.1%
3	3	495	0.0%
4	4	327	0.2%
5	5	141	40.4%
6	6	126	45.1%

* The savings represent the average LCC for affected consumers.

** EL0 = EL1

Table V-23 Average LCC and PBP Results for Axial ACF, 36" ≤ D <48" (ACF2)

TSL	Efficiency Level	Average Costs (2022\$)				Simple Payback Period (years)	Average Lifetime (years)
		Installed Cost	First Year's Operating Cost	Lifetime Operating Cost	LCC		
-	0	561	166	870	1,431	-	6.3
1	1	556	164	859	1,415	N/A	6.3
2	2	558	162	849	1,407	N/A	6.3
3	3	560	147	770	1,329	N/A	6.3
4	4	575	100	527	1,103	0.2	6.3
5	5	717	71	374	1,091	1.6	6.3
6	6	762	61	323	1,085	1.9	6.3

Note: The results for each TSL are calculated considering all consumers. The PBP is measured relative to the no-new standards case. The entry "N/A" means not applicable because there is a decrease in average installed costs at higher TSLs compared to the no-new standards case.

Table V-24 Average LCC Savings Relative to the No-New-Standards Case for Axial ACF, 36" ≤ D <48" (ACF2)

TSL	Efficiency Level	Life-Cycle Cost Savings	
		Average LCC Savings* (2022\$)	Percent of Consumers that Experience Net Cost
-	0	-	-
1	1	297	0.0%
2	2	291	0.2%
3	3	606	0.0%
4	4	478	0.0%
5	5	341	22.7%
6	6	346	23.6%

* The savings represent the average LCC for affected consumers.

Table V-25 Average LCC and PBP Results for Axial ACF, 48" ≤ D (ACF3)

TSL	Efficiency Level	Average Costs (2022\$)				Simple Payback Period (years)	Average Lifetime (years)
		Installed Cost	First Year's Operating Cost	Lifetime Operating Cost	LCC		
-	0	939	305	1,595	2,533	-	6.3
1	1	932	303	1,579	2,511	N/A	6.3
2	2	935	299	1,560	2,495	N/A	6.3
3	3	936	274	1,432	2,368	N/A	6.3
4	4	954	197	1,029	1,983	0.1	6.3
5	5	1,093	158	829	1,923	1.1	6.3
6	6	1,161	141	742	1,903	1.4	6.3

Note: The results for each TSL are calculated considering all consumers. The PBP is measured relative to the no-new standards case. The entry "N/A" means not applicable because there is a decrease in average installed costs at higher TSLs compared to the no-new standards case.

Table V-26 Average LCC Savings Relative to the No-New-Standards Case for Axial ACF, 48" ≤ D (ACF3)

TSL	Efficiency Level	Life-Cycle Cost Savings	
		Average LCC Savings* (2022\$)	Percent of Consumers that Experience Net Cost
-	0	-	-
1	1	343	0.0%
2	2	587	0.0%
3	3	628	0.0%
4	4	668	0.0%
5	5	613	9.3%
6	6	630	11.3%

* The savings represent the average LCC for affected consumers.

Table V-27 Average LCC and PBP Results for Housed Centrifugal ACFs (ACF4)

TSL	Efficiency Level	Average Costs (2022\$)				Simple Payback Period (years)	Average Lifetime (years)
		Installed Cost	First Year's Operating Cost	Lifetime Operating Cost	LCC		
1-4	0	250	93	490	740	-	6.3
-	1*	250	93	490	740	-	6.3
-	2	253	93	488	741	7.8	6.3
5	3	307	81	428	735	4.8	6.3
-	4	535	56	295	830	7.7	6.3
-	5	1,675	37	198	1,873	25.5	6.3
6	6	1,779	32	171	1,950	25.0	6.3

Note: The results for each TSL are calculated considering all consumers. The PBP is measured relative to the no-new standards case.

* EL0 = EL1

Table V-28 Average LCC Savings Relative to the No-New-Standards Case for Housed Centrifugal ACFs (ACF4)

TSL	Efficiency Level	Life-Cycle Cost Savings	
		Average LCC Savings* (2022\$)	Percent of Consumers that Experience Net Cost
1-4	0	-	-
-	1**	-	-
-	2	-25	3.2%
5	3	18	14.1%
-	4	-118	60.0%
-	5	-1,164	97.2%
6	6	-1,210	99.7%

* The savings represent the average LCC for affected consumers.

** EL0 = EL1

b. Consumer Subgroup Analysis

In the consumer subgroup analysis, DOE estimated the impact of the considered TSLs on small businesses. Table V-29 and Table V-30 compare the

average LCC savings and PBP at each efficiency level for the consumer subgroup with similar metrics for the entire consumer sample for GFBs and ACFs, respectively. In most cases, the

average LCC savings and PBP for small businesses at the considered TSLs are not substantially different from the average for all consumers. Chapter 11 of

the NOPR TSD presents the complete LCC and PBP results for the subgroup.

Table V-29 Comparison of LCC Savings and PBP for Small Businesses and All Consumers; GFBs

TSL	EL	Average LCC Savings* 2022\$		Simple Payback years		Consumers with Net Cost (%)	
		Small Businesses	All Businesses	Small Businesses	All Businesses	Small Businesses	All Businesses
Axial Inline Fans							
-	0	-	-	-	-	-	-
1	1	1,533	1,766	0.9	1.0	1.0	0.9
2	2	771	1,029	5.4	5.8	8.2	7.5
3 - 4	3	164	550	9.0	9.6	25.1	23.6
5	4	162	670	9.1	9.8	53.4	51.3
6	5	-2,841	-2,169	16.8	17.9	82.1	79.4
Axial Panel							

-	0	-	-	-	-	-	-
1	1	-49	-194	8.4	10.9	6.1	6.3
2	2	967	802	3.6	4.7	6.7	7.3
3	3	1,613	1,413	1.6	2.1	9.8	11.0
4	4	1,942	1,702	1.3	1.7	17.4	19.5
5-6	5	2,212	1,902	1.9	2.5	26.6	29.9
Centrifugal Housed							
-	0	-	-	-	-	-	-
1	1	2,026	1,714	0.2	0.2	1.2	1.5
2	2	2,346	1,977	0.3	0.4	2.0	2.4
3	3	2,463	2,092	0.3	0.4	5.1	6.0
4	4	2,813	2,423	0.5	0.6	11.4	12.9
5-6	5	2,852	2,398	2.3	3.1	37.7	41.5
Centrifugal Inline							
-	0	-	-	-	-	-	-
-	1	1,192	1,073	1.7	2.2	3.2	3.4
1	2	482	355	5.9	7.6	9.5	9.9
2	3	1,516	1,389	0.8	1.1	4.2	4.6
3	4	588	454	5.7	7.3	34.5	36.6
4	5	1,134	955	4.8	6.1	45.9	49.2
5-6	6	562	335	7.2	9.1	63.6	66.7
Centrifugal Unhoused							
-	0	-	-	-	-	-	-
1-2	1	1,235	1,009	2.6	3.5	2.1	2.2
-	2	658	433	5.0	6.7	6.6	7.0
3	3	1,075	884	1.9	2.6	4.2	4.8
4	4	1,366	1,170	0.9	1.2	9.1	10.5
5-6	5	2,326	2,004	0.7	1.0	11.7	13.7
Axial Power Roof Ventilator							
-	0	-	-	-	-	-	-
-	1	1,220	1,132	6.1	7.5	4.1	4.0
-	2	1,147	1,076	5.3	6.5	5.8	5.9
-	3	3,069	2,988	N/A	N/A	1.6	1.8
1-5	4	1,037	945	5.6	7.0	14.1	14.3
-	5	-1,336	-1,463	12.6	15.8	41.3	41.7
-	6	-2,218	-2,402	13.8	17.3	67.6	68.3
6	7	-9,236	-9,470	26.1	32.9	88.6	89.0
Centrifugal Power Roof-Ventilator - Exhaust							
-	0	-	-	-	-	-	-
-	1	-282	-339	11.0	14.0	5.6	5.8
-	2	529	468	3.5	4.4	4.8	4.9
1	3	210	122	7.1	9.0	12.6	13.1
2-5	4	251	154	7.0	8.9	24.7	25.8
-	5	-69	-178	9.0	11.5	51.6	53.7
6	6	-1853	-1992	17.7	22.8	83.1	84.7
Centrifugal Power Roof-Ventilator - Supply							
-	0	-	-	-	-	-	-
-	1	-1,159	-1,228	18.1	22.9	5.4	5.5
-	2	996	933	0.2	0.3	2.9	3.2

1	3	904	831	1.2	1.5	8.1	8.8
2	4	913	827	1.2	1.5	14.9	16.5
3-4	5	1,088	973	1.3	1.7	22.1	24.9
5-6	6	1,283	1,126	2.2	2.8	29.2	32.3
Radial Housed							
-	0	-	-	-	-	-	-
-	1	979	1338	3.6	3.6	3.2	2.8
1	2	1270	1708	3.1	3.0	4.0	3.3
2	3	1601	2145	2.7	2.7	6.0	5.1
3-4	4	2847	3714	1.7	1.7	15.6	13.3
5-6	5	4067	5391	2.2	2.2	28.3	24.4

The entry "N/A" means not applicable because there is a decrease in average installed costs at higher TSLs compared to the no-new-standards case.

Table V-30 Comparison of LCC Savings and PBP for Small Businesses and All Consumers; ACFs

TSL	EL	Average LCC Savings* 2022\$		Simple Payback years		Consumers with Net Cost (%)	
		Small Businesses	All Businesses	Small Businesses	All Businesses	Small Businesses	All Businesses
Axial ACF, 12” ≤ D <36”							
-	0	-	-	-	-	-	-
1	1	-	-	-	-	-	-
2	2	33	35	2.6	2.7	0.1	0.1
3	3	504	495	0.2	0.2	0.0	0.0
4	4	335	327	0.5	0.5	0.2	0.2
5	5	148	141	2.6	2.8	40.1	40.4
6	6	133	126	2.9	3.1	45.0	45.1
Axial ACF, 36” ≤ D <48”							
-	0	-	-	-	-	-	-
1	1	300	297	N/A	N/A	0.0	0.0
2	2	296	291	N/A	N/A	0.2	0.2
3	3	618	606	N/A	N/A	0.0	0.0
4	4	489	478	0.2	0.2	0.0	0.0
5	5	351	341	1.5	1.6	22.9	22.7
6	6	358	346	1.8	1.9	23.8	23.6
Axial ACF, 48” ≤ D							
-	0	-	-	-	-	-	-
1	1	347	343	N/A	N/A	0.0	0.0
2	2	597	587	N/A	N/A	0.0	0.0
3	3	643	628	N/A	N/A	0.0	0.0
4	4	684	668	0.1	0.1	0.0	0.0
5	5	632	613	1.0	1.1	9.5	9.3
6	6	651	630	1.2	1.4	11.5	11.3
Housed Centrifugal ACFS							
1-4	0	-	-	-	-	-	-
-	1	-	-	-	-	-	-
-	2	-11	-25	5.7	7.8	2.6	3.2
5	3	80	18	3.5	4.8	11.1	14.1
-	4	-47	-118	5.6	7.7	51.7	60.0
-	5	-1,080	-1,164	18.7	25.5	96.2	97.2
6	6	-1,121	-1,210	18.3	25.0	98.8	99.7

The entry "N/A" means not applicable because there is a decrease in average installed costs at higher TSLs compared to the no-new-standards case.

c. Rebuttable Presumption Payback

As discussed in section III.F.2, EPCA establishes a rebuttable presumption that an energy conservation standard is economically justified if the increased purchase cost for equipment that meets the standard is less than three times the value of the first-year energy savings resulting from the standard. In calculating a rebuttable presumption payback period for each of the considered TSLs, DOE used discrete

values and, as required by EPCA, based the energy use calculation on the DOE test procedure for fans and blowers. In contrast, the PBPs presented in section V.B.1.a were calculated using distributions that reflect the range of energy use in the field.

Table V-31 and Table V-32 present the rebuttable-presumption payback periods for the considered TSLs for GFBs and ACFs. While DOE examined the rebuttable-presumption criterion, it considered whether the standard levels

considered for the NOPR are economically justified through a more detailed analysis of the economic impacts of those levels, pursuant to 42 U.S.C 6316(a); 42 U.S.C. 6295(o)(2)(B)(i), that considers the full range of impacts to the consumer, manufacturer, Nation, and environment. The results of that analysis serve as the basis for DOE to definitively evaluate the economic justification for a potential standard level, thereby supporting or rebutting

the results of any preliminary determination of economic justification.

Table V-31 Rebuttable-Presumption Payback Periods for GFBs

Equipment Class	Rebuttable Payback Period years					
	TSL 1	TSL 2	TSL 3	TSL 4	TSL 5	TSL 6
Axial Inline Fans	1.0	5.9	9.7	9.7	9.8	17.9
Axial Panel Fans	10.8	4.6	2.1	1.7	2.5	2.5
Centrifugal Housed Fans	0.2	0.4	0.4	0.6	3.1	3.1
Centrifugal Inline Fans	7.6	1.1	7.3	6.1	9.1	9.1
Centrifugal Unhoused Fans	3.5	3.5	2.6	1.2	1.0	1.0
Axial Power Roof Ventilator	7.0	7.0	7.0	7.0	7.0	32.9
Centrifugal Power Roof-Ventilator - Exhaust	9.0	9.0	9.0	9.0	9.0	22.8
Centrifugal Power Roof-Ventilator - Supply	1.5	1.5	1.7	1.7	2.8	2.8
Radial Housed Fans	3.0	2.7	1.7	1.7	2.2	2.2

Table V-32 Rebuttable-Presumption Payback Periods for ACFs

Equipment Class	Rebuttable Payback Period years					
	TSL 1	TSL 2	TSL 3	TSL 4	TSL 5	TSL 6
Axial ACFs; 12" ≤ D < 36"	-	2.6	0.2	0.5	2.8	3.1
Axial ACFs; 36" ≤ D < 48"	N/A	N/A	N/A	0.2	1.6	1.9
Axial ACFs; 48" ≤ D	N/A	N/A	N/A	0.1	1.1	1.4
Housed Centrifugal ACFs	-	-	-	-	25.5	25.0

The entry "N/A" means not applicable because there is a decrease in average installed costs at higher TSLs compared to the no-new standards case.

2. Economic Impacts on Manufacturers

DOE performed an MIA to estimate the impact of new energy conservation standards on manufacturers of fans and blowers. The following section describes the expected impacts on manufacturers at each considered TSL. Chapter 12 of the NOPR TSD explains the analysis in further detail.

a. Industry Cash Flow Analysis Results

In this section, DOE provides GRIM results from the analysis, which examines changes in the industry that would result from new standards. The following tables summarize the estimated financial impacts (represented by changes in INPV) of potential new energy conservation standards on manufacturers of fans and blowers, as well as the conversion costs that DOE estimates manufacturers of fans and blowers would incur at each TSL. DOE analyzes the potential impacts on INPV separately for ACFs and GFBs. To

evaluate the range of cash flow impacts on the fan and blower industry, DOE modeled two manufacturer markup scenarios using different assumptions that correspond to the range of anticipated market responses to new energy conservation standards: (1) the conversion cost recovery markup scenario and (2) the preservation of operating profit markup scenario.

To assess the less severe end of the range of potential impacts, DOE modeled a conversion cost recovery markup scenario in which manufacturers are able to increase their manufacturer markups in response to new energy conservation standards. To assess the more severe end of the range of potential impacts, DOE modeled a preservation of operating profit markup scenario in which manufacturers are not able to maintain their original manufacturer markup, used in the no-new-standards case, in the standards cases. Instead, manufacturers maintain the same operating profit (in absolute

dollars) in the standards cases as in the no-new-standards case, despite higher MPCs.

Each of the modeled manufacturer markup scenarios results in a unique set of cash flows and corresponding industry values at the given TSLs for each group of fan and blower manufacturers. In the following discussion, the INPV results refer to the difference in industry value between the no-new-standards case and each standards case resulting from the sum of discounted cash flows from 2024 through 2059. To provide perspective on the short-run cash flow impact, DOE includes in the discussion of results a comparison of free cash flow between the no-new-standards case and the standards case at each TSL in the year before new standards take effect.

DOE presents the range in INPV for GFB manufacturers in Table V-33 and Table V-34 and the range in INPV for ACF manufacturers in Table V-36 and Table V-37.

General Fans and Blowers

Table V-33 Industry Net Present Value for General Fans and Blowers – Conversion Cost Recovery Markup Scenario

	Units	No-New Standards Case	Trial Standard Levels					
			1	2	3	4	5	6
INPV	2022\$ millions	4,935	4,948	4,940	4,936	4,936	4,946	4,975
Change in INPV	2022\$ millions	-	13	5	1	1	11	40
	%	-	0.3	0.1	0.0	0.0	0.2	0.8

Table V-34 Industry Net Present Value for General Fans and Blowers – Preservation of Operating Profit Scenario

	Units	No-New Standards Case	Trial Standard Levels					
			1	2	3	4	5	6
INPV	2022\$ millions	4,935	4,907	4,847	4,697	4,479	3,671	2,647
Change in INPV	2022\$ millions	-	(28)	(87)	(238)	(455)	(1,263)	(2,287)
	%	-	(0.6)	(1.8)	(4.8)	(9.2)	(25.6)	(46.4)

Table V-35 Cash Flow Analysis for General Fans and Blowers

	Units	No-New Standards Case	Trial Standard Levels					
			1	2	3	4	5	6
Free Cash Flow (2029)	2022\$ millions	480	463	420	316	161	(407)	(1,132)
Change in Free Cash Flow (2029)	2022\$ millions	-	(17.3)	(59.7)	(164.4)	(318.5)	(886.7)	(1,612.2)
	%	-	(3.6)	(12.4)	(34.3)	(66.4)	(184.8)	(335.9)
Product Conversion Costs	2022\$ millions	-	20	62	154	260	435	698
Capital Conversion Costs	2022\$ millions	-	23	86	248	510	1,640	3,052
Total Conversion Costs	2022\$ millions	-	43	147	402	770	2,075	3,750

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At TSL 6, for GFB manufacturers, DOE estimates the impacts on INPV will range from – \$2,287 million to \$40 million, which represents a change of – 46.4 percent to 0.8 percent, respectively. At TSL 6, industry free cash flow decreases to – \$1,132 million, which represents a decrease of approximately 336 percent, compared to the no-new-standards case value of \$480 million in 2029, the year before the modeled compliance year. The negative cash flow in the years leading up to the modeled compliance date implies that most, if not all, GFB manufacturers will need to borrow funds in order to make

the investments necessary to comply with standards. This has the potential to significantly alter the market dynamics as some smaller manufacturers may not be able to secure this funding and could exit the market as a result of standards set at TSL 6.

TSL 6 would set energy conservation standards at max-tech for all GFBs. DOE estimates that approximately 4 percent of the GFB shipments would already meet the efficiency levels required at TSL 6 in 2030, in the no-new-standards case. Therefore, DOE estimates that manufacturers would have to redesign models representing approximately 96 percent of GFB shipments by the

estimated compliance date. It is unclear if most GFB manufacturers would have the engineering capacity to complete the necessary redesigns within the 5-year compliance period. If manufacturers require more than 5 years to redesign their non-compliant GFB models, they will likely prioritize redesigns based on sales volume, which could result in customers not being able to obtain compliant GFBs covering the duty points that they require.

At TSL 6, DOE expects GFB manufacturers to incur approximately \$698 million in product conversion costs to conduct aerodynamic redesigns for non-compliant GFB models.

Additionally, GFB manufacturers would incur approximately \$3,052 million in capital conversion costs to purchase new tooling and equipment necessary to produce compliant GFB models to meet these energy conservation standards.

In the conversion cost recovery markup scenario, manufacturers increase their manufacturer markups to fully recover the conversion costs they incur to redesign non-compliant equipment. At TSL 6, the \$3,750 million in conversion costs are fully recovered, over the 30-year analysis period, causing INPV at TSL 6 to remain approximately equal to the no-new-standards case INPV in this conversion cost recovery scenario. Given the large size of the conversion costs, approximately 1.3 times the sum of the annual free cash flows over the years between the estimated final rule announcement date and the estimated standards year (*i.e.*, the time period that these conversion costs would be incurred), it is highly unlikely that the GFB market will accept the large increases in the MSPs that would be needed for GFB manufacturers to fully recover these conversion costs, making the MSPs that result from this manufacturer markup scenario less likely to be obtained by manufacturers. This represents the upper-bound, or least-severe impact, on manufacturer profitability and is the manufacturer markup scenario used in all downstream consumer analyses.

Under the preservation of operating profit scenario, manufacturers earn the same per-unit operating profit as would be earned in the no-new-standards case, but manufacturers do not earn additional profit from their investments or potentially higher MPCs. In this scenario, the shipment weighted average MPC increases by approximately 2.2 percent, causing a reduction in the manufacturer margin after the analyzed compliance year. This reduction in the manufacturer margin and the \$3,750 million in conversion costs incurred by manufacturers cause a significantly negative change in INPV at TSL 6 in this preservation of operating profit scenario. This represents the lower-bound, or most severe impact, on manufacturer profitability.

At TSL 5, for GFB manufacturers, DOE estimates the impacts on INPV will range from $-\$1,263$ million to $\$11$ million, which represents a change of -25.6 percent to 0.2 percent, respectively. At TSL 5, industry free cash flow decreases to $-\$407$ million, which represents a decrease of approximately 185 percent, compared to the no-new-standards case value of $\$480$ million in 2029, the year before the

modeled compliance year. The negative cash flow in the years leading up to the modeled compliance date implies that most, if not all, GFB manufacturers will need to borrow funds in order to make the investments necessary to comply with standards. This has the potential to significantly alter the market dynamics as some smaller manufacturers may not be able to secure this funding and could exit the market as a result of standards set at TSL 5.

TSL 5 would set energy conservation standards for axial inline fans at EL 4; axial panel fans at EL 5; centrifugal housed fans at EL 5; centrifugal inline fans at EL 6; centrifugal unhoused fans at EL 5; axial PRVs at EL 4; centrifugal PRV exhaust fans at EL 4; centrifugal PRV supply fans at EL 6; and radial housed fans at EL 5. DOE estimates that approximately 7 percent of the GFB shipments would already meet or exceed the efficiency levels required at TSL 5 in 2030, in the no-new-standards case. Therefore, DOE estimates that manufacturers would have to redesign models representing approximately 93 percent of GFB shipments by the estimated compliance date. It is unclear if most GFB manufacturers would have the engineering capacity to complete the necessary redesigns within the 5-year compliance period. If manufacturers require more than 5 years to redesign their non-compliant GFB models, they will likely prioritize redesigns based on sales volume, which could result in customers not being able to obtain compliant GFBs covering the duty points that they require.

At TSL 5, DOE expects GFB manufacturers to incur approximately $\$435$ million in product conversion costs to conduct aerodynamic redesigns for non-compliant GFB models. Additionally, GFB manufacturers would incur approximately $\$1,640$ million in capital conversion costs to purchase new tooling and equipment necessary to produce compliant GFB models to meet these energy conservation standards.

In the conversion cost recovery markup scenario, manufacturers increase their manufacturer markups to fully recover the conversion costs they incur to redesign non-compliant equipment. At TSL 5, the $\$2,075$ million in conversion costs are fully recovered causing INPV to remain approximately equal to the no-new-standards case INPV in this conversion cost recovery scenario. Given the large size of the conversion costs, approximately 90 percent of the sum of the annual free cash flows over the years between the estimated final rule announcement date and the estimated standards year (*i.e.*, the time period that these conversion

costs would be incurred), it is unlikely that the GFB market will accept the large increases in the MSPs that would be needed for GFB manufacturers to fully recover these conversion costs, making the MSPs that result from this manufacturer markup scenario less likely to be obtained by manufacturers. This represents the upper-bound, or least-severe impact, on manufacturer profitability and is the manufacturer markup scenario used in all downstream consumer analyses.

Under the preservation of operating profit scenario, manufacturers earn the same per-unit operating profit as would be earned in the no-new-standards case, but manufacturers do not earn additional profit from their investments or potentially higher MPCs. In this scenario, the shipment weighted average MPC increases by approximately 2.2 percent, causing a reduction in the manufacturer margin after the analyzed compliance year. This reduction in the manufacturer margin and the $\$2,075$ million in conversion costs incurred by manufacturers cause a significantly negative change in INPV at TSL 5 in this preservation of operating profit scenario. This represents the lower-bound, or most severe impact, on manufacturer profitability.

At TSL 4, for GFB manufacturers, DOE estimates the impacts on INPV will range from $-\$455$ million to $\$1$ million, which represents a change of -9.2 percent to less than 0.1 percent, respectively. At TSL 4, industry free cash flow decreases to $\$161$ million, which represents a decrease of approximately 66.4 percent, compared to the no-new-standards case value of $\$480$ million in 2029, the year before the modeled compliance year.

TSL 4 would set energy conservation standards for axial inline fans at EL 3; axial panel fans at EL 4; centrifugal housed fans at EL 4; centrifugal inline fans at EL 5; centrifugal unhoused fans at EL 4; axial PRVs at EL 4; centrifugal PRV exhaust fans at EL 4; centrifugal PRV supply fans at EL 5; and radial housed fans at EL 4. DOE estimates that approximately 25 percent of the GFB shipments would already meet or exceed the efficiency levels required at TSL 4 in 2030, in the no-new-standards case. Therefore, DOE estimates that manufacturers would have to redesign models representing approximately 75 percent of GFB shipments by the estimated compliance date.

At TSL 4, DOE expects GFB manufacturers to incur approximately $\$260$ million in product conversion costs to conduct aerodynamic redesigns for non-compliant GFB models. Additionally, GFB manufacturers would

incur approximately \$510 million in capital conversion costs to purchase new tooling and equipment necessary to produce compliant GFB models to meet these energy conservation standards.

In the conversion cost recovery markup scenario, manufacturers increase their manufacturer markups to fully recover the conversion costs they incur to redesign non-compliant equipment. At TSL 4, the \$770 million in conversion costs are fully recovered causing INPV to remain approximately equal to the no-new-standards case INPV in this conversion cost recovery scenario. At TSL 4, conversion costs represent approximately 33 percent of the sum of the annual free cash flows over the years between the estimated final rule announcement date and the estimated standards year (*i.e.*, the time period that these conversion costs would be incurred). It is possible that the GFB market will not accept the full increase in the MSPs that would be needed for GFB manufacturers to fully recover these conversion costs. This represents the upper-bound, or least-severe impact, on manufacturer profitability and is the manufacturer markup scenario used in all downstream consumer analyses.

Under the preservation of operating profit scenario, manufacturers earn the same per-unit operating profit as would be earned in the no-new-standards case, but manufacturers do not earn additional profit from their investments or potentially higher MPCs. In this scenario, the shipment weighted average MPC increases by approximately 1.1 percent, causing a reduction in the manufacturer margin after the analyzed compliance year. This reduction in the manufacturer margin and the \$770 million in conversion costs incurred by manufacturers cause a moderately negative change in INPV at TSL 4 in this preservation of operating profit scenario. This represents the lower-bound, or most severe impact, on manufacturer profitability.

At TSL 3, for GFB manufacturers, DOE estimates the impacts on INPV will range from $-\$238$ million to $\$1$ million, which represents a change of -4.8 percent to less than 0.1 percent, respectively. At TSL 3, industry free cash flow decreases to $\$316$ million, which represents a decrease of approximately 34.3 percent, compared to the no-new-standards case value of $\$480$ million in 2029, the year before the modeled compliance year.

TSL 3 would set energy conservation standards for axial inline fans at EL 3; axial panel fans at EL 3; centrifugal housed fans at EL 3; centrifugal inline fans at EL 4; centrifugal unboxed fans

at EL 3; axial PRVs at EL 4; centrifugal PRV exhaust fans at EL 4; centrifugal PRV supply fans at EL 5; and radial housed fans at EL 4. DOE estimates that approximately 60 percent of the GFB shipments would already meet or exceed the efficiency levels required at TSL 3 in 2030, in the no-new-standards case. Therefore, DOE estimates that manufacturers would have to redesign models representing approximately 40 percent of GFB shipments by the estimated compliance date.

At TSL 3, DOE expects GFB manufacturers to incur approximately $\$154$ million in product conversion costs to redesign all non-compliant GFB models. Additionally, GFB manufacturers would incur approximately $\$248$ million in capital conversion costs to purchase new tooling and equipment necessary to produce compliant GFB models to meet these energy conservation standards.

In the conversion cost recovery markup scenario, manufacturers increase their manufacturer markups to fully recover the conversion costs they incur to redesign non-compliant equipment. At TSL 3, the $\$402$ million in conversion costs are fully recovered, causing INPV to remain approximately equal to the no-new-standards case INPV in this conversion cost recovery scenario. This represents the upper-bound, or least-severe impact, on manufacturer profitability and is the manufacturer markup scenario used in all downstream consumer analyses.

Under the preservation of operating profit scenario, manufacturers earn the same per-unit operating profit as would be earned in the no-new-standards case, but manufacturers do not earn additional profit from their investments or potentially higher MPCs. In this scenario, the shipment weighted average MPC increases by approximately 1.1 percent, causing a reduction in the manufacturer margin after the analyzed compliance year. This reduction in the manufacturer margin and the $\$402$ million in conversion costs incurred by manufacturers cause a negative change in INPV at TSL 3 in this preservation of operating profit scenario. This represents the lower-bound, or most severe impact, on manufacturer profitability.

At TSL 2, for GFB manufacturers, DOE estimates the impacts on INPV will range from $-\$87$ million to $\$5$ million, which represents a change of -1.8 percent to 0.1 percent, respectively. At TSL 2, industry free cash flow decreases to $\$420$ million, which represents a decrease of approximately 12.4 percent, compared to the no-new-standards case

value of $\$480$ million in 2029, the year before the modeled compliance year.

TSL 2 would set energy conservation standards for axial inline fans at EL 2; axial panel fans at EL 2; centrifugal housed fans at EL 2; centrifugal inline fans at EL 3; centrifugal unboxed fans at EL 1; axial PRVs at EL 4; centrifugal PRV exhaust fans at EL 4; centrifugal PRV supply fans at EL 4; and radial housed fans at EL 3. DOE estimates that approximately 85 percent of the GFB shipments would already meet or exceed the efficiency levels required at TSL 2 in 2030, in the no-new-standards case. Therefore, DOE estimates that manufacturers would have to redesign models representing approximately 15 percent of GFB shipments by the estimated compliance date.

At TSL 2, DOE expects GFB manufacturers to incur approximately $\$62$ million in product conversion costs to redesign all non-compliant GFB models. Additionally, GFB manufacturers would incur approximately $\$86$ million in capital conversion costs to purchase new tooling and equipment necessary to produce compliant GFB models to meet these energy conservation standards.

In the conversion cost recovery markup scenario, manufacturers increase their manufacturer markups to fully recover the conversion costs they incur to redesign non-compliant equipment. At TSL 2, the $\$147$ million in conversion costs are fully recovered causing INPV to remain approximately equal to the no-new-standards case INPV in this conversion cost recovery scenario. This represents the upper-bound, or least-severe impact, on manufacturer profitability and is the manufacturer markup scenario used in all downstream consumer analyses.

Under the preservation of operating profit scenario, manufacturers earn the same per-unit operating profit as would be earned in the no-new-standards case, but manufacturers do not earn additional profit from their investments or potentially higher MPCs. In this scenario, the shipment weighted average MPC increases by approximately 0.6 percent, causing a reduction in the manufacturer margin after the analyzed compliance year. This reduction in the manufacturer margin and the $\$147$ million in conversion costs incurred by manufacturers cause a slight negative change in INPV at TSL 2 in this preservation of operating profit scenario. This represents the lower-bound, or most severe impact, on manufacturer profitability.

At TSL 1, for GFB manufacturers, DOE estimates the impacts on INPV will range from $-\$28$ million to $\$13$ million,

which represents a change of – 0.6 percent to 0.3 percent, respectively. At TSL 1, industry free cash flow decreases to \$463 million, which represents a decrease of approximately 3.6 percent, compared to the no-new-standards case value of \$480 million in 2029, the year before the modeled compliance year.

TSL 1 would set energy conservation standards for axial inline fans at EL 1; axial panel fans at EL 1; centrifugal housed fans at EL 1; centrifugal inline fans at EL 2; centrifugal unhoused fans at EL 1; axial PRVs at EL 4; centrifugal PRV exhaust fans at EL 3; centrifugal PRV supply fans at EL 3; and radial housed fans at EL 2. DOE estimates that approximately 91 percent of the GFB shipments would already meet or exceed the efficiency levels required at TSL 1 in 2030, in the no-new-standards case. Therefore, DOE estimates that manufacturers would have to redesign models representing approximately 9 percent of GFB shipments by the estimated compliance date.

At TSL 1, DOE expects GFB manufacturers to incur approximately \$20 million in product conversion costs to redesign all non-compliant GFB models. Additionally, GFB manufacturers would incur approximately \$23 million in capital conversion costs to purchase new tooling and equipment necessary to produce compliant GFB models to meet these energy conservation standards.

In the conversion cost recovery markup scenario, manufacturers increase their manufacturer markups to fully recover the conversion costs they incur to redesign non-compliant equipment. At TSL 1, the \$43 million in conversion costs are fully recovered causing INPV to remain approximately equal to the no-new-standards case INPV in this conversion cost recovery scenario. This represents the upper-bound, or least-severe impact, on manufacturer profitability and is the manufacturer markup scenario used in all down-stream consumer analyses.

Under the preservation of operating profit scenario, manufacturers earn the same per-unit operating profit as would be earned in the no-new-standards case, but manufacturers do not earn additional profit from their investments or potentially higher MPCs. In this scenario, the shipment weighted average MPC increases by approximately 0.6 percent, causing a reduction in the manufacturer margin after the analyzed compliance year. This reduction in the manufacturer margin and the \$43 million in conversion costs incurred by manufacturers cause a very slight negative change in INPV at TSL 1 in this preservation of operating profit scenario. This represents the lower-bound, or most severe impact, on manufacturer profitability.

Air Circulating Fans

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Table V-36 Industry Net Present Value for Air Circulating Fans – Conversion Cost Recovery Markup Scenario

	Units	No-New Standards Case	Trial Standard Levels					
			1	2	3	4	5	6
INPV	2022\$ millions	649	649	649	649	649	652	653
Change in INPV	2022\$ millions	-	0	0	0	0	3	3
	%	-	0.0	0.0	0.0	0.0	0.5	0.5

Table V-37 Industry Net Present Value for Air Circulating Fans – Preservation of Operating Profit Scenario

	Units	No-New Standards Case	Trial Standard Levels					
			1	2	3	4	5	6
INPV	2022\$ millions	649	650	649	645	579	16	(85)
Change in INPV	2022\$ millions	-	1	0	(4)	(71)	(633)	(734)
	%	-	0.1	0.0	(0.6)	(10.9)	(97.5)	(113.1)

Table V-38 Cash Flow Analysis for Air Circulating Fans

	Units	No-New Standards Case	Trial Standard Levels					
			1	2	3	4	5	6
Free Cash Flow (2029)	2022\$ millions	51	51	51	48	1	(400)	(456)
Change in Free Cash Flow (2029)	2022\$ millions	-	(0.0)	(0.1)	(3.1)	(50.2)	(451.0)	(507.1)
	%	-	(0.1)	(0.1)	(6.2)	(99.0)	(888.8)	(999.3)
Product Conversion Costs	2022\$ millions	-	0.1	0.2	1.9	27.0	213.6	239.1
Capital Conversion Costs	2022\$ millions	-	0.0	0.0	5.5	91.1	829.0	928.1
Total Conversion Costs	2022\$ millions	-	0.1	0.2	7.4	118.1	1,042.6	1,167.2

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At TSL 6, for ACF manufacturers, DOE estimates the impacts on INPV will range from –\$734 million to \$3 million, which represents a change of –113.1 percent to 0.5 percent, respectively. At TSL 6, industry free cash flow decreases to –\$456 million, which represents a decrease of approximately 999 percent, compared to the no-new-standards case value of \$51 million in 2029, the year before the modeled compliance year. The negative cash flow in the years leading up to the modeled compliance date implies that most, if not all, ACF manufacturers will need to borrow funds in order to make the investments necessary to comply with standards. This has the potential to significantly alter the market dynamics as some smaller manufacturers may not be able to secure this funding and could exit the market as a result of standards set at TSL 6.

TSL 6 would set energy conservation standards at max-tech for all ACFs. DOE estimates that approximately 1 percent of the ACF shipments would already meet the efficiency levels required at TSL 6 in 2030, in the no-new-standards case. Therefore, DOE estimates that manufacturers would have to redesign models representing approximately 99 percent of ACF shipments by the estimated compliance date. It is unclear if most ACF manufacturers would have the engineering capacity to complete the necessary redesigns within the 5-year compliance period. If manufacturers require more than 5 years to redesign their non-compliant ACF models, they will likely prioritize redesigns based on sales volume, which could result in customers not being able to obtain compliant ACFs covering the duty points that they require.

At TSL 6, DOE expects ACF manufacturers to incur approximately \$239 million in product conversion costs to conduct aerodynamic redesigns for non-compliant ACF models. Additionally, ACF manufacturers would incur approximately \$928 million in capital conversion costs to purchase new tooling and equipment necessary to produce compliant ACF models to meet these energy conservation standards.

In the conversion cost recovery markup scenario, manufacturers increase their manufacturer markups to fully recover the conversion costs they incur to redesign non-compliant equipment. At TSL 6, the \$1,167 million in conversion costs are fully recovered causing INPV to remain approximately equal to the no-new-standards case INPV in this conversion cost recovery scenario. Given the large size of the conversion costs, over 5 times the sum of the annual free cash flows over the years between the estimated final rule announcement date and the estimated standards year (*i.e.*, the time period that these conversion costs would be incurred), it is unlikely that the ACF market will accept the large increases in the MSPs that would be needed for ACF manufacturers to fully recover these conversion costs, making the MSPs that result from this manufacturer markup scenario less likely to be obtained by manufacturers. This represents the upper-bound, or least-severe impact, on manufacturer profitability and is the manufacturer markup scenario used in all down-stream consumer analyses.

Under the preservation of operating profit scenario, manufacturers earn the same per-unit operating profit as would be earned in the no-new-standards case, but manufacturers do not earn

additional profit from their investments or potentially higher MPCs. In this scenario, the shipment weighted average MPC increase by approximately 4.7 percent, causing a reduction in the manufacturer margin after the analyzed compliance year. This reduction in the manufacturer margin and the \$1,167 million in conversion costs incurred by manufacturers cause an extremely negative change in INPV at TSL 6 in this preservation of operating profit scenario. This represents the lower-bound, or most severe impact, on manufacturer profitability.

At TSL 5, for ACF manufacturers, DOE estimates the impacts on INPV will range from –\$633 million to \$3 million, which represents a change of –97.5 percent to 0.5 percent, respectively. At TSL 5, industry free cash flow decreases to –\$400 million, which represents a decrease of approximately 889 percent, compared to the no-new-standards case value of \$51 million in 2029, the year before the modeled compliance year. The negative cash flow in the years leading up to the modeled compliance date implies that most, if not all, ACF manufacturers will need to borrow funds in order to make the investments necessary to comply with standards. This has the potential to significantly alter the market dynamics as some smaller manufacturers may not be able to secure this funding and could exit the market as a result of standards set at TSL 5.

TSL 5 would set energy conservation standards at EL 5 for all ACFs, except housed centrifugal ACFs which are set at EL 3. DOE estimates that approximately 4 percent of the ACF shipments would already meet or exceed the efficiency levels required at

TSL 5 in 2030, in the no-new-standards case. Therefore, DOE estimates that manufacturers would have to redesign models representing approximately 96 percent of ACF shipments by the estimated compliance date. It is unclear if most ACF manufacturers would have the engineering capacity to complete the necessary redesigns within the 5-year compliance period. If manufacturers require more than 5 years to redesign their non-compliant ACF models, they will likely prioritize redesigns based on sales volume, which could result in customers not being able to obtain compliant ACFs covering the duty points that they require.

At TSL 5, DOE expects ACF manufacturers to incur approximately \$214 million in product conversion costs to conduct aerodynamic redesigns for non-compliant ACF models. Additionally, ACF manufacturers would incur approximately \$829 million in capital conversion costs to purchase new tooling and equipment necessary to produce compliant ACF models to meet these energy conservation standards.

In the conversion cost recovery markup scenario, manufacturers increase their manufacturer markups to fully recover the conversion costs they incur to redesign non-compliant equipment. At TSL 5, the \$1,043 million in conversion costs are fully recovered causing INPV to remain approximately equal to the no-new-standards case INPV in this conversion cost recovery scenario. Given the large size of the conversion costs, over 4.5 times the sum of the annual free cash flows over the years between the estimated final rule announcement date and the estimated standards year (*i.e.*, the time period that these conversion costs would be incurred), it is unlikely that the ACF market will accept the large increases in the MSPs that would be needed for ACF manufacturers to fully recover these conversion costs, making the MSPs that result from this manufacturer markup scenario less likely to be obtained by manufacturers. This represents the upper-bound, or least-severe impact, on manufacturer profitability and is the manufacturer markup scenario used in all down-stream consumer analyses.

Under the preservation of operating profit scenario, manufacturers earn the same per-unit operating profit as would be earned in the no-new-standards case, but manufacturers do not earn additional profit from their investments or potentially higher MPCs. The \$1,043 million in conversion costs incurred by manufacturers cause a significantly negative change in INPV at TSL 5 in this preservation of operating profit scenario. This represents the lower-

bound, or most severe impact, on manufacturer profitability.

At TSL 4, for ACF manufacturers, DOE estimates the impacts on INPV will range from $-\$71$ million to no change, which represents a maximum possible change of -10.9 percent. At TSL 4, industry free cash flow decreases to \$1 million, which represents a decrease of approximately 99.0 percent, compared to the no-new-standards case value of \$51 million in 2029, the year before the modeled compliance year.

TSL 4 would set energy conservation standards at EL 4 for all ACFs, except housed centrifugal ACFs which would not have any energy conservation standard. DOE estimates that approximately 36 percent of the ACF shipments would already meet or exceed the efficiency levels required at TSL 4 in 2030, in the no-new-standards case. Therefore, DOE estimates that manufacturers would have to redesign models representing approximately 64 percent of ACF shipments by the estimated compliance date.

At TSL 4, DOE expects ACF manufacturers to incur approximately \$27 million in product conversion costs to conduct aerodynamic redesigns for non-compliant ACF models. Additionally, ACF manufacturers would incur approximately \$91 million in capital conversion costs to purchase new tooling and equipment necessary to produce compliant ACF models to meet these energy conservation standards.

In the conversion cost recovery markup scenario, manufacturers increase their manufacturer markups to fully recover the conversion costs they incur to redesign non-compliant equipment. At TSL 4, the \$118 million in conversion costs are fully recovered causing INPV to remain approximately equal to the no-new-standards case INPV in this conversion cost recovery scenario. At TSL 4, conversion costs represent approximately 50 percent of the sum of the annual free cash flows over the years between the estimated final rule announcement date and the estimated standards year (*i.e.*, the time period that these conversion costs would be incurred). It is possible that the ACF market will not accept the full increase in the MSPs that would be needed for ACF manufacturers to fully recover these conversion costs. This represents the upper-bound, or least-severe impact, on manufacturer profitability and is the manufacturer markup scenario used in all down-stream consumer analyses.

Under the preservation of operating profit scenario, manufacturers earn the same per-unit operating profit as would be earned in the no-new-standards case,

but manufacturers do not earn additional profit from their investments or potentially higher MPCs. The \$118 million in conversion costs incurred by manufacturers cause a moderately negative change in INPV at TSL 4 in this preservation of operating profit scenario. This represents the lower-bound, or most severe impact, on manufacturer profitability.

At TSL 3, for ACF manufacturers, DOE estimates the impacts on INPV will range from $-\$4$ million to no change, which represents a maximum change of -0.6 percent. At TSL 3, industry free cash flow decreases to \$48 million, which represents a decrease of approximately 6.2 percent, compared to the no-new-standards case value of \$51 million in 2029, the year before the modeled compliance year.

TSL 3 would set energy conservation standards at EL 3 for all ACFs, except housed centrifugal ACFs which would not have any energy conservation standard. DOE estimates that approximately 84 percent of the ACF shipments would already meet or exceed the efficiency levels required at TSL 3 in 2030, in the no-new-standards case. Therefore, DOE estimates that manufacturers would have to redesign models representing approximately 16 percent of ACF shipments by the estimated compliance date.

At TSL 3, DOE expects ACF manufacturers to incur approximately \$1.9 million in product conversion costs to conduct aerodynamic redesigns for non-compliant ACF models. Additionally, ACF manufacturers would incur approximately \$5.5 million in capital conversion costs to purchase new tooling and equipment necessary to produce compliant ACF models to meet these energy conservation standards.

In the conversion cost recovery markup scenario, manufacturers increase their manufacturer markups to fully recover the conversion costs they incur to redesign non-compliant equipment. At TSL 3, the \$7.4 million in conversion costs are fully recovered causing INPV to remain equal to the no-new-standards case INPV in this conversion cost recovery scenario. This represents the upper-bound, or least-severe impact, on manufacturer profitability and is the manufacturer markup scenario used in all down-stream consumer analyses.

Under the preservation of operating profit scenario, manufacturers earn the same per-unit operating profit as would be earned in the no-new-standards case, but manufacturers do not earn additional profit from their investments or potentially higher MPCs. The \$7.4 million in conversion costs incurred by

manufacturers cause a slight negative change in INPV at TSL 3 in this preservation of operating profit scenario. This represents the lower-bound, or most severe impact, on manufacturer profitability.

At TSL 2, for ACF manufacturers, DOE estimates there will be no substantive change to INPV. At TSL 2, industry free cash flow slightly decreases by approximately 0.1 percent in 2029, the year before the modeled compliance year.

TSL 2 would set energy conservation standards at EL 2 for all ACFs, except housed centrifugal ACFs which would not have any energy conservation standard. DOE estimates that approximately 96 percent of the ACF shipments would already meet or exceed the efficiency levels required at TSL 2 in 2030, in the no-new-standards case. Therefore, DOE estimates that manufacturers would have to redesign models representing approximately 4 percent of ACF shipments by the estimated compliance date.

At TSL 2, DOE expects ACF manufacturers to incur approximately \$0.2 million in product conversion costs to redesign the few non-compliant ACF models. DOE estimates that ACF manufacturers would not incur any capital conversion costs, as manufacturers already have the tooling and production equipment necessary to produce ACF models that meet these energy conservation standards.

The conversion costs incurred by manufacturers, which are relatively minor due to the majority of shipments already meeting the energy conservation standards, and changes in MPCs at TSL 2 are not severe enough to have a significant impact on ACF manufacturers in either of the manufacturer markup scenarios.

At TSL 1, for ACF manufacturers, DOE estimates the impacts on INPV will range from no change to an increase of \$0.5 million, which represents a maximum change of 0.1 percent. At TSL 1, industry free cash flow slightly decreases by less than 0.1 percent in

2029, the year before the modeled compliance year.

TSL 1 would set energy conservation standards at EL 1 for all ACFs, except housed centrifugal ACFs which would not have any energy conservation standard. DOE estimates that approximately 96 percent of the ACF shipments would already meet or exceed the efficiency levels required at TSL 1 in 2030, in the no-new-standards case. Therefore, DOE estimates that manufacturers would have to redesign models representing approximately 4 percent of ACF shipments by the estimated compliance date.

At TSL 1, DOE expects ACF manufacturers to incur approximately \$0.1 million in product conversion costs to redesign the few non-compliant ACF models. DOE estimates that ACF manufacturers would not incur any capital conversion costs, as manufacturers already have the tooling and production equipment necessary to produce ACF models that meet these energy conservation standards.

The conversion costs incurred by manufacturers, which are relatively minor due to the majority of shipments already meeting the energy conservation standards, and the change in MPCs at TSL 1 are not severe enough to have a significant impact on ACF manufacturers in either of the manufacturer markup scenarios.

b. Direct Impacts on Employment

To quantitatively assess the potential impacts of new energy conservation standards on direct employment in the fan and blower industry, DOE used the GRIM to estimate the domestic labor expenditures and number of direct employees in the no-new-standards case and in each of the standards cases during the analysis period.

Production employees are those who are directly involved in fabricating and assembling equipment within manufacturer facility. Workers performing services that are closely associated with production operations, such as materials handling tasks using forklifts, are included as production labor, as well as line supervisors.

DOE used the GRIM to calculate the number of production employees from labor expenditures. DOE used statistical data from the U.S. Census Bureau's 2021 Annual Survey of Manufacturers¹²⁶ ("ASM") and the results of the engineering analysis to calculate industry-wide labor expenditures. Labor expenditures related to product manufacturing depend on the labor intensity of the product, the sales volume, and an assumption that wages remain fixed in real terms over time. The total labor expenditures in the GRIM were then converted to domestic production employment levels by dividing production labor expenditures by the annual payment per production worker.

Non-production employees account for those workers that are not directly engaged in the manufacturing of the covered equipment. This could include sales, human resources, engineering, and management. DOE estimated non-production employment levels by multiplying the number of fan and blower production workers by a scaling factor. The scaling factor is calculated by taking the ratio of the total number of employees, and the total production workers associated with the industry North American Industry Classification System ("NAICS") code 333413, which covers fan and blower manufacturing.

Using the GRIM, DOE estimates that there would be approximately 13,819 domestic production workers, and 6,091 non-production workers for GFBs in 2030 in the absence of new energy conservation standards. DOE estimates that there would be approximately 648 domestic production workers and 286 non-production workers for ACFs in 2030 in the absence of new energy conservation standards. Table V-39 shows the range of the impacts of energy conservation standards on U.S. production of GFBs and Table V-40 shows the range of the impacts of energy conservation standards on U.S. production of ACFs.

¹²⁶ See www.census.gov/programs-surveys/asm/data/tables.html.

Table V-39 Domestic Employment for General Fans and Blowers in 2030

	No-New-Standards Case	Trial Standard Levels					
		1	2	3	4	5	6
Domestic Production Workers in 2030	13,819	13,901	13,898	13,969	13,970	14,460	14,464
Domestic Non-Production Workers in 2030	6,091	6,127	6,126	6,157	6,157	6,373	6,375
Total Direct Employment in 2030*	19,910	20,028	20,024	20,126	20,127	20,833	20,839
Potential Changes in Total Direct Employment in 2030*	-	0 – 118	0 – 114	(1,991) – 216	(2,986) – 217	(4,977) – 923	(5,973) – 929

* Numbers may not sum exactly due to rounding. Number in parentheses indicate a negative number.

Table V-40 Domestic Employment for Air Circulating Fans in 2030

	No-New-Standards Case	Trial Standard Levels					
		1	2	3	4	5	6
Domestic Production Workers in 2030	648	644	644	644	644	644	591
Domestic Non-Production Workers in 2030	286	284	284	284	284	284	261
Total Direct Employment in 2030*	934	928	928	928	928	928	852
Potential Changes in Total Direct Employment in 2030*	-	(6) – 0	–(6) – 0	(93)– (6)	(140)– (6)	(234)– (6)	(280) – (82)

* Numbers may not sum exactly due to rounding. Number in parentheses indicate a negative number.

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The direct employment impacts shown in Table V–39 and Table V–40 represent the potential changes in direct employment that could result following the compliance date for GFBs and ACFs. Employment could increase or decrease due to the labor content of the various equipment being manufactured domestically that meet the analyzed standards or if manufacturers decided to move production facilities abroad because of new standards. At one end of the range, DOE assumes that all manufacturers continue to manufacture the same scope of equipment domestically after new standards are required. However, since the labor content of GFBs and ACFs vary by efficiency level, this can either result in an increase or decrease in domestic employment, even if all domestic production remains in the U.S.

The lower end of the range assumes that some domestic manufacturing either is eliminated or moves abroad due to the analyzed new standards. DOE assumes that for TSL 1 and TSL 2 ACF and GFB manufacturers already have

the tooling and production equipment necessary to produce ACF and GFB models that meet these energy conservation standards, making it unlikely that manufacturers would move any domestic product abroad at these analyzed TSLs. At TSL 3 through TSL 6, DOE conservatively estimates that some domestic manufacturing could move abroad as these TSLs require manufacturers to make larger investments in production equipment that could cause some manufacturers to consider moving production facilities to a lower-labor cost country.

c. Impacts on Manufacturing Capacity

During manufacturer interviews most manufacturers stated that any standards set at max-tech would severely disrupt manufacturing capacity. Many fan and blower manufacturers do not offer any GFB or ACF models that would meet these max-tech efficiency levels. Based on the shipments analysis used in the NIA, DOE estimates that approximately 4 percent of all GFB shipments and approximately 1 percent of ACF shipments will meet max-tech efficiency

levels, in the no-new-standards case in 2030, the modeled compliance year of new energy conservation standards. Manufacturers stated that they do not have the necessary engineers that would be required to convert models that represent approximately 96 percent of GFB shipments and approximately 99 percent of ACF shipments into compliant models.

Additionally, most manufacturers stated they would not be able to provide a full portfolio of fans and blower, covering their current offering of operating pressure and airflow ranges, for any equipment class that required max-tech efficiency levels. Most manufacturers stated that they do not currently have the machinery, technology, or engineering resources to manufacture these fans and blowers. Additionally, the few manufacturers that do have the capability of producing max-tech fans and blowers are not able to produce these fans and blowers for all necessary operating pressures and airflows that the market requires and in the volumes that would fulfill the entire fan and blower markets. Lastly, most

manufacturers stated that they would not be able to ramp up those production volumes over the five-year compliance period.

For fan and blower manufacturers to either completely redesign their fan and blower production lines to be capable of producing max-tech fans and blowers or to significantly expand their limited max-tech fan and blower production lines to meet larger production volumes would require a massive retooling and engineering effort, which would take more than the five-year compliance period.

DOE estimates there is a strong likelihood of manufacturer capacity constraints for any equipment classes that require max-tech efficiency levels.

d. Impacts on Subgroups of Manufacturers

As discussed in section IV.J.1 of this document, using average cost assumptions to develop an industry cash flow estimate may not be adequate for assessing differential impacts among manufacturer subgroups. Small manufacturers, niche manufacturers, and manufacturers exhibiting a cost structure substantially different from the industry average could be affected disproportionately. DOE used the results of the industry characterization to group manufacturers exhibiting similar characteristics. Consequently, DOE considered three manufacturer

subgroups in the MIA: GFB manufacturers, ACF manufacturers, and small manufacturers as a subgroup for a separate impact analysis. DOE discussed the potential impacts on GFB manufacturers and ACF manufacturers separately in sections V.B.2.a and V.B.2.b.

For the small business subgroup analysis, DOE applied the small business size standards published by the Small Business Administration (“SBA”) to determine whether a company is considered a small business. The size standards are codified at 13 CFR part 121. To be categorized as a small business under NAICS code 333413, “industrial and commercial fan and blower and air purification equipment manufacturing,” a fan and blower manufacturer and its affiliates may employ a maximum of 500 employees. The 500-employee threshold includes all employees in a business’s parent company and any other subsidiaries. For a discussion of the impacts on the small manufacturer subgroup, *see* the Regulatory Flexibility Analysis in section VI.B.

e. Cumulative Regulatory Burden

One aspect of assessing manufacturer burden involves looking at the cumulative impact of multiple DOE standards and the equipment-specific regulatory actions of other Federal agencies that affect the manufacturers of

a covered product or equipment. While any one regulation may not impose a significant burden on manufacturers, the combined effects of several existing or impending regulations may have serious consequences for some manufacturers, groups of manufacturers, or an entire industry. Assessing the impact of a single regulation may overlook this cumulative regulatory burden. In addition to energy conservation standards, other regulations can significantly affect manufacturers’ financial operations. Multiple regulations affecting the same manufacturer can strain profits and lead companies to abandon product lines or markets with lower expected future returns than competing products. For these reasons, DOE conducts an analysis of cumulative regulatory burden as part of its rulemakings pertaining to appliance efficiency.

DOE requests information regarding the impact of cumulative regulatory burden on manufacturers of fans and blowers associated with multiple DOE standards or product-specific regulatory actions of other Federal agencies.

DOE evaluates product-specific regulations that will take effect approximately 3 years before or after the estimated 2030 compliance date of any new energy conservation standards for fans and blowers. This information is presented in Table V–41.

Table V-41 Compliance Dates and Expected Conversion Expenses of Federal Energy Conservation Standards Affecting Fan and Blower Manufacturers

Federal Energy Conservation Standard	Number of Mfrs*	Number of Manufacturers Affected from this Rule**	Approx. Standards Year	Industry Conversion Costs (millions)	Industry Conversion Costs / Product Revenue***
Ceiling Fans, 88 FR 40932 (Jun. 22, 2023)†	91	5	2028	107.2 (2022\$)	1.9%
Electric Motors 88 FR 36066 (Jun. 1, 2023)	74	1	2027	468.5 (2021\$)	2.6%

* This column presents the total number of manufacturers identified in the energy conservation standard rule contributing to cumulative regulatory burden.

** This column presents the number of manufacturers producing fans and blowers that are also listed as manufacturers in the listed energy conservation standard contributing to cumulative regulatory burden.

*** This column presents industry conversion costs as a percentage of product revenue during the conversion period. Industry conversion costs are the upfront investments manufacturers must make to sell compliant products/equipment. The revenue used for this calculation is the revenue from just the covered product/equipment associated with each row. The conversion period is the time frame over which conversion costs are made and lasts from the publication year of the final rule to the compliance year of the energy conservation standard. The conversion period typically ranges from 3 to 5 years, depending on the rulemaking.

† Indicated a NOPR publication. The values listed could change upon the publication of a final rule.

MIAQ and AHRI expressed concerns about the HVAC industry burden of multiple DOE energy conservation standards and safety standards being passed in close succession, requiring significant retesting to be performed on equipment. (MIAQ, No. 124 at p. 3–4) and (AHRI, No. 130 at p.13–14) DOE conducts a cumulative regulatory burden on the manufactures of the products or equipment that is being regulated, so for this rulemaking that is a cumulative regulatory burden on fan and blower manufacturers. Table V–41 lists other products or equipment that fan and blower manufacturers make that also have a potential DOE energy conservation standard required within 3 years of the compliance date for this

rulemaking, modeled to be 2030. Additionally, Table III–1 listed products and equipment, including several HVAC equipment that if they have a fan embedded in the equipment, the fans would be excluded for this energy conservation standard, if finalized as proposed.

3. National Impact Analysis

This section presents DOE's estimates of the national energy savings and the NPV of consumer benefits that would result from each of the TSLs considered as potential amended standards.

a. Significance of Energy Savings

To estimate the energy savings attributable to potential standards for

fans and blowers, DOE compared their energy consumption under the no-new-standards case to their anticipated energy consumption under each TSL. The savings are measured over the entire lifetime of products purchased in the 30-year period that begins in the first full year of anticipated compliance with new standards (2030–2059). Table V–42 and Table V–43 present DOE's projections of the national energy savings for each TSL considered for GFBs and ACFs. The savings were calculated using the approach described in section IV.H of this document.

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Table V-42 Cumulative National Energy Savings for GFBs; 30 Years of Shipments (2030–2059)

	Trial Standard Level					
	1	2	3	4	5	6
	<i>quads</i>					
Primary energy	1.7	2.9	7.5	13.4	23.1	24.6
FFC energy	1.7	3.0	7.7	13.8	23.7	25.3

Table V-43 Cumulative National Energy Savings for ACFs; 30 Years of Shipments (2030–2059)

	Trial Standard Level					
	1	2	3	4	5	6
	<i>quads</i>					
Primary energy	0.1	0.2	1.2	4.4	6.3	7.0
FFC energy	0.1	0.2	1.2	4.5	6.5	7.2

OMB Circular A–4¹²⁷ requires agencies to present analytical results, including separate schedules of the monetized benefits and costs that show the type and timing of benefits and costs. Circular A–4 also directs agencies to consider the variability of key elements underlying the estimates of benefits and costs. For this rulemaking, DOE undertook a sensitivity analysis using 9 years, rather than 30 years, of

product shipments. The choice of a 9-year period is a proxy for the timeline in EPCA for the review of certain energy conservation standards and potential revision of and compliance with such revised standards.¹²⁸ The review timeframe established in EPCA is generally not synchronized with the equipment lifetime, equipment manufacturing cycles, or other factors specific to fans and blowers. Thus, such

results are presented for informational purposes only and are not indicative of any change in DOE's analytical methodologies. NES sensitivity analysis results based on a 9-year analytical period are presented in Table V–44 and Table V–45 for GFBs and ACFs. The impacts are counted over the lifetime of equipment purchased in 2030–2038.

¹²⁷ Office of Management and Budget, *Circular A–4: Regulatory Analysis*. September 17, 2003. Available at https://www.whitehouse.gov/wp-content/uploads/legacy_drupal_files/omb/circulars/A4/a-4.pdf.

¹²⁸ EPCA requires DOE to review its standards at least once every 6 years, and requires, for certain

products, a 3-year period after any new standard is promulgated before compliance is required, except that in no case may any new standards be required within 6 years of the compliance date of the previous standards. While adding a 6-year review to the 3-year compliance period adds up to 9 years, DOE notes that it may undertake reviews at any

time within the 6-year period and that the 3-year compliance date may yield to the 6-year backstop. A 9-year analysis period may not be appropriate given the variability that occurs in the timing of standards reviews and the fact that for some products, the compliance period is 5 years rather than 3 years.

Table V-44 Cumulative National Energy Savings for GFBs; 9 Years of Shipments (2030–2038)

	Trial Standard Level					
	1	2	3	4	5	6
	<i>quads</i>					
Primary energy	0.4	0.8	2.0	3.6	6.1	6.5
FFC energy	0.5	0.8	2.0	3.7	6.3	6.7

Table V-45 Cumulative National Energy Savings for ACFs; 9 Years of Shipments (2030–2038)

	Trial Standard Level					
	1	2	3	4	5	6
	<i>quads</i>					
Primary energy	0.0	0.0	0.2	0.8	1.1	3.5
FFC energy	0.0	0.0	0.2	1.2	1.3	3.6

b. Net Present Value of Consumer Costs and Benefits

DOE estimated the cumulative NPV of the total costs and savings for

consumers that would result from the TSLs considered for fans and blowers. In accordance with OMB's guidelines on regulatory analysis,¹²⁹ DOE calculated NPV using both a 7-percent and a 3-

percent real discount rate. Table V-46 and Table V-47 show the consumer NPV results with impacts counted over the lifetime of equipment purchased in 2030–2059 for GFBs and ACFs.

Table V-46 Cumulative Net Present Value of Consumer Benefits for GFBs; 30 Years of Shipments (2030–2059)

Discount Rate	Trial Standard Level					
	1	2	3	4	5	6
	<i>billion 2022\$</i>					
3 percent	3.8	7.2	19.0	36.9	54.8	49.3
7 percent	1.3	2.6	6.8	13.7	19.2	15.8

Table V-47 Cumulative Net Present Value of Consumer Benefits for ACFs; 30 Years of Shipments (2030–2059)

Discount Rate	Trial Standard Level					
	1	2	3	4	5	6
	<i>billion 2022\$</i>					
3 percent	0.4	0.7	3.6	12.6	13.1	14.5
7 percent	0.2	0.3	1.5	5.3	5.2	5.7

The NPV results based on the aforementioned 9-year analytical period are presented in Table V-48 and Table V-49 for GFBs and ACFs. The impacts

are counted over the lifetime of products purchased in 2030–2038. As mentioned previously, such results are presented for informational purposes

only and are not indicative of any change in DOE's analytical methodology or decision criteria.

¹²⁹ Office of Management and Budget. *Circular A-4: Regulatory Analysis*. September 17, 2003.

Available at [https://www.whitehouse.gov/wp-](https://www.whitehouse.gov/wp-content/uploads/legacy_drupal_files/omb/circulars/A4/a-4.pdf)

[content/uploads/legacy_drupal_files/omb/circulars/A4/a-4.pdf](https://www.whitehouse.gov/wp-content/uploads/legacy_drupal_files/omb/circulars/A4/a-4.pdf).

Table V-48 Cumulative Net Present Value of Consumer Benefits for GFBs; 9 Years of Shipments (2030–2038)

Discount Rate	Trial Standard Level					
	1	2	3	4	5	6
	<i>billion 2022\$</i>					
3 percent	1.4	2.6	6.9	13.4	20.0	18.0
7 percent	0.6	1.3	3.4	6.7	9.4	7.8

Table V-49 Cumulative Net Present Value of Consumer Benefits for ACFs; 9 Years of Shipments (2030–2038)

Discount Rate	Trial Standard Level					
	1	2	3	4	5	6
	<i>billion 2022\$</i>					
3 percent	0.1	0.2	0.9	3.3	3.4	3.4
7 percent	0.1	0.1	0.6	2.0	2.0	2.0

The previous results reflect the use of a default trend to estimate the change in price for fans and blowers over the analysis period (see section IV.F.1 of this document). DOE also conducted a sensitivity analysis that considered one scenario with a lower rate of price decline than the reference case and one scenario with a higher rate of price decline than the reference case. The results of these alternative cases are presented in appendix 10C of the NOPR TSD. In the high-price-decline case, the NPV of consumer benefits is higher than in the default case. In the low-price-decline case, the NPV of consumer benefits is lower than in the default case.

c. Indirect Impacts on Employment

It is estimated that new energy conservation standards for fans and blowers would reduce energy expenditures for consumers of those products, with the resulting net savings being redirected to other forms of economic activity. These expected shifts in spending and economic activity could affect the demand for labor. As described in section IV.N of this document, DOE used an input/output model of the U.S. economy to estimate indirect employment impacts of the TSLs that DOE considered. There are uncertainties involved in projecting employment impacts, especially changes in the later years of the analysis. Therefore, DOE generated results for near-term timeframes (2030–2035), where these uncertainties are reduced.

The results suggest that the proposed standards would be likely to have a negligible impact on the net demand for

labor in the economy. The net change in jobs is so small that it would be imperceptible in national labor statistics and might be offset by other, unanticipated effects on employment. Chapter 16 of the NOPR TSD presents detailed results regarding anticipated indirect employment impacts.

4. Impact on Utility or Performance of Products

As discussed in section III.F.1.d of this document, DOE has tentatively concluded that the standards proposed in this NOPR would not lessen the utility or performance of the fans and blowers under consideration in this rulemaking. Manufacturers of these equipment currently offer units that meet or exceed the proposed standards.

5. Impact of Any Lessening of Competition

DOE considered any lessening of competition that would be likely to result from new or amended standards. As discussed in section III.F.1.e, the Attorney General determines the impact, if any, of any lessening of competition likely to result from a proposed standard, and transmits such determination in writing to the Secretary, together with an analysis of the nature and extent of such impact. To assist the Attorney General in making this determination, DOE has provided DOJ with copies of this NOPR and the accompanying NOPR TSD for review. DOE will consider DOJ's comments on the proposed rule in determining whether to proceed to a final rule. DOE will publish and respond to DOJ's comments in that document. DOE invites comment from the public

regarding the competitive impacts that are likely to result from this proposed rule. In addition, stakeholders may also provide comments separately to DOJ regarding these potential impacts. See the **ADDRESSES** section for information to send comments to DOJ.

6. Need of the Nation To Conserve Energy

Enhanced energy efficiency, where economically justified, improves the Nation's energy security, strengthens the economy, and reduces the environmental impacts (costs) of energy production. Reduced electricity demand due to energy conservation standards is also likely to reduce the cost of maintaining the reliability of the electricity system, particularly during peak-load periods. Chapter 15 in the NOPR TSD presents the estimated impacts on electricity generating capacity, relative to the no-new-standards case, for the TSLs that DOE considered in this rulemaking.

Energy conservation resulting from potential energy conservation standards for fans and blowers is expected to yield environmental benefits in the form of reduced emissions of certain air pollutants and greenhouse gases. Table V-50 and Table V-51 provide DOE's estimate of cumulative emissions reductions expected to result from the TSLs considered in this rulemaking for GFBs and ACFs, respectively. The emissions were calculated using the multipliers discussed in section IV.K of this document. DOE reports annual emissions reductions for each TSL in chapter 13 of the NOPR TSD.

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Table V-50 Cumulative Emissions Reduction for GFBs Shipped in 2030–2059

	Trial Standard Level					
	1	2	3	4	5	6
Power Sector Emissions						
CO ₂ (million metric tons)	26.82	46.75	120.73	216.82	372.65	397.92
CH ₄ (thousand tons)	1.95	3.40	8.77	15.78	27.09	28.92
N ₂ O (thousand tons)	0.27	0.47	1.22	2.19	3.76	4.01
NO _x (thousand tons)	12.13	21.11	54.39	98.08	168.27	179.43
SO ₂ (thousand tons)	8.87	15.47	39.95	71.74	123.30	131.66
Hg (tons)	0.06	0.11	0.28	0.50	0.86	0.92
Upstream Emissions						
CO ₂ (million metric tons)	2.80	4.88	12.60	22.60	38.86	41.52
CH ₄ (thousand tons)	254.61	444.08	1,148.00	2,058.08	3,539.94	3,782.34
N ₂ O (thousand tons)	0.01	0.02	0.05	0.10	0.17	0.18
NO _x (thousand tons)	43.65	76.13	196.81	352.83	606.87	648.43
SO ₂ (thousand tons)	0.16	0.28	0.73	1.31	2.25	2.41
Hg (tons)	0.00	0.00	0.00	0.00	0.00	0.00
Total FFC Emissions						
CO ₂ (million metric tons)	29.61	51.62	133.33	239.41	411.51	439.45
CH ₄ (thousand tons)	256.56	447.48	1,156.77	2,073.86	3,567.04	3,811.26
N ₂ O (thousand tons)	0.28	0.49	1.27	2.29	3.93	4.19
NO _x (thousand tons)	55.78	97.24	251.20	450.91	775.15	827.86
SO ₂ (thousand tons)	9.04	15.75	40.68	73.06	125.56	134.07
Hg (tons)	0.06	0.11	0.28	0.50	0.86	0.92

Table V-51 Cumulative Emissions Reduction for ACFs Shipped in 2030–2059

	Trial Standard Level					
	1	2	3	4	5	6
Power Sector Emissions						
CO ₂ (million metric tons)	1.58	3.46	19.45	71.01	101.82	113.80
CH ₄ (thousand tons)	0.10	0.22	1.23	4.50	6.46	7.22
N ₂ O (thousand tons)	0.01	0.03	0.17	0.61	0.88	0.99
NO _x (thousand tons)	0.69	1.51	8.50	31.04	44.51	49.75
SO ₂ (thousand tons)	0.43	0.94	5.27	19.24	27.59	30.84
Hg (tons)	0.00	0.01	0.04	0.13	0.19	0.21
Upstream Emissions						
CO ₂ (million metric tons)	0.17	0.36	2.05	7.50	10.75	12.02
CH ₄ (thousand tons)	15.15	33.21	186.82	682.18	978.13	1,093.20
N ₂ O (thousand tons)	0.00	0.00	0.01	0.03	0.05	0.05
NO _x (thousand tons)	2.60	5.69	32.03	116.98	167.72	187.45
SO ₂ (thousand tons)	0.01	0.02	0.12	0.44	0.63	0.71
Hg (tons)	0.00	0.00	0.00	0.00	0.00	0.00
Total FFC Emissions						
CO ₂ (million metric tons)	1.74	3.82	21.50	78.51	112.57	125.81
CH ₄ (thousand tons)	15.25	33.43	188.05	686.69	984.59	1,100.41
N ₂ O (thousand tons)	0.01	0.03	0.18	0.65	0.93	1.04
NO _x (thousand tons)	3.29	7.21	40.54	148.02	212.23	237.20
SO ₂ (thousand tons)	0.44	0.96	5.39	19.69	28.23	31.55
Hg (tons)	0.00	0.01	0.04	0.13	0.19	0.21

As part of the analysis for this rulemaking, DOE estimated monetary benefits likely to result from the reduced emissions of CO₂ that DOE estimated for each of the considered

TSLs for GFBs and AFCs. Section IV.L of this document discusses the SC–CO₂ values that DOE used. Table V–52 and Table V–53 present the value of CO₂ emissions reduction at each TSL for

each of the SC–CO₂ cases for GFBs and AFCs, respectively. The time-series of annual values is presented for the proposed TSL in chapter 14 of the NOPR TSD.

Table V-52 Present Value of CO₂ Emissions Reduction for GFBs Shipped in 2030–2059

TSL	SC-CO ₂ Case			
	Discount Rate and Statistics			
	5%	3%	2.5%	3%
	Average	Average	Average	95 th percentile
	Billion 2022\$			
1	0.26	1.14	1.79	3.45
2	0.45	1.97	3.11	5.98
3	1.15	5.03	7.92	15.22
4	2.11	9.23	14.53	27.97
5	3.59	15.71	24.73	47.58
6	3.80	16.65	26.21	50.42

Table V-53 Present Value of CO₂ Emissions Reduction for ACFs Shipped in 2030–2059

TSL	SC-CO ₂ Case			
	Discount Rate and Statistics			
	5%	3%	2.5%	3%
	Average	Average	Average	95 th percentile
	<i>Billion 2022\$</i>			
1	0.02	0.08	0.12	0.23
2	0.04	0.17	0.26	0.51
3	0.22	0.94	1.47	2.85
4	0.80	3.43	5.37	10.40
5	1.14	4.92	7.70	14.91
6	1.28	5.50	8.61	16.66

As discussed in section IV.L.2, DOE estimated the climate benefits likely to result from the reduced emissions of methane and N₂O that DOE estimated for each of the considered TSLs for

GFBs and ACFs. Table V-54 and Table V-55 present the value of the CH₄ emissions reduction at each TSL for GFBs and ACFs, respectively, and Table V-56 and Table V-57 present the value

of the N₂O emissions reduction at each TSL for GFBs and ACFs, respectively. The time-series of annual values is presented for the proposed TSL in chapter 14 of the NOPR TSD.

Table V-54 Present Value of Methane Emissions Reduction for GFBs Shipped in 2030–2059

TSL	SC-CH ₄ Case			
	Discount Rate and Statistics			
	5%	3%	2.5%	3%
	Average	Average	Average	95 th percentile
	<i>Billion 2022\$</i>			
1	0.10	0.32	0.45	0.85
2	0.18	0.56	0.79	1.48
3	0.46	1.43	2.01	3.77
4	0.85	2.61	3.67	6.91
5	1.44	4.45	6.25	11.77
6	1.53	4.72	6.64	12.48

Table V-55 Present Value of Methane Emissions Reduction for ACFs Shipped in 2030–2059

TSL	SC-CH ₄ Case			
	Discount Rate and Statistics			
	5%	3%	2.5%	3%
	Average	Average	Average	95 th percentile
	<i>Billion 2022\$</i>			
1	0.01	0.02	0.03	0.06
2	0.02	0.05	0.07	0.12
3	0.09	0.26	0.37	0.70
4	0.32	0.97	1.35	2.54
5	0.46	1.38	1.93	3.64
6	0.51	1.55	2.16	4.07

Table V-56 Present Value of Nitrous Oxide Emissions Reduction for GFBs Shipped in 2030–2059

TSL	SC-N ₂ O Case			
	Discount Rate and Statistics			
	5%	3%	2.5%	3%
	Average	Average	Average	95 th percentile
	<i>Billion 2022\$</i>			
1	0.00	0.00	0.01	0.01
2	0.00	0.01	0.01	0.02
3	0.00	0.02	0.03	0.05
4	0.01	0.03	0.05	0.09
5	0.01	0.05	0.08	0.15
6	0.01	0.06	0.09	0.15

Table V-57 Present Value of Nitrous Oxide Emissions Reduction for ACFs Shipped in 2030–2059

TSL	SC-N ₂ O Case			
	Discount Rate and Statistics			
	5%	3%	2.5%	3%
	Average	Average	Average	95 th percentile
	<i>Billion 2022\$</i>			
1	0.000	0.000	0.000	0.001
2	0.000	0.000	0.001	0.001
3	0.001	0.003	0.004	0.007
4	0.003	0.010	0.016	0.027
5	0.004	0.015	0.023	0.039
6	0.004	0.016	0.025	0.043

DOE is well aware that scientific and economic knowledge continues to evolve rapidly about the contribution of CO₂ and other GHG emissions to changes in the future global climate and the potential resulting damages to the global and U.S. economy. DOE, together with other Federal agencies, will continue to review methodologies for estimating the monetary value of reductions in CO₂ and other GHG emissions. This ongoing review will consider the comments on this subject that are part of the public record for this

and other rulemakings, as well as other methodological assumptions and issues. DOE notes that the proposed standards would be economically justified even without inclusion of monetized benefits of reduced GHG emissions.

DOE also estimated the monetary value of the health benefits associated with NO_x and SO₂ emissions reductions anticipated to result from the considered TSLs for GFBs and ACFs. The dollar-per-ton values that DOE used are discussed in section IV.L of this document. Table V-58 and Table V-59

present the present value for NO_x emissions reduction for each TSL calculated using 7-percent and 3-percent discount rates, for GFBs and ACFs, respectively; and Table V-60 and Table V-61 present similar results for SO₂ emissions reductions for GFBs and ACFs, respectively. The results in these tables reflect application of EPA's low dollar-per-ton values, which DOE used to be conservative. The time-series of annual values is presented for the proposed TSL in chapter 14 of the NOPR TSD.

Table V-58 Present Value of NO_x Emissions Reduction for GFBs Shipped in 2030–2059

TSL	3% Discount Rate	7% Discount Rate
	<i>million 2022\$</i>	
1	827	2,353
2	1,428	4,082
3	3,626	10,443
4	6,702	19,053
5	11,376	32,519
6	12,026	34,536

Table V-59 Present Value of NO_x Emissions Reduction for ACFs Shipped in 2030–2059

TSL	3% Discount Rate	7% Discount Rate
	<i>million 2022\$</i>	
1	58	153
2	128	336
3	718	1,890
4	2,622	6,902
5	3,760	9,897
6	4,202	11,061

Table V-60 Present Value of SO₂ Emissions Reduction for GFBs Shipped in 2030–2059

TSL	3% Discount Rate	7% Discount Rate
	<i>million 2022\$</i>	
1	191	537
2	329	931
3	836	2,382
4	1,546	4,346
5	2,624	7,417
6	2,774	7,877

Table V-61 Present Value of SO₂ Emissions Reduction for ACFs Shipped in 2030–2059

TSL	3% Discount Rate	7% Discount Rate
	<i>million 2022\$</i>	
1	11	29
2	24	63
3	137	354
4	498	1,292
5	715	1,852
6	799	2,070

Not all the public health and environmental benefits from the reduction of greenhouse gases, NO_x, and SO₂ are captured in the values above, and additional unquantified benefits from the reductions of those pollutants as well as from the reduction of direct PM and other co-pollutants may be significant. DOE has not included monetary benefits of the reduction of Hg emissions because the amount of reduction is very small.

7. Other Factors

The Secretary of Energy, in determining whether a standard is economically justified, may consider any other factors that the Secretary deems to be relevant. (42 U.S.C 6216(a); 42 U.S.C. 6295(o)(2)(B)(i)(VII)) No other factors were considered in this analysis.

8. Summary of Economic Impacts

Table V-62 and Table V-63 presents the NPV values that result from adding the estimates of the potential economic benefits resulting from reduced GHG and NO_x and SO₂ emissions to the NPV

of consumer benefits calculated for each TSL considered in this rulemaking, for GFBs and ACFs, respectively. The consumer benefits are domestic U.S. monetary savings that occur as a result of purchasing the covered GFBs and ACFs, and are measured for the lifetime of equipment shipped in 2030–2059. The climate benefits associated with reduced GHG emissions resulting from the adopted standards are global benefits, and are also calculated based on the lifetime of GFBs and ACFs shipped in 2030–2059.

Table V-62 Consumer NPV Combined with Present Value of Climate Benefits and Health Benefits for GFBs

Category	TSL 1	TSL 2	TSL 3	TSL 4	TSL 5	TSL 6
<i>Using 3% discount rate for Consumer NPV and Health Benefits (billion 2022\$)</i>						
5% Average SC-GHG case	7.1	12.8	33.5	63.3	99.8	97.1
3% Average SC-GHG case	8.2	14.8	38.3	72.2	115.0	113.2
2.5% Average SC-GHG case	8.9	16.1	41.8	78.6	125.9	124. ⁷
3% 95th percentile SC-GHG case	11.0	19.7	50.9	95.3	154.3	154.8
<i>Using 7% discount rate for Consumer NPV and Health Benefits (billion 2022\$)</i>						
5% Average SC-GHG case	2.7	5.0	12.9	24.9	38.2	36.0
3% Average SC-GHG case	3.8	6.9	17.8	33.8	53.4	52.0
2.5% Average SC-GHG case	4.6	8.2	21.3	40.2	64.3	63. ⁶
3% 95th percentile SC-GHG case	6.6	11.8	30.3	56.9	92.7	93.7

Table V-63 Consumer NPV Combined with Present Value of Climate Benefits and Health Benefits for ACFs

Category	TSL 1	TSL 2	TSL 3	TSL 4	TSL 5	TSL 6
<i>Using 3% discount rate for Consumer NPV and Health Benefits (billion 2022\$)</i>						
5% Average SC-GHG case	0.6	1.2	6.2	21.9	26.4	29.4
3% Average SC-GHG case	0.7	1.3	7.1	25.2	31.1	34.7
2.5% Average SC-GHG case	0.8	1.4	7.7	27.5	34.5	38. ⁴
3% 95th percentile SC-GHG case	0.9	1.7	9.4	33.7	43.4	48.4
<i>Using 7% discount rate for Consumer NPV and Health Benefits (billion 2022\$)</i>						
5% Average SC-GHG case	0.3	0.5	2.7	9.5	11.3	12.5
3% Average SC-GHG case	0.4	0.7	3.6	12.8	16.0	17.7
2.5% Average SC-GHG case	0.4	0.8	4.2	15.1	19.4	21. ⁵
3% 95th percentile SC-GHG case	0.5	1.1	5.9	21.3	28.3	31.5

C. Conclusion

When considering new or amended energy conservation standards, the standards that DOE adopts for any type (or class) of covered equipment must be designed to achieve the maximum improvement in energy efficiency that the Secretary determines is technologically feasible and economically justified. (42 U.S.C. 6316(a); 42 U.S.C. 6295(o)(2)(A)) In determining whether a standard is economically justified, the Secretary must determine whether the benefits of the standard exceed its burdens by, to the greatest extent practicable, considering the seven statutory factors discussed previously. (42 U.S.C. 6316(a); 42 U.S.C. 6295(o)(2)(B)(i)) The new or amended standard must also result in significant conservation of energy. (42 U.S.C. 6316(a); 42 U.S.C. 6295(o)(3)(B))

For this NOPR, DOE considered the impacts of new standards for GFBs and ACFs at each TSL, beginning with the max-tech feasible level, to determine whether that level was economically justified. Where the max-tech level was not justified, DOE then considered the next most efficient level and undertook the same evaluation until it reached the highest efficiency level that is both technologically feasible and economically justified and saves a significant amount of energy.

To aid the reader as DOE discusses the benefits and/or burdens of each TSL, tables in this section present a summary of the results of DOE's quantitative analysis for each TSL. In addition to the quantitative results presented in the tables, DOE also considers other burdens and benefits that affect economic justification. These include the impacts on identifiable subgroups of

consumers who may be disproportionately affected by a national standard and impacts on employment.

1. Benefits and Burdens of TSLs Considered for Fans and Blowers Standards

a. General Fans and Blowers

Table V-64 and Table V-65 summarize the quantitative impacts estimated for each TSL for GFBs. The national impacts are measured over the lifetime of GFBs purchased in the 30-year period that begins in the anticipated first full year of compliance with new standards (2030–2059). The energy savings, emissions reductions, and value of emissions reductions refer to full-fuel-cycle results. The efficiency levels contained in each TSL are described in section V.A of this document.

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Table V-64 Summary of Analytical Results for GFBs TSLs: National Impacts

Category	TSL 1	TSL 2	TSL 3	TSL 4	TSL 5	TSL 6
Cumulative FFC National Energy Savings						
Quads	1.7	3.0	7.7	13.8	23.7	25.3
Cumulative FFC Emissions Reduction						
CO ₂ (million metric tons)	29.6	51.6	133.3	239.4	411.5	439.4
CH ₄ (thousand tons)	256.6	447.5	1156.8	2073.9	3567.0	3811.3
N ₂ O (thousand tons)	0.3	0.5	1.3	2.3	3.9	4.2
NO _x (thousand tons)	55.8	97.2	251.2	450.9	775.1	827.9
SO ₂ (thousand tons)	9.0	15.8	40.7	73.1	125.6	134.1
Hg (tons)	0.1	0.1	0.3	0.5	0.9	0.9
Present Value of Monetized Benefits and Costs (3% discount rate, billion 2022\$)						
Consumer Operating Cost Savings	5.3	9.1	23.0	42.7	72.3	76.4
Climate Benefits*	1.5	2.5	6.5	11.9	20.2	21.4
Health Benefits**	2.9	5.0	12.8	23.4	39.9	42.4
Total Benefits†	9.6	16.7	42.3	78.0	132.4	140.2
Consumer Incremental Product Costs‡	1.5	1.9	4.0	5.7	17.4	27.0
Consumer Net Benefits	3.8	7.2	19.0	36.9	54.8	49.3
Total Net Benefits	8.2	14.8	38.3	72.2	115.0	113.2
Present Value of Monetized Benefits and Costs (7% discount rate, billion 2022\$)						
Consumer Operating Cost Savings	2.1	3.5	8.9	16.6	28.0	29.5
Climate Benefits*	1.5	2.5	6.5	11.9	20.2	21.4
Health Benefits**	1.0	1.8	4.5	8.2	14.0	14.8
Total Benefits†	4.5	7.8	19.8	36.8	62.3	65.7
Consumer Incremental Product Costs‡	0.7	1.0	2.0	2.9	8.9	13.7
Consumer Net Benefits	1.3	2.6	6.8	13.7	19.2	15.8
Total Net Benefits	3.8	6.9	17.8	33.8	53.4	52.0

Note: This table presents the costs and benefits associated with GFBs shipped in 2030–2059. These results include benefits to consumers which accrue after 2059 from the products shipped in 20230–2059.

* Climate benefits are calculated using four different estimates of the SC-CO₂, SC-CH₄ and SC-N₂O.

Together, these represent the global SC-GHG. For presentational purposes of this table, the climate benefits associated with the average SC-GHG at a 3-percent discount rate are shown; however, DOE emphasizes the importance and value of considering the benefits calculated using all four sets of SC-GHG estimates. To monetize the benefits of reducing GHG emissions, this analysis uses the interim estimates presented in the *Technical Support Document: Social Cost of Carbon, Methane, and Nitrous Oxide Interim Estimates Under Executive Order 13990* published in February 2021 by the IWG.

** Health benefits are calculated using benefit-per-ton values for NO_x and SO₂. DOE is currently only monetizing (for NO_x and SO₂) PM_{2.5} precursor health benefits and (for NO_x) ozone precursor health benefits, but will continue to assess the ability to monetize other effects such as health benefits from reductions in direct PM_{2.5} emissions. The health benefits are presented at real discount rates of 3 and 7 percent. See section IV.M of this document for more details.

† Total and net benefits include consumer, climate, and health benefits. For presentation purposes, total and net benefits for both the 3-percent and 7-percent cases are presented using the average SC-GHG with 3-percent discount rate.

‡ Costs include incremental equipment costs as well as installation costs.

Table V-65 Summary of Analytical Results for GFBs TSLs: Manufacturer and Consumer Impacts

Category	TSL 1	TSL 2	TSL 3	TSL 4	TSL 5	TSL 6
Manufacturer Impacts						
Industry NPV (million 2022\$) (No-new-standards case INPV = 4,935)	4,907 – 4,948	4,847 – 4,940	4,697 – 4,936	4,479 – 4,936	3,671 – 4,946	2,647 – 4,975
Industry NPV (% change)	(0.6) – 0.3	(1.8) – 0.1	(4.8) – 0.0	(9.2) – 0.0	(25.6) – 0.2	(46.4) – 0.8
Consumer Average LCC Savings (2022\$)						
Axial Inline	1,766	1,029	550	550	670	(2,169)
Axial Panel	(194)	802	1,413	1,702	1,902	1,902
Centrifugal Housed	1,714	1,977	2,092	2,423	2,398	2,398
Centrifugal Inline	355	1,389	454	955	335	335
Centrifugal Unhoused	1,009	1,009	884	1,170	2,004	2,004
Axial Power Roof Ventilator	945	945	945	945	945	(9,470)
Centrifugal Power Roo– Ventilator - Exhaust	122	154	154	154	154	(1,992)
Centrifugal Power Roo– Ventilator - Supply	831	827	973	973	1,126	1,126
Radial Housed	1,708	2,145	3,714	3,714	5,391	5,391
Shipment- Weighted Average*	907	1,256	1,425	1,694	2,030	1,751
Consumer Simple PBP (years)						
Axial Inline	1.0	5.8	9.6	9.6	9.8	17.9
Axial Panel	10.9	4.7	2.1	1.7	2.5	2.5
Centrifugal Housed	0.2	0.4	0.4	0.6	3.1	3.1
Centrifugal Inline	7.6	1.1	7.3	6.1	9.1	9.1
Centrifugal Unhoused	3.5	3.5	2.6	1.2	1.0	1.0
Axial Power Roof Ventilator	7.0	7.0	7.0	7.0	7.0	32.9
Centrifugal Power Roo– Ventilator - Exhaust	9.0	8.9	8.9	8.9	8.9	22.8
Centrifugal Power Roo– Ventilator - Supply	1.5	1.5	1.7	1.7	2.8	2.8
Radial Housed	3.0	2.7	1.7	1.7	2.2	2.2
Shipment-	4.6	3.0	2.3	1.8	2.9	3.8

Category	TSL 1	TSL 2	TSL 3	TSL 4	TSL 5	TSL 6
Weighted Average*						
Percent of Consumers that Experience a Net Cost						
Axial Inline	0.9%	7.5%	23.6%	23.6%	51.3%	79.4%
Axial Panel	6.3%	7.3%	11.0%	19.5%	29.9%	29.9%
Centrifugal Housed	1.5%	2.4%	6.0%	12.9%	41.5%	41.5%
Centrifugal Inline	9.9%	4.6%	36.6%	49.2%	66.7%	66.7%
Centrifugal Unhoused	2.2%	2.2%	4.8%	10.5%	13.7%	13.7%
Axial Power Roof Ventilator	14.3%	14.3%	14.3%	14.3%	14.3%	89.0%
Centrifugal Power Roo- Ventilator - Exhaust	13.1%	25.8%	25.8%	25.8%	25.8%	84.7%
Centrifugal Power Roo- Ventilator - Supply	8.8%	16.5%	24.9%	24.9%	32.3%	32.3%
Radial Housed	3.3%	5.1%	13.3%	13.3%	24.4%	24.4%
Shipment-Weighted Average*	3.8%	5.0%	9.5%	15.7%	30.2%	32.8%

Parentheses indicate negative (-) values. The entry “-” means no impact because the TSL considered is equivalent to the no-new standards case. The entry “N/A.” means not applicable because there is a decrease in average installed costs at the considered TSLs compared to the no-new standards case.

* Weighted by shares of each equipment class in total projected shipments in 2030.

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DOE first considered TSL 6, which represents the max-tech efficiency levels. At TSL 6, DOE expects all equipment classes would require the highest tier aerodynamic redesign.

TSL 6 would save an estimated 25.3 quads of full-fuel cycle energy, an amount DOE considers significant. Under TSL 6, the NPV of consumer benefit would be \$15.8 billion using a discount rate of 7 percent, and \$49.3 billion using a discount rate of 3 percent.

The cumulative emissions reductions at TSL 6 are 439.4 Mt of CO₂, 134.1 thousand tons of SO₂, 827.9 thousand tons of NO_x, 0.9 tons of Hg, 3,811.3 thousand tons of CH₄, and 4.2 thousand tons of N₂O. The estimated monetary value of the climate benefits from reduced GHG emissions (associated with the average SC-GHG at a 3-percent discount rate) at TSL 6 is \$21.4 billion. The estimated monetary value of the health benefits from reduced SO₂ and NO_x emissions at TSL 6 is \$14.8 billion using a 7-percent discount rate and \$42.4 billion using a 3-percent discount rate.

Using a 7-percent discount rate for consumer benefits and costs, health benefits from reduced SO₂ and NO_x emissions, and the 3-percent discount rate case for climate benefits from reduced GHG emissions, the estimated total NPV at TSL 6 is \$52.0 billion. Using a 3-percent discount rate for all benefits and costs, the estimated total NPV at TSL 6 is \$113.2 billion. The estimated total NPV is provided for additional information, however DOE primarily relies upon the NPV of consumer benefits when determining whether a proposed standard level is economically justified.

At TSL 6, for the largest equipment classes, which are represented by axial panel fans, centrifugal housed fans, and centrifugal unhoused fans—which together represent approximately 85 percent of annual shipments—there is a life-cycle cost savings of \$1,902, \$2,398, and \$2,004 and a payback period of 2.5 years, 3.1 years, and 1.0 years, respectively. For these equipment classes, the fraction of customers experiencing a net LCC cost is 29.9 percent, 41.5 percent, and 13.7 percent due to increases in total installed cost of

\$618, \$1,090 and \$215, respectively. The life-cycle costs savings are negative for axial inline fans, axial PRV, and centrifugal PRV exhaust, and equal to –\$2,169, –\$9,470, and –\$1,992. For these equipment classes the payback is 17.9, 32.9 and 22.8 years and the fraction of customers experiencing a net LCC cost is 79.4 percent, 89.0 percent, and 84.7 percent. The life-cycle costs savings for centrifugal inline, centrifugal PRV supply, and radial housed fans are positive and equal to \$335, \$1,126, and \$5,391, respectively. For these equipment classes the payback is 9.1, 2.8, and 2.2 years and the fraction of customers experiencing a net LCC cost is 66.7 percent, 32.3 percent, and 24.4 percent. At TSL 6, the shipments-weighted average LCC is equal to \$1,751, the payback period is equal to 3.8 and the fraction of customers experiencing a net LCC cost is 32.8 percent.

At TSL 6, the projected change in INPV ranges from a decrease of \$2,287 million to an increase of \$40 million, which corresponds to a decrease of 46.4 percent and an increase of 0.8 percent, respectively. DOE estimates that

industry must invest \$3,750 million to conduct aerodynamic redesigns on all equipment classes to comply with standards set at TSL 6. An investment of \$3,750 million in conversion costs represents approximately 1.3 times the sum of the annual free cash flows over the years between the estimated final rule announcement date and the estimated standards year (*i.e.*, the time period that these conversion costs would be incurred) and represents over 75 percent of the entire no-new-standards case INPV over the 30-year analysis period.¹³⁰

In the no-new-standards case, free cash flow is estimated to be \$480 million in 2029, the year before the modeled compliance date. At TSL 6, the estimated free cash flow is –\$1,132 million in 2029. This represents a decrease in free cash flow of 336 percent, or a decrease of \$1,612 million, in 2029. A negative free cash flow implies that most, if not all, manufacturers will need to borrow substantial funds to be able to make investments necessary to comply with energy conservation standards at TSL 6. The extremely large drop in free cash flows could cause some GFB manufacturers to discontinue certain products offerings and shift their resources to other business units not impacted by this rule, even though recovery may be possible over the 30-year analysis period. DOE is concerned about the uncertainty of the market that may exist at TSL 6 if manufacturers choose not to maintain their full product offerings in response to the investments needed to support TSL 6. Additionally, most small businesses will struggle to secure this funding, due to their size and the uncertainty of recovering their investments. At TSL 6, models representing 4 percent of all GFB shipments are estimated to meet the efficiency requirements at this TSL in the no-new-standards case by 2030, the modeled compliance year. Therefore, models representing 96 percent of all GFB shipments will need to be remodeled in the 5-year compliance period.

Manufacturers are unlikely to have the engineering capacity to conduct this massive redesign effort in 5 years. Instead, they will likely prioritize redesigns based on sales volume, which could leave market gaps in equipment offered by manufacturers and even the entire industry. The resulting market gaps in equipment offerings could result

in sub-optimal selection of fan duty points (airflow, pressure, speed combination) for some applications, potentially leading to a reduction in the estimated energy savings, and estimated consumer benefits, at this TSL. Most small businesses will be at a competitive disadvantage at this TSL because they have less technical and financial resources and the capital investments required will be spread over fewer units.

The Secretary tentatively concludes that at TSL 6 for GFBs, the benefits of energy savings, positive NPV of consumer benefits, emission reductions, and the estimated monetary value of the emissions reductions would be outweighed by the economic burden on many consumers, and the impacts on manufacturers, including the extremely large conversion costs (representing approximately 1.3 times the sum of the annual free cash flows during the time period that these conversion costs will be incurred and are approximately equal to 75 percent of the entire no-new-standards case INPV), profitability impacts that could result in a large reduction in INPV (up to a decrease of 46.4 percent), the large negative free cash flows in the years leading up to the compliance date (annual free cash flow is estimated to be –\$1,132 million in the year before the compliance date), the lack of manufacturers currently offering equipment meeting the efficiency levels required at this TSL (models representing 96 percent of shipments will need to be redesigned to meet this TSL), including most small businesses, and the likelihood of the significant disruption in the GFB market. Due to the limited amount of engineering resources each manufacturer has, it is unclear if most manufacturers will be able to redesign models representing on average 96 percent of their GFB shipments covered by this rulemaking in the 5-year compliance period. Consequently, the Secretary has tentatively concluded that TSL 6 is not economically justified.

DOE then considered TSL 5, which represents a combination of the highest efficiency levels resulting in positive life-cycle costs savings. At TSL 5, DOE expects all equipment classes, except for axial PRVs, would require an aerodynamic redesign. Axial panel, centrifugal housed, centrifugal inline, centrifugal unboxed, centrifugal PRV supply, and radial housed fans would all require the highest tier aerodynamic redesign. Axial inline and centrifugal PRV exhaust fans would require the second to highest tier aerodynamic redesign. Axial PRV fans would require two size increases in diameter.

TSL 5 would save an estimated 23.7 quads of energy, an amount DOE considers significant. Under TSL 5, the NPV of consumer benefit would be \$19.2 billion using a discount rate of 7 percent, and \$54.8 billion using a discount rate of 3 percent.

The cumulative emissions reductions at TSL 5 are 411.5 Mt of CO₂, 125.6 thousand tons of SO₂, 775.1 thousand tons of NO_x, 0.9 tons of Hg, 3,567.0 thousand tons of CH₄, and 3.9 thousand tons of N₂O. The estimated monetary value of the climate benefits from reduced GHG emissions (associated with the average SC-GHG at a 3-percent discount rate) at TSL 5 is \$20.2 billion. The estimated monetary value of the health benefits from reduced SO₂ and NO_x emissions at TSL 5 is \$14.0 billion using a 7-percent discount rate and \$39.9 billion using a 3-percent discount rate.

Using a 7-percent discount rate for consumer benefits and costs, health benefits from reduced SO₂ and NO_x emissions, and the 3-percent discount rate case for climate benefits from reduced GHG emissions, the estimated total NPV at TSL 5 is \$53.4 billion. Using a 3-percent discount rate for all benefits and costs, the estimated total NPV at TSL 5 is \$115.0 billion. The estimated total NPV is provided for additional information, however DOE primarily relies upon the NPV of consumer benefits when determining whether a proposed standard level is economically justified.

At TSL 5, for the largest equipment classes (which are represented by axial panel fans, centrifugal housed fans, and centrifugal unboxed fans) the standards are set at the max-tech EL as with TSL 6. There is a life-cycle cost savings of \$1,902, \$2,398, and \$2,004 and a payback period of 2.5 years, 3.1 years, and 1.0 years, respectively. For these equipment classes, the fraction of customers experiencing a net LCC cost is 29.9 percent, 41.5 percent, and 13.7 percent due to increases in total installed cost of \$618, \$1,090 and \$215, respectively. The life-cycle costs savings for axial inline, centrifugal inline, and radial housed fans are positive and equal to \$670, \$335, and \$5,391, respectively. For these equipment classes the payback is 9.8, 9.1, and 2.2 years and the fraction of customers experiencing a net LCC cost is 51.3 percent, 66.7 percent, and 24.4 percent. The life-cycle costs savings for axial PRVs, centrifugal PRV exhaust, and centrifugal PRV supply fans are positive and equal to \$945, \$154, and \$1,126, respectively. For these equipment classes the payback is 7.0, 8.9, and 2.8 years and the fraction of customers

¹³⁰ The sum of annual free cash flows is estimated to be \$2,348 million for 2025–2029 in the no-new-standards case and the no-new-standards case INPV is estimated to be \$4,935 million.

experiencing a net LCC cost is 14.3 percent, 25.8 percent, and 32.3 percent. At TSL5, the shipments-weighted average LCC is equal to \$2,030, the payback period is equal to 2.9 and the fraction of customers experiencing a net LCC cost is 30.2 percent.

At TSL 5, the projected change in INPV ranges from a decrease of \$1,263 million to an increase of \$11 million, which corresponds to a decrease of 25.6 percent and an increase of 0.2 percent, respectively. DOE estimates that industry must invest \$2,075 million to conduct aerodynamic redesigns on all equipment classes except axial PRVs and to increase the diameter by two sizes for axial PRVs to comply with standards set at TSL 5. An investment of \$2,075 million in conversion costs represents approximately 90 percent of the sum of the annual free cash flows over the years between the estimated final rule announcement date and the estimated standards year (*i.e.*, the time period that these conversion costs would be incurred) and represents over 42 percent of the entire no-new-standards case INPV over the 30-year analysis period.¹³¹

In the no-new-standards case, free cash flow is estimated to be \$480 million in 2029, the year before the modeled compliance date. At TSL 5, the estimated free cash flow is -\$407 million in 2029. This represents a decrease in free cash flow of 185 percent, or a decrease of \$887 million, in 2029. A negative free cash flow implies that most, if not all, manufacturers will need to borrow substantial funds to be able to make investments necessary to comply with energy conservation standards at TSL 5. The large drop in free cash flows could cause some GFB manufacturers to exit the GFB market entirely, even though recovery may be possible over the 30-year analysis period. Additionally, most small businesses will struggle to secure this funding due to their size and the uncertainty of recovering their investments. At TSL 5, models representing 7 percent of all GFB shipments are estimated to meet or exceed the efficiency requirements at this TSL in the no-new-standards case by 2030, the modeled compliance year. Therefore, models representing 93 percent of all GFB shipments will need to be remodeled in the 5-year compliance period.

Manufacturers are unlikely to have the engineering capacity to conduct this massive redesign effort in 5 years.

Instead, they will likely prioritize redesigns based on sales volume, which could leave market gaps in equipment offered by manufacturers and even the entire industry. The resulting market gaps in equipment offerings could result in sub-optimal selection of fan duty points (airflow, pressure, speed combination) for some applications, potentially leading to a reduction in the estimated energy savings, and estimated consumer benefits, at this TSL. Most small businesses will be at a competitive disadvantage at this TSL because they have less technical and financial resources and the capital investments required will be spread over fewer units.

The Secretary tentatively concludes that at TSL 5 for GFBs, the benefits of energy savings, the economic benefits on many consumers, positive NPV of consumer benefits, emission reductions, and the estimated monetary value of the emissions reductions would be outweighed by the impacts on manufacturers, including the extremely large conversion costs (representing approximately 90 percent of the sum of the annual free cash flows during the time period these conversion costs will be incurred and are approximately equal to 42 percent of the entire no-new-standards case INPV), profitability margin impacts that could result in a large reduction in INPV (up to a decrease of 25.6 percent), the large negative free cash flows in the years leading up to the compliance date (annual free cash flow is estimated to be -\$407 million in the year before the compliance date), the lack of manufacturers currently offering equipment meeting the efficiency levels required at this TSL (models representing 93 percent of all GFB shipments will need to be redesigned to meet this TSL), including most small businesses, and the likelihood of the significant disruption in the GFB market. Due to the limited amount of engineering resources each manufacturer has, it is unclear if most manufacturers will be able to redesign models representing on average 93 percent of their GFB shipments covered by this rulemaking in the 5-year compliance period. Consequently, the Secretary has tentatively concluded that TSL 5 is not economically justified.

DOE then considered TSL 4, which represents an intermediate level that is one efficiency level below TSL 5 for each equipment class. At TSL 4, DOE expects all equipment classes, except for axial PRVs, would require an aerodynamic redesign. Axial panel, centrifugal housed, centrifugal inline, centrifugal unhoused, centrifugal PRV

supply, and radial housed fans would all require the second highest tier aerodynamic redesign. Axial inline fans would require the lowest tier aerodynamic redesign. Centrifugal PRV exhaust fans would require the second to lowest tier aerodynamic redesign. Axial PRV fans would require one size increase in diameter.

TSL 4 would save an estimated 13.8 quads of energy, an amount DOE considers significant. Under TSL 4, the NPV of consumer benefit would be \$13.7 billion using a discount rate of 7 percent, and \$36.9 billion using a discount rate of 3 percent.

The cumulative emissions reductions at TSL 4 are 239.4 Mt of CO₂, 73.1 thousand tons of SO₂, 450.9 thousand tons of NO_x, 0.5 tons of Hg, 2,073.9 thousand tons of CH₄, and 2.3 thousand tons of N₂O. The estimated monetary value of the climate benefits from reduced GHG emissions (associated with the average SC-GHG at a 3-percent discount rate) at TSL 4 is \$11.9 billion. The estimated monetary value of the health benefits from reduced SO₂ and NO_x emissions at TSL 5 is \$8.2 billion using a 7-percent discount rate and \$23.4 billion using a 3-percent discount rate.

Using a 7-percent discount rate for consumer benefits and costs, health benefits from reduced SO₂ and NO_x emissions, and the 3-percent discount rate case for climate benefits from reduced GHG emissions, the estimated total NPV at TSL 4 is \$33.8 billion. Using a 3-percent discount rate for all benefits and costs, the estimated total NPV at TSL 4 is \$72.2 billion. The estimated total NPV is provided for additional information, however DOE primarily relies upon the NPV of consumer benefits when determining whether a proposed standard level is economically justified.

At TSL 4, for the largest equipment classes which are represented by axial panel fans, centrifugal housed fans, and centrifugal unhoused fans; there is a life-cycle cost savings of \$1,702, \$2,423, and \$1,170; and a payback period of 1.7 years, 0.6 years, and 1.2 years, respectively. For these equipment classes, the fraction of customers experiencing a net LCC cost is 19.5 percent, 12.9 percent, and 10.5 percent due to increases in total installed cost of \$293, \$134 and \$135, respectively. The life-cycle costs savings for axial inline, centrifugal inline, and radial housed fans are positive and equal to \$550, \$955, and \$3,714, respectively. For these equipment classes the payback is 9.6, 6.1, and 1.7 years and the fraction of customers experiencing a net LCC cost is 23.6 percent, 49.2 percent, and

¹³¹ The sum of annual free cash flows is estimated to be \$2,348 million for 2025–2029 in the no-new-standards case and the no-new-standards case INPV is estimated to be \$4,935 million.

13.3 percent. The life-cycle costs savings for axial PRVs, centrifugal PRV exhaust, and centrifugal PRV supply fans are positive and equal to \$945, \$154, and \$973, respectively. For these equipment classes the payback is 7.0, 8.9, and 1.7 years and the fraction of customers experiencing a net LCC cost is 14.3 percent, 25.8 percent, and 24.9 percent. At TSL 4, the shipment-weighted average LCC is equal to \$1,694, the payback period is equal to 1.8 and the fraction of customers experiencing a net LCC cost is 15.7 percent.

At TSL 4, the projected change in INPV ranges from a decrease of \$455 million to an increase of \$1 million, which corresponds to a decrease of 9.2 percent and an increase of less than 0.1 percent, respectively. DOE estimates that industry must invest \$770 million to comply with standards set at TSL 4. An investment of \$770 million in conversion costs represents approximately 33 percent of the sum of the annual free cash flows over the years between the estimated final rule announcement date and the estimated standards year (*i.e.*, the time period that these conversion costs would be incurred) and represents over 15 percent of the entire no-new-standards case INPV over the 30-year analysis period.¹³²

In the no-new-standards case, free cash flow is estimated to be \$480 million in 2029, the year before the modeled compliance date. At TSL 4, the estimated free cash flow is \$161 million in 2029. This represents a decrease in free cash flow of 66.4 percent, or a decrease of \$319 million, in 2029. Annual cash flows remain positive for all years leading up to the modeled compliance date. At TSL 4, models representing 25 percent of all GFB shipments are estimated to meet or exceed the efficiency requirements at this TSL in the no-new-standards case by 2030, the modeled compliance year. Therefore, models representing 75 percent of all GFB shipments will need to be remodeled in the 5-year compliance period. DOE estimates that while this represents a significant redesign effort, most GFB manufacturers will have the engineering capacity to complete these redesigns in a 5-year compliance period.

After considering the analysis and weighing the benefits and burdens, the Secretary has tentatively concluded that

a standard set at TSL 4 for GFBs would be economically justified. At this TSL, the average LCC savings for all GFB equipment class consumers is positive. An estimated 15.7 percent of consumers experience a net cost. The FFC national energy savings are significant and the NPV of consumer benefits is positive using both a 3-percent and 7-percent discount rate. Notably, the benefits to consumers vastly outweigh the cost to manufacturers. At TSL 4, the NPV of consumer benefits, even measured at the more conservative discount rate of 7 percent is over 30 times higher than the maximum estimated manufacturers' loss in INPV. The standard levels at TSL 4 are economically justified even without weighing the estimated monetary value of emissions reductions. When those emissions reductions are included—representing \$11.9 billion in climate benefits (associated with the average SC-GHG at a 3-percent discount rate), and \$23.4 billion (using a 3-percent discount rate) or \$8.2 billion (using a 7-percent discount rate) in health benefits—the rationale for setting standards at TSL 4 for GFBs is further strengthened. Additionally, the impact to manufacturers is significantly reduced at TSL 4. While manufacturers have to invest \$770 million to comply with standards at TSL 4, annual free cash flows remain positive for all years leading up to the compliance date. Lastly, DOE estimates that most GFB manufacturers will have the engineering capacity to complete these redesigns in a 5-year compliance period.

As stated, DOE conducts the walk-down analysis to determine the TSL that represents the maximum improvement in energy efficiency that is technologically feasible and economically justified as required under EPCA. The walk-down is not a comparative analysis, as a comparative analysis would result in the maximization of net benefits instead of energy savings that are technologically feasible and economically justified, which would be contrary to the statute. 86 FR 70892, 70908. While DOE recognizes that TSL 4 is not the TSL that maximizes net monetized benefits, DOE has weighed other non-quantified and non-monetized factors in accordance with EPCA in reaching this determination. DOE notes that as compared to TSL 5 and TSL 6, TSL 4 has significantly smaller percentages of GFBs consumers experiencing a net

cost, a lower simple payback period, a lower maximum decrease in INPV, lower manufacturer conversion costs, and significantly less likelihood of a major disruption to the GFB market, as DOE does not anticipate gaps in GFB equipment offerings at TSL 4.

Although DOE considered proposed new standard levels for GFBs by grouping the efficiency levels for each equipment class into TSLs, DOE evaluates all analyzed efficiency levels in its analysis. For all equipment classes, TSL 4 represents the maximum energy savings that does not result in significant negative economic impacts to GFB manufacturers. At TSL 4 conversion costs are estimated to be \$770 million, significantly less than at TSL 5 (\$2,075 million) and at TSL 6 (\$3,750 million). At TSL 4 conversion costs represent a significantly smaller size of the sum of GFB manufacturers' annual free cash flows for 2025 to 2029 (33 percent), than at TSL 5 (90 percent) and at TSL 6 (130 percent) and a significantly smaller portion of GFB manufacturers' no-new-standards case INPV (15 percent), than at TSL 5 (42 percent) and at TSL 6 (75 percent). At TSL 4, GFB manufacturers will have to redesign a significantly smaller portion of their GFB models to meet the ELs set at TSL 4 (models representing 75 percent of all GFB shipments), than at TSL 5 (93 percent) and at TSL 6 (96 percent). Lastly, GFB manufacturers' free cash flow remains positive at TSL 4 for all years leading up to the compliance date. Whereas at TSL 5 annual free cash flow is estimated to be –\$407 million and at TSL 6 annual free cash flow is estimated to be –\$1,132 million in 2029, the year before the modeled compliance year. The ELs at the proposed TSL result in average positive LCC savings for all equipment classes, significantly reduce the number of consumers experiencing a net cost, and reduce the decrease in INPV and conversion costs to the point where DOE has concluded they are economically justified, as discussed for TSL 4 in the preceding paragraphs.

Therefore, based on the previous considerations, DOE proposes to adopt the energy conservation standards for GFBs at TSL 4. The proposed energy conservation standards for GFBs, which are expressed as FEI values, are shown in Table V–66.

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¹³² The sum of annual free cash flows is estimated to be \$2,348 million for 2025–2029 in the no-new-

standards case and the no-new-standards case INPV is estimated to be \$4,935 million.

Table V-66 Proposed Energy Conservation Standards for GFBs

Equipment Class	With or Without Motor Controller	Fan Energy Index (FEI)*
Axial Inline	Without	1.18 * A
Axial Panel	Without	1.48 * A
Axial Power Roof Ventilator	Without	0.85 * A
Centrifugal Housed	Without	1.31 * A
Centrifugal Unhoused	Without	1.35 * A
Centrifugal Inline	Without	1.28 * A
Radial Housed	Without	1.17 * A
Centrifugal Power Roof Ventilator – Exhaust	Without	1.00 * A
Centrifugal Power Roof Ventilator – Supply	Without	1.19 * A
Axial Inline	With	1.18 * A* B
Axial Panel	With	1.48 * A* B
Axial Power Roof Ventilator	With	0.85 * A* B
Centrifugal Housed	With	1.31 * A* B
Centrifugal Unhoused	With	1.35 * A* B
Centrifugal Inline	With	1.28 * A* B
Radial Housed	With	1.17 * A* B
Centrifugal Power Roof Ventilator – Exhaust	With	1.00 * A* B
Centrifugal Power Roof Ventilator – Supply	With	1.19 * A* B

*A is a constant representing an adjustment in FEI for motor hp, which can be found in Table V-67. B is a constant representing an adjustment in FEI for motor controllers, which can be found in Table V-67.

Table V-67 Constants for GFB Proposed Energy Conservation Standards

Constant	Condition		Value
A	Motor hp < 100 hp		$A = 1.00$
	Motor hp ≥ 100 hp and ≤ 250 hp		$A = \frac{\eta_{mtr,2023}}{\eta_{mtr,2014}}$
B	With Motor Controller	FEPact of < 20 kW (26.8 hp)	$B = \frac{FEP_{act} - Credit}{FEP_{act}}$; where: $Credit = 0.03 \times FEP_{act} + 0.08$ [SI] $Credit = 0.03 \times FEP_{act} + 0.08 \times 1.341$ [IP]
		FEPact of ≥ 20 kW (26.8 hp)	$B = 0.966$

$\eta_{mtr,2023}$ is the motor efficiency in accordance with Table 8 at 10 CFR 431.25, $\eta_{mtr,2014}$ is the motor efficiency in accordance with Table 5 at 10 CFR 431.25, which DOE is proposing to adopt into 10 CFR 431.175, and FEP_{act} is determined according to the DOE test procedure in Appendix A to Subpart J of Part 431.

DOE is proposing an FEI level of 0.85 (EL4) for axial PRVs. In section IV.C.1.b, DOE developed the MSP-efficiency relationship based on data from the AMCA sales database as well as performance data from manufacturer fan selection software and performance data provided from confidential manufacturer interviews. From its analysis, DOE estimated that EL4 for axial PRVs would be achieved by implementing two impeller diameter increases. Based on the MSP-efficiency results, EL4 for axial PRVs is the highest level with positive life-cycle costs savings. Furthermore, as discussed in section IV.C.1.b, ASHRAE 90.1–2022 set an FEI target of 1.00 for all fans within the scope of that standard, which includes axial PRVs. CEC requires

manufacturers to report fan operating boundaries that result in operation at a FEI of greater than or equal to 1.00 for all fans within the scope of that rulemaking, which includes axial PRVs. DOE also notes that, based on its shipments analysis, 50-percent of axial PRVs have an FEI of at least 1.00. Additionally, based on its review of the market, DOE has found that most manufacturers offer models of APRVs that have an FEI of at least 1.00 at a range of diameters. Based on this, DOE expects that the market is already shifting towards an FEI of 1.00 for axial PRVs and that this level may not be unduly burdensome for manufacturers to achieve.

DOE requests comment on the proposed standard level for axial PRVs, including the design options and costs,

as well as the burdens and benefits associated with this level and the industry standards/California regulations FEI level of 1.00.

b. Air Circulating Fans

Table V–68 and Table V–69 summarize the quantitative impacts estimated for each TSL for ACFs. The national impacts are measured over the lifetime of ACFs purchased in the 30-year period that begins in the anticipated first full year of compliance with new standards (2030–2059). The energy savings, emissions reductions, and value of emissions reductions refer to full-fuel-cycle results. The efficiency levels contained in each TSL are described in section V.A of this document.

Table V-68 Summary of Analytical Results for ACFs TSLs: National Impacts

Category	TSL 1	TSL 2	TSL 3	TSL 4	TSL 5	TSL 6
Cumulative FFC National Energy Savings						
Quads	0.1	0.2	1.2	4.5	6.5	7.2
Cumulative FFC Emissions Reduction						
CO ₂ (million metric tons)	1.7	3.8	21.5	78.5	112.6	125.8
CH ₄ (thousand tons)	15.3	33.4	188.0	686.7	984.6	1100.4
N ₂ O (thousand tons)	0.0	0.0	0.2	0.6	0.9	1.0
NO _x (thousand tons)	3.3	7.2	40.5	148.0	212.2	237.2
SO ₂ (thousand tons)	0.4	1.0	5.4	19.7	28.2	31.5
Hg (tons)	0.0	0.0	0.0	0.1	0.2	0.2
Present Value of Monetized Benefits and Costs (3% discount rate, billion 2022\$)						
Consumer Operating Cost Savings	0.3	0.6	3.6	13.2	18.9	20.6
Climate Benefits*	0.1	0.2	1.2	4.4	6.3	7.1
Health Benefits**	0.2	0.4	2.2	8.2	11.7	13.1
Total Benefits†	0.6	1.2	7.0	25.8	36.9	40.8
Consumer Incremental Product Costs‡	-0.1	-0.1	0.0	0.6	5.8	6.1
Consumer Net Benefits	0.4	0.7	3.6	12.6	13.1	14.5
Total Net Benefits	0.7	1.3	7.1	25.2	31.1	34.7
Present Value of Monetized Benefits and Costs (7% discount rate, billion 2022\$)						
Consumer Operating Cost Savings	0.1	0.3	1.5	5.5	7.9	8.7
Climate Benefits*	0.1	0.2	1.2	4.4	6.3	7.1
Health Benefits**	0.1	0.2	0.9	3.1	4.5	5.0
Total Benefits†	0.3	0.6	3.6	13.1	18.7	20.7
Consumer Incremental Equipment Costs	-0.1	0.0	0.0	0.3	2.7	3.0
Consumer Net Benefits	0.2	0.3	1.5	5.3	5.2	5.7
Total Net Benefits	0.4	0.7	3.6	12.8	16.0	17.7

Note: This table presents the costs and benefits associated with ACFs shipped in 2030–2059. These results include benefits to consumers which accrue after 2059 from the products shipped in 2030–2059.

* Climate benefits are calculated using four different estimates of the SC-CO₂, SC-CH₄ and SC-N₂O.

Together, these represent the global SC-GHG. For presentational purposes of this table, the climate benefits associated with the average SC-GHG at a 3-percent discount rate are shown; however, DOE emphasizes the importance and value of considering the benefits calculated using all four sets of SC-GHG estimates. To monetize the benefits of reducing GHG emissions, this analysis uses the interim estimates presented in the *Technical Support Document: Social Cost of Carbon, Methane, and Nitrous Oxide Interim Estimates Under Executive Order 13990* published in February 2021 by the IWG.

** Health benefits are calculated using benefit-per-ton values for NO_x and SO₂. DOE is currently only monetizing (for NO_x and SO₂) PM_{2.5} precursor health benefits and (for NO_x) ozone precursor health benefits, but will continue to assess the ability to monetize other effects such as health benefits from reductions in direct PM_{2.5} emissions. The health benefits are presented at real discount rates of 3 and 7 percent. See section IV.L of this document for more details.

† Total and net benefits include consumer, climate, and health benefits. For presentation purposes, total and net benefits for both the 3-percent and 7-percent cases are presented using the average SC-GHG with 3-percent discount rate. DOE emphasizes the importance and value of considering the benefits calculated using all four sets of SC-GHG estimates.

Table V-69 Summary of Analytical Results for ACFs TSLs: Manufacturer and Consumer Impacts

Category	TSL 1	TSL 2	TSL 3	TSL 4	TSL5	TSL6
Manufacturer Impacts						
Industry NPV (<i>million 2022\$</i>) (No-new-standards case INPV = 649)	649 – 650	649 – 649	645 – 649	579 – 649	16 – 652	(85) – 653
Industry NPV (<i>% change</i>)	0.0 – 0.1	0.0 – 0.0	(0.6) – 0.0	(10.9) – 0.0	(97.5) – 0.5	(113.1) – 0.5
Consumer Average LCC Savings (2022\$)						
Axial ACFs; 12" ≤ D < 36" (ACF1)	-	35	495	327	141	126
Axial ACFs; 36" ≤ D < 48" (ACF2)	297	291	606	478	341	346
Axial ACFs; 48" ≤ D (ACF3)	343	587	628	668	613	630
Housed Centrifugal ACFs (ACF4)	-	-	-	-	18	-1,210
Shipment-Weighted Average*	192	289	564	479	353	342
Consumer Simple PBP (years)						
Axial ACFs; 12" ≤ D < 36" (ACF1)	-	2.7	0.2	0.5	2.8	3.1
Axial ACFs; 36" ≤ D < 48" (ACF2)	N/A	N/A	N/A	0.2	1.6	1.9
Axial ACFs; 48" ≤ D (ACF3)	N/A	N/A	N/A	0.1	1.1	1.4
Housed Centrifugal ACFs (ACF4)	-	-	-	-	4.8	25.0
Shipment-Weighted Average*	N/A	1.1	0.1	0.3	1.9	2.4
Percent of Consumers that Experience a Net Cost						
Axial ACFs; 12" ≤ D < 36" (ACF1)	-	0.1%	0.0%	0.2%	40.4%	45.1%
Axial ACFs; 36" ≤ D < 48" (ACF2)	0.0%	0.2%	0.0%	0.0%	22.7%	23.6%
Axial ACFs; 48" ≤ D (ACF3)	0.0%	0.0%	0.0%	0.0%	9.3%	11.3%
Housed Centrifugal ACFs (ACF4)	-	-	-	-	14.1%	99.7%
Shipment-Weighted Average*	0.0%	0.1%	0.0%	0.1%	24.8%	28.6%

Parentheses indicate negative (-) values. The entry “-” means no impact because the TSL considered is equivalent to the no-new standards case. The entry “N/A.” means not applicable because there is a decrease in average installed costs at the considered TSLs compared to the no-new standards case.

* Weighted by shares of each equipment class in total projected shipments in 2030.

ECM. TSL 6 would save an estimated 7.2 quads of energy, an amount DOE considers significant. Under TSL 6, the NPV of consumer benefit would be \$5.7 billion using a discount rate of 7 percent, and \$14.5 billion using a discount rate of 3 percent.

The cumulative emissions reductions at TSL 6 are 125.8 Mt of CO₂, 31.5 thousand tons of SO₂, 237.2 thousand tons of NO_x, 0.2 tons of Hg, 1,100.4 thousand tons of CH₄, and 1.0 thousand tons of N₂O. The estimated monetary value of the climate benefits from reduced GHG emissions (associated with the average SC-GHG at a 3-percent discount rate) at TSL 6 is \$7.1 billion. The estimated monetary value of the health benefits from reduced SO₂ and NO_x emissions at TSL 6 is \$5.0 billion using a 7-percent discount rate and \$13.1 billion using a 3-percent discount rate.

Using a 7-percent discount rate for consumer benefits and costs, health benefits from reduced SO₂ and NO_x emissions, and the 3-percent discount rate case for climate benefits from reduced GHG emissions, the estimated total NPV at TSL 6 is \$17.7 billion. Using a 3-percent discount rate for all benefits and costs, the estimated total NPV at TSL 6 is \$34.7 billion. The estimated total NPV is provided for additional information, however DOE primarily relies upon the NPV of consumer benefits when determining whether a proposed standard level is economically justified.

At TSL 6, for the largest equipment classes, which are represented by ACF1, ACF2, and ACF3—which together represent approximately 99 percent of annual shipments—there is a life-cycle cost savings of \$126, \$346, and \$630 and a payback period of 3.1 years, 1.9 years, and 1.4 years, respectively. For these equipment classes, the fraction of customers experiencing a net LCC cost is 45.1 percent, 23.6 percent, and 11.3 percent due to increases in total installed cost of \$187, \$201 and \$222, respectively. For the remaining equipment class (ACF4), the average LCC savings are –\$1,210, a majority of consumers (99.7 percent) would experience a net cost and the payback period is 25.0 years.

At TSL 6, the projected change in INPV ranges from a decrease of \$734 million to an increase of \$3 million, which corresponds to decreases of 113.1 percent and an increase of 0.5 percent, respectively. DOE estimates that industry must invest \$1,167 million to conduct aerodynamic redesigns on all equipment classes and to implement ECMs for all equipment classes to comply with standards set at TSL 6. An

investment of \$1,167 million in conversion costs represents over 5 times the sum of the annual free cash flows over the years between the estimated final rule announcement date and the estimated standards year (*i.e.*, the time period that these conversion costs would be incurred) and represents approximately 1.8 times the entire no-new-standards case INPV over the 30-year analysis period.¹³³

In the no-new-standards case, free cash flow is estimated to be \$51 million in 2029, the year before the modeled compliance date. At TSL 6, the estimated free cash flow is –\$456 million in 2029. This represents a decrease in free cash flow of 999 percent, or a decrease of \$507 million, in 2029. A negative free cash flow implies that most, if not all, manufacturers will need to borrow substantial funds to be able to make investments necessary to comply with energy conservation standards at TSL 6. The extremely large drop in free cash flows could cause some ACF manufacturers to exit the ACF market entirely, even though recovery may be possible over the 30-year analysis period. Additionally, most small businesses will struggle to secure this funding, due to their size and the uncertainty of recovering their investments. At TSL 6, models representing 1 percent of all ACF shipments are estimated to meet the efficiency requirements at this TSL in the no-new-standards case by 2030, the modeled compliance year. Therefore, models representing 99 percent of all ACF shipments will need to be remodeled in the 5-year compliance period.

Manufacturers are unlikely to have the engineering capacity to conduct this massive redesign effort in 5 years. Instead, they will likely prioritize redesigns based on sales volume, which could leave market gaps in equipment offered by manufacturers and even the entire industry. The resulting market gaps in equipment offerings could result in sub-optimal selection of fan duty points (airflow, pressure, speed combination) for some applications, potentially leading to a reduction in the estimated energy savings, and estimated consumer benefits, at this TSL. Most small businesses will be at a competitive disadvantage at this TSL because they have less technical and financial resources and the capital

investments required will be spread over fewer units.

The Secretary tentatively concludes that at TSL 6 for ACFs, the benefits of energy savings, the economic benefits on many consumers, positive NPV of consumer benefits, emission reductions, and the estimated monetary value of the emissions reductions would be outweighed by the impacts on manufacturers, including the extremely large conversion costs (representing approximately 5 times the sum of the annual free cash flows during the time period that these conversion costs will be incurred and are approximately equal to 1.8 times the entire no-new-standards case INPV), profitability impacts that could result in a large reduction in INPV (up to a decrease of 113.1 percent), the large negative free cash flows in the years leading up to the compliance date (annual free cash flow is estimated to be –\$456 million in the year before the compliance date), the lack of manufacturers currently offering equipment meeting the efficiency levels required at TSL 6 (models representing 99 percent of all ACF shipments will need to be redesigned to meet this TSL), including most small businesses, and the likelihood of the significant disruption in the ACF market. Due to the limited amount of engineering resources each manufacturer has, it is unclear if most manufacturers will be able to redesign models representing on average 99 percent of their ACF shipments covered by this rulemaking in the 5-year compliance period. Consequently, the Secretary has tentatively concluded that TSL 6 is not economically justified.

DOE then considered TSL 5, which represents the highest EL below max-tech with positive LCC savings and is a combination of efficiency level 5 for axial ACFs and efficiency level 3 for housed centrifugal ACFs. At TSL 5, DOE expects that axial ACFs would require the highest tier of aerodynamic redesign and housed centrifugal ACFs would require the lowest tier of aerodynamic redesign. TSL 5 would save an estimated 6.5 quads of energy, an amount DOE considers significant. Under TSL 5, the NPV of consumer benefit would be \$5.2 billion using a discount rate of 7 percent, and \$13.1 billion using a discount rate of 3 percent.

The cumulative emissions reductions at TSL 5 are 112.6 Mt of CO₂, 28.2 thousand tons of SO₂, 212.2 thousand tons of NO_x, 0.2 tons of Hg, 984.6 thousand tons of CH₄, and 0.9 thousand tons of N₂O. The estimated monetary value of the climate benefits from reduced GHG emissions (associated

¹³³ The sum of annual free cash flows is estimated to be \$227 million for 2025–2029 in the no-new-standards case and the no-new-standards case INPV is estimated to be \$649 million.

with the average SC-GHG at a 3-percent discount rate) at TSL 5 is \$6.3 billion. The estimated monetary value of the health benefits from reduced SO₂ and NO_x emissions at TSL 5 is \$4.5 billion using a 7-percent discount rate and \$11.7 billion using a 3-percent discount rate.

Using a 7-percent discount rate for consumer benefits and costs, health benefits from reduced SO₂ and NO_x emissions, and the 3-percent discount rate case for climate benefits from reduced GHG emissions, the estimated total NPV at TSL 5 is \$16.0 billion. Using a 3-percent discount rate for all benefits and costs, the estimated total NPV at TSL 5 is \$31.1 billion. The estimated total NPV is provided for additional information, however DOE primarily relies upon the NPV of consumer benefits when determining whether a proposed standard level is economically justified.

At TSL 5, for the largest equipment classes, which are represented by ACF1, ACF2, and ACF3—which together represent approximately 99 percent of annual shipments—there is a life-cycle cost savings of \$141, \$341, and \$613 and a payback period of 2.8 years, 1.6 years, and 1.1 years, respectively. For these equipment classes, the fraction of customers experiencing a net LCC cost is 40.4 percent, 22.7 percent, and 9.3 percent due to increases in total installed cost of \$148, \$156 and \$155, respectively. For the remaining equipment class (ACF4), the average LCC savings are \$18 and 14.1 percent of consumers would experience a net cost and the payback period is 4.8 years.

At TSL 5, the projected change in INPV ranges from a decrease of \$633 million to an increase of \$3 million, which corresponds to a decrease of 97.5 percent and an increase of 0.5 percent, respectively. DOE estimates that industry must invest \$1,043 million to conduct significant aerodynamic redesigns for non-compliant axial ACFs and minor aerodynamic redesign for non-compliant housed centrifugal ACFs to comply with standards set at TSL 5. An investment of \$1,043 million in conversion costs represents over 4.5 times the sum of the annual free cash flows over the years between the estimated final rule announcement date and the estimated standards year (*i.e.*, the time period that these conversion costs would be incurred) and represents approximately 1.6 times the entire no-new-standards case INPV over the 30-year analysis period.¹³⁴

In the no-new-standards case, free cash flow is estimated to be \$51 million in 2029, the year before the modeled compliance date. At TSL 5, the estimated free cash flow is –\$400 million in 2029. This represents a decrease in free cash flow of 889 percent, or a decrease of \$451 million, in 2029. A negative free cash flow implies that most, if not all, manufacturers will need to borrow substantial funds to be able to make investments necessary to comply with energy conservation standards at TSL 5. The large drop in free cash flows could cause some ACF manufacturers to exit the ACF market entirely, even though recovery may be possible over the 30-year analysis period. Additionally, most small businesses will struggle to secure this funding, due to their size and the uncertainty of recovering their investments. At TSL 5, models representing 4 percent of all ACF shipments are estimated to meet or exceed the efficiency requirements at this TSL in the no-new-standards case by 2030, the modeled compliance year. Therefore, models representing 96 percent of all ACF shipments will need to be remodeled in the 5-year compliance period.

Manufacturers are unlikely to have the engineering capacity to conduct this massive redesign effort in 5 years. Instead, they will likely prioritize redesigns based on sales volume, which could leave market gaps in equipment offered by manufacturers and even the entire industry. The resulting market gaps in equipment offerings could result in sub-optimal selection of fan duty points (airflow, pressure, speed combination) for some applications, potentially leading to a reduction in the estimated energy savings, and estimated consumer benefits, at this TSL. Most small businesses will be at a competitive disadvantage at this TSL because they have less technical and financial resources and the capital investments required will be spread over fewer units.

The Secretary tentatively concludes that at TSL 5 for ACFs, the benefits of energy savings, the economic benefits on many consumers, positive NPV of consumer benefits, emission reductions, and the estimated monetary value of the emissions reductions would be outweighed by the impacts on manufacturers, including the extremely large conversion costs (representing approximately 4.5 times the sum of the annual free cash flows during the time period that these conversion costs will

be incurred and are approximately equal to 1.6 times the entire no-new-standards case INPV), profitability impacts that could result in a large reduction in INPV (up to a decrease of 97.5 percent), the large negative free cash flows in the years leading up to the compliance date (annual free cash flow is estimated to be –\$400 million in the year before the compliance date), the lack of manufacturers currently offering equipment meeting the efficiency levels required at TSL 5 (models representing 96 percent of all ACF shipments will need to be redesigned to meet this TSL), including most small businesses, and the likelihood of the significant disruption in the ACF market. Due to the limited amount of engineering resources each manufacturer has, it is unclear if most manufacturers will be able to redesign models representing on average 96 percent of their ACF shipments covered by this rulemaking in the 5-year compliance period. Consequently, the Secretary has tentatively concluded that TSL 5 is not economically justified.

DOE then considered TSL 4, which represents efficiency level 4 for axial ACFs and efficiency level 0 for housed centrifugal ACFs (no new standards for housed centrifugal ACFs). DOE expects that the second highest tier of aerodynamic redesign would be required for axial ACFs at TSL 4 would save an estimated 4.5 quads of energy, an amount DOE considers significant. Under TSL 4, the NPV of consumer benefit would be \$5.3 billion using a discount rate of 7 percent, and \$12.6 billion using a discount rate of 3 percent.

The cumulative emissions reductions at TSL 4 are 78.5 Mt of CO₂, 19.7 thousand tons of SO₂, 148.0 thousand tons of NO_x, 0.1 tons of Hg, 686.7 thousand tons of CH₄, and 0.6 thousand tons of N₂O. The estimated monetary value of the climate benefits from reduced GHG emissions (associated with the average SC-GHG at a 3-percent discount rate) at TSL 4 is \$4.4 billion. The estimated monetary value of the health benefits from reduced SO₂ and NO_x emissions at TSL 4 is \$3.1 billion using a 7-percent discount rate and \$8.2 billion using a 3-percent discount rate.

Using a 7-percent discount rate for consumer benefits and costs, health benefits from reduced SO₂ and NO_x emissions, and the 3-percent discount rate case for climate benefits from reduced GHG emissions, the estimated total NPV at TSL 4 is \$12.8 billion. Using a 3-percent discount rate for all benefits and costs, the estimated total NPV at TSL 4 is \$25.2 billion. The estimated total NPV is provided for

¹³⁴ The sum of annual free cash flows is estimated to be \$227 million for 2025–2029 in the no-new-

standards case and the no-new-standards case INPV is estimated to be \$649 million.

additional information, however DOE primarily relies upon the NPV of consumer benefits when determining whether a proposed standard level is economically justified.

At TSL 4, for the largest equipment classes, which are represented by ACF1, ACF2, and ACF3—which together represent approximately 99 percent of annual shipments—there is a life-cycle cost savings of \$327, \$478, and \$668 and a payback period of 0.5 years, 0.2 years, and 0.1 years, respectively. For these equipment classes, the fraction of customers experiencing a net LCC cost is 0.2 percent, 0 percent, and 0 percent due to increases in total installed cost of \$16, \$14, and \$15, respectively. For the remaining equipment class (ACF4), the considered TSL would not set any energy conservation standards.

At TSL 4, the projected change in INPV ranges from a decrease of \$71 million to an increase of less than \$0.1 million, which correspond to a decrease of 10.9 percent and an increase of less than 0.1 percent, respectively. DOE estimates that industry must invest \$118.1 million to implement the second highest tier of aerodynamic redesign for axial ACFs to comply with standards set at TSL 4. An investment of \$118.1 million in conversion costs represents approximately 50 percent of the sum of the annual free cash flows over the years between the estimated final rule announcement date and the estimated standards year (*i.e.*, the time period that these conversion costs would be incurred) and represents over 18 percent of the entire no-new-standards case INPV over the 30-year analysis period.¹³⁵

In the no-new-standards case, free cash flow is estimated to be \$51 million in 2029, the year before the modeled compliance date. At TSL 4, the estimated free cash flow is \$1 million in 2029. This represents a decrease in free cash flow of 99.0 percent, or a decrease of \$50.2 million, in 2029. Annual cash flows remain positive for all years leading up to the modeled compliance date. At TSL 4, models representing 36 percent of all ACF shipments are estimated to meet or exceed the efficiency requirements at this TSL in the no-new-standards case by 2030, the modeled compliance year. Therefore, models representing 64 percent of all ACF shipments will need to be remodeled in the 5-year compliance period. DOE estimates that while this represents a significant redesign effort, most ACF manufacturers will have the

engineering capacity to complete these redesigns in a 5-year compliance period.

After considering the analysis and weighing the benefits and burdens, the Secretary has tentatively concluded that at a standard set at TSL 4 for ACFs would be economically justified. While DOE recognizes that TSL 4 is not the TSL that maximizes net monetized benefits, DOE has weighed other non-quantified and non-monetized factors in accordance with EPCA in reaching this determination. At this TSL, the average LCC savings for all ACF consumers are positive. An estimated 0.1 percent of consumers experience a net cost. The FFC national energy savings are significant and the NPV of consumer benefits is positive using both a 3-percent and 7-percent discount rate. Notably, the benefits to consumers vastly outweigh the cost to manufacturers. At TSL 4, the NPV of consumer benefits, even measured at the more conservative discount rate of 7 percent is over 74 times higher than the maximum estimated manufacturers' loss in INPV. The standard levels at TSL 4 are economically justified even without weighing the estimated monetary value of emissions reductions. When those emissions reductions are included—representing \$4.4 billion in climate benefits (associated with the average SC-GHG at a 3-percent discount rate), and \$8.2 billion (using a 3-percent discount rate) or \$3.1 billion (using a 7-percent discount rate) in health benefits—the rationale for setting standards at TSL 4 for ACFs is further strengthened. Additionally, the impact to manufacturers is significantly reduced at TSL 4. While manufacturers have to invest \$118.1 million to comply with standards at TSL 4, annual free cash flows remain positive for all years leading up to the compliance date. Lastly, DOE estimates that most ACF manufacturers will have the engineering capacity to complete these redesigns in a 5-year compliance period.

As stated, DOE conducts the walk-down analysis to determine the TSL that represents the maximum improvement in energy efficiency that is technologically feasible and economically justified as required under EPCA. The walk-down is not a comparative analysis, as a comparative analysis would result in the maximization of net benefits instead of energy savings that are technologically feasible and economically justified, which would be contrary to the statute. 86 FR 70892, 70908. Although DOE has not conducted a comparative analysis to

select the proposed energy conservation standards, DOE notes that as compared to TSL 5 and TSL 6, TSL 4 has higher average LCC savings, significantly smaller percentages of GFBs consumers experiencing a net cost, a lower simple payback period, a lower maximum decrease in INPV, lower manufacturer conversion costs, and significantly less likelihood of a major disruption to the ACF market, as DOE does not anticipate gaps in ACF equipment offerings at TSL 4.

Although DOE considered proposed new standard levels for ACFs by grouping the efficiency levels for each equipment class into TSLs, DOE evaluates all analyzed efficiency levels in its analysis. For all equipment classes, TSL 4 represents the maximum energy savings that does not result in significant negative economic impacts to ACF manufacturers. At TSL 4 conversion costs are estimated to be \$118.1 million, significantly less than at TSL 5 (\$1,043 million) and at TSL 6 (\$1,167 million). At TSL 4 conversion costs represent a significantly smaller size of the sum of ACF manufacturers' annual free cash flows for 2025 to 2029 (50 percent), than at TSL 5 (450 percent) and at TSL 6 (500 percent) and a significantly smaller portion of ACF manufacturers' no-new-standards case INPV (18 percent), than at TSL 5 (161 percent) and at TSL 6 (180 percent). At TSL 4, ACF manufacturers will have to redesign a significantly smaller portion of their ACF models to meet the ELs set at TSL 4 (models representing 64 percent of all ACF shipments), than at TSL 5 (96 percent) and at TSL 6 (99 percent). Lastly, ACF manufacturers' free cash flow remains positive at TSL 4 for all years leading up to the compliance date. Whereas at TSL 5 annual free cash flow is estimated to be –\$400 million and at TSL 6 annual free cash flow is estimated to be –\$456 million in 2029, the year before the modeled compliance year. The ELs at the proposed TSL result in average positive LCC savings for all equipment classes, significantly reduce the number of consumers experiencing a net cost, and reduce the decrease in INPV and conversion costs to the point where DOE has concluded they are economically justified, as discussed for TSL 4 in the preceding paragraphs.

Therefore, based on the previous considerations, DOE proposes to adopt the energy conservation standards for ACFs at TSL 4. The proposed new energy conservation standards for ACFs,

¹³⁵ The sum of annual free cash flows is estimated to be \$227 million for 2025–2029 in the no-new-

standards case and the no-new-standards case INPV is estimated to be \$649 million.

which are expressed as efficacy in CFM/W, are shown in Table V-70.

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Table V-70 Proposed New Energy Conservation Standards for ACFs

Equipment Class*	Efficacy (CFM/W)
Axial ACFs; $12'' \leq D < 36''$	12.2
Axial ACFs; $36'' \leq D < 48''$	17.3
Axial ACFs; $48'' \leq D$	21.5
Housed Centrifugal ACFs	N/A

*D: diameter in inches

N/A means not applicable as DOE is not proposing to set a standard for this equipment class.

Table V-71 summarizes the quantitative impacts estimated at the proposed TSLs for GFBs and ACFs. The

quantitative impacts estimated for each TSL for GFBs and ACFs are discussed

in sections V.C.1.a and V.C.1.b and of this document.

Table V-71 Summary of Cumulative Monetized Benefits and Costs of Proposed Energy Conservation Standards for GFBs and ACFs (TSL 4)

	Million 2022\$/year		
	Primary Estimate	Low-Net-Benefits Estimate	High-Net-Benefits Estimate
3% discount rate			
Consumer Operating Cost Savings	55.8	52.0	59.5
Climate Benefits*	16.3	15.7	16.9
Health Benefits**	31.6	30.4	32.9
Total Benefits†	103.7	98.0	109.4
Consumer Incremental Equipment Costs‡	6.3	8.1	4.7
Net Benefits	97.4	89.9	104.7
Change in Producer Cashflow (INPV‡‡)	(0.5) - 0	(0.5) - 0	(0.5) - 0
7% discount rate			
Consumer Operating Cost Savings	22.2	20.8	23.5
Climate Benefits* (3% discount rate)	16.3	15.7	16.9
Health Benefits**	11.4	11.0	11.8
Total Benefits†	49.8	47.4	52.2
Consumer Incremental Equipment Costs‡	3.2	3.9	2.5
Net Benefits	46.6	43.5	49.8
Change in Producer Cashflow (INPV‡‡)	(0.5) - 0	(0.5) - 0	(0.5) - 0

Note: This table presents the costs and benefits associated with GFBs and ACFs shipped in 2030–2059. These results include consumer, climate, and health benefits that accrue after 2059 from the products shipped in 2030–2059. The Primary, Low Net Benefits, and High Net Benefits Estimates utilize projections of energy prices from the *AEO2023* Reference case, Low Economic Growth case, and High Economic Growth case, respectively. In addition, incremental equipment costs reflect a constant rate in the Primary Estimate, an increasing rate in the Low Net Benefits Estimate, and a declining rate in the High Net Benefits Estimate for GFBs, and a low declining rate in the Primary Estimate, an increasing rate in the Low Net Benefits Estimate, and a high declining rate in the High Net Benefits Estimate for ACFs. The methods used to derive projected price trends are explained in sections IV.F.1 and IV.H.3 of this document. Note that the Benefits and Costs may not sum to the Net Benefits due to rounding.

* Climate benefits are calculated using four different estimates of the global SC-GHG (see section IV.L of this document). For presentational purposes of this table, the climate benefits associated with the average SC-GHG at a 3 percent discount rate are shown, but DOE does not have a single central SC-GHG point estimate, and it emphasizes the importance and value of considering the benefits calculated using all four sets of SC-GHG estimates. To monetize the benefits of reducing GHG emissions, this analysis uses the interim estimates presented in the *Technical Support Document: Social Cost of Carbon, Methane, and Nitrous Oxide Interim Estimates Under Executive Order 13990*, published in February 2021 by the IWG.

** Health benefits are calculated using benefit-per-ton values for NO_x and SO₂. DOE is currently only monetizing (for SO₂ and NO_x) PM_{2.5} precursor health benefits and (for NO_x) ozone precursor health benefits, but will continue to assess the ability to monetize other effects such as health benefits from reductions in direct PM_{2.5} emissions. See section IV.L of this document for more details.

† Total benefits for both the 3 percent and 7 percent cases are presented using the average SC-GHG with a 3 percent discount rate, but DOE does not have a single central SC-GHG point estimate.

‡ Costs include incremental equipment costs as well as installation costs.

‡‡ Operating Cost Savings are calculated based on the life cycle costs analysis and national impact analysis as discussed in detail below. See sections IV.F and IV.H. DOE's NIA includes all impacts (both costs and benefits) along the distribution chain beginning with the increased costs to the manufacturer to manufacture the equipment and ending with the increase in price experienced by the consumer. DOE also separately conducts a detailed analysis on the impacts on manufacturers (the MIA). See section IV.J. In the detailed MIA, DOE models manufacturers' pricing decisions based on assumptions regarding investments, conversion costs, cashflow, and margins. The MIA produces a range of impacts, which is the rule's expected impact on the INPV. The change in INPV is the present value of all changes in industry cash flow, including changes in production costs, capital expenditures, and manufacturer profit margins. Change in INPV is calculated using the industry weighted average cost of capital value of 11.4 percent that is estimated in the MIA (see chapter 12 of the NOPR TSD for a complete description of the industry weighted average cost of capital). For GFB & ACF, those values are -\$526 million and \$1 million. DOE accounts for that range of likely impacts in analyzing whether a TSL is economically justified. See section V.C. DOE is presenting the range of impacts to the INPV under two markup scenarios: the Conversion Cost Recovery scenario, which is the manufacturer markup scenario where manufacturers increase their markups in response to changes in energy conservation standards, and the Preservation of Operating Profit scenario, where DOE assumed manufacturers would not be able to increase per-unit operating profit in proportion to increases in manufacturer production costs. DOE includes the range of estimated INPV in the above table, drawing on the MIA explained further in Section IV.J, to provide additional context for assessing the estimated impacts of this rule to society, including potential changes in production and consumption, which is consistent with OMB's Circular A-4 and E.O. 12866. If DOE were to include the INPV into the net benefit calculation for this proposed rule, the net benefits would range from \$96.9 billion to \$97.4 billion at 3-percent discount rate and would range from \$46.1 billion to \$46.6 billion at 7-percent discount rate. Parentheses indicate negative values.

2. Annualized Benefits and Costs of the Proposed Standards

This section presents the combined results for GFBs and ACFs. Specific results for GFBs and ACFs are also discussed in section V.C.2.a and V.C.2.b, respectively.

The benefits and costs of the proposed standards can also be expressed in terms of annualized values. The annualized net benefit is (1) the annualized national economic value (expressed in 2022 dollars) of the benefits from operating products that meet the proposed standards (consisting primarily of operating cost savings from using less energy, minus increases in product

purchase costs, and (2) the annualized monetary value of the climate and health benefits from emission reductions.

Table V-72 shows the annualized values for GFBs and ACFs under TSL 4, expressed in 2022 dollars. The results under the primary estimate are as follows.

Using a 7 percent discount rate for consumer benefits and costs and health benefits from reduced NO_x and SO₂ emissions, and the 3 percent discount rate case for climate benefits from reduced GHG emissions, the estimated cost of the standards proposed in this rule is \$360 million per year in increased equipment costs, while the

estimated annual benefits are \$2,506 million in reduced equipment operating costs, \$963 million in monetized climate benefits, and \$1,285 million in monetized health benefits. In this case, the monetized net benefit would amount to \$4,394 million per year.

Using a 3 percent discount rate for all benefits and costs, the estimated cost of the proposed standards is \$374 million per year in increased equipment costs, while the estimated annual benefits are \$3,302 million in reduced operating costs, \$963 million in monetized climate benefits, and \$1,869 million in monetized health benefits. In this case, the monetized net benefit would amount to \$5,760 million per year.

Table V-72 Annualized Monetized Benefits and Costs of Proposed Energy Conservation Standards for GFBs and ACFs (TSL 4)

	Million 2022\$/year		
	Primary Estimate	Low-Net-Benefits Estimate	High-Net-Benefits Estimate
3% discount rate			
Consumer Operating Cost Savings	3,302	3,074	3,521
Climate Benefits*	963	926	1,002
Health Benefits**	1,869	1,796	1,945
Total Benefits†	6,134	5,796	6,469
Consumer Incremental Equipment Costs‡	374	478	276
Net Benefits	5,760	5,317	6,192
Change in Producer Cashflow (INPV‡‡)	(62) - 0	(62) - 0	(62) - 0
7% discount rate			
Consumer Operating Cost Savings	2,506	2,346	2,658
Climate Benefits* (3% discount rate)	963	926	1,002
Health Benefits**	1,285	1,240	1,330
Total Benefits†	4,754	4,513	4,991
Consumer Incremental Equipment Costs‡	360	441	280
Net Benefits	4,394	4,072	4,710
Change in Producer Cashflow (INPV‡‡)	(62) - 0	(62) - 0	(62) - 0

Note: This table presents the costs and benefits associated with GFBs and ACFs shipped in 2030–2059. These results include consumer, climate, and health benefits that accrue after 2059 from the products shipped in 2030–2059. The Primary, Low Net Benefits, and High Net Benefits Estimates utilize projections of energy prices from the *AEO2023* Reference case, Low Economic Growth case, and High Economic Growth case, respectively. In addition, incremental equipment costs reflect a constant rate in the Primary Estimate, an increasing rate in the Low Net Benefits Estimate, and a declining rate in the High Net Benefits Estimate for GFBs, and a low declining rate in the Primary Estimate, an increasing rate in the Low Net Benefits Estimate, and a high declining rate in the High Net Benefits Estimate for ACFs. The methods used to derive projected price trends are explained in sections IV.F.1 and IV.H.3 of this document. Note that the Benefits and Costs may not sum to the Net Benefits due to rounding.

* Climate benefits are calculated using four different estimates of the global SC-GHG (see section IV.L of this document). For presentational purposes of this table, the climate benefits associated with the average SC-GHG at a 3 percent discount rate are shown, but DOE does not have a single central SC-GHG point estimate, and it emphasizes the importance and value of considering the benefits calculated using all four sets of SC-GHG estimates. To monetize the benefits of reducing GHG emissions, this analysis uses the interim estimates presented in the *Technical Support Document: Social Cost of Carbon, Methane, and Nitrous Oxide Interim Estimates Under Executive Order 13990*, published in February 2021 by the IWG.

** Health benefits are calculated using benefit-per-ton values for NO_x and SO₂. DOE is currently only monetizing (for SO₂ and NO_x) PM_{2.5} precursor health benefits and (for NO_x) ozone precursor health benefits, but will continue to assess the ability to monetize other effects such as health benefits from reductions in direct PM_{2.5} emissions. See section IV.L of this document for more details.

† Total benefits for both the 3 percent and 7 percent cases are presented using the average SC-GHG with a 3 percent discount rate, but DOE does not have a single central SC-GHG point estimate.

‡ Costs include incremental equipment costs as well as installation costs.

‡‡ Operating Cost Savings are calculated based on the life cycle costs analysis and national impact analysis as discussed in detail below. See sections IV.F and IV.H. DOE's NIA includes all impacts (both costs and benefits) along the distribution chain beginning with the increased costs to the manufacturer to manufacture the equipment and ending with the increase in price experienced by the consumer. DOE also separately conducts a detailed analysis on the impacts on manufacturers (the MIA). See section IV.J. In the detailed MIA, DOE models manufacturers' pricing decisions based on assumptions regarding investments, conversion costs, cashflow, and margins. The MIA produces a range of impacts, which is the rule's expected impact on the INPV. The change in INPV is the present value of all changes in industry cash flow, including changes in production costs, capital expenditures, and manufacturer profit margins. The annualized change in INPV is calculated using the industry weighted average cost of capital value of 11.4 percent that is estimated in the MIA (see chapter 12 of the NOPR TSD for a complete description of the industry weighted average cost of capital). For GFB & ACF, those values are -\$62 million and less than \$0.1 million. DOE accounts for that range of likely impacts in analyzing whether a TSL is economically justified. See section V.C. DOE is presenting the range of impacts to the INPV under two markup scenarios: the Conversion Cost Recovery scenario, which is the manufacturer markup scenario where manufacturers increase their markups in response to changes in energy conservation standards, and the Preservation of Operating Profit Markup scenario, where DOE assumed manufacturers would not be able to increase per-unit operating profit in proportion to increases in manufacturer production costs. DOE includes the range of estimated annualized change in INPV in the above table, drawing on the MIA explained further in section IV.J, to provide additional context for assessing the estimated impacts of this rule to society, including potential changes in production and consumption, which is consistent with OMB's Circular A-4 and E.O. 12866. If DOE were to include the INPV into the annualized net benefit calculation for this proposed rule, the annualized net benefits would range from \$5,698 million to \$5,760 million at 3-percent discount rate and would range from \$4,332 million to \$4,394 million at 7-percent discount rate. Parentheses indicate negative values.

a. General Fans and Blowers

The benefits and costs of the proposed standards can also be expressed in terms of annualized values. The annualized net benefit is (1) the annualized national economic value (expressed in 2022 dollars) of the benefits from operating products that meet the proposed standards (consisting primarily of operating cost savings from using less energy, minus increases in product purchase costs, and (2) the annualized monetary value of the climate and health benefits from emission reductions.

Table V-73 shows the annualized values for GFBs under TSL 4, expressed in 2022 dollars. The results under the primary estimate are as follows.

Using a 7-percent discount rate for consumer benefits and costs and NO_x and SO₂ reduction benefits, and a 3-percent discount rate case for GHG social costs, the estimated cost of the proposed standards for GFBs is \$329 million per year in increased equipment costs, while the estimated annual benefits are \$1,880 million from reduced equipment operating costs, \$703 million in climate benefits, and

\$932 million in health benefits. In this case, the net benefit amounts to \$3,185 million per year.

Using a 3-percent discount rate for all benefits and costs, the estimated cost of the proposed standards for GFBs is \$340 million per year in increased equipment costs, while the estimated annual benefits are \$2,524 million in reduced operating costs, \$703 million in monetized climate benefits, and \$1,384 million from monetized health benefits. In this case, the net benefit amounts to \$4,271 million per year.

Table V-73 Annualized Monetized Benefits and Costs of Proposed Energy Conservation Standards for GFBs (TSL 4)

	Million 2022\$/year		
	Primary Estimate	Low-Net-Benefits Estimate	High-Net-Benefits Estimate
3% discount rate			
Consumer Operating Cost Savings	2,524	2,321	2,724
Climate Benefits*	703	666	742
Health Benefits**	1,384	1,311	1,461
Total Monetized Benefits†	4,611	4,297	4,927
Consumer Incremental Equipment Costs‡	340	442	243
Net Monetized Benefits	4,271	3,855	4,684
Change in Producer Cashflow (–NPV‡‡)	(53) - 0	(53) - 0	(53) - 0
7% discount rate			
Consumer Operating Cost Savings	1,880	1,739	2,017
Climate Benefits* (3% discount rate)	703	666	742
Health Benefits**	932	888	978
Total Monetized Benefits†	3,515	3,293	3,736
Consumer Incremental Equipment Costs‡	329	409	251
Net Monetized Benefits	3,185	2,884	3,486
Change in Producer Cashflow (–NPV‡‡)	(53) - 0	(53) - 0	(53) - 0

Note: This table presents the costs and benefits associated with products shipped in 2030–2059. These results include consumer, climate, and health benefits that accrue after 2059 from the products shipped in 2030–2059. The Primary, Low Net Benefits, and High Net Benefits Estimates utilize projections of energy prices from the *AEO2023* Reference case, Low Economic Growth case, and High Economic Growth case, respectively. In addition, incremental equipment costs reflect a constant price in the Primary Estimate, an increasing rate in the Low Net Benefits Estimate, and a declining rate in the High Net Benefits Estimate. The methods used to derive projected price trends are explained in sections IV.F.1 and IV.H.3 of this document. Note that the Benefits and Costs may not sum to the Net Benefits due to rounding.

* Climate benefits are calculated using four different estimates of the global SC-GHG (see section IV.M of this document). For presentational purposes of this table, the climate benefits associated with the average SC-GHG at a 3-percent discount rate are shown, but DOE does not have a single central SC-GHG point estimate, and it emphasizes the importance and value of considering the benefits calculated using all four sets of SC-GHG estimates. To monetize the benefits of reducing GHG emissions this analysis uses the interim estimates presented in the *Technical Support Document: Social Cost of Carbon, Methane, and Nitrous Oxide Interim Estimates Under Executive Order 13990* published in February 2021 by the Interagency Working Group on the Social Cost of Greenhouse Gases (IWG).

** Health benefits are calculated using benefit-per-ton values for NO_x and SO₂. DOE is currently only monetizing (for SO₂ and NO_x) PM_{2.5} precursor health benefits and (for NO_x) ozone precursor health benefits, but will continue to assess the ability to monetize other effects such as health benefits from reductions in direct PM_{2.5} emissions. See section IV.M of this document for more details.

† Total benefits for both the 3-percent and 7-percent cases are presented using the average SC-GHG with a 3-percent discount rate, but DOE does not have a single central SC-GHG point estimate.

‡ Costs include incremental equipment costs as well as installation costs.

‡‡ Operating Cost Savings are calculated based on the life cycle costs analysis and national impact analysis as discussed in detail below. See sections IV.F and IV.H of this document. DOE's NIA includes all impacts (both costs and benefits) along the distribution chain beginning with the increased costs to the manufacturer to manufacture the equipment and ending with the increase in price experienced by the consumer. DOE also separately conducts a detailed analysis on the impacts on manufacturers (the MIA). See section IV.J of this document. In the detailed MIA, DOE models manufacturers' pricing decisions based on assumptions regarding investments, conversion costs, cashflow, and margins. The MIA produces a range of impacts, which is the rule's expected impact on the INPV. The change in INPV is the present value of all changes in industry cash flow, including changes in production costs, capital expenditures, and manufacturer profit margins. The annualized change in INPV is calculated using the industry weighted average cost of capital value of 11.4 percent that is estimated in the MIA (see chapter 12 of the NOPR TSD for a complete description of the industry weighted average cost of capital). For GFB, those values are - \$53 million and less than \$0.1 million. DOE accounts for that range of likely impacts in analyzing whether a TSL is economically justified. See section V.C of this document. DOE is presenting the range of impacts to the INPV under two markup scenarios: the Conversion Cost Recovery scenario, which is the manufacturer markup scenario where manufacturer increase markups to account for changes in energy conservation standards, and the Preservation of Operating Profit Markup scenario, where DOE assumed manufacturers would not be able to increase per-unit operating profit in proportion to increases in manufacturer production costs. DOE includes the range of estimated annualized change in INPV in the above table, drawing on the MIA explained further in section IV.J of this document, to provide additional context for assessing the estimated impacts of this rule to society, including potential changes in production and consumption, which is consistent with OMB's Circular A-4 and E.O. 12866. If DOE were to include the INPV into the annualized net benefit calculation for this proposed rule, the annualized net benefits would range from \$4,218 million to \$4,271 million at 3-percent discount rate and would range from \$3,132 million to \$3,185 million at 7-percent discount rate. Parentheses indicate negative values.

b. Air Circulating Fans

The benefits and costs of the proposed standards can also be expressed in terms of annualized values. The annualized net benefit is (1) the annualized national economic value (expressed in 2022 dollars) of the benefits from operating products that meet the proposed standards (consisting primarily of operating cost savings from using less energy, minus increases in product purchase costs, and (2) the annualized monetary value of the climate and health benefits from emission reductions.

Table V-74 shows the annualized values for ACFs under TSL 4, expressed in 2022 dollars. The results under the primary estimate are as follows.

Using a 7-percent discount rate for consumer benefits and costs and NO_x and SO₂ reduction benefits, and a 3-percent discount rate case for GHG social costs, the estimated cost of the proposed standards for ACFs is \$31 million per year in increased equipment costs, while the estimated annual benefits are \$626 million from reduced equipment operating costs, \$261 million from GHG reductions, and \$353 million

from reduced NO_x and SO₂ emissions. In this case, the net benefit amounts to \$1,209 million per year.

Using a 3-percent discount rate for all benefits and costs, the estimated cost of the proposed standards for ACFs is \$34 million per year in increased equipment costs, while the estimated annual benefits are \$778 million in reduced operating costs, \$261 million in monetized climate benefits, and \$485 million in monetized health benefits. In this case, the net benefit amounts to \$1,489 million per year.

Table V-74 Annualized Monetized Benefits and Costs of Proposed Energy Conservation Standards for ACFs (TSL 4)

	Million 2022\$/year		
	Primary Estimate	Low-Net-Benefits Estimate	High-Net-Benefits Estimate
3% discount rate			
Consumer Operating Cost Savings	778	753	796
Climate Benefits*	261	261	261
Health Benefits**	485	485	485
Total Monetized Benefits†	1,523	1,498	1,542
Consumer Incremental Equipment Costs‡	34	36	33
Net Monetized Benefits	1,489	1,462	1,509
Change in Producer Cashflow (INPV‡‡)	(8) – 0	(8) – 0	(8) – 0
7% discount rate			
Consumer Operating Cost Savings	626	607	641
Climate Benefits* (3% discount rate)	261	261	261
Health Benefits**	353	353	353
Total Monetized Benefits†	1,239	1,221	1,254
Consumer Incremental Equipment Costs‡	31	32	30
Net Monetized Benefits	1,209	1,188	1,225
Change in Producer Cashflow (INPV‡‡)	(8) – 0	(8) – 0	(8) – 0

Note: This table presents the costs and benefits associated with products shipped in 2030–2059. These results include consumer, climate, and health benefits that accrue after 2059 from the products shipped in 2030–2059. The Primary, Low Net Benefits, and High Net Benefits Estimates utilize projections of energy prices from the AEO2023 Reference case, Low Economic Growth case, and High Economic Growth case, respectively. In addition, incremental equipment costs reflect a low declining rate in the Primary Estimate, an increasing rate in the Low Net Benefits Estimate, and a high declining rate in the High Net Benefits Estimate. The methods used to derive projected price trends are explained in sections IV.F.1 and IV.H.3 of this document. Note that the Benefits and Costs may not sum to the Net Benefits due to rounding.

* Climate benefits are calculated using four different estimates of the global SC-GHG (see section IV.M of this document). For presentational purposes of this table, the climate benefits associated with the average SC-GHG at a 3-percent discount rate are shown, but DOE does not have a single central SC-GHG point estimate, and it emphasizes the importance and value of considering the benefits calculated using all four sets of SC-GHG estimates. To monetize the benefits of reducing GHG emissions, this analysis uses the interim estimates presented in the *Technical Support Document: Social Cost of Carbon, Methane, and Nitrous Oxide Interim Estimates Under Executive Order 13990* published in February 2021 by the IWG.

** Health benefits are calculated using benefit-per-ton values for NO_x and SO₂. DOE is currently only monetizing (for SO₂ and NO_x) PM_{2.5} precursor health benefits and (for NO_x) ozone precursor health benefits, but will continue to assess the ability to monetize other effects such as health benefits from reductions in direct PM_{2.5} emissions. See section IV.M of this document for more details.

† Total benefits for both the 3-percent and 7-percent cases are presented using the average SC-GHG with a 3-percent discount rate, but DOE does not have a single central SC-GHG point estimate.

‡ Costs include incremental equipment costs.

‡‡ Operating Cost Savings are calculated based on the life cycle costs analysis and national impact analysis as discussed in detail below. See sections IV.F and IV.H of this document. DOE's NIA includes all impacts (both costs and benefits) along the distribution chain beginning with the increased costs to the manufacturer to manufacture the equipment and ending with the increase in price experienced by the consumer. DOE also separately conducts a detailed analysis on the impacts on manufacturers (the MIA). See section IV.J of this document. In the detailed MIA, DOE models manufacturers' pricing decisions based on assumptions regarding investments, conversion costs, cashflow, and margins. The MIA produces a range of impacts, which is the rule's expected impact on the INPV. The change in INPV is the present value of all changes in industry cash flow, including changes in production costs, capital expenditures, and manufacturer profit margins. The annualized change in INPV is calculated using the industry weighted average cost of capital value of 11.4 percent that is estimated in the MIA (see chapter 12 of the NOPR TSD for a complete description of the industry weighted average cost of capital). For ACF, those values are -\$8 million and no annualized change in INPV. DOE accounts for that range of likely impacts in analyzing whether a TSL is economically justified. See section V.C. DOE is presenting the range of impacts to the INPV under two markup scenarios: the Conversion Cost Recovery scenario, which is the manufacturer markup scenario where manufacturers increase their markups in response to changes in energy conservation standards, and the Preservation of Operating Profit Markup scenario, where DOE assumed manufacturers would not be able to increase per-unit operating profit in proportion to increases in manufacturer production costs. DOE includes the range of estimated annualized change in INPV in the above table, drawing on the MIA explained further in section IV.J of this document, to provide additional context for assessing the estimated impacts of this rule to society, including potential changes in production and consumption, which is consistent with OMB's Circular A-4 and E.O. 12866. If DOE were to include the INPV into the annualized net benefit calculation for this proposed rule, the annualized net benefits would range from \$1,481 million to \$1,489 million at 3-percent discount rate and would range from \$1,201 million to \$1,209 million at 7-percent discount rate. Parentheses indicate negative values.

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D. Reporting, Certification, and Sampling Plan

Manufacturers, including importers, must use equipment-specific certification templates to certify compliance to DOE. For fans and blowers, the certification template reflects the general certification requirements specified at 10 CFR 429.12 and the product-specific requirements specified at 10 CFR 429.69. DOE is not proposing to amend the product-specific certification requirements for this equipment. DOE may consider certification reporting requirements for GFBs in a separate rulemaking.

E. Representations and Enforcement Provisions

1. Representations for General Fans and Blowers

In the May 2023 TP Final Rule, DOE summarized stakeholder comments related to FEI representations at compliant and non-compliant duty points. DOE stated that it was not establishing energy conservation standards for fans and blowers and therefore, the May 2023 TP final rule would not result in any compliant or non-compliant operating points. DOE further stated that it would consider

representations and any issues related to compliance with any potential energy conservation standard in a separate energy conservation standards rulemaking. 88 FR 27312, 27369.

In response to the October 2022 NODA, the CA IOUs recommended that DOE consider allowing representations at all duty points for fans designed for low-pressure, space-constrained applications. (CA IOUs, No. 127 at pp. 6–7) The CA IOUs stated that for a low-pressure application fan to meet an energy conservation standard, a consumer would have to either increase the diameter of the fan, which would result in a costly redesign of the system, or the consumer would have to replace the non-compliant fan with a compliant fan of the same diameter running at a higher pressure, which could result in greater power consumption of the system. *Id.* Furthermore, the CA IOUs encouraged DOE to discuss the issue of whether to allow the publication of non-compliant, low-pressure duty points with manufacturers. *Id.*

Damas and Boldt commented that they disagree with DOE's proposal to restrict the publication of fan and blower performance data at duty points that do not comply with a proposed energy conservation standard and recommended that DOE instead require

that any non-compliant duty points be highlighted. (Damas and Boldt, No. 131 at pp. 1, 5) They provided several example scenarios where a fan may be selected for use that is outside its compliant range: space-constrained low-flow high-pressure applications, space-constrained low-pressure applications, retrofitted systems, VAV systems that require operation over a wide range of duty points, systems with pressure consuming elements that may vary in their pressure consumption such that a fan must be selected for a worst case scenario instead of an average use scenario, and situations where the system that a fan is operating in changes. (Damas and Boldt, No. 131 at pp. 2–4) Furthermore, Damas and Boldt commented that they are concerned that designers may artificially increase the pressure consumption of a system by closing dampers to allow the fan to operate at a compliant duty point, which could ultimately increase energy consumption. (Damas and Boldt, No. 131 at pp. 3–4) Additionally, Damas and Boldt stated that there may be safety issues when a fan operates near its highest efficiency duty point, which is often near the unstable region of a fan. (Damas and Boldt, No. 131 at p. 4) Damas and Boldt commented that system engineers need full fan

performance data to ensure that a system design does not push the fan into its unstable operating region. *Id.*

As discussed in detail in section IV.C.1, DOE evaluated improved efficiency options while maintaining constant diameter and duty point (*i.e.*, air flow and operating pressures remained constant as efficiency increased); therefore, DOE has tentatively concluded that a compliant fan of the same equipment class, diameter, and duty point would be available.

As discussed in section III.C.1 of this document, the FEI metric is evaluated at each duty point as specified by the manufacturer as required by the DOE test procedure. If adopted, the proposed energy conservation standards would have to be met at each duty point at which the fan is sold.

Consistent with stakeholder feedback from the CA IOUs and Damas and Boldt, DOE recognizes that not allowing representations of a fan's entire performance map could result in increased energy consumption or potential unintended consequences. Therefore, DOE proposes that a manufacturer could make representations at non-compliant duty points provided representations include a disclaimer; however, the manufacturer would be responsible for ensuring that the fan is not sold and selected at the non-compliant duty points. To ensure this, a manufacturer could, for example: (1) choose to make representations of non-compliant duty points and identify those duty points as non-compliant, but would need to know the duty point(s) for which the fan was selected and sold; or (2) choose to only make representations at compliant duty points in the case where the manufacturer does not know the duty point(s) for which the fan is selected and sold.

In accordance with 42 U.S.C. 6295(r), energy conservation standards may include any requirement which the Secretary determines is necessary to assure that each covered product to which such standard applies meets the required minimum level of energy efficiency. As such, to assure that each GFB to which the proposed standard would apply meets the required FEI specified in such standard, and in accordance with 42 U.S.C. 6295(r), DOE proposes to additionally require that all

representations at non-compliant duty points would be (1) identified by the following disclaimer: "Sale at these duty points violates Department of Energy Regulations under EPCA" in all capital letters, red, and bold font; and (2) grayed out in any graphs or tables in which they are included.

2. Enforcement Provisions for General Fans and Blowers

Subpart C of 10 CFR part 429 establishes enforcement provisions applicable to covered products and covered equipment, including fans and blowers. General enforcement provisions are established in 10 CFR 429.110. Various provisions in 10 CFR 429.110 specify when DOE may test for enforcement, how DOE will obtain units for enforcement testing, where selected units will be tested, and how DOE will determine basic model compliance, both in general and for specific products and equipment. DOE is proposing to add specific enforcement testing provisions for GFBs at 10 CFR 429.110(e).

As previously stated, the FEI metric would be evaluated at each duty point as specified by the manufacturer and, if adopted, the proposed energy conservation standards would have to be met at each duty point at which the fan is sold. Therefore, while DOE requires GFBs to follow the basic model structure outlined in the May 2023 TP Final Rule, DOE proposes that GFB compliance will be determined by duty point offered for sale. In other words, if DOE finds that one or more duty point(s) certified as compliant by a manufacturer is not compliant with proposed energy conservation standards, if adopted, the basic model would be considered non-compliant.

Pursuant to 10.CFR 429.104, DOE may, at any time, test a basic model to assess whether the basic model is in compliance with the applicable energy conservation standard(s). If DOE has reason to believe that a basic model is not in compliance it may test for enforcement pursuant to 10 CFR 429.110. To verify compliance of GFBs, DOE proposes to add the following enforcement testing approach at 10 CFR 429.110(e).

When conducting assessment and enforcement testing, DOE proposes to test each basic model according to the DOE test procedure, using the test

method specified by the manufacturer submitted in their certification report (*i.e.*, based on section 6.1, 6.2, 6.3 or 6.4 of AMCA 214–21) pursuant to 10 CFR 429.69. When conducting enforcement testing, DOE proposes that it may choose to test either one fan at multiple duty points or multiple fans at one or more duty points to evaluate compliance of a certified basic model at each certified duty point.

a. Testing a Single Fan at Multiple Duty Points

When testing a single fan at multiple duty points, DOE proposes to first determine either bhp or FEP, dependent on the test method specified by the manufacturer, for the range of certified airflow, pressure, and speed (duty points) according to appendix A of subpart J to 10 CFR part 431. DOE acknowledges that it may not be feasible to exactly replicate the measurements at the certified duty points, or within the certified range of duty points; therefore, DOE will verify that, at a given speed, the airflow at which the test is being conducted is within 5-percent of the certified airflow and the pressure is within between $P \times (1 - 0.05)^2$ and where P is the certified static or total pressure. If DOE is unable to verify some or all certified duty points (*i.e.*, the fan is unable to perform at airflows and pressures at a given speed that are within the prescribed margin of the certified airflows and pressures), the certified rating cannot be used to determine compliance. DOE will consider the certified rating to be invalid and DOE will rely on the measured duty point (*i.e.*, measured flow and pressure at the given speed) to determine compliance. If DOE is able to verify the certified duty points (*i.e.*, DOE is able to test the fan at airflows and pressures at a given speed that are within the prescribed margin of the certified airflows and pressures), DOE will convert the tested bhp or FEP at the tested airflow to the certified airflow and use the converted bhp or FEP calculate the corresponding FEI at each certified duty point, in accordance with the DOE test procedure. To convert the tested bhp or FEP at the tested airflow to the certified airflow DOE will use the following equations:

For fan shaft power:

$$\text{Converted bhp} = \text{tested bhp} \times \left(\frac{\text{certified duty point airflow}}{\text{tested duty point airflow}} \right)^3$$

For fan electrical power:

$$\text{Converted FEP} = \text{tested FEP} \times \left(\frac{\text{certified duty point airflow}}{\text{tested duty point airflow}} \right)^3$$

DOE proposes that if the FEI calculated at the certified or measured duty point is greater than or equal to the minimum required FEI, then testing would be complete and DOE would consider the certified duty point to be compliant. If the FEI calculated at a certified or measured duty point is less than the minimum required FEI, DOE may make a determination of noncompliance based on that single test or may select no more than three additional identical model numbers and evaluate (a) specific duty point(s) according to the procedure just described to further determine whether (a) specific duty point(s) is/are compliant based on the average FEI of all units tested when multiple units are tested.

DOE also proposes to add the provisions related to the verification of duty points at 10 CFR 429.134.

b. Testing Multiple Fans at One or Several Duty Points

If the FEI calculated at a certified or measured duty point is less than the minimum required FEI, DOE may make a determination of noncompliance based on that single test or may select no more than three additional units of a certified basic model for testing. For each of the units tested, if the duty point can be verified, DOE proposes to then follow the approach described in the preceding paragraph, to determine the converted FEP or bhp and the associated FEI at certified duty point(s). Similarly, DOE proposes to determine compliance at each duty point using the average FEI for each certified duty point. If the duty point(s) cannot be verified, DOE proposes to use the same approach as in the sampling provisions (see 10 CFR 429.69) to determine the average FEP or bhp and the associated average FEI at measured duty point(s).

3. Enforcement Provisions for Air Circulating Fans

For air circulating fans, DOE proposes to follow the general enforcement testing provisions at 10 CFR 429.110.

VI. Procedural Issues and Regulatory Review

A. Review Under Executive Orders 12866, 13563, and 14094

Executive Order (“E.O.”) 12866, “Regulatory Planning and Review,” as supplemented and reaffirmed by E.O. 13563, “Improving Regulation and Regulatory Review,” 76 FR 3821 (Jan. 21, 2011) and amended by E.O. 14094, “Modernizing Regulatory Review,” 88 FR 21879 (April 11, 2023), requires agencies, to the extent permitted by law, to (1) propose or adopt a regulation only upon a reasoned determination that its benefits justify its costs (recognizing that some benefits and costs are difficult to quantify); (2) tailor regulations to impose the least burden on society, consistent with obtaining regulatory objectives, taking into account, among other things, and to the extent practicable, the costs of cumulative regulations; (3) select, in choosing among alternative regulatory approaches, those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity); (4) to the extent feasible, specify performance objectives, rather than specifying the behavior or manner of compliance that regulated entities must adopt; and (5) identify and assess available alternatives to direct regulation, including providing economic incentives to encourage the desired behavior, such as user fees or marketable permits, or providing information upon which choices can be made by the public. DOE emphasizes as well that E.O. 13563 requires agencies to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible. In its guidance, the Office of Information and Regulatory Affairs (“OIRA”) in the Office of Management and Budget (“OMB”) has emphasized that such techniques may include identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes. For the reasons stated in the preamble, this proposed 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 proposed regulatory action constitutes a “significant regulatory action” within the scope of section 3(f)(1) of E.O. 12866. Accordingly, pursuant to section 6(a)(3)(C) of E.O. 12866, DOE has provided to OIRA an assessment, including the underlying analysis, of benefits and costs anticipated from the proposed regulatory action, together with, to the extent feasible, a quantification of those costs; and an assessment, including the underlying analysis, of costs and benefits of potentially effective and reasonably feasible alternatives to the planned regulation, and an explanation why the planned regulatory action is preferable to the identified potential alternatives. These assessments are summarized in this preamble and further detail can be found in the technical support document for this proposed rulemaking. Finally, in accordance with 5 U.S.C. 553(b)(4), a summary of this proposed rule may be found at www.regulations.gov/docket/EERE-2020-BT-STD-0007.

B. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires preparation of an initial regulatory flexibility analysis (“IRFA”) for any 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 E.O. 13272, “Proper Consideration of Small Entities in Agency Rulemaking,” 67 FR 53461 (Aug. 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 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 has prepared the following IRFA for the industrial equipment that is the subject of this rulemaking.

1. Description of Reasons Why Action Is Being Considered

EPCA authorizes DOE to regulate the energy efficiency of a number of consumer products and certain industrial equipment. EPCA specifies the types of industrial equipment that can be classified as covered in addition to the equipment enumerated in 42 U.S.C. 6311(1). This industrial equipment includes fans and blowers. (42 U.S.C. 6311(2)(B)(ii) and (iii)) DOE is undertaking this NOPR pursuant to its obligations under EPCA to propose standards for covered industrial equipment.

2. Objectives of, and Legal Basis for, Rule

DOE must follow specific statutory criteria for prescribing new or amended standards for covered equipment, including fans and blowers. Any new or amended standard for a covered product must be designed to achieve the maximum improvement in energy efficiency that the Secretary of Energy determines is technologically feasible and economically justified. (42 U.S.C. 6295(o)(2)(A) and 42 U.S.C. 6295(o)(3)(B))

3. Description on Estimated Number of Small Entities Regulated

For manufacturers of fans and blowers, the 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. (See 13 CFR part 121.) The size standards are listed by North American Industry Classification System (“NAICS”) code and industry description and are available at www.sba.gov/document/support-table-size-standards. Manufacturing of fans and blowers is classified under NAICS 335220, “Industrial and Commercial Fan and Blower and Air Purification

Equipment Manufacturing.” The SBA sets a threshold of 500 employees or fewer for an entity to be considered as a small business for this category.

DOE conducted a focused inquiry of the companies that could be small businesses that manufacture fans and blowers covered by this rulemaking. DOE used data from the AMCA sales database; from the BESS Labs database; and from ENERGY STAR’s certified product database to create a list of companies that potentially sell fans and blowers covered by this rulemaking. Additionally, DOE received feedback from interested parties in response to previous stages of this rulemaking. DOE contacted select companies on its list, as necessary, to determine whether they met the SBA’s definition of a fan and blower small business. DOE screened out companies that did not offer equipment covered by this rulemaking, did not meet the definition of a “small business,” or are foreign owned and operated.

Using these data sources, DOE identified 91 manufacturers of fans and blowers. DOE then referenced D&B Hoovers reports,¹³⁶ as well as the online presence of identified businesses in order to determine whether they might the criteria of a small business. DOE screened out companies that do not offer products covered by this rulemaking, do not meet the definition of a “small business,” or are foreign owned and operated. Additionally, DOE filters out businesses that do not directly produce fans and blowers, but instead relabel fans and blowers or integrate them into a different product.

From these sources, DOE identified 46 unique businesses manufacturing at least one covered fan or blower product family and that also fall under SBA’s employee threshold for this rulemaking. Of the 46 small businesses, 41 manufacture at least one model of a

covered GFB and 15 of these small businesses additionally manufacture at least one model of a covered ACF. Lastly, there are five small businesses that only manufacture ACF models (and do not manufacture any GFB models).

DOE requests comment on the number of small business OEMs identified that manufacture fans and blowers covered by this rulemaking.

4. Description and Estimate of Compliance Requirements Including Differences in Cost, if Any, for Different Groups of Small Entities

In section IV.J.2.c of this NOPR, DOE reviews the methodology used to calculate conversion costs, this is further elaborated in chapter 12 of the NOPR TSD. DOE used the same methodology to estimate per small business conversion costs as with the broader industry—developing estimates of the number of product families for each small business using their websites and product catalogs. DOE was also able to find revenue estimates for each small business identified.

Across the identified small businesses, DOE identified 457 covered GFB product families and 97 ACF product families. DOE evaluated how many of each type for each small business would be compliant with TSL 4 based on the shipments analysis efficiency level estimates. Then, DOE assumed that all non-compliant product families would be redesigned and calculated the appropriate conversion costs. DOE estimates that the total cost to all small businesses to redesign GFB product families would be approximately \$233.0 million and to redesign ACF would be an additional \$29.1 million. DOE provides estimates of conversion costs for each small business in the following tables for small businesses that manufacture both GFBs and ACFs, GFBs only, and ACFs only.

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¹³⁶ D&B Hoovers reports require a subscription to D&B Hoovers and can be accessed at: app.dnbhoovers.com.

**Table VI-1 Small Business Impacts for Manufacturers of both General Fans and
Blowers and Air Circulating Fans**

Small Business	Estimated Annual Revenue (2022\$)	GFB Product Family Count	GFB Non-Compliant Product Families	ACF Product Family Count	ACF Non-Compliant Product Families	Conversion Costs (2022\$)	Conversion Costs (% of Compliance-Period Revenue)
Small Business 1	\$416,790	6	5	5	2	\$8,978,604	430.8%
Small Business 2	\$4,490,000	53	22	2	0	\$27,717,925	123.5%
Small Business 3	\$6,150,000	22	11	1	0	\$12,855,803	41.8%
Small Business 4	\$12,460,000	27	12	5	2	\$18,618,710	29.9%
Small Business 5	\$29,020,000	23	11	21	11	\$24,414,048	16.8%
Small Business 6	\$3,180,000	7	3	4	0	\$2,411,773	15.2%
Small Business 7	\$5,210,000	7	2	1	0	\$2,945,394	11.3%
Small Business 8	\$11,390,000	13	6	1	0	\$6,161,091	10.8%
Small Business 9	\$4,190,000	7	2	1	0	\$1,607,849	7.7%
Small Business 10	\$33,470,000	13	7	13	5	\$11,002,812	6.6%
Small Business 11	\$43,389,999	3	1	20	10	\$9,548,291	4.4%
Small Business 12	\$103,000,000	32	20	2	0	\$20,091,122	3.9%
Small Business 13	\$15,380,000	7	2	1	0	\$1,607,849	2.1%
Small Business 14	\$63,950,000	6	2	4	2	\$4,560,513	1.4%
Small Business 15	\$14,190,000	1	0	3	0	\$0	0.0%

Table VI-2 Small Business Impacts – General Fans and Blowers Only

Small Business	Estimated Annual Revenue (2022\$)	Product Family Count	Non-Compliant Product Families	Conversion Costs (2022\$)	Conversion Costs (% of Compliance-Period Revenue)
Small Business 1	\$990,000	15	10	\$9,376,788	189.4%
Small Business 2	\$1,200,000	19	11	\$8,843,167	147.4%
Small Business 3	\$1,030,000	8	4	\$3,884,470	75.4%
Small Business 4	\$1,530,000	5	3	\$4,418,091	57.8%
Small Business 5	\$2,590,000	14	9	\$7,235,318	55.9%
Small Business 6	\$590,000	6	2	\$1,607,849	54.5%
Small Business 7	\$810,000	3	1	\$803,924	19.8%
Small Business 8	\$18,860,000	36	18	\$18,483,273	19.6%
Small Business 9	\$870,000	4	1	\$803,924	18.5%
Small Business 10	\$12,400,000	18	10	\$8,039,243	13.0%
Small Business 11	\$21,010,000	17	9	\$9,241,637	8.8%
Small Business 12	\$4,690,000	4	1	\$1,472,697	6.3%
Small Business 13	\$16,630,000	11	6	\$4,823,546	5.8%
Small Business 14	\$21,880,000	9	4	\$5,222,015	4.8%
Small Business 15	\$10,560,000	6	3	\$2,411,773	4.6%
Small Business 16	\$25,500,000	14	6	\$5,492,318	4.3%
Small Business 17	\$9,360,000	4	2	\$1,607,849	3.4%
Small Business 18	\$23,900,000	9	5	\$4,019,621	3.4%
Small Business 19	\$6,660,000	2	1	\$803,924	2.4%
Small Business 20	\$29,740,000	6	2	\$2,945,394	2.0%
Small Business 21	\$25,620,000	5	2	\$1,607,849	1.3%
Small Business 22	\$33,599,999	3	2	\$1,607,849	1.0%
Small Business 23	\$17,870,000	5	1	\$803,924	0.9%
Small Business 24	\$21,170,000	2	1	\$803,924	0.8%
Small Business 25	\$7,910,000	3	0	-	0.0%
Small Business 26	\$7,760,000	2	0	-	0.0%

Table VI-3 Small Business Impacts – Air Circulating Fans Only

Small Business	Estimated Annual Revenue (2022\$)	Product Family Count	Non-Compliant Product Families	Conversion Costs (2022\$)	Conversion Costs (% of Compliance-Period Revenue)
Small Business 1	\$9,300,000	6	4	\$3,230,237	6.9%
Small Business 2	\$2,290,000	3	0	-	0.0%
Small Business 3	\$5,420,000	2	0	-	0.0%
Small Business 4	\$5,050,000	1	0	-	0.0%
Small Business 5	\$1,440,000	1	0	-	0.0%

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Costs as a percentage of revenue vary significantly across the small businesses. For small manufacturers that make both GFBs and ACFs, median costs as a percentage of revenue are 10.8 percent. For small manufacturers that only make GFBs, median costs as a percentage of revenue are 5.3 percent. For small businesses that only make ACFs, most small businesses are expected to incur zero redesign costs, the highest cost estimated represents 6.9 percent of the affected small business' compliance period revenue. Small

businesses that experience high conversion costs as a percentage of revenue will likely need to seek outside capital to finance redesign efforts and or prioritize redesigning product families based on sales volume.

DOE requests comment on the estimated small business costs and how those may differ from the costs incurred by larger manufacturers.

5. Duplication, Overlap, and Conflict With Other Rules and Regulations

DOE is not aware of any other rules or regulations that duplicate, overlap, or

conflict with the rule being considered today.

6. Significant Alternatives to the Rule

The discussion in the previous section analyzes impacts on small businesses that would result from DOE's proposed rule, represented by TSL 4. In reviewing alternatives to the proposed rule, DOE examined energy conservation standards set at lower efficiency levels. While selecting TSLs 1, 2, or 3 would reduce the possible impacts on small businesses, it would come at the expense of a significant

reduction in energy savings and consumer NPV.

For GFBs, TSL 1 achieves 88 percent lower energy savings and 90 percent lower consumer net benefits compared to the energy savings and consumer net benefits at TSL 4. TSL 2 achieves 78 percent lower energy savings and 80 percent lower consumer net benefits compared to the energy savings and consumer net benefits at TSL 4. TSL 3 achieves 44 percent lower energy savings and 49 percent lower consumer net benefits compared to the energy savings and consumer net benefits at TSL 4.

For ACFs, TSL 1 achieves 98 percent lower energy savings and 96 percent lower consumer net benefits compared to the energy savings and consumer net benefits at TSL 4. TSL 2 achieves 96 percent lower energy savings and 94 percent lower consumer net benefits compared to the energy savings and consumer net benefits at TSL 4. TSL 3 achieves 73 percent lower energy savings and 71 percent lower consumer net benefits compared to the energy savings and consumer net benefits at TSL 4.

Based on the presented discussion, establishing standards at TSL 4 for GFBs and for ACFs balances the benefits of the energy savings and consumer benefits with the potential burdens placed on manufacturers and small businesses better than alternate standard levels. Accordingly, DOE does not propose one of the other TSLs considered in the analysis, or the other policy alternatives examined as part of the regulatory impact analysis and included in chapter 17 of the NOPR TSD.

C. Review Under the Paperwork Reduction Act

Under the procedures established by the Paperwork Reduction Act of 1995 (“PRA”), a person is not required to respond to a collection of information by a Federal agency unless that collection of information displays a currently valid OMB Control Number.

OMB Control Number 1910–1400, Compliance Statement Energy/Water Conservation Standards for Appliances, is currently valid and assigned to the certification reporting requirements applicable to covered equipment, including fans and blowers.

DOE’s certification and compliance activities ensure accurate and comprehensive information about the energy and water use characteristics of covered products and covered equipment sold in the United States. Manufacturers of all covered products and covered equipment must submit a

certification report before a basic model is distributed in commerce, annually thereafter, and if the basic model is redesigned in such a manner to increase the consumption or decrease the efficiency of the basic model such that the certified rating is no longer supported by the test data. Additionally, manufacturers must report when production of a basic model has ceased and is no longer offered for sale as part of the next annual certification report following such cessation. DOE requires the manufacturer of any covered product or covered equipment to establish, maintain, and retain the records of certification reports, of the underlying test data for all certification testing, and of any other testing conducted to satisfy the requirements of part 429, part 430, and/or part 431. Certification reports provide DOE and consumers with comprehensive, up-to-date efficiency information and support effective enforcement.

Certification data would be required for fans and blowers were this NOPR to be finalized as proposed; however, DOE is not proposing certification or reporting requirements for fans and blowers in this NOPR. Instead, DOE may consider proposals to establish certification requirements and reporting for fans and blowers 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

DOE is analyzing this proposed regulation in accordance with the National Environmental Policy Act of 1969 (“NEPA”) and DOE’s NEPA implementing regulations (10 CFR part 1021). DOE’s regulations include a categorical exclusion for rulemakings that establish energy conservation standards for consumer products or industrial equipment. 10 CFR part 1021, subpart D, appendix B5.1. DOE anticipates that this rulemaking qualifies for categorical exclusion B5.1 because it is a rulemaking that establishes energy conservation standards for consumer products or industrial equipment, none of the exceptions identified in categorical exclusion B5.1(b) apply, no

extraordinary circumstances exist that require further environmental analysis, and it otherwise meets the requirements for application of a categorical exclusion. See 10 CFR 1021.410. DOE will complete its NEPA review before issuing the final rule.

E. Review Under Executive Order 13132

E.O. 13132, “Federalism,” 64 FR 43255 (Aug. 10, 1999), imposes certain requirements on Federal 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 has examined this proposed rule and has tentatively determined that it 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. EPCA governs and prescribes Federal preemption of State regulations as to energy conservation for the equipment that are the subject of this proposed 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) and (b); 42 U.S.C. 6297) Therefore, no further action is required by Executive Order 13132.

F. Review Under Executive Order 12988

With respect to the review of existing regulations and the promulgation of new regulations, section 3(a) of E.O. 12988, “Civil Justice Reform,” 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. 61 FR 4729 (Feb. 7, 1996). Regarding the review required by section 3(a), section 3(b) of E.O. 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 section 3(a) and section 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 proposed rule meets the relevant standards of E.O. 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, section 201 (codified at 2 U.S.C. 1531). For a proposed regulatory action likely to result 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 them. On March 18, 1997, DOE published a statement of policy on its process for intergovernmental consultation under UMRA. 62 FR 12820. DOE’s policy statement is also available at www.energy.gov/sites/prod/files/gcprod/documents/umra_97.pdf.

Although this proposed rule does not contain a Federal intergovernmental mandate, it may require expenditures of \$100 million or more in any one year by the private sector. Such expenditures may include: (1) investment in research

and development and in capital expenditures by fans and blowers manufacturers in the years between the final rule and the compliance date for the new standards and (2) incremental additional expenditures by consumers to purchase higher-efficiency fans and blowers, starting at the compliance date for the applicable standard.

Section 202 of UMRA authorizes a Federal agency to respond to the content requirements of UMRA in any other statement or analysis that accompanies the proposed rule. (2 U.S.C. 1532(c)) The content requirements of section 202(b) of UMRA relevant to a private sector mandate substantially overlap the economic analysis requirements that apply under section 325(o) of EPCA and Executive Order 12866. This **SUPPLEMENTARY INFORMATION** section of this NOPR and the TSD for this proposed rule respond to those requirements.

Under section 205 of UMRA, the Department is obligated to identify and consider a reasonable number of regulatory alternatives before promulgating a rule for which a written statement under section 202 is required. (2 U.S.C. 1535(a)) DOE is required to select from those alternatives the most cost-effective and least burdensome alternative that achieves the objectives of the proposed rule unless DOE publishes an explanation for doing otherwise, or the selection of such an alternative is inconsistent with law. As required by 42 U.S.C 6316(a); 42 U.S.C. 6295(m), this proposed rule would establish energy conservation standards for fans and blowers that are designed to achieve the maximum improvement in energy efficiency that DOE has determined to be both technologically feasible and economically justified, as required by 42 U.S.C 6316(a); 42 U.S.C. 6295(o)(2)(A) and (o)(3)(B). A full discussion of the alternatives considered by DOE is presented in chapter 17 of the NOPR TSD for this proposed rule.

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 rule would 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

Pursuant to E.O. 12630, “Governmental Actions and Interference with Constitutionally Protected Property Rights,” 53 FR 8859 (Mar. 15, 1988), DOE has determined that this proposed rule would not result in any takings that might require compensation under the Fifth Amendment to the U.S. Constitution.

J. Review Under the 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 Federal agencies to review most disseminations of information to the public under information quality 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 NOPR 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

E.O. 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 OIRA at OMB, a Statement of Energy Effects for any proposed significant energy action. A “significant energy action” is defined as any action by an agency that promulgates 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 proposed significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the proposal be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use.

DOE has tentatively concluded that this regulatory action, which proposes energy conservation standards for fans and blowers, is not a significant energy action because the proposed standards are not likely to have a significant adverse effect on the supply, distribution, or use of energy, nor has it been designated as such by the Administrator at OIRA. Accordingly, DOE has not prepared a Statement of Energy Effects on this proposed rule.

L. Information Quality

On December 16, 2004, OMB, in consultation with the Office of Science and Technology Policy (“OSTP”), issued its Final Information Quality Bulletin for Peer Review (“the Bulletin”). 70 FR 2664 (Jan. 14, 2005). The Bulletin establishes that certain scientific information shall be peer reviewed by qualified specialists before it is disseminated by the Federal Government, including influential scientific information related to agency regulatory actions. The purpose of the bulletin is to enhance the quality and credibility of the Government’s scientific information. Under the Bulletin, the energy conservation standards rulemaking analyses are “influential scientific information,” which the Bulletin defines as “scientific information the agency reasonably can determine will have, or does have, a clear and substantial impact on important public policies or private sector decisions.” 70 FR 2664, 2667.

In response to OMB’s Bulletin, DOE conducted formal peer reviews of the energy conservation standards development process and the analyses that are typically used and has prepared a report describing that peer review.¹³⁷ Generation of this report involved a rigorous, formal, and documented evaluation using objective criteria and qualified and independent reviewers to make a judgment as to the technical/scientific/business merit, the actual or anticipated results, and the productivity and management effectiveness of programs and/or projects. Because available data, models, and technological understanding have changed since 2007, DOE has engaged with the National Academy of Sciences to review DOE’s analytical methodologies to ascertain whether modifications are needed to improve

DOE’s analyses. DOE is in the process of evaluating the resulting report.¹³⁸

M. Description of Materials Incorporated by Reference

In this NOPR, DOE proposes to incorporate by reference the following test standards published by the IEC.

IEC 61800–9–2:2023 specifies test methods to determine the efficiency of motor controllers as well as the efficiency of motor and motor controller combinations. It also establishes efficiency classifications for this equipment.

IEC TS 60034–30–2:2016 establishes efficiency classifications for motors driven by motor controllers.

IEC TS 60034–31:2021 provides a guideline of technical and economical aspects for the application of energy-efficient electric AC motors and example calculations.

IEC 61800–9–2:2023, IEC TS 60034–30–2:2016, and IEC TS 60034–31:2021 are available for purchase from the International Electrotechnical Committee (IEC), Central Office, 3, rue de Varembe, P.O. Box 131, CH–1211 GENEVA 20, Switzerland; + 41 22 919 02 11; webstore.iec.ch.

The following standards appear in the amendatory text of this document and have already been approved for the locations in which they appear: AMCA 210–16, AMCA 214–21, and ISO 5801:2017.

VII. Public Participation

A. Attendance at the Public Meeting

The time, date, and location of the public meeting are listed in the **DATES** and **ADDRESSES** sections at the beginning of this document. If you plan to attend the public meeting, please notify the Appliance and Equipment Standards staff at (202) 287–1445 or Appliance_Standards_Public_Meetings@ee.doe.gov.

Please note that foreign nationals visiting DOE Headquarters are subject to advance security screening procedures which require advance notice prior to attendance at the public meeting. If a foreign national wishes to participate in the public meeting, please inform DOE of this fact as soon as possible by contacting Ms. Regina Washington at (202) 586–1214 or by email (Regina.Washington@ee.doe.gov) so that the necessary procedures can be completed.

DOE requires visitors to have laptops and other devices, such as tablets, checked upon entry into the Forrestal

Building. Any person wishing to bring these devices into the building will be required to obtain a property pass. Visitors should avoid bringing these devices, or allow an extra 45 minutes to check in. Please report to the visitor’s desk to have devices checked before proceeding through security.

Due to the REAL ID Act implemented by the Department of Homeland Security (“DHS”), there have been recent changes regarding ID requirements for individuals wishing to enter Federal buildings from specific States and U.S. territories. DHS maintains an updated website identifying the State and territory driver’s licenses that currently are acceptable for entry into DOE facilities at www.dhs.gov/real-id-enforcement-brief. A driver’s license from a State or territory identified as not compliant by DHS will not be accepted for building entry and one of the alternate forms of ID listed below will be required. Acceptable alternate forms of Photo-ID include U.S. Passport or Passport Card; an Enhanced Driver’s License or Enhanced ID-Card issued by States and territories as identified on the DHS website (Enhanced licenses issued by these States and territories are clearly marked Enhanced or Enhanced Driver’s License); a military ID or other Federal government-issued Photo-ID card.

In addition, you can attend the public meeting via webinar. Webinar registration information, participant instructions, and information about the capabilities available to webinar participants will be published on DOE’s website at www1.eere.energy.gov/buildings/appliance_standards/standards.aspx?productid=51. Participants are responsible for ensuring their systems are compatible with the webinar software.

B. Procedure for Submitting Prepared General Statements for Distribution

Any person who has plans to present a prepared general statement may request that copies of his or her statement be made available at the public meeting. Such persons may submit requests, along with an advance electronic copy of their statement in PDF (preferred), Microsoft Word or Excel, WordPerfect, or text (ASCII) file format, to the appropriate address shown in the **ADDRESSES** section at the beginning of this document. The request and advance copy of statements must be received at least one week before the public meeting and are to be emailed. Please include a telephone number to enable DOE staff to make follow-up contact, if needed.

¹³⁷ The 2007 “Energy Conservation Standards Rulemaking Peer Review Report” is available at the following website: energy.gov/eere/buildings/downloads/energy-conservation-standards-rulemaking-peer-review-report-0 (last accessed December 5, 2023).

¹³⁸ The report is available at www.nationalacademies.org/our-work/review-of-methods-for-setting-building-and-equipment-performance-standards.

C. Conduct of the Public Meeting

DOE will designate a DOE official to preside at the public meeting and may also use a professional facilitator to aid discussion. The meeting will not be a judicial or evidentiary-type public hearing, but DOE will conduct it in accordance with section 336 of EPCA. (42 U.S.C. 6306) A court reporter will be present to record the proceedings and prepare a transcript. DOE reserves the right to schedule the order of presentations and to establish the procedures governing the conduct of the public meeting. There shall not be discussion of proprietary information, costs or prices, market share, or other commercial matters regulated by U.S. anti-trust laws. After the public meeting, interested parties may submit further comments on the proceedings, as well as on any aspect of the proposed rulemaking, until the end of the comment period.

The public meeting will be conducted in an informal, conference style. DOE will present a general overview of the topics addressed in this proposed rulemaking, allow time for prepared general statements by participants, and encourage all interested parties to share their views on issues affecting this proposed rulemaking. Each participant will be allowed to make a general statement (within time limits determined by DOE), before the discussion of specific topics. DOE will allow, as time permits, other participants to comment briefly on any general statements.

At the end of all prepared statements on a topic, DOE will permit participants to clarify their statements briefly. Participants should be prepared to answer questions by DOE and by other participants concerning these issues. DOE representatives may also ask questions of participants concerning other matters relevant to this rulemaking. The official conducting the public meeting will accept additional comments or questions from those attending, as time permits. The presiding official will announce any further procedural rules or modification of the previous procedures that may be needed for the proper conduct of the public meeting.

A transcript of the public meeting will be included in the docket, which can be viewed as described in the *Docket* section at the beginning of this document and will be accessible on the DOE website. In addition, any person may buy a copy of the transcript from the transcribing reporter.

D. Submission of Comments

DOE will accept comments, data, and information regarding this proposed rule before or after the public meeting, but no later than the date provided in the **DATES** section at the beginning of this proposed rule. Interested parties may submit comments, data, and other information using any of the methods described in the **ADDRESSES** section at the beginning of this document.

Submitting comments via www.regulations.gov. The *www.regulations.gov* web page will require you to provide your name and contact information. Your contact information will be viewable to DOE Building Technologies staff only. Your contact information will not be publicly viewable except for your first and last names, organization name (if any), and submitter representative name (if any). If your comment is not processed properly because of technical difficulties, DOE will use this information to contact you. If DOE cannot read your comment due to technical difficulties and cannot contact you for clarification, DOE may not be able to consider your comment.

However, your contact information will be publicly viewable if you include it in the comment itself or in any documents attached to your comment. Any information that you do not want to be publicly viewable should not be included in your comment, nor in any document attached to your comment. Otherwise, persons viewing comments will see only first and last names, organization names, correspondence containing comments, and any documents submitted with the comments.

Do not submit to *www.regulations.gov* information for which disclosure is restricted by statute, such as trade secrets and commercial or financial information (hereinafter referred to as Confidential Business Information (“CBI”). Comments submitted through *www.regulations.gov* cannot be claimed as CBI. Comments received through the website will waive any CBI claims for the information submitted. For information on submitting CBI, see the Confidential Business Information section.

DOE processes submissions made through *www.regulations.gov* before posting. Normally, comments will be posted within a few days of being submitted. However, if large volumes of comments are being processed simultaneously, your comment may not be viewable for up to several weeks. Please keep the comment tracking number that *www.regulations.gov*

provides after you have successfully uploaded your comment.

Submitting comments via email, hand delivery/courier, or postal mail.

Comments and documents submitted via email, hand delivery/courier, or postal mail also will be posted to *www.regulations.gov*. If you do not want your personal contact information to be publicly viewable, do not include it in your comment or any accompanying documents. Instead, provide your contact information in a cover letter. Include your first and last names, email address, telephone number, and optional mailing address. The cover letter will not be publicly viewable as long as it does not include any comments.

Include contact information each time you submit comments, data, documents, and other information to DOE. If you submit via postal mail or hand delivery/courier, please provide all items on a CD, if feasible, in which case it is not necessary to submit printed copies. No telefacsimiles (“faxes”) will be accepted.

Comments, data, and other information submitted to DOE electronically should be provided in PDF (preferred), Microsoft Word or Excel, WordPerfect, or text (ASCII) file format. Provide documents that are not secured, that are written in English, and that are free of any defects or viruses. Documents should not contain special characters or any form of encryption and, if possible, they should carry the electronic signature of the author.

Campaign form letters. Please submit campaign form letters by the originating organization in batches of between 50 to 500 form letters per PDF or as one form letter with a list of supporters’ names compiled into one or more PDFs. This reduces comment processing and posting time.

Confidential Business Information. Pursuant to 10 CFR 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit via email two well-marked copies: one copy of the document marked “confidential” including all the information believed to be confidential, and one copy of the document marked “non-confidential” with the information believed to be confidential deleted. DOE will make its own determination about the confidential status of the information and treat it according to its determination.

It is DOE’s policy that all comments may be included in the public docket, without change and as received, including any personal information provided in the comments (except

information deemed to be exempt from public disclosure).

E. Issues on Which DOE Seeks Comment

Although DOE welcomes comments on any aspect of this proposal, DOE is particularly interested in receiving comments and views of interested parties concerning the following issues:

(1) DOE requests comment on its proposed clarification for fans that create a vacuum. Specifically, DOE requests comment on whether fans that are manufactured and marketed exclusively to create a vacuum of 30 inches water gauge or greater could also be used in positive pressure applications. Additionally, DOE requests information on the applications in which a fan not manufactured or marketed exclusively for creating a vacuum would be used to create a vacuum of 30 inches water gauge or greater.

(2) DOE requests comments and feedback on the proposed methodology and calculation of motor and motor controller losses as well as potentially using an alternative calculation based on adjusted AMCA 214–21 equations.

(3) DOE requests comment on whether there are specific fans that meet the axial ACF definition that provide utility substantially different from the utility provided from other axial ACFs and that would impact energy use. If so, DOE requests information on how the utility of these fans differs from other axial ACFs and requests data showing the differences in energy use due to differences in utility between these fans and other axial ACFs.

(4) DOE requests comment on its understanding that the diameter increase design option could be applied to non-embedded, non-space-constrained equipment classes.

(5) DOE requests comment on whether the FEI increases associated with an impeller diameter increase for centrifugal PRVs and for axial PRVs are realistic. Specifically, DOE requests comment on whether it is realistic for axial PRVs to have a FEI increase that is 3 times greater than that for centrifugal PRVs when starting at the same initial diameter. Additionally, DOE requests comment on the factors that may impact how much an impeller diameter increase impacts a FEI increase.

(6) DOE requests comment on the ordering and implementation of design options for centrifugal PRV exhaust and supply fans and axial PRV fans.

(7) DOE requests comment on its approach for estimating the industry-wide conversion costs that may be necessary to redesign fans with forward-

curved impellers to meet higher FEI values. Specifically, DOE is interested in the costs associated with any capital equipment, research and development, or additional labor that would be required to design more efficient fans with forward-curved impellers. DOE additionally requests comment and data on the percentage of forward-curved impellers that manufacturers would expect to maintain as a forward-curved impeller relative to those expected to transition to a backward-inclined or airfoil impeller.

(8) DOE requests comment on the equations developed to calculate the credit for determining the FEI standard for GFBs sold with a motor controller and with an FEPact less than 20 kW and on potentially using an alternative credit calculation based on the proposed equations in section III.C.1.b of this document. Additionally, DOE requests comment on its use of a constant value, and its proposed value, of the credit applied for determining the FEI standard for GFBs with a motor controller and an FEPact of greater than or equal for 20 kW.

(9) DOE requests comments on whether it should apply a correction factor to the analyzed efficiency levels to account for the tolerance allowed in AMCA 211–22 and if so, DOE requests comment on the appropriate correction factor. DOE requests comment on the potential revised levels as presented in Table IV–12. Additionally, DOE requests comments on whether it should continue to evaluate an FEI of 1.00 for all fan classes if it updates the databases used in its analysis to consider the tolerance allowed in AMCA 211–22.

(10) Additionally, DOE does not anticipate that the efficiency levels captured in Table IV–12 would impact the cost, energy, and economic analyses presented in this document. As such, DOE considers the results of these analyses presented throughout this document applicable to the efficiency levels with a 5% tolerance allowance. DOE seeks comment on the analyses as applied to the efficiency levels in Table IV–12.

(11) DOE requests comment on its method to use both the AMCA sales database and sales data pulled from manufacturer fan selection data to estimate MSP. DOE also requests comment on the use of the MSP approach for its cost analysis for GFBs or whether an MPC-based approach would be appropriate. If interested parties believe an MPC-based approach would be more appropriate, DOE requests MPC data for the equipment classes and efficiency levels analyzed, which may be confidentially submitted

to DOE using the confidential business information label.

(12) DOE requests feedback on whether using a more efficient motor would require an ACF redesign. Additionally, DOE requests feedback on what percentage of motor speed change would require an ACF redesign.

(13) DOE requests feedback on whether setting an ACF standard using discrete efficacy values over a defined diameter range appropriately represents the differences in efficacy between axial ACFs with different diameters, and if not, would a linear equation for efficacy as a function of diameter be appropriate.

(14) DOE seeks comment on the distribution channels identified for GFBs and ACFs and fraction of sales that go through each of these channels.

(15) DOE seeks comment on the overall methodology and inputs used to estimate GFBs and ACFs energy use. Specifically, for GFBs, DOE seeks feedback on the methodology and assumptions used to determine the operating point(s) both for constant and variable load fans. For ACFs, DOE requests feedback on the average daily operating hours, annual days of operation by sector and application, and input power assumptions. In addition, DOE requests feedback on the market share of GFBs and ACFs by sector (*i.e.*, commercial, industrial, and agricultural).

(16) DOE requests feedback on the price trends developed for GFBs and ACFs.

(17) DOE requests feedback on the installation costs developed for GFBs and on whether installation costs of ACFs may increase at higher ELs.

(18) DOE requests feedback on whether the maintenance and repair costs of GFBs may increase at higher ELs. Specifically, DOE requests comments on the frequency of motor replacements for ACFs. DOE also requests comments on whether the maintenance and repair costs of ACFs may increase at higher ELs and on the repair costs developed for ACFs.

(19) DOE requests comments on the average lifetime estimates used for GFBs and ACFs.

(20) DOE requests feedback and information on the no-new-standards case efficiency distributions used to characterize the market of GFBs and ACFs. DOE requests information to support any efficiency trends over time for GFBs and ACFs.

(21) DOE requests feedback on the methodology and inputs used to project shipments of GFBs in the no-new-standards case. DOE requests comments and feedback on the potential impact of standards on GFB shipments and

information to help quantify these impacts.

(22) DOE requests feedback on the methodology and inputs used to estimate and project shipments of ACFs in the no-new-standards case. DOE requests comments and feedback on the potential impact of standards on ACF shipments and information to help quantify these impacts.

(23) DOE requests comment and data regarding the potential increase in utilization of GFBs and ACFs due to any increase in efficiency.

(24) DOE requests comment on the number of end-use product (*i.e.*, a product or equipment that has a fan or blower embedded in it) basic models that would not be excluded by the list of products or equipment listed in Table III–1.

(25) DOE requests information regarding the impact of cumulative regulatory burden on manufacturers of fans and blowers associated with multiple DOE standards or product-specific regulatory actions of other Federal agencies.

(26) DOE requests comment on the proposed standard level for axial PRVs, including the design options and costs, as well as the burdens and benefits associated with this level and the industry standards/California regulations FEI level of 1.00.

(27) DOE requests comment on the number of small business OEMs identified that manufacture fans and blowers covered by this proposed rulemaking.

(28) DOE requests comment on the estimated small business costs and how those may differ from the costs incurred by larger manufacturers.

Additionally, DOE welcomes comments on other issues relevant to the conduct of this rulemaking that may not specifically be identified in this document.

VIII. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of this notice of proposed rulemaking and announcement of public meeting.

List of Subjects

10 CFR Part 429

Administrative practice and procedure, Confidential business information, Energy conservation, Household appliances, Reporting and recordkeeping requirements.

10 CFR Part 431

Administrative practice and procedure, Confidential business

information, Energy conservation test procedures, Incorporation by reference, Reporting and recordkeeping requirements.

Signing Authority

This document of the Department of Energy was signed on December 28, 2023, by Jeffrey Marootian, Principal Deputy Assistant Secretary for Energy Efficiency and Renewable Energy, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on December 29, 2023.

Treena V. Garrett,

Federal Register Liaison Officer, U.S. Department of Energy.

For the reasons set forth in the preamble, DOE proposes to amend parts 429 and 431 of chapter II, subchapter D, of title 10 of the 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. Amend § 429.69 by adding paragraph (a)(3) to read as follows:

§ 429.69 Fans and blowers.

(a) * * *

(3) *Required Disclaimer at Non-Compliant Duty Points.* Representation of fan performance at duty points with FEI that are not compliant with the energy conservation standards at § 431.175 of this chapter is allowed and must be identified by the following disclaimer: “Sale at these duty points violates Department of Energy Regulations under EPCA” in red and bold font; and (2) duty points must be grayed out in any graphs or tables in which they are included.

* * * * *

■ 3. Amend § 429.110 by redesignating paragraphs (e)(7), (8), and (9) as

paragraphs (e)(8), (9), and (10), respectively, and adding a new paragraph (e)(7) to read as follows:

§ 429.110 Enforcement testing.

* * * * *

(e) * * *

(7) For fans and blowers other than air circulating fans, DOE will use an initial sample of one unit to determine compliance at each duty point for which the fan basic model is distributed in commerce. If one or more duty points is determined to be non-compliant, the fan basic model is determined to be non-compliant.

(i) When testing a single unit, DOE will first determine either fan shaft input power or FEP, dependent on the test method specified by the manufacturer, for the range of certified duty points according to appendix A to subpart J of part 431 of this chapter. For each point in the certified operating range (*i.e.*, each certified duty point), DOE will conduct a verification of the duty points as described in § 429.134(bb)(2) and determine the FEI at the certified duty point or at the measured duty point. If the FEI calculated at the certified or measured duty point is greater than or equal to the minimum required FEI, then testing is complete and the certified or measured duty point is compliant. If the FEI calculated at a certified or measured duty point is less than the minimum required FEI, DOE may select additional units to test in accordance with this paragraph (e)(7)(ii) of this section.

(ii) When testing more than one unit, DOE will select no more than three additional units of a certified basic model for testing and test each one at one or several duty points within the range of certified duty points. For each unit and at each certified duty point, DOE will conduct a verification of the duty points as described in § 429.134(bb)(2) and determine the FEI at the certified duty point or at the measured duty point. In the case where the certified duty point can be verified, DOE will calculate the average FEI of all units tested for each certified duty point. If the duty point cannot be verified, DOE will follow the sampling procedures at § 429.69 to determine the average FEI of all units tested at the measured duty point. If the average FEI calculated at the certified or measured duty point is greater than or equal to the minimum required FEI, then testing is complete and the certified or measured duty point is compliant. If the average FEI calculated at a certified or measured duty point is less than the minimum required FEI, then testing is complete

and the certified or measured duty point is not compliant.

* * * * *

■ 4. Amend § 429.134 by adding paragraph (gg) to read as follows:

§ 429.134 Product-specific enforcement provisions.

* * * * *

(gg) *Fans and blowers.* (1) *Testing.* For fans and blowers other than air circulating fans, DOE will test each fan or blower basic model according to the test method specified by the manufacturer (*i.e.*, based on the method

listed in table 1 to appendix A to subpart J of part 431 of this chapter).

(2) *Verification of duty points.* For fans and blowers other than air circulating fans, at a given speed within the certified operating range, the pressure and flow of a duty point in the certified range of operation (*i.e.*, certified duty point) will be determined in accordance with appendix A to subpart J of part 431 of this chapter. At a given speed, the certified duty point will be considered valid only if the measured airflow is within five percent

of the certified airflow and the measured static or total pressure is between $P \times (1 - 0.05)^2$ and $P \times (1 + 0.05)^2$ where P is the certified static or total pressure.

(i)(A) If the certified duty point is found to be valid, the certified duty point will be used as the basis for determining compliance. DOE will convert the measured fan shaft power or FEP at the measured airflow to the certified airflow using the following equations:

For fan shaft power:

Converted fan shaft power

$$= \text{Measured fan shaft power} \left(\frac{\text{certified airflow}}{\text{Measured airflow}} \right)^3$$

For fan electrical power:

$$\text{Converted FEP} = \text{Measured FEP} \times \left(\frac{\text{certified airflow}}{\text{Measured airflow}} \right)^3$$

(B) DOE will use the converted fan shaft power or FEP to calculate the corresponding FEI at the certified duty point, in accordance with the DOE test procedure.

(ii) If the certified duty point is found to be invalid, the measured flow and pressure will be used as the basis for determining compliance. DOE will use the measured fan shaft power or FEP to calculate the corresponding FEI at the measured duty point, in accordance with the DOE test procedure.

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. Amend § 431.172 by adding in alphabetical order definitions for “Axial air circulating fan”, “Axial power roof ventilator”, “Centrifugal power roof ventilator—exhaust”, “Centrifugal power roof ventilator—supply”, “Diameter”, “Fan housing”, “Mixed flow impeller”, and “Radial impeller” to read as follows:

§ 431.172 Definitions.

* * * * *

Axial air circulating fan means an air circulating fan with an axial impeller that is either housed or unhoused.

* * * * *

Axial power roof ventilator means a PRV with an axial impeller that either supplies or exhausts air to a building where the inlet and outlet are not typically ducted.

* * * * *

Centrifugal power roof ventilator—exhaust means a PRV with a centrifugal or mixed-flow impeller that exhausts air from a building and which is typically mounted on a roof or a wall.

Centrifugal power roof ventilator—supply means a PRV with a centrifugal or mixed-flow impeller that supplies air to a building and which is typically mounted on a roof or a wall.

* * * * *

Diameter means the impeller diameter of a fan, which is twice the measured radial distance between the tip of one of the impeller blades of a fan to the center axis of its impeller hub.

* * * * *

Fan housing means any fan component(s) that direct(s) airflow into or away from the impeller and/or provide protection for the internal components of a fan or blower that is not an air circulating fan. A housing may serve as a fan’s structure.

* * * * *

Mixed flow impeller means an impeller featuring construction characteristics between those of an axial and centrifugal impeller. A mixed-flow impeller has a fan flow angle greater than 20 degrees and less than 70 degrees. Airflow enters axially through a single inlet and exits with combined axial and radial directions at a mean diameter greater than the inlet.

* * * * *

Radial impeller means a form of centrifugal impeller with several blades extending radially from a central hub. Airflow enters axially through a single inlet and exits radially at the impeller periphery into a housing with impeller blades; the blades are positioned so their outward direction is perpendicular within 25 degrees to the axis of rotation. Impellers can have a back plate and/or shroud.

* * * * *

■ 7. Amend § 431.173 by redesignating paragraphs (c) and (d) as paragraphs (d) and (e), respectively, and adding a new paragraph (c) to read as follows:

§ 431.173 Materials incorporated by reference.

* * * * *

(c) *IEC.* International Electrotechnical Committee, Central Office, 3, rue de Varembé, P.O. Box 131, CH–1211 GENEVA 20, Switzerland; + 41 22 919 02 11; *webstore.iec.ch*.

(1) IEC 61800–9–2:2023, *Adjustable speed electrical power drive systems (PDS)—Part 9–2: Ecodesign for motor systems—Energy efficiency determination and classification*, Edition 2.0, 2023–10; IBR approved for appendix A to this subpart.

(2) IEC TS 60034–30–2:2016, *Rotating electrical machines—Part 30–2: Efficiency classes of variable speed AC motors (IE-code)*, Edition 1.0, 2016–12; IBR approved for appendix A to this subpart.

(3) IEC TS 60034–31:2021, *Rotating electrical machines—Part 31: Selection*

of energy-efficient motors including variable speed applications—Application guidelines, Edition 2.0, 2021–03; IBR approved for appendix A to this subpart.

* * * * *

■ 8. Section 431.175 is added to read as follows:

§ 431.175 Energy conservation standards and compliance dates.

(a) Each fan and blower, other than an air circulating fan manufactured starting on [DATE FIVE YEARS AFTER DATE OF PUBLICATION OF FINAL RULE]

that is subject to the test procedure in § 431.174(a), must have a FEI value at each duty point for which the fan is distributed in commerce, that is equal or greater than the value in table 1 of this section. The manufacturer is responsible for ensuring that each fan and blower, other than an air circulating fan manufactured starting on [DATE FIVE YEARS AFTER DATE OF PUBLICATION OF FINAL RULE] that is subject to the test procedure in § 431.174(a), is sold and selected at compliant duty points.

TABLE 1 TO PARAGRAPH (a)—ENERGY CONSERVATION STANDARDS FOR FANS AND BLOWERS OTHER THAN AIR CIRCULATING FANS

Equipment class	With or without motor controller	Fan energy index (FEI)*
Axial Inline	Without	1.18 * A.
Axial Panel	Without	1.48 * A.
Axial Power Roof Ventilator	Without	0.85 * A.
Centrifugal Housed	Without	1.31 * A.
Centrifugal Unhoused	Without	1.35 * A.
Centrifugal Inline	Without	1.28 * A.
Radial Housed	Without	1.17 * A.
Centrifugal Power Roof Ventilator—Exhaust	Without	1.00 * A.
Centrifugal Power Roof Ventilator—Supply	Without	1.19 * A.
Axial Inline	With	1.18 * A * B.
Axial Panel	With	1.48 * A * B.
Axial Power Roof Ventilator	With	0.85 * A * B.
Centrifugal Housed	With	1.31 * A * B.
Centrifugal Unhoused	With	1.35 * A * B.
Centrifugal Inline	With	1.28 * A * B.
Radial Housed	With	1.17 * A * B.
Centrifugal Power Roof Ventilator—Exhaust	With	1.00 * A * B.
Centrifugal Power Roof Ventilator—Supply	With	1.19 * A * B.

* A is a constant representing an adjustment in FEI for motor hp, which can be found in table 2 of this section. B is a constant representing an adjustment in FEI for motor controllers, which can be found in table 2 of this section.

Table 2 to Paragraph (a) – FEI Calculation Constants

Constant	Condition		Value
A	With Motor hp < 100 hp		$A = 1.00$
	With Motor hp ≥ 100 hp and ≤ 250 hp		$A = \frac{\eta_{mtr,2023}}{\eta_{mtr,2014}}$
B	With Motor Controller	FEP _{act} of < 20 kW (26.8 hp)	$B = \frac{FEP_{act} - Credit}{FEP_{act}}$; where: $Credit = 0.03 \times FEP_{act} + 0.08$ [SI] $Credit = 0.03 \times FEP_{act} + 0.08 \times 1.341$ [IP]
		FEP _{act} of ≥ 20 kW (26.8 hp)	$B = 0.966$

$\eta_{mtr,2023}$ is the motor efficiency in accordance with table 8 at § 431.25, $\eta_{mtr,2014}$ is the motor efficiency in accordance with table 5 at § 431.25, which DOE is proposing to adopt into this section, and FEP_{act} is determined according to the DOE test procedure in appendix A to subpart J of this part.

TABLE 3 TO PARAGRAPH (a)—2014 MOTOR EFFICIENCY VALUES, $\eta_{mtr,2014}$

Motor horsepower/standard kilowatt equivalent	Nominal full-load efficiency (%)							
	2 Pole		4 Pole		6 Pole		8 Pole	
	Enclosed	Open	Enclosed	Open	Enclosed	Open	Enclosed	Open
100/75	94.1	93.6	95.4	95.4	95.0	95.0	93.6	94.1
125/95	95.0	94.1	95.4	95.4	95.0	95.0	94.1	94.1
150/110	95.0	94.1	95.8	95.8	95.8	95.4	94.1	94.1
200/150	95.4	95.0	96.2	95.8	95.8	95.4	94.5	94.1
250/186	95.8	95.0	96.2	95.8	95.8	95.8	95.0	95.0

(b) Each air circulating fan manufactured starting on [DATE FIVE YEARS AFTER DATE OF

PUBLICATION OF FINAL RULE] that is subject to the test procedure in § 431.174(b), must have an efficacy

value in CFM/W at maximum speed that is equal or greater than the value in table 4 to this paragraph (b).

TABLE 4 TO PARAGRAPH (b)—ENERGY CONSERVATION STANDARDS FOR AIR CIRCULATING FANS

Equipment class *	Efficacy at maximum speed (CFM/W)
Axial Air Circulating Fans; 12" ≤ D < 36"	12.2
Axial Air Circulating Fans; 36" ≤ D < 48"	17.3
Axial Air Circulating Fans; 48" ≤ D	21.5
Housed Centrifugal ACFs	N/A

* D: diameter in inches.

N/A means not applicable as DOE is not proposing to set a standard for this equipment class.

■ 9. Amend appendix A to subpart J of part 431 by:

■ a. Revising the section 0 introductory text and paragraph 0.2.(h);

■ b. Redesignating section 0.3 as 0.6;

■ c. Adding new section 0.3, and sections 0.4 and 0.5;

■ d. Revising section 2.2.1;

■ e. Redesignating section 2.6 as 2.7; and

■ f. Adding new section 2.6.

The revisions and additions read as follows:

Appendix A to Subpart J of Part 431—Uniform Test Method for the Measurement of Energy Consumption of Fans and Blowers Other Than Air Circulating Fans

* * * * *

0. *Incorporation by reference.*

In § 431.173, DOE incorporated by reference the entire standard for AMCA 210–16, AMCA 214–21, IEC 61800–9–2:2023, IEC

TS 60034–30–2:2016, IEC TS 60034–31:2021, and ISO 5801:2017; however, only enumerated provisions of those documents are applicable as follows. In cases where there is a conflict, the language of this appendix takes precedence over those documents.

* * * * *

0.2 * * *

(h) Section 6.4, “Fans with Polyphase Regulated Motor” as referenced in sections 2.2 and 2.6 of this appendix;

* * * * *

0.3 IEC 61800–9–2:2023:

(a) Section 6.2 as referenced in section 2.6.2.2 of this appendix;

(b) Table A.1 as referenced in section 2.6.2.2 of this appendix; and

(c) Table E.4 as referenced in 2.6.1.2.1. of this appendix; and

(d) Section F.2.1 as referenced in section 2.6.2.2 of this appendix.

0.4 IEC TS 60034–30–2:2016:

(a) Section 4.7 as referenced in section 2.6.1.2.2 of this appendix; and

(b) Table 4 as referenced in section 2.6.1.2.2 of this appendix.

0.5 IEC TS 60034–31:2021:

(a) Section A.3 as referenced in section 2.6.1.2.1 of this appendix; and

* * * * *

2. * * *

2.2 * * *

2.2.1. *General.* The fan electrical power (FE_{Pact}) in kilowatts must be determined at every duty point specified by the manufacturer in accordance with one of the test methods listed in table 1, and the following sections of AMCA 214–21: Section 2, “References (Normative)”; Section 7, “Testing,” including the provisions of AMCA 210–16 and ISO 5801:2017 as referenced by Section 7 and implicated by sections 2.2.2 and 2.2.3 of this appendix; Section 8.1, “Laboratory Measurement Only” (as applicable); and Annex J, “Other data and calculations to be retained.” In addition, the provisions in this appendix apply.

TABLE 1 TO APPENDIX A TO SUBPART J OF PART 431

Driver	Motor controller present?	Transmission configuration?	Test method	Applicable section(s) of AMCA 214–21
Electric motor	Yes or No	Any	Wire-to-air	6.1 “Wire-to-Air Testing at the Required Duty Point”.
Electric motor	Yes or No	Any	Calculation based on Wire-to-air testing.	6.2 “Calculated Ratings Based on Wire to Air Testing” (references Section 8.2.3, “Calculation to other speeds and densities for wire-to-air testing,” and Annex G, “Wire-to-Air Measurement—Calculation to Other Speeds and Densities (Normative)”).

TABLE 1 TO APPENDIX A TO SUBPART J OF PART 431—Continued

Driver	Motor controller present?	Transmission configuration?	Test method	Applicable section(s) of AMCA 214–21
Regulated polyphase motor.	Yes or No	Direct drive, V-belt drive, flexible coupling or synchronous belt drive.	Shaft-to-air	6.4 “Fans with Polyphase Regulated Motors,” * (references Annex D, “Motor Performance Constants (Normative)”).
None or non-electric	No	None	Shaft-to-air	Section 6.3, “Bare Shaft Fans”.
Regulated polyphase motor.	No	Direct drive, V-belt drive, flexible coupling or synchronous belt drive.	Calculation based on Shaft-to-air testing.	Section 8.2.1, “Fan laws and other calculation methods for shaft-to-air testing” (references Annex D, “Motor Performance Constants (Normative),” Annex E, “Calculation Methods for Fans Tested Shaft-to-Air,” and Annex K, “Proportionality and Dimensional Requirements (Normative)”).
None or non-electric	No	None	Calculation based on Shaft-to-air testing.	Section 8.2.1, “Fan laws and other calculation methods for shaft-to-air testing” (references Annex E, “Calculation Methods for Fans Tested Shaft-to-Air,” and Annex K, “Proportionality and Dimensional Requirements (Normative)”).

* With the modifications in section 2.6 of this appendix.

Testing must be performed in accordance with the required test configuration listed in table 7.1 of AMCA 214–21. The following values must be determined in accordance with this appendix at each duty point specified by the manufacturer: fan airflow in cubic feet per minute; fan air density; fan total pressure in inches of water gauge for fans using a total pressure basis FEI in accordance with table 7.1 of AMCA 214–21; fan static pressure in inches of water gauge for fans using a static pressure basis FEI in accordance with table 7.1 of AMCA 214–21; fan speed in revolutions per minute; and fan shaft input power in horsepower for fans tested in accordance with sections 6.3 or 6.4 of AMCA 214–21.

In addition, if applying the equations in section E.2 of annex E of AMCA 214–21 for compressible flows, the compressibility coefficients must be included in the equations as applicable.

All measurements must be recorded at the resolution of the test instrumentation and

calculations must be rounded to the number of significant digits present at the resolution of the test instrumentation.

In cases where there is a conflict, the provisions in AMCA 214–21 take precedence over AMCA 210–16 and ISO 5801:2017. In addition, the provisions in this appendix apply.

* * * * *

2.6. Calculation based on Shaft-to-air testing for Fans with Motors and Motor Controllers. The provisions of section 6.4 of AMCA 214–21 apply except that the instructions in section 6.4.2.4.1 of AMCA 214–21 are replaced by section 2.6.1 of this appendix, and the instructions in section 6.4.2.4.2. of AMCA 214–21 are replaced by section 2.6.2 of this appendix.

2.6.1 Motor efficiency if used in combination with a VFD. This section replaces section 6.4.2.4.1 of AMCA 214–21 and provides methods to calculate the efficiency of the motor if it is combined with a VFD.

2.6.1.1 Motor efficiency Calculation, if used in combination with a VFD. The efficiency of the motor if it is combined with a VFD is calculated as follows:

$$\eta_{mtr',act} = \frac{L_m}{(L_m + p_L')}$$

Where:

$\eta_{mtr',act}$ is the actual motor efficiency if used in combination with a VFD.

L_m is the motor load ratio calculated per section 6.4.2.4.1.3 of AMCA 214–21

p_L' are the relative losses of a motor if used in combination with a VFD that exactly meets the applicable standards at § 431.25 per section 2.6.1.2. of this appendix.

2.6.1.2. Relative losses of the actual motor if used in combination with a VFD. This section provides the methods to calculate the relative losses p_L' of a motor that exactly meets the applicable standards at § 431.25, if used in combination with a VFD:

$$p_L' = p_L(n, T) \times \frac{100 - \eta_r}{\eta_r} \times \frac{\eta_{IE3}}{100 - \eta_{IE3}}$$

Where:

$p_L(n, T)$ are the relative losses of an IE3 motor if used in combination with a VFD calculated per section 2.6.1.2.1 of this appendix.

η_r nominal full load efficiency per section 6.4.2.4.1.1 of AMCA 214–21

η_{IE3} is nominal full load efficiency of an IE3 motor per section 2.6.1.2.2. of this appendix.

2.6.1.2.1. Relative losses of an IE3 motor if used in combination with a VFD. The relative losses of an IE3 motor if used in combination with a VFD, $p_L(n, T)$ are based on the actual motor nameplate rated speed and the motor nameplate output power and must be

calculated per section A.3 of IEC TS 60034–31:2021, using the coefficients in table E.4 of IEC 61800–9–2:2023. If the motor nameplate output power value is not shown in table E.4 of IEC 61800–9–2:2023, the instructions in section 6.4.2.4.1.1 of AMCA 214–21 must be used.

The calculation of $p_L(n, T)$ relies on the relative speed (n) and relative torque (T) values which are determined for each duty point as follows:

$$n = \frac{n_{act}}{n_r}$$

And:

$$T = \frac{L_m}{n}$$

Where:

η_{act} is the fan speed in revolutions per minute at the given duty point;

η_r is the nameplate nominal rated speed of the actual motor revolutions per minute; and

L_m is the motor load ratio calculated per section 6.4.2.4.1.3 of AMCA 214–21.

2.6.1.2.2. Nominal full load efficiency of an IE3 motor. The nominal full load efficiency of an IE3 motor must be determined per section 4.7 of IEC TS 60034–30–2:2016 and is based on the actual motor nameplate rated speed and the motor nameplate output

power. If the motor nameplate output power value is not shown in table 4 of IEC TS 60034-30-2:2016, the instructions in section 6.4.2.4.1.1 of AMCA 214-21 must be used.

2.6.2 VFD efficiency at the required motor electrical power input. This section replaces section 6.4.2.4.2 of AMCA 214-21 and provides methods to calculate the efficiency of the VFD at the required motor electrical power input. A single VFD may operate one or many motors.

2.6.2.1 VFD efficiency calculation. The efficiency of the VFD at the required motor electrical power input is calculated as follows:

$$\eta_{VFD} = \frac{L_c}{(L_c + p_{VFD,L}(f, i_q))}$$

Where:

η_{VFD} is the VFD efficiency at the required motor electrical power input;

L_c is the is VFD load ratio calculated per section 6.4.2.4.2.2 of AMCA 214-21; and $p_{VFD,L}(f, i_q)$ are the relative losses of a VFD at IE2 levels per section 2.6.2.2 of this appendix.

2.6.2.2. Relative losses of a VFD at IE2 levels. The relative losses of an IE2 VFD, $\eta_{VFD,L}(f, i_q)$ are inter- or extrapolated from the relative losses in table A.1 of IEC 61800-9-2:2023, adapted for IE2 in accordance with section 6.2 of IEC 61800-9-2:2023. The calculations must follow the two-dimensional linear inter- or extrapolation from neighboring loss points in accordance with section F.2.1 of IEC 61800-9-2:2023. In addition, the relative losses of an IE2 VFD, $p_{VFD,L}(f, i_q)$, are based on the actual VFD nameplate rated output power. If the motor nameplate output power value is not shown in table A.1 of IEC 61800-9-2:2023, the instructions in section 6.4.2.4.1.1 of AMCA 214-21 must be used.

The calculation of $p_{VFD,L}(f, i_q)$ relies on the relative motor frequency (f) and relative torque current (i_q) values which are determined for each duty point as follows:

$$f = n$$

And:

$$i_q = \frac{T \times H_{mo}}{H_{co}}$$

Where:

n is the relative speed per section 2.6.1.2.1. of this appendix;

T is the relative torque per section 2.6.1.2.1. of this appendix;

H_{mo} is motor nameplate output power; and H_{co} is rated power output of the VFD.

* * * * *

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