selected as panelists will be notified on or before April 21, 2023.

Disclosing funding sources promotes transparency, ensures objectivity, and maintains the public's trust. If chosen, prospective panelists will be required to disclose the source of any support they received in connection with participation at the workshop. This information will be included in the published panelist bios as part of the workshop record.

C. Electronic and Paper Comments

The submission of comments is not required for participation in the workshop. If a person wishes to submit paper or electronic comments related to the agenda topics or the issues discussed by the panelists at the workshop, such comments should be filed as prescribed in Section IV, and must be received on or before June 20, 2023.

IV. Filing Comments and Requests To Participate as a Panelist

You can file a comment, or request to participate as a panelist, online or on paper. For the Commission to consider your comment, we must receive it on or before June 20, 2023. For the Commission to consider your request to participate as panelist, we must receive it by April 7, 2023. Write ''Eyeglass Rule, Comment, Project No. R511996'' on your comment, and ''Eyeglass Rule, Request to Participate, Project No. R511996'' on your request to participate as a panelist. Your comment—including your name and your state—will be placed on the public record of this proceeding, including, to the extent practicable, on the publicly available website, *https://www.regulations.gov.*

Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, we encourage you to submit your comments online, or to send them to the Commission by overnight service. To make sure the Commission considers your online comment, you must file it at *https://www.regulations.gov.*

Because your comment will be placed on the public record, 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 be filed in paper form, must be clearly labeled ''Confidential,'' and must 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.[12] 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 on *https://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.

Requests to participate as a panelist at the workshop should be submitted electronically to *eyeglassworkshop2023@ftc.gov,* or, if mailed, should be submitted in the manner detailed below. Parties are asked to include in their requests a brief statement setting forth their expertise in or knowledge of the issues on which the workshop will focus as well as their contact information, including a telephone number and email address (if available), to enable the FTC to notify them if they are selected.

If you file your comment or request to participate on paper, write ''Eyeglass Rule, Comment, Project No. R511996'' on your comment, and ''Eyeglass Rule, Request to Participate, Project No. R511996'' on your request to participate as a panelist. Please mail your comment or request to participate to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC–5610 (Annex W), Washington, DC 20580.

Visit the Commission website at *https://www.ftc.gov* to read this document and the news release describing it. The FTC Act and other laws 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 June 20, 2023. The Commission will consider all timely requests to participate as a panelist in the workshop that it receives by April 7, 2023. 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.*

V. Communications by Outside Parties to Commissioners or Their Advisors

Written communications and summaries or transcripts of oral communications respecting the merits of this proceeding from any outside party to any Commissioner or Commissioner's advisor will be placed on the public record.[13]

By direction of the Commission, Commissioner Wilson not participating.

Joel Christie,

Acting Secretary.

[FR Doc. 2023–06338 Filed 3–27–23; 8:45 am]

BILLING CODE 6750–01–P

[12] *See* FTC Rule 4.9(c).

[13] *See* 16 CFR 1.26(b)(5).

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Parts 5, 92, 93, 200, 574, 576, 578, 880, 882, 884, 886, 888, 902, 982, 983, and 985

[Docket No. FR–6086–N–04]

RIN 2577–AD05

Request for Comments: National Standards for the Physical Inspection of Real Estate and Associated Protocols, Proposed Scoring Notice

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, Office of the Assistant Secretary for Public and Indian Housing, U.S. Department of Housing and Urban Development, (HUD).

ACTION: Request for public comment.

SUMMARY: This request for public comment serves as a complementary document to the Economic Growth Regulatory Relief and Consumer Protection Act: Implementation of National Standards for the Physical Inspection of Real Estate (NSPIRE) proposed rule. The proposed rule provided that HUD would publish in

the **Federal Register** the NSPIRE inspection standards and scoring methodology to assess the overall condition, health, and safety of properties and units assisted or insured by HUD. The NSPIRE Standards were published for public comment on June 17, 2022. HUD now seeks public review and comment on the proposed NSPIRE physical inspection scoring and ranking methodology to implement HUD's final NSPIRE rule for Public Housing and Multifamily Housing programs, including Section 8 Project-Based Rental Assistance (PBRA) and other Multifamily assisted housing, Section 202/811 programs, and HUD-insured Multifamily as described in the NSPIRE proposed rule. The scoring methodology converts observed defects into a numerical score and sets a threshold for HUD to perform additional administrative oversight by establishing a level for when a property fails an inspection (less than 60 points) and when an enforcement referral is automatic or required (less than or equal to 30 points). HUD will consider comments received in response to this request before publishing a final NSPIRE Scoring notice in the **Federal Register**.

DATES: *Comment Due Date:* April 27, 2023.

ADDRESSES: There are two methods for submitting public comments. All submissions must refer to the above docket number and title.

1. *Electronic Submission of Comments.* Comments may be submitted electronically through the Federal eRulemaking Portal at *https://www.regulations.gov/.* HUD strongly encourages commenters to submit comments electronically. Electronic submission of comments allows the commenter maximum time to prepare and submit a comment, ensures timely receipt by HUD, and enables HUD to make comments immediately available to the public. Comments submitted electronically through the website can be viewed by other commenters and interested members of the public. Commenters should follow instructions provided on that website to submit comments electronically.

2. *Submission of Comments by Mail.* Comments may also be submitted by mail to the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street SW, Room 10276, Washington, DC 20410–0500. Due to security measures at all Federal agencies, however, submission of comments by mail often results in delayed delivery. To ensure timely receipt, HUD recommends that comments be mailed at least 2 weeks in advance of the public comment deadline.

Note: To receive consideration as public comments, comments must be submitted using one of the two methods specified above.

Public Inspection of Comments. HUD will make all properly submitted comments and communications available for public inspection and copying during regular business hours at the above address. Due to security measures at the HUD Headquarters building, you must schedule an appointment in advance to review the public comments by calling the Regulations Division at 202–708–3055 (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 all comments submitted are available for inspection and downloading at *www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Tara J. Radosevich, Real Estate Assessment Center, Office of Public and Indian Housing, Department of Housing and Urban Development, 550 12th Street SW, Suite 100, Washington, DC 20410–4000, telephone number 612–370–3009 (this is not a toll-free number), email *NSPIRERegulations@hud.gov.* 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:

I. Background

A. Current Standards and Scoring

There are currently two assessment methodologies used by HUD to ascertain the quality and health and safety of HUD-assisted and insured properties and units: (1) Pass/Fail, used for the Housing Quality Standards (HQS) for the Housing Choice Voucher (HCV) and Project-based Voucher (PBV) programs; and (2) a zero to 100-point (0–100) scale used for properties inspected under the Uniform Physical Condition Standards (UPCS) for public housing and properties managed by HUD's Office of Multifamily Housing Programs.[1]

B. NSPIRE Proposed Rule and Timeline

On January 13, 2021, HUD published the NSPIRE proposed rule [2] to implement one of NSPIRE's core objectives—the formal alignment of expectations of housing quality and consolidation of inspection standards across HUD programs.

In the proposed rule, HUD stated its intent to publish updates to the NSPIRE standards and scoring methodology through future **Federal Register** notices at least once every three years with an opportunity for public comment. The draft NSPIRE Standards were published in the **Federal Register** on June 17, 2022.[3] This notice provides an opportunity to comment on the draft NSPIRE scoring and ranking methodology. HUD expects to publish the NSPIRE final rule early this year. The final NSPIRE Scoring notice will be published after the NSPIRE final rule but before HUD's Real Estate Assessment Center (REAC) will commence inspections for scores of record for Multifamily programs, or scores to be included in a Public Housing Assessment System (PHAS) score for public housing. HUD will also publish an NSPIRE Administrative notice after the final rule that provides implementation guidance, including instructions for submitting requests for technical reviews, how to notify residents of inspection results and scores, and how to submit evidence that health and safety deficiencies identified in the NSPIRE inspection have been corrected, among other requirements.

C. HCV and PBV Scoring

Consistent with existing practice and with the NSPIRE proposed rule, NSPIRE will retain a pass/fail indicator for the HCV and PBV programs and use a zero to 100-point scale for HUD programs previously inspected under UPCS. This Scoring notice does not apply to the HCV and PBV programs and does not revise the inspection frequencies established under the applicable program regulations. The individual NSPIRE Standards, which will be finalized in advance of the effective date of the rule for HCV and PBV programs, will include an indication of whether defects in the standard would result in an HCV fail for the unit or property.

[1] ''Uniform Physical Condition Standards and Physical Inspection Requirements for Certain HUD Housing,'' Final Rule, 63 FR 46565 (Sept. 1, 1998).

[2] 86 FR 2582 (Jan. 13, 2021).

[3] 87 FR 36426 (June 17, 2022).

D. Development of This NSPIRE Scoring Notice

To develop a new scoring methodology, HUD reviewed its current scoring model under UPCS and solicited feedback from the public, including residents, housing industry groups, and housing professionals within and outside of HUD through the NSPIRE proposed rule.[4] HUD also considered feedback on the UPCS inspection and scoring process received over time from industry, residents, advocacy groups, and Congress, and acknowledges concerns about consistency and subjectivity, including the disproportionate impact of certain defects based on item weighting and disproportionate impact of certain non-unit observed defects in smaller properties.

One major issue that many observers have cited over the years is that, in rare cases, a property can pass an inspection while scoring zero points on the Unit Inspectable Area under the UPCS scoring methodology. Properties with substandard unit conditions may appear safe and still have good ''curb appeal'' but have unsafe conditions in the units that persist because the score was not failing, or under 60 points in a 100-point scale. REAC worked with a contractor to review potential scores of properties enrolled in the NSPIRE Demonstration, to compare scoring differences between UPCS and NSPIRE inspections, and to avoid statistical bias in designing a survey to establish a new scoring methodology. HUD also considered additional feedback collected during NSPIRE ''Get Ready Sessions'' held in 14 cities and through other mechanisms, collected through in-person Q&As and QR-code based survey questions. REAC has also continued to host an NSPIRE Demonstration website and email address for questions and comments.[5]

As part of the contractor-designed survey, HUD also conducted a survey of over 60 experts in physical inspections, building codes, and public health and safety. The feedback was requested through a survey designed based on contingent valuation principles.[6] Participants compared the relative risk of defects across severity levels and property locations. The survey findings helped guide the principles of the scoring methodology and establish which defects should most impact the score. Finally, HUD consulted experts in statistics and economics to consider how scores may change between the UPCS standards and the NSPIRE standard. The survey predetermined that certain areas (*e.g.,* units) and severities (*e.g.,* life-threatening) were considered worse than others, and participants responded by quantifying how much.

The survey results helped form many principles used in the NSPIRE scoring and sampling methodology:

- *Defect Severity Level:* Survey respondents largely agreed with the hierarchy of defect severity, that the differentiation at higher severity should be greater than at a lower severity, and that severe health and safety items should have the most impact on score. For example, the differentiation between the two lowest defect hierarchies (Low and Moderate) should be smaller than the differentiation between the two highest defect hierarchies (Severe and Life-Threatening (LT)).
- *Defect Location:* Survey respondents largely agreed that defect location should impact the relative value (importance) of defects in terms of scoring impact and that defects located in the unit should count more than defects located on the property grounds (*e.g.,* site, or ''outside'' as defined in the NSPIRE rule). The survey-helped determine rates of change for both location and severity for defect valuations (in other words, how much the defect penalty increases as the severity increases), which were used as guideposts or benchmarks for reasonability to create the defect impact points.

II. The Proposed NSPIRE Scoring Model

A. Applicability of the NSPIRE Scoring Notice

The NSPIRE Scoring notice will apply to all HUD housing currently inspected by REAC, including public housing and Multifamily Housing programs such as Project-based Rental Assistance, FHA Insured, and sections 202 and 811 as described in the NSPIRE proposed rule at § 5.701.[7]

B. NSPIRE Scoring Format

For properties previously subject to UPCS, HUD intends to continue setting the maximum score to 100 for a property with no deficiencies, and deducting points based on the scoring methodology, with any score under 60 considered a failing score. HUD will also supplement this score with letter grades to make clear to residents, public housing agencies (PHAs), property owners/agents (POAs), and other stakeholders how the numerical score relates to the condition of the property.

C. Scoring Methodology Generally

The NSPIRE scoring methodology converts observed defects into a numerical score. It implements the proposed rule's intent to provide reliable evaluations of housing conditions and to protect residents. In evaluating the prior inspection standards and scoring, HUD identified a disproportionate emphasis around the appearance of items that are otherwise safe and functional and that the standards paid inadequate attention to the health and safety conditions within the built environment. HUD concluded that revised housing standards would need to focus on habitability and the residential use of the structures, and most importantly, the health and safety of residents. To best protect residents, the inspection must prioritize conditions that are most likely to impact residents in the places where they spend the most time, the units. Thus, standards which are categorized as more severe should have a greater impact on a property's score when deficiencies exist in the unit, and a property with observed health and safety defects in its units is more likely to fail an inspection than a comparable property with less severe defects.

HUD therefore intends to score deficiencies based on two factors: severity and location. The categories of severity, as provided in the proposed NSPIRE Standards notice, are Life-Threatening (LT), Severe, Moderate, and Low. As described in the proposed NSPIRE Standards Notice, defect severity levels include the following characteristics:

- *Life-Threatening (LT).* The Life-Threatening category includes deficiencies that, if evident in the home or on the property, present a high risk of death, severe illness, or injury to a resident.
- *Severe.* The Severe category includes deficiencies that, if evident in the home or on the property, present a high risk of permanent disability, or serious injury or illness, to a resident. It also includes deficiencies that would seriously compromise the physical security or safety of a resident or their property.
- *Moderate.* The Moderate category includes deficiencies that, if evident in

[4] Public comments can be reviewed in the rulemaking docket at: *https://www.regulations.gov/docket/HUD-2021-0005.*

[5] See HUD's NSPIRE Demonstration website at: *https://www.hud.gov/program_offices/public_indian_housing/reac/nspire/demonstration.*

[6] Contingent valuation is a survey-based economic technique for the valuation of non-market resources, often as a values-based or revealed preference response.

[7] 86 FR 2582 (Jan. 13, 2021).

the home or on the property, present a moderate risk of an adverse medical event requiring a healthcare visit; could cause temporary harm; or if left untreated, could cause or worsen a chronic condition that may have long-lasting adverse health effects. It also includes deficiencies that would compromise the physical security or safety of a resident or their property.

• *Low.* The Low category includes deficiencies critical to habitability but not presenting a substantive health or safety risk to a resident.

The location categories provided in § 5.703 of the NSPIRE proposed rule are the unit, inside, and outside. Under this proposed NSPIRE scoring methodology, in-unit deficiencies are weighted more heavily, meaning that properties with such deficiencies would be more likely to fail. HUD will weigh these factors using a Defect Impact Weight. Under the Defect Impact Weight methodology, the weight of the deduction for a given deficiency changes depending on both the location and the severity, such that a LT deficiency inside a unit will lead to the largest deduction and a Low deficiency observed outside the property will lead to the smallest deduction. To determine the point deduction of a given deficiency, HUD would determine the location and severity of the deficiency as described in Table 1. Defect Impact Weights by Inspectable Area.

TABLE 1—DEFECT IMPACT WEIGHTS

Defect severity category	Inspectable area *		
	Outside	Inside	Unit
Life-Threatening (most severe)	49.6	54.5	60.0
Severe	12.2	13.4	14.8
Moderate	4.5	5.0	5.5
Low (least severe)	2.0	2.2	2.4

* Defect impact weights are rounded to the tenths place.

In Table 1, the sum of individual defects would be divided by the number of units inspected. If for example only one LT defect in a unit was observed during an inspection sample size of 10 units, and no other defects were observed, the total deduction from the score would be 6 points (60.0 points divided by 10 units). HUD determined each of the values in Table 1 by determining relative severity values for each category. HUD initially considered that the value of an LT defect may be as twice a Severe, a Severe twice Moderate, etc., But based on the survey results, this is not an accurate statement—on average, most respondents agreed that we value the difference between a LT and Severe more than the difference between a Severe and Moderate.

HUD proposes the rates of change by which Defect Impact Weights change depicted in Table 2 below:

TABLE 2—DEFECT SEVERITY VALUES AND RATES OF CHANGE BY DEFECT SEVERITY CATEGORY

Defect severity category	Severity value	Severity rate of change *
Life-Threatening (most severe)	49.6	4.1 × Severe Non-Life Threatening.
Severe	12.2	2.7 × Moderate.
Moderate	4.5	2.3 × Low.
Low (least severe)	2.0	N/A.

* Severity rate of change is rounded to the tenths decimal place.

LT deficiencies will deduct much more than Low deficiencies, consistent with HUD's goal of prioritizing the health and safety of residents.

Defect Impact Weights would also change at constant rates across the three inspectable areas (Outside, Inside, and Unit), but by a smaller amount. From the proposed rule, these areas are:

Outside of HUD housing (or ''outside areas'') refers to the building site, building exterior components, and any building systems located outside of the building or unit. Examples of ''outside'' components may include fencing, retaining walls, grounds, lighting, mailboxes, project signs, parking lots, detached garage or carport, driveways, play areas and equipment, refuse disposal, roads, storm drainage, non-dwelling buildings, and walkways.

Inside means the common areas and building systems that can be generally found within the building interior and are not inside a unit. Examples of ''inside'' common areas may include, basements, interior or attached garages, enclosed carports, restrooms, closets, utility rooms, mechanical rooms, community rooms, day care rooms, halls, corridors, stairs, shared kitchens, laundry rooms, offices, enclosed porches, enclosed patios, enclosed balconies, and trash collection areas.

Unit (or ''dwelling unit'') of HUD housing refers to the interior components of an individual unit. Examples of components included in the interior of a unit may include the balcony, bathroom, call-for-aid (if applicable), carbon monoxide devices, ceiling, doors, electrical systems, enclosed patio, floors, HVAC (where individual units are provided), kitchen, lighting, outlets, smoke detectors, stairs, switches, walls, water heater, and windows.

Inspectable areas would increase point deductions by a factor of 1.1 or 110 percent. For example, if you multiply a Low Defect Impact Weight located in the Outside Inspectable Area (2.0) by 1.1, the result is the Defect Impact Weight for a Low Defect located in the Inside Inspectable Area or 2.2. Similarly, if you multiply a Low Defect Impact Weight located in the Inside Inspectable Area (2.2) by 1.1, the result is the Defect Impact Weight for a Low Defect located in the Unit Inspectable Area or 2.4. This constant rate by which Defect Impact Weights change by inspectable area is depicted in Table 3 below for the Low Defect Severity Category (Note: The same rate of change by inspectable area applies to all Defect Severity Categories):

TABLE 3—DEFECT SEVERITY VALUES AND RATES OF CHANGE BY INSPECTABLE AREA

Defect severity category	Inspectable area		
	Outside	Inside	Unit
Low	2.0	2.2	2.4.
Rate of Change	N/A	1.1 × Outside	1.1 × Inside.

* Area rate of change is rounded to the tenths place.

D. Final Scoring Conversion

Because the number of defects observed will be greater in properties where HUD inspects a larger number of units, the NSPIRE scoring methodology normalizes the total defect deduction value by dividing it by the total number of units inspected. To convert the Defect Deduction Value Per Unit to a 100-point score, the sum of the Defect Impact Weights is divided by the number of units inspected. The formula is represented below:

Total Defect Deduction Value All Areas/ Unit Sample Size = Defect Deduction Value Per Unit

To determine the final property score, the Defect Deduction Value Per Unit is then subtracted from 100:

100 − (Defect Deduction Value Per Unit) = Final Score

Note: Scores cannot go below zero, so if the calculation yields a result lower than 0, the score is set to 0.

E. Fail Thresholds

As provided in the rule and Standards notice, all deficiencies identified through the NSPIRE inspection must be corrected within timeframes established in the rule and the NSPIRE Standard. In addition, under this proposed NSPIRE Scoring methodology, there are two situations in which a property will be considered to have failed inspection:

- *Scores below 60.* Consistent with existing policy and practice, the Property Threshold of Performance is defined as properties that achieve a score of 60 or above. Failure to achieve a score at or above 60 is considered a failing score, and properties that score under 60 are required to perform additional follow up and may be referred for administrative review under current regulations. These policies will be retained in the NSPIRE program.
- *Unit Point Deduction 30 or above.* Consistent with HUD's goal of maximizing the health and safety of a unit, HUD has determined that scores where deductions are disproportionately from Unit deficiencies should be considered failures even if, for example, the rest of the property is in pristine condition. Therefore, regardless of the overall property score, if 30 points or more were deducted due to Unit deficiencies, HUD would consider the property to have failed the inspection and would deem the result of the inspection to be a score of 59.

III. Examples

Example 1: A Property Where HUD Inspects 10 Units as Part of Its Inspection Sample

The following example demonstrates a 10-unit inspection in which the property passes the inspection with a score of 80. In this example, the following defects and the corresponding Defect Impact Weight categories were recorded by the inspector:

Table 4: Example #1—Defects Observed During an Inspection of 10 Sampled Units

An Inspector conducted an inspection of Property L and observed the following deficiencies in 10 units inspected under the NSPIRE Standard:

Defect severity category	Outside	Inside	Units
Life-Threatening	0	0	2
Severe	0	2	1
Moderate	0	3	0
Low	1	10	0
Total by Inspectable Area	1	15	3

Under the NSPIRE scoring methodology, each of these defects would be multiplied by the corresponding Defect Impact Weights to establish the total property defect deduction value. The total property defect deduction value is calculated as follows in Table 5:

TABLE 5—EXAMPLE #1—TOTAL PROPERTY DEFECT DEDUCTION VALUE CALCULATION

Defect severity category	Outside	Inside	Unit G	Unit B	All other units
Life-Threatening	0 × 49.6 = 0	0 × 54.5 = 0	1 × 60 = 60	1 × 60 = 60	0 × 60 = 0
Severe	0 × 12.2 = 0	2 × 13.4 = 26.8	0 × 14.8 = 0	1 × 14.8 = 14.8	0 × 14.8 = 0
Moderate	0 × 4.5 = 0	3 × 5 = 15.0	0 × 5.5 = 0	0 × 5.5 = 0	0 × 5.5 = 0
Low	1 × 2.0 = 2.0	10 × 2.2 = 22.0	0 × 2.4 = 0	0 × 2.4 = 0	0 × 2.4 = 0
Sum of Defect Deduction Value	2.0	63.8	60.0	74.8	0.0
Inspectable Area Defect Deduction Value	2.0	63.8	134.8		
Total Property Defect Deduction Value	2.0 + 63.8 + 134.8 = 200.6				

The defect deduction value per unit would be the sum of the Total Property Defect Deduction Value All Areas of 200.6 divided by the unit sample size of 10 for a value of 20 (values and calculations in parentheses):

Total Defect Deduction Value All Areas (200.6)/Unit Sample Size (10) = Defect Deduction Value Per Unit (20.06)

The property's preliminary score on the 100-point scale would therefore be calculated as follows:

100 − Defect Deduction Value Per Unit (20.06) = Preliminary Score (79.94)

This score would then be rounded up to 80.

Example #2—The Unit Threshold of Acceptability Factor

The following is another example which demonstrates a 10-unit inspection of property T that would receive a score above 60 but would fail the NSPIRE inspection based on Unit Point Deduction. In this example, the following defects and the corresponding Defect Impact Weight categories were recorded by the inspector:

TABLE 6—EXAMPLE #2—TOTAL INSPECTABLE AREA DEFECT DEDUCTION VALUES

Defect severity category	Outside	Inside	Units
Life-Threatening	0 × 49.6 = 0	0 × 54.5 = 0	4 × 60 = 240
Severe	0 × 12.2 = 0	2 × 13.4 = 26.8	4 × 14.8 = 59.2
Moderate	0 × 4.5 = 0	3 × 5 = 15	2 × 5.5 = 11
Low	1 × 2 = 2	10 × 2.2 = 22	0 × 2.4 = 0
Sum of Defect Deduction Values (or Inspectable Area Defect Deduction Values)	2.0	63.8	310.2
Total Property Defect Deduction Value	2.0 + 63.8 + 310.2 = 376.0		

Using the Unit Inspectable Area Defect Deduction Value of 310.2, the Unit Threshold of Performance would be calculated as follows (values and calculations in parentheses):

Total Unit Inspectable Area Defect Deduction (310.2)/Sample Size (10) = Final Unit Defect Deduction (31.02)

Because the Final Unit Defect Deduction is over 30, the property would fail the inspection, even if the overall final score would be greater than 60.

In this example, defects were observed in the Outside and Inside inspectable areas also, resulting in a Total Defect Deduction Value for All Areas = 376.0 which would be adjusted by the sample size of 10 units as follows (values and calculations in parentheses):

Total Defect Deduction Value All Areas (376.0)/Unit Sample Size (10) = Defect Deduction Value Per Unit (37.6)

The property's score factoring in the observed defects in all inspectable areas would be calculated as follows:

100 − Total Defect Deduction Value All Areas Per Unit (37.6) = Final Score (62.4)

In this example, the property's overall inspection results would be considered passing under UPCS scoring as the final score would be rounded down to 62, but under NSPIRE, the Unit Defect Deduction is 31.0 (30 points or more were deducted due to Unit deficiencies) and thus results in an automatic adjustment to a failing score of 59.

The table below provides a summary of the Property and Unit Thresholds of Performance and details the circumstances in which a property passes an inspection based on these thresholds.

TABLE 7—SUMMARY OF PROPERTY AND UNIT THRESHOLDS OF PERFORMANCE AND INSPECTION OUTCOMES

Inspection results	Property L	Property T
Property Score >= 60.	Yes	Yes.
Final Unit Defect Deduction <= 30.	Yes	No.
Overall Inspection Result.	PASS	FAIL.

IV. Administrative Details

A. Rounding

Calculated scores will be rounded to the nearest whole number with one exception. For properties that score between 59 and 60, the score will be rounded down to 59. This reflects HUD's concern that properties must surpass these scoring thresholds to be considered at or above those scores which may dictate HUD's administrative, oversight, monitoring and enforcement approach for poorly scoring properties.

B. Inspection Report

In the inspection report provided to property ownership and/or management, HUD will provide the overall score and indicate the numerical results for each of the two types of inspection evaluations that determine whether the property passes or fails the inspection:

- *Property Threshold of Performance:* Property Score on the zero to 100-point scale
- *Unit Threshold of Performance Factor:* Unit Inspectable Area Defect Deduction Value Per Unit

C. HUD's Use of NSPIRE Inspection Scores

HUD uses property scores to support monitoring and enforcement of HUD's physical condition requirements. Property scores give HUD, the owner or PHA, and any other relevant parties an impression of the overall physical condition of the property. A high or low score does not change that a participant is required to repair all deficiencies identified in the inspection.

HUD intends to continue using the zero to 100-point scale for purposes including (but not limited to):

- *Frequency of Inspections:* Properties that score higher are inspected less frequently;
- *Enforcement:* Properties that fail or score below certain thresholds may be subject to HUD enforcement actions, including referral to HUD's Departmental Enforcement Center (DEC);
- *Public Housing Assessment System (PHAS) Designations:* Average weighted inspection scores comprise forty (40) points of a public housing agency's PHAS designation;
- *Participant Evaluation:* Inspection scores are considered when determining whether a potential or existing HUD Multifamily business stakeholder may expand its involvement in HUD housing; and
- *Risk Assessment:* HUD's Offices of Multifamily Housing and Public

Housing use inspection scores and pass/fail designations to assess the risk of owners/agents and public housing agencies.

D. Non-Scored Defects and New Affirmative Requirements

In recognition of its long-standing practice for not scoring smoke detector defects under the UPCS scoring methodology, HUD will not score smoke detector defects, but will continue to use an asterisk (*) to denote identified smoke detector defects. The asterisk will be appended to the numerical property score, and it is critical to note that these defects are classified as LT defects and must be corrected within 24-hours even though these defects are not scored. HUD will also follow this policy for carbon monoxide devices. While not scored, these items are considered LT and must be remedied within the timelines established by HUD.

Similarly, HUD recognizes that the NSPIRE Standards include new affirmative requirements defined generally as property attributes or requirements that must be met. The lack of these property attributes, which may include the quantity and location of these items (*e.g.,* GFCI outlets) would constitute a defect and result in a deduction from the property's inspection score. HUD understands that it may take properties' ownership and management some time to comply with these new standards and as a result will not score new affirmative requirements, defined as those standards that were expressly not in the UPCS or in any way covered by those standards, in the first 12 months of NSPIRE inspections for the program.[8] The list of new affirmative requirements will be included in the final NSPIRE rule. HUD currently expects that this list will include GFCI protected outlets within 6 feet of a water source, guardrails for elevated walkways, a permanently installed heating source for certain climate zones, and a permanently mounted light fixture in the kitchen and each bathroom.

During this initial 12-month period, HUD will provide a score of record that will be used for administrative purposes including oversight and enforcement and a projected score if those new affirmative requirements were scored. Both scores will be provided on the inspection report received by property ownership and/or management.

E. Scoring Designations

HUD will supplement the property's zero to 100-point score with the following designations that provide property ownership and/or management, residents, and other stakeholders with information important to understanding the overall inspection results. These designations include:

- *Smoke Detectors:* An asterisk next to the property's zero to 100-point score will indicate whether an inspector observed a smoke detector defect during an inspection.
- *Carbon Monoxide Detectors:* An alternate symbol designation, similar to an asterisk, will also be included next to the property's zero to 100-point score to indicate whether an inspector observed a carbon monoxide detector defect during an inspection.
- *Presence of Certain Defect Severity Levels:* HUD previously provided a letter designation (*e.g.,* a, b, c) to indicate the presence of exigent health and safety defects; this will no longer be used under NSPIRE. HUD will instead provide a summary table of the defect observations by Defect Severity Category, *e.g.,* Life-threatening, Severe, Moderate, Low. At the conclusion of the inspection, the PHA or Owner will receive a list of all health and safety items that must be corrected within 24 hours of the inspection.
- *New Affirmative Requirements:* In at least the first 12 months after the effective date of the final NSPIRE Rule, a designation to be determined will also be included as part of the property's inspection results to indicate new affirmative requirements that were not scored. Standards that may need more calibration through field testing, such as a minimum temperature standard, may not be scored for more than a year. In at least the initial year of NSPIRE, HUD will also provide two scores; one that shows the potential score if all new affirmative requirements were scored, and the official score for that inspection.
- *Letter Grades:* HUD will assign a letter grade to each property inspection score. This will assist HUD, property ownership and/or management, residents, and the public to better understand the condition of the property and to guide administrative activities such as oversight, risk management, and enforcement. The letter grades will be attributed to the zero to 100-point property score based on the following scale in Table 8 below:

TABLE 8—LETTER GRADES BY DISTRIBUTION OF THE ZERO TO 100-POINT INSPECTION SCORE

Property score	Letter grade	Meaning
>= 90 points	A	The property is in good physical condition with the fewest number of concerning defects, which are also easily addressed.
>= 80 points, <90 points	B	The property is in good physical condition with comparatively more concerning defects, but these defects are also easily addressed.
>= 70 points, <80 points	C	The property is in an acceptable physical condition with a greater number of concerning defects. The property should be closely monitored to see if these issues are correctable or present larger concerns about resident health and safety and overall asset condition.
>= 60 points, <70 points	D	The property is in a very challenged and near failing physical condition, with a high prevalence of concerning health and safety defects that may not be easily addressed and/or reflect possible concerns about maintenance or overall asset condition. The property should be closely monitored to avoid it becoming a failed property.
>30 points, <60 points	E	The property is in a failing physical condition, with a high prevalence of concerning health and safety defects that clearly reflect larger concerns with the maintenance and short-term condition of the asset. The property should be monitored regularly *and may be reinspected more than annually* to protect resident health and safety. If the property receives two successive scores in this range, HUD will consider administrative actions to protect residents as described in the final NSPIRE rule.

[8] The NSPIRE final rule will have different effective and compliance dates for different programs. The first 12 months for a given program will be based on the date inspections commence for that program.

TABLE 8—LETTER GRADES BY DISTRIBUTION OF THE ZERO TO 100-POINT INSPECTION SCORE—Continued

Property score	Letter grade	Meaning
<= 30 points	F	The property is in a failing physical condition, with an extremely high prevalence of concerning health and safety defects that clearly reflect larger concerns with the maintenance and short-term condition of the asset. The property should be monitored *and inspected regularly* to protect resident health and safety and, if necessary, actions should be taken to protect residents including, but not limited to relocation and/or changes in property ownership and/or management. These properties will be automatically referred to the DEC.

Each of the above designations will be clearly summarized on the draft inspection report provided to property ownership and/or management shortly after the conclusion of an inspection. Regulations covering HUD's expected actions for scores of 30 or less, or two successive scores under 60, will be in the final NSPIRE rule.

F. Defect Remediation and Pass/Fail Status

HUD will evaluate the extent to which property ownership and/or management complies with its requirements to submit documentation indicating certain more severe defects have been remediated or are at least in the process of being remediated (*e.g.,* the property implemented an integrated pest management plan to address infestation). HUD will use its administrative authority in its regulations to compel compliance. More information will be provided in the NSPIRE Administrative notice.

G. Draft and Final Inspection Reports, Preliminary and Final Scores

REAC will issue a draft inspection report with a preliminary score and a recordation of all defects including those that must be addressed within certain timeframes. HUD will issue a final inspection report with a final score and a recordation of all defects following the appeals process specified in the NSPIRE Administrative Procedures Notice. In the interest of protecting residents, HUD may take administrative actions based on the draft inspection report and preliminary inspection score. Both the draft and final reports will also provide summaries of the inspection results.

H. Unit Sampling

HUD's inspection program and scoring methodology under NSPIRE relies on inspecting a statistically significant sample of units to achieve a 90 percent confidence level with a 6 percent margin of error for its inspections. HUD employed the same confidence level, and a similar margin of error, but capped the number of units inspected at 27 units under UPCS. Under the NSPIRE scoring and sampling methodology, HUD intends to increase the maximum number of units to 32 units. This will help achieve consistency in inspection results across all sizes of properties.

Under the UPCS scoring and sampling methodology, many inspections required that every residence building be inspected regardless of whether or not any unit within that building was subject to inspection. HUD is eliminating that requirement. Under the NSPIRE scoring and sampling methodology, building-level sampling will be driven by units. For any building that contains a unit in the inspection sample, the building will also be inspected. Under the NSPIRE scoring and sampling methodology, there are also no point values calculated and assigned to specific buildings or units, which further eliminates the need to inspect all residence buildings.

Achieving a uniform confidence level is critical to the overall accuracy of HUD inspections and benefits residents and property ownership and/or management by reducing the number of re-inspections due to inspections that do not meet HUD's standards for accuracy. Under HUD's regulations (and as will be affirmed in the final NSPIRE rule) and HUD's contracts with owners and operators of HUD-assisted and insured housing, units should meet HUD's physical condition standards 365 days a year.

The results of the NSPIRE sampling methodology are provided in Table 9. It was developed to consider the desired confidence interval (90 percent), margin of error (6 percent), and expected defect population proportion. HUD calculated the sample size for every possible population of units by solving for the lowest possible minimum sample size in the following equation: [9]

$$\varepsilon < z * \frac{\sqrt{\frac{(N-s)*p*(1-p)}{N*(s-1)}}}{(1-p)}$$

[9] Cochran, William G., Sampling Techniques, New York: John Wiley & Sons, Inc., 1977.

Where:

- ε = margin of error
  - In this case, 6 percent
- z = z-score corresponding to confidence interval
  - In this case, ~1.65 corresponds to 90 percent two-sided confidence interval
- p = expected defect population proportion
  - In this case, HUD used a proportion of 3.97 percent [10]
- N = unit population
- s = minimum sample size

[Note: For comparison purposes, the UPCS sampling methodology is also provided in Table 9, although the unit grouping does not fully align.]

V. Inspection Sample Sizes

TABLE 9—NUMBER OF UNITS SAMPLED UNDER NSPIRE SCORING AND SAMPLING METHODOLOGY BASED ON PROPERTY SIZE

Units in property	UPCS sample	NSPIRE sample
1	1	1
2	2	2
3	3	3
4	4	4
5	5	5
6	5	6
7	6	6
8	7	7
9	7	8
10	8	8
11–12	8	9
13–14	9	10
15–16	10	11
17–18	11	12
19–21	12	13
22–24	13	14
25–27	14	15
28–30	14	16
31–35	15	17
36–39	16	18
40–45	17	19
46–51	18	20
52–59	18	21
60–67	19	22
68–78	20	23
79–92	21	24
93–110	21–22	25
111–120	22–23	26
121–166	23–24	27
167–214	24–25	28
215–295	25	29
296–455	25–26	30
456–920	26	31
921+	27	32

VI. Changes From UPCS

HUD welcomes and appreciates all feedback on the scoring methodology detailed in this request for comments. HUD also seeks specific input on the following items that it considers will emphasize health and safety more clearly compared to the UPCS scoring methodology.

A. Removing Severity and Criticality Levels

HUD's UPCS scoring methodology included two factors for how a specific defect would impact a property's score. The first factor of defect severity evaluated the relative magnitude of the defect. For example, a small scratch or indentation in a wall would mostly likely be a Level 1 defect (on a 1–3 scale). In contrast, a sizeable hole in a wall that likely presented structural issues would be a Level 3 defect.

The second factor evaluating criticality (on a 1–5 scale) multiplied the value associated with the severity of the defect depending on how important the actual defect was to the residents' safety and quality of life. For example, an exigent health and safety defect such as a blocked egress would apply the maximum multiplier to the defect severity value. In this example, a blocked egress is both a Level 3 defect and a Criticality 5 defect, which would result in the maximum deduction of points.

NSPIRE would replace both factors with a scoring methodology which deducts a certain point value by type and severity of defect depending on where that defect is observed during the inspection. For example: identifying a Severe defect would result in deducting more points from the overall inspection score if the defect were identified inside the unit than on the property's grounds, or outside.

B. Reducing the Number of Inspectable Areas From Five to Three

HUD is reducing the number of inspectable areas from five to three. Under UPCS there were five inspectable areas: Units, Common Areas, Building Systems, Building Exterior, and Site. HUD undertook this change to better clarify where certain defects can be observed and to eliminate some unique situations under UPCS where an inspector could have more leeway in designating the inspectable area of a certain defect, which could greatly impact and potentially skew scoring. For example, a certain defect could be considered to be within the Building Exterior inspectable area or the Unit Inspectable Area, which could result in different scoring depending on the inspectable area where the inspector decided to record a defect.

In the NSPIRE proposed rule at § 5.703, HUD proposed three inspectable areas: Units, Inside, and Outside. The NSPIRE Standards notice and attached standards provide additional clarity about in which inspectable area certain defects should be observed and prescribe that those defects can only be recorded in that area.

Table 10 below roughly illustrates how the inspectable areas under UPCS translate to NSPIRE; however, it is critical to understand that some inspectable items that may have been in a certain inspectable area under UPCS may not necessarily fall into the category represented in the table below due to how NSPIRE categorizes the location of these defects.

TABLE 10—COMPARISON AND ROUGH TRANSLATION OF INSPECTABLE AREAS UNDER UPCS AS COMPARED TO NSPIRE (MOST COMMON DISTRIBUTION OF POINTS BY INSPECTABLE AREA UNDER UPCS INCLUDED IN PARENTHESES, WHERE NSPIRE DOES NOT DISTRIBUTE THE 100 POINTS ACROSS INSPECTABLE AREAS)

UPCS inspectable area	NSPIRE inspectable area	
Unit (35 points)	Unit.	100 points.
Common Areas (15 points) Building Systems (20 points)	Inside.	

[10] Based on an analysis of historical UPCS data, this is the estimate of the percentage of units with more than 3 unique NSPIRE defects.

TABLE 10—COMPARISON AND ROUGH TRANSLATION OF INSPECTABLE AREAS UNDER UPCS AS COMPARED TO NSPIRE (MOST COMMON DISTRIBUTION OF POINTS BY INSPECTABLE AREA UNDER UPCS INCLUDED IN PARENTHESES, WHERE NSPIRE DOES NOT DISTRIBUTE THE 100 POINTS ACROSS INSPECTABLE AREAS)—Continued

UPCS inspectable area		
Building Exterior (15 points) ..... Site (15 points)	Outside.	

C. Removing Item and Area-Based Limits and Scoring Weight Distribution Along With Point Caps

Under the UPCS scoring methodology, the sampling methodology created a maximum number of points at multiple levels, including (but not limited to):

• *Inspectable Area.* As depicted in Table 10 above, under UPCS each inspectable area had a total point value. [Note: The total point value could shift slightly depending on the presence of certain inspectable items. For example, the Unit Inspectable Area could account for as many as 40 points.] Under NSPIRE, the 100-point score distribution is not divided among inspectable areas meaning an inspection could theoretically result in a zero (0) point score solely based on observations in units.

• *Inspectable Item.* Within each inspectable area, the UPCS scoring methodology would identify inspectable items (*e.g.,* if a kitchen has 10 inspectable items such as a door, each of the ten items would have an item weight or account for 10 percent of the score in that location) that would result in a point cap for those items. Under NSPIRE, there are no inspectable items. Defects observed are assigned a Defect Impact Weight as described in Section IV of this Notice and the score is reduced accordingly by the defects observed.

• *Buildings.* Under UPCS, the number of buildings sampled would impact the total points available and the maximum number of points that could be lost under Building Systems and Building Exterior, meaning if 3 buildings were sampled, each building essentially contributed one-third of the points for the two building inspectable areas. Under NSPIRE there is no such point value assigned to sampled buildings.

• *Units.* Under UPCS, and like buildings, the number of units sampled would result in a maximum number of points that could be lost per unit. This meant that if 10 units were sampled, each unit contributed approximately 3.5 points towards the total score and that would also be the total amount of points that could be lost in a specific unit. Under NSPIRE, there is no such point value assigned to sampled units.

• *Point Caps.* Under UPCS, HUD established a point loss cap for single deficiencies by sub-area (*e.g.* building exterior, site, units) at set deductions, for example, no more than 7.5 points could be deducted for the site for that type of deficiency. Under NSPIRE, defect-specific point caps based on sub-areas are eliminated. Additionally, under UPCS, within a single ''sub-area'' (for instance, within one unit), even if there were multiple instances of the same deficiency type, there would only be one deduction for that deficiency type. For example, if multiple deficiencies for broken windows were recorded in one unit, only the most severe deficiency observed would be deducted for that unit. Under NSPIRE, HUD is proposing to allow for deductions multiple times for the same deficiency if that deficiency is identified in multiple distinct inspectable items. Deficiencies and resulting score deductions will depend on the specific NSPIRE standard and inspection protocol, which includes unique deficiency criteria that limit the number of observations to prevent excessive observations of deficiencies. For example, in the Pest Infestation standard, the number of rooms in a unit where evidence of infestation is observed does not matter; the deficiency will be cited and scored as a pest infestation in the unit. HUD seeks comment specifically on this change.

• *Normalization.* Under UPCS, almost all aspects of the scoring were normalized based on the number of buildings, units, or inspectable items. This created point caps for each of these areas as described above, but also adversely impacted smaller properties which could lose a much larger proportional share of points on Building Systems and Building Exterior even if a single defect was observed (*e.g.,* if it was a single building property, the point value of the defects in the Building Systems and Building Exterior Areas would be divided by one).

Consistent with the principles of the Economic Growth Act (Pub. L. 115–74) and creating less burden on smaller and especially rural properties, NSPIRE limits normalization to the number of units only, with consideration of the sample size. This reflects the recognition that defects are likely to be observed more often in larger properties with more units; but certain defects regardless of where observed (*e.g.,* on the property grounds) should not disproportionately impact a smaller property's score. Where there are fewer buildings and units assessed, deductions for site-based conditions under UPCS (*e.g.,* overgrown vegetation, cracked sidewalks that are not a tripping hazard, erosion) were disproportionally weighted. This unit-only normalization also reflects that the NSPIRE scoring and sampling methodology focus on the condition of units more so than the condition of other inspectable areas such as Inside or Outside of the property.

D. Additional Considerations Before Finalizing NSPIRE Scoring

As described in the Background section, HUD used the results of the NSPIRE Demonstration to evaluate its Standards and Scoring methodology. HUD will continue to test this scoring methodology in NSPIRE Demonstration inspections and compare score results to the properties' last UPCS inspection. The results of this exercise will be considered in addition to public comment on this notice. The results will be discussed in the final NSPIRE Scoring notice.

VII. NSPIRE and the Public Housing Assessment System (PHAS)

For Public Housing properties subject to the Public Housing Assessment System, HUD will use the new NSPIRE scoring methodology and associated property inspection scores to calculate the PHAS Physical Condition Indicator component of PHAS once a PHA's entire portfolio has been inspected under NSPIRE. This indicator, also known as the Physical Assessment Subsystem (PASS) indicator, comprises 40 points of the 100-point PHAS score. HUD will employ the same unit-weighted average score methodology under 24 CFR 902.22 to calculate the PASS indicator score for PHAs subject to PHAS in calendar year 2023 using

NSPIRE property inspection scores. Until all inspections are completed under NSPIRE, a PHA's physical condition indicator will continue to be based on the most recent UPCS scoring and unit-weighted average. HUD will provide additional guidance to PHAs that are currently under a Recovery Agreement that include goals to improve the physical condition in a separate notice.

Dominique Blom,

General Deputy Assistant Secretary for Public and Indian Housing.

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2023–0204]

RIN 1625–AA00

Safety Zone; Fireworks Display, Umatilla Marina, Umatilla, OR

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is proposing to establish a temporary safety zone for certain waters of Umatilla Marina. This action is necessary to provide for the safety of life on these navigable waters near Umatilla, OR, during a fireworks display on June 24, 2023. This proposed rulemaking would prohibit persons and vessels from being in the safety zone unless authorized by the Captain of the Port Columbia River or a designated representative. We invite your comments on this proposed rulemaking.

DATES: Comments and related material must be received by the Coast Guard on or before April 27, 2023.

ADDRESSES: You may submit comments identified by docket number USCG–2023–0204 using the Federal Decision-Making Portal at *https://www.regulations.gov*. See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions about this proposed rulemaking, call or email LT Carlie Gilligan, Waterways Management Division, Marine Safety Unit Portland, Coast Guard; telephone 503–240–9319, email *D13-SMB-MSUPortlandWWM@uscg.mil*.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
COTP Captain of the Port Columbia River
DHS Department of Homeland Security
FR Federal Register
NPRM Notice of proposed rulemaking
§ Section
U.S.C. United States Code

II. Background, Purpose, and Legal Basis

On February 2, 2023, Western Display Fireworks, LTD notified the Coast Guard that it will be conducting a fireworks display from 10 to 10:30 p.m. on June 24, 2023. The fireworks are to be launched from a site on land in the Umatilla Marina, OR. Hazards from firework displays include accidental discharge of fireworks, dangerous projectiles, and falling hot embers or other debris. The Captain of the Port Columbia River (COTP) has determined that potential hazards associated with the fireworks would be a safety concern for anyone within a 400-foot radius of the launch site before, during, or after the fireworks display.

The purpose of this rulemaking is to ensure the safety of vessels and the navigable waters within a 400-foot radius of the fireworks discharge site before, during, and after the scheduled event. The Coast Guard is proposing this rulemaking under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231).

III. Discussion of Proposed Rule

The COTP is proposing to establish a safety zone from 9:30 to 11 p.m. on June 24, 2023. The safety zone would cover all navigable waters within 400 feet of the launch site located at approximately 45°55′37.50″ N 119°19′47.60″ W in the Umatilla Marina, Oregon. The duration of the zone is intended to ensure the safety of vessels and these navigable waters before, during, and after the scheduled 10 to 10:30 p.m. fireworks display. No vessel or person would be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative. The regulatory text we are proposing appears at the end of this document.

IV. Regulatory Analyses

We developed this proposed rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders, and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. This NPRM has not been designated a ''significant regulatory action,'' under Executive Order 12866. Accordingly, the NPRM has not been reviewed by the Office of Management and Budget (OMB).

This regulatory action determination is based on the size, location, and duration of the safety zone. The safety zone created by this proposed rule is designed to minimize its impact on navigable waters. The safety zone will impact approximately a 500-foot area of Umatilla Marina and is not anticipated to exceed 1.5 hours in duration. Thus, restrictions on vessel movement within that particular area are expected to be minimal. Moreover, under certain conditions vessels may still transit through the safety zone when permitted by the COTP. The Coast Guard would issue a Notice to Mariners about the zone, and the rule would allow vessels to seek permission to enter the zone.

B. Impact on Small Entities

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

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

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

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule. If the proposed rule would affect your small business, organization, or governmental jurisdiction and you have questions