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

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2025–1351; Project Identifier MCAI–2024–00667–T; Amendment 39–23242; AD 2026–02–06]

RIN 2120–AA64

Airworthiness Directives; Bombardier, Inc., Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all Bombardier, Inc., Model BD–100–1A10 airplanes. This AD was prompted by a report that some parts of horizontal stabilizer trim actuators (HSTAs) that were meant to be replaced through a required overhaul were not replaced and were instead reinstalled on the HSTAs. This AD requires verification of the HSTA serial number, and, if applicable, replacement of the HSTA. This AD also prohibits the installation of affected parts under certain conditions. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective February 25, 2026.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of February 25, 2026.

ADDRESSES:

AD Docket: You may examine the AD docket at [regulations.gov](https://www.regulations.gov) under Docket No. FAA–2025–1351; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The address for Docket Operations is U.S. Department of

Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

Material Incorporated by Reference:

- For Bombardier material identified in this AD, contact Bombardier Business Aircraft Customer Response Center, 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; telephone 514–855–2999; email ac.yul@aero.bombardier.com; website <https://my.bombardier.com/>.

- You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available at [regulations.gov](https://www.regulations.gov) under Docket No. FAA–2025–1351.

FOR FURTHER INFORMATION CONTACT: John Massey, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: (516) 228–7300; email: 9-avs-nyaco-cos@faa.gov.

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to all Bombardier, Inc., Model BD–100–1A10 airplanes. The NPRM was published in the **Federal Register** on July 2, 2025 (90 FR 28916). The NPRM was prompted by AD CF–2024–38, dated November 12, 2024 (Transport Canada AD CF–2024–38) (also referred to as the MCAI), issued by Transport Canada, which is the aviation authority for Canada. The MCAI states that Bombardier has been advised that the overhaul required by certificate maintenance requirement (CMR) task 27–40–00–104* was not fully completed on some units. As a result, some of the parts that were required to be replaced on the affected HSTAs as part of the overhauled task were re-installed in error. This condition, if not corrected, can lead to the failure of HSTA components, which can contribute to horizontal stabilizer surface disconnect at the actuator level and could lead to loss of continued safe flight and landing.

In the NPRM, the FAA proposed to require verification of the HSTA serial number, and, if applicable, replacement of the HSTA. The FAA also proposed to prohibit the installation of affected parts

under certain conditions. The FAA is issuing this AD to address the unsafe condition on these products.

You may examine the MCAI in the AD docket at [regulations.gov](https://www.regulations.gov) under Docket No. FAA–2025–1351.

Discussion of Final Airworthiness Directive

Comments

The FAA received a comment from NetJets. The following presents the comment received on the NPRM and the FAA's response.

Request To Clarify Requirement if Modification Plate Is Marked

NetJets asked whether an affected HSTA, found during the proposed inspection or records review, would need to be replaced if its modification plate is marked with Moog Service Bulletin C47100–27–07, as specified in section 2.B. of Bombardier Service Bulletin 350–27–014.

The FAA clarifies that an affected HSTA does not need to be replaced if it has a modification plate marked with Moog Service Bulletin C47100–27–07 because that marking indicates the part has already been properly reworked. The FAA recognizes that this relief is specified in paragraph 2.B.(4)(b) of the Bombardier service bulletin, and that Transport Canada AD CF–2024–38 allows installation of a part marked with the Moog service bulletin. Accordingly, the FAA has revised paragraph (h) of this AD to except any affected HSTA marked with the Moog service bulletin.

Conclusion

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

Material Incorporated by Reference Under 1 CFR Part 51

The FAA reviewed the following Bombardier material:

- Bombardier Service Bulletin 100–27–23, dated October 28, 2024;
- Bombardier Service Bulletin 350–27–014, dated October 28, 2024.

This material specifies procedures for verifying the HSTA serial number and, if applicable, corrective actions to include replacing the HSTA. These documents are distinct since they apply to different airplane configurations. This material is reasonably available because the interested parties have access to it through their normal course

of business or by the means identified in the ADDRESSES section.

Costs of Compliance

The FAA estimates that this AD affects 982 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Up to 2 work-hours × \$85 per hour = Up to \$170	\$0	Up to \$170	Up to \$166,940.

The FAA estimates the following costs to do any on-condition action that would be required based on the results

of any required actions. The FAA has no way of determining the number of

aircraft that might need this on-condition action:

ESTIMATED COSTS OF ON-CONDITION ACTIONS

Labor cost	Parts cost	Cost per product
20 work-hours × \$85 per hour = \$1,700	\$53,665	\$55,365

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

responsibilities among the various levels of government.

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

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

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2026–02–06 Bombardier, Inc.: Amendment 39–23242; Docket No. FAA–2025–1351; Project Identifier MCAI–2024–00667–T.

(a) Effective Date

This airworthiness directive (AD) is effective February 25, 2026.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all Bombardier, Inc., Model BD–100–1A10 airplanes, certificated in any category.

(d) Subject

Air Transport Association (ATA) of America Code 27, Flight controls.

(e) Unsafe Condition

This AD was prompted by a report that some parts of horizontal stabilizer trim actuators (HSTAs) that were meant to be replaced through a required overhaul were not replaced and were instead reinstalled on the HSTAs. The FAA is issuing this AD to address HSTA parts that were not replaced as required. The unsafe condition, if not addressed, could result in the failure of HSTA components, which can contribute to horizontal stabilizer surface disconnect at the actuator level and could lead to loss of continued safe flight and landing.

(f) Compliance

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

(g) Records Verification and Corrective Actions

At the applicable time specified in figure 1 to paragraph (g) of this AD, do an inspection to determine the serial number of HSTA part number C47100–004 or C47100–005 in accordance with Section 2.B., Part A, of the Accomplishment Instructions of Bombardier Service Bulletin 100–27–23 or 350–27–014, both dated October 28, 2024, as

applicable. A review of the airplane maintenance records is also acceptable

provided the serial number of the HSTA can be conclusively determined from that review.

FIGURE 1 TO PARAGRAPH (g)—COMPLIANCE TIME FOR RECORDS VERIFICATION

HSTA total flight hours accumulated as of the effective date of this AD	Compliance time
10,000 or more	Before accumulating 14,500 total flight hours on the HSTA, or before accumulating 7,500 total flight cycles on the HSTA, or within 24 months after the effective date of this AD, whichever occurs first.
9,700 or more but less than 10,000.	Before accumulating 14,500 total flight hours on the HSTA, or before accumulating 7,500 total flight cycles on the HSTA, or within 36 months after the effective date of this AD, whichever occurs first.
Less than 9,700	Before accumulating 14,500 total flight hours on the HSTA, or before accumulating 7,500 total flight cycles on the HSTA, or within 48 months after the effective date of this AD, whichever occurs first.

(h) HSTA Replacement

If, during the inspection or records review required by paragraph (g) of this AD, any HSTA having part number C47100-004 or C47100-005, with a serial number listed in Section 1.A. of Bombardier Service Bulletin 100-27-23 or 350-27-014, both dated October 28, 2024, as applicable is found: At the applicable time specified in figure 1 to paragraph (g) of this AD, replace the HSTA in accordance with Sections 2.C. and 2.D. of the Accomplishment Instructions of Bombardier Service Bulletin 100-27-23 or 350-27-014, both dated October 28, 2024, as applicable, unless the HSTA has a modification plate marked with Moog Service Bulletin C47100-27-07.

(i) Parts Installation Limitation

As of the effective date of this AD, no person may install, on any airplane, an HSTA, part number C47100-004 or C47100-005, with a serial number listed in Section 1.A. of Bombardier Service Bulletin 100-27-23 or 350-27-014, both dated October 28, 2024, unless the HSTA has a modification plate marked with Moog Service Bulletin C47100-27-07.

(j) Additional AD Provisions

The following provisions also apply to this AD:

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

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

(k) Additional Information

For more information about this AD, contact John Massey, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: (516) 228-7300; email: 9-avs-nyaco-cos@faa.gov.

(l) Material Incorporated by Reference

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

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

(i) Bombardier Service Bulletin 100-27-23, dated October 28, 2024.

(ii) Bombardier Service Bulletin 350-27-014, dated October 28, 2024.

(3) For Bombardier material identified in this AD, contact Bombardier Business Aircraft Customer Response Center, 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; telephone 514-855-2999; email ac.yul@aero.bombardier.com; website <https://my.bombardier.com/>.

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

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

Issued on January 14, 2026.

Steven W. Thompson,

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

[FR Doc. 2026-01032 Filed 1-20-26; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2026-0013; Project Identifier MCAI-2025-01774-T; Amendment 39-23239; AD 2026-02-03]

RIN 2120-AA64

Airworthiness Directives; MHI RJ Aviation ULC (Type Certificate Previously Held by Bombardier, Inc.) Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all MHI RJ Aviation ULC Model CL-600-2B19 (Regional Jet Series 100 & 440), CL-600-2C10 (Regional Jet Series 700, 701 & 702), CL-600-2C11 (Regional Jet Series 550), CL-600-2D15 (Regional Jet Series 705), CL-600-2D24 (Regional Jet Series 900), and CL-600-2E25 (Regional Jet Series 1000) airplanes. This AD was prompted by multiple reports of elevator autopilot control cable failure. This AD requires replacing the elevator autopilot control cables. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective February 5, 2026.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of February 5, 2026.

The FAA must receive comments on this AD by March 9, 2026.

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

- *Federal eRulemaking Portal*: Go to regulations.gov. Follow the instructions for submitting comments.
- *Fax*: 202-493-2251.

- **Mail:** U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590.

- **Hand Delivery:** Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

AD Docket: You may examine the AD docket at [regulations.gov](https://www.regulations.gov) under Docket No. FAA-2026-0013; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The street address for Docket Operations is listed above.

Material Incorporated by Reference:

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

- You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206-231-3195. It is also available at [regulations.gov](https://www.regulations.gov) under Docket No. FAA-2026-0013.

FOR FURTHER INFORMATION CONTACT: Fatin Saumik, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: 516-228-7300; email: fatin.r.saumik@faa.gov.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written data, views, or arguments about this final rule. Send your comments using a method listed under the **ADDRESSES** section. Include “Docket No. FAA-2026-0013; Project Identifier MCAI-2025-01774-T” at the beginning of your comments. The most helpful comments reference a specific portion of the final rule, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this final rule because of those comments.

Except for Confidential Business Information (CBI) as described in the following paragraph, and other information as described in 14 CFR 11.35, the FAA will post all comments

received, without change, to [regulations.gov](https://www.regulations.gov), including any personal information you provide. The agency will also post a report summarizing each substantive verbal contact received about this final rule.

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this AD contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this AD, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as “PROPIN.” The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this AD. Submissions containing CBI should be sent to Fatin Saumik, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: 516-228-7300; email: fatin.r.saumik@faa.gov. Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

Transport Canada, which is the aviation authority for Canada, has issued Transport Canada AD CF-2025-63, dated November 28, 2025 (Transport Canada AD CF-2025-63) (also referred to as the MCAI), to correct an unsafe condition for all MHI RJ Aviation ULC Model CL-600-2B19 (Regional Jet Series 100 & 440), CL-600-2C10 (Regional Jet Series 700, 701 & 702), CL-600-2C11 (Regional Jet Series 550), CL-600-2D15 (Regional Jet Series 705), CL-600-2D24 (Regional Jet Series 900), and CL-600-2E25 (Regional Jet Series 1000) airplanes. The MCAI states that multiple events were reported of elevator autopilot control cable failure leading to elevator control restriction. Further investigation found that the autopilot control cable can fracture due to cyclic fatigue. Failure of the elevator autopilot control cable may cause jamming of the elevator servo drum, restricting elevator movement in one direction. An elevator servo drum jam during the landing phase can result in insufficient elevator control authority and could lead to loss of continued safe flight and landing.

The FAA is issuing this AD to address the unsafe condition on these products.

You may examine the MCAI in the AD docket at [regulations.gov](https://www.regulations.gov) under Docket No. FAA-2026-0013.

Material Incorporated by Reference Under 1 CFR Part 51

The FAA reviewed Transport Canada AD CF-2025-63, which specifies procedures for replacing the elevator autopilot control cables with new cables. This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA's Determination

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

Requirements of This AD

This AD requires accomplishing the actions specified in Transport Canada AD CF-2025-63 described previously, except for any differences identified as exceptions in the regulatory text of this AD. See “Differences Between This AD and the MCAI” for a discussion of the general differences included in this AD.

Differences Between This AD and the MCAI

Table 1 of the MCAI specifies compliance times ranging from 8 months to 23 months, depending on the airplane configuration. However, the FAA has reduced each compliance time by 3 months as specified in Figure 1 to paragraph (h) of this AD. The FAA has determined a significant portion of the U.S. fleet is at risk of experiencing a cable break during flight, resulting in an immediate safety of flight issue for the U.S. fleet. The majority of the U.S. fleet has accumulated over 40,000 total flight hours and has elevator autopilot control cables with over 40,000 total flight hours on the cables. Those airplanes must do the replacement required by this AD within 5 months after the effective date of this AD. The FAA has coordinated the revised compliance times with Transport Canada.

Explanation of Required Compliance Information

In the FAA's ongoing efforts to improve the efficiency of the AD process, the FAA developed a process to use some civil aviation authority (CAA) ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. The FAA has been coordinating this process with manufacturers and CAAs. As a result, Transport Canada AD CF-2025-63 is incorporated by reference in this AD. This AD requires compliance with Transport Canada AD CF-2025-63 in its entirety through that incorporation, except for any differences identified as exceptions in the regulatory text of this AD. Material required by Transport Canada AD CF-2025-63 for compliance will be available at *regulations.gov* under Docket No. FAA-2026-0013 after this AD is published.

Justification for Immediate Adoption and Determination of the Effective Date

Section 553(b) of the Administrative Procedure Act (APA) (5 U.S.C. 551 *et seq.*) authorizes agencies to dispense

with notice and comment procedures for rules when the agency, for "good cause," finds that those procedures are "impracticable, unnecessary, or contrary to the public interest." Under this section, an agency, upon finding good cause, may issue a final rule without providing notice and seeking comment prior to issuance. Further, section 553(d) of the APA authorizes agencies to make rules effective in less than thirty days, upon a finding of good cause.

An unsafe condition exists that requires the immediate adoption of this AD without providing an opportunity for public comments prior to adoption. The FAA has found that the risk to the flying public justifies forgoing notice and comment prior to adoption of this rule because elevator autopilot control cable failure, if not addressed, could result in jamming of the elevator servo drum, restricting elevator movement in one direction. An elevator servo drum jam during the landing phase can result in insufficient elevator control authority and could lead to loss of continued safe flight and landing. If the unsafe condition is discovered during landing, there will not be enough time for the crew to adapt to the issue. Additionally,

the compliance time in this AD is shorter than the time necessary for the public to comment and for publication of the final rule. Accordingly, notice and opportunity for prior public comment are impracticable and contrary to the public interest pursuant to 5 U.S.C. 553(b).

In addition, the FAA finds that good cause exists pursuant to 5 U.S.C. 553(d) for making this amendment effective in less than 30 days, for the same reasons the FAA found good cause to forgo notice and comment.

Regulatory Flexibility Act

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

Costs of Compliance

The FAA estimates that this AD affects 711 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
10 work-hours × \$85 per hour = \$850	Up to \$1,685	Up to \$2,535	Up to \$1,802,385.

According to the manufacturer, some or all of the costs of this AD may be covered under warranty, thereby reducing the cost impact on affected individuals. The FAA does not control warranty coverage for affected individuals. As a result, the FAA has included all known costs in the cost estimate.

Authority for This Rulemaking

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

The FAA is issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: General requirements. Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of

that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

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

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

- (1) Is not a "significant regulatory action" under Executive Order 12866, and
- (2) Will not affect intrastate aviation in Alaska.

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2026-02-03 MHI RJ Aviation ULC (Type Certificate Previously Held by Bombardier, Inc.): Amendment 39-23239; Docket No. FAA-2026-0013; Project Identifier MCAI-2025-01774-T.

(a) Effective Date

This airworthiness directive (AD) is effective February 5, 2026.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all MHI RJ Aviation ULC (Type Certificate previously held by Bombardier, Inc.) airplanes, certificated in any category, as identified in paragraphs (c)(1) through (6) of this AD.

(1) Model CL-600-2B19 (Regional Jet Series 100 & 440) airplanes.

(2) Model CL-600-2C10 (Regional Jet Series 700, 701, and 702) airplanes.

(3) Model CL-600-2C11 (Regional Jet Series 550) airplanes.

(4) Model CL-600-2D15 (Regional Jet Series 705) airplanes.

(5) Model CL-600-2D24 (Regional Jet Series 900) airplanes.

(6) Model CL-600-2E25 (Regional Jet Series 1000) airplanes.

(d) Subject

Air Transport Association (ATA) of America Code 27, Flight control.

(e) Unsafe Condition

This AD was prompted by multiple reports of elevator autopilot control cable failure. The FAA is issuing this AD to address elevator autopilot control cable failure. The unsafe condition, if not addressed, could result in jamming of the elevator servo drum, restricting elevator movement in one direction. An elevator servo drum jam during the landing phase can result in insufficient elevator control authority and could lead to loss of continued safe flight and landing.

(f) Compliance

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

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, Transport Canada AD CF-2025-63, dated November 28, 2025 (Transport Canada AD CF-2025-63).

(h) Exception to Transport Canada AD CF-2025-63

Where Transport Canada AD CF-2025-63 specifies to do the actions within the compliance time shown in Table 1 of Transport Canada AD CF-2025-63, for this AD, the actions must be done within the applicable compliance times identified in Figure 1 to paragraph (h) of this AD.

FIGURE 1 TO PARAGRAPH (h)—COMPLIANCE TIME

Airplane model	Elevator autopilot control cable total flight hours as of the effective date of this AD ^a	Compliance time
CL-600-2C10, CL-600-2C11, CL-600-2D15, CL-600-2D24, and CL-600-2E25.	More than 40,000	5 months (after the effective date of this AD).
	Between 25,000 and 40,000 ...	11 months (after the effective date of this AD).
	Between 20,500 and 24,999 ...	15 months (after the effective date of this AD).
	Between 12,000 and 20,499 ...	20 months (after the effective date of this AD).
	Less than 12,000	Before the elevator autopilot control cables reach 16,000 total flight hours.
CL-600-2B19	More than 40,000	11 months (after the effective date of this AD).
	Between 12,000 and 40,000 ...	15 months (after the effective date of this AD).
	Less than 12,000	Before the elevator autopilot control cables reach 16,000 total flight hours.

^a If elevator autopilot cable total flight hours cannot be demonstrated, airplane total flight hours since entry into service must be used to determine compliance time.

(i) Special Flight Permits

Special flight permits may be issued in accordance with 14 CFR 21.197 and 21.199 to operate the airplane to a location where the airplane can be modified (if the operator elects to do so), provided no passengers are onboard.

(j) Additional AD Provisions

The following provisions also apply to this AD:

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

(2) *Contacting the Manufacturer*: For any requirement in this AD to obtain instructions from a manufacturer, the instructions must be accomplished using a method approved by the Manager, International Validation

Branch, FAA; or Transport Canada; or MHI RJ Aviation ULC's Transport Canada Design Approval Organization (DAO). If approved by the DAO, the approval must include the DAO-authorized signature.

(k) Additional Information

For more information about this AD, contact Fatin Saumik, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: 516-228-7300; email: fatin.r.saumik@faa.gov.

(l) Material Incorporated by Reference

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

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

(i) Transport Canada AD CF-2025-63, dated November 28, 2025.

(ii) [Reserved]

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

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

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

Issued on January 12, 2026.

Steven W. Thompson,

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

[FR Doc. 2026-01033 Filed 1-16-26; 11:15 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Part 39**

[Docket No. FAA–2025–1725; Project Identifier AD–2025–00583–E; Amendment 39–23244; AD 2026–02–08]

RIN 2120–AA64

Airworthiness Directives; CFM International, S.A. Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is superseding Airworthiness Directive (AD) 2018–19–16 for all CFM International, S.A. (CFM) Model LEAP–1A23, –1A24, –1A24E1, –1A26, –1A26E1, –1A26CJ, –1A29, –1A29CJ, –1A30, –1A32, –1A33, –1A33B2, and –1A35A engines with certain full authority digital engine control (FADEC) and prognostic health monitoring (PHM) software installed. AD 2018–19–16 required removing certain FADEC and PHM software and installing versions eligible for installation. Since the FAA issued AD 2018–19–16, the manufacturer has developed a new pressure subsystem (PSS) with a heater element to evaporate potential moisture on the PSS manifold/transducer interface and prevent freezing at low temperature. This AD requires replacing certain FADEC and PHM software with new versions that are eligible for installation, replacing certain harnesses with newly designed harnesses, and replacing the PSS with a newly designed heated PSS. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective February 25, 2026.

AD Docket: You may examine the AD docket at [regulations.gov](https://www.regulations.gov) under Docket No. FAA–2025–1725; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Mehdi Lamnyi, Aviation Safety Engineer, FAA, 2200 South 216th Street,

Des Moines, WA 98198; phone: (781) 238–7743; email: mehdi.lamnyi@faa.gov.

SUPPLEMENTARY INFORMATION:**Background**

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2018–19–16, Amendment 39–19416 (83 FR 50818, October 10, 2018) (AD 2018–19–16). AD 2018–19–16 applied to all CFM Model LEAP–1A23, –1A24, –1A24E1, –1A26, –1A26E1, –1A26CJ, –1A29, –1A29CJ, –1A30, –1A32, –1A33, –1A33B2, and –1A35A engines with certain FADEC and PHM software installed. AD 2018–19–16 was prompted by aborted takeoffs after engines did not advance to the desired takeoff fan speed due to icing in the pressure sensor line which, if not addressed, could result in loss of engine thrust control and reduced control of the airplane. The NPRM was published in the **Federal Register** on August 6, 2025 (90 FR 37808). The NPRM was prompted when the manufacturer developed a new PSS with a heater element to evaporate potential moisture on the PSS manifold/transducer interface and prevent freezing at low temperature. In the NPRM, the FAA proposed to require replacing certain FADEC and PHM software with new versions that are eligible for installation, replacing certain harnesses with newly designed harnesses, and replacing the PSS with a newly designed heated PSS. The FAA is issuing this AD to address the unsafe condition on these products.

Discussion of Final Airworthiness Directive**Comments**

The FAA received comments from three commenters. The commenters were Airline Pilots Association International (ALPA), American Airlines (AAL), and CFM. ALPA supported the NPRM without change. The following presents the comments received on the NPRM and the FAA's response to each comment.

Request for Additional Material References

AAL and CFM requested that the FAA include additional material references in the required actions. CFM stated that the material referenced in paragraph (g)(1) of the NPRM includes concurrent actions and refers to specific material for each of those actions. CFM also indicated that the concurrent

requirements are necessary to fully enable the newly installed PSS heater system. AAL pointed out that operators may not be aware that there is additional material which may be used to help complete the concurrent actions and that a useful method to alert the operators is by including the specific material for the concurrent actions in additional notes to the required actions in the NPRM.

The FAA agrees that the actions required by this AD are not independent actions, and must all be done concurrently to fully enable the newly installed PSS heater system, and that additional material is helpful to complete the actions required by this AD. Therefore, the FAA has revised this final rule by adding note 2 to paragraphs (g)(2) and (3) of this AD and note 3 to paragraph (g)(4) of this AD, with each note referring to specific material that may be used as guidance in completing the actions required by paragraphs (g)(2), (3), and (4) of this AD.

Request for Clarification of the Unsafe Condition

CFM requested that the FAA revise the unsafe condition statement throughout the NPRM to be consistent. CFM noted that in the NPRM, the unsafe condition statement is not consistent between the Background section and paragraph (e) of the NPRM.

The FAA agrees for the reasons provided and has revised the wording of the unsafe condition in the Background section to be consistent with the wording used in paragraph (e) of this AD.

Conclusion

The FAA reviewed the relevant data, considered any comments received, and determined that air safety requires adopting the AD as proposed. Accordingly, the FAA is issuing this AD to address the unsafe condition on these products. Except for minor editorial changes, and any other changes described previously, this AD is adopted as proposed in the NPRM. None of the changes will increase the economic burden on any operator.

Costs of Compliance

The FAA estimates that this AD affects 306 engines installed on airplanes of U.S. registry.

The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Install electronic engine control software	1 work-hour × \$85 per hour = \$85	\$0	\$85	\$26,010
Replace PSS with heated PSS	1 work-hour × \$85 per hour = \$85	185,950	186,035	56,926,710
Replace HJ6A and HJ6B harnesses	1 work-hour × \$85 per hour = \$85	57,510	57,595	17,624,070

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

- 2. The FAA amends § 39.13 by:
- a. Removing Airworthiness Directive AD 2018–19–16, Amendment 39–19416 (83 FR 50818, October 10, 2018); and
 - b. Adding the following new airworthiness directive:

2026–02–08 CFM International, S.A.:
Amendment 39–23244; Docket No. FAA–2025–1725; Project Identifier AD–2025–00583–E.

(a) Effective Date

This airworthiness directive (AD) is effective February 25, 2026.

(b) Affected ADs

This AD replaces AD 2018–19–16, Amendment 39–19416 (83 FR 50818, October 10, 2018) (AD 2018–19–16).

(c) Applicability

This AD applies to CFM International, S.A. (CFM) Model LEAP–1A23, LEAP–1A24, LEAP–1A24E1, LEAP–1A26, LEAP–1A26E1, LEAP–1A26CJ, LEAP–1A29, LEAP–1A29CJ, LEAP–1A30, LEAP–1A32, LEAP–1A33, LEAP–1A33B2, and LEAP–1A35A engines.

(d) Subject

Joint Aircraft System Component (JASC) Code 7600, Engine Controls.

(e) Unsafe Condition

This AD was prompted by aborted takeoffs after engines did not advance to the desired takeoff fan speed due to icing in the pressure sensor line. The FAA is issuing this AD to prevent icing in the pressure sensor lines and inaccurate pressure sensor readings. The unsafe condition, if not addressed, could result in loss of engine thrust control and reduced control of the airplane.

(f) Compliance

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

(g) Required Actions

At the next engine shop visit after the effective date of this AD, do the following actions:

- (1) Install electronic engine control (EEC) full authority digital electronic control (FADEC) software having part number (P/N) 2590M00P13, version L1A0850, or later

approved version; and prognostic health monitoring (PHM) software having P/N 2784M64P08, version PL1A0850, or later approved version.

Note 1 to paragraph (g)(1): The software release that includes EEC FADEC software P/N 2590M00P13, version L1A0850, and PHM software P/N 2784M64P08, version PL1A0850, is commonly referred to as "FCS8.5." Guidance for replacing the EEC FADEC software and PHM software may be found in CFM Service Bulletin LEAP–1A–73–00–0050–01A–930A–D, Issue 001–00, dated January 03, 2024.

(2) For engines with an installed HJ6A harness having P/N 362–085–905–0 (significant item number (SIN) 65004), remove the HJ6A harness from service and replace with an HJ6A harness having P/N 362–085–906–0, or later approved P/N.

Note 2 to paragraph (g)(2): This note applies to paragraphs (g)(2) and (g)(3). Guidance for replacing the HJ6A harness P/N 362–085–905–0 and the HJ6B harness P/N 362–086–004–0 with an HJ6A harness P/N 362–085–906–0 or an HJ6B harness P/N 362–086–005–0, or later approved P/N, as applicable, may be found in CFM Service Bulletin LEAP–1A–73–00–0042–01A–930A–D, Issue 003–00, dated July 11, 2024.

(3) For engines with an installed HJ6B harness having P/N 362–086–004–0 (SIN 65005), remove the HJ6B harness from service and replace with an HJ6B harness having P/N 362–086–005–0, or later approved P/N.

(4) For engines with an installed pressure subsystem (PSS) having P/N 2474M65P05 (vendor identification number (VIN) 261811055–0303), remove the PSS from service and replace with a heated PSS having P/N 2474M65P08 (VIN 261811055–0410), or later approved P/N.

Note 3 to paragraph (g)(4): Guidance for replacing the PSS P/N 2474M65P05 with a heated PSS P/N 2474M65P08, or later approved P/N may be found in CFM Service Bulletin LEAP–1A–73–00–0051–01A–930A–D, Issue 002–00, dated January 03, 2024.

(h) Definitions

For the purpose of this AD, an "engine shop visit" is the induction of the engine into the shop for maintenance involving the separation of major mating engine flanges, except for the separation of engine flanges solely for the purposes of transportation without subsequent engine maintenance.

(i) Alternative Methods of Compliance (AMOCs)

- (1) The Manager, AIR–520 Continued Operational Safety Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19,

send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the AIR-520 Continued Operational Safety Branch, send it to the attention of the person identified in paragraph (j)(1) of this AD and email to: AMOC@faa.gov.

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(j) Additional Information

(1) For more information about this AD, contact Mehdi Lamnyi, Aviation Safety Engineer, FAA, 2200 South 216th Street, Des Moines, WA 98198; phone: (781) 238-7743; email: mehdi.lamnyi@faa.gov.

(2) For material identified in this AD that is not incorporated by reference, contact CFM, GE Aviation Fleet Support, 1 Neumann Way, M/D Room 285, Cincinnati, OH 45215; phone: (877) 432-3272; email: aviation.fleetsupport@ge.com.

(k) Material Incorporated by Reference

None.

Issued on January 16, 2026.

Peter A. White,

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

[FR Doc. 2026-01094 Filed 1-20-26; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Parts 740 and 774

[Docket No. 251222-0187]

RIN 0694-AK30

Streamlining Export Controls for Drone Exports

AGENCY: Bureau of Industry and Security, Department of Commerce.

ACTION: Interim final rule.

SUMMARY: The Bureau of Industry and Security (BIS) is easing export controls on certain civil Unmanned Aerial Vehicles (UAVs) and related technologies, which currently need a license to be exported to most countries. In particular, this interim final rule (IFR): a) allows less sensitive UAVs—namely, commercial UAVs with a maximum endurance of less than one hour, for which there is broad foreign availability—to be exported to most Wassenaar Arrangement Participating States (Country Group A:1) without a license; and b) allows more capable non-military UAVs—namely, certain long-range cargo delivery and agricultural spraying drones—to be

exported to certain U.S. partners and allies (Country Group A:5) under License Exception Strategic Trade Authorization (STA). Exports pursuant to License Exception STA are subject to notification and reporting requirements to ensure the security of the exports. BIS is making these changes pursuant to Executive Order (E.O.) 14307, “Unleashing American Drone Dominance.”

DATES:

Effective date: This rule is effective on January 20, 2026.

Comment date: Comments on this IFR must be received by BIS no later than February 19, 2026.

ADDRESSES: Comments on this IFR may be submitted to the Federal rulemaking portal at: www.regulations.gov. The www.regulations.gov ID for this IFR is BIS-2025-0092. Please refer to RIN 0694-AK30 in all comments.

All filers using the portal should use the name of the person or entity submitting the comments as the name of their files, in accordance with the instructions below. Anyone submitting business confidential information should clearly identify the business confidential portion at the time of submission, file a statement justifying nondisclosure and referring to the specific legal authority claimed, and provide a non-confidential version of the submission.

For comments submitted electronically containing business confidential information, the file name of the business confidential version should begin with the characters “BC.” Any page containing business confidential information must be clearly marked “BUSINESS CONFIDENTIAL” on the top of that page. The corresponding non-confidential version of those comments must be clearly marked “PUBLIC.” The file name of the non-confidential version should begin with the character “P.” Any submissions with file names that do not begin with either a “BC” or a “P” will be assumed to be public and will be made publicly available at: <https://www.regulations.gov>. Commenters submitting business confidential information are encouraged to scan a hard copy of the non-confidential version to create an image of the file, rather than submitting a digital copy with redactions applied, to avoid inadvertent redaction errors which could enable the public to read business confidential information.

FOR FURTHER INFORMATION CONTACT: For technical questions regarding this IFR, contact Sharon Bragonje, Nuclear and Missile Technology Division, Office of

Nonproliferation and Foreign Policy Controls, Phone: 202-482-0434, Email: Sharon.Bragonje@bis.doc.gov.

For all other questions regarding this IFR, contact Logan Norton, Export Policy Analyst, Regulatory Policy Division, Phone: 202-482-5334, Email: RPD2@bis.doc.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On June 6, 2025, the President issued E.O. 14307, “Unleashing American Drone Dominance” (90 FR 24727). E.O. 14307 tasked the Secretary of Commerce to review and, as appropriate and consistent with applicable law, amend the Export Administration Regulations (EAR) “to enable the expedited export of U.S.-manufactured civil UAVs to foreign partners, provided such end users and recipient countries are not identified as foreign adversaries and the export does not pose a risk of diversion to programs of concern, or are otherwise restricted under applicable statutes or regulations.” See Sec. 8(a) of E.O. 14307 that tasked the Secretary of Commerce to take these actions. Through this IFR, BIS is taking action in response to this tasking in E.O. 14307.

E.O. 14307 promotes the U.S. UAV industry, which is enhancing United States productivity, creating highly-skilled jobs, and reshaping the future of aviation. UAVs are already transforming industries from logistics and infrastructure inspection to precision agriculture, emergency response, and public safety. Although the UAV industry has made significant technological advancements in the past decade, and capabilities that once provided a military advantage have become increasingly available to consumers at significantly reduced costs, relevant export controls have not kept pace with the advancement of the commercial UAV market. Expanding the export of trusted, U.S.-manufactured UAVs and related technologies to global markets supports a strong and secure domestic UAV industry vital to the U.S. defense industrial base and advances U.S. national security interests as articulated in the Export Control Reform Act of 2018 (ECRA) (50 U.S.C. 4811(2) and (7)).

With this IFR, BIS has identified specific regulatory changes, detailed in section II below, which achieve the President’s objectives of facilitating the export, reexport, and transfer (in-country) of UAVs and related technologies subject to the EAR under conditions that do not pose a risk to U.S. national security and foreign policy interests. Pursuant to ECRA, BIS administers U.S. laws, regulations, and

policies governing the export, reexport, and transfer (in-country) of commodities, software, and technology (collectively, “items”) subject to the EAR (15 CFR parts 730–774).

II. Amendments to the EAR

This IFR makes two primary regulatory changes by: (1) revising the reason for control for UAVs described under Export Control Classification Number (ECCN) 9A012.a.1; and (2) making certain UAVs described in ECCNs 9A012 and 9A120 eligible for License Exception STA under newly added § 740.20(c)(1)(ii).

Prior to the effective date of this IFR, UAVs described under ECCN 9A012.a.1 were controlled for National Security Column 1 (NS1) reasons and were only eligible for export “no license required” to Australia, Canada, and the United Kingdom, pursuant to the Commerce Control List (CCL)-based license requirements specified under the CCL in supplement no. 1 to part 774 and the Commerce Country Chart under supplement no. 1 to part 738. See the April 19, 2024, BIS IFR, “Export Control Revisions for Australia, United Kingdom, United States (AUKUS) Enhanced Trilateral Security Partnership” (89 FR 28594). This IFR revises the applicable reason for control to NS Column 2 (NS2) for .a.1 items, making them eligible for export and reexport to destinations in Country Group A:1 without a license. All other items detailed under ECCN 9A012 will retain their original NS1 reason for control.

Certain UAVs described under ECCNs 9A012 and 9A120 are also subject to a Missile Technology Column 1 (MT) reasons for control. These UAVs are MT-controlled because they are capable of either a maximum range of at least 300 km (certain ECCN 9A012 items) or incorporate an aerosol dispensing system/mechanism with a capacity greater than 20 liters (all ECCN 9A120 items).

Prior to the effective date of this IFR, MT-controlled UAVs were not eligible for License Exception STA. The License Exceptions available to MT-controlled items are listed in § 740.2(a)(5)(i) of the EAR, and STA was not listed as a License Exception available for MT-controlled items prior to this rule. Additionally, prior to this rule, § 740.20(b)(2)(iii) prohibited items controlled for MT reasons from using License Exception STA, and § 740.20(c) did not include an authorizing paragraph addressing MT reasons for control that is required for STA eligibility. Accordingly, an Individual Validated License (IVL) (a.k.a. a license

under the EAR) issued by BIS was typically required to export such items to all destinations other than Australia, Canada, and the United Kingdom.

This IFR makes exports and reexports of certain MT-controlled UAVs eligible for License Exception STA. Specifically, MT-controlled UAVs will be eligible for License Exception STA when exported, reexported, or transferred (in-country) to or within Country Group A:5, provided they are not capable of delivering at least a 500 kg payload to a distance of at least 300 km. Likewise, UAVs with spraying functionality controlled for MT reasons under ECCN 9A120 will be eligible for License Exception STA when exported, reexported, or transferred (in-country) to or within Country Group A:5, provided they are not capable of delivering at least a 500 kg payload to a distance of at least 300 km.

This IFR does not need to make any conforming changes to MT-controlled ECCNs on the CCL to implement this new License Exception STA eligibility because this IFR retains the general restriction structure on the use of license exceptions for MT-controlled items under §§ 740.2(a)(5) and 740.20(b)(2)(iii). Only those MT-controlled items specified under § 740.20(c)(1)(ii)(A) may overcome these restrictions for MT-controlled items for purposes of License Exception STA. This IFR adopts this structure to eliminate the need to add a Special Conditions for License Exception STA section to MT-controlled ECCNs. This IFR redesignates what had been paragraph (c)(1) in § 740.20 as paragraph (c)(1)(i) and what had been the note to paragraph (c)(1) as note paragraph (c)(1)(i). This IFR also adds a new paragraph (c)(1)(ii) to specify that certain MT-controlled UAVs described in new paragraph (c)(1)(ii)(A) are eligible for export to Country Group A:5 under License Exception STA. This IFR also adds a new note to paragraph (c)(1) to further clarify that only MT-controlled items that meet the criteria of paragraph (c)(1)(ii) and are controlled for one or more of the reasons for control specified under paragraph (c)(1)(i) may be authorized to Country Group A:5 under paragraph (c)(1).

To overcome the general restriction on the use of license exceptions for MT-controlled items and make the UAVs detailed above eligible for License Exception STA to Country Group A:5, BIS: (1) revises § 740.20(b)(2)(iii), which now provides a carveout for these MT items under License Exception STA; and (2) makes a conforming change by adding § 740.2(a)(5)(i)(G), an exclusion from the general restriction on the use

of License Exceptions for MT items. With these changes, certain MT-controlled UAVs described in ECCNs 9A012 and 9A120 will become eligible for License Exception STA to or among Country Group A:5, provided the export, reexport, or transfer (in-country) is not otherwise restricted under one of the other general restrictions under § 740.2 and meets all of the applicable terms and conditions of License Exception STA under § 740.20, including new paragraph (c)(1)(ii) that this IFR adds.

Export Control Reform Act of 2018

On August 13, 2018, the President signed into law the John S. McCain National Defense Authorization Act for Fiscal Year 2019, which included ECRA (codified, as amended, at 50 U.S.C. 4801–4852). ECRA provides the legal basis for BIS’s principal authorities and serves as the authority under which BIS issues this rule. In particular, and as noted elsewhere, Section 1753 of ECRA (50 U.S.C. 4812) authorizes the regulation of exports, reexports, and transfers (in-country) of items subject to U.S. jurisdiction. Further, Section 1754(a)(1)–(16) of ECRA (50 U.S.C. 4813(a)(1)–(16)) authorizes, *inter alia*, the establishment of a list of controlled items; the prohibition of unauthorized exports, reexports, and transfers (in-country); the requirement of licenses or other authorizations for exports, reexports, and transfers (in-country) of controlled items; apprising the public of changes in policy, regulations, and procedures; and any other action necessary to carry out ECRA that is not otherwise prohibited by law. Pursuant to Section 1762(a) of ECRA (50 U.S.C. 4821(a)), these changes can be imposed in a final rule without prior notice and comment.

Rulemaking Requirements

1. BIS has examined the impact of this rule as required by E.O.s 12866 and 13563, which direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (e.g., potential economic, environmental, public, health, and safety effects, distributive impacts, and equity). Pursuant to E.O. 12866, as amended, this IFR has been determined to be a “significant regulatory action.” Although it is a “significant regulatory action” for purposes of E.O. 12866, this rule is exempt from the requirements of E.O. 14192, because it is being issued with respect to a national security function of the United States, per section 5(a) of E.O. 14192.

2. Notwithstanding any other provision of 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 Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (PRA), unless that collection of information displays a currently valid Office of Management and Budget (OMB) Control Number. This rule involves the following OMB-approved collections of information subject to the PRA:

- 0694–0088, “Simple Network Application Process and Multipurpose Application Form,” which carries a burden hour estimate of 29.4 minutes for a manual or electronic submission;
- 0694–0096 “Five Year Records Retention Period,” which carries a burden hour estimate of less than 1 minute; and
- 0607–0152 “Automated Export System (AES) Program,” which carries a burden hour estimate of 3 minutes per electronic submission.

BIS estimates that these new controls under the EAR will result in a decrease of 30 license applications submitted annually to BIS. Additional information regarding these collections of information—including all background materials—can be found at: <https://www.reginfo.gov/public/do/PRAMain> by using the search function to enter either the title of the collection or the OMB Control Number.

3. This rule does not contain policies with Federalism implications as that term is defined under E.O. 13132.

4. Pursuant to section 1762 of ECRA (50 U.S.C. 4821), this action is exempt from the Administrative Procedure Act (APA) (5 U.S.C. 553) requirements for notice of proposed rulemaking, opportunity for public participation, and delay in effective date.

5. Because neither the APA nor any other law requires that notice of proposed rulemaking and an opportunity for public comment be given for this rule, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are not applicable. Accordingly, no Final Regulatory Flexibility Analysis is required, and none has been prepared.

List of Subjects

15 CFR Part 740

Administrative practice and procedure, Exports, Reporting and recordkeeping requirements.

15 CFR Part 774

Exports, Reporting and recordkeeping requirements.

Accordingly, parts 740 and 774 of the Export Administration Regulations (15 CFR parts 730–774) are amended as follows:

PART 740—LICENSE EXCEPTIONS

- 1. The authority citation for part 740 continues to read as follows:

Authority: 50 U.S.C. 4801–4852; 50 U.S.C. 4601 *et seq.*; 50 U.S.C. 1701 *et seq.*; 22 U.S.C. 7201 *et seq.*; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228.

- 2. Amend section 740.2 by:
 - a. Revising paragraphs (a)(5)(i)(E) and (F), and
 - b. Adding paragraph (a)(5)(i)(G).

The revisions and addition read as follows:

§ 740.2 Restrictions on all License Exceptions.

- (a) * * *
- (5) * * *
- (i) * * *
- (E) License Exception AVS (§ 740.15(b)(1) through (b)(4), (c)(1), (2), (e), and (f) of the EAR);
- (F) License Exception APR (§ 740.16(c) through (f) of the EAR); and
- (G) License Exception STA (§ 740.20(c)(1)(ii) of the EAR).
- * * * * *

- 3. Amend section 740.20 by:
 - a. Revising paragraph (b)(2)(iii); and
 - b. Revising paragraph (c)(1).

The revisions read as follows:

§ 740.20 License Exception Strategic Trade Authorization (STA).

- (b) * * *
- (2) * * *
- (iii) License Exception STA may not be used for any item that is controlled for reason of encryption items (EI), short supply (SS), surreptitious listening (SL), or chemical weapons (CW). License Exception STA may not be used for any item that is controlled for missile technology (MT) reasons, except for MT-controlled items specified under paragraph (c)(1)(ii) of this section.
- * * * * *

(c) *Authorizing paragraphs—(1) Multiple reasons for control.* (i) *Applicable reasons for control other than missile technology (MT).* Exports, reexports, and transfers (in-country) in which the only applicable reason(s) for control is (are) national security (NS); chemical or biological weapons (CB); nuclear nonproliferation (NP); regional stability (RS); crime control (CC); and/or significant items (SI) are authorized for destinations in or nationals of Country Group A:5 (see supplement no. 1 to part 740 of the EAR).

Note to paragraph (c)(1)(i). *License Exception STA under § 740.20(c)(1)(i) may be*

used to authorize the export, reexport, or transfer (in-country) of “600 series” items only if the purchaser, intermediate consignee, ultimate consignee, and end user have previously been approved on a license or other approval, i.e., Directorate of Defense Trade Controls (DDTC) Manufacturing License Agreement (MLA), Technical Assistance Agreement (TAA), Warehouse Distribution Agreement (WDA), or General Correspondence approval (GC) issued by BIS or DDTC at the U.S. Department of State.

(ii) *MT reason for control.* Exports, reexports, and transfers (in-country) of items controlled for MT reasons specified under paragraph (c)(1)(ii)(A) of this section are authorized for destinations in Country Group A:5 (see supplement no. 1 to part 740 of the EAR).

(A) Unmanned aerial vehicles (UAVs) and unmanned “airships” controlled for missile technology (MT) reasons in ECCNs 9A012 and 9A120 are authorized for destinations in Country Group A:5 (see supplement no. 1 to part 740 of the EAR), provided that the UAV or unmanned “airship” cannot deliver a payload of at least 500 kg to a range of at least 300 km.

(B) [Reserved]

Note to paragraph (c)(1): *The only MT-controlled items that may be authorized under this paragraph (c)(1) are those specified in paragraph (c)(1)(ii) of this section and controlled for one or more of the reasons for control specified under paragraph (c)(1)(i) of this section.*

* * * * *

PART 774—THE COMMERCE CONTROL LIST

- 4. The authority citation for part 774 continues to read as follows:

Authority: 50 U.S.C. 4801–4852; 50 U.S.C. 4601 *et seq.*; 50 U.S.C. 1701 *et seq.*; 10 U.S.C. 8720; 10 U.S.C. 8730(e); 22 U.S.C. 287c, 22 U.S.C. 3201 *et seq.*; 22 U.S.C. 6004; 42 U.S.C. 2139a; 15 U.S.C. 1824; 50 U.S.C. 4305; 22 U.S.C. 7201 *et seq.*; 22 U.S.C. 7210; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228.

- 5. Supplement no. 1 to part 774 is amended by revising ECCNs 9A012 to read as follows:

* * * * *

9A012 Non-military “Unmanned Aerial Vehicles,” (“UAVs”), unmanned “airships”, related equipment and “components”, as follows (see List of Items Controlled).

License Requirements
Reason for Control: NS, MT, AT

Control(s) Country chart
(See supp. no. 1 to part 738)

NS applies to entire entry, except .a.1. NS Column 1.

Control(s)	Country chart (See <i>supp. no. 1</i> to part 738)
NS applies to 9A012.a.1	NS Column 2.
MT applies to non-military Un- manned Aerial Vehicles (UAVs) and Remotely Piloted Vehicles (RPVs) that are capable of a maximum range of at least 300 kilometers (km), regardless of payload, and UAVs that meet the requirements of 9A120.	MT Column 1.
AT applies to entire entry	AT Column 1.

List Based License Exceptions (See Part 740 for a Description of all License Exceptions)

LVS: N/A

GBS: N/A

List of Items Controlled

Related Controls: (1) See the U.S. Munitions List Category VIII (22 CFR part 121). (2) Also see ECCN 9A610 and § 744.3 of the EAR. (3) For “UAVs” that are “sub-orbital craft,” see ECCNs 9A004.h and 9A515.a.

Related Definitions: N/A

Items:

- a. “UAVs” or unmanned “airships”, designed to have controlled flight out of the direct ‘natural vision’ of the ‘operator’ and having any of the following:
 - a.1. Having all of the following:
 - a.1.a. A maximum ‘endurance’ greater than or equal to 30 minutes but less than 1 hour; and
 - a.1.b. Designed to take-off and have stable controlled flight in wind gusts equal to or exceeding 46.3 km/h (25 knots); or
 - a.2. A maximum ‘endurance’ of 1 hour or greater;

Technical Notes: 1. For the purposes of 9A012.a, ‘operator’ is a person who initiates or commands the “UAV” or unmanned “airship” flight.

2. For the purposes of 9A012.a, ‘endurance’ is to be calculated for ISA conditions (ISO 2533:1975) at sea level in zero wind. 3. For the purposes of 9A012.a, ‘natural vision’ means unaided human sight, with or without corrective lenses.

b. Related equipment and “components”, as follows:

- b.1 [Reserved]
- b.2. [Reserved]
- b.3. Equipment or “components” “specially designed” to convert a manned “aircraft” or a manned “airship” to a “UAV” or unmanned “airship”, controlled by 9A012.a;
- b.4. Air breathing reciprocating or rotary internal combustion type engines, “specially designed” or modified to propel “UAVs” or unmanned

“airships”, at altitudes above 15,240 meters (50,000 feet).

* * * * *

Julia A. Khersonsky,

Deputy Assistant Secretary for Strategic Trade.

[FR Doc. 2026–01059 Filed 1–20–26; 8:45 am]

BILLING CODE 3510–33–P

TENNESSEE VALLEY AUTHORITY

18 CFR Parts 1318 and 1319

RIN 3316–AA26

Implementation of the National Environmental Policy Act

AGENCY: Tennessee Valley Authority.

ACTION: Interim final rule; request for comments.

SUMMARY: This interim final rule revises the Tennessee Valley Authority (TVA) procedures implementing the National Environmental Policy Act (NEPA). TVA is taking this action in response to the amendments to NEPA enacted through the Fiscal Responsibility Act of 2023 and the One Big Beautiful Bill Act of 2025, to reflect the Supreme Court’s recent decision in *Seven County Infrastructure Coalition v. Eagle County, Colorado*, and to align with Executive Order (E.O.) 14154, *Unleashing American Energy*, and the Council on Environmental Quality’s (CEQ) subsequent rescission of its NEPA implementing regulations, which TVA’s procedures were intended to supplement. This interim final rule requests comments on this action and TVA’s intent to move its procedures at Subpart G, for compliance with E.O. 11988, *Floodplain Management*, and E.O. 11990, *Protection of Wetlands*, into a new part 1319 of the CFR, to inform TVA’s decision-making.

DATES: The interim final rule is effective January 21, 2026. Comments must be submitted no later than February 20, 2026.

ADDRESSES: Comments on the interim final rule can be submitted by one of the following methods:

1. *TVA’s NEPA website:* <https://www.tva.gov/nepa>. Follow the instructions for submitting comments electronically on the website.
2. *Email:* NEPARule@tva.gov.
3. *Mail comments to:* NEPA Rule Comments, Tennessee Valley Authority, 400 W Summit Hill Drive, 11B–K, Knoxville, Tennessee 37902.

Before including your address, phone number, email address, or other personal identifying information in your

comment, please note that any comments received, including names and addresses, will become part of the project administrative record and will be available for public inspection.

FOR FURTHER INFORMATION CONTACT:

Matthew Higdon, Senior NEPA Specialist, Tennessee Valley Authority, 400 W Summit Hill Drive, 11B–K, Knoxville, Tennessee 37902. Telephone: 865–632–8051. Email: mshigdon@tva.gov.

SUPPLEMENTARY INFORMATION:

I. Background

This interim final rule revises TVA’s implementing procedures for assessing the effects of TVA’s actions in accordance with NEPA (42 U.S.C. 4321 *et seq.*), codified at 18 CFR part 1318. TVA first established its procedures for implementing NEPA in 1980 (45 FR 54511–15, August 15, 1980). In 1983, TVA amended the procedures to incorporate requirements relating to floodplain management and protection of wetlands, among other things (48 FR 19264, April 28, 1983). In 2020, TVA amended its procedures to update organizational references, improve clarity, and revise its list of categorical exclusions. To promote greater transparency in the NEPA process, TVA incorporated its procedures into the Code of Federal Regulations (CFR) at that time. In its final rule preamble, TVA stated that, “[l]ike TVA’s previous NEPA procedures, the final rule supplements the CEQ regulations” (85 FR 17434; March 27, 2020). Since established in 1980, the TVA procedures have stated that they serve to ensure compliance with not only NEPA itself but CEQ’s NEPA implementing regulations. 18 CFR 1318.10(c).

CEQ’s NEPA implementing regulations were rescinded as of April 11, 2025. *See Removal of National Environmental Policy Act Implementing Regulations* (90 FR 10610; Feb. 25, 2025). CEQ’s rescission of its regulations was necessitated by and is consistent with E.O. 14154, *Unleashing American Energy* (90 FR 8353; January 29, 2025), in which President Trump rescinded President Carter’s E.O. 11991, *Relating to Protection and Enhancement of Environmental Quality* (42 FR 26967; May 24, 1977), which directed CEQ to issue regulations to Federal agencies for implementing NEPA’s procedural provisions. E.O. 14154 further directed agencies to revise their NEPA implementing procedures consistent with the E.O. and implementation guidance from CEQ.

Congress passed the Fiscal Responsibility Act of 2023, Public Law 118–5, signed into law on June 3, 2023, that among other things added substantial detail and direction in Title I of NEPA, including procedural issues that CEQ, TVA, and other agencies had previously addressed in their own regulations. In addition, Congress passed the One Big Beautiful Bill Act of 2025, Public Law 119–21, title VI, § 60026, (July 4, 2025), adding Section 112 of NEPA, entitled “Project Sponsor Opt-in Fees for Environmental Reviews.” This provision allows project sponsors to pay a fee to obtain shortened NEPA review deadlines. TVA needs to update its procedures in light of these statutory changes.

Finally, the Supreme Court on May 29, 2025, issued *Seven County Infrastructure Coalition v. Eagle County, Colorado*, 145 S. Ct. 1497 (2025), which affirmed that agencies have broad discretion when conducting NEPA reviews, including with regard to the scope of the analysis in agencies’ NEPA reviews given the agency’s authority and the importance of the issue to the decisionmaker. In issuing this interim final rule, TVA seeks to align its procedures with the Supreme Court’s guidance in this decision.

NEPA requires Federal agencies to “identify and develop methods and procedures,” in consultation with CEQ, with respect to their environmental analysis of their proposed actions, *see* 42 U.S.C. 4332(2)(B). E.O. 14154 directs agencies to ensure their NEPA implementing regulations “prioritize efficiency and certainty” in the NEPA process.

TVA is revising its NEPA procedures at 18 CFR part 1318 to reflect the rescission of CEQ’s regulations, the direction to agencies under E.O. 14154, the statutory amendments to NEPA, and the Supreme Court’s decision in *Seven County*. TVA has completed an internal review of its NEPA procedures and practices and has identified opportunities to improve its practices and clarify its procedures. By these revisions, TVA intends to ensure it complies with NEPA and that the procedures reduce paperwork and delay to the extent possible. A summary of the procedures revised by TVA are described below. TVA is also moving its procedures at Subpart G, for compliance with E.O. 11988, *Floodplain Management*, and E.O. 11990, *Protection of Wetlands*, into a separate part of the CFR, a new Part 1319. These floodplain and wetland procedures are not part of TVA’s procedures for implementing NEPA. TVA made minor clarifying edits but is not proposing any

substantive changes to its floodplain and wetland procedures.

II. Publication as an Interim Final Rule

A. Notice-and-Commenting Rulemaking Is Not Required

NEPA is a “purely procedural statute” which prescribes a process for a federal agency to conduct environmental review of a project but does not require any substantive outcome for a project. *Seven County*, 145 S. Ct. at 1511. NEPA does not substantively constrain an agency’s ultimate decision on a proposed project, and “is relevant only to the question of whether an agency’s final decision . . . was reasonably explained.” *Id.* at 1511.

TVA is repealing and replacing its prior procedures for implementing NEPA. Notice and comment procedures are not required under the Administrative Procedure Act (APA) for “rules of agency organization, procedure, or practice.” 5 U.S.C. 553(b)(A). TVA’s procedures for implementing NEPA are themselves purely procedural. *See, e.g.*, 18 CFR 1318.10 (“This part establishes procedures for Tennessee Valley Authority (TVA) to use for compliance with . . . NEPA . . .”). They do not dictate outcomes or impose binding legal obligations on private citizens. They only prescribe how TVA will conduct NEPA reviews. Procedural regulations that do not require notice and comment procedures to promulgate similarly do not require notice and comment procedures to remove.

TVA’s revised implementing procedures are also procedural. Since NEPA itself is a procedural statute that does not mandate outcomes, *Seven County*, 145 S. Ct. at 1510, regulations implementing NEPA are also necessarily procedural. TVA’s regulations describe how TVA will implement the NEPA process, prepare and structure environmental documents, and incorporate NEPA as a part of agency decision-making. They will guide TVA’s internal practice in implementing NEPA but will not dictate substantive outcomes.

Notice and comment procedures are also not required under the APA for “interpretative rules” or “general statements of policy.” 5 U.S.C. 553(b)(A). Even if, and to the extent that, TVA’s regulations were not procedural rules, they may be characterized as interpretative rules or general statements of policy. An interpretative rule provides an interpretation of a statute, rather than making discretionary policy choices that establish enforceable rights or

obligations for regulated parties under delegated congressional authority. General statements of policy provide notice of an agency’s intentions as to how it will enforce statutory requirements, again without creating enforceable rights or obligations for regulated parties under delegated congressional authority. To the extent anything in TVA’s regulations is not a procedural rule it would be considered TVA’s interpretation of NEPA or general policy statements about TVA’s application of NEPA. Both of these are expressly exempted from notice and comment by statute. Although TVA is voluntarily providing notice and an opportunity to comment on this interim final rule, the agency has determined that notice and comment procedures are not required.

B. TVA Has Good Cause for Proceeding With an Interim Final Rule

TVA also finds that, even if prior notice and solicitation of public comment would otherwise be required or this action could not immediately take effect, the need to expeditiously replace its existing rules satisfies the APA’s “good cause” exceptions. 5 U.S.C. 553(b)(B), (d)(3). The APA authorizes agencies to issue regulations without notice and public comment when an agency finds, for good cause, that notice and comment is “impracticable, unnecessary, or contrary to the public interest,” and to make the rule effective immediately for good cause. 5 U.S.C. 553(b)(B), (d)(3). As discussed above, TVA’s prior procedures were promulgated with CEQ’s NEPA regulations as a foundation and to be used in conjunction with those regulations. *See* 85 FR 17434 (“Like TVA’s previous NEPA procedures, the final rule supplements the CEQ regulations. The rule was drafted with the objective of minimizing repetition of requirements already contained in the CEQ regulations and with the understanding that the TVA-specific regulations would be applied with the CEQ regulations.”). With the rescission of CEQ’s NEPA regulations, TVA’s prior procedures were premised on a framework that no longer exists. In the interim, TVA has continued to apply its procedures as though CEQ’s NEPA regulations still existed where necessary to fill gaps. This makeshift substitute was, at best, a temporary solution; now that TVA has had the opportunity to draft revised standalone procedures in consultation with CEQ, it is critical that TVA begin following them as soon as possible. Immediate rescission of former procedures without replacement would result in uncertainty and potential

delays to TVA projects and authorizations. Therefore, if notice-and-comment were otherwise required, doing so here would be impracticable and contrary to the public interest. For these reasons, TVA finds that “good cause” exists under 5 U.S.C. 553(d)(3) to waive the 30-day delay of the effective date that would otherwise be required. This interim final rule will accordingly be effective immediately. TVA will consider comments submitted in response to this action and may address them when issuing a final rule, if warranted, after consideration of the comments received.

C. TVA Solicits Comments

As explained above, notice and comment procedures are not required because TVA’s NEPA procedures were and are procedural and because, even if comment were otherwise required under the APA, good cause exists to forgo it. Nevertheless, TVA has elected to voluntarily solicit comments. TVA is soliciting comment on this interim final rule and its new procedures, which are available for review at <https://www.tva.gov/nepa>. TVA may make further revisions to its NEPA implementing procedures, if TVA’s review of any comments submitted suggests that further revisions are warranted. Commenters have 30 days from the date of publication of this interim final rule to submit comments.

III. Description of Regulatory Changes

TVA’s revised NEPA procedures, developed in consultation with CEQ, will facilitate compliance with the statutory obligations of NEPA. TVA’s NEPA procedures will continue to be maintained at 18 CFR part 1318, subparts A through F. TVA is moving the regulations currently in Subpart G, procedures addressing floodplain management and protection of wetlands, to a new Part 1319. Moving the floodplain management and protection of wetlands procedures to a separate part clarifies that those procedures do not address the implementation of NEPA.

Throughout the revised procedures, TVA removes citations to the rescinded CEQ regulations and implements key structural features of the 2023 statutory amendments to NEPA, such as deadlines and page limits for environmental assessments (EA) and environmental impact statements (EIS), as directed at NEPA § 107(g). The procedures provide that TVA will adhere to the page limits and timelines established by Congress. The revised procedures also incorporate new definitions (NEPA § 111) and statutory

requirements for determining the appropriate level of NEPA review (NEPA § 106), content for EISs (NEPA § 102(2)(C)), and public notice associated with issuing a notice of intent to prepare an EIS (NEPA § 107(c)). In revising its procedures, TVA also relied upon CEQ’s Memorandum for Heads of Federal Departments and Agencies: Implementation of the National Environmental Policy Act (September 29, 2025) (“CEQ Guidance”).¹

TVA also revises the procedures by grouping similar subjects together to improve readability and clarity. Substantial revisions to subparts A through F are included, although some of TVA’s former implementing procedures remain intact. Throughout the procedures, and also in Part 1319, TVA removes references to specific TVA management and staff positions and office titles and replaces those with “TVA”; such detail about administrative roles and responsibilities within TVA is unnecessary in the regulations.

The following paragraphs contain a section-by-section summary of key changes under each subpart from those currently in TVA’s NEPA procedures.

Subpart A—General Information

§ 1318.10 Purpose and policy. In this section, TVA combines provisions relating to the purpose of the procedures and TVA’s related policy into one section. TVA removes reference to CEQ NEPA regulations at 40 CFR parts 1500 through 1508 and adds clarification of the purpose of the TVA NEPA procedures. The section addresses the procedural and interpretive nature of these provisions. TVA also adds provisions addressing when it will consult with CEQ.

§ 1318.20 Abbreviations. TVA removes abbreviations for the Environmental Protection Agency (EPA) and Record of Decision (ROD) from its procedures because the abbreviations are no longer used in its procedures.

§ 1318.30 Definitions. TVA removes its reference to the CEQ NEPA regulations in this section and cites new definitions in the statute (NEPA § 111). TVA adds definitions in this section for the following terms: authorization, effects, human environment, jurisdiction, mitigation, NEPA process, notice of intent, page, project sponsor, publish, reasonable alternatives, reasonably foreseeable, scope, and tiering. Several new definitions are based upon the CEQ guidance (*e.g.*, effects, mitigation, page, publish). The definitions of “controversial” and

“important farmland” are removed because the terms are sufficiently defined in the text of the procedures. Four definitions addressing the management of floodplains and protection of wetlands (floodplain, practicable, natural and beneficial floodplain and wetland values, and wetland) are removed from part 1318 and, as discussed below, will be added to definitions section (§ 1319.20) of the floodplains and wetlands procedures.

Subpart B—Initiating the NEPA Process

This subpart is revised to address additional procedures relating to the initiation of the NEPA process. Sections of this subpart are renamed, revised and reorganized to improve structure, organization, and readability. Sections addressing scoping, interagency cooperation, and the supplementation of, and reliance on, environmental documents are moved to Subpart B from other subparts because these are considerations made at the beginning of the NEPA process and apply to both EAs and EISs. TVA adds a section addressing NEPA schedules to incorporate deadline requirements from the Fiscal Responsibility Act of 2023.

§ 1318.100 Determining when NEPA applies. This section is added to clarify which actions taken by TVA would be subject to review under NEPA, consistent with provisions from NEPA §§ 106(a)(4) and 111(10)(B)(vii) (42 U.S.C. 4336(a)(4) and § 4336e(10)(B)(vii), respectively).

§ 1318.101 Determining the appropriate level of NEPA Review. This section is retitled and revised extensively. Previous paragraphs addressing internal administration are removed and replaced with new procedures that describe how TVA determines whether NEPA applies to a proposed action and, if so, the appropriate level of environmental review. In paragraph (b), TVA includes criteria for determining whether potential effects are significant, thereby requiring an EIS.

§ 1318.102 Determination of NEPA Adequacy. TVA has revised the procedures relating to making and documenting a determination of NEPA adequacy and the determination of when to supplement an environmental document. These considerations are key to a determination by TVA that an existing document provides adequate analysis to address a proposed action. TVA also removes a reference to CEQ regulations from this section.

§ 1318.103 Supplements. This section, previously included under Subpart E, is added to Subpart B because the procedures apply to EAs as

¹ Available at www.nepa.gov.

well as EISs. Like § 1318.102, the section addresses consideration of whether an existing document is adequate to address a proposed action. These provisions address instances in which the existing document does not adequately address a proposed action and additional, supplemental analysis is necessary to comply with NEPA.

§ 1318.104 Reliance on existing environmental documents. This section, previously included under Subpart E, is added to Subpart B because the procedures also apply to EAs and are considerations during the initiation of a NEPA process. The procedures are modified to improve clarity, and paragraphs addressing public notification are removed from Subpart B because the topic is addressed in Subpart F.

§ 1318.105 Lead and cooperating agency determinations. This section, previously included under Subpart E, is added to Subpart B because these procedures also apply to EAs and are considerations during the initiation of a NEPA process. Modifications address provisions of the Fiscal Responsibility Act of 2023, including those relating to the preparation of a single document when multiple agencies participate in the preparation of an environmental document. In addition, TVA clarifies that TVA will normally serve as the lead agency for TVA actions.

§ 1318.106 Schedule for the NEPA process. TVA adds this section to address the Fiscal Responsibility Act of 2023 emphasis that environmental documents be prepared in a timely manner and the importance of working with project sponsors to achieve the required deadlines. In the section, TVA outlines the statutory deadlines identified in NEPA § 107(g) and adds a provision requiring a certification regarding TVA's adherence to statutory deadlines. TVA adds a paragraph addressing how deadline extensions may be considered. A paragraph is added to ensure that concurrent environmental processes or requirements are also incorporated into the schedule, as appropriate, because these concurrent processes may influence the critical path for the NEPA process.

§ 1318.107 Scoping process. This section, previously included under Subpart E, is added to Subpart B because it addresses considerations made at the initiation of a NEPA process and that may also apply to EAs. This section is modified to clarify the scoping process and the types of information and issues that will be developed and identified. TVA modifies the public notice and comment

requirements associated with scoping and removes a paragraph that addressed the preparation of a scoping report because such reports are not required by statute.

Subpart C—Categorical Exclusions

§ 1318.200 Purpose and scope. TVA modifies this section for clarity and to address new methods in which categorical exclusions may be established, including the adoption of another agency's categorical exclusion consistent with the Fiscal Responsibility Act of 2023 (NEPA § 109). In paragraph (a), TVA defines categorical exclusions. In paragraph (b), TVA clarifies that more than one categorical exclusion may be applied to a proposed action if the exclusions collectively encompass the action. In paragraph (c), TVA defines a new process for establishing a new categorical exclusion that involves documenting in a sufficient record substantiation that additional categories of actions may be added to TVA's list of categorical exclusions (found in Appendix A of this subpart). The process includes consultation with CEQ and public notification. In paragraph (d), TVA addresses the procedures for adopting another agency's categorical exclusions. Paragraph (e) adds procedures that address TVA's reliance on a determination by another Federal agency that a categorical exclusion applies to a proposed action that is substantially the same as TVA's proposed action. TVA removes an unnecessary statement that TVA would comply with other laws or requirements when applying a categorical exclusion.

§ 1318.201 Extraordinary circumstances. This section is modified for clarity and to more accurately summarize the review for extraordinary circumstances that occurs prior to using a categorical exclusion. TVA includes examples of extraordinary circumstances in paragraph (b) and adds paragraph (d) to generally explain when it would prepare documentation for a review for extraordinary circumstances.

§ 1318.202 Public notification. TVA makes a grammatical revision to the section for clarity.

Appendix A—Categorical exclusions. In the introductory text of this appendix, TVA revised the second sentence referencing extraordinary circumstances and corrects the citation to text in the applicable text in Subpart C. There are no other changes to appendix A of Subpart C.

Subpart D—Environmental Assessments

TVA modifies this subpart by moving and modifying sections addressing supplements and relying on existing

environmental documents to Subpart B, as previously discussed, and by moving and modifying a section addressing public and stakeholder involvement in the preparation of EAs into Subpart F.

§ 1318.300 Purpose and scope. TVA revises this section to clarify when it is appropriate to prepare an EA.

§ 1318.301 Environmental assessment preparation. TVA modifies the section addressing the preparation of EAs, now numbered as section 1318.301 with the removal of procedures relating to public and stakeholder involvement. TVA removes a list of items that would be considered during the initiation of the NEPA process; those are adequately addressed under the revised Subpart B. In paragraph (a), TVA identifies core elements of an EA. In paragraph (b), TVA states that public comment on a draft EA is at its discretion and that substantive comments are addressed when such review periods are offered. TVA addresses the page limit established in the Fiscal Responsibility Act of 2023 (NEPA § 107(e)) in paragraph (d). Finally, TVA adds a provision in paragraph (e) addressing the use of appendices and a provision in paragraph (f) requiring a certification in an EA regarding TVA's adherence to statutory page limits.

§ 1318.302 Finding of No Significant Impact. In this section, TVA makes numerous revisions to clarify the contents of the finding of no significant impact document. TVA adds that a finding of no significant impact will identify any mitigation requirements and commitments that are necessary to address significant effects and the associated authority and/or applicable monitoring or enforcement provisions. TVA also adds that a finding of no significant impact may be published separately or as part of an EA. Procedures relating to public notification for findings are moved to Subpart F and modified.

Subpart E—Environmental Impacts Statements

Numerous modifications to this subpart ensure that TVA's procedures more accurately reflect the statutory requirements for EISs and that the process for completing documents is efficient and timely. As noted above, sections addressing interagency cooperation, scoping, supplements, and reliance on existing environmental documents are moved to Subpart B.

§ 1318.400 Purpose and scope. TVA removes the list of actions normally requiring an EIS. TVA moves the description of the standard contents for an EIS to § 1318.401. In paragraphs (b)

and (c), TVA revises the previous procedures that address the scope of an EIS to emphasize the need for concise documents that focus on issues of significance and to address the consideration of indirect effects.

§ 1318.401 Environmental Impact Statement preparation. Two sections addressing the preparation of the draft and final EISs are combined into this section. TVA adds a list of contents that represent the standard format for an EIS, based on past CEQ NEPA regulations. TVA revises its procedures addressing the review of EISs in a manner consistent with NEPA § 102(C). Procedures addressing public reviews, minimum review periods, and responding to comments are addressed in Subpart F. Similar to the addition to § 1318.301, TVA addresses the page limit for EISs that is established in the Fiscal Responsibility Act of 2023 (NEPA § 107(e)) in paragraphs (d) and (e). TVA also adds a provision in paragraph (f) addressing the use of appendices and a provision in paragraph (e) requiring a certification in an EIS regarding TVA's adherence to statutory page limits.

§ 1318.402 Agency decision. This section addresses how TVA documents the completion of an EIS. NEPA mandates that TVA consider all relevant information relating to impacts on the quality of the human environment in making its decision but does not require any particular format for documenting an agency decision. TVA revised this section to remove specific requirements formerly applicable to a Record of Decision and provides a format that may be used to notify the public that the environmental review has been completed and considered.

Subpart F—Miscellaneous Procedures

TVA makes numerous revisions to this Subpart. TVA removes procedures addressing the review of EISs prepared by other agencies because those procedures addressed only internal administrative tasks and roles associated with providing comments to the agency and therefore are not necessary. TVA removes procedures stating that TVA may issue additional supplemental or explanatory guidance relating to its NEPA procedures and that TVA executives may modify the roles and responsibilities identified in the procedures; these procedures addressing administrative determinations are unnecessary. TVA revised a section addressing TVA's substantial compliance with TVA's NEPA procedures. TVA moves procedures relating to providing reports to the public on the status of ongoing NEPA reviews to § 1318.500 because they

pertain to public involvement. As described below, three sections are added to this subpart.

§ 1318.500 Public and stakeholder involvement. In this section, TVA consolidates procedures relating to public involvement in the NEPA process. The section revises previous procedures to reflect that public involvement in the preparation of environmental documents is at TVA's discretion. Minor modifications reaffirm and clarify TVA's commitments to provide notification and information relevant to its NEPA program and proposed actions. Paragraph (d) addresses how TVA makes documents available for public review, relying primarily on its public website. The section includes new procedures addressing how public comments are treated to streamline the process and time required to review and consider the public's input. These changes allow TVA to focus on those comments that improve the environmental document and its analysis. In the section, TVA commits to disclosing public comments submitted on environmental documents and updating the public when it ceases environmental reviews.

§ 1318.501 Mitigation. TVA includes minor revisions to this section for clarification. TVA removes details relating to which staff will be responsible for ensuring mitigation measures are met.

§ 1318.502 Programmatic environmental documents and tiering. TVA combines two sections addressing programmatic NEPA documents and tiering into one section. TVA adds a paragraph citing to new statutory requirements addressing programmatic environmental documents from the Fiscal Responsibility Act of 2023 (NEPA § 108). TVA modifies the section by removing a definition for programmatic documents because the definition is now established in statute (NEPA § 111). Two citations to CEQ's NEPA regulations are deleted. In paragraph (b), TVA clarifies that contents of tiered documents need only be summarized and incorporated by reference and will only address the subsequent action. In paragraph (c), TVA incorporates three criteria to determine whether ongoing or previously approved actions may be implemented during a programmatic review.

§ 1318.503 Coordination with project sponsors and procedures for project sponsor-related environmental documents. This section incorporates new provisions addressing "private applicants." Throughout this section, TVA now refers to such applicants as "project sponsors," consistent with

usage in the Fiscal Responsibility Act of 2023 and the One Big Beautiful Bill Act of 2025. The section is modified to acknowledge that project sponsors or their contractors may prepare environmental documents, while reaffirming that such documents must be independently evaluated and approved by TVA. TVA addresses support for project sponsors or their contractors in the preparation of environmental documents. TVA also adds a provision that requires project sponsors or sponsors preparing environmental documents to submit disclosure statements addressing their interest in the outcome of the action. In paragraph (h), TVA addresses section 112 of NEPA (a provision of the One Big Beautiful Bill Act of 2025) and the associated coordination with CEQ.

§ 1318.504 Reducing paperwork and delay. TVA modifies this section to emphasize practices that ensure efficient, concise environmental reviews are completed in accordance with new page and time limits. TVA incorporates and consolidates several procedures from other sections of its procedures into this modified section. Paragraph (b) addresses incorporating material by reference in environmental documents, based on long-standing CEQ NEPA regulations. Paragraph (c) addresses the need to write in plain language using a clear format.

§ 1318.505 Information requirements. TVA adds this section to ensure that long-standing standards for the information used in environmental reviews are addressed. Based on previous CEQ NEPA regulations, TVA adds procedures addressing methodology and scientific accuracy in paragraph (a) and incomplete and unavailable information in paragraph (b).

§ 1318.506 Causes of action. This section was added to clarify that minor deviations from TVA's procedures do not establish a cause of action for violation of NEPA.

§ 1318.507 Emergency actions. TVA makes no changes to this section.

§ 1318.508 Unique identification numbers. TVA adds this section to address the numbering system that it will apply to its environmental documents for tracking purposes. The numbering of TVA environmental documents will be consistent with CEQ guidance.

Part 1319—Floodplains and Wetlands

TVA is moving the regulations in Subpart G (Floodplains and Wetlands) from 18 CFR part 1318 to Part 1319 of title 18 of the Code of Federal Regulations. As noted above, those

procedures implement the requirements of two Executive Orders. Moving the floodplains and wetlands procedures to a separate part clarifies that those procedures do not implement the statutory requirements of NEPA and therefore should not be considered part of TVA's NEPA procedures.

Four definitions relevant to the floodplains and wetlands procedures were removed from § 1318.10 and added to this part at § 1319.20. In several places, TVA revises text to remove references to specific TVA offices that would be involved in various tasks. Other minor revisions are made for clarification, but TVA has not proposed substantive changes to these floodplains and wetlands procedures.

IV. Regulatory Requirements

A. Regulatory Planning and Review

Executive Order (E.O.) 12866 provides that the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget will determine whether a regulatory action is significant as defined by E.O. 12866 and will review significant regulatory actions. E.O. 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the Nation's regulatory system to promote predictability, reduce uncertainty, and use the best, most innovative, and least burdensome tools for achieving regulatory ends. TVA has developed the interim final rule consistent with E.O. 13563. OIRA reviewed this interim final rule and determined that it is not a significant regulatory action under E.O. 12866, as supplemented by E.O. 13563.

B. Regulatory Flexibility Act

Notice and comment is not required because TVA has invoked the APA's "good cause" exemption under 5 U.S.C. 553(b) and because it is a rule of agency procedure and practice and does not establish substantive requirements binding the public. However, TVA is voluntarily accepting comments for a period of 30 days.

C. Paperwork Reduction Act

This interim final rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

D. Federalism

TVA has considered this interim final rule under the requirements of E.O. 13132, *Federalism*, and has determined that the interim final rule conforms with the federalism principles set out in this E.O.; will not impose any compliance costs on the States; and will not have

substantial direct effects on the States, on the relationship between the Federal government and the States, or the distribution of power and responsibilities among the various levels of government. Therefore, TVA concludes that this interim final rule will not have federalism implications, and no further assessment of federalism implications is necessary.

E. Unfunded Mandates

Pursuant to Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–38), TVA has assessed the effects of the interim final rule on State, local, and Tribal governments and the private sector. The interim final rule will not compel the expenditure of \$100 million or more, adjusted annually for inflation, in any one year by State, local, and Tribal governments in the aggregate or by the private sector. Therefore, a statement under section 202 of the Act is not required. This action also does not impose any enforceable duty, contain any unfunded mandate, or otherwise have any effect subject to the requirements of 2 U.S.C. 1531–38.

F. National Environmental Policy Act

TVA's NEPA procedures assist in the fulfillment of its responsibilities under NEPA and do not authorize any specific agency activity or commit resources that may affect the environment. The procedures also do not represent the agency's final determination of what level of NEPA analysis is required for a particular agency action. The determination that establishing agency NEPA procedures does not require NEPA analysis and documentation has been upheld in *Heartwood, Inc. v. U.S. Forest Service*, 73 F. Supp. 2d 962, 972–73 (S.D. III. 1999), *aff'd*, 230 F.3d 947, 954–55 (7th Cir. 2000).

G. Civil Justice Reform

Under section 3(a) of E.O. 12988, *Civil Justice Reform*, agencies must review their regulations to eliminate drafting errors and ambiguities, draft them to minimize litigation, and provide a clear legal standard for affected conduct. Section 3(b) provides a list of specific issues for review to ensure compliance with section 3(a). TVA has conducted this review and determined that this interim final rule complies with the requirements of E.O. 12988.

H. Consultation and Coordination With Indian Tribal Governments

E.O. 13175, *Consultation and Coordination with Indian Tribal Governments*, requires Federal agencies to consult and coordinate with Tribes on a government-to-government basis on

policies that have Tribal implications, including regulations, legislative comments or proposed legislation, and other policy statements or actions that have substantial direct effects on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or the distribution of power and responsibilities between the Federal Government and Indian Tribes. This interim final rule does not impose substantial direct compliance costs on Tribal governments and does not preempt Tribal law. TVA has reviewed this interim final rule in accordance with the requirements of E.O. 13175 and has determined that it will not have substantial direct effects on 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. Therefore, consultation and coordination with Indian Tribal governments is not required for this interim final rule.

I. Executive Orders 14154 and 14192

TVA has determined that this interim final rule is consistent with the policies and directives outlined in E.O. 14154 "Unleashing American Energy" and E.O. 14192, "Unleashing Prosperity Through Deregulation." This rule is an E.O. 14192 deregulatory action.

J. Congressional Review Act

Pursuant to subtitle E of the Small Business Regulatory Enforcement Fairness Act of 1996 (known as the Congressional Review Act) (5 U.S.C. 801 *et seq.*), OIRA has designated this interim final rule as not a major rule as defined by 5 U.S.C. 804(2). This procedural action, in any event, is not a rule at all under 5 U.S.C. 804(3)(C).

List of Subjects

18 CFR Part 1318

Administrative practice and procedure, Environmental impact statements, Environmental protection.

18 CFR Part 1319

Administrative practice and procedure, Floodplains, Wetlands, Environmental impact statements, Environmental protection.

■ For the reasons stated in the preamble, TVA revises and republishes part 1318 to chapter XIII of title 18 of the Code of Federal Regulations to read as follows:

PART 1318—IMPLEMENTATION OF THE NATIONAL ENVIRONMENTAL POLICY ACT OF 1969

Subpart A—General Information

- Sec.
1318.10 Purpose and policy.
1318.20 Abbreviations.
1318.30 Definitions.

Subpart B—Initiating the NEPA Process

- 1318.100 Determining when NEPA applies.
1318.101 Determining the appropriate level of NEPA review.
1318.102 Determination of NEPA Adequacy.
1318.103 Supplements.
1318.104 Reliance on existing environmental documents.
1318.105 Lead and cooperating agency determinations.
1318.106 Schedule for the NEPA process.
1318.107 Scoping process.

Subpart C—Categorical Exclusions

- 1318.200 Purpose and scope.
1318.201 Extraordinary circumstances.
1318.202 Public notification.

Appendix A to Subpart C of Part 1318—Categorical Exclusions

Subpart D—Environmental Assessments

- 1318.300 Purpose and scope.
1318.301 EA preparation.
1318.302 Finding of No Significant Impact.

Subpart E—Environmental Impact Statements

- 1318.400 Purpose and scope.
1318.401 EIS preparation.
1318.402 Agency decision.

Subpart F—Miscellaneous Procedures

- 1318.500 Public and stakeholder involvement.
1318.501 Mitigation.
1318.502 Programmatic environmental documents and tiering.
1318.503 Coordination with project sponsors and procedures for project sponsor-prepared environmental documents.
1318.504 Reducing paperwork and delay.
1318.505 Information requirements.
1318.506 Causes of action.
1318.507 Emergency actions.
1318.508 Unique identification numbers.

Authority: 16 U.S.C. 831 *et seq.*; 42 U.S.C. 4321 *et seq.*

Subpart A—General Information

§ 1318.10 Purpose and policy.

This part establishes procedures for Tennessee Valley Authority (TVA) to use for compliance with the National Environmental Policy Act (NEPA) of 1969, as amended (42 U.S.C. 4321 *et seq.*).

(a) *Purpose.* The purpose of these procedures is to integrate NEPA into

TVA's decision-making processes. Specifically, the procedures: describe the process by which TVA determines what actions are subject to NEPA's procedural requirements and the applicable level of NEPA review; ensure that relevant environmental information is identified and considered early in the process to ensure informed decision making; enable TVA to conduct coordinated, consistent, predictable and timely environmental reviews; reduce unnecessary burdens and delays; and implement NEPA's mandates regarding lead and cooperating agency roles, page and time limits, and sponsor preparation of environmental documents.

(b) *Procedural and Interpretive Rule.* This document sets forth TVA's procedures and practices for implementing NEPA. It further explains TVA's interpretation of certain key terms in NEPA. It does not, nor does it intend to, govern the rights and obligations of any party outside the Federal government. It does, however, establish the procedures under which TVA will typically fulfill its requirements under NEPA.

(c) *Consultation with the Council on Environmental Quality (CEQ).* In addition to the process for establishing or revising categorical exclusions set forth in § 1318.200(c), TVA will consult with CEQ while developing or revising proposed NEPA implementing procedures, in accordance with NEPA sec. 102(2)(B), 42 U.S.C. 4332(B).

§ 1318.20 Abbreviations.

- (a) CE—Categorical Exclusion
- (b) CEQ—Council on Environmental Quality
- (c) EA—Environmental Assessment
- (d) EIS—Environmental Impact Statement
- (e) FONSI—Finding of No Significant Impact
- (f) NEPA—National Environmental Policy Act
- (g) TVA—Tennessee Valley Authority

§ 1318.30 Definitions.

The following definitions apply throughout this part. Other applicable terms should be given the same meaning as set forth in section 111 of NEPA unless such a reading would make the terms inconsistent with the context in which they appear.

(a) *Authorization* means any license, permit, approval, finding, determination, or other decision issued by an agency that is required or authorized under Federal law to implement a proposed action.

(b) *Effects or impacts* means changes to the human environment from the

proposed action or alternatives that are reasonably foreseeable and have a reasonably close causal relationship to the proposed action or alternatives.

(1) Effects may include ecological (such as the effects on natural resources and on the components, structures, and functioning of affected ecosystems), aesthetic, historic, cultural, economic (such as the effects on employment), social, or health effects. Effects appropriate for analysis under NEPA may be either beneficial or adverse, or both, with respect to these values.

(2) A “but for” causal relationship is insufficient to make TVA responsible for a particular effect under NEPA. Effects should generally not be considered if they are remote in time, geographically remote, or the product of a lengthy causal chain. Effects do not include those effects that the agency has no ability to prevent due to the limits of its regulatory authority, or that would occur regardless of the proposed action, or that would need to be initiated by a third party.

(c) *Human environment* means comprehensively the natural and physical environment and the relationship of Americans with that environment. (See also the definition of “effects” in paragraph (b) of this section.)

(d) *Jurisdiction by law* means agency authority to approve, veto, or finance all or part of the proposal.

(e) *Mitigation* means measures that avoid, minimize, or compensate for effects caused by a proposed action or alternatives as described in an environmental document or decision document that have a nexus to those effects. While NEPA requires consideration of mitigation, it does not mandate the form or adoption of any mitigation. Mitigation may include:

(1) Avoiding the impact altogether by not taking a certain action or parts of an action.

(2) Minimizing effects by limiting the degree or magnitude of the action and its implementation.

(3) Rectifying the impact by repairing, rehabilitating, or restoring the affected environment.

(4) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action.

(5) Compensating for the impact by replacing or providing substitute resources or environments.

(f) *NEPA process* means all measures necessary for compliance with the requirements of section 2 and title I of NEPA sec. 102(2), 42 U.S.C. 4332(2).

(g) *Notice of intent* means a public notice that an agency will prepare and consider an environmental document.

(h) *Official responsible for NEPA compliance* refers to the TVA official(s) who manages the NEPA compliance staff and is responsible for overall review of TVA NEPA compliance.

(i) *Page* means an 8.5" x 11" page with one-inch margins using a word processor with 12-point proportionally spaced font, single spaced. Footnotes may be in 10-point font. Such size restrictions do not apply to explanatory maps, diagrams, graphs, tables, and other means of graphically displaying quantitative or geospatial information, although pages containing such material do count towards the page limit. When an item of graphical material is larger than 8.5" x 11", each such item will count as one page.

(j) *Project sponsor* refers to a private applicant, individual, or other non-Federal entity that proposes to undertake an action that will require TVA's authorization.

(k) *Publish* means a method found by TVA to efficiently and effectively make environmental documents and information available for interested persons, including publication on TVA's website.

(l) *Reasonable alternatives* means a reasonable range of alternatives that are technically and economically feasible and meet the purpose and need for the proposed action.

(m) *Reasonably foreseeable* means sufficiently likely to occur such that a person of ordinary prudence would take it into account in reaching a decision.

(n) *Scope* consists of the range of actions, alternatives, and effects to be considered in an environmental document. The scope of an individual statement may depend on its relationships to other statements.

(o) *Tiering* refers to the coverage of general matters in a broader EIS or EA (such as a regional program or policy statements) with subsequent narrower statements or environmental analyses (such as site-specific statements) incorporating by reference the general discussions and concentrating solely on the issues specific to the statement subsequently prepared.

Subpart B—Initiating the NEPA Process

§ 1318.100 Determining when NEPA applies.

(a) At the earliest possible time, TVA will determine whether a proposed action requires an environmental review under NEPA and, if so, the level of environmental review.

(b) TVA will determine that NEPA does not apply to a proposed agency action when:

(1) The activities or decision do not result in final agency action under the Administrative Procedure Act, *see* 5 U.S.C. 704, or other relevant statute that also includes a finality requirement;

(2) The proposed activity or decision is exempted from NEPA by law;

(3) Compliance with NEPA would clearly and fundamentally conflict with the requirements of another provision of law;

(4) In circumstances where Congress by statute has prescribed decisional criteria with sufficient completeness and precision such that TVA retains no residual discretion to alter its action based on the consideration of environmental factors, then that function of TVA is nondiscretionary within the meaning of NEPA sec. 106(a)(4) and/or sec. 111(10)(B)(vii) (42 U.S.C. 4336(a)(4) and 4336e(10)(B)(vii), respectively), and NEPA does not apply to the action in question;

(5) The proposed action is an action for which another statute's requirements serve the function of agency compliance with the Act; or

(6) The proposed action is not a "major Federal action." The terms "major" and "federal action," each have independent force. NEPA applies only when both of these two criteria are met. Such a determination is inherently bound up in the facts and circumstances of each individual situation, and is thus reserved to the judgment of TVA in each instance.

(7) NEPA does not apply to "non-Federal actions." Therefore, under the terms of the statute, NEPA does not apply to actions with no or minimal Federal funding, or with no or minimal Federal involvement where a Federal agency cannot control the outcome of the project. NEPA sec. 111(10)(B)(i), 42 U.S.C. 4336e(10)(B)(i). A but-for causal relationship is insufficient to make an agency responsible for a particular action under NEPA. By the same token, minimal Federal funding or involvement does not by itself convert that action into a Federal action within the meaning of the language of the statute.

(c) The issuance or update of TVA's NEPA procedures is not subject to NEPA review.

(d) In determining whether NEPA applies to a proposed agency action, TVA will consider only the action or project at hand.

§ 1318.101 Determining the appropriate level of NEPA review.

(a) If TVA determines under § 1318.100 that NEPA applies to a proposed action or decision, TVA will then determine the appropriate level of NEPA review in the following sequence and manner. At all steps in the following process, TVA will consider the proposed action or project at hand and its effects.

(1) If TVA has established, or adopted pursuant to NEPA sec. 109, 42 U.S.C. 4336c, a categorical exclusion that covers the proposed action, TVA will analyze whether to apply the categorical exclusion to the proposed action and apply the categorical exclusion, if appropriate, pursuant to subpart C of this part.

(2) If another agency has already established a categorical exclusion that covers the proposed action, TVA will consider whether to adopt that exclusion pursuant to § 1318.200(d) so that it can be applied to the proposed action at issue, and to future actions or decisions of that type.

(3) If the proposed action warrants the establishment of a new categorical exclusion, or the revision of an existing categorical exclusion, pursuant to § 1318.200(c), TVA will consider whether to establish or revise, and then apply the categorical exclusion to the proposed action pursuant to subpart C of this part.

(4) If TVA cannot apply a categorical exclusion to the proposed action consistent with paragraphs (a)(1) through (3) of this section, TVA will consider the proposed action's reasonably foreseeable effects consistent with paragraph (b) of this section, and then will:

(i) if the proposed action is not likely to have reasonably foreseeable significant effects or the significance of the effects is unknown, develop an EA, as described in subpart D of this part; or

(ii) if the proposed action is likely to have reasonably foreseeable significant effects, develop an EIS, as described in subpart E of this part.

(b) When considering whether the reasonably foreseeable effects of the proposed action are significant, TVA will analyze the potentially affected environment and degree of the effects of the proposed action. TVA may use any reliable data source and will not undertake new research unless it is essential to evaluating alternatives and the cost and time of obtaining it are not unreasonable.

(1) In considering the potentially affected environment, TVA may consider, as appropriate to the specific

proposed action, the affected area and its resources.

(2) In considering the degree of the effects, TVA may consider the following, as appropriate to the specific proposed action:

- (i) Both short- and long-term effects.
- (ii) Both beneficial and adverse effects.
- (iii) Effects on public health and safety.
- (iv) Economic effects
- (v) Effects on the quality of life of the American people.

§ 1318.102 Determination of NEPA Adequacy.

TVA will determine whether a proposed action is already evaluated by an existing NEPA review, including a programmatic or generic review. In making a determination, TVA will evaluate and document whether the following conditions are met:

- (a) The new proposed action is substantially similar to an action previously analyzed in an existing environmental document(s);
- (b) The reasonably foreseeable environmental effects that would result from the new proposed action are similar to those analyzed in an existing environmental document(s); and
- (c) Any new information or circumstances relevant to environmental concerns would not substantially change the analysis in an existing environmental document(s).

§ 1318.103 Supplements.

(a) After completion of an environmental document, if TVA makes substantial changes in the proposed action that are relevant to environmental concerns or there is substantial new circumstances or information about the significance of the adverse effects that bear on the proposed action or its impact, and important components of the proposed action remain to be implemented, TVA will determine how the environmental document should be supplemented or modified. TVA may supplement an environmental document by issuing a new document that addresses changes in the proposed action or new circumstances or information or may modify the existing document so that revisions and edits to the original document are apparent. A supplemented or modified environmental document will be published.

(b) After completion of an environmental document, if TVA determines that changes to the proposed action that are relevant to environmental concerns are not

substantial or new circumstances or information are not significant or relevant to environmental concerns, and therefore supplemental analysis is not warranted, TVA will document this determination consistent with § 1318.102.

§ 1318.104 Reliance on existing environmental documents.

(a) TVA may rely on another Federal agency's EA or EIS (including an EA or EIS prepared by a Tribal, State, or local agency on behalf of a Federal agency), or a portion thereof, if TVA determines that TVA's proposed action is substantially the same or similar to the other agency's action, and the other agency's document meets the standards for an adequate statement or assessment under these procedures.

(b) In making this determination, TVA will consider whether the scope and analyses in the other agency's EA or EIS adequately address the TVA action. TVA will cite, briefly describe the content and relevance to the environmental document, and may make modifications that are necessary to render the relied-upon document, or portion thereof, fit for fulfilling NEPA analytic requirements for the action at hand. TVA will publish this determination and the EA or EIS relied upon and notify affected Federal, Tribal, State, and local agencies and other interested entities.

(c) TVA may supplement another agency's EA or EIS in accordance with § 1318.103.

§ 1318.105 Lead and cooperating agency determinations.

(a) As soon as practicable after the determination is made to prepare an EA or EIS, TVA will determine whether inviting other Federal, Tribal, State, or local agencies to participate in the preparation of the EA or EIS as lead, joint lead, or cooperating agencies is appropriate (NEPA sec. 107(a), 42 U.S.C. 4336a, and NEPA sec. 111, 42 U.S.C. 4336e). TVA will typically serve as the lead Federal agency for TVA actions. Any designation of lead federal agency will be made in accordance with NEPA sec. 107, U.S.C. 4336a.

(b) If TVA is participating with other Federal agencies in a NEPA review, TVA will cooperate with the other Federal agency(ies) to designate agency roles (e.g., lead agency, joint lead agency, cooperating agency).

(c) When participating with other Federal agencies, TVA will, to the extent practicable, work with the other Federal, Tribal, State, or local agencies to prepare a single environmental document.

§ 1318.106 Schedule for the NEPA process.

(a) Once TVA has made a determination of the level of NEPA review, TVA, and if applicable, project sponsors or other participating agencies, will establish a schedule for the completion of the environmental document, consistent with deadlines identified in NEPA sec. 107(g), 42 U.S.C. 4336a(g). Prior to establishing the schedule, TVA will review for completeness any information, data, materials, and/or any applications or agreements that are necessary to determine the level of NEPA review.

(b) TVA will address in the schedule, as appropriate, any concurrent and integrated surveys and studies required by other applicable environmental review laws and Executive Orders, including but not limited to the National Historic Preservation Act of 1966 (54 U.S.C. 300101 *et seq.*) and the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*).

(c) As the Supreme Court has repeatedly held, NEPA is governed by a "rule of reason." Congress supplied the measure of that reason in the 2023 revision of NEPA by setting the deadlines in NEPA sec. 107(g), 42 U.S.C. 4336a(g). These deadlines indicate Congress's determination that an agency has presumptively spent a reasonable amount of time on analysis and the document should issue, absent very unusual circumstances. In such circumstances, an extension will be given only for such time as is necessary to complete the analysis.

(1) TVA will complete an EIS not later than the date that is 2 years after the sooner of the date on which TVA determines that NEPA requires the preparation of an EIS with response to the proposal; the date on which TVA notifies the applicant that the application to establish a right-of-way for the proposal is complete; and the date on which TVA issues a notice of intent to prepare the EIS. (42 U.S.C. 4336a(g)(1)(A))

(2) TVA will complete an EA not later than the date that is 1 year after the sooner of the date on which TVA determines that NEPA requires the preparation of an EA with response to the proposal; the date on which TVA notifies the applicant that the application to establish a right-of-way for such action is complete; and the date on which TVA issues a notice of intent to prepare the EA for the proposal. (42 U.S.C. 4336a(g)(1)(B))

(3) TVA will calculate EIS or EA schedules from the applicable start date to the date TVA publishes the EIS or a finding of no significant impact as the

end date. Where TVA has prepared an EA that results in a decision to prepare an EIS, TVA will use the start date for the EA as the start date for the EIS unless it exercises its discretion to determine otherwise by direction of the TVA official responsible for NEPA.

(4) The EIS or EA will publish (unless the deadline is extended pursuant to the provision below) on the day the deadline elapses, in as substantially complete form as is possible.

(5) TVA will document the start and completion dates of each EIS or EA to assist TVA in tracking the schedule and preparing a report to congressional committees required by NEPA § 107(h), 42 U.S.C. 4336a(h).

(d) If TVA determines it is not able to meet the deadline prescribed by NEPA sec. 107(g)(1), 42 U.S.C. 4336a(g)(1), TVA will consult with the applicant, if any, pursuant to NEPA sec. 107(g)(2), 42 U.S.C. 4336a(g)(2). After such consultation, if needed, and for cause stated, TVA may establish a new deadline and appropriately document the cause. Cause for establishing a new deadline is only established if the EIS or EA is so incomplete, at the time at which TVA determines it is not able to meet the statutory deadline, that issuance would, in TVA's view, result in an inadequate analysis. Such new deadline must provide only so much additional time as is necessary to complete such EIS or EA. The announcement of the new deadline will specify the reason why the EIS or EA was not able to be completed under the statutory deadline and whether the applicant consented to the new deadline.

(e) When the EIS or EA is published, a responsible official will certify (and the certification will be incorporated into the EIS or EA) that the resulting EIS or EA represents TVA's good-faith effort to fulfill NEPA's requirements within the Congressional timeline; that such effort is substantially complete; and that, in the TVA's expert opinion, it has thoroughly considered the factors mandated by NEPA; and that, in TVA's judgment, the analysis contained therein is adequate to inform and reasonably explain TVA's final decision regarding the proposed federal action.

§ 1318.107 Scoping process.

(a) TVA will publish a notice of intent for an EIS and request public comment on the proposed action and alternatives.

(b) TVA may use the scoping process to identify for analysis in an EA or EIS the substantive issues that meaningfully inform the consideration of environmental effects and reasonable alternatives to be considered. Scoping

may also identify non-substantive issues that do not require analysis and/or alternatives that are determined not to be reasonable. Scoping may include work conducted prior to publication of the notice of intent or formal initiation of the NEPA process, including prior public engagement to identify issues and alternatives that may inform the eventual alternatives analyzed.

(c) The scoping process may include interagency scoping sessions to coordinate an action with and obtain inputs from other interested agencies (including likely affected Federal, Tribal, State, and local agencies).

(d) On the basis of input received during the scoping process, TVA will determine whether to modify the scope, schedule, or the type of environmental document.

Subpart C—Categorical Exclusions

§ 1318.200 Purpose and scope.

(a) Categories of actions addressed in this section are those that do not normally have a significant effect on the human environment and therefore do not require the preparation of an EA or an EIS. Such categories of actions (categorical exclusions) include those:

(1) Identified in appendix A of this part;

(2) Adopted by TVA consistent with NEPA sec. 109, 42 U.S.C. 4336c; or

(3) Identified by TVA pursuant to paragraph (c) of this section.

(b) A proposed action may be categorically excluded if a single categorical exclusion encompasses the proposed action or multiple categorical exclusions collectively encompass the proposed action, subject to a review for extraordinary circumstances pursuant to § 1318.201. A proposed action will not be impermissibly segmented into smaller parts such that the use of a categorical exclusion for any such smaller part would irreversibly and irretrievably commit TVA to a particular plan of action for a broader proposed action.

(c) TVA may update or revise the categorical exclusions listed in appendix A of this part when it identifies new categories of actions or determines that the definition of actions listed in appendix A of this part warrants revision or removal, based on TVA's experience. In making this determination, TVA will:

(1) Develop a written record containing information to substantiate its determination or to justify its removal;

(2) Consult with the CEQ on its proposed categorical exclusion or revision, including the written record,

for a period not to exceed 30 days prior to providing public notice as described in paragraph (c)(3); and

(3) Provide public notice of TVA's establishment, revisions, or removal of the categorical exclusion and publish the written record.

(d) Consistent with NEPA sec. 109, 42 U.S.C. 4336c, TVA may adopt a CE listed in another agency's NEPA procedures. If, after consulting with the agency, TVA determines such an adoption is appropriate, TVA will provide public notification of the adoption. The notification will briefly describe the agencies' consultation, the category of actions to which TVA would apply the CE, and any information relevant to the application of the adopted CE. The CEs adopted by TVA under NEPA sec. 109, 42 U.S.C. 4336c, will be listed on TVA's web page.

(e) TVA may rely on another Federal agency's determination that a categorical exclusion applies to a particular proposed action if the action covered by that determination and TVA's proposed action are substantially the same. In these instances, TVA will review the records of the other Federal agency to ensure the records address the TVA proposed action. TVA will document that TVA is relying on the categorical exclusion determination and that no extraordinary circumstances are present that require the preparation of an environmental document.

§ 1318.201 Extraordinary circumstances.

(a) If TVA determines that a categorical exclusion(s) covers a proposed action, TVA will evaluate the action for extraordinary circumstances in which a normally excluded action may have a significant effect.

(1) If an extraordinary circumstance exists, TVA may categorically exclude the proposed action if it determines that there are circumstances that lessen the impacts or other conditions sufficient to avoid significant effects or that the action may be modified to avoid the potential to result in significant effects.

(2) If TVA cannot categorically exclude the proposed action due to the presence of an extraordinary circumstance, TVA will prepare an EA or EIS, as appropriate.

(b) Examples of extraordinary circumstances to be considered are:

(1) The proposed action has the potential to significantly impact environmental resources, including the following resources:

(i) Species listed or proposed to be listed under the Endangered Species Act, or the proposed or designated Critical Habitat for these species;

(ii) Wetlands or floodplains;

(iii) Cultural or historical resources;
 (iv) Areas having special designation or recognition such as wild and scenic rivers, sacred sites, parklands, or wilderness areas; and

(v) Important farmland, as defined in 7 CFR part 657; and

(2) There is substantial scientific controversy regarding the significance of the environmental impacts of the proposed action.

(c) The mere presence of one or more of the resources under paragraph (b)(1) of this section does not by itself preclude the use of a categorical exclusion. Rather, the determination that an extraordinary circumstance(s) exists depends upon the finding of a causal relationship between a proposed action and the potential effect on these resource conditions, and, if such a relationship exists, the relative degree of the potential effect of a proposed action on these resource conditions.

(d) TVA will document its review for extraordinary circumstances for categories of actions that are likely to result in a physical effect on the environment. No documentation of the extraordinary circumstances review is required for categories of actions that would not result in a physical effect on the environment or carry little risk of significant environmental effects.

§ 1318.202 Public notification.

TVA may, in its sole discretion, provide public notification on any action for which a categorical exclusion is used if TVA determines that the public may have relevant and important information relating to the proposal that will assist TVA in its decisionmaking.

Appendix A to Subpart C of Part 1318—Categorical Exclusions

TVA has established the following classes of actions as categorical exclusions. Individual actions must be reviewed to determine whether extraordinary circumstances are present (see § 1318.201). If an extraordinary circumstance cannot be addressed sufficiently to render the action's impacts not significant, an EA or an EIS must be prepared.

1. Educational or informational activities undertaken by TVA alone or in conjunction with other agencies, public and private entities, or the general public.

2. Technical and planning assistance provided to State, local and private organizations and entities.

3. Personnel actions.

4. Procurement actions.

5. Accounting, auditing, financial reports and disbursement of funds.

6. Contracts or agreements for the sale, purchase, or interchange of electricity.

7. Administrative actions consisting solely of paperwork.

8. Communication, transportation, computer service and office services.

9. Property protection activities that do not physically alter facilities or grounds, law enforcement and other legal activities.

10. Emergency preparedness actions not involving the modification of existing facilities or grounds.

11. Minor actions to address threats to public health and safety, including, but not limited to, temporary prohibition of existing uses of TVA land or property, short-term closures of sites, and selective removal of trees that pose a hazard.

12. Site characterization, data collection, inventory preparation, planning, monitoring, and other similar activities that have little to no physical impact.

13. Engineering and environmental studies that involve minor physical impacts, including but not limited to, geotechnical borings, dye-testing, installation of monitoring stations and groundwater test wells, and minor actions to facilitate access to a site.

14. Conducting or funding minor research, development and demonstration projects and programs.

15. Reserved.

16. Construction of new transmission line infrastructure, including electric transmission lines generally no more than 10 miles in length and that require no more than 125 acres of new developed rights-of-way and no more than 1 mile of new access road construction outside the right-of-way; and/or construction of electric power substations or interconnection facilities, including switching stations, phase or voltage conversions, and support facilities that generally require the physical disturbance of no more than 10 acres.

17. Routine modification, repair, and maintenance of, and minor upgrade of and addition to, existing transmission infrastructure, including the addition, retirement, and/or replacement of breakers, transformers, bushings, and relays; transmission line uprate, modification, reconductoring, and clearance resolution; and limited pole replacement. This exclusion also applies to improvements of existing access roads and construction of new access roads outside of the right-of-way that are generally no more than 1 mile in length.

18. Construction, modification and operation of communication facilities and/or equipment, including power line carriers, insulated overhead ground wires/fiber optic cables, devices for electricity transmission control and monitoring, VHF radios, and microwaves and support towers.

19. Removal of conductors and structures, and/or the cessation of right-of-way vegetation management, when existing transmissions lines are retired; or the rebuilding of transmission lines within or contiguous to existing rights-of-way involving generally no more than 25 miles in length and no more than 125 acres of expansion of the existing right-of-way.

20. Purchase, conveyance, exchange, lease, license, and/or disposal of existing substations, substation equipment, switchyards, and/or transmission lines and rights-of-way and associated equipment

between TVA and other utilities and/or customers.

21. Purchase or lease and subsequent operation of existing combustion turbine or combined-cycle plants for which there is existing adequate transmission and interconnection to the TVA transmission system and whose planned operation by TVA is within the normal operating levels of the purchased or leased facility.

22. Development of dispersed recreation sites (generally not to exceed 10 acres in size) to support activities such as hunting, fishing, primitive camping, wildlife observation, hiking, and mountain biking. Actions include, but are not limited to, installation of guardrails, gates and signage, hardening and stabilization of sites, trail construction, and access improvements/controls.

23. Development of public use areas that generally result in the physical disturbance of no more than 10 acres, including, but not limited to, construction of parking areas, campgrounds, stream access points, and day use areas.

24. Minor actions conducted by non-TVA entities on TVA property to be authorized under contract, license, permit, or covenant agreements, including those for utility crossings, agricultural uses, recreational uses, rental of structures, and sales of miscellaneous structures and materials from TVA land.

25. Transfer, lease, or disposal (sale, abandonment or exchange) of (a) minor tracts of land, mineral rights, and landrights, and (b) minor rights in ownership of permanent structures.

26. Approvals under Section 26a of the TVA Act of minor structures, boat docks and ramps, and shoreline facilities.

27. Installation of minor shoreline structures or facilities, boat docks and ramps, and actions to stabilize shoreline (generally up to ½ mile in length) by TVA.

28. Minor modifications to land use allocations outside of a normal land planning cycle to: rectify administrative errors; incorporate new information that is consistent with a previously approved decision included in the land use plan; or implement TVA's shoreline or land management policies affecting no more than 10 acres.

29. Actions to restore and enhance wetlands, riparian, and aquatic ecosystems that generally involve physical disturbance of no more than 10 acres, including, but not limited to, construction of small water control structures; revegetation actions using native materials; construction of small berms, dikes, and fish attractors; removal of debris and sediment following natural or human-caused disturbance events; installation of silt fences; construction of limited access routes for purposes of routine maintenance and management; and reintroduction or supplementation of native, formerly native, or established species into suitable habitat within their historic or established range.

30. Actions to maintain, restore, or enhance terrestrial ecosystems that generally involve physical disturbance of no more than 125 acres, including, but not limited to, establishment and maintenance of non-invasive vegetation; bush hogging; prescribed

fires; installation of nesting and roosting structures, fencing, and cave gates; and reintroduction or supplementation of native, formerly native, or established species into suitable habitat within their historic or established range.

31. The following forest management activities:

a. Actions to manipulate species composition and age class, including, but not limited to, harvesting or thinning of live trees and other timber stand improvement actions (e.g., prescribed burns, non-commercial removal, chemical control), generally covering up to 125 acres and requiring no more than 1 mile of temporary or seasonal permanent road construction;

b. Actions to salvage dead and/or dying trees including, but not limited to, harvesting of trees to control insects or disease or address storm damage (including removal of affected trees and adjacent live, unaffected trees as determined necessary to control the spread of insects or disease), generally covering up to 250 acres and requiring no more than 1 mile of temporary or seasonal permanent road construction; and

c. Actions to regenerate forest stands, including, but not limited to, planting of native tree species upon site preparation, generally covering up to 125 acres and requiring no more than 1 mile of temporary or seasonal permanent road construction.

32. Actions to manage invasive plants including, but not limited to, chemical applications, mechanical removal, and manual treatments that generally do not physically disturb more than 125 acres of land.

33. Actions to protect cultural resources including, but not limited to, fencing, gating, signing, and bank stabilization (generally up to 1/2 mile in length when along stream banks or reservoir shoreline).

34. Reburial of human remains and funerary objects under the Native American Graves Protection and Repatriation Act that are inadvertently discovered or intentionally excavated on TVA land.

35. Installation or modification (but not expansion) of low-volume groundwater withdrawal wells (provided that there would be no drawdown other than in the immediate vicinity of the pumping well and that there is no potential for long-term decline of the water table or degradation of the aquifer), or plugging of groundwater or other wells at the end of their operating life. Site characterization must verify a low potential for seismicity, subsidence, and contamination of freshwater aquifers.

36. Routine operation, repair or in-kind replacement, and maintenance actions for existing buildings, infrastructure systems, facility grounds, public use areas, recreation sites, and operating equipment at or within the immediate vicinity of TVA's generation and other facilities. Covered actions are those that are required to maintain and preserve assets in their current location and in a condition suitable for use for its designated purpose. Such actions will not result in a change in the design capacity, function, or operation. (Routine actions that include replacement or changes to major components of buildings, facilities, infrastructure systems,

or facility grounds, and actions requiring new permits or changes to an existing permit(s) are addressed in CE 37). Such actions may include, but are not limited to, the following:

a. Regular servicing of in-plant and on-site equipment (including during routine outages) such as gear boxes, generators, turbines and bearings, duct work, conveyers, and air preheaters; fuel supply systems; unloading and handling equipment for fuel; handling equipment for ash, gypsum or other by-products or waste; hydropower, navigation and flood control equipment; water quality and air emissions control or reduction equipment; and other operating system or ancillary components that do not increase emissions or discharges beyond current permitted levels;

b. Regular servicing of power equipment and structures within existing transmission substations and switching stations;

c. Routine testing and calibration of facility components, subsystems, or portable equipment (such as control valves, in-core monitoring devices, transformers, capacitors, monitoring wells, weather stations, and flumes);

d. Routine cleaning and decontamination, including to surfaces of equipment, rooms, and building systems (including HVAC, septic systems, and tanks);

e. Repair or replacement of plumbing, electrical equipment, small HVAC systems, sewerage, pipes, and telephone and other communication service;

f. Repair or replacement of doors, windows, walls, ceilings, roofs, floors and lighting fixtures in structures less than 50 years old;

g. Painting and paint removal at structures less than 50 years old, including actions taken to contain, remove, or dispose of lead-based paint when in accordance with applicable requirements;

h. Recycling and/or removal of materials, debris, and solid waste from facilities, in accordance with applicable requirements;

i. Groundskeeping actions, including mowing and landscaping, snow and ice removal, application of fertilizer, erosion control and soil stabilization measures (such as reseeding and revegetation), removal of dead or undesirable vegetation with a diameter of less than 3 inches (at breast height), and leaf and litter collection and removal;

j. Repair or replacement of gates and fences;

k. Maintenance of hazard buoys;

l. Maintenance of groundwater wells, discharge structures, pipes and diffusers;

m. Maintenance and repair of process, wastewater, and stormwater ponds and associated piping, pumping, and treatment systems;

n. Maintenance and repair of subimpoundments and associated piping and water control structures;

o. Debris removal and maintenance of intake structures and constructed intake channels including sediment removal to return them to the originally-constructed configuration; and

p. Clean up of minor spills as part of routine operations.

37. Modifications, upgrades, uprates, and other actions that alter existing buildings,

infrastructure systems, facility grounds, and plant equipment, or their function, performance, and operation. Such actions, which generally will not physically disturb more than 10 acres, include but are not limited to, the following:

a. Replacement or changes to major components of existing buildings, facilities, infrastructure systems, facility grounds, and equipment that are like-kind in nature;

b. Modifications, improvements, or operational changes to in-plant and on-site equipment that do not substantially alter emissions or discharges beyond current permitted limits. Examples of equipment include, but are not limited to: gear boxes, generators, turbines and bearings, duct work, conveyers, superheaters, economizers, air preheaters, unloading and handling equipment for fuel; handling equipment for ash, gypsum or other by-products or waste; hydropower, navigation and flood control equipment; air and water quality control equipment; control, storage, and treatment systems (e.g. automation, alarms, fire suppression, ash ponds, gypsum storage, and ammonia storage and handling systems); and other operating system or ancillary components;

c. Installation of new sidewalks, fencing, and parking areas at an existing facility;

d. Installation or upgrades of large HVAC systems;

e. Modifications to water intake and outflow structures provided that intake velocities and volumes and water effluent quality and volumes are consistent with existing permit limits;

f. Repair or replacement of doors, windows, walls, ceilings, roofs, floors and lighting fixtures in structures greater than 50 years old; and

g. Painting and paint removal at structures greater than 50 years old, including actions taken to contain, remove and dispose of lead-based paint when in accordance with applicable requirements.

38. Siting, construction, and use of buildings and associated infrastructure (e.g., utility lines serving the building), physically disturbing generally no more than 10 acres of land not previously disturbed by human activity or 25 acres of land so disturbed.

39. Siting and temporary placement and operation of trailers, prefabricated and modular buildings, or tanks on previously disturbed sites at an existing TVA facility.

40. Demolition and disposal of structures, buildings, equipment and associated infrastructure and subsequent site reclamation, subject to applicable review for historical value, on sites generally less than 10 acres in size.

41. Actions to maintain roads, trails, and parking areas (including resurfacing, cleaning, asphalt repairs, and placing gravel) that do not involve new ground disturbance (i.e., no grading).

42. Improvements to existing roads, trails, and parking areas, including, but not limited to, scraping and regrading; regrading of embankments; installation or replacement of culverts; and other such minor expansions.

43. Actions to enhance and control access to TVA property including, but not limited to, construction of new access roads and

parking areas (generally no greater than 1 mile in length and physically disturbing no more than 10 acres of land not previously disturbed by human activity or 25 acres of land so disturbed) and installation of control measures such as gates, fences, or post and cable.

44. Small-scale, non-emergency cleanup of solid waste or hazardous waste (other than high-level radioactive waste and spent nuclear fuel) to reduce risk to human health or the environment. Actions include collection and treatment (such as incineration, encapsulation, physical or chemical separation, and compaction), recovery, storage, or disposal of wastes at existing facilities currently handling the type of waste involved in the action.

45. Installation, modification, and operation of the following types of renewable or waste-heat recovery energy projects which increase generating capacity at an existing TVA facility, generally comprising of physical disturbance to no more than 10 acres of land not previously disturbed by human activity or 25 acres of land so disturbed:

a. Combined heat and power or cogeneration systems at existing buildings or sites; and

b. Solar photovoltaic systems mounted on the ground, an existing building or other structure (such as a rooftop, parking lot or facility and mounted to signage lighting, gates or fences).

46. Transactions (contracts or agreements) for purchase of electricity from new methane gas electric generating systems using commercially available technology and installed within an area previously developed or disturbed by human activity.

47. Modifications to the TVA rate structure (*i.e.*, rate change) that result in no predicted increase in overall TVA-system electricity consumption.

48. Financial and technical assistance for programs conducted by non-TVA entities to promote energy efficiency or water conservation, including, but not limited to, assistance for installation or replacement of energy efficient appliances, insulation, HVAC systems, plumbing fixtures, and water heating systems.

49. Financial assistance including, but not limited to, approving and administering grants, loans and rebates for the renovation or minor upgrading of existing facilities, established or developing industrial parks, or existing infrastructure; the extension of infrastructure; geotechnical boring; and construction of commercial and light industrial buildings. Generally, such assistance supports actions that physically disturb no more than 10 acres of land not previously disturbed by human activity or no more than 25 acres of land so disturbed.

50. Financial assistance for the following actions: approving and administering grants, loans and rebates for continued operations or purchase of existing facilities and infrastructure for uses substantially the same as the current use; purchasing, installing, and replacing equipment or machinery at existing facilities; and completing engineering designs, architectural drawings, surveys, and site assessments (except when tree clearing,

geotechnical boring, or other land disturbance would occur).

Subpart D—Environmental Assessments

§ 1318.300 Purpose and scope.

(a) If an action is subject to NEPA and unless TVA finds that the proposed action is excluded from having to prepare an EA or EIS pursuant to a categorical exclusion as determined following the procedures in subpart C of this part, or by another provision of law, TVA will prepare an EA with respect to a proposed agency action that does not have a reasonably foreseeable significant effect on the quality of the human environment, or if the significance of such effect is unknown. TVA is mindful of Congress' direction that EAs are to be "concise." NEPA sec. 106(b)(2); 42 U.S.C. 4336(b)(2).

(b) An EA will concisely communicate information and analyses about issues that are potentially significant and a reasonable range of alternatives.

§ 1318.301 EA preparation.

(a) The EA will briefly describe the proposed action and include brief discussions of the purpose and need for action, alternatives required by NEPA sec. 102(2)(H), 42 U.S.C. 4332(2)(H), and the environmental effects of the proposed action and alternatives.

(b) TVA may, in its sole discretion, request public and stakeholder involvement in the preparation of an EA and provide a public comment period. When public comment is requested, the EA will address substantive comments made in accordance with § 1318.500.

(c) The EA will briefly provide sufficient data and analysis for determining whether to sign a FONSI or prepare an EIS.

(d) The text of an EA is strictly prohibited from exceeding 75 pages, not including citations or appendices.

(e) Appendices are to be used for voluminous materials, such as scientific tables, collections of data, statistical calculations, and the like, which substantiate the analysis provided in the EA. Appendices are not to be used to provide additional substantive analysis, because that would circumvent the congressionally mandated page limits.

(f) The breadth and depth of analysis in an EA will be tailored to ensure that the environmental analysis does not exceed this page limit. In this regard, as part of the finalization of the EA, a responsible official will certify (and the certification will be incorporated into the EA) that TVA has considered the factors mandated by NEPA; that the EA

represents TVA's good-faith effort to prioritize documentation of the most important considerations required by the statute within the congressionally mandated page limits; that this prioritization reflects TVA's expert judgment; and that any considerations addressed briefly or left unaddressed were, in TVA's judgment, comparatively not of a substantive nature that meaningfully informed the consideration of environmental effects and the resulting decision on how to proceed. Such certification may be combined with the certification required under § 1318.106(e).

§ 1318.302 Finding of No Significant Impact.

(a) TVA will prepare a finding of no significant impact if TVA determines, based on the EA, not to prepare an EIS because the proposed action will not have significant effects. The finding of no significant impact will:

(1) Include the EA or incorporate it by reference;

(2) Document TVA's determination that the proposed action will not have a significant effect on the quality of the human environment;

(3) State the authority for any mitigation that TVA has adopted and any applicable monitoring or enforcement provisions. If TVA finds no significant effects based on mitigation, the mitigated finding of no significant impact will state any mitigation requirements enforceable by TVA or voluntary mitigation commitments that will be undertaken to avoid significant effects;

(4) Identify any other documents related to the finding of no significant impact; and

(5) State that an EIS will not be prepared, concluding the NEPA process for the action.

(b) TVA will publish a FONSI as part of an EA or as a separate document.

Subpart E—Environmental Impact Statements

§ 1318.400 Purpose and scope.

(a) TVA will prepare an EIS for major Federal actions significantly affecting the quality of the human environment. The EIS will address each of the elements identified in section 102(2)(C) of NEPA.

(b) TVA will focus its analysis on whether the environmental effects of the proposed action are significant.

(c) Similarly, TVA will document in the EIS where and how it drew a reasonable and manageable line relating to its consideration of any environmental effects from the action or

project at hand that extend outside the geographical territory of the project or might materialize later in time.

§ 1318.401 EIS preparation.

(a) The following standard format may be used unless TVA determines that a different format is more appropriate:

- (1) Executive summary.
- (2) Purpose and need.
- (3) Reasonable range of alternatives including the proposed action.
- (4) Affected environment.
- (5) Environmental consequences.
- (6) Appendix.

(b) During the process of preparing an EIS, TVA will obtain the comments of any Federal agency that has jurisdiction by law or special expertise with respect to any environmental impact involved and appropriate Federal, Tribal, State, and local agencies that are authorized to develop and enforce environmental standards. Consistent with § 1318.500, TVA may, in its sole discretion, seek comments from the public and Tribal, State, and local agencies that may be affected by the proposed action or have expressed interest in the proposed action. TVA will address any substantive comments received in the EIS and will determine whether modifications to the EIS are necessary.

(c) TVA will publish the EIS and notify the Environmental Protection Agency; other interested Federal, Tribal, State, and local agencies; and other entities and individuals who have expressed interest in the proposed action.

(d) Except as provided in paragraph (e) of this section, the text of an EIS will not exceed 150 pages, not including citations or appendices.

(e) An EIS for a proposed agency action of extraordinary complexity is strictly prohibited from exceeding 300 pages, not including any citations or appendices. TVA will determine at the earliest possible stage of preparation of an EIS whether the conditions for exceeding the page limit in paragraph (d) of this section are present.

(f) Appendices are to be used for voluminous materials, such as scientific tables, collections of data, statistical calculations, and the like, which substantiate the analysis provided in the EIS. Appendices are not to be used to provide additional substantive analysis, because that would circumvent the congressionally mandated page limits.

(g) The breadth and depth of analysis in an EIS will be tailored to ensure that the EIS does not exceed these page limits. In this regard, as part of the finalization of the EIS, a responsible official will certify that TVA has considered the factors mandated by

NEPA; that the EIS represents TVA's good-faith effort to prioritize documentation of the most important considerations required by the statute within the congressionally mandated page limits; that this prioritization reflects TVA's expert judgment; and that any considerations addressed briefly or left unaddressed were, in TVA's judgment, comparatively unimportant or frivolous. Such certification may be combined with the certification required under § 1318.106(e).

§ 1318.402 Agency decision.

(a) When TVA is considering a proposed action, TVA will not take action that would have a significant adverse environmental effect or limit the choice of reasonable alternatives until TVA determines that the requirements of these procedures have been met.

(b) After completion of the EIS, TVA may prepare and timely publish a concise decision document notifying the public that TVA has considered all relevant information raised in the NEPA process in making its decision.

(c) The decision document would normally address the decision, the basis for the decision, and any monitoring and/or mitigation commitments.

Subpart F—Miscellaneous Procedures

§ 1318.500 Public and stakeholder involvement.

(a) TVA may, in its sole discretion, request public involvement in the preparation of an environmental document. The type of and format for notification and public participation will be selected as appropriate to best facilitate timely and meaningful public input. Any process of obtaining and requesting comments may be undertaken at any time that is reasonable in the process of preparing the environmental document. TVA will ensure that the process of obtaining and requesting comments, and TVA's analysis of and response to those comments, does not cause TVA to violate NEPA's deadlines for completion of an environmental document.

(b) TVA will maintain a public website on which it publishes completed environmental documents, decision documents, relevant notices, the list of established and adopted categorical exclusions, and other information relating to TVA's NEPA compliance program.

(c) When TVA seeks comments from the public, TVA will publish the document and provide it by other reasonable means upon request. TVA will specify an appropriate comment

period and method for submission of comments. TVA will consider substantive comments submitted within the period and method specified. TVA is not required to respond to comments or objections of any kind that were not submitted in the time or manner specified, and any such comments shall be considered not properly submitted.

(d) When opportunities for public participation are provided, TVA will notify the public that comments submitted to TVA on the NEPA document and the names and addresses of those commenting may be made available for public inspection.

(e) If TVA determines that an individual comment or group of comments is substantive, TVA will respond in the environmental document by:

- (1) Modifying alternatives including the proposed action;
- (2) Developing and evaluating alternatives not previously given serious consideration;
- (3) Supplementing, improving, or modifying its analyses;
- (4) Making factual corrections; or
- (5) Stating that no action is needed.

(f) Changes to the document resulting from substantive comments will be briefly summarized in the environmental document.

(g) TVA will publish all comments received during the comment period when the environmental document is published.

(h) TVA may provide notification on its website if TVA withdraws, cancels, or otherwise ceases the consideration of a proposed action before completing an environmental document.

§ 1318.501 Mitigation.

(a) TVA will identify, as appropriate, measures to mitigate expected significant adverse environmental effects in an environmental document. Those mitigation measures to which TVA commits must be identified in the associated FONSI or decision document (or the documentation, if any, prepared for a categorical exclusion).

(b) Circumstances may arise that warrant modifying or cancelling previously made commitments. TVA may modify or cancel a commitment after considering the environmental significance of such a change.

§ 1318.502 Programmatic environmental documents and tiering.

(a) A programmatic environmental document may be prepared to address a proposed program, policy, or plan, or a proposed action that has a wide geographic scope.

(b) A programmatic environmental document can support high-level or

broad decisionmaking and can provide the foundation for the efficient review of specific tiered implementing actions. When TVA has prepared an environmental document for programs, plans, and policies, the tiered document need only summarize and incorporate by reference the issues discussed in the broader document. The tiered document will concentrate on the subsequent proposed action.

(c) Ongoing or previously planned and approved actions that are within the scope of a programmatic review may continue during the programmatic review period, so long as the planned and approved actions are justified independently of the program, are accompanied by an adequate environmental review, and would not prejudice the ultimate decision on the contemplated program.

(d) The identification of significant impacts in a programmatic EIS does not preclude the review of specific implementing actions in a subsequent tiered NEPA review if the implementing actions would not result in new or different significant impacts.

(e) TVA will rely on programmatic environmental documents in accordance with section 108 of NEPA.

§ 1318.503 Coordination with project sponsors and procedures for project sponsor-prepared environmental documents.

(a) When a project sponsor proposes to undertake an action that will require TVA's authorization, TVA will determine whether NEPA is triggered and the scope of the review of TVA's proposed action.

(b) When TVA prepares an environmental document to consider authorization of a project sponsor's action, TVA will provide the project sponsor with information on its responsibilities for assisting TVA in conducting the necessary NEPA review. At TVA's discretion, this assistance can include providing TVA detailed information about the scope and nature of the proposed action, environmental analyses and studies, and copies of associated environmental permit applications submitted to other Federal, Tribal, State, or local agencies. TVA will independently evaluate the submitted information for accuracy.

(c) In accordance with NEPA sec. 107(f), 42 U.S.C. 4336a(f), TVA allows project sponsors, or contractors hired by project sponsors, to prepare NEPA documents under TVA's supervision.

(d) TVA will independently evaluate the environmental document and will take responsibility for its contents.

(e) TVA will assist project sponsors and project sponsor-hired contractors by providing guidance and outlining the types of information required for the preparation of the environmental document. TVA will work with the project sponsor to define the purpose and need, and, when appropriate, to develop a reasonable range of alternatives to meet that purpose and need.

(f) A project sponsor normally will be required to reimburse TVA for all of the costs in reviewing the project sponsor's proposed action or environmental document. (See 16 U.S.C. 831c(d); 18 CFR part 1310.) Participation of a project sponsor in a TVA NEPA review, including reimbursement of TVA's costs, does not commit TVA to any favorable action on a request for authorization.

(g) Project sponsors or contractors assisting in the preparation of the environmental documents will submit a disclosure statement to TVA that specifies any financial or other interest in the outcome of the action.

(h) Project sponsors intending to pay a fee for an expedited EA or EIS deadline pursuant to NEPA sec. 112, 42 U.S.C. 4336f, for which TVA would be the lead agency should consult with TVA before submitting a request to CEQ. TVA will use such consultation to assist the project sponsor in providing an accurate description of the project as it relates to the anticipated EA or EIS-associated costs and understanding the anticipated scope of the environmental review including whether to prepare an EA or an EIS.

(i) TVA's compliance with NEPA sec. 107(g), 42 U.S.C. 4336a(g), and NEPA sec. 112, 42 U.S.C. 4336f, is contingent on receipt of complete and accurate project information from a project sponsor.

(j) Project sponsors must not take actions concerning a proposal that may have an environmental impact or that would limit or affect TVA's decision until TVA determines that the requirements of these procedures have been met. If such actions are taken prior to that determination, TVA may deny the project sponsor's request for TVA's authorization. This section does not preclude a project sponsor from developing plans or designs or taking other actions that will not have environmental impact to support an application or proposal for TVA's authorization.

§ 1318.504 Reducing paperwork and delay.

(a) To reduce paperwork and delay and to meet NEPA's page limits and time limits, TVA will prepare analytic

and concise environmental documents, with emphasis placed on portions of the environmental documents that are useful to decision makers and the public. Data and analyses will be commensurate with the importance of associated impacts. Less important material will be briefly discussed, summarized, consolidated, or referenced as appropriate.

(b) TVA may incorporate material, such as planning studies, analyses, or other relevant information, into environmental documents by reference. TVA will cite to incorporated material in the document and briefly describe its content.

(c) Environmental documents will be written in plain language and follow a clear format that excludes content that is not critical to compliance with NEPA section 101.

(d) An environmental document may be combined with any other document to reduce duplication, paperwork, and delay.

§ 1318.505 Information requirements.

(a) *Methodology and scientific accuracy.* To ensure the professional integrity, including scientific integrity, of the discussions and analyses in environmental documents, TVA will rely on reliable existing applicable data and resources. TVA will identify any methodologies used and reference to scientific and other sources relied upon for its conclusions in environmental documents. TVA is not required to undertake new scientific and technical research to inform the analysis but may do so at its discretion.

(b) *Incomplete and unavailable information.* When there is incomplete or unavailable information relating to the reasonably foreseeable significant adverse effects on the human environment, TVA will make clear that such information is lacking in the EIS. If the incomplete but available information is essential to a reasoned choice among alternatives and costs of obtaining it are reasonable, TVA will include the information in the EIS. If information cannot be obtained because the cost is unreasonable or the means to obtain it are not known, TVA will state in the EIS that the information is unavailable, explain the extent to which the information is relevant to its evaluation of reasonably foreseeable significant adverse effects, and summarize existing scientific evidence addressing the reasonably foreseeable significant adverse effects. TVA will include its evaluation of effects based upon theoretical approaches or research methods generally accepted in the scientific community.

§ 1318.506 Causes of action.

This part establishes the procedures by which TVA will typically fulfill the requirements of NEPA. Minor deviations do not establish that TVA failed to comply with NEPA and do not create a substantive right or cause of action for violation of NEPA.

§ 1318.507 Emergency actions.

(a) TVA may consolidate, modify, or omit provisions of these procedures for actions necessary in an emergency and ensure such changes would substantially comply with the intent of these procedures.

(b) Where emergency circumstances make it necessary to take an action with significant environmental impact without observing the provisions of these regulations, TVA will consult with the CEQ about alternative arrangements for those actions necessary to control the immediate impacts of the emergency.

(c) TVA will document the determination that an emergency exists and describe the responsive action(s) taken at the time the emergency exists. The form and content of that documentation is within TVA's discretion.

§ 1318.508 Unique identification numbers.

For all environmental documents, TVA will provide a unique identification number for tracking purposes, which TVA will reference on all associated environmental review documents prepared for the proposed agency action and in any database or tracking system for such documents. TVA will coordinate with the CEQ and other federal agencies to ensure uniformity of such identification numbers across federal agencies.

■ For the reasons stated in the preamble, TVA adds part 1319 to chapter XIII of title 18 of the Code of Federal Regulations to read as follows:

PART 1319—FLOODPLAINS AND WETLANDS

Sec.

- 1319.10 Purpose and scope.
- 1319.20 Definitions.
- 1319.30 Area of impact.
- 1319.40 Actions that will affect floodplains or wetlands.
- 1319.50 Public notice.
- 1319.60 Disposition of real property.
- 1319.70 General and class reviews.

Authority: 16 U.S.C. 831 *et seq.*; E.O. 11988, 42 FR 26951; E.O. 11990, 42 FR 26961

§ 1319.10 Purpose and scope.

(a) The review of a proposed action undertaken in accordance with §§ 1318.200, 1318.300, and 1318.400

that potentially affects floodplains or wetlands must include a floodplain or wetlands evaluation that is consistent with Executive Order 11988 (Floodplain Management) and Executive Order 11990 (Protection of Wetlands) pertaining to floodplains or wetlands, respectively, as required by this section.

(b) Floodplain evaluations must apply any existing Federal flood risk management standard to federally-funded projects.

(c) A wetland evaluation under Executive Order 11990 is not required for the issuance of permits, licenses, or allocations to private parties for activities involving wetlands on non-Federal lands.

§ 1319.20 Definitions.

The following definitions apply throughout this part.

(a) *Floodplain* refers to the lowland and relatively flat areas adjoining inland waters and reservoirs. Floodplain generally refers to an area that has a 1 percent or greater chance of flooding in any given year.

(b) *Practicable* refers to the capability of an action being performed within existing constraints. The test of what is practicable depends on the situation and includes an evaluation of all pertinent factors, such as environmental impact, economic costs, statutory authority, legality, technological achievability, and engineering constraints.

(c) *Natural and beneficial floodplain and wetland values* refer to such attributes as the capability of floodplains and wetlands to provide natural moderation of floodwaters, water quality maintenance, fish and wildlife habitat, plant habitat, open space, natural beauty, scientific and educational study areas, and recreation.

(d) *Wetland* refers to an area inundated by surface or ground water with a frequency sufficient to support, and that under normal circumstances does or would support, a prevalence of vegetation or aquatic life that requires saturated or seasonally saturated soil conditions for growth and reproduction. Wetlands do not include temporary human-made ponds associated with active construction projects.

§ 1319.30 Area of impact.

(a) If a proposed action will potentially occur in or affect wetlands or floodplains, TVA will, as soon as practicable in the planning process, request the appropriate TVA staff with expertise in floodplain or wetland impact evaluations to determine whether the proposed action will occur in or affect a wetland or floodplain and

the level of impact, if any, on the wetland or floodplain.

(b) Further floodplain or wetland evaluation is unnecessary if the TVA staff with expertise in floodplain or wetland impact evaluations determines that the proposed action:

- (1) Is outside the floodplain or wetland;
- (2) Has no identifiable impacts on a floodplain or wetland; and
- (3) Does not directly or indirectly support floodplain development or wetland alteration.

§ 1319.40 Actions that will affect floodplains or wetlands.

(a) When a proposed action can otherwise be categorically excluded under § 1318.200, no additional floodplain or wetland evaluation is required if:

(1) TVA determines that there is no practicable alternative that will avoid affecting floodplains or wetlands and that all practicable measures to minimize impacts of the proposed action to floodplains or wetlands are incorporated and

(2) The TVA staff with expertise in floodplain or wetland impact evaluations determines that impacts on the floodplain or wetland would be minor.

(b) If the action requires an EA or an EIS, the evaluation must consider:

- (1) The effect of the proposed action on natural and beneficial floodplain and wetland values and
- (2) Alternatives to the proposed action that would eliminate or minimize such effects.

(c) TVA must determine if there is no practicable alternative to siting in a floodplain or constructing in a wetland. If a determination of no practicable alternative is made, all practicable measures to minimize impacts of the proposed action on the floodplain or wetland must be implemented. If at any time prior to commencement of the action it is determined that there is a practicable alternative that will avoid affecting floodplains or wetlands, the proposed action must not proceed.

§ 1319.50 Public notice.

(a) Once a determination of no practicable alternative is made in accordance with § 1318.40, TVA must notify the public of a proposed action's potential impact on floodplains or wetlands if the proposed action is subject to executive order and not already covered by class review. Public notice of actions affecting floodplains or wetlands may be combined with any notice published by TVA or another Federal agency if such a notice generally

meets the minimum requirements set forth in this section. Issuance of a draft or final EA or EIS for public review and comment will satisfy this notice requirement.

(b) Public notices must at a minimum:

(1) Briefly describe the proposed action and the potential impact on the floodplain or wetland;

(2) Briefly identify alternative actions considered and explain why a determination of no practicable alternative has been proposed;

(3) Briefly discuss measures that would be taken to minimize or mitigate floodplain or wetland impacts;

(4) State when appropriate whether the action conforms to applicable Federal, State or local floodplain protection standards;

(5) Specify a reasonable period of time within which the public can comment on the proposal; and

(6) Identify the TVA official who can provide additional information on the proposed action and to whom comments should be sent.

(c) Such notices must be issued in a manner designed to bring the proposed action to the attention of those members of the public likely to be interested in or affected by the action's potential impact on the floodplain or wetland.

(d) TVA must consider all relevant and timely comments received in response to a notice and reevaluate the action as appropriate to take such comments into consideration before the proposed action is implemented.

§ 1319.60 Disposition of real property.

When TVA property in a floodplain or wetland is proposed for lease, easement, right-of-way, or disposal to non-Federal public or private parties and the action will not result in disturbance of the floodplain or wetland, a floodplain or wetland evaluation is not required. However, the conveyance document must:

(a) Require the other party to comply with all applicable Federal, State or local floodplain and wetland regulations, and

(b) Identify other appropriate restrictions to minimize destruction, loss, or degradation of floodplains and wetlands and to preserve and enhance their natural and beneficial values, except when prohibited by law or unenforceable by TVA, or otherwise, the property must be withheld from conveyance or use.

§ 1319.70 General and class reviews.

In lieu of site-specific reviews, TVA may conduct general or class reviews of

similar or repetitive activities that occur in floodplains.

Michael McCall,

Vice President, Environment and Stewardship.

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DEPARTMENT OF LABOR

Employment and Training Administration

20 CFR Part 652

RIN 1205–AC23

Wagner-Peyser Act Staffing, Delay of Merit Staffing Compliance Date

AGENCY: Employment and Training Administration, Labor.

ACTION: Final rule.

SUMMARY: The Department of Labor's (Department's) Employment and Training Administration (ETA) is delaying by 1 year the date by which State grantees, as a condition on their grant funds, must comply with the regulatory requirements in the 2023 Wagner-Peyser Act Staffing Final Rule regarding the grant-funded staffing models States must use to deliver services in the Wagner-Peyser Act Employment Service (ES). The 2023 Final Rule became effective on January 23, 2024, and provided that all States have until January 22, 2026, 24 months after the effective date of the rule, to comply with the staffing requirements. With this 1-year delay, the compliance date is now January 21, 2027.

DATES: This final rule is effective on January 21, 2026.

FOR FURTHER INFORMATION CONTACT: Kimberly Vitelli, Administrator, Office of Workforce Investment, U.S. Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW, Room C–4526, Washington, DC 20210.

SUPPLEMENTARY INFORMATION:

I. Background

The Wagner-Peyser Act of 1933, 29 U.S.C. 49 *et seq.*, established the ES program, which is a nationwide program of labor-exchange services. The ES program seeks to improve the functioning of the nation's labor markets by matching job seekers with employers that are seeking workers. Section 3(a) of the Wagner-Peyser Act directs the Secretary of Labor (Secretary) to assist States in coordinating the State public service employment offices throughout the country. The Department had

historically relied on the Secretary's authority in section 3(a) and 5(b) to require States to provide labor exchange services with State "merit staff," meaning government employees hired and managed under a merit-based personnel system described in 5 CFR 900, Subpart F.

Beginning in the early 1990s, the Department provided Colorado and Massachusetts with flexibility to set their own staffing requirements for the provision of ES services. In 1998, the Department permitted Michigan similar flexibility to deliver ES services, pursuant to a settlement agreement arising out of *Michigan v. Herman*, 81 F. Supp. 2d 840 (W.D. Mich. 1998).

In 2014, Congress passed the Workforce Innovation and Opportunity Act (WIOA), Public Law 113–128, which amended the Wagner-Peyser Act. WIOA did not include an ES merit-staffing requirement. Regulations implementing WIOA were published in the **Federal Register** on August 19, 2016 (81 FR 56072) and were effective on October 18, 2016. Among the provisions codified in the 2016 WIOA regulations was 20 CFR 652.215, which continued to require the use of State merit-staffing for the delivery of ES services, except for the three States that were previously granted exemptions: Colorado, Massachusetts, and Michigan.

Through rulemaking effective February 5, 2020, the Department removed the requirement that ES services be provided only by State merit staff (85 FR 592) (hereinafter referred to as the "2020 Final Rule"). In the preamble to the 2020 Final Rule, the Department explained that it sought to allow States maximum flexibility in staffing arrangements to allow them to better align WIOA and ES staffing. Following the 2020 Final Rule, several States were approved to use a variety of staffing models to provide their ES services, as described in their approved WIOA State plans.

On November 24, 2023, the Department issued the Wagner-Peyser Act Staffing Final Rule (88 FR 82658) (hereinafter referred to as "the 2023 Final Rule") to reinstate a requirement for States to use State merit staff to provide labor exchange services in the ES, with limited exceptions, see 20 CFR 652.215 (2024). The 2023 Final Rule also made changes to the ES Monitor Advocate System regulations in 20 CFR parts 653 and 658. This rule became effective on January 23, 2024, and provided States until January 22, 2026, 24 months from the effective date, to comply with the State merit-staffing requirement. The Department is issuing this final rule amending § 652.215 to

delay implementation of the State merit-staffing requirement for an additional year, until January 21, 2027. This final rule does not affect States' obligations to comply with other requirements in the 2023 Final Rule, such as the changes to 20 CFR parts 653 and 658.

Reason for Compliance Date Delay

On January 31, 2025, President Trump issued Executive Order 14192, "Unleashing Prosperity Through Deregulation" (90 FR 9065) making it the policy of the executive branch to "alleviate unnecessary regulatory burdens placed on the American people." On July 1, 2025, the Department issued the proposed rule, Wagner-Peyser Act Employment Service Staffing (90 FR 28239), proposing to remove the State merit-staffing requirement, which would allow States to choose the staffing model that provides the required ES services in the most efficient way for their State. The comment period on that rulemaking closed on September 2, 2025. The Department continues to engage in that rulemaking process. The Department is issuing this final rule delaying the January 22, 2026, compliance date to reduce regulatory burden on States and to enable the Department to complete its rulemaking process.

The Department has considered any reliance interests that the compliance date for merit staffing in the 2023 Final Rule may have engendered. Because this rule merely extends the delay of enforcement of staffing requirements for State grantees and does not impose any new requirements, the rule does not implicate any serious reliance interests on the part of the States. Further, in addition to the two years in which States have not been required to be in compliance following the 2023 Final Rule, States were not subject to any program-wide staffing requirements as of February 5, 2020, the effective date of the 2020 Final Rule, which allowed States to choose their staffing model. This final rule therefore does not implicate serious reliance interests on the part of other stakeholders, and, in any event, any reliance interests are outweighed by the need to avoid regulatory confusion and the potential burden of implementing the 2023 Final Rule only to have the regulatory requirement potentially change soon after.

Because the delay would relieve the affected State governments of the regulatory staffing requirement at 20 CFR 652.215 for 1 year, this rulemaking is considered a deregulatory action under Executive Order 14192.

II. Section-by-Section Discussion of the Delay

Paragraph (a) of 20 CFR 652.215 requires that, absent authorization prior to 2020 for a different staffing model, States must deliver ES services using State merit staff, *i.e.*, staff employed by the State according to the merit-system principles in 5 CFR part 900, subpart F. Paragraph (d) of § 652.215 provides that States must comply with this requirement no later than January 22, 2026. In this final rule, the Department is revising the date in paragraph (d) to provide States until January 21, 2027, to comply with the requirements of this section. This change in paragraph (d) delays the compliance date by 1 year.

III. Procedural and Other Matters

A. Administrative Procedure Act

The Department is issuing this final rule without prior public notice and comment or a delayed effective date, pursuant to the applicable exemption in the Administrative Procedure Act (APA), 5 U.S.C. 553(a)(2), for grant-related matters. Section 553(a)(2) provides that the rulemaking requirements of the APA, including prior notice and the opportunity for public comment, do not apply to matters "relating to agency management or personnel or to public property, loans, grants, benefits, or contracts." The plain meaning of the phrase "relating to" is "a broad one—to stand in some relation; to have bearing or concern; to pertain; refer; to bring into association with or connections with."¹

Delaying compliance with § 652.215 in the Wagner-Peyser Act ES regulations relates to grants because it concerns a condition on States' receipt of grant funding from the Department. In order to receive statutorily allotted grant funds, see 29 U.S.C. 49e, States must first accept the provisions of the Wagner-Peyser Act, and they must designate a State agency with the ability to carry out program activities under the Act in cooperation with the Department, see 29 U.S.C. 49c. Each State must enter into a "grant agreement" with the Department, under which it agrees to comply with the provisions of the Act and "all applicable rules and regulations." 20 CFR 652.4. The Wagner-Peyser Act ES regulations at 20 CFR parts 651, 652, 653, 654, and 658, promulgated pursuant to the Department's rulemaking authority under 29 U.S.C. 49k, thus operate as terms and conditions of the grant awards to States. Violations can result

in a requirement for States to repay grant funds or other appropriate sanctions. 20 CFR 652.8(g)–(h).

As described above, the grant condition at § 652.215 requires almost all States to deliver program services using State staff employed according to prescribed merit principles and provides that States must comply by January 22, 2026. This condition on staffing models affects how States expend their grant funds, because States use these grant funds to pay their ES staff. It does not apply to State staff who are not funded through grants under the Wagner-Peyser Act. The condition also affects the manner in which States deliver all the services that they are required to provide under their grants. See 20 CFR 652.215(a) (cross-referencing the list of required labor exchange services in § 652.3, as well as the provisions of parts 653 and 658). Delaying compliance with this grant condition therefore relates to grants within the plain meaning of the APA, 5 U.S.C. 553(a)(2).

The Department's use of the exemption provided under sec. 553(a)(2) is consistent with recent uses of the exemption by other Federal agencies. See, *e.g.*, *Preserving Community and Neighborhood Choice*, 85 FR 47899 (Aug. 7, 2020) (invoking the exemption to repeal Department of Housing and Urban Development rule because it required certification and obligations of Federal grantees).

For the foregoing reasons, the Department issues this final rule without prior public notice and comment or a delayed effective date.

B. Regulatory Impact Analysis

The Department has examined the impacts of this rule as required by Executive Order 12866, "Regulatory Planning and Review"; "Executive Order 13563, "Improving Regulation and Regulatory Review"; Executive Order 14192, "Unleashing Prosperity Through Deregulation"; Executive Order 13132, "Federalism"; the Regulatory Flexibility Act (RFA) (Pub. L. 96 354); section 202 of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4); and the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select those regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts). Under Executive Order 12866, OMB's Office of Information and

¹ *Morales v. Trans World Airlines, Inc.*, 504 U.S. 374, 383–84 (1992).

Regulatory Affairs (OIRA) determines whether a regulatory action is significant and, therefore, subject to the requirements of the Executive Order and review by OMB. OIRA has determined that this final rule is a significant regulatory action and has reviewed this final rule. This final rule is considered a deregulatory action under Executive Order 14192.

This final rule would result in rule familiarization costs and cost savings to States as estimated by the delayed transfers to states by one year estimated. Rule familiarization costs represent direct costs to States associated with reviewing this final rule. The Department anticipates that this final rule will be reviewed by Human Resources Managers (SOC code ² 11–3121) employed by State Workforce Agencies (SWAs). The Department anticipates that it will take one Human Resources Manager an average of 10 minutes to review this rule. The U.S. Bureau of Labor Statistics (BLS) Occupational Employment and Wage Statistics data show that the mean hourly wage of State government Human Resources Managers is \$51.90.³ The Department assumes a 62% benefits rate⁴ and a 17% overhead rate,⁵ so the full loaded hourly wage is \$92.90 [= \$51.90 + (\$51.90 × 62%) + (\$51.90 × 17%)]. Therefore, the one-time rule familiarization cost for all 54 jurisdictions (the 50 States, the District of Columbia, Puerto Rico, Guam, and the U.S. Virgin Islands) is estimated to be \$836 (= \$92.90 × 10 minutes × 54 jurisdictions).

The Department anticipates that the cost savings will outweigh the costs associated with rule familiarization. However, the Department is unable to quantify the specific cost savings that a limited number of States may realize due to the additional time granted for implementing the State merit-staffing provisions outlined in the 2023 final rule.

² This analysis uses codes from the Standard Occupational Classification (SOC) system and the North American Industry Classification System (NAICS).

³ BLS, “Occupational Employment and Wage Statistics, National Industry-Specific Occupational Employment and Wage Estimates, NAICS 999200” SOC Code 11–3121, May 2024, <https://data.bls.gov/oes/#/industry/999200> (last visited January 2, 2026).

⁴ BLS, “National Compensation Survey, Employer Costs for Employee Compensation,” <https://www.bls.gov/ecec/data.htm> (last visited January 2, 2026). For State and local government workers, wages and salaries averaged \$38.45 per hour worked in 2024, while benefit costs averaged \$23.81, which is a benefits rate of 62 percent.

⁵ Cody Rice, U.S. Environmental Protection Agency, “Wage Rates for Economic Analyses of the Toxics Release Inventory Program,” June 10, 2002, <https://www.regulations.gov/document/EPA-HQ-OPPT-2014-0650-0005> (last visited January 2, 2026).

The Regulatory Flexibility Act (RFA), 5 U.S.C. chapter 6, requires agencies to evaluate the economic impact of certain rules on small entities. The RFA defines small entities to include small businesses, small organizations, including not-for-profit organizations, and small governmental jurisdictions. No analysis under the RFA is required for this final rule because, for the reasons discussed above, the Department is not required to engage in notice and comment under the APA.

Title II of UMRA, Public Law 104–4, requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a final agency rule that may result in an expenditure of \$100 million or more (adjusted annually for inflation with the base year 1995) in any one year by State, local, and tribal governments, in the aggregate, or by the private sector. This final rule does not impose any Federal mandates on any state, local, or tribal government, or on the private sector, within the meaning of UMRA. Additionally, as discussed above, this final rule is promulgated without notice and comment. Therefore, the requirements of title II of UMRA do not apply, and the Department has not prepared a statement under UMRA.

Executive Order 13132, “Federalism,” imposes certain requirements on Federal agencies formulating and implementing policies or regulations that preempt State law or that have federalism implications. Executive Order 13132 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. Executive Order 13132 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. This final rule does not have significant federalism implications under Executive Order 13132.

Under the Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3501–3520, we are required to provide notice in the **Federal Register** and solicit public comment before a “collection of information” requirement is submitted to the Office of Management and Budget (OMB) for review and approval. Collection of information is defined under 5 CFR 1320.3(c) of the PRA’s implementing regulations. This final rule will not impose additional reporting or recordkeeping requirements under the PRA.

List of Subjects in 20 CFR Part 652

Employment, Grant programs—labor, Reporting and recordkeeping requirements.

For the reasons discussed in the preamble, the Department of Labor is amending 20 CFR part 652 as follows:

PART 652—ESTABLISHMENT AND FUNCTIONING OF STATE EMPLOYMENT SERVICE

■ 1. The authority citation for part 652 continues to read as follows:

Authority: 29 U.S.C. chapter 4B; 38 U.S.C. chapters 41 and 42;

Secs. 189 and 503, Public Law 113–128, 128 Stat. 1425 (July 22, 2014).

Subpart C—Employment Service Services in a One-Stop Delivery System Environment

■ 2. Amend § 652.215 by revising paragraph (d) to read as follows:

§ 652.215 What staffing models must be used to deliver services in the Employment Service?

* * * * *

(d) All States must comply with the requirements in this section no later than January 21, 2027.

Henry Maklakiewicz,

Assistant Secretary for Employment and Training, Labor.

[FR Doc. 2026–01117 Filed 1–20–26; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2026–0069]

RIN 1625–AA00

Safety Zone; Philippine Sea, Pacific Ocean, Guam

AGENCY: Coast Guard, Department of Homeland Security.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for certain navigable waters of the Philippine Sea in the Pacific Ocean north of Andersen Air Force Base, Guam. The safety zone is needed to protect personnel, vessels, and the marine environment from potential hazards created by a Department of War small Unmanned Aircraft System (sUAS) testing event. Entry of vessels or persons into this zone is prohibited

unless specifically authorized by the Captain of the Port, Forces Micronesia/Sector Guam.

DATES: This rule is effective from 1 p.m. ChST on January 26, 2026 through 10 p.m. ChST on January 30, 2026. For the purposes of enforcement, actual notice by Marine Broadcast will be used daily from 0500–2200 January 26, 2026, until January 30, 2026.

ADDRESSES: To view available documents go to <https://www.regulations.gov> and search for USCG–2026–0069.

FOR FURTHER INFORMATION CONTACT: If you have questions about this rule, contact MSTC Laurel Siegrist, Forces Micronesia/Sector Guam Waterways Management Division, U.S. Coast Guard; telephone 671–686–0092, or email WWMGuam@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
COTP Captain of the Port
DHS Department of Homeland Security
FR Federal Register
NPRM Notice of proposed rulemaking
§ Section
sUAS small Unmanned Aircraft System
U.S.C. United States Code
DoW Department of War
FBI Federal Bureau of Investigations

II. Background and Authority

The Coast Guard was requested by the Department of War's Strategic Capabilities Office to provide a safety zone for a sUAS testing event. The Captain of the Port (COTP) Forces Micronesia/Sector Guam has determined that potential hazards associated with this military testing event are a safety concern for anyone on the waters in the vicinity of the operation. Therefore, the COTP is issuing this rule under the authority in 46 U.S.C. 70034, which is needed to protect personnel, vessels, and the marine environment in the navigable waters within the safety zone.

The Coast Guard is issuing this temporary rule without prior notice and comment under the authority in 5 U.S.C. 553(b)(B). This statutory provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are “impracticable, unnecessary, or contrary to the public interest.” The Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it is impracticable and contrary to the public interest. The event requires the establishment of a safety zone by

January 26, 2026, to ensure the safety of the public and marine environment. This short timeframe makes it impracticable to publish an NPRM and receive and respond to public comments.

For the same reasons, the Coast Guard finds that under 5 U.S.C. 553(d)(3), good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be contrary to the public interest because immediate action is needed to provide for the safety of personnel and vessels near the DoW sUAS testing event.

III. Discussion of the Rule

This rule establishes a temporary safety zone from January 26, 2026, through January 30, 2026, during specific enforcement periods to include 1300 to 1700 ChST on January 26, 2026; from 0530 to 1530 ChST on January 27, 2026; from 1430 to 2200 ChST on January 28, 2026; from 1200 to 2200 ChST on January 29, 2026; and TBD as needed January 30, 2026. The safety zone will cover all navigable waters of the Philippine Sea in a defined area north of Andersen Air Force Base within the boundaries from 13–37.50N x 144–53.50E to 13–38.50N x 144–51.00E to 13–41.00N x 144–51.00E to 13–41.00N x 144–53.50E and back. No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or their designated representative.

IV. Regulatory Analyses

We developed this 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.

A. Impact on Small Entities

The regulatory flexibility analysis provisions of the Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, do not apply to rules that are not subject to notice and comment. Because the Coast Guard has, for good cause, waived the notice and comment requirement that would otherwise apply to this rulemaking, the Regulatory Flexibility Act's flexibility analysis provisions do not apply here.

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 for the following reasons.

Vessel traffic will be able to safely transit around this regulated area. The enforcement period is during a time

when vessel traffic is normally low. In addition, the Coast Guard will issue a Broadcast Notice to Mariners via VHF FM marine channel 16, which will allow small entities to adjust their transit plans, and the rule is primarily within military property and is in the best interest of national defense.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), if this rule will affect your small business, organization, or governmental jurisdiction and you have questions, contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

Small businesses may send comments to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards by calling 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

B. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

C. Federalism and Indian Tribal Governments

We have analyzed this rule under Executive Order 13132, Federalism, and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in that Order.

Also, this rule does not have tribal implications under Executive Order 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.

D. Unfunded Mandates Reform Act

As required by The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538), the Coast Guard certifies that this rule will not result in an annual expenditure of \$100,000,000 or more (adjusted for inflation) by a State, local, or tribal government, in the aggregate, or by the private sector.

E. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST

5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment.

This rule is a safety zone. It is categorically excluded from further review under paragraph L60(d) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A Record of Environmental Consideration supporting this determination is available in the docket.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

Authority: 46 U.S.C. 70034, 70051, 70124; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 00170.1, Revision No. 01.4.

■ 2. Add § 165.T14–0069 to read as follows:

§ 165.T14–0069 Safety Zone; Philippine Sea, Guam.

(a) *Location.* The following area is a safety zone: All waters of the Philippine Sea in the Pacific Ocean, from surface to bottom, encompassed by a line connecting the following points, beginning at 13°37'30" N, 144°53'30" E; thence to 13°38'30" N, 144°51'00" E; thence to 13°41'00" N, 144°51'00" E; thence to 13°41'00" N, 144°53'50" E; and back to the point of origin. These coordinates are based on the World Geodetic System (WGS 84).

(b) *Definitions.* As used in this section, *designated representative* means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel and a Federal, State, and local officer designated by or assisting the Captain of the Port (COTP) Forces Micronesia/ Sector Guam in the enforcement of the safety zone.

(c) *Regulations.* (1) Under the general safety zone regulations in subpart C of this part, you may not enter the safety zone described in paragraph (a) of this

section unless authorized by the COTP or the COTP's designated representative.

(2) To seek permission to enter, contact the COTP or the COTP's representative on VHF–FM channel 16 or by telephone at (671) 355–4824. Those in the safety zone must comply with all lawful orders or directions given to them by the COTP or the COTP's designated representative.

(d) *Enforcement periods.* This section will be enforced from 1300 to 1700 ChST on January 26, 2026; from 0530 to 1530 ChST on January 27, 2026; from 1430 to 2200 ChST on January 28, 2026; from 1200 to 2200 ChST on January 29, 2026; and at times announced by Marine Broadcast as needed on January 30, 2026.

Jessica S. Worst,

Captain, U.S. Coast Guard, Captain of the Port, Forces Micronesia/Sector Guam.

[FR Doc. 2026–01064 Filed 1–20–26; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2026–0036]

RIN 1625–AA00

Fixed and Moving Safety Zone; Vicinity of the M/V ZHEN HUA 24; Houston Ship Channel and Morgan's Point, TX

AGENCY: Coast Guard, Department of Homeland Security.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary moving safety zone and a fixed safety zone around the M/V ZHEN HUA 24 in the navigable waters of the Houston Ship Channel and its vicinity. The safety zones are needed to protect personnel, vessels, and the marine environment from potential hazards associated with the transfer of gantry cranes. Entry of vessels or persons into these zones is prohibited unless specifically authorized by the Captain of the Port Houston-Galveston or a designated representative.

DATES: This rule is effective without actual notice January 21, 2026 through January 31, 2026. For the purposes of enforcement, actual notice will be used from January 16, 2026, until January 21, 2026.

ADDRESSES: To view available documents go to <https://www.regulations.gov> and search for USCG–2026–0036.

FOR FURTHER INFORMATION CONTACT: If you have questions about this rule, contact ENS Ryan Bowman, Sector Houston-Galveston Waterways Management Division, U.S. Coast Guard; telephone 713–398–5823, or email HoustonWWM@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background and Authority

The Coast Guard received notification that M/V ZHEN HUA 24 will be transporting gantry cranes to Morgan's Point, TX. The Captain of the Port Houston-Galveston (COTP) has determined that potential hazards associated with the transfer of gantry cranes starting as early as January 16, 2026, will be a safety concern for anyone within a 100-yard radius while the M/V ZHEN HUA 24 is in transit and for anyone within 25-yard radius while the M/V ZHEN HUA 24 is moored. This rule is needed to protect persons, property, and the marine environment within the navigable waters of the safety zones while the M/V ZHEN HUA 24 transits to, and unloads in Morgan's Point, Texas. Therefore, the COTP is issuing this rule under the authority in 46 U.S.C. 70034, which is needed to protect personnel, vessels, and the marine environment in the navigable waters around the safety zones.

The Coast Guard is issuing this rule without prior notice and comment. As is authorized by 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it is impracticable and contrary to the public interest. The Coast Guard received all relevant information for the transfer of the gantry cranes and the need for the safety zone on January 8, 2026, but we must establish this safety zone by January 16, 2026, to protect personnel, vessels, and the marine environment. Therefore, we do not have enough time to solicit and respond to comments.

For the same reasons, the Coast Guard finds that under 5 U.S.C. 553(d)(3), good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**.

III. Discussion of the Rule

This rule establishes two temporary safety zones from January 16, 2026 until

January 31, 2026. The safety zones include a moving safety zone, covering all navigable waters within 100 yards of the M/V ZHEN HUA 24 general cargo ship, and a fixed safety zone, covering all navigable waters within 25 yards of M/V ZHEN HUA 24 once moored. No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or their designated representative.

Moving Safety Zone: This area includes all waters within 100 yards of the M/V ZHEN HUA 24 as the vessel transits inbound and outbound through the Houston Ship Channel.

Fixed Safety Zone: This area includes all waters within 25 yards of the M/V ZHEN HUA 24 once the M/V ZHEN HUA 24 is moored at Barbours Cut Terminal in Morgan's Point, Texas, at approximate position 29°40'00" N, 094°59'23" W. The COTP may terminate enforcement of this safety zone prior to January 31, 2026, depending on the progress of the crane offloading operation.

IV. Regulatory Analyses

We developed this 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.

A. Impact on Small Entities

The regulatory flexibility analysis provisions of the Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, do not apply to rules that are not subject to notice and comment. Because the Coast Guard has, for good cause, waived the notice and comment requirement that would otherwise apply to this rulemaking, the Regulatory Flexibility Act's flexibility analysis provisions do not apply here.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), if this rule will affect your small business, organization, or governmental jurisdiction and you have questions, contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

Small businesses may send comments to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards by calling 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

B. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

C. Federalism and Indian Tribal Governments

We have analyzed this rule under Executive Order 13132, Federalism, and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in that Order.

Also, this rule does not have tribal implications under Executive Order 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.

D. Unfunded Mandates Reform Act

As required by The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538), the Coast Guard certifies that this rule will not result in an annual expenditure of \$100,000,000 or more (adjusted for inflation) by a State, local, or tribal government, in the aggregate, or by the private sector.

E. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment.

This rule is a safety zone. It is categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A Record of Environmental Consideration supporting this determination is available in the docket.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

Authority: 46 U.S.C. 70034, 70051, 70124; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 00170.1, Revision No. 01.4.

■ 2. Add § 165.T08–0036 to read as follows:

§ 165.T08–0036 Fixed and Moving Safety Zone; Vicinity of the M/V ZHEN HUA 24, Houston Ship Channel and Morgan's Point, TX.

(a) *Location.* The following areas are safety zones:

(1) *Moving Safety Zone:* All waters within a 100-yard radius of the M/V ZHEN HUA 24, as the vessel transits inbound from the Gulf of Mexico, beginning at the approximate coordinates 29°19'01.21" N, 094°38'38.1" W, off the coast of Galveston, TX, and proceeds through the Houston Ship Channel to the assigned docking station. This moving zone will be activated again when the vessel gets underway from the dock for an outbound transit through the Houston Ship Channel to approximate coordinates 29°19'01.21" N, 094°38'38.1" W.

(2) *Fixed Safety Zone:* All waters within a 25-yard radius of the M/V ZHEN HUA 24, while moored, at the Barbours Cut Terminal in Morgan's Point, Texas at approximate position 29°40'00" N, 094°59'23" W.

(b) *Definitions.* As used in this section, *designated representative* means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel and a Federal, State, and local officer designated by or assisting the Captain of the Port Houston-Galveston (COTP) in the enforcement of the safety zone.

(c) *Regulations.* (1) Under the general safety zone regulations in subpart C of this part, you may not enter the safety zone described in paragraph (a) of this section unless authorized by the COTP or the COTP's designated representative.

(2) To seek permission to enter, contact the COTP or the COTP's representative on VHF–FM channel 16 or by telephone at (866) 539–8114. Those in the safety zone must comply with all lawful orders or directions given to them by the COTP or the COTP's designated representative.

(d) *Enforcement periods.* This section will be enforced from January 16, 2026 until January 31, 2026, unless cancelled earlier by the COTP. The COTP or a designated representative will inform

the public through Broadcast Notices to Mariners (BNMs) and/or Marine Safety Information Bulletins (MSIBs) of the specific enforcement times and dates for this safety zone.

Nicole D. Rodriguez,
Captain, U.S. Coast Guard, Captain of the Port Sector Houston-Galveston.

[FR Doc. 2026-01070 Filed 1-20-26; 8:45 am]

BILLING CODE 9110-04-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 54

[WC Docket No. 21–31; FCC 25–62; FR ID 326287]

Addressing the Homework Gap Through the E-Rate Program; Partial Withdrawal

AGENCY: Federal Communications Commission.

ACTION: Final rule; partial withdrawal.

SUMMARY: In this document, the Federal Communications Commission (Commission or FCC) reconsiders the E-Rate Wi-Fi hotspot and services rules adopted in July 2024. Specifically, the Commission grants the petition for reconsideration filed by Maurine and Matthew Molak and finds that the best reading of section 254 of the Communications Act of 1934, as amended, (the Communications Act) is that it does not permit funding of off-premises use of Wi-Fi hotspots and the associated wireless internet services with E-Rate program support. In so finding, the Commission rescinds the rules adopted in July 2024. The Commission also denies the two remaining petitions for reconsideration of the Commission's 2024 *Hotspots Order*. Consistent with the reconsideration, the Commission also withdraws two amendatory instructions published in the **Federal Register**, but delayed indefinitely.

DATES: Effective February 20, 2026. As of January 21, 2026, amendatory instruction numbers 4 (for § 54.504) and 9 (for § 54.516) in the final rule, published at 89 FR 67303 on August 20, 2024, are withdrawn.

FOR FURTHER INFORMATION CONTACT: Kate Dumouchel, Telecommunications Access Policy Division, Wireline Competition Bureau, at kate.dumouchel@fcc.gov or 202–418–7400 or TTY: 202–418–0484. Requests for accommodations should be made as soon as possible in order to allow the agency to satisfy such requests whenever possible. Send an email to

fcc504@fcc.gov or call the Consumer and Governmental Affairs Bureau at (202) 418–0530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Order on Reconsideration, in WC Docket No. 21–31; FCC 25–62, adopted and released September 30. The full text of this document is available at the following internet address: <https://docs.fcc.gov/public/attachments/FCC-25-62A1.pdf>.

Order on Reconsideration

Introduction

The Commission revisits the E-Rate Wi-Fi hotspot and services rules adopted in the July 2024 *Hotspots Order* (Final rule 89 FR 67303, August 20, 2024; Proposed rule 89 FR 67394, August 20, 2024). Specifically, the Commission grants the petition for reconsideration filed by Maurine and Matthew Molak (Molak Petition) to the extent provided herein and find that the best reading of section 254 of the Communications Act of 1934, as amended, (the Communications Act) is that it does not permit funding of off-premises use of Wi-Fi hotspots and the associated wireless internet services with E-Rate program support. In so finding, the Commission rescinds the rules adopted in July 2024. The Commission also denies the two remaining petitions for reconsideration of the Commission's *Hotspots Order*. Finally, the Commission directs the Universal Service Administrative Company (USAC), the administrator of the Commission's universal service programs, to deny pending applications for E-Rate support related to the off-premises use of Wi-Fi hotspots and services; and the Commission directs the Wireline Competition Bureau (Bureau) to release a public notice with an amended funding year (FY) 2025 eligible services list that reflects the changes made in the *Order on Reconsideration*.

Discussion

On reconsideration, the Commission restores the E-Rate program rules to those that existed before adoption of the July 2024 *Hotspots Order*. The Commission grants the Molak Petition to the extent provided herein and determines here that extending E-Rate to fund the off-premises use of Wi-Fi hotspots and associated wireless internet service is not consistent with the best reading of section 254 of the Communications Act. The Commission therefore rescinds the July 2024 rules.

Citing section 1.429(j)(1)–(2) of its rules, the Schools, Health & Libraries Broadband Coalition (SHLB) asserts that

the Molak Petition should be dismissed because it does not raise new issues that were not already addressed by the Commission in the *Hotspots Order*, fails to address a material error, and its consideration is not in the public interest. However, the Commission finds that consideration of the arguments in the Molak Petition is in the public interest and permitted by section 405 of the Communications Act and section 1.429 of its rules. Reconsideration “is generally appropriate where the petitioner shows either a material error or omission in the original order or raises additional facts not known or not existing until after the petitioner's last opportunity to respond.” In this instance, the Commission is persuaded that the Commission's prior decision materially erred in adopting rules for the E-Rate program that are not consistent with the best reading of the Commission's statutory authority.

Section 254(h)(1)(B) of the Communications Act requires telecommunications carriers to provide “services that are within the definition of universal service under subsection (c)(3)” to “elementary schools, secondary schools, and libraries” for “educational purposes” at discounted rates. The Commission finds that the off-premises use of Wi-Fi hotspots and associated wireless internet services does not constitute an educational purpose under the Communications Act, given the multitude of non-educational ways such service could be used. The Commission also finds it is unlikely that a school or library official could certify with any actual knowledge or certainty that use of the Wi-Fi hotspots by its students and library patrons would be primarily for educational purposes as required by its rules. However, even if the Commission agreed that such use could serve an educational purpose, section 254(h)(1)(B) of the Communications Act also requires that the services be provided “to elementary schools, secondary schools, and libraries.” In the 2024 *Hotspots Order*, the Commission stated that “because schools and libraries are the customers and recipients of the services they purchase, [] the services are therefore provided to them within the meaning of section 254(h)(1)(B), even if used elsewhere.” The Commission now disagrees. While entities operating schools or libraries may be purchasing the Wi-Fi hotspots and associated service, the schools and libraries are not the recipients of the connectivity provided to student or library patron homes, and the

Commission therefore finds this reading to be inconsistent with section 254(h)(1)(B) of the Communications Act. Under the best reading of section 254(h)(1)(B) of the Communications Act, the services themselves must be provided to eligible locations—namely elementary schools, secondary schools, and libraries—to be eligible for support through the E-Rate program. The Commission has limited statutory authority, and the rules permitting the off-premises use of Wi-Fi hotspots and associated wireless internet services are not consistent with the best reading of section 254(h)(1)(B) of the Communications Act.

The Commission's interpretation of the phrase "to elementary schools, secondary schools, and libraries" as referring to locations is strongly supported by the statutory context. For one, other provisions of section 254 reinforce that support for schools under section 254 is focused on support for services to schools as locations. Both section 254(b)(6) and (h)(2)(A) link together the references to schools and "classrooms." That broader context supports the view that the focus of section 254 is on service to schools as locations. And interpreting the term "library" in context, insofar as schools refer to locations in the phrase "to elementary schools, secondary schools, and libraries," the same should be true of libraries.

The Commission's interpretation also is supported by the difference in section 254's treatment of health care providers. The heading of section 254(h)(1)(A) refers to "Health care providers for rural areas" and section 254(h)(1)(B) refers to "Educational providers and libraries." But only in section 254(h)(1)(A) did Congress carry through that reference to "providers" in addressing services "to any public or nonprofit health care provider." By contrast, Congress chose not to flow through the "provider" terminology used in the heading of section 254(h)(1)(B), instead addressing services "to elementary schools, secondary schools, and libraries." Although the services "to" school and library locations would be purchased by educational providers or libraries as organizational entities, the Commission concludes that its interpretation of the language of section 254(h)(1)(B) best accounts for Congress's different textual choice as compared to the language used for health care providers in section 254(h)(1)(A).

Section 254(h)(2)(A) of the Communications Act directs the Commission to promulgate rules "to enhance, to the extent technically feasible and economically reasonable,

access to advanced telecommunications and information services for all public and nonprofit elementary and secondary school classrooms . . . and libraries." The *Hotspots Order* found that providing support for Wi-Fi hotspots for students to do homework and access educational resources supports effective classroom instruction support, such that it satisfies the "for . . . classrooms" requirement. It did so by noting that the statute uses the word "for," rather than "at" or "in," which might more clearly indicate the physical classroom. However, the Commission disagrees that this language permits the Commission to authorize support for services that connect to educational resources at any location. The Commission has long supported E-Rate funding for the services and equipment necessary to transport information to individual classrooms, including for equipment in non-instructional buildings that is essential for the effective transport of information to classrooms (e.g., a data center housing a network switch). This is the best reading of the language in section 254(h)(2)(A) of the Communications Act directing the Commission to enhance access "for . . . classrooms." Under this reading, the services and equipment must ultimately transport information to school classrooms. Congress could not have intended the term "for . . . classrooms" to stretch to services transporting information to students' homes, particularly in light of the statutory limitation of support to uses that are "technically feasible and economically reasonable." Similarly, the Commission finds that the statute limits its ability to fund services purchased by libraries to those that transport information to libraries, and not that transport information to library patrons at their homes or other non-library locations. Providing funding for the purchase of off-premises Wi-Fi hotspots and associated wireless internet service—particularly for libraries—could extend E-Rate support with virtually no limits. Instead, the Commission finds that the best reading of section 254(h)(2)(A) of the Communications Act does not permit the Commission to fund off-premises use of Wi-Fi hotspots and associated wireless internet services.

The Commission's decision to rescind the July 2024 rules is reinforced by Congress's decisions regarding the Emergency Connectivity Fund (ECF) program. In creating the temporary ECF program, Congress expressly provided authorization for funding Wi-Fi hotspots for use by students, staff, and library patrons at locations other than a school

or library. In particular, it directed the Commission to adopt rules "providing for the provision, . . . of support under paragraphs (1)(B) and (2) of section 254(h) of the Communications Act . . . to an eligible school or library" for the purchase of equipment or services "for use by—(1) in the case of a school, students and staff of the school at locations that include locations other than the school; and (2) in the case of a library, patrons of the library at locations that include locations other than the library." This is relevant in two separate ways. First, it illustrates how Congress can and does address support off-premises from schools and libraries where it wants to do so. Unlike section 7402, section 254(h) authorizes funding to elementary schools, secondary schools, and libraries, and for classrooms. This contrast underscores that the *Hotspots Order* was not based on the best reading of the Communications Act. Second, in connection with a discussion of section 254(h)(1)(B) of the Communications Act, it used the terms "school" and "library" in a manner that clearly referred to locations and that equally clearly treated off-premises locations as distinct from "schools" and "libraries." This reinforces its conclusion that the terms "schools" and "libraries" are best understood to refer to locations in the language "to elementary schools, secondary schools, and libraries" in section 254(h)(1)(B) and exclude off-premises locations. And while not necessary to its analysis of the implications of the ECF program, the Commission further concludes that the forgoing suggests that Congress saw section 7402 as a necessary expansion to section 254(h) in order to fund service for off-premises locations.

Moreover, the Commission does not agree, as a policy matter, with the decision the Commission previously reached. Unlike in the ECF program, there are no limiting principles to effectively limit the use of scarce E-Rate funding for the off-premises use of Wi-Fi hotspots and associated wireless internet service. Specifically, there is no data or analysis regarding the amount of federal funding that has already been used to fund federal and state Wi-Fi hotspot lending programs or the impact of the Commission's decision to use limited E-Rate funding for this purpose. When Congress established the ECF program it limited the size of the program by providing an appropriation in a definite amount available for a fixed time period limited to purchases during the emergency period, which is not the case for this potentially massive

expansion of the E-Rate program. The prior Commission's decision also did not adequately justify the decision to expend funding for this purpose in light of other spending programs that also covered the same or similar purposes. Nor did the Commission put sufficient guardrails in place to ensure that the expansion would operate in the public interest. It also did not explain its decision with sufficient reasoning how expanding the program would advance any legitimate Commission purpose.

Nor does the Commission agree that the record in this proceeding supported the prior decision regarding off-premises use. Commenters explained the limits of section 254(h) and raised alarms about the E-Rate program reaching every location in the country. Additional commenters expressed concern that inclusion of the off-premises use of Wi-Fi hotspots as an E-Rate-supported service contravened section 254 of the Communications Act. The Commission agrees with those commenters. To fund Wi-Fi hotspots in the face of such robust opposition, and with no clear statutory basis, is inappropriate.

In its opposition, T-Mobile provides a number of policy arguments in favor of students having access to broadband internet at home. T-Mobile highlights that there are many strong arguments in favor of connecting students that are on the wrong side of the digital divide to make sure they can complete homework assignments, review lessons, or collaborate with fellow students. But regardless of the potential policy benefits (or costs), Congress did not provide the Commission with the authority to use the E-Rate program to support programs that lend Wi-Fi hotspots to students and library patrons and provide wireless internet service to such hotspots, and the Commission is therefore unpersuaded by T-Mobile's arguments.

In conclusion, the Molak Petition urges the Commission to reconsider the rules adopted in the July 2024 *Hotspots Order* because the Commission lacks legal authority to take such an action. The Commission agrees that funding off-premises use of Wi-Fi hotspots and associated wireless internet services through the E-Rate program is not consistent with the best reading of the statutory authority provided to the Commission in section 254 of the Communications Act and therefore grant the petition for reconsideration for the reasons and to the extent provided herein. The Commission is convinced that the *Hotspots Order* was not premised on the best reading of the statute.

Because the Commission finds that the *Hotspots Order* is not consistent with the best reading of section 254 of the Communications Act, the Commission also denies the petitions for reconsideration filed by Los Angeles Unified School District (LAUSD) and SHLB, which sought to further expand the eligibility of off-premises broadband services to students, school staff, and library patrons. LAUSD and SHLB sought reconsideration of the *Hotspots Order* decision to not support wireless service to LTE-enabled devices, and SHLB separately sought reconsideration of the decision to not extend E-Rate eligibility to alternative wireless technologies, such as private citizens broadband radio service (CBRS) networks, or to standalone hotspots that could connect to private networks. Consistent with its findings, these additional off-premises requests to provide E-Rate support go beyond the best reading of section 254 of the Communications Act and are therefore denied.

The Commission now rescinds the 2024 rule amendments made in the *Hotspots Order* to the E-Rate rules. In addition, the Commission directs the Bureau to release a public notice with an amended FY 2025 eligible services list that reflects the changes made in the *Order on Reconsideration*. To effectuate the *Order on Reconsideration*, the Commission directs USAC to deny all pending FY 2025 E-Rate funding requests for off-premises use of Wi-Fi hotspots and wireless internet services permitted pursuant to the July 2024 *Hotspots Order*. In addition, the Commission directs the Bureau, with the assistance of USAC, to modify the forms, procedures, and outreach materials to remove references to the eligibility of these services.

Procedural Matters

Regulatory Flexibility Act. The Regulatory Flexibility Act of 1980, as amended (RFA), requires that a regulatory flexibility analysis be prepared for rulemaking proceedings, unless the agency certifies that "the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities." The RFA generally defines "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction." In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act. A small business concern is one that: (1) is independently owned and operated; (2) is not dominant in its field of operation;

and (3) satisfies any additional criteria established by the Small Business Administration (SBA).

As required by the RFA, the Commission incorporated an Initial Regulatory Flexibility Analysis (IRFA) in the Addressing the Homework Gap through the E-Rate Program Notice of Proposed Rulemaking ("NPRM"), released in November 2023. The Commission sought written public comment on the proposals in the NPRM, including comment on the IRFA. No comments were filed addressing the impact of the proposed rules on small entities. In July 2024, the Commission released the Addressing the Homework Gap through the E-Rate Program Report and Order, 89 FR 67303, August 20, 2024 and Further Notice of Proposed Rulemaking, 89 FR 67394, August 20, 2024 (*Hotspots Order*) and published a FRFA, as well as an IRFA for the Further Notice of Proposed Rulemaking.

On July 31, 2024, Maureen and Matthew Molak filed a Petition for Reconsideration of the *Hotspots Order* (Molak Petition), which included issues impacting small entities. On September 19, 2024, Los Angeles Unified School District (LAUSD), and the Schools, Health & Libraries Broadband Coalition (SHLB), Open Technology Institute at New America (OTI), Benton Institute for Broadband & Society, Consortium for School Networking (CoSN), and Common Sense Media (collectively SHLB) filed timely petitions for reconsideration. On August 12, 2024, the Commission published a notice seeking comment on the Molak Petition. On September 30, 2024, the Commission published a notice seeking comment on both the LAUSD Petition and the SHLB Petition. No comments were filed addressing the impact of these petitions on small entities.

The two statutorily-mandated criteria to be applied in determining the need for RFA analysis are: (1) whether the proposed rules, if adopted, would have a significant economic impact, and (2) if so, whether the economic effect would directly affect a substantial number of small entities. For the reasons discussed, the Commission has determined that the rules and policy changes adopted in the *Order on Reconsideration* will not have a significant economic impact on a substantial number of small entities and has prepared this Final Regulatory Flexibility Certification (FRFC).

In the *Order on Reconsideration*, the Commission rescinds the rules adopted in the *Hotspots Order*. In so doing, the Commission removes any potential burdens associated with the rules adopted in the *Hotspots Order* that

would have required reporting, recordkeeping, or other compliance obligations for small E-Rate service providers, and does not create any new burdens in the process. In addition, the Commission has determined that the impact on the entities affected by the rule change will not be significant because the Order on Reconsideration is not adopting any new rules. Thus, the Commission's actions have not created any new obligations. Further, FY 2025 funding requests for the off-premises use of Wi-Fi hotspots and/or wireless internet service have not been processed by USAC, the administrator of the Commission's universal service programs, and funding for the services permitted in the *Hotspots Order* has not been approved for any E-Rate entities. As no services or equipment have been provided as a result of the *Hotspots Order*, the *Order on Reconsideration* does not create a significant economic impact on these potential small service providers. Small and other entities will simply be required to comply with the rules that were effective prior to the adoption of the *Hotspots Order*.

Accordingly, based on its application of the two statutorily-mandated criteria to the rules adopted in the *Order on Reconsideration*, the Commission concludes that the removal of the rules adopted in the *Hotspots Order* will not have a significant economic impact on a substantial number of small entities. The Commission therefore certifies that the rules adopted in the *Order on Reconsideration*, eliminating compliance requirements in the *Hotspots Order*, will not have a significant economic impact on a substantial number of small entities.

The Commission will send a copy of the *Order on Reconsideration*, including a copy of this Final Regulatory Flexibility Certification, in a report to Congress pursuant to the Congressional Review Act. In addition, the *Order on Reconsideration*, and this final certification, will be sent to the Chief Counsel for Advocacy of the Small Business Administration, and will be published in the **Federal Register**.

Paperwork Reduction Act. This document does not adopt or propose new or substantively modified information collections subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. In addition, therefore, it does not contain any new or modified 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). On December 11, 2025, OMB approved non-substantive

changes to an existing information collection pursuant to 44 U.S.C. 3507. That submission sought to remove program certifications that are no longer applicable in the Schools and Libraries Universal Service Description of Services Requested and Certification Form 471 (E-Rate FCC Form 471). That submission also sought to remove certain fields that are no longer applicable to the Schools and Libraries Universal Service Description of Services Requested and Certification Form 470 (E-Rate FCC Form 470) and E-Rate FCC Form 471.

Congressional Review Act. The Commission has determined, and the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget, concurs that this rule is “non-major” under the Congressional Review Act, 5 U.S.C. 804(2). The Commission will send a copy of the *Order on Reconsideration* to Congress and the Government Accountability Office pursuant to 5 U.S.C. 801(a)(1)(A).

Ordering Clauses

Accordingly, *it is ordered* that, pursuant to the authority contained in section 405 of the Communications Act of 1934, as amended, 47 U.S.C. 405, and § 1.429 of the Commission's rules, 47 CFR 1.429, the *Order on Reconsideration* is adopted.

It is further ordered that the Petition for Reconsideration filed by Maurine and Matthew Molak on July 31, 2024 is granted to the extent provided herein.

It is further ordered that the Petitions for Reconsideration filed by Los Angeles Unified School District and the Schools, Health & Libraries Broadband Coalition, the Open Technology Institute at New America, the Benton Institute for Broadband & Society, the Consortium for School Networking, and Common Sense Media on September 19, 2024, are denied.

It is further ordered that, pursuant to § 1.103 of the Commission's rules, 47 CFR 1.103, the amendments to the Commission's rules are adopted, effective.

It is further ordered that the Universal Service Administrative Company is directed to deny all pending funding year 2025 E-Rate funding requests for the off-premises use of Wi-Fi hotspots and wireless internet services requested pursuant to the *Hotspots Order*.

It is further ordered that the Commission's Office of the Secretary, shall send a copy of the *Order on Reconsideration*, including the *Final Regulatory Flexibility Certification*, to the Chief Counsel of the Small Business Administration Office of Advocacy.

It is further ordered that the Office of the Managing Director, Performance Management, shall send a copy of the *Order on Reconsideration* in a report to be sent to Congress and the General Accounting Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

Partial Withdrawal

On August 20, 2024, the Commission published the 2024 *Hotspots Order* Final Rules in the **Federal Register** at 89 FR 67303, delaying the amendatory instructions 4 and 9 indefinitely until the Commission published a document in the **Federal Register** announcing the effective date for the amendments to §§ 54.504 and 54.516. In accordance with that publication, the 2024 amendments to §§ 54.504 and 54.516 are not in the final rules. The Order on Reconsideration published herein rescinds all of the rules adopted in 2024, and in order to effectuate the direction to restore the rules to those prior to the 2024 *Hotspots Order*, the Commission also withdraws amendatory instructions 4 and 9 at 89 FR 67303.

List of Subjects in 47 CFR Part 54

Communications common carriers, Hotspots, Internet, Libraries, Reporting and recordkeeping requirements, Schools, Telecommunications, Telephone.

Federal Communications Commission.

Marlene Dortch,
Secretary.

Final Rules

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 54 as follows:

PART 54—UNIVERSAL SERVICE

■ 1. The authority citation for part 54 continues to read as follows:

Authority: 47 U.S.C. 151, 154(i), 155, 201, 205, 214, 219, 220, 229, 254, 303(r), 403, 1004, 1302, 1601–1609, and 1752, unless otherwise noted.

■ 2. Amend § 54.500 by removing the definitions of “Wi-Fi” and “Wi-Fi hotspot”.

■ 3. Amend § 54.502 by:

■ a. Revising paragraph (a);

■ b. Removing paragraph (e), and;

■ c. Redesignating paragraph (f) as (e).

The revision reads as follows:

§ 54.502 Eligible Services.

(a) *Supported services.* All supported services are listed in the Eligible Services List as updated annually in

accordance with paragraph (e) of this section. The services in this subpart will be supported in addition to all reasonable charges that are incurred by taking such services, such as state and federal taxes. Charges for termination liability, penalty surcharges, and other charges not included in the cost of taking such service shall not be covered by the universal service support mechanisms. The supported services fall within the following general categories:

* * * * *

§ 54.506 [Removed and Reserved]

■ 4. Remove and reserve § 54.506.

■ 5. Amend § 54.507 by revising paragraph (f)(4) to read as follows and removing paragraph (f)(5):

§ 54.507 Cap.

* * * * *

(f) * * *

(4) For paragraphs (f)(1) and (2) of this section, if the remaining funds are not sufficient to support all of the funding requests within a particular discount level, the Administrator shall allocate funds at that discount level using the percentage of students eligible for the National School Lunch Program. Thus, if there is not enough support to fund all requests at the 40 percent discount level, the Administrator shall allocate funds beginning with those applicants with the highest percentage of NSLP eligibility for that discount level by funding those applicants with 19 percent NSLP eligibility, then 18 percent NSLP eligibility, and shall continue committing funds in the same manner to applicants at each descending percentage of NSLP until there are no funds remaining.

■ 6. Amend § 54.513 by revising paragraph (b) to read as follows:

§ 54.513 Resale and transfer of services.

* * * * *

(b) *Disposal of obsolete equipment components of eligible services.* Eligible equipment components of eligible services purchased at a discount under this subpart shall be considered obsolete if the equipment components have been installed for at least five years. Obsolete equipment components of eligible services may be resold or transferred in consideration of money or any other thing of value, disposed of, donated, or traded.

* * * * *

■ 7. Amend § 54.516 by revising paragraphs (a)(1) and (b) to read as follows:

§ 54.516 Auditing and inspections.

(a) * * *

(1) *Schools, libraries, and consortia.* Schools, libraries, and any consortium that includes schools or libraries shall retain all documents related to the application for, receipt, and delivery of supported services for at least 10 years after the latter of the last day of the applicable funding year or the service delivery deadline for the funding request. Any other document that demonstrates compliance with the statutory or regulatory requirements for the schools and libraries mechanism shall be retained as well. Schools, libraries, and consortia shall maintain asset and inventory records of equipment purchased as components of supported category two services sufficient to verify the actual location of such equipment for a period of 10 years after purchase.

* * * * *

(b) *Production of records.* Schools, libraries, consortia, and service providers shall produce such records at the request of any representative (including any auditor) appointed by a state education department, the Administrator, the FCC, or any local, state or federal agency with jurisdiction over the entity.

* * * * *

■ 8. Amend § 54.520 by revising paragraphs (c)(1)(iii)(C), (c)(2)(iii)(C), and (c)(3)(i)(C) to read as follows:

§ 54.520 Children's Internet Protection Act certifications required from recipients of discounts under the federal universal service support mechanism for schools and libraries.

* * * * *

(c) * * *

(1) * * *

(iii) * * *

(C) The Children's Internet Protection Act, as codified at 47 U.S.C. 254(h) and (l), does not apply because the recipient(s) of service represented in the Funding Request Number(s) on this Form 486 is (are) receiving discount services only for telecommunications services.

(2) * * *

(iii) * * *

(C) The Children's Internet Protection Act, as codified at 47 U.S.C. 254(h) and (l), does not apply because the recipient(s) of service represented in the Funding Request Number(s) on this Form 486 is (are) receiving discount services only for telecommunications services.

(3) * * *

(i) * * *

(C) The Children's Internet Protection Act, as codified at 47 U.S.C. 254(h) and (l), does not apply because the recipient(s) of service under my

administrative authority and represented in the Funding Request Number(s) for which you have requested or received Funding Commitments is (are) receiving discount services only for telecommunications services; and

* * * * *

[FR Doc. 2026-01053 Filed 1-20-26; 8:45 am]

BILLING CODE 6712-01-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 250312-0037; RTID 0648-XF445]

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Catcher Vessels Using Trawl Gear in the Central Regulatory Area of the Gulf of Alaska

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting directed fishing for Pacific cod by catcher vessels using trawl gear in the Central Regulatory Area of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the A season allowance of the 2026 total allowable catch (TAC) of Pacific cod allocated to catcher vessels using trawl gear in the Central Regulatory Area of the GOA.

DATES: Effective 1200 hours, Alaska local time (A.l.t.), January 20, 2026, through 1200 hours, A.l.t., September 1, 2026.

FOR FURTHER INFORMATION CONTACT: Abby Jahn, 907-586-7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared and recommended by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The A season allowance of the 2026 Pacific cod TAC allocated to catcher vessels using trawl gear in the Central Regulatory Area of the GOA is 3,508

metric tons (mt) as established by the final 2025 and 2026 harvest specifications for groundfish in the GOA (90 FR 12468, March 18, 2025) and inseason adjustment (90 FR 60022, December 23, 2025).

The Regional Administrator, Alaska Region, NMFS (Regional Administrator) has determined that there is not sufficient Pacific cod TAC to allow directed fishing during the A season by catcher vessels using trawl gear in the Central Regulatory Area of the GOA and that 3,508 mt is necessary as incidental catch to support other fisheries. The Regional Administrator has further determined that the A season allowance of the 2026 Pacific cod TAC allocated to catcher vessels using trawl gear in the Central Regulatory Area of the GOA will be reached during the A season. Therefore, in accordance with § 679.20(d)(1)(i), the Regional Administrator is establishing a directed fishing allowance of 0 mt and is setting aside the remaining 3,508 mt as incidental catch to support other anticipated groundfish fisheries. In

accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance will be or has been reached. Consequently, NMFS is prohibiting directed fishing for Pacific cod by catcher vessels using trawl gear in the Central Regulatory Area of the GOA to prevent exceeding the sector's A season allowance of Pacific cod TAC.

While this closure is effective the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a trip.

Classification

NMFS issues this action pursuant to section 305(d) of the Magnuson-Stevens Act. This action is required by 50 CFR part 679, which was issued pursuant to section 304(b) of the Magnuson-Stevens Act, and is exempt from review under Executive Order 12866.

Pursuant to 5 U.S.C. 553(b)(B), there is good cause to waive prior notice and an opportunity for public comment on this action, as notice and comment would be impracticable and contrary to the public interest, as it would prevent NMFS from responding to the most

recent fisheries data on Pacific cod catch in a timely fashion and would delay the closure of directed fishing for Pacific cod by catcher vessels using trawl gear in the A season in the Central Regulatory Area of the GOA, which could result in this sector exceeding its A season allowance of Pacific cod TAC. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data on Pacific cod catch only became available as of January 15, 2026.

There is good cause under 5 U.S.C. 553(d)(3) to establish an effective date less than 30 days after date of publication. This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

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

Dated: January 16, 2026.

Kelly Denit,

*Director, Office of Sustainable Fisheries,
National Marine Fisheries Service.*

[FR Doc. 2026-01083 Filed 1-16-26; 4:15 pm]

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Proposed Rules

Federal Register

Vol. 91, No. 13

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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 ENERGY

10 CFR Part 851

[DOE-HQ-2025-0243]

RIN 1901-AB74

Worker Safety and Health Requirements To Support Reform of Nuclear Reactor Testing

AGENCY: Office of Nuclear Energy, U.S. Department of Energy.

ACTION: Notice of proposed rulemaking; request for comment.

SUMMARY: The Department of Energy (DOE or the Department) proposes to amend its regulations for worker safety and health to expedite the review, approval, and deployment of advanced reactors under DOE's jurisdiction including qualified test reactors in DOE's reactor pilot program, consistent with a recent Executive order. The revisions would ensure that DOE's worker safety and health program continues to protect workers, while incorporating lessons learned from decades of operating experience and fostering nuclear innovation and technologies to the benefit of the United States. Additionally, the proposed rule would make minor updates to these regulations to improve clarity.

DATES: DOE will accept comments, data, and information regarding the proposal received no later than February 20, 2026. See section IV, "Public Participation," for details.

ADDRESSES: Interested persons are encouraged to submit comments using the Federal eRulemaking Portal at www.regulations.gov under docket number DOE-HQ-2025-0243.

Please follow the instructions for submitting comments in section IV.

FOR FURTHER INFORMATION CONTACT: Mr. Daryn Moorman, U.S. Department of Energy, Idaho Operations Office, 1955 N. Freemont Avenue, Idaho Falls, ID 83415, Telephone: (208) 526-0111, Email: 851comments@id.doe.gov.

SUPPLEMENTARY INFORMATION:

I. Background/Authority

President Trump issued Executive Order (E.O.) 14301, Reforming Nuclear Reactor Testing at the Department of Energy, on May 23, 2025 (90 FR 22591). E.O. 14301 acknowledges the historical leadership of the United States in developing civilian nuclear power, including establishment of the National Reactor Testing Station (now known as Idaho National Laboratory (INL)). Nonetheless, in Section 1, the E.O. recognizes that this leadership has not been maintained, due in part to "overregulated complacency," and concludes that the United States must "foster nuclear innovation and bring advanced nuclear technologies into domestic production as soon as possible."

To support this policy, section 4(b) of E.O. 14301 states that "[w]ithin 90 days of the date of the order, the Secretary [of Energy] shall take appropriate action to revise the regulations, guidance, and procedures and practices of the Department, the National Laboratories, and any other entity under the Department's jurisdiction to significantly expedite the review, approval, and deployment of advanced reactors under the Department's jurisdiction." That section of the E.O. also directs the Secretary to "ensure that the Department's expedited procedures enable qualified test reactors to be safely operational at Department-owned or Department-controlled facilities within 2 years following the submission of a substantially complete application."

Section 5 of E.O. 14301 identifies related actions to establish a reactor pilot program to support projects outside National Laboratories. Section 5(a) directs the Secretary to create a pilot program for reactor construction and operation outside the National Laboratories, pursuant to the Atomic Energy Act's authorization of reactors under the Department's sufficient control, including reactors "under contract with and for the account of" the Department, in accordance with 42 U.S.C. 2140. The Secretary is also directed to approve at least three reactors pursuant to this pilot program with the goal of achieving criticality in each of the three reactors by July 4, 2026.

Consistent with this direction from the Administration, DOE has reviewed and identified changes to regulations,

guidance, and procedures and practices to expedite the deployment of advanced reactors under DOE's jurisdiction and to support E.O. 14301's goals for qualified test reactors and reactor pilot program projects. For the purposes of this proposed rulemaking, DOE has identified several proposed changes to 10 CFR part 851, Worker Safety and Health Program. In general, the proposed changes to part 851 discussed in Section II update the worker safety and health program for facilities and activities under the responsibility of DOE's Office of Nuclear Energy by incorporating decades of operational experience at DOE nuclear facilities and affording DOE contractors the flexibility to utilize widely-accepted industry or government standards.

DOE has broad authority to regulate worker safety and health with respect to its nuclear and nonnuclear functions pursuant to the Atomic Energy Act of 1954 (AEA), 42 U.S.C. 2011 *et seq.*; the Energy Reorganization Act of 1974 (ERA), 42 U.S.C. 5801-5911; and the Department of Energy Organization Act (DOEOA), 42 U.S.C. 7101-7352. Specifically, the AEA authorized and directed the Atomic Energy Commission (AEC) to protect health and promote safety during the performance of activities under the AEA. See Sec. 31(a)(5) of AEA, 42 U.S.C. 2051(a)(5); Sec. 161(b) of AEA, 42 U.S.C. 2201(b); Sec. 161(i)(3) of AEA, 42 U.S.C. 2201(i)(3); and Sec. 161(p) of AEA, 42 U.S.C. 2201(p). The ERA abolished the AEC and replaced it with the Nuclear Regulatory Commission (NRC), which became responsible for licensing and related regulatory functions concerning commercial nuclear activities, and the Energy Research and Development Administration (ERDA), which became responsible for all other functions of the AEC under the AEA, as well as several nonnuclear functions. The ERA authorized ERDA to use the regulatory authority under the AEA to carry out its nuclear and nonnuclear function, including those functions that might become vested in ERDA in the future. See ERA, sec. 105(a) (codified at 42 U.S.C. 5815(a)); and ERA, sec. 107 (codified at 42 U.S.C. 5817). The DOEOA transferred the functions and authorities of ERDA to DOE. See DOEOA, sec. 301(a) (codified at 42 U.S.C. 7151(a)); DOEOA, sec. 641 (codified at 42 U.S.C. 7251); and

DOEOA, sec. 644 (codified at 42 U.S.C. 7254).

In December 2002, Congress directed DOE to promulgate regulations on worker safety and health to cover contractors with Price-Anderson indemnification agreements in their contracts. Specifically, section 3173 of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 amended the Atomic Energy Act (AEA) to add section 234C (codified as 42 U.S.C. 2282c), which requires DOE to promulgate worker safety and health regulations that “provide a level of protection for workers at such facilities that is substantially equivalent to the level of protection currently provided to such workers at such facilities.” See Public Law 107–314 (December 2, 2002). These regulations are to include flexibility to tailor implementation to reflect activities and hazards associated with a particular work environment; to take into account special circumstances for facilities permanently closed or demolished, or for which title is expected to be transferred; and to achieve national security missions in an efficient and timely manner (42 U.S.C. 2282c(a)(3)).

Section 234C also subjects a DOE contractor with such an indemnification agreement that violates these regulations to civil penalties similar to the authority Congress granted to DOE in 1988 with respect to civil penalties for violations of nuclear safety regulations (42 U.S.C. 2282c(b)). Section 234C further directs DOE to insert in such contracts a clause providing for reducing contractor fees and other payments if the contractor or a contractor employee violates any regulation promulgated under section 234C, while specifying that both sanctions may not be used for the same violation (42 U.S.C. 2282c(c)).

As directed by section 234C, DOE issued the regulations at 10 CFR part 851, Worker Safety and Health Program, to implement DOE’s worker safety and health program in 2006 (71 FR 6858 (Feb. 9, 2006)). This program establishes the framework for a worker protection program that will reduce or prevent occupational injuries, illnesses, and accidental losses by requiring DOE contractors to provide their employees with safe and healthful workplaces (10 CFR 851.1(b)(1)). Also, the program establishes procedures for investigating whether a requirement has been violated, for determining the nature and extent of such violation, and for imposing an appropriate remedy (10 CFR 851.1(b)(2)). DOE has also provided a summary of this rule at www.regulations.gov.

II. Discussion of Proposal

DOE has reviewed part 851 to identify changes to meet the direction provided in E.O. 14301, while ensuring the continued protection of worker health and safety at a level substantially equivalent to what DOE has previously provided. In general, the proposed changes to Part 851 aim to streamline the regulatory framework for DOE’s Office of Nuclear Energy contractors which will, in turn, enhance worker health and safety. These changes include the removal of several sections and requirements, such as appendix A, specific items of § 851.23, and subpart D, among others. These changes also modify approval requirements and enforcement actions, allowing for quicker decision-making and reduced administrative burdens.

The benefits of these changes include increased flexibility, streamlined processes, cost savings, enhanced agility, and improved worker engagement. These changes align with the goals of efficiency and cost-effectiveness, leading to better outcomes for DOE contractors and their workers.

DOE proposes the following specific changes:

DOE proposes to revise the definitions in § 851.3(a) to make editorial corrections and to revise the definition of “DOE site” to clarify that part 851 worker safety and health requirements apply to any operations authorized by DOE, even if an activity is not located on DOE-owned or -leased areas, when those operations are performed in furtherance of a DOE mission. As one example, the construction and operation of a DOE-authorized advanced nuclear reactor on private land by a reactor developer with a contract with DOE would be subject to the requirements under part 851. In this example, if the reactor developer conducts other activities (e.g., for Federal agencies other than DOE, other non-DOE contracts, etc.) besides those authorized by DOE, that part 851 only applies to the portion of the site with the DOE-authorized activities. The proposed revision to the definition of “DOE site” would currently apply only to one site, Idaho National Laboratory, and are envisioned to apply to future sites where reactor developers are operating, pursuant to E.O. 14301, under contract with and for the account of DOE through the Office of Nuclear Energy.

DOE proposes to clarify the current definition for the term “Worker” to note that it refers to an employee of a DOE contractor who performs work in furtherance of a DOE mission at a covered workplace.

DOE proposes to revise § 851.24(b) to clarify that in implementing the structured approach to a worker safety and health program as required by § 851.24(a), contractors subject to the new § 851.46 may choose to use appendix A (Worker Safety and Health Functional Areas) as guidance, but are not required to comply with appendix A. This is because, once the proposed revisions take effect, appendix A will be mandatory only for those contractors that are not operating under the responsibility of the Office of Nuclear Energy. A conforming change is also proposed to the introduction paragraph of appendix A to account for this revision. Any other statements in appendix A, such as a contractor “must” take an action, are to be read in context with these changes to § 851.24(b) and the introduction paragraph of appendix A. Contractors subject to the new § 851.46 may propose alternative approaches as long as the approach addresses the worker safety and health program functional areas required by § 851.24(a).

As mentioned previously, DOE proposes to add a new § 851.46 that will provide direction to contractors operating under DOE’s Office of Nuclear Energy responsibility. This section would apply to activities related to the construction and operation of a nuclear facility, including an advanced nuclear reactor or a nuclear fuel cycle facility, by a DOE contractor when that facility is authorized by DOE, regardless of the location of the facility. It also would apply to all activities at INL undertaken by the management and operation contractor because INL is under the responsibility of the Office of Nuclear Energy.

As proposed, for contractors subject to § 851.46, this new section states that certain requirements, which would otherwise apply under part 851, are not required. In particular, § 851.46 would remove overly-prescriptive, individualized approval requirements in § 851.11 concerning worker safety and health programs and updates in favor of more streamlined and efficient control by DOE of those programs and updates through DOE’s normal oversight authorities and processes.

Section 851.46 also would exclude the following standards: American Conference of Governmental Industrial Hygienists (ACGIH®), *Threshold Limit Values for Chemical Substances and Physical Agents and Biological Exposure Indices* (2016); American National Standards Institute (ANSI/ASSE) Z88.2, “American National Standard Practices for Respiratory Protection” (2015); ANSI Z49.1, “Safety

in Welding, Cutting and Allied Processes,” sections 4.3 and E4.3 (2012); the requirement in § 851.24 for a structured approach for worker safety and health program functional areas; and materials incorporated by reference in § 851.27. DOE makes this proposal because those standards are overly conservative, as compared to Occupational Safety and Health Administration (OSHA) requirements (e.g., 29 CFR parts 1910 and 1926), and impose unnecessary administrative and operational burdens to contractors. The Threshold Limit Values (TLVs) referenced previously lead contractors to take excessive precautions or require personal protective equipment (PPE) when doing so would not be required for industry. For example, TLVs for cold stress require that special protection of the hands be used if fine work is to be performed with bare hands for more than 10 to 20 minutes in an environment below 60.8 degrees Fahrenheit. Special protection includes warm air jets, radiant heaters, or contact warm plates. However, the temperatures requiring controls noted in the TLV are common working, almost everyday, temperatures at Idaho National Laboratory and local workers are acclimated to working in those conditions. Thus, the required special protections are neither feasible nor reasonable at INL. Consistent with other revisions, the new § 851.46 provides that appendix A applies to Office of Nuclear Energy contractors only as non-binding guidance and not as mandatory requirements. Operational experience has demonstrated that appendix A creates confusion by, for example, requiring contractors to develop sections of a worker safety and health program that are not applicable to their scope of their work. Additionally, some sections include standard or codes that have been revised or updated, which contractors are not able to utilize because specific revision numbers are referenced. Furthermore, any contractor-requested variances to any requirement under part 851 may be submitted directly to, and may be approved by, the cognizant Head of DOE Field Element or DOE employee with authority to approve the relevant safety basis, as applicable, rather than following the existing variance process in subpart D. Finally, any enforcement action taken under part 851 for activities falling within the scope of the new § 851.46 must be performed after consultation with the cognizant Head of DOE Field Element or DOE employee with authority to approve the relevant safety basis, as applicable. To clarify the

applicability of the variance process in new § 851.46, § 851.30(a) will also be revised to reflect that, except as outlined in § 851.46, the process in subpart D will apply. In addition, § 851.30 will be revised to specify that variances “may” be granted, as opposed to “shall” be granted, by the Under Secretary, which simply clarifies that the Under Secretary retains the discretion to grant or deny variances in appropriate cases.

These proposed changes to part 851 present significant advantages that can enhance operational efficiency and safety for DOE contractors. These benefits include:

- *Increased Flexibility:* The revision of certain regulatory requirements would provide contractors with the ability to customize their safety and health programs to better align with their specific operational contexts. This flexibility allows contractors to implement tailored programs that can lead to the implementation of more effective and relevant measures that enhance overall safety.

- *Streamlined Processes:* By removing redundant compliance steps, the proposed changes are intended to reduce administrative burdens on contractors. This streamlining enables a greater focus on core operational activities, resulting in enhanced efficiency and productivity because contractors will only need to comply with the relevant compliance requirements. These streamlined processes also enhance overall safety by shifting focus away from bureaucratic compliance and towards safety-significant activities.

- *Cost Savings:* The reduction in compliance-related activities would likely increase cost savings, allowing contractors to reallocate resources previously devoted to paperwork and approvals toward strengthening safety programs, training initiatives, and other critical areas.

- *Enhanced Agility:* The diminished bureaucratic hurdles, such as the allowance in § 851.46(c)(2) for the cognizant Head of DOE Field Element or DOE employee with authority to approve the relevant safety basis to approve variances, would allow contractors to respond more swiftly to changes in project scope, emerging safety concerns, or advancements in technology. This agility could help maintain project timelines and minimize potential delays.

- *Encouragement of Best Practices:* The guidance model proposed through the new § 851.46 encourages contractors to explore and implement industry best practices that are most relevant to their operations. For example, removing

requirements to meet specific editions of consensus standards, which may become quickly outdated, enables contractors to continually be aware of, and incorporate, industry best practices. This focus on continuous improvement is intended to lead to innovative safety protocols and enhanced worker protection.

- *Promotion of Collaboration:* The proposed flexible approach in new § 851.46 that removes overly-prescriptive requirements would foster collaboration between DOE and contractors, facilitating the sharing of knowledge and experiences and contributing to the enhancement of safety practices across the DOE network. In particular, this approach incentivizes Office of Nuclear Energy contractors to seek new best practices from industry that increase efficiency while maintaining safety; once implemented, the Office of Nuclear Energy can share those practices with its other contractors.

- *Focus on Risk Management:* The shift toward non-binding guidance rather than overly-prescriptive requirements for contractors operating under Office of Nuclear Energy responsibility would enable contractors to prioritize risk management tailored to their unique operational hazards. Allowing for this risk-based approach could lead to more effective hazard identification, assessment, and control.

- *Improved Worker Engagement:* By removing overly-prescriptive requirements, the proposed changes will empower contractors to develop safety practices, based on industry and OSHA standards and informed by their own operational experience, rather than relying on DOE to dictate exactly which practices to use. Because many of those practices will be developed by the contractors’ employees, the proposed changes would also foster a sense of ownership among those employees. Increased worker involvement in safety protocol development could enhance engagement and accountability, which DOE believes is a necessary component for the successful operation of these facilities.

- *Alignment with Industry Standards:* The proposed changes would facilitate better alignment with evolving industry safety standards and best practices, allowing contractors to adapt more readily to advancements in safety technology and methodologies. Currently, § 851.27 incorporates references with specific revision numbers, preventing contractors from utilizing the most recent standard or code.

The proposed changes to 10 CFR part 851 aim to create a more efficient, innovative, and proactive safety environment for DOE contractors. By minimizing bureaucratic constraints, these changes position contractors to better manage risks, protect worker safety, and enhance overall operational performance, thereby providing long-term benefits to the DOE and its mission.

In summary, DOE has tentatively determined that these changes to part 851 would help the review, approval, and deployment of advanced reactors under DOE's jurisdiction and support a reactor pilot program, consistent with E.O. 14301.

DOE seeks comments on all aspects of this proposal to amend 10 CFR part 851.

III. Procedural Issues and Regulatory Review

A. Review Under Executive Order 12866

Executive Order (“E.O.”) 12866, “Regulatory Planning and Review,” 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. For the reasons stated in the preamble, this proposed rule is consistent with these principles. One alternative approach that DOE considered but rejected was to make the proposed changes more broadly applicable to the Department as a whole rather than only to Office of Nuclear Energy contractors. However, given that the catalyst for the proposed changes, E.O. 14301, set forth an expedited timeline and affected only Office of Nuclear Energy contractors, the

Department decided to focus these proposed changes on Office of Nuclear Energy contractors and defer changes affecting other DOE contractors for future consideration.

Section 6(a) of E.O. 12866 also requires agencies to submit “significant regulatory actions” to the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget (OMB) for review. OIRA has determined that this proposed regulatory action constitute a “significant regulatory action” under section 3(f) of E.O. 12866. Accordingly, this proposed regulatory action was submitted to OIRA for review under E.O. 12866.

B. Review Under Additional Executive Orders and Presidential Memoranda

DOE has examined this proposed rule and has tentatively determined that it is consistent with the policies and directives outlined in E.O. 14154 “Unleashing American Energy,” E.O. 14192, “Unleashing Prosperity Through Deregulation,” and Presidential Memorandum, “Delivering Emergency Price Relief for American Families and Defeating the Cost-of-Living Crisis.” This proposed rulemaking is an E.O. 14192 deregulatory action because it intends to reduce the burden to society by streamlining the regulatory framework and improving efficiency for Office of Nuclear Energy contractors. Fewer compliance steps will allow contractors to focus on risk management and reallocate resources, leading to faster decision-making and reduced administrative tasks and significant savings in both time and resources. Empowering contractors to develop their safety practices fosters a sense of ownership among employees. Increased worker involvement in safety protocol development may enhance engagement and accountability. Finally, the proposed changes facilitate better alignment with evolving industry safety standards and best practices, allowing contractors to adapt more readily to advancements in safety technology and methodologies. Faster decision-making and reduced administrative tasks can lead to significant savings in both time and resources. Potential cost savings for Office of Nuclear Energy contractors are estimated to be 1–3% of the contract value per year. For INL, this would be on the order of \$20–60 million per year. This estimate includes savings, based on contractor billing data, attributable to: (1) reduced expenditures on unnecessary exhaust ventilation equipment (portable and stationary) and excessive personal protective equipment (e.g., protective suits and respirators);

and (2) increased worker productivity and efficiency resulting from the removal of overly-conservative work restrictions (e.g., cold stress restrictions discussed previously).

C. Review Under Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires preparation of an initial regulatory flexibility analysis (IRFA) and a final regulatory flexibility analysis (FRFA) 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 reviewed this proposed rule under the provisions of the Regulatory Flexibility Act and the policies and procedures published on February 19, 2003. The regulatory requirements at issue are internal-facing and affect DOE operations and contractors as opposed to the general economy. The proposed rule reduces administrative overhead, allowing small entities to allocate resources more effectively. Moreover, it empowers small entities to implement safety measures that are directly relevant to their specific operational contexts, enhancing both efficiency and worker safety. Therefore, DOE initially concludes that the impacts of the proposed rule would not have a “significant economic impact on a substantial number of small entities,” and that the preparation of an IRFA is not warranted. DOE will transmit this certification and supporting statement of factual basis to the Chief Counsel for Advocacy of the Small Business Administration for review under 5 U.S.C. 605(b).

D. Review Under Paperwork Reduction Act

This proposed rule imposes no new information collection requirements subject to the Paperwork Reduction Act, and OMB clearance is not required. (44 U.S.C. 3501 *et seq.*)

E. Review Under National Environmental Policy Act of 1969

Pursuant to the National Environmental Policy Act of 1969 (NEPA), DOE has analyzed this proposed regulatory action in accordance with NEPA and DOE's NEPA implementing procedures and has tentatively determined that it is excepted from NEPA review pursuant to appendix A of 10 CFR part 1021.

F. Review Under Executive Order 13132

Executive Order 13132, "Federalism," 64 FR 43255 (August 4, 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. Therefore, no further action is required by Executive Order 13132.

G. Review Under Executive Order 12988

With respect to the review of existing regulations and the promulgation of new regulations, section 3(a) of Executive Order 12988, "Civil Justice Reform," 61 FR 4729 (February 7, 1996), imposes on Executive agencies the general duty to adhere to the following requirements: (1) eliminate drafting errors and ambiguity; (2) write regulations to minimize litigation; and (3) provide a clear legal standard for affected conduct rather than a general standard and promote simplification and burden reduction. With regard to the review required by section 3(a), section 3(b) of Executive Order 12988 specifically requires that Executive agencies make every reasonable effort to ensure that the regulation: (1) clearly specifies the preemptive effect, if any;

(2) clearly specifies any effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction; (4) specifies the retroactive effect, if any; (5) adequately defines key terms; and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. Section 3(c) of Executive Order 12988 requires Executive agencies to review regulations in light of applicable standards in 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 initiated the required review and tentatively determined that, to the extent permitted by law, this proposed rule meets the relevant standards of Executive Order 12988.

H. Review Under Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and Tribal governments and the private sector. Public Law 104-4, sec. 201 (codified at 2 U.S.C. 1531). For a regulatory action 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 "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.

DOE examined this proposed rule according to UMRA and its statement of policy and tentatively determined that the proposed rule does not contain a Federal intergovernmental mandate, nor is it expected to require expenditures of \$100 million or more in any one year by State, local, and Tribal governments, in

the aggregate, or by the private sector. As a result, the analytical requirements of UMRA do not apply.

I. Review Under 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 proposed rule would not have any impact on the autonomy or integrity of the family as an institution. Accordingly, DOE has tentatively concluded that it is not necessary to prepare a Family Policymaking Assessment because proposed regulatory action would not have any financial impact on families nor any impact on the autonomy or integrity of the family as an institution.

J. Review Under Executive Order 12630

Pursuant to E.O. 12630, "Governmental Actions and Interference with Constitutionally Protected Property Rights," 53 FR 8859 (March 18, 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.

K. Review Under Treasury and General Government Appropriations Act, 2001

Section 515 of the Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516 note) provides for 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/cio/departments-energy-information-quality-guidelines. DOE has reviewed this proposed rule under the OMB and DOE guidelines and has tentatively concluded that it is consistent with applicable policies in those guidelines.

L. Review Under Executive Order 13211

Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use," 66 FR 28355 (May 22, 2001), requires Federal agencies to prepare and submit to OIRA at OMB, a

Statement of Energy Effects for any significant energy action. A “significant energy action” is defined as any action by an agency that promulgated or is expected to lead to promulgation of a proposed rule, and that: (1) is a significant regulatory action under Executive Order 12866, or any successor order; and (2) is likely to have a significant adverse effect on the supply, distribution, or use of energy, or (3) is designated by the Administrator of OIRA as a significant energy action. For any significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the proposal be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use.

This proposed regulatory action would update DOE’s regulations in 10 CFR part 851 for worker safety and health to expedite the review, approval, and deployment of advanced reactors under DOE’s jurisdiction, including under its reactor pilot program.

This action would not have a significant adverse effect on the supply, distribution, or use of energy, nor has it been designated as a significant energy action by the Administrator of OIRA. Therefore, it is not a significant energy action, and, accordingly, DOE has not prepared a Statement of Energy Effects.

IV. Public Participation

Submission of Comments. DOE will accept all comments, data, and information regarding this proposed rule 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 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.

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).

V. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of the notice of proposed rulemaking; request for comment.

List of Subjects in 10 CFR Part 851

Federal buildings and facilities, Hazardous substances, Occupational safety and health, Penalties, Reporting and recordkeeping requirements, Safety.

Signing Authority

This document of the Department of Energy was signed on January 12, 2026, by Chris Wright, 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, 2026.

Jennifer Hartzell,

*Alternate Federal Register Liaison Officer,
U.S. Department of Energy.*

For the reasons set forth in the preamble, DOE is proposing to amend part 851 of chapter III of title 10, Code of Federal Regulations as set forth below:

PART 851—WORKER SAFETY AND HEALTH PROGRAM

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

Authority: 42 U.S.C. 2201(i)(3), (p); 42 U.S.C. 2282c; 42 U.S.C. 5801 *et seq.*; 42 U.S.C. 7101 *et seq.*; 50 U.S.C. 2401 *et seq.*; 28 U.S.C. 2461 note.

■ 2. Amend § 851.3 by revising the definitions for “Closure facility,” “Cognizant Secretarial Officer,” “DOE site,” and “Worker” to read as follows:

§ 851.3 Definitions.

* * * * *

Closure facility means a facility that is non-operational and is, or is expected to be, permanently closed and/or demolished, or title to which is expected to be transferred to another entity for reuse.

* * * * *

Cognizant Secretarial Officer (CSO) means, with respect to a particular situation, the Assistant Secretary, Deputy Administrator, Program Office

Director, or equivalent DOE official who has primary line management responsibility for a contractor, or any other official to whom the CSO delegates in writing a particular function under this part.

* * * * *

DOE site means a DOE-owned or -leased area or location or other area or location controlled by DOE or with operations authorized by DOE where activities and operations are performed at one or more facilities or places by a contractor in furtherance of a DOE mission.

* * * * *

Worker means an employee of a DOE contractor who performs work in furtherance of a DOE mission at a covered workplace.

* * * * *

■ 2. Amend § 851.24 by revising paragraph (b) to read as follows:

§ 851.24 Functional areas.

* * * * *

(b) In implementing the structured approach required by paragraph (a) of this section, except as stated in § 851.46, contractors must comply with the applicable standards and provisions in appendix A of this part, entitled “Worker Safety and Health Functional Areas.”

■ 3. Amend § 851.30 by revising paragraph (a) to read as follows:

§ 851.30 Consideration of variances.

(a) Except as provided in § 851.46, variances may be granted by the Under Secretary after considering the recommendation of the EHSS Director. The authority to grant a variance cannot be delegated.

* * * * *

■ 4. Add a new § 851.46 to read as follows:

§ 851.46 Direction to contractors operating under Office of Nuclear Energy responsibility.

(a) This section applies only to DOE sites under DOE’s Office of Nuclear Energy responsibility, including nuclear facilities authorized by the Office of Nuclear Energy.

(b) Notwithstanding any other provision of this part, the following provisions do not apply to facilities covered by paragraph (a) of this section:

- (1) Section 851.11(b) and any other requirements in § 851.11(a) and (c) of this part requiring approval by DOE of the contractor’s worker safety and health programs and updates;
- (2) Section 851.23(a)(9), (10), and (12);
- (3) Section 851.24;
- (4) Section 851.27(b), (c)(1), and (c)(2); and

(5) Subpart D.

(c) Notwithstanding any other provision of this part, the following provisions apply to facilities covered by paragraph (a) of this section:

(1) Appendix A to this part is applicable only as guidance, not as a requirement;

(2) Variances to any requirement of this part are to be submitted to, and require the approval of, the cognizant Head of DOE Field Element or DOE employee with authority to approve the relevant safety basis, as applicable; and

(3) Any enforcement action taken under this part must be performed after consultation with the cognizant Head of DOE Field Element or DOE employee with authority to approve the relevant safety basis, as applicable.

■ 5. Revise the introductory paragraph of appendix A to part 851 to read as follows:

Appendix A to Part 851—Worker Safety and Health Functional Areas

Except as stated in § 851.46, this appendix establishes the mandatory requirements for implementing the applicable functional areas required by § 851.24.

* * * * *

[FR Doc. 2026–01066 Filed 1–20–26; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2026–0017; Project Identifier MCAI–2023–00681–R]

RIN 2120–AA64

Airworthiness Directives; Leonardo S.p.A. Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for all Leonardo S.p.A. Model AB139 and AW139 helicopters. This proposed AD was prompted by reports of a damaged spare inflation system of a certain life raft kit due to the inappropriate shipment of the parts. This proposed AD would require replacing certain life raft inflation systems and would prohibit the installation of an affected life raft inflation system on any helicopter. The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this NPRM by March 9, 2026.

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

• *Federal eRulemaking Portal:* Go to *regulations.gov*. Follow the instructions for submitting comments.

• *Fax:* (202) 493–2251.

• *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

• *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

AD Docket: You may examine the AD docket at *regulations.gov* under Docket No. FAA–2026–0017; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The street address for Docket Operations is listed above.

Material Incorporated by Reference:

• For European Union Aviation Safety Agency (EASA) material identified in this proposed AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; phone: +49 221 8999 000; email: *ADs@easa.europa.eu*; website: *easa.europa.eu*. You may find the EASA material on the EASA website at *ad.easa.europa.eu*.

• You may view this material at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Parkway, Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call (817) 222–5110.

FOR FURTHER INFORMATION CONTACT:

David Enns, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: (316) 946–4147; email: *david.enns@faa.gov*.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments using a method listed under **ADDRESSES**. Include “Docket No. FAA–2026–0017; Project Identifier MCAI–2023–00681–R” at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this proposal because of those comments.

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

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as "PROPIN." The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to David Enns, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590. Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2023–0101, dated May 15, 2023 (EASA AD 2023–0101) (also referred to as the MCAI), to correct an unsafe condition on Leonardo S.p.A. Model AB139 and AW139 helicopters. The MCAI states there have been reports of a damaged spare inflation system of life raft kit part

number (P/N) 3G9560F00111, P/N 3G9560F00112, and P/N 4G2560F00811. The MCAI further states that subsequent investigation results revealed the damage was caused by the inappropriate shipment of the parts. This condition, if not addressed, could lead to the inability to inflate a life raft, which could possibly affect the safe evacuation of occupants in the case of ditching overwater.

You may examine the MCAI in the AD docket at *regulations.gov* under Docket No. FAA–2026–0017.

Material Incorporated by Reference Under 1 CFR Part 51

The FAA reviewed EASA AD 2023–0101, dated May 15, 2023, which specifies procedures for replacing life raft inflation system P/N 202402A and P/N 202256A that have a certain cylinder and valve serial number. EASA AD 2023–0101 also prohibits installing an affected life raft inflation system part on any helicopter.

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

FAA's Determination

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

Proposed AD Requirements in This NPRM

This proposed AD would require accomplishing the actions specified in

EASA 2023–0101, described previously, as incorporated by reference, except for any differences identified as exceptions in the regulatory text of this AD.

Explanation of Required Compliance Information

In the FAA's ongoing efforts to improve the efficiency of the AD process, the FAA developed a process to use some CAA ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. The FAA has been coordinating this process with manufacturers and CAAs. As a result, the FAA incorporates EASA AD 2023–0101 by reference in the FAA final rule. This proposed AD would, therefore, require compliance with EASA AD 2023–0101 in its entirety through that incorporation, except for any differences identified as exceptions in the regulatory text of this proposed AD. Using common terms that are the same as the heading of a particular section in EASA AD 2023–0101 does not mean that operators need comply only with that section. For example, where the AD requirement refers to "all required actions and compliance times," compliance with this AD requirement is not limited to the section titled "Required Action(s) and Compliance Time(s)" in EASA AD 2023–0101. Material required in EASA AD 2023–0101 for compliance will be available at *regulations.gov* under Docket No. FAA–2026–0017 after the FAA final rule is published.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 161 helicopters of U.S. registry.

The FAA estimates the following costs to comply with this proposed AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Replace life raft inflation system	4 work-hours × \$85 per hour = \$340	\$8,910	\$9,250	\$1,489,250

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

Authority for This Rulemaking

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

detail the scope of the Agency's authority.

The FAA is issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: General requirements. Under that section, Congress charges the FAA with promoting safe flight of civil

aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Leonardo S.p.A.: Docket No. FAA–2026–0017; Project Identifier MCAI–2023–00681–R.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by March 9, 2026.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Leonardo S.p.A. Model AB139 and AW139 helicopters, certificated in any category.

(d) Subject

Joint Aircraft System Component (JASC) Code 2564, Life Raft.

(e) Unsafe Condition

This AD was prompted by reports of a damaged spare inflation system of a certain life raft kit due to inappropriate shipment of the parts. The FAA is issuing this AD to address a damaged life raft inflation system, which could lead to inability to inflate a life raft and possibly affecting the safe evacuation of occupants in the case of ditching overwater.

(f) Compliance

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

(g) Required Actions

Except as specified in paragraphs (h) and (i) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, European Union Aviation Safety Agency AD 2023–0101, dated May 15, 2023 (EASA AD 2023–0101).

(h) Exceptions to EASA AD 2023–0101

(1) Where EASA AD 2023–0101 refers to its effective date, this AD requires using the effective date of this AD.

(2) Where EASA AD 2023–0101 requires compliance in terms of flight hours, this AD requires using hours time-in-service.

(3) Where EASA AD 2023–0101 defines “affected part,” this AD requires replacing that definition with “Life raft inflation system part number (P/N) 202402A and P/N 202256A that:

- (i) have a cylinder and valve serial number (S/N) as specified in Leonardo Helicopters Alert Service Bulletin (ASB) 139–734, original issue, dated April 13, 2023, or Revision A, dated April 28, 2023; except those that have not been modified in accordance with the instructions of Aero Sekur Service Bulletin (SB) SB–139–25–005, Revision 1, dated April 21, 2023, and Survitec SB 25–225–A, Revision 1, dated February 23, 2023 (co-published as one document) as applicable, or
- (ii) have a cylinder where the S/N cannot be determined.”

(4) This AD does not adopt the “Remarks” section of EASA AD 2023–0101.

(i) No Reporting and Return of Parts Requirement

Although the material referenced in EASA AD 2023–0101 specifies to submit certain information to the manufacturer and to return the parts to the manufacturer, this AD does not require any of these actions.

(j) Special Flight Permits

Special flight permits may be issued in accordance with 14 CFR 21.197 and 21.199, provided there are no flights overwater.

(k) Alternative Methods of Compliance (AMOCs)

(1) The Manager, International Validation Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your

request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the International Validation Branch, send it to the attention of the person identified in paragraph (l) of this AD and email to: AMOC@faa.gov.

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(l) Additional Information

For more information about this AD, contact David Enns, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: (316) 946–4147; email: david.enns@faa.gov.

(m) Material Incorporated by Reference

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

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

(i) European Union Aviation Safety Agency (EASA) AD 2023–0101, dated May 15, 2023.

(ii) [Reserved]

(3) For EASA material identified in this AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; phone: +49 221 8999 000; email: ADS@easa.europa.eu; website: easa.europa.eu. You may find the EASA material on the EASA website at ad.easa.europa.eu.

(4) You may view this material at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Parkway, Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call (817) 222–5110.

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

Issued on January 16, 2026.

Steven W. Thompson,

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

[FR Doc. 2026–01049 Filed 1–20–26; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Part 39**

[Docket No. FAA–2026–0019; Project Identifier MCAI–2025–00293–A]

RIN 2120–AA64

Airworthiness Directives; Baykar Piaggio Aerospace S.p.A. (Type Certificate Previously Held by Piaggio Aviation S.p.A.) Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain Baykar Piaggio Aerospace S.p.A. (type certificate previously held by Piaggio Aviation S.p.A.) (Piaggio) Model P–180 airplanes. This proposed AD was prompted by reports of corrosion and cracks affecting the vertical stabilizer. This proposed AD would require repetitive visual and non-destructive testing (NDT) inspections, a one-time NDT inspection of the vertical stabilizer assembly, and, depending on findings, accomplishment of corrective actions. In addition, this AD would provide a terminating action for the repetitive inspections. The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this NPRM by March 9, 2026.

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

- *Federal eRulemaking Portal:* Go to [regulations.gov](https://www.regulations.gov). Follow the instructions for submitting comments.

- *Fax:* (202) 493–2251.

- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

AD Docket: You may examine the AD docket at [regulations.gov](https://www.regulations.gov) under Docket No. FAA–2026–0019; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The street address for Docket Operations is listed above.

Material Incorporated by Reference:

- For Piaggio Aerospace material identified in this proposed AD, contact Piaggio, P180 Customer Support, via Pionieri e Aviatori d'Italia, snc—16154 Genoa, Italy; phone: +39 331 679 74 93; email: technicalsupport@piaggioaerospace.it.

- You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 901 Locust, Kansas City, MO 64106. For information on the availability of this material at the FAA, call (817) 222–5110.

FOR FURTHER INFORMATION CONTACT:

Doug Rudolph, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: (816) 329–4059; email: doug.rudolph@faa.gov.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under **ADDRESSES**. Include “Docket No. FAA–2026–0019; Project Identifier MCAI–2025–00293–A” at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this proposal because of those comments.

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

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as “PROPIN.” The FAA will treat such marked submissions as confidential

under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to Doug Rudolph, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590. Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

The European Union Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2025–0054, dated March 6, 2025 (EASA AD 2025–0054) (also referred to as the MCAI), to correct an unsafe condition on certain serial-numbered Piaggio Model P–180 Avanti and Avanti II airplanes. The MCAI states that corrosion and cracks affecting the vertical stabilizer were reported on Model P–180 airplanes. To address the unsafe condition, the MCAI requires repetitive visual and NDT inspections and one-time NDT inspections of the parts and structural elements of the vertical stabilizer assembly for evidence of damage to the protective finish, corrosion and cracking and, depending on the findings, repair or replacement of affected parts. The MCAI also provides terminating actions for certain repetitive inspections. This condition, if not addressed, could result in reduced structural integrity of the vertical stabilizer and the rudder with consequent reduced control of the airplane.

You may examine the MCAI in the AD docket at [regulations.gov](https://www.regulations.gov) under Docket No. FAA–2026–0019.

Material Incorporated by Reference Under 1 CFR Part 51

The FAA reviewed Piaggio Aerospace Service Bulletin (SB) 80–0493, Revision 0, dated November 21, 2024 (Piaggio SB 80–0493, Rev. 0). This material specifies procedures for repetitive visual and NDT (including high-frequency eddy current (HFEC) and film radiographic (FR/D2) testing) inspections, a one-time NDT inspection, and post-repair instructions for the parts and structural elements of the vertical stabilizer assembly for evidence of damage of the protective finish, corrosion, and cracking, and applicable corrective actions. Corrective actions include, depending on inspection findings, repairing or replacing affected parts or contacting Piaggio to obtain an approved Repair Design Approval Sheet (RDAS), which is terminating action for certain repetitive inspections. This material is reasonably available because

the interested parties have access to it through their normal course of business or by the means identified in the ADDRESSES section.

FAA’s Determination

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

Proposed AD Requirements in This NPRM

This proposed AD would require accomplishing the actions specified in

the material already described, except as discussed under “Differences Between this Proposed AD and the Referenced Material.”

Differences Between This Proposed AD and the Referenced Material

Step (49) of Piaggio SB 80–0493, Rev. 0, provides instructions to contact Piaggio to obtain an approved RDAS and accomplish that repair accordingly, including post-repair follow-on action(s), as applicable. This proposed AD would instead require contacting either the Manager, International Validation Branch, FAA; EASA; or Piaggio’s EASA Design Organization Approval (DOA); for approved repair instructions and, within the compliance time specified therein, accomplish those instructions accordingly, including post-repair follow-on action(s), as applicable. If approved by the DOA, the

approval must include the DOA-authorized signature.

Although Piaggio SB 80–0493, Rev. 0, states that certain subsequent inspections are in accordance with the aircraft maintenance manual inspection program chapter 05–20–00, this proposed AD does not require those actions.

Although steps (17), (20), (24), (28), (33), (38), (41), (44), (47), (48), and Note 21 of Piaggio SB 80–0493, Rev. 0, require reporting inspection results to Piaggio, this proposed AD does not require those actions.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 107 airplanes of U.S. registry.

The FAA estimates the following costs to comply with this proposed AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
One-time NDT inspection of the vertical stabilizer assembly.	Up to 27 work-hours × \$85 per hour = \$2,295.	\$0	Up to \$2,295	Up to \$245,565.
Repetitive visual and NDT inspections of the vertical stabilizer assembly.	Up to 40 work-hours × \$85 per hour = \$3,400 (per inspection).	\$0 (per inspection).	Up to \$3,400 (per inspection).	Up to \$363,800 (per inspection).

The FAA estimates the following costs to do any necessary repairs that would be required based on the results

of the proposed inspections. The agency has no way of determining the number

of airplanes that might need these repairs:

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Repair of parts and structural elements of the vertical stabilizer assembly.	Up to 280 work-hours × \$85 per hour = \$23,800 ..	Up to \$1,000	Up to \$24,800.
Replacement of parts and structural elements of the vertical stabilizer assembly.	Up to 160 work-hours × \$85 per hour = \$13,600 ..	Up to \$10,000	Up to \$23,600.

Authority for This Rulemaking

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

The FAA is issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: General requirements. Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of

that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Baykar Piaggio Aerospace S.p.A. (type certificate previously held by Piaggio Aviation S.p.A.): Docket No. FAA–2026–0019; Project Identifier MCAI–2025–00293–A.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by March 9, 2026.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Baykar Piaggio Aerospace S.p.A. (type certificate previously held by Piaggio Aviation S.p.A.) (Piaggio) Model P–180 airplanes, manufacturer serial numbers 1002, 1004 through 3016, and 3018, certificated in any category.

(d) Subject

Joint Aircraft System Component (JASC) Code 5530, Vertical Stabilizer Structure.

(e) Unsafe Condition

This AD was prompted by reports of corrosion and cracks affecting the vertical stabilizer. The FAA is issuing this AD to address this unsafe condition. The unsafe condition, if not addressed, could result in reduced structural integrity of the vertical stabilizer and the rudder with consequent reduced control of the airplane.

(f) Compliance

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

(g) Required Actions

(1) Within the applicable compliance time specified in table 1 to paragraph (g)(1) of this AD and thereafter at intervals not to exceed 660 hours time-in-service (TIS) or 26 months, whichever occurs first, do the applicable repetitive visual and non-destructive testing (NDT) inspections of the parts of the vertical stabilizer assembly for evidence of damage to the protective finish, corrosion, and cracking, in accordance with section 2.B, PART A, items (i) through (vii) as applicable, of Piaggio Aerospace Service Bulletin (SB) 80–0493, Revision 0, dated November 21, 2024 (Piaggio SB 80–0493, Rev. 0). Where Piaggio SB 80–0493, Rev. 0, states that subsequent inspections shall be performed in accordance with the aircraft maintenance manual inspection program chapter 05–20–00, this AD does not require those actions.

TABLE 1 TO PARAGRAPH (g)(1)—COMPLIANCE TIMES

P–180 serial No.	Compliance time (hours TIS or calendar time, whichever occurs first after the effective date of this AD)
1002, 1004 through 3016	Within 220 hours TIS or 13 months.
3018	Within 660 hours TIS or 26 months.

(2) Within the applicable compliance time specified in table 1 to paragraph (g)(1) of this AD, do the applicable one-time NDT inspections of the parts of the vertical stabilizer assembly for evidence of damage to the protective finish, corrosion and cracking, in accordance with section 2.B, PART A, items (viii) and (ix), as applicable, of Piaggio SB 80–0493, Rev. 0.

(3) If, during any inspection required by paragraph (g)(1) or (2) of this AD any corrosion or cracking is found, before further flight, accomplish the applicable corrective action(s), including post-repair inspections, in accordance with the instructions of section 2.B, PART B, of Piaggio SB 80–0493, Rev. 0.

(4) Where the Accomplishment Instructions, section 2.B, PART B, step (49) of Piaggio SB 80–0493, Rev. 0, state to contact Piaggio to obtain an approved repair design approval sheet (RDAS) and accomplish that repair accordingly including post-repair follow-on actions(s), as applicable, before further flight, contact either the Manager, International Validation Branch, FAA; European Union Aviation Safety Agency (EASA); or Piaggio's EASA Design Organization Approval (DOA); for approved repair instructions and, within the compliance time specified therein, accomplish those instructions accordingly, including post-repair follow-on action(s), as applicable. If approved by the DOA, the approval must include the DOA-authorized signature.

(h) Terminating Action

Accomplishment of any action identified as “terminating action” for a given inspection in section 2.B, PART B, of Piaggio SB 80–

0493, Rev. 0, constitutes terminating action for the repetitive inspections, as applicable, required by paragraph (g)(1) of this AD for that airplane.

(i) No Reporting Requirement

Although certain steps of Piaggio SB 80–0493, Rev. 0, specify to submit inspection findings to the manufacturer, this AD does not include that requirement.

(j) Alternative Methods of Compliance (AMOCs)

The Manager, International Validation Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the International Validation Branch, send it to the attention of the person identified in paragraph (k) of this AD and email to: AMOC@faa.gov. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local Flight Standards District Office/certificate holding district office.

(k) Additional Information

For more information about this AD, contact Doug Rudolph, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: (816) 329–4059; email: doug.rudolph@faa.gov.

(l) Material Incorporated by Reference

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

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

(i) Piaggio Aerospace Service Bulletin 80–0493, Revision 0, dated November 21, 2024.

(ii) [Reserved]

(3) For Piaggio Aerospace material identified in this AD, contact Baykar Piaggio Aerospace S.p.A., P180 Customer Support, via Pionieri e Aviatori d'Italia, snc—16154 Genoa, Italy; phone: +39 331 679 74 93; email: technicalsupport@piaggioaerospace.it.

(4) You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 901 Locust, Kansas City, MO 64106. For information on the availability of this material at the FAA, call (817) 222–5110.

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

Issued on January 16, 2026.

Steven W. Thompson,

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

[FR Doc. 2026–01048 Filed 1–20–26; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Part 39**

[Docket No. FAA–2026–0015; Project Identifier MCAI–2025–01528–A]

RIN 2120–AA64

Airworthiness Directives; Pilatus Aircraft Ltd. Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain Pilatus Aircraft Ltd. (Pilatus) Model PC–12/47E airplanes. This proposed AD was prompted by a report that, during an engine start on the ground, the airplane battery voltage dropped to a value that resulted in an avionic system shutdown. This proposed AD would require incorporating a temporary revision into the existing pilot's operating handbook (POH) for the affected airplanes to provide operators with instructions for an enhanced engine start procedure. The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this NPRM by March 9, 2026.

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

- *Federal eRulemaking Portal:* Go to *regulations.gov*. Follow the instructions for submitting comments.

- *Fax:* (202) 493–2251.

- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

AD Docket: You may examine the AD docket at *regulations.gov* under Docket No. FAA–2026–0015; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The street address for Docket Operations is listed above.

Material Incorporated by Reference:

- For European Union Aviation Agency (EASA) material identified in

this NPRM, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; phone: +49 221 8999 000; email: *ADs@easa.europa.eu*; website: *easa.europa.eu*. You may find this material on the EASA website at *ad.easa.europa.eu*.

- You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 901 Locust, Kansas City, MO 64106. For information on the availability of this material at the FAA, call (817) 222–5110.

FOR FURTHER INFORMATION CONTACT:

Doug Rudolph, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: (816) 329–4059; email: *doug.rudolph@faa.gov*.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments using a method listed under **ADDRESSES**. Include “Docket No. FAA–2026–0015; Project Identifier MCAI–2025–01528–A” at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this proposal because of those comments.

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

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as “PROPIN.” The FAA will treat such marked submissions as confidential under the FOIA, and they will not be

placed in the public docket of this NPRM. Submissions containing CBI should be sent to Doug Rudolph, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590. Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2025–0201, dated September 18, 2025 (EASA AD 2025–0201) (also referred to as the MCAI), to correct an unsafe condition on certain Pilatus Model PC–12/47E airplanes. The MCAI states that there was an occurrence reported where during an engine start on the ground, the airplane battery voltage dropped to a value that resulted in an avionic system shutdown. As a result, the engine parameters, including the interstage turbine temperature (ITT) indications were undetectable, and the ITT exceedance protection during the engine ground start procedure was deactivated. Under these conditions, an ITT exceedance could occur with the aircrew having no means to detect it. The MCAI also states that the AD is considered an interim action and further AD action may follow. This condition, if not addressed, could result in reduced turbine blade structural integrity with possible engine failure and loss of thrust.

You may examine the MCAI in the AD docket at *regulations.gov* under Docket No. FAA–2026–0015.

Material Incorporated by Reference Under 1 CFR Part 51

The FAA reviewed EASA AD 2025–0201, which specifies procedures for incorporating Pilatus PC–12/47E POH Temporary Revision (TR) No. 31 (also referred to as POH–TR) into the POH and allows for the incorporation of a later POH revision that includes the same POH amendment content. This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA's Determination

These products have been approved by the civil aviation authority (CAA) of another country and are approved for operation in the United States. Pursuant to the FAA's bilateral agreement with this State of Design Authority, that authority has notified the FAA of the unsafe condition described in the MCAI referenced above. The FAA is issuing

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

Proposed AD Requirements in This NPRM

This proposed AD would require accomplishing the actions specified in the MCAI described previously, except for any differences identified as exceptions in the regulatory text of this proposed AD. See “Differences Between this Proposed AD and the MCAI” for a discussion of the general differences included in this AD. The owner/operator (pilot) holding at least a private pilot certificate may revise the existing POH for your airplane and must enter compliance with the applicable paragraph of this proposed AD into the airplane maintenance records in accordance with 14 CFR 43.9(a) and 91.417(a)(2)(v). The pilot may perform this action because it only involves revising the POH. This action could be performed equally well by a pilot or a mechanic. This is an exception to the FAA’s standard maintenance regulations.

Differences Between This Proposed AD and the MCAI

The MCAI requires operators to “inform all flight crew” of the revisions to the POH, and thereafter to “operate the airplane accordingly.” However, this

proposed AD would not specifically require those actions as those actions are already required by FAA regulations. FAA regulations require operators to furnish pilots with any changes to the POH (for example, 14 CFR 135.21), and require pilots to comply with the POH (14 CFR 91.9). As with any other flight crew training requirement, training on the updated POH content is tracked by the operators and recorded in each pilot’s training record, which is available for the FAA to review. FAA regulations also require pilots to follow the procedures in the existing POH including all updates. Therefore, including a requirement in this AD to inform the flight crew and operate the airplane according to the revised POH would be redundant and unnecessary.

Explanation of Required Compliance Information

In the FAA’s ongoing efforts to improve the efficiency of the AD process, the FAA developed a process to use some CAA ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. The FAA has since coordinated with other manufacturers and CAAs to use this process. As a result, the FAA proposes to incorporate by reference EASA AD 2025–0201 in the FAA final rule. This proposed AD would, therefore, require compliance

with EASA AD 2025–0201 in its entirety through that incorporation, except for any differences identified as exceptions in the regulatory text of this proposed AD. Using common terms that are the same as the heading of a particular section in the EASA AD does not mean that operators need comply only with that section. For example, where the AD requirement refers to “all required actions and compliance times,” compliance with this AD requirement is not limited to the section titled “Required Action(s) and Compliance Time(s)” in EASA AD 2025–0201. Service information required by the EASA AD for compliance will be available at regulations.gov under Docket No. FAA–2026–0015 after the FAA final rule is published.

Interim Action

The FAA considers that this proposed AD would be an interim action. This unsafe condition is still under investigation by the manufacturer and, depending on the results of that investigation, the FAA may consider further rulemaking action.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 265 airplanes of U.S. registry.

The FAA estimates the following costs to comply with this proposed AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Revise POH	1 work-hour × \$85 per hour = \$85	\$0	\$85	\$22,525

Authority for This Rulemaking

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

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

develop on products identified in this rulemaking action.

Regulatory Findings

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

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

- (1) Is not a “significant regulatory action” under Executive Order 12866,
- (2) Would not affect intrastate aviation in Alaska, and
- (3) Would not have a significant economic impact, positive or negative, on a substantial number of small entities

under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Pilatus Aircraft Ltd.: Docket No. FAA–2026–0015; Project Identifier MCAI–2025–01528–A.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by March 9, 2026.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Pilatus Aircraft Ltd Model PC–12/47E airplanes, manufacturer serial numbers 1720, and 2001 through 2999, certificated in any category.

(d) Subject

Joint Aircraft System Component (JASC) Code 7720, Engine Temp. Indicating System.

(e) Unsafe Condition

This AD was prompted by a report that during an engine start on the ground, the airplane battery voltage dropped to a value that resulted in an avionics system shutdown. The FAA is issuing this AD to prevent takeoff when an undetected interstage turbine temperature (ITT) exceedance occurs during engine start. The unsafe condition, if not addressed, could result in reduced turbine blade structural integrity with possible engine failure and loss of thrust.

(f) Compliance

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

(g) Required Actions

(1) Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, European Union Aviation Safety Agency AD 2025–0201, dated September 18, 2025 (EASA AD 2025–0201).

(2) The actions required by paragraph (g)(1) of this AD may be performed by the owner/operator (pilot) holding at least a private pilot certificate and must be entered into the aircraft records showing compliance with this AD in accordance with 14 CFR 43.9(a) and 91.417(a)(2)(v). The record must be maintained as required by 14 CFR 91.417, 121.380, or 135.439.

(h) Exceptions to EASA AD 2025–0201

(1) Where EASA AD 2025–0201 refers to its effective date, this AD requires using the effective date of this AD.

(2) Where paragraph (1) of EASA AD 2025–0201 specifies to “implement the POH–TR, as defined in this AD”, this AD requires replacing that text with “revise the Normal Procedures Section of the existing pilot’s operating handbook (POH) for your airplane by inserting a copy of the POH–TR as defined in EASA AD 2025–0201.”

(3) Where paragraph (1) of EASA AD 2025–0201 specifies to inform all flight crews and, thereafter, operate the [airplane] accordingly,

this AD does not require those actions (see 14 CFR 91.9, 91.103, and 135.21).

(4) This AD does not adopt the “Remarks” section of EASA AD 2025–0201.

(i) Alternative Methods of Compliance (AMOCs)

(1) The Manager, International Validation Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the International Validation Branch, send it to the attention of the person identified in paragraph (j) of this AD and email to: AMOC@faa.gov.

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

(j) Additional Information

For more information about this AD, contact Doug Rudolph, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: (816) 329–4059; email: doug.rudolph@faa.gov.

(k) Material Incorporated by Reference

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

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

(i) European Union Aviation Safety Agency (EASA) AD 2025–0201, dated September 18, 2025.

(ii) [Reserved]

(3) For EASA material identified in this AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; phone: +49 221 8999 000; email: ADs@easa.europa.eu; website: easa.europa.eu. You may find this EASA AD on the EASA website at ad.easa.europa.eu.

(4) You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 901 Locust, Kansas City, MO 64106. For information on the availability of this material at the FAA, call (817) 222–5110.

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

Issued on January 13, 2026.

Steven W. Thompson,

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

[FR Doc. 2026–01047 Filed 1–20–26; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Part 39**

[Docket No. FAA–2026–0018; Project Identifier MCAI–2025–01384–A]

RIN 2120–AA64

Airworthiness Directives; Pilatus Aircraft Ltd. Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain Pilatus Aircraft Ltd. (Pilatus) Model PC–12 airplanes. This proposed AD was prompted by a report that the emergency exit door could not be opened from inside an airplane. This proposed AD would require a visual inspection of the passenger service unit (PSU) trim panel for dual lock fastener tapes and modification if dual lock fastener tapes are not installed. This proposed AD would also prohibit the installation of affected parts. The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this NPRM by March 9, 2026.

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

- *Federal eRulemaking Portal:* Go to regulations.gov. Follow the instructions for submitting comments.

- *Fax:* (202) 493–2251.

- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

AD Docket: You may examine the AD docket at regulations.gov under Docket No. FAA–2026–0018; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The street address for Docket Operations is listed above.

Material Incorporated by Reference:

- For European Union Aviation Agency (EASA) material identified in this NPRM, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne,

Germany; phone: +49 221 8999 000; email: ADs@easa.europa.eu; website: easa.europa.eu. You may find this material on the EASA website at ad.easa.europa.eu.

- You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 901 Locust, Kansas City, MO 64106. For information on the availability of this material at the FAA, call (817) 222-5110.

FOR FURTHER INFORMATION CONTACT:

Doug Rudolph, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: (816) 329-4059; email: doug.rudolph@faa.gov.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments using a method listed under **ADDRESSES**. Include “Docket No. FAA-2026-0018; Project Identifier MCAI-2025-01384-A” at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this proposal because of those comments.

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

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as “PROPIN.” The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI

should be sent to Doug Rudolph, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590. Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2025-0182, dated August 25, 2025 (EASA AD 2025-0182) (also referred to as the MCAI), to correct an unsafe condition on Pilatus Model PC-12/47E airplanes, manufacturer serial numbers 2001 to 2999, inclusive. The MCAI states that there was a report that the emergency exit door could not be opened from inside an airplane. Further investigation revealed that incorrect installation of the PSU trim panel, which is installed above the emergency exit door, could block the opening of the emergency exit if the PSU trim panel is positioned too far inboard. This condition, if not addressed, could prevent the opening of the emergency door, which could result in injury to occupants during an emergency evacuation.

You may examine the MCAI in the AD docket at regulations.gov under Docket No. FAA-2026-0018.

Material Incorporated by Reference Under 1 CFR Part 51

The FAA reviewed EASA AD 2025-0182, which specifies procedures for modifying the PSU trim panel if dual lock fastener tapes are not installed. EASA AD 2025-0182 also prohibits the installation of an affected part. EASA AD 2025-0182 also refers to instructions to determine whether dual lock fastener tapes are installed on a PSU trim panel. This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA’s Determination

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

Proposed AD Requirements in This NPRM

This proposed AD would require accomplishing the actions specified in the MCAI described previously, except for any differences identified as exceptions in the regulatory text of this proposed AD. See “Differences Between this Proposed AD and the MCAI” for a discussion of the general differences included in this proposed AD.

Differences Between This Proposed AD and the MCAI

Where paragraph (1) of EASA AD 2025-0182 does not specify an inspection to determine whether dual lock fastener tapes are installed on a PSU trim panel, for this proposed AD an inspection would be required in accordance with section B. Part 1 of the material referenced in EASA AD 2025-0182 to determine whether an airplane has the dual lock fastener tapes installed on a PSU trim panel and is either a Group 1 or Group 2 airplane as defined in EASA AD 2025-0182.

Explanation of Required Compliance Information

In the FAA’s ongoing efforts to improve the efficiency of the AD process, the FAA developed a process to use some civil aviation authority (CAA) ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. The FAA has since coordinated with other manufacturers and CAAs to use this process. As a result, the FAA proposes to incorporate by reference EASA AD 2025-0182 in the FAA final rule. This proposed AD would, therefore, require compliance with EASA AD 2025-0182 in its entirety through that incorporation, except for any differences identified as exceptions in the regulatory text of this proposed AD. Using common terms that are the same as the heading of a particular section in the EASA AD does not mean that operators need comply only with that section. For example, where the AD requirement refers to “all required actions and compliance times,” compliance with this AD requirement is not limited to the section titled “Required Action(s) and Compliance Time(s)” in EASA AD 2025-0182. Service information required by the EASA AD for compliance will be available at regulations.gov under Docket No. FAA-2026-0018 after the FAA final rule is published.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 250 airplanes of U.S. registry.

The FAA estimates the following costs to comply with this proposed AD:

ESTIMATED COSTS				
Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspect PSU trim panel	1 work-hour × \$85 per hour = \$85	\$0	\$85	\$21,250

The FAA estimates the following costs to do any necessary modification that would be required based on the

results of the proposed inspection. The agency has no way of determining the

number of airplanes that might need this modification:

ON-CONDITION COSTS			
Action	Labor cost	Parts cost	Cost per product
Modify PSU trim panel	2 work-hours × \$85 per hour = \$170	\$100	\$270

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Pilatus Aircraft Ltd.: Docket No. FAA–2026–0018; Project Identifier MCAI–2025–01384–A.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by March 9, 2026.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Pilatus Aircraft Ltd Model PC–12 airplanes, manufacturer serial numbers 2001 through 2999, certificated in any category.

(d) Subject

Joint Aircraft System Component (JASC) Code 2500, Cabin Equipment/Furnishings.

(e) Unsafe Condition

This AD was prompted by a report that the emergency exit door could not be opened from inside an airplane. The FAA is issuing this AD to prevent the passenger service unit (PSU) trim panel from blocking the opening of the emergency exit. The unsafe condition, if not addressed, could prevent the opening of the emergency door, which could result in injury to occupants during an emergency evacuation.

(f) Compliance

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

(g) Required Actions

Except as specified in paragraphs (h) and (i) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, European Union Aviation Safety Agency AD 2025–0182, dated August 25, 2025 (EASA AD 2025–0182).

(h) Exceptions to EASA AD 2025–0182

(1) Where EASA AD 2025–0182 refers to its effective date, this AD requires using the effective date of this AD.

(2) Where paragraph (1) of EASA AD 2025–0182 does not specify an inspection to determine whether dual lock fastener tapes are installed on a PSU trim panel, for this AD an inspection is required in accordance with section B. Part 1 of the material referenced in EASA AD 2025–0182 to determine whether an airplane has the dual lock fastener tapes installed on a PSU trim panel and is either a Group 1 or Group 2 airplane as defined in EASA AD 2025–0182.

(3) This AD does not adopt the “Remarks” section of EASA AD 2025–0182.

(i) No Reporting Requirement

Although the material referenced in EASA AD 2025–0182 specifies to submit certain information to the manufacturer, this AD does not include that requirement.

(j) Alternative Methods of Compliance (AMOCs)

(1) The Manager, International Validation Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Validation Branch, send it to the attention of the person identified in paragraph (k) of this AD and email to: AMOC@faa.gov.

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

(k) Additional Information

For more information about this AD, contact Doug Rudolph, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: (816) 329-4059; email: doug.rudolph@faa.gov.

(l) Material Incorporated by Reference

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

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

(i) European Union Aviation Safety Agency (EASA) AD 2025-0182, dated August 25, 2025.

(ii) [Reserved]

(3) For EASA material identified in this AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; phone: +49 221 8999 000; email: ADs@easa.europa.eu; website: easa.europa.eu. You may find this EASA AD on the EASA website at ad.easa.europa.eu.

(4) You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 901 Locust, Kansas City, MO 64106. For information on the availability of this material at the FAA, call (817) 222-5110.

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

Issued on January 14, 2026.

Steven W. Thompson,

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

[FR Doc. 2026-01051 Filed 1-20-26; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Part 71**

[Docket No. FAA-2025-5140; Airspace Docket No. 25-AAL-171]

RIN 2120-AA66

Establishment of Class E Airspace; Birch Creek Airport, Birch Creek, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to establish Class E airspace extending upward from 700 feet above the surface at Birch Creek Airport, Birch Creek, AK. This action would support the safety and management of instrument flight rules (IFR) operations at the airport.

DATES: Comments must be received on or before March 9, 2026.

ADDRESSES: Send comments identified by FAA Docket No. FAA-2025-5140 and Airspace Docket No. 25-AAL-171 using any of the following methods:

* *Federal eRulemaking Portal:* Go to www.regulations.gov and follow the online instructions for sending your comments electronically.

* *Mail:* Send comments to Docket Operations, M-30; U.S. Department of Transportation, 1200 New Jersey Avenue SE, Room W12-140, West Building Ground Floor, Washington, DC 20590-0001.

* *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12-140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

* *Fax:* Fax comments to Docket Operations at (202) 493-2251.

Docket: Background documents or comments received may be read at www.regulations.gov at any time. Follow the online instructions for accessing the docket or go to the Docket Operations in Room W12-140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FAA Order JO 7400.11K, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at www.faa.gov/air_traffic/publications/.

FOR FURTHER INFORMATION CONTACT:

Bryantjay T. Toves, Federal Aviation Administration, Western Service Center, Operations Support Group, 2200 S

216th Street, Des Moines, WA 98198; telephone (206) 231-3465.

SUPPLEMENTARY INFORMATION:**Authority for This Rulemaking**

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

Comments Invited

The FAA invites interested persons to participate in this rulemaking by submitting written comments, data, or views. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. To ensure the docket does not contain duplicate comments, commenters should submit only one time if comments are filed electronically, or commenters should send only one copy of written comments if comments are filed in writing.

The FAA will file in the docket all comments it receives, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking. Before acting on this proposal, the FAA will consider all comments it receives on or before the closing date for comments. The FAA will consider comments filed after the comment period has closed if it is possible to do so without incurring expense or delay. The FAA may change this proposal in light of the comments it receives.

Privacy: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to www.regulations.gov, as described in the system of records notice (DOT/ALL-

14 FDMS), which can be reviewed at www.dot.gov/privacy.

Availability of Rulemaking Documents

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

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

Incorporation by Reference

Class E5 airspace area designations are published in paragraph 6005 of FAA Order JO 7400.11, Airspace Designations and Reporting Points, which is incorporated by reference in 14 CFR 71.1 on an annual basis. This document proposes to amend the current version of that order, FAA Order JO 7400.11K, dated August 4, 2025, and effective September 15, 2025. These amendments would be published in the next update to FAA Order JO 7400.11. FAA Order JO 7400.11K, which lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points, is publicly available as listed in the **ADDRESSES** section of this document.

The Proposal

The FAA is proposing an amendment to 14 CFR part 71 that would establish Class E airspace area extending upward from 700 feet above the surface at Birch Creek Airport, Birch Creek, AK, to contain two private-use special instrument approach procedures that would support passenger shuttle, medevac, and cargo.

Birch Creek Airport does not have published departure procedures; instead, it allows for diverse departures. To accommodate this, a 6.4-mile radius of Class E airspace area extending upward from 700 feet above the surface should be established to contain departing IFR aircraft until reaching 1,200 feet above the surface. A 6.4-mile radius would also provide containment of arriving IFR operations below 1,500 feet above the surface when executing either of the private—use special

instrument approach procedures. Further airspace is not necessary, as higher altitude containment is provided by the Fairbanks International Airport Class E5 airspace area, Fort Yukon Airport Class E5 airspace area, and the Venetie Airport Class E5 airspace area, which all extend upward from 1,200 feet above the surface.

Regulatory Notices and Analyses

The FAA has determined that this proposed 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. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1G, FAA National Environmental Policy Act Implementing Procedures, prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

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

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

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

§ 71.1 [Amended]

- 2. The incorporation by reference in 14 CFR 71.1 of FAA Order JO 7400.11K, Airspace Designations and Reporting Points, dated August 4, 2025, and effective September 15, 2025, would be amended as follows:

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

* * * * *

ANM AK E5 Birch Creek, AK [New]

Birch Creek Airport, AK
(Lat. 66°16'28" N, long. 145°49'06" W)

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

* * * * *

Issued in Des Moines, Washington, on January 16, 2026.

B.G. Chew,

Group Manager, Operations Support Group, Western Service Center.

[FR Doc. 2026–01098 Filed 1–20–26; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 570

[Docket No. FR–6561–N–02]

Solicitation of Comments—Section 108 Loan Guarantee Program: Announcement of Fee To Cover Credit Subsidy Costs for FY 2026

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Request for comments.

SUMMARY: This document announces a solicitation of comments on the methodology described to determine the Section 108 loan guarantee fee to cover credit subsidy costs that HUD published in the **Federal Register** on November 19, 2025. HUD will collect the fee from borrowers of loans guaranteed under HUD's Section 108 Loan Guarantee Program (Section 108 Program) to offset the credit subsidy costs of the guaranteed loans pursuant to commitments awarded in Fiscal Year 2026 in the event HUD is required or authorized by statute to do so, notwithstanding subsection (m) of section 108 of the Housing and Community Development Act of 1974.

DATES: *Comment due date:* January 28, 2026.

ADDRESSES: Interested persons are invited to submit comments. Copies of all comments submitted are available for inspection and downloading at www.regulations.gov. To receive consideration as public comments, comments must be submitted through one of the two methods specified below. All submissions must refer to the above docket number and title. Responses should include the name(s) of the

person(s) or organization(s) filing the comment; however, because any responses received by HUD will be publicly available, responses should not include any personally identifiable information or confidential commercial information.

1. *Electronic Submission of Comments.* Interested persons may submit comments electronically through the Federal eRulemaking Portal at <http://www.regulations.gov>.

2. *Submission of Comments by Mail.* Comments may 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.

FOR FURTHER INFORMATION CONTACT:

Scott Laliberte, Financial Management Division, Office of Block Grant Assistance, Office of Community Planning and Development, U.S. Department of Housing and Urban Development, 451 7th Street SW, Room 7282, Washington, DC 20410; telephone number 202–402–3956 (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>.

FAX inquiries (but not comments) may be sent to Mr. Laliberte at 202–402–3956 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION:

I. Background

On November 19, 2025, HUD published “*Section 108 Loan Guarantee Program: Announcement of Fee to Cover Credit Subsidy Costs for FY 2026*” in the **Federal Register** (90 FR 51992). That notice set forth in detail the methodology that HUD will use for setting the amount of the fee that HUD will impose to offset the credit subsidy costs of the guaranteed loans pursuant to commitments awarded in Fiscal Year 2026 in the event HUD is required or authorized by statute to do so, notwithstanding subsection (m) of section 108 of the Housing and

Community Development Act of 1974. Through that notice, HUD set the fee at 0.58 percent of the principal amount of the guaranteed loan.

II. Request for Comments

Notwithstanding the setting of the fee in the November 19 notice, HUD desires to solicit comments from the public with respect to the methodology adopted to determine the fee. For details with respect to the methodology please review the November 19 publication of the notice at 90 FR 51992.

Because the notice with the methodology has been available to the public since November 19, HUD is setting an abbreviated public comment period of seven days. The deadline to solicit comments is January 28, 2026.

Ronald J. Kurtz,

Assistant Secretary for Community Planning and Development.

[FR Doc. 2026–01039 Filed 1–20–26; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 36

[Docket No. VA–2022–VBA–0023]

RIN 2900–AR78

Loan Guaranty: Loss-Mitigation Options for Guaranteed Loans

AGENCY: Department of Veterans Affairs.

ACTION: Advance notice of proposed rulemaking; withdrawal.

SUMMARY: The Department of Veterans Affairs (VA) is withdrawing the advance notice of proposed rulemaking (ANPRM) published in the **Federal Register** on October 17, 2022, that requested public comment on expanding VA’s incentivized loss-mitigation options available to servicers that assist veterans whose VA-guaranteed loans are in default. VA is withdrawing this ANPRM because of ongoing assessments of agency needs, priorities, and objectives. VA will continue to explore opportunities to assist veterans who face home loan default.

DATES: The ANPRM published at 87 FR 62752 on October 17, 2022, is withdrawn as of January 21, 2026.

ADDRESSES: The docket for this withdrawn proposed rule is available at www.regulations.gov/docket/VA-2022-VBA-0023.

FOR FURTHER INFORMATION CONTACT:

Andrew Trevayne and Stephanie Li, Assistant Directors, Loan Guaranty Service, Veterans Benefits Administration, (202) 632–8862.

SUPPLEMENTARY INFORMATION: In a document published in the **Federal Register** on October 17, 2022, VA described how it was exploring the possibility of changes to its incentivized loss-mitigation options and requested public comment on whether expanding VA’s incentivized loss-mitigation tools, outlined in the Code of Federal Regulations (CFR) at 38 CFR 36.4319, might further assist veterans who have VA-backed loans to retain their homes. 87 FR 62752. VA anticipated incorporating responses to a proposed rulemaking amending VA’s loss-mitigation regulations.

VA is withdrawing the ANPRM because of ongoing assessments of agency needs, priorities, and objectives. VA appreciates the public comments submitted and continues to consider the best means of addressing some or all of the issues covered in the ANPRM. If, in the future, VA decides it is appropriate to issue regulations on this topic, VA will do so through a new notice of proposed rulemaking, subject to the requirements of the Administrative Procedure Act, 5 U.S.C. 551, *et seq.*

Signing Authority

Douglas A. Collins, Secretary of Veterans Affairs, approved this document on December 17, 2025, and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs.

Taylor N. Mattson,

Alternate Federal Register Liaison Officer, Department of Veterans Affairs.

[FR Doc. 2026–01082 Filed 1–20–26; 8:45 am]

BILLING CODE 8320–01–P

Notices

Federal Register

Vol. 91, No. 13

Wednesday, January 21, 2026

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

Animal and Plant Health Inspection Service

[Docket No. APHIS–2025–0934]

Notice of Request for Revision to and Extension of Approval of an Information Collection; Nomination Request Form; Animal Disease Training

AGENCY: Animal and Plant Health Inspection Service, USDA.

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

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request a revision to and extension of approval of an information collection associated with training related to animal diseases.

DATES: We will consider all comments that we receive on or before March 23, 2026.

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

- **Federal eRulemaking Portal:** <http://www.regulations.gov>. Enter APHIS–2025–0934 in the Search field. Select the Documents tab, then select the Comment button in the list of documents.

- **Postal Mail/Commercial Delivery:** Send your comment to Docket No. APHIS–2025–0934, Regulatory Analysis and Development, PPD, APHIS, 5601 Sunnyside Ave., #AP760, Beltsville, MD 20705.

Supporting documents and any comments we receive on this docket may be viewed at <http://www.regulations.gov> or in our reading room, which is located in Room 1620 of the USDA South Building, 14th Street and Independence Avenue SW, Washington, DC. Normal reading room

hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799–7039 before coming.

FOR FURTHER INFORMATION CONTACT: For information on training related to animal diseases, contact Ms. Alicia D. Love, Program Specialist, Professional People Training Staff, Veterinary Services, APHIS, 5601 Sunnyside Ave., Beltsville, MD 20705, or at 301–851–3425. For information on the information collection process, contact Ms. Sheniqua Harris, APHIS' Paperwork Reduction Act Coordinator, at (301) 851–2528; APHIS.PRA@usda.gov.

SUPPLEMENTARY INFORMATION:

Title: Nomination Request Form; Animal Disease Training.

OMB Control Number: 0579–0353.

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

Abstract: Under the Animal Health Protection Act (7 U.S.C. 8301 *et seq.*), the Animal and Plant Health Inspection Service (APHIS) of the U.S. Department of Agriculture is authorized, among other things, to protect the health of U.S. livestock and poultry populations by preventing the introduction and interstate spread of serious diseases and pests of livestock and by eradicating such diseases from the United States when feasible. In connection with this mission, APHIS' Veterinary Services (VS) program provides vital animal disease training.

VS Professional People Training provides training on responses to animal disease events, sample collection procedures, and disease mitigation and eradication activities to private veterinarians and State, Tribal, military, international, industry, and university personnel. The courses are designed to prepare participants for activities dealing with a U.S. animal disease incident. Individuals who wish to attend animal disease-related training must submit a Nomination Request Form (VS Form 1–5) to VS to help the program coordinate courses and select participants. VS develops rosters with course participants' names and contact information to notify them of future training courses and to encourage contact among participants throughout their careers.

We are asking OMB to approve our use of these information collection

activities, as described, for an additional 3 years. Since the last extension of approval for this information collection activity, APHIS has not seen an increase or decrease in any burden activities; however, we are now reporting state, business, and individual respondents separately.

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

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

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

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

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

Estimate of burden: The public burden for this collection of information is estimated to average 0.334 hours per response.

Respondents: State, Tribal, Military, International, University, and industry personnel.

Estimated annual number of respondents: 350.

Estimated annual number of responses per respondent: 1.

Estimated annual number of responses: 350.

Estimated total annual burden on respondents: 117 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

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

Done in Washington, DC, this 15th day of January.

Michael Watson,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2026–01043 Filed 1–20–26; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE**Natural Resources Conservation Service**

[NRCS–2025–0203]

Notice of Request for New Information Collection; Urban Agriculture and Innovative Production (UAIP) Grants

AGENCY: Office of Urban Agriculture and Innovative Production (OUAIP), Natural Resources Conservation Service, USDA.

ACTION: Notice; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice invites the general public and other public agencies to comment on this proposed information collection. This collection is a revision of a currently approved collection; for reporting progress on a Urban Agriculture and Innovative Production Grant.

DATES: Written comments must be received on or before March 23, 2026.

ADDRESSES: Comments may be sent by mail to: Sharonte Williams, Natural Resources Conservation Service, U.S. Department of Agriculture, 3737 Government St., Alexandria, LA 71302. Comments may also be submitted via email to the attention of Sharonte Williams to sharonte.williams@usda.gov and urbanagriculture@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 responses to this notice will be summarized and included in the request for Office of Management and Budget approval. All comments 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 Sharonte Williams at 202–981–1653 or via email to sharonte.williams@usda.gov and urbanagriculture@usda.gov.

SUPPLEMENTARY INFORMATION:**Description of Information Collection Request**

Title: OFFICE OF URBAN AGRICULTURE AND INNOVATIVE PRODUCTION (OUAIP) GRANT AGREEMENT.

OMB Number: 0578–0032.

Expiration Date: 02/28/2026.

Type of Request: Revision of a currently approved collection.

Abstract: The 2018 Farm Bill authorized the FPAC mission area and NRCS to award competitive grants to

local units of government, school districts, and tribal communities to support the development of urban agriculture and innovative production with the goal of improving access to local foods in areas where access to fresh, healthy food is limited or unavailable. This collection enables program staff to collect data in a unified format across projects—no new information is being collected outside of requisite grants.gov forms and one custom form for programmatic reporting (NRCS–OUAIP–1). The reporting form simply provides standardization in order to better determine program efficacy and efficiency.

This revision reflects both a decrease in the number of estimated respondents and estimated annual burden hours, as well as an increase in the estimated number of annual responses since the last OMB submission. These changes are the result of both program changes (correction of tabulation errors and recalculation of review/data entry processes) and program adjustments (reduction in new agreements and funding opportunities).

Affected Public: Private Sector—not-for-profit and farms and State, Local or Tribal Governments.

Estimated Number of Respondents: 100.

Estimated Number of Responses per Respondent: 18.

Estimated Total Annual Responses: 1,800.

Estimated Time per Response: 0.222222 hours.

Estimated Total Annual Burden on Respondents: 400 hours.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions that were used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Aubrey Bettencourt,

Chief, Natural Resources Conservation Service.

[FR Doc. 2026–01088 Filed 1–20–26; 8:45 am]

BILLING CODE 3410–16–P

DEPARTMENT OF COMMERCE**Foreign-Trade Zones Board**

[B–5–2026]

Foreign-Trade Zone (FTZ) 238 Notification of Proposed Production Activity; Celanese Acetate LLC; (Cellulose Acetate Tow and Flake); Narrows, Virginia

The New River Valley Economic Development Alliance, Inc., grantee of FTZ 238, submitted a notification of proposed production activity to the FTZ Board (the Board) on behalf of Celanese Acetate LLC (Celanese) for Celanese's facility in Narrows, Virginia within Subzone 238E. The notification conforming to the requirements of the Board's regulations (15 CFR 400.22) was received on January 14, 2026.

Pursuant to 15 CFR 400.14(b), FTZ production activity would be limited to the specific foreign-status material(s)/ component(s) and specific finished product(s) described in the submitted notification (summarized below) and subsequently authorized by the Board. The benefits that may stem from conducting production activity under FTZ procedures are explained in the background section of the Board's website—accessible via www.trade.gov/ftz.

The proposed finished products include: Cellulose Acetate Tow Filament Yarn; Cellulose Acetate Tow Filament; and Nonplasticized Cellulose Acetate Flakes (duty rate ranges from 5.6% to 8.8%).

The proposed foreign-status materials/components include: High-Purity Wood Pulp (duty free). The request indicates that certain materials/components are subject to duties under section 1702(a)(1)(B) of the International Emergency Economic Powers Act (section 1702) or section 301 of the Trade Act of 1974 (section 301), depending on the country of origin. The applicable section 1702 and section 301 decisions require subject merchandise to be admitted to FTZs in privileged foreign status (19 CFR 146.41). The request also indicates that high purity wood pulp may be subject to an antidumping/countervailing duty (AD/CVD) order/investigation if imported from certain countries. The Board's regulations (15 CFR 400.13(c)(2)) require that merchandise subject to AD/CVD orders, or items which would be otherwise subject to suspension of liquidation under AD/CVD procedures if they entered U.S. customs territory, be admitted to the zone in privileged foreign status (19 CFR 146.41).

Public comment is invited from interested parties. Submissions shall be addressed to the Board's Executive Secretary and sent to: ftz@trade.gov. The closing period for their receipt is March 2, 2026.

A copy of the notification will be available for public inspection in the "Online FTZ Information System" section of the Board's website.

For further information, contact John Frye at john.frye@trade.gov.

Dated: January 15, 2026.

Elizabeth Whiteman,
Executive Secretary.

[FR Doc. 2026-01087 Filed 1-20-26; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B-4-2026]

Foreign-Trade Zone (FTZ) 18, Notification of Proposed Production Activity; Intel Foundry Corporation; (Semiconductor Products); Santa Clara, California

Intel Foundry Corporation (Intel) submitted a notification of proposed production activity to the FTZ Board (the Board) for its facilities in Santa Clara, California within FTZ 18. The notification conforming to the requirements of the Board's regulations (15 CFR 400.22) was received on January 14, 2026.

Pursuant to 15 CFR 400.14(b), FTZ production activity would be limited to the specific foreign-status material(s)/ component(s) and specific finished product(s) described in the submitted notification (summarized below) and subsequently authorized by the Board. The benefits that may stem from conducting production activity under FTZ procedures are explained in the background section of the Board's website—accessible via www.trade.gov/ftz.

The proposed finished product is photomasks (duty-free).

The proposed foreign-status materials/components include: calcium hydroxide; propane; chlorine; iodine; fluorine gas; hydrogen; argon; helium; xenon; nitrogen; hydrochloric acid; sulfuric acid; nitric acid; carbon dioxide; ammonia; ammonium hydroxide; sodium hydroxide; potassium hydroxide; zinc chloride; sodium bisulfite; lithium cobalt oxide; hydrogen peroxide; toluene; trifluoroethane; tetrafluoromethane; methanol; isopropyl alcohol; propanediol; acetone; methyl ethyl

ketone; cyclohexanone; oxalic acid; citric acid; triethanolamine; tetraethylammonium perfluoro octane sulfonate; acetonitrile; tungsten hexacarbonyl; dimethyl sulfoxide based cleaning solvent; lubricant oil; quartz blanks; pellicles; biocide; xenon difluoride; ethyle lactate; epoxy; ruthenium; tantalum; chromium; gallium; cobalt sputtering target; copper sputtering target; tantalum sputtering target; and, titanium sputtering target; gallium compound; photoresist solution; and, tantalum (duty rate ranges from duty-free to 6.2%). The request indicates that certain materials/ components are subject to duties under section 1702(a)(1)(B) of the International Emergency Economic Powers Act (section 1702), section 232 of the Trade Expansion Act of 1962 (section 232), or section 301 of the Trade Act of 1974 (section 301), depending on the country of origin. The applicable section 1702, section 232, and section 301 decisions require subject merchandise to be admitted to FTZs in privileged foreign status (19 CFR 146.41).

Public comment is invited from interested parties. Submissions shall be addressed to the Board's Executive Secretary and sent to: ftz@trade.gov. The closing period for their receipt is March 2, 2026.

A copy of the notification will be available for public inspection in the "Online FTZ Information System" section of the Board's website.

For further information, contact Christopher Wedderburn at Chris.Wedderburn@trade.gov.

Dated: January 15, 2026.

Elizabeth Whiteman,
Executive Secretary.

[FR Doc. 2026-01027 Filed 1-20-26; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Procedures for Importation of Supplies for Use in Emergency Relief Work

AGENCY: International Trade Administration, 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 23, 2026.

ADDRESSES: Interested persons are invited to submit written comments by mail to Enforcement and Compliance Office of Communications, 14th and Constitution Avenue NW, Washington, DC 20230 or by email to ECCcommunications@trade.gov or PRA@trade.gov. Please reference OMB Control Number 0625-0256 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 Enforcement and Compliance Office of Communications, International Trade Administration, U.S. Department of Commerce, 14th and Constitution Avenue NW, Washington, DC 20230; telephone: 202-482-1413; email: ECCcommunications@trade.gov.

SUPPLEMENTARY INFORMATION:

I. Abstract

The regulations (19 CFR 358.101 through 358.104) provide procedures for requesting the Secretary of Commerce to permit the importation of supplies, such as food, clothing, medical, surgical, and other supplies, by for-profit and not-for-profit entities for use in emergency relief work free of antidumping and countervailing duties. The regulations formally provide procedures for requesting waivers of duties on supplies for use in emergency relief work. There are no proposed changes to this information collection.

II. Method of Collection

Three copies of the request must be submitted in writing to the Secretary of Commerce, Attention: Enforcement and Compliance, Central Records Unit, Room B-8024, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230.

III. Data

OMB Control Number: 0625-0256.
Form Number(s): None.

Type of Review: Regular submission, extension of a current information collection.

Affected Public: Business, including for-profit and non-profit organizations.

Estimated Number of Respondents:

Estimated Time per Response: 15.

Estimated Total Annual Burden

Hours: 15.

Estimated Total Annual Cost to

Public: \$450.

Legal Authority: 19 U.S.C. 1318(a).

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,

Departmental PRA Compliance Officer, Office of the Under Secretary for Economic Affairs, Commerce Department.

[FR Doc. 2026-01041 Filed 1-20-26; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-351-842]

Certain Uncoated Paper From Brazil: Final Results of Antidumping Duty Administrative Review; 2023-2024

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

SUMMARY: The U.S. Department of Commerce (Commerce) determines that Suzano S.A. (Suzano) made sales of subject merchandise at prices below normal value (NV) during the period of review (POR) March 1, 2023, through February 29, 2024.

DATES: Applicable January 21, 2026.

FOR FURTHER INFORMATION CONTACT: Brittany Bauer, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone (202) 482-3860.

SUPPLEMENTARY INFORMATION:

Background

On July 10, 2025, Commerce published the *Preliminary Results* and invited parties to comment.¹ No interested party submitted comments on the *Preliminary Results*. Commerce made no changes from the *Preliminary Results*, which are herein adopted as the final results of review. Additionally, because these final results remain unchanged from the *Preliminary Results*, no memorandum accompanies this notice. Commerce conducted this review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

Scope of the Order²

The merchandise covered by the *Order* is uncoated paper from Brazil. For a complete description of the scope of the *Order*, see the *Preliminary Results* PDM.

Final Results of Review

We determine that the following weighted-average dumping margin exists for the POR, March 1, 2023, through February 29, 2024:

Exporter/producer	Weighted-average dumping margin (percent)
Suzano S.A	14.42

Disclosure

Because we made no changes to the calculations performed in connection

¹ See *Certain Uncoated Paper from Brazil: Preliminary Results and Rescission, in Part, of Antidumping Duty Administrative Review; 2023-2024*, 90 FR 30625 (July 10, 2025) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum (PDM).

² See *Certain Uncoated Paper from Australia, Brazil, Indonesia, the People's Republic of China, and Portugal: Amended Final Affirmative Antidumping Determinations for Brazil and Indonesia and Antidumping Duty Orders*, 81 FR 11174 (March 3, 2016) (*Order*).

with the *Preliminary Results*, there are no new calculations to disclose in accordance with 19 CFR 351.224(b) for these final results.

Assessment Rates

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

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

Consistent with Commerce's assessment practice, for entries of subject merchandise during the POR produced by Suzano for which it did not know the merchandise was destined for the United States, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction.³

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

Cash Deposit Requirements

The following cash deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(2)(C) of the Act: (1) the cash deposit rate for Suzano will be the rate established in the final results of this administrative review; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recently completed segment of this

³ For a full discussion of this practice, see *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003).

proceeding; (3) if the exporter is not a firm covered in this review, a prior review, or the original less-than-fair-value (LTFV) investigation, but the producer is, the cash deposit rate will be the rate established for the most recently completed segment of this proceeding for the producer of the subject merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 27.11 percent, the all-others rate established in the LTFV investigation.⁴ These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

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

Administrative Protective Order

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

Notification to Interested Parties

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

Dated: January 14, 2026.

Christopher Abbott,

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

[FR Doc. 2026-01025 Filed 1-20-26; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648-XF438]

Fisheries of the Gulf of America; Southeast Data, Assessment, and Review; Public Meeting

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

ACTION: Notice of Southeast Data Assessment and Review 98 Assessment Webinar VI for Gulf of America Red Snapper.

SUMMARY: The Southeast Data, Assessment, and Review (SEDAR) 98 assessment process for Gulf red snapper will consist of a Data Workshop, a series of assessment webinars, and a Review Workshop. See **SUPPLEMENTARY INFORMATION**.

DATES: The SEDAR 98 Assessment Webinar VI will be held February 4, 2026, from 10 a.m. until 1 p.m., Eastern Time.

ADDRESSES:

Meeting address: The meeting will be held via webinar. The webinar is open to members of the public. Those interested in participating should contact Julie A. Neer at SEDAR (See **FOR FURTHER INFORMATION CONTACT**) to request an invitation providing webinar access information. Please request webinar invitations at least 24 hours in advance of each webinar.

SEDAR address: 4055 Faber Place Drive, Suite 201, North Charleston, SC 29405.

FOR FURTHER INFORMATION CONTACT: Julie A. Neer, SEDAR Coordinator; (843) 571-4366; email: Julie.neer@safmc.net.

SUPPLEMENTARY INFORMATION: The Gulf, South Atlantic, and Caribbean Fishery Management Councils, in conjunction with NMFS and the Atlantic and Gulf States Marine Fisheries Commissions have implemented the SEDAR process, a multi-step method for determining the status of fish stocks in the Southeast Region. SEDAR is a multi-step process including: (1) Data Workshop, (2) a series of assessment webinars, and (3) A Review Workshop. The product of the Data Workshop is a report that compiles and evaluates potential datasets and recommends which datasets are appropriate for assessment analyses. The assessment webinars produce a report that describes the fisheries, evaluates the status of the stock, estimates biological benchmarks, projects future population conditions,

and recommends research and monitoring needs. The product of the Review Workshop is an Assessment Summary documenting panel opinions regarding the strengths and weaknesses of the stock assessment and input data. Participants for SEDAR Workshops are appointed by the Gulf, South Atlantic, and Caribbean Fishery Management Councils and NMFS Southeast Regional Office, Highly Migratory Species (HMS) Management Division, and Southeast Fisheries Science Center. Participants include data collectors and database managers; stock assessment scientists, biologists, and researchers; constituency representatives including fishermen, environmentalists, and non-governmental organizations (NGO's); International experts; and staff of Councils, Commissions, and state and Federal agencies.

The items of discussion during the Assessment Webinar VI are as follows:

Participants will review the assessment modelling work to date.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

On January 20, 2025, President Trump issued Executive Order 14172 to rename the Gulf of Mexico as the Gulf of America. Any reference to Gulf of America red snapper in SEDAR reports and other documents refers to the same species of red snapper listed in 50 CFR part 622, appendix A, table I (Gulf of Mexico Reef Fish).

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the Council office (see **ADDRESSES**) at least 5 business days prior to each workshop.

Note: The times and sequence specified in this agenda are subject to change.

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

Dated: January 16, 2026.

Rey Israel Marquez,

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

[FR Doc. 2026-01090 Filed 1-20-26; 8:45 am]

BILLING CODE 3510-22-P

⁴ See Order.

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration**

[RTID 0648–XF440]

Fisheries of the Gulf of America and South Atlantic; Southeast Data, Assessment, and Review; Public Meeting

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

ACTION: Notice of Southeast Data Assessment and Review 94 Assessment Webinar II for Florida Hogfish.

SUMMARY: The Southeast Data, Assessment, and Review (SEDAR) 94 assessment process of Florida hogfish will consist of a Data Workshop, and a series of assessment webinars, and a Review Workshop. See **SUPPLEMENTARY INFORMATION**.

DATES: The SEDAR 94 Assessment Webinar II will be held February 2, 2026, from 10 a.m. until 1 p.m. Eastern Time.

ADDRESSES:

Meeting address: The meeting will be held via webinar. The webinar is open to members of the public. Those interested in participating should contact Julie A. Neer at SEDAR (See **FOR FURTHER INFORMATION CONTACT**) to request an invitation providing webinar access information. Please request webinar invitations at least 24 hours in advance of each webinar.

SEDAR address: 4055 Faber Place Drive, Suite 201, North Charleston, SC 29405.

FOR FURTHER INFORMATION CONTACT: Julie A. Neer, SEDAR Coordinator; (843) 571–4366. Email: julie.neer@safmc.net.

SUPPLEMENTARY INFORMATION: The Gulf, South Atlantic, and Caribbean Fishery Management Councils, in conjunction with NOAA Fisheries and the Atlantic and Gulf States Marine Fisheries Commissions have implemented the SEDAR process, a multi-step method for determining the status of fish stocks in the Southeast Region. SEDAR is a multi-step process including: (1) Data Workshop, (2) a series of assessment webinars, and (3) A Review Workshop. The product of the Data Workshop is a report that compiles and evaluates potential datasets and recommends which datasets are appropriate for assessment analyses. The assessment webinars produce a report that describes the fisheries, evaluates the status of the stock, estimates biological benchmarks, projects future population conditions,

and recommends research and monitoring needs. The product of the Review Workshop is an Assessment Summary documenting panel opinions regarding the strengths and weaknesses of the stock assessment and input data. Participants for SEDAR Workshops are appointed by the Gulf, South Atlantic, and Caribbean Fishery Management Councils and NOAA Fisheries Southeast Regional Office, HMS Management Division, and Southeast Fisheries Science Center. Participants include data collectors and database managers; stock assessment scientists, biologists, and researchers; constituency representatives including fishermen, environmentalists, and NGO's; International experts; and staff of Councils, Commissions, and state and Federal agencies.

The items of discussion during the SEDAR 94 Assessment Webinar II are as follows: Participants will review the assessment modelling work to date.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the Council office (see **ADDRESSES**) at least 5 business days prior to each workshop.

Note: The times and sequence specified in this agenda are subject to change.

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

Dated: January 16, 2026.

Rey Israel Marquez,

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

[FR Doc. 2026–01091 Filed 1–20–26; 8:45 am]

BILLING CODE 3510–22–P

COMMODITY FUTURES TRADING COMMISSION**Agency Information Collection Activities: Notice of Intent To Extend Collection 3038–0116: Response to Notification of Termination of Exemptive Relief**

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice.

SUMMARY: The Commodity Futures Trading Commission (CFTC) is announcing an opportunity for public comment on the proposed renewal of a collection of certain information by the agency. Under the Paperwork Reduction Act (“PRA”), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including proposed extension of an existing collection of information, and to allow 60 days for public comment. This notice solicits comments on the information collection requirements associated with Commission rules governing responses to Notifications of Termination of Exemptive Relief.

DATES: Comments must be submitted on or before March 23, 2026.

ADDRESSES: You may submit comments, and “OMB Control No. 3038–0116” by any of the following methods:

- The Agency’s Website, at <https://comments.cftc.gov/>. Follow the instructions for submitting comments through the website.

- *Mail:* Christopher Kirkpatrick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581.

- *Hand Delivery/Courier:* Same as Mail above.

Please submit your comments using only one method.

FOR FURTHER INFORMATION CONTACT: Lee McFarland, Special Counsel, Market Participants Division, Commodity Futures Trading Commission, (202) 418–5465; email: lmcfarland@cftc.gov.

SUPPLEMENTARY INFORMATION: Under the PRA, 44 U.S.C. 3501 *et seq.*, Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. “Collection of Information” is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3 and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA, 44 U.S.C.

3506(c)(2)(A), requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, the CFTC is publishing notice of the proposed collection of information listed below. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Title: Response to Notification of Termination of Exemptive Relief Issued Pursuant to Regulation 30.10 (OMB Control No. 3038–0116). This is a request for extension of a currently approved information collection.

Abstract: Commission regulation 30.10 provides a process by which persons located outside the U.S. and subject to a comparable regulatory structure in the jurisdiction in which they are located to seek an exemption from certain of the requirements under Part 30 of the Commission's regulations. Regulation 30.10 codifies the process by which the Commission may terminate such exemptive relief after appropriate notice and opportunity to respond. Regulation 30.10(c)(3) provides any party affected by the Commission's determination to terminate relief with the opportunity to respond to the notification in writing no later than 30 business days following the receipt of the notification, or at such time as the Commission permits in writing. These reporting requirements are necessary for the ongoing evaluation of the effectiveness of the Commission's program for regulatory deference.

With respect to the collection of information, the CFTC invites comments on:

- Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have a practical use;
- The accuracy of the Commission's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Ways to enhance the quality, usefulness, and clarity of the information to be collected; and
- Ways to minimize the burden of collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of

information technology; *e.g.*, permitting electronic submission of responses.

All comments must be submitted in English, or if not, accompanied by an English translation. Comments will be posted as received to <https://www.cftc.gov>. You should submit only information that you wish to make available publicly. If you wish the Commission to consider information that you believe is exempt from disclosure under the Freedom of Information Act, a petition for confidential treatment of the exempt information may be submitted according to the procedures established in § 145.9 of the Commission's regulations.¹

The Commission reserves the right, but shall have no obligation, to review, pre-screen, filter, redact, refuse or remove any or all of your submission from <https://www.cftc.gov> that it may deem to be inappropriate for publication, such as obscene language. All submissions that have been redacted or removed that contain comments on the merits of the ICR will be retained in the public comment file and will be considered as required under the Administrative Procedure Act and other applicable laws, and may be accessible under the Freedom of Information Act.

Burden Statement: The Commission is not revising its original estimate of the burden for this proposed renewal of collection. The respondent burden for this collection is estimated to be as follows:

Estimated Number of Respondents: 1.

Estimated Average Burden Hours per Respondent: 8.

Estimated Total Annual Burden Hours: 8.

Frequency of Collection: Once.

There are no capital costs or operating and maintenance costs associated with this collection.

(Authority: 44 U.S.C. 3501 *et seq.*)

Dated: January 16, 2026.

Robert Sidman,

Deputy Secretary of the Commission.

[FR Doc. 2026–01089 Filed 1–20–26; 8:45 am]

BILLING CODE 6351–01–P

CONSUMER FINANCIAL PROTECTION BUREAU

[Docket No. CFPB–2026–0004]

Agency Information Collection Activities: Comment Request

AGENCY: Consumer Financial Protection Bureau.

ACTION: Notice and request for comment.

¹ 17 CFR 145.9.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (PRA), the Consumer Financial Protection Bureau (CFPB) requests the Office of Management and Budget's (OMB's) approval of an information collection titled "ICBA Disclosure Testing: Qualitative Pre-testing of Survey (Testing) Instrument and Modified Disclosure Forms."

DATES: Written comments are encouraged and must be received on or before February 20, 2026 to be assured of consideration.

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. In general, all comments received will become public records, including any personal information provided. Sensitive personal information, such as account numbers or Social Security numbers, should not be included.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Anthony May, Paperwork Reduction Act Officer, at (202) 435–7278, or email: CFPB_PRA@cfpb.gov. If you require this document in an alternative electronic format, please contact CFPB_Accessibility@cfpb.gov. Please do not submit comments to these email boxes.

SUPPLEMENTARY INFORMATION:

Title of Collection: ICBA Disclosure Testing: Qualitative Pre-testing of Survey (Testing) Instrument and Modified Disclosure Forms.

OMB Control Number: 3170–00XX.

Type of Review: New information collection.

Affected Public: Individuals or households.

Estimated Number of Respondents: 2,000.

Estimated Total Annual Burden Hours: 1,500.

Abstract: The central research question that the Independent Community Bankers of America (ICBA) will be examining in the disclosure testing is whether the modified mortgage disclosures are more effective than current disclosures for a sample of consumers who are similar in age, income, and education to community bank customers. Effectiveness will be measured by how well a consumer can understand various dimensions of each loan by answering comprehension questions (*e.g.*, interest rate, payment

schedule, etc.) for various types of construction-to-permanent and construction loans they are presented. Per the recommendation of the CFPB, to ensure the effectiveness of both the survey instrument and the revised mortgage disclosure forms, ICBA's contractor will conduct pre-testing (or cognitive-testing) of both the survey and the disclosure forms.

Request for Comments: The CFPB published a 60-day **Federal Register** notice on May 22, 2025 (90 FR 21904) under Docket Number: CFPB–2025–0026. The CFPB is publishing this notice and soliciting comments on: (a) Whether the collection of information is necessary for the proper performance of the functions of the CFPB, including whether the information will have practical utility; (b) The accuracy of the CFPB's estimate of the burden of the collection of information, including the validity of the methods and the assumptions used; (c) Ways to enhance the quality, utility, and clarity of the information to be collected; and (d) Ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Comments submitted in response to this notice will be reviewed by OMB as part of its review of this request. All comments will become a matter of public record.

Anthony May,

Paperwork Reduction Act Officer, Consumer Financial Protection Bureau.

[FR Doc. 2026–01086 Filed 1–20–26; 8:45 am]

BILLING CODE 4810–25–P

DEPARTMENT OF DEFENSE

Department of the Army

Board of Visitors, United States Military Academy (USMA BoV)

AGENCY: Department of the Army, DoD.

ACTION: Notice of open Federal Advisory Committee meeting: in person.

SUMMARY: Under the provisions of the Federal Advisory Committee Act of 1972, the Government in the Sunshine Act of 1976, the Department of Defense announces that the following Federal advisory committee meeting will take place.

DATES: The meeting will be held on Monday, February 23, 2026, 9 a.m.–12 p.m. Members of the public wishing to attend the meeting will be required to show a government photo ID upon entering in order to gain access to the

meeting location. All members of the public are subject to security screening. **ADDRESSES:** The meeting will be held in the Caucus Room, Cannon House Office Building, 27 Independence Avenue SE, Washington, DC 20003.

FOR FURTHER INFORMATION CONTACT: Mr. David Nagle, the Designated Federal Officer for the committee, in writing at: Secretary of the General Staff, United States Military Academy, ATTN: David Nagle, 646 Swift Road, West Point, NY 10996; by email at: david.nagle@westpoint.edu or BoV@westpoint.edu; or by telephone at (845) 938–3716.

SUPPLEMENTARY INFORMATION: The committee meeting is being held under the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C., Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.150. The USMA BoV provides independent advice and recommendations to the President of the United States on matters related to morale, discipline, curriculum, instruction, physical equipment, fiscal affairs, academic methods, and any other matters relating to the Academy that the Board decides to consider.

Purpose of the Meeting: This is the 2026 Organizational Meeting of the USMA BoV. Members of the Board will be provided updates on Academy issues. Agenda: Introduction; Board Business: Election of Chair and Vice Chair for 2026, Approval of the 2026 Rules of the US Military Academy Board of Visitors, Approval of the Minutes from the July 2025 BoV Meeting, Academy Update, and Open Discussion.

Public's Accessibility to the Meeting: Pursuant to 5 U.S.C. 552b and 41 CFR 102–3.140 through 102–3.165 and subject to the availability of space, this meeting is open to the public. Seating is on a first to arrive basis. Attendees are requested to submit their name, affiliation, and daytime phone number seven business days prior to the meeting to Mr. Nagle, via electronic mail, the preferred mode of submission, at the address listed in the **FOR FURTHER INFORMATION CONTACT** section. Pursuant to 41 CFR 102–3.140d, the committee is not obligated to allow a member of the public to speak or otherwise address the committee during the meeting, and members of the public attending the committee meeting will not be permitted to present questions from the floor or speak to any issue under consideration by the committee. Because the committee meeting will be held in a Federal Government facility security screening is required. A DoD

government photo ID is required to enter the installation. Members of the public wishing to attend should contact Mr. Nagle for instructions to enter the building.

Written Comments or Statements: Pursuant to 41 CFR 102–3.105(j) and 102–3.140 and section 10(a)(3) of the Federal Advisory Committee Act, the public or interested organizations may submit written comments or statements to the committee, in response to the stated agenda of the open meeting or in regard to the committee's mission in general. Written comments or statements should be submitted to Mr. Nagle, the committee Designated Federal Officer, 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. Written comments or statements being submitted in response to the agenda set forth in this notice must be received by the Designated Federal Official at least seven business days prior to the meeting to be considered by the committee. The Designated Federal Official will review all timely submitted written comments or statements with the committee Chairperson and ensure the comments are provided to all members of the committee before the meeting. Written comments or statements received after this date may not be provided to the committee until its next meeting.

Pursuant to 41 CFR 102–3.140d, the committee is not obligated to allow a member of the public to speak or otherwise address the committee during the meeting. However, the committee Designated Federal Official and Chairperson may choose to invite certain submitters to present their comments verbally during the open portion of this meeting or at a future meeting. The Designated Federal Officer, in consultation with the committee Chairperson, may allot a specific amount of time for submitters to present their comments verbally.

James W. Satterwhite Jr.,

Army Federal Register Liaison Officer.

[FR Doc. 2026–01023 Filed 1–20–26; 8:45 am]

BILLING CODE 3710–08–P

DEPARTMENT OF DEFENSE**Office of the Secretary****Department of Defense Medicare-Eligible Retiree Health Care Board of Actuaries (DoD MERHC BoA); Notice of Federal Advisory Committee Meeting**

AGENCY: Under Secretary of Defense for Personnel and Readiness, Department of Defense (DoD).

ACTION: Notice of open Federal Advisory Committee meeting.

SUMMARY: This notice was not sent for publication in the **Federal Register** in September 2025. Although the meeting has already occurred, the notice is being published in its entirety. The DoD is publishing this notice to announce that the following Federal Advisory Committee meeting of the DoD MERHC BoA will take place.

DATES: Open to the public Friday, September 22, 2025, from 11:00 a.m. to 2:00 p.m.

ADDRESSES: ***This meeting will be held virtually*** The meeting can be accessed at https://dod.teams.microsoft.us/l/meetup-join/19%3adod%3ameeting_ac83d565d79a4b43945418bd4e26635e%40thread.v2/0?context=%7b%22id%22%3a%22102d0191-eeae-4761-b1cb-1a83e86ef445%22%2c%22oid%22%3a%22244081cb-d4dd-4158-8c6f-2048b5cf15bb%22%7d.

If you need any assistance, please contact Drew May (202) 923-9974 or Drew.T.May.civ@mail.mil as soon as possible.

FOR FURTHER INFORMATION CONTACT:

Drew May, (202) 923-9974 (Voice), Drew.T.May.civ@mail.mil (Email). Mailing address is Defense Human Resources Activity, DoD Office of the Actuary, 4800 Mark Center Drive, Ste. 03E25, Alexandria, VA 22350-8000. Website: <https://actuary.defense.gov/>. The most up-to-date changes to the meeting agenda can be found on the website.

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.

Due to circumstances beyond the control of the Designated Federal Officer and the DoD, the DoD MERHC BoA was unable to provide public notification required by 41 CFR 102-3.150(a)

concerning its September 22, 2025 meeting. Accordingly, the Advisory Committee Management Officer for the Department of Defense, pursuant to 41 CFR 102-3.150(b), waives the 15-calendar day notification requirement.

Purpose of the Meeting: The purpose of the meeting is to execute the provisions of 10 U.S.C. chapter 56 (10 U.S.C. 1114 *et seq.*). The DoD MERHC BoA shall review DoD actuarial methods and assumptions to be used in the valuation of benefits under DoD retiree health care programs for Medicare-eligible beneficiaries.

Agenda

1. Approve actuarial assumptions and methods needed for calculating: * (11:00 a.m.)
 - September 30, 2024, unfunded liability (UFL)
 - FY 2027 per capita full-time and part-time normal cost amounts
 - October 1, 2025, Treasury UFL amortization payment
 2. Approve per capita full-time and part-time normal cost amounts for the October 1, 2025 (FY 2026) normal cost payments * (11:30 a.m.)
 3. Medicare-Eligible Retiree Health Care Fund Update (12:00 p.m.)
 4. September 30, 2023, Actuarial Valuation Results (12:30 p.m.)
 5. September 30, 2024, Actuarial Valuation Proposals (1:00 p.m.)
- * Board approval required

Meeting Accessibility: Pursuant to 5 U.S.C. 552b and 41 CFR 102-3.140 through 102-3.165, this meeting is open to the public.

Written Statements: Persons desiring to attend the DoD Medicare-Eligible Retiree Health Care Board of Actuaries Meeting or make an oral presentation or submit a written statement for consideration at the meeting must notify Drew May at (202) 923-9974, or Drew.T.May.civ@mail.mil, by September 18, 2025.

Dated: January 15, 2026.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2026-01037 Filed 1-20-26; 8:45 am]

BILLING CODE 6001-FR-P

DEPARTMENT OF ENERGY**Federal Energy Regulatory Commission**

[Project No. 2716-051]

Virginia Electric and Power Company d/b/a Dominion Energy Virginia, Allegheny Generating Company, and Bath County Energy, LLC; Notice of Application Accepted for Filing, Soliciting Motions To Intervene and Protests, Ready for Environmental Analysis, and Soliciting Comments, Recommendations, Preliminary Terms and Conditions, and Preliminary Fishway Prescriptions

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.:* 2716-051.

c. *Date Filed:* December 30, 2024.

d. *Applicant:* Virginia Electric and Power Company d/b/a Dominion Energy Virginia, Allegheny Generating Company, and Bath County Energy, LLC (Dominion).

e. *Name of Project:* Bath County Pumped Storage Project (Bath County Project).

f. *Location:* On Back Creek and Little Back Creek in Bath, Highland, Augusta, and Rockbridge counties, Virginia. The current project boundary encompasses 3,451 acres of land, including 1,122 acres of federal land in the George Washington and Jefferson National Forests 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:* Mr. Corwin D. Chamberlain, Relicensing Project Manager, Dominion Energy, 600 Canal Place, Richmond, VA 23219-3852; (804) 273-2948; corwin.d.chamberlain@dominionenergy.com.

i. *FERC Contact:* Andy Bernick at (202) 502-8660 or email at andrew.bernick@ferc.gov.

j. *Deadline for filing motions to intervene and protests, comments, recommendations, preliminary terms and conditions, and preliminary fishway prescriptions:* on or before 5:00 p.m. Eastern Time on March 16, 2026; reply comments are due on or before 5:00 p.m. Eastern Time on April 30, 2026.

The Commission strongly encourages electronic filing. Please file motions to intervene and protests, comments, recommendations, preliminary terms and conditions, and preliminary fishway prescriptions using the

Commission's eFiling system at <https://ferconline.ferc.gov/FEROnline.aspx>. Commenters can submit brief comments up to 10,000 characters, without prior registration, using the eComment system at <https://ferconline.ferc.gov/QuickComment.aspx>. For assistance, please contact FERC Online Support at FEROnlineSupport@ferc.gov, (866) 208-3676 (toll free), or (202) 502-8659 (TTY). In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852. All filings must clearly identify the project name and docket number on the first page: Bath County Pumped Storage Project (P-2716-051).

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. This application has been accepted for filing and is now ready for environmental analysis.

l. The Bath County Project consists of the following existing facilities: (1) an upper reservoir with a surface area of 278 acres and a gross storage capacity of 37,910 acre-feet (with an usable storage capacity of 23,300 acre-feet—power pool) at a normal maximum surface elevation of 3,321 feet National Geodetic Vertical Datum of 1929 (NGVD29), created by a 2,250-foot-long, 460-foot-high, earth and rock-fill dam across Little Back Creek with a crest elevation of 3,331 feet NGVD29; (2) water conduits composed of: (a) three intake structures in the upper reservoir; (b) two 10.75-foot by 28.6-foot wheel gates at each of the three intakes; (c) three concrete-lined power tunnels, 28.5 feet in diameter with an approximately 3,300 to 3,400-foot-long upper horizontal section, a 980-foot-long vertical section, and an approximately 3,267 to 3,686-foot-long lower horizontal section, connecting each upper intake to two steel-lined 1,185 to 1,510-foot-long, 18.0 to 19.5-foot-diameter underground penstocks; and (d) a single-shaft surge tank,

approximately 44 feet in diameter, for each of the power tunnels; (3) a 509-foot-long, 145-foot-wide, and 203-foot-high reinforced concrete, primarily underground powerhouse with six 65-foot-wide bays for generation/pumping equipment and one erection bay, located on the west side of the lower reservoir, housing six Francis reversible pump-turbines each rated at 414 megawatts (MW) with a maximum hydraulic capacity of 4,600 cubic feet per second (cfs) in pumping mode and 5,000 cfs in generation mode, and a total installed capacity of 2,484 MW; (4) a lower reservoir with a surface area of 555 acres and a gross storage capacity of 27,300 acre-feet (with an usable storage capacity of 25,620 acre-feet composed of a 22,570 acre-foot power pool and 3,050 acre-foot conservation pool) at a normal maximum surface elevation of 2,118 feet NGVD29, created by a 2,100-foot-long, 135-foot-high, earth and rock-fill dam across Back Creek with a crest elevation of 2,136 feet NGVD29; (5) a project switchyard on top of the powerhouse containing transformers to step-up the generator voltage to 500 kilovolts (kV), the transmission line voltage; (6) two 500-kV transmission lines, approximately 51 miles (Valley Line) and 35 miles long (Lexington Line), which interconnect at substations located in Augusta County, near Bridgewater, Virginia, and Rockbridge County, near Lexington, Virginia, respectively; and (7) appurtenant facilities.

The average annual energy generation (2014 to 2023) is 3,708,814 megawatt-hours (MWh), and the average annual pumping consumption (2000 to 2020) is 4,599,899 MWh.

Dominion manages three sediment ponds with a combined storage of about 103.5 acre-feet, located downstream of the upper reservoir on Little Back Creek outside of the current project boundary. The ponds were originally constructed to trap and limit sediment input to Little Back Creek following project construction in 1985, and Dominion continues to manage the ponds: (1) as a safety feature to protect Little Back Creek from excessive sediment deposition and flooding in the event of an emergency drawdown of the upper reservoir; (2) to regulate flows from upstream sources including the upper reservoir; (3) to supplement downstream flow; and (4) to provide recreational fishing opportunities. Dominion proposes to include the sediment ponds within the project boundary to protect Little Back Creek by trapping sediment in the unlikely event of an emergency drawdown of the upper reservoir as well

as provide recreational access to the ponds over the new license term.

The project also includes an existing project recreation area, located downstream of the lower reservoir dam near Back Creek, that consists of: (1) a 49-acre upper recreation pond with a one-lane concrete boat ramp for electric motorized and non-motorized boats, a fishing pier/dock, a walking trail, two tent-only campsites, and a parking area for 22 vehicles; (2) a 26-acre lower recreation pond with a swimming beach, a recreational field for soccer or baseball, a volleyball court, a walking trail, three picnic areas with a total of 18 picnic tables, a pavilion with restrooms, a bathhouse with restrooms and showers, and a parking area for 65 vehicles; and (3) a campground with 30 recreational vehicle campsites (each with a gravel pad, fire ring, and picnic table), trash cans, a comfort station with restrooms and showers, and a check-in station.

Dominion proposes to continue to operate the Bath County Project as required by the current license. Downstream flow releases are maintained in compliance with the Virginia Water Protection Permit. As required by the permit, under normal operating conditions: (1) the daily average release from the lower reservoir shall be no less than the difference between 15 cfs and the daily average release from the upper reservoir; (2) at no time shall the instantaneous release from the lower reservoir be less than 10 cfs; and (3) the instantaneous release from the upper reservoir shall be no less than 2 cfs.

Dominion proposes to upgrade the turbine-generator units (*i.e.*, replacement of turbine runners), including associated appurtenant facilities. No other structural or operational changes to the Bath County Project are proposed by Dominion at this time.

m. A copy of the application can be viewed on the Commission's website at <https://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-2716). For assistance, contact FERC Online Support (see item j above).

You may also register online at <https://www.ferc.gov/ferc-online/overview> to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

n. Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR

385.210, .211, and .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

All filings must: (1) bear in all capital letters the title "PROTEST," "MOTION TO INTERVENE," "COMMENTS," "REPLY COMMENTS," "RECOMMENDATIONS," "PRELIMINARY TERMS AND CONDITIONS," or "PRELIMINARY FISHWAY PRESCRIPTIONS;" (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions, or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Agencies may obtain copies of the application directly from the applicant. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed on the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, contact the Office of Public Participation at (202) 502-6595 or OPP@ferc.gov.

o. The applicant must file the following on or before 5:00 p.m. Eastern Time on March 16, 2026: (1) a copy of the water quality certification; (2) a copy of the request for certification, including proof of the date on which the certifying agency received the request; or (3) evidence of waiver of water quality certification.

p. Final amendments to the application must be filed with the Commission on or before 5:00 p.m. Eastern Time on February 17, 2026.

(Authority: 18 CFR 2.1)

Dated: January 15, 2026.

Debbie-Anne A. Reese,

Secretary.

[FR Doc. 2026-01077 Filed 1-20-26; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

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

Docket Numbers: EC26-48-000.

Applicants: IN Solar 1, LLC, Duke Energy Indiana, LLC.

Description: Joint Application for Authorization Under Section 203 of the Federal Power Act of Duke Energy Indiana, LLC, et al.

Filed Date: 1/14/26.

Accession Number: 20260114-5194.

Comment Date: 5 p.m. ET 2/4/26.

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG26-136-000.

Applicants: Mammoth Plains Energy Storage, LLC.

Description: Mammoth Plains Energy Storage, LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.

Filed Date: 1/15/26.

Accession Number: 20260115-5110.

Comment Date: 5 p.m. ET 2/5/26.

Take notice that the Commission received the following Complaints and Compliance filings in EL Dockets:

Docket Numbers: EL26-40-000.

Applicants: Public Citizen, Inc. v. Public Service Electric and Gas Company.

Description: Complaint of Public Citizen, Inc. v. Public Service Electric and Gas Company.

Filed Date: 1/14/26.

Accession Number: 20260114-5199.

Comment Date: 5 p.m. ET 2/3/26.

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

Docket Numbers: ER25-3070-003.

Applicants: Midcontinent Independent System Operator, Inc., Indianapolis Power & Light Company.

Description: Tariff Amendment: Indianapolis Power & Light Company submits tariff filing per 35.17(b): 2026-01-15 3rd Amendment IPL dba AES Transition to Forward Looking Formula Rate to be effective 1/1/2026.

Filed Date: 1/15/26.

Accession Number: 20260115-5169.

Comment Date: 5 p.m. ET 2/5/26.

Docket Numbers: ER26-228-002.

Applicants: Interstate Power and Light Company, ITC Midwest LLC.

Description: Tariff Amendment: Interstate Power and Light Company submits tariff filing per 35.17(b): Amended Update to O&T Agreement Exhibits and Appendices (2025) to be effective 12/23/2025.

Filed Date: 1/14/26.

Accession Number: 20260114-5181.

Comment Date: 5 p.m. ET 2/4/26.

Docket Numbers: ER26-326-001.

Applicants: Michigan Power Limited Partnership.

Description: Tariff Amendment:

Michigan Power Limited Partnership submits tariff filing per 35.17(b): Supplement to Change in Status to be effective 10/31/2025.

Filed Date: 1/15/26.

Accession Number: 20260115-5002.

Comment Date: 5 p.m. ET 2/5/26.

Docket Numbers: ER26-1043-000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: PJM Interconnection, L.L.C. submits tariff filing per 35.13(a)(2)(iii): Amendment to GIA, Service Agreement No. 7247; Project Identifier No. AF1-228 to be effective 3/17/2026.

Filed Date: 1/15/26.

Accession Number: 20260115-5040.

Comment Date: 5 p.m. ET 2/5/26.

Docket Numbers: ER26-1044-000.

Applicants: Southwest Power Pool, Inc.

Description: Tariff Amendment: Southwest Power Pool, Inc. submits tariff filing per 35.15: 1135R1 Public Service Co of OK and GRDA Inter Agr Cancel to be effective 12/31/2025.

Filed Date: 1/15/26.

Accession Number: 20260115-5048.

Comment Date: 5 p.m. ET 2/5/26.

Docket Numbers: ER26-1045-000.

Applicants: Tucson Electric Power Company.

Description: § 205(d) Rate Filing: Tucson Electric Power Company submits tariff filing per 35.13(a)(2)(iii): Service Agreement No. 621 to be effective 1/16/2026.

Filed Date: 1/15/26.

Accession Number: 20260115-5052.

Comment Date: 5 p.m. ET 2/5/26.

Docket Numbers: ER26-1046-000.

Applicants: Tucson Electric Power Company.

Description: § 205(d) Rate Filing: Service Agreement No. 622 to be effective 1/16/2026.

Filed Date: 1/15/26.

Accession Number: 20260115-5054.

Comment Date: 5 p.m. ET 2/5/26.

Docket Numbers: ER26–1047–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: § 205(d) Rate Filing: 2026–01–15 SA 3795 Ameren Missouri-Kelso Solar 2nd Rev GIA (J1087) to be effective 12/31/2025.
Filed Date: 1/15/26.
Accession Number: 20260115–5059.
Comment Date: 5 p.m. ET 2/5/26.
Docket Numbers: ER26–1048–000.
Applicants: Badger Wind, LLC.
Description: Initial rate filing: Filing of Badger Wind Co-Tenancy Agreement to be effective 1/16/2026.
Filed Date: 1/15/26.
Accession Number: 20260115–5113.
Comment Date: 5 p.m. ET 2/5/26.
Docket Numbers: ER26–1049–000.
Applicants: PacifiCorp.
Description: § 205(d) Rate Filing: Revised Certificate of Concurrence (RS No. 381) to be effective 12/10/2025.
Filed Date: 1/15/26.
Accession Number: 20260115–5115.
Comment Date: 5 p.m. ET 2/5/26.
Docket Numbers: ER26–1050–000.
Applicants: American PowerNet Management, LLC.
Description: § 205(d) Rate Filing: Notice of Succession of American PowerNet Management, LLC to be effective 3/16/2026.
Filed Date: 1/15/26.
Accession Number: 20260115–5125.
Comment Date: 5 p.m. ET 2/5/26.
Docket Numbers: ER26–1051–000.
Applicants: APN Starfirst, LLC.
Description: § 205(d) Rate Filing: Notice of Succession and MBR Tariff Edits—APN Starfirst to be effective 3/16/2026.
Filed Date: 1/15/26.
Accession Number: 20260115–5130.
Comment Date: 5 p.m. ET 2/5/26.
Docket Numbers: ER26–1052–000.
Applicants: Midcontinent Independent System Operator, Inc., International Transmission Company.
Description: § 205(d) Rate Filing: International Transmission Company submits tariff filing per 35.13(a)(2)(iii): 2026–01–15 SA 4662 ITCTransmission-Big Mitten Energy E&P (J2590) to be effective 1/13/2026.
Filed Date: 1/15/26.
Accession Number: 20260115–5135.
Comment Date: 5 p.m. ET 2/5/26.
Docket Numbers: ER26–1053–000.
Applicants: Florida Power & Light Company.
Description: § 205(d) Rate Filing: Construction Agrmt for Establishment of Pseudo-Ties to Seminole Delivery Points to be effective 1/16/2026.
Filed Date: 1/15/26.
Accession Number: 20260115–5167.

Comment Date: 5 p.m. ET 2/5/26.
 Take notice that the Commission received the following electric securities filings:
Docket Numbers: ES26–25–000.
Applicants: Consolidated Edison Company of New York, Inc.
Description: Application Under Section 204 of the Federal Power Act for Authorization to Issue Securities of Consolidated Edison Company of New York, Inc.
Filed Date: 1/12/26.
Accession Number: 20260112–5262.
Comment Date: 5 p.m. ET 2/2/26.
Docket Numbers: ES26–26–000.
Applicants: MidAmerican Energy Company.
Description: Application Under Section 204 of the Federal Power Act for Authorization to Issue Securities of MidAmerican Energy Company.
Filed Date: 1/14/26.
Accession Number: 20260114–5193.
Comment Date: 5 p.m. ET 2/4/26.
 Take notice that the Commission received the following public utility holding company filings:
Docket Numbers: PH26–7–000.
Applicants: BlackRock, Inc.
Description: BlackRock, Inc. submits FERC 65–B Notice of Change in Fact to Waiver Notification.
Filed Date: 1/14/26.
Accession Number: 20260114–5198.
Comment Date: 5 p.m. ET 2/4/26.
 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.
 For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, contact the Office of Public Participation at (202) 502–6595 or OPP@ferc.gov.

Dated: January 15, 2026.
Debbie-Anne A. Reese,
Secretary.
 [FR Doc. 2026–01081 Filed 1–20–26; 8:45 am]
BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP26–380–000.
Applicants: Northern Natural Gas Company.
Description: § 4(d) Rate Filing: 20260114 Negotiated Rate Filing to be effective 1/15/2026.
Filed Date: 1/14/26.
Accession Number: 20260114–5142.
Comment Date: 5 p.m. ET 1/26/26.

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.

Filings in Existing Proceedings

Docket Numbers: RP25–936–000.
Applicants: Vector Pipeline L.P., Adelphia Gateway, LLC.
Description: Report Filing: Vector Pipeline L.P. submits tariff filing per 154.311: Vector Pipeline Rate Case 45-day Update Filing to be effective N/A.
Filed Date: 1/15/26.
Accession Number: 20260115–5001.
Comment Date: 5 p.m. ET 1/27/26.

Any person desiring to protest in any of 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.

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 15, 2026.

Debbie-Anne A. Reese,
Secretary.

[FR Doc. 2026-01080 Filed 1-20-26; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. P-2725-076]

Oglethorpe Power Corporation; Notice of Revised Procedural Schedule for the Proposed Project Relicense

On December 6, 2024, Oglethorpe Power Corporation filed an application to relicense the 904-megawatt Rocky Mountain Pumped Storage Project No. 2725 (project). On May 12, 2025, Commission staff issued a notice of revised schedule which included an anticipated schedule for issuing the ready for environmental analysis (REA) notice by December 2025.

By this notice, Commission staff are revising the procedural schedule for issuing the REA notice for the project as follows. Further revisions to the schedule may be made as appropriate.

Milestone	Target date
Issue REA Notice	May 2026.

Any questions regarding this notice may be directed to David Gandy at 202-502-8560, or david.gandy@ferc.gov.

(Authority: 18 CFR 2.1)

Dated: January 15, 2026.

Debbie-Anne A. Reese,
Secretary.

[FR Doc. 2026-01076 Filed 1-20-26; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2375-124]

Andro Hydro, LLC; Notice of Application for Amendment of License, Soliciting Comments, Motions To Intervene, and Protests

Take notice that the following hydroelectric application has been filed

with the Commission and is available for public inspection:

a. *Application Type*: Application for non-capacity amendment of license.

b. *Project No*: 2375-124.

c. *Date Filed*: June 20, 2023, and supplemented December 5, 2025.

d. *Applicant*: Andro Hydro, LLC.

e. *Name of Project*: Riley-Jay-Livermore Hydroelectric Project.

f. *Location*: The project is located on the Androscoggin River in Oxford, Franklin, and Androscoggin Counties in Maine.

g. *Filed Pursuant to*: Federal Power Act, 16 U.S.C. 791a-825r.

h. *Applicant Contact*: Jody Smet, Eagle Creek Renewable Energy, LLC, 7315 Wisconsin Avenue, Suite 1100W, Bethesda, MD 20814, (804) 382-1764, jody.smet@eaglecreekre.com.

i. *FERC Contact*: Maryam Akhavan, (202) 502-6110, Maryam.Akhavan@ferc.gov.

j. *Deadline for filing comments, motions to intervene, and protests*: February 17, 2026 5:00 p.m. Eastern Time.

The Commission strongly encourages electronic filing. Please file comments, motions to intervene, and protests using the Commission's eFiling system at <http://www.ferc.gov/docs-filing/efiling.asp>. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at <http://www.ferc.gov/docs-filing/ecomment.asp>. For assistance, please contact FERC Online Support at FERCOnlineSupport@ferc.gov, (866) 208-3676 (toll free), or (202) 502-8659 (TTY). In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, MD 20852. The first page of any filing should include the docket number P-2375-124. Comments emailed to Commission staff are not considered part of the Commission record.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a

particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Request*: Andro Hydro, LLC (applicant), a subsidiary of Eagle Creek Renewable Energy, filed a revised application that limits the proposed amendment to replacement of the existing flashboards at the Riley development with a rubber dam. The applicant withdrew the other proposed modifications noticed on November 17, 2023, including replacement of the existing turbine-generator unit at the Jay development and installation of gorilla bars at the Riley development, due to the lack of approved funding. Aside from a short-term drawdown of the Riley impoundment of approximately 1 to 2 feet below the permanent spillway crest during construction, the applicant does not propose any changes to the facility's existing operating regime, either during construction or following installation of the rubber dam.

l. *Locations of the Application*: This filing may be viewed on the Commission's website at <http://www.ferc.gov> using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. You may also register online at <http://www.ferc.gov/docs-filing/esubscription.asp> to be notified via email of new filings and issuances related to this or other pending projects. For assistance, call 1-866-208-3676 or email FERCOnlineSupport@ferc.gov, for TTY, call (202) 502-8659. Agencies may obtain copies of the application directly from the applicant.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene*: Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214, respectively. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Documents*: Any filing must (1) bear in all capital letters the title "COMMENTS", "PROTEST", or "MOTION TO INTERVENE" as applicable; (2) set forth in the heading the name of the applicant

and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person commenting, protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, motions to intervene, or protests must set forth their evidentiary basis. Any filing made by an intervenor must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 385.2010.

p. For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, contact the Office of Public Participation at (202) 502-6595 or *OPP@ferc.gov*.

(Authority: 18 CFR 2.1)

Dated: January 15, 2026.

Debbie-Anne A. Reese,
Secretary.

[FR Doc. 2026-01079 Filed 1-20-26; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2550-030]

Wiscons8, LLC; Notice of Application Ready For Environmental Analysis and Soliciting Comments, Recommendations, Terms and Conditions, and Prescriptions

a. *Type of Application:* Subsequent License.

b. *Project No.:* 2550-030.

c. *Date Filed:* November 29, 2024.

d. *Applicant:* Wiscons8, LLC.

e. *Name of Project:* Weyauwega Hydroelectric Project.

f. *Location:* On the Waupaca River in the City of Weyauwega in Waupaca County, Wisconsin.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. *Applicant Contact:* Mr. Dwight Shanak, Manager, Wiscons8, LLC, N3311 Sunrise Lane, Waupaca, WI 54981; telephone at (715) 412-3150; email at *modernhydro@sbcglobal.net*.

i. *FERC Contact:* Arash Barsari, Project Coordinator, Great Lakes Branch, Division of Hydropower Licensing; telephone at (202) 502-6207; email at *Arash.JalaliBarsari@ferc.gov*.

j. *Deadline for filing comments, recommendations, terms and conditions, and prescriptions:* on or before 5:00 p.m. Eastern Time on March

16, 2026; reply comments are due on or before 5:00 p.m. Eastern Time on April 30, 2026. The Commission strongly encourages electronic filing. Please file comments, recommendations, terms and conditions, and prescriptions using the Commission's eFiling system at <https://ferconline.ferc.gov/FEROnline.aspx>. Commenters can submit brief comments up to 10,000 characters, without prior registration, using the eComment system at <https://ferconline.ferc.gov/QuickComment.aspx>. For assistance, please contact FERC Online Support at FEROnlineSupport@ferc.gov, (866) 208-3676 (toll free), or (202) 502-8659 (TTY). In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Debbie Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852. All filings must clearly identify the project name and docket number on the first page: Weyauwega Hydroelectric Project (P-2550-030).

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. This application has been accepted for filing and is ready for environmental analysis at this time.

l. *Project Description:* The existing project consists of a dam that includes three 12-foot-long Tainter gates with a crest elevation of 770.8 National Geodetic Vertical Datum of 1929 (NGVD 29); and a powerhouse that includes an intake structure with a trashrack with 2-inch clear bar spacing and a 210-kilowatt vertical Francis turbine-generator unit. The dam creates an impoundment that has a surface area of 235 acres at a normal surface elevation of 770.2 feet NGVD 29. From the impoundment, water flows through the powerhouse to a tailrace that empties into the Waupaca River.

Electricity generated at the powerhouse is transmitted to the electric grid via 4.16-kilovolt generator lead lines, a step-up transformer, and a 25-foot-long transmission line.

Project recreation facilities include: (1) a boat ramp that provides impoundment access; (2) an approximately 270-foot-long access road for the boat ramp; (3) a 100-foot-long portage trail; and (4) a hand-carry boat put-in site downstream of the dam.

Wiscons8 proposes to continue operating the project in a run-of-river mode and maintaining the impoundment elevation at 770.2 ± 0.25 feet NGVD 29. Wiscons8 also proposes to continue maintaining the portage trail and put-in site. The put-in site also includes a dock that Wiscons8 proposes to maintain for public tailrace fishing. Wiscons8 is not proposing to maintain the boat ramp or 270-foot-long access road as project facilities.

m. A copy of the application can be viewed on the Commission's website at <http://www.ferc.gov> using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document (P-2550). For assistance, contact FERC Online Support.

All filings must (1) bear in all capital letters the title "COMMENTS," "REPLY COMMENTS," "RECOMMENDATIONS," "TERMS AND CONDITIONS," or "PRESCRIPTIONS;" (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name of the person submitting the filing; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Agencies may obtain copies of the application directly from the applicant. Each filing must be accompanied by proof of service on all persons listed on the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, contact the Office of Public Participation at (202) 502-6595 or *OPP@ferc.gov*.

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. For assistance, contact FERC Online Support.

n. The license applicant must file on or before 5:00 p.m. Eastern Time on March 16, 2026: (1) a copy of the water quality certification; (2) a copy of the request for certification, including proof

of the date on which the certifying agency received the request; or (3) evidence of waiver of water quality certification.

o. Procedural schedule: The application will be processed according to the following schedule. Revisions to the schedule will be made as appropriate.

Milestone	Target date
Filing of Comments, Recommendations, Terms, Conditions, and Prescriptions.	March 2026.
Filing of Reply Comments	April 2026.

p. Final amendments to the application must be filed with the Commission on or before 5:00 p.m. Eastern Time on February 16, 2026.

(Authority: 18 CFR 2.1)

Dated: January 15, 2026.

Debbie-Anne A. Reese,
Secretary.

[FR Doc. 2026–01078 Filed 1–20–26; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 15409–000]

Zachary Miller; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

On July 9, 2025, Zachary Miller filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act (FPA), proposing to study the feasibility of the Miller Micro-Hydroelectric Project No. 15409 (project), to be located on an unnamed stream on Chichagof Island, in the Hoonah-Angoon Census Area, near the community of Elfin Cove, Alaska. The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land-disturbing activities or otherwise enter upon lands or waters owned by others without the owners’ express permission.

The proposed project would consist of the following: (1) a six-foot-long, 5-foot-wide, 5-foot-high concrete and wood water catchment/intake system with a stainless steel screen; (2) a 3,500-foot-long, four-inch-diameter high-density polyethylene penstock; (3) a 20-foot-long, 20-foot-wide wood powerhouse containing one 25-kilowatt Pelton turbine-generator unit; (4) a 40-foot-long, 3-foot-wide wood and concrete

tailrace; (5) a 360-foot-long, 220-volt transmission line connecting the turbine-generator unit to the Elfin Cove Utility Commission’s local grid; and (6) appurtenant facilities.

The proposed project would have an estimated average annual generation of 131.4 megawatt-hours. The project would be located on federal lands managed by the US. Forest Service in the Tongass National Forest.

Applicant Contact: Zachary Miller, P.O. Box 5, Elfin Cove, AK 99825; phone: (760) 390–9369.

FERC Contact: John Matkowski; phone: (202) 502–8576, or by email at john.matkowski@ferc.gov.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: on or before 5:00 p.m. Eastern Time on March 16, 2026. Competing applications and notices of intent must meet the requirements of 18 CFR 4.36.

The Commission strongly encourages electronic filing. Please file comments, motions to intervene, notices of intent, and competing applications using the Commission’s eFiling system at <https://ferconline.ferc.gov/eFiling.aspx>. Commenters can submit brief comments up to 10,000 characters, without prior registration, using the eComment system at <https://ferconline.ferc.gov/QuickComment.aspx>. For assistance, please contact FERC Online Support at FERCOnlineSupport@ferc.gov, (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852. The first page of any filing should include docket number P–15409–000.

For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, contact the Office of Public Participation at (202) 502–6595 or OPP@ferc.gov.

More information about this project, including a copy of the application, can be viewed on the Commission’s website (<http://www.ferc.gov>) using the “eLibrary” link. Enter the docket number, excluding the last three digits (P–15409), in the docket number field to access the document. For assistance, contact FERC Online Support.

(Authority: 18 CFR 2.1)

Dated: January 15, 2026.

Debbie-Anne A. Reese,
Secretary.

[FR Doc. 2026–01075 Filed 1–20–26; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 15411–000]

Renewable Energy Aggregators, Inc.; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

On July 23, 2025, Renewable Energy Aggregators, Inc., filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act (FPA), proposing to study the feasibility of the Old Forge Bore Hole Pumped Storage Hydro Project to be located in Luzerne and Lackawanna Counties, Pennsylvania. The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land-disturbing activities or otherwise enter upon lands or waters owned by others without the owners’ express permission.

The proposed project would consist of the following: (1) a new upper reservoir with a storage capacity of 2,042 acre-feet at a surface elevation of approximately 1,513 feet North American Vertical Datum of 1988 (NAVD88) created through construction of a combination of earthen or concrete dam/dike with a preferred approach of reusing as much of the excavated material as possible; (2) a new lower reservoir with a storage capacity of 2,026 acre-feet at a surface elevation of 604 feet NAVD88; (3) two new 9,110-foot-long, 12.5- to 10.25-foot-diameter buried penstocks connecting the upper and lower reservoirs; (4) a new underground 200-foot-long, 150-foot-wide powerhouse containing two turbine-generator units with a total rated capacity of 184 megawatts; (5) a new 1.2-mile-long, 230-kilovolt transmission line connecting the powerhouse to a nearby electric grid interconnection point; and (6) appurtenant facilities. Possible initial fill water and make-up water would come from an acid mine drainage water treatment facility. The proposed project would have an annual generation of 671,600 megawatt-hours.

Applicant Contact: Adam Rousselle, Renewable Energy Aggregators, Inc.,

2113 Middle Street, Suite 201, Sullivans Island, SC 29482; phone: 267–254–6107.

FERC Contact: Monir Chowdhury; phone: (202) 502–6736.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: on or before 5:00 p.m. Eastern Time on March 16, 2026. Competing applications and notices of intent must meet the requirements of 18 CFR 4.36.

The Commission strongly encourages electronic filing. Please file comments, motions to intervene, notices of intent, and competing applications using the Commission's eFiling system at <https://ferconline.ferc.gov/FERCOOnline.aspx>. Commenters can submit brief comments up to 10,000 characters, without prior registration, using the eComment system at <https://ferconline.ferc.gov/QuickComment.aspx>. For assistance, please contact FERC Online Support at FERCOOnlineSupport@ferc.gov, (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852.

For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, contact the Office of Public Participation at (202) 502–6595 or OPP@ferc.gov.

More information about this project, including a copy of the application, can be viewed or printed on the “eLibrary” link of the Commission's website at <https://elibrary.ferc.gov/eLibrary/search>. Enter the docket number (P–15411) in the docket number field to access the document. For assistance, contact FERC Online Support.

Dated: January 15, 2026.

Debbie-Anne A. Reese,
Secretary.

[FR Doc. 2026–01074 Filed 1–20–26; 8:45 am]

BILLING CODE 6717–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0213; FR ID 326347]

Information Collection Being Reviewed by the Federal Communications Commission Under Delegated Authority

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection burden on small business concerns with fewer than 25 employees. The FCC may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written PRA comments should be submitted on or before March 23, 2026. If you anticipate that you will be submitting comments but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email PRA@fcc.gov and to Cathy.Williams@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0213.

Title: Section 73.3525, Agreements for Removing Application Conflicts.
Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities; Not for profit institutions.
Number of Respondents and Responses: 38 respondents; 38 responses.

Estimated Time per Response: 0.25–1 hour.

Frequency of Response: On occasion reporting requirement; Third party disclosure requirement.

Obligation to Respond: Required to obtain benefits. The statutory authority for this collection of information is contained in Sections 154(i) and 311 of the Communications Act of 1934, as amended. Sections 4(i) and 623 of the Communications Act of 1934, as amended.

Total Annual Burden: 39 hours.

Total Annual Cost: \$91,200.

Needs and Uses: The Commission is requesting an extension of this information collection in order to receive approval/clearance from the Office of Management and Budget for three years. 47 CFR 73.3525 requires applicants for a construction permit for a broadcast station to obtain approval from the FCC to withdraw, dismiss, or amend its application when that application is in conflict with another application pending before the FCC. This request for approval to withdraw, dismiss, or amend should contain a copy of the settlement agreement and an affidavit of each party to the agreement. The FCC staff uses this data to assure that the agreement complies with its rules and regulations and Section 311 of the Communications Act of 1934, as amended.

Federal Communications Commission.

Marlene Dortch,
Secretary.

[FR Doc. 2026–01063 Filed 1–20–26; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Sunshine Act Meetings

TIME AND DATE: 10:00 a.m. on January 22, 2026.

PLACE: This Board meeting will be open to public observation by webcast. Visit <https://www.fdic.gov/news/board-matters/video.html> for a link to the webcast. Members of the media should contact the Office of Communications by Tuesday, January 20, at mediarequests@fdic.gov to attend in person. FDIC Board Members and staff will participate from FDIC Headquarters, 550 17th Street NW, Washington, DC.

Observers requiring auxiliary aids should email DisabilityProgram@fdic.gov to make necessary arrangements.

STATUS: Open to public observation via webcast.

MATTERS TO BE CONSIDERED: The Federal Deposit Insurance Corporation's (FDIC) Board of Directors will meet to consider the following matters:

Discussion Agenda

Amendments to the FDIC's Guidelines for Appeals of Material Supervisory Determinations.

Summary Agenda

No substantive discussion of the following items is anticipated. The Board of Directors will resolve these matters with a single vote unless a member of the Board requests that an item be moved to the discussion agenda.

Final Rule on FDIC Official Signs and Advertising Requirements.

Minutes of Board of Directors' Meetings Previously Distributed.

CONTACT PERSON FOR MORE INFORMATION: For further information, please contact Debra A. Decker, Executive Secretary, FDIC, at FDICBoardMatters@fdic.gov.

Authority: 5 U.S.C. 552b.

Dated at Washington, DC, on January 15, 2026.

Federal Deposit Insurance Corporation.

Debra A. Decker,
Executive Secretary.

[FR Doc. 2026-01028 Filed 1-16-26; 11:15 am]

BILLING CODE 6714-01-P

FEDERAL RESERVE SYSTEM

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

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The public portions of the applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank(s) indicated below and at the offices of the Board of Governors. This information may also be obtained

on an expedited basis, upon request, by contacting the appropriate Federal Reserve Bank and from the Board's Freedom of Information Office at <https://www.federalreserve.gov/foia/request.htm>. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)).

Comments received are subject to public disclosure. In general, comments received will be made available without change and will not be modified to remove personal or business information including confidential, contact, or other identifying information. Comments should not include any information such as confidential information that would not be appropriate for public disclosure.

Comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Benjamin W. McDonough, Deputy Secretary of the Board, 20th Street and Constitution Avenue NW, Washington, DC 20551-0001, not later than February 20, 2026.

A. Federal Reserve Bank of St. Louis (Holly A. Rieser, Senior Manager) P.O. Box 442, St. Louis, Missouri 63166-2034. Comments can also be sent electronically to Comments.applications@stls.frb.org;

1. *Home BancShares, Inc., Conway, Arkansas*; to merge with Mountain Commerce Bancorp, Inc., and thereby indirectly acquire Mountain Commerce Bank, both of Knoxville, Tennessee.

Board of Governors of the Federal Reserve System.

Michele Taylor Fennell,

Associate Secretary of the Board.

[FR Doc. 2026-01085 Filed 1-20-26; 8:45 am]

BILLING CODE 6210-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS-10666, CMS-319, and CMS-10653]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect

information from the public. Under the Paperwork Reduction Act of 1995 (PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, and to allow a second opportunity for public comment on the notice. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including the necessity and utility of the proposed information collection for the proper performance of the agency's functions, the accuracy of the estimated burden, ways to enhance the quality, utility, and clarity of the information to be collected, and the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments on the collection(s) of information must be received by the OMB desk officer by February 20, 2026.

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.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, please access the CMS PRA website by copying and pasting the following web address into your web browser: <https://www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing>.

FOR FURTHER INFORMATION CONTACT: William Parham at (410) 786-4669.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501-3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term "collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires federal agencies to publish a 30-day notice in the **Federal Register** concerning each proposed collection of information,

including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice that summarizes the following proposed collection(s) of information for public comment.

1. *Type of Information Collection Request:* Reinstatement with change of a previously approved collection; *Title of Information Collection:* Non-Exchange Entities; *Use:* The original information collection request (ICR) that provided the authority for HHS to collect the information necessary for these requests to deviate was titled Non-Exchange Entities (0938–1329) and was approved on 5/23/2017. The original ICR was discontinued on 3/4/2020 due to the concurrent discontinuation of standardized options in the HHS Notice of Benefit and Payment Parameters for 2019; Final Rule (2019 Payment Notice).

The ICR that provided HHS the authority to collect the necessary information to enable web-brokers and issuers using the Classic DE and EDE pathways to submit a request to deviate from the manner in which standardized plan options are differentially displayed on *HealthCare.gov* was reinstated concurrently with the reintroduction of standardized plan option requirements in the HHS Notice of Benefit and Payment Parameters for 2023 Final Rule (2023 Payment Notice). The standardized plan options that were differentially displayed on *HealthCare.gov* and that web-brokers or issuers utilizing the Classic DE and EDE pathways were required to differentially display were updated in the HHS Notice of Benefit and Payment Parameters for 2024 Final Rule (2024 Payment Notice) and HHS Notice of Benefit and Payment Parameters for 2025 Final Rule (2025 Payment Notice). This ICR serves as a formal request to reinstate the data collection with change. *Form Number:* CMS–10666 (OMB control number: 0938–1329); *Frequency:* Annually; *Affected Public:* Private Sector—Business or other for-profits; *Number of Respondents:* 115; *Number of Responses:* 115; *Total Annual Hours:* 215. (For questions regarding this collection, contact Nikolas Berkobien at (667) 290–9903).

2. *Type of Information Collection Request:* Reinstatement without change of a previously approved collection; *Title:* State Medicaid Eligibility Quality Control Sample Selection Lists and Supporting Regulations; *Use:* Title XIX and title XXI State agencies are required to submit the MEQC pilot planning document in accordance with § 431.814(b), and the MEQC case level

and CAP reports based on pilot findings in accordance with §§ 431.816 and 431.820, respectively. The primary users of this information are State Medicaid (and where applicable CHIP) agencies and CMS. State agencies are expected to use the information collected for continuous quality improvement purposes. They will identify patterns of error in their eligibility processing operations and systems and take corrective actions to address issues and improve the eligibility determination process. CMS will use the data collected to identify and help those States that are most in need of technical assistance. CMS will also use the data set to identify potential weaknesses in Federal regulations. It will propose regulatory modifications designed to ensure that there are more effective quality controls in the eligibility determination process.; *Form Number:* CMS–319 (OMB control number: 0938–0147); *Frequency:* Occasionally; *Affected Public:* State, Local, or Tribal Governments; *Number of Respondents:* 35; *Number of Responses:* 647; *Total Annual Hours:* 9,840. (For policy questions regarding this collection contact Camiel Rowe at 410–786–0069).

3. *Type of Information Collection Request:* Reinstatement without change of a previously approved information collection; *Title of Information Collection:* Coverage of Certain Preventive Services Under the Affordable Care Act; *Use:* Section 2713 of the PHS Act requires non-grandfathered group health plans and health insurance issuers offering non-grandfathered group or individual health insurance coverage to provide benefits for certain preventive services without cost sharing, including benefits for certain women's preventive health services as provided for in comprehensive guidelines supported by the Health Resources and Services Administration (HRSA). The 2018 final regulations titled "Religious Exemptions and Accommodations for Coverage of Certain Preventive Services Under the Affordable Care Act" (83 FR 57536) and "Moral Exemptions and Accommodations for Coverage of Certain Preventive Services Under the Affordable Care Act" (83 FR 57592) finalized interim final rules that expanded exemptions for religious beliefs and established an exemption for moral convictions for certain entities or individuals whose health plans may otherwise be subject to the mandate of contraceptive coverage. The final regulations extended the exemption to health insurance issuers that hold religious or moral objections in certain

circumstances, as well as to additional categories of group health plan sponsors.

The 2018 final regulations also left in place, from previous rulemaking, an accommodation process for objecting entities who wish to use it to avoid contracting, arranging, paying, or referring for contraceptive coverage, but made use of the accommodation optional for such entities. An organization seeking to be treated as an eligible organization may self-certify (by using EBSA Form 700), prior to the beginning of the first plan year to which an accommodation is to apply, that it meets the definition of an eligible organization. The eligible organization must provide a copy of its self-certification to each health insurance issuer that would otherwise provide such coverage in connection with the health plan (for insured group health plans or student health insurance coverage). The issuer that receives the self-certification must provide separate payments for contraceptive services for plan participants and beneficiaries (or students and dependents). For a self-insured group health plan, the self-certification must be provided to its third party administrator, which must provide or arrange separate payments for contraceptive services. An eligible organization may submit a notification to the Department of Health and Human Services (HHS) as an alternative to submitting EBSA Form 700 to the eligible organization's health insurance issuer or third party administrator. A health insurance issuer or third party administrator providing or arranging payments for contraceptive services for participants and beneficiaries in plans (or student enrollees and covered dependents in student health insurance coverage) of eligible organizations must provide a written notice to such plan participants and beneficiaries (or such student enrollees and covered dependents) informing them of the availability of such payments.

Under the 2018 final regulations, eligible organizations can revoke the accommodation process if participants and beneficiaries (or student enrollees and covered dependents) receive written notice of such revocation from the issuer or third party administrator, and such revocation will be effective on the first day of the first plan year that begins on or after thirty days after the date of revocation. The Centers for Medicare & Medicaid Services is requesting to reinstatement OMB approval for the data collections included in this information collection request. HHS will only implement the information collections to the extent

they are consistent with regulations that are currently in effect. *Form Number:* CMS–10653 (OMB control number: 0938–1344); *Frequency:* Occasionally; *Affected Public:* Private Sector; *Number of Respondents:* 60; *Total Annual Responses:* 595,312; *Total Annual Hours:* 72. (For policy questions regarding this collection contact Russell Tipps at 301–869–3502).

William N. Parham, III,

Director, Division of Information Collections and Regulatory Impacts, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2026–01005 Filed 1–20–26; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–10266]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (PRA) federal agencies are also required to publish notice in the **Federal Register** concerning each proposed collection of information before the agency's request is submitted to OMB for approval.

DATES: Comments on the collection(s) of information must be received by the OMB desk officer by March 23, 2026.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 60 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting "Currently under 60-day Review—Open for Public Comments" or by using the search function.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, please access the CMS PRA website by copying and pasting the following web address into your web browser: <https://www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing>.

FOR FURTHER INFORMATION CONTACT: William Parham at (410) 786–4669.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term "collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party.

Interested persons are invited to send comments regarding our burden estimates or any other aspect of this collection of information, including the necessity and utility of the proposed information collection for the proper performance of the agency's functions, the accuracy of the estimated burden, ways to enhance the quality, utility, and clarity of the information to be collected, and the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Information Collection

1. *Type of Information Collection Request:* Reinstatement with change of a previously approved collection; *Title of Information Collection:* Conditions of Participation for Transplant Programs; *Use:* The purpose of this package is to request approval from the Office of Management and Budget (OMB) to reinstate, with change, the information collection request for OMB Control No. 0938–1069, which expired on November 30, 2022. The information collection request described herein is associated with the Conditions of Participation (CoPs) for Transplant Programs, specified at Title 42 Code for Regulations (CFR) Sections §§ 482.68 to 482.104.

A certified Transplant Program is an approved Medicare provider type that is located within an approved Medicare Hospital provider type. Approved Medicare dialysis facilities also work in conjunction with Transplant Programs, as they support patients before and possibly after kidney transplants. Transplant Programs may receive payment for heart, heart-lung, intestine, kidney, liver, lung, and pancreas transplants if, and only if, they are in compliance with the Conditions of Participation (CoPs) specified in 42 CFR 482.68 to 482.104.

The previous iteration was approved on November 29, 2019, with an estimated annual burden of 2,593 hours and an annual cost of \$181,130. For this re-instatement, the total annual hourly

burden is revised to 3,340, with an annual burden cost of \$352,462. The 29% increase in burden hours (from 2,593 to 3,340) is primarily due to the addition of one missing IC, (IC–3), minor corrections to burden estimates, and updating labor wage data to more recently available data. *Form Number:* CMS–10266 (OMB control number: 0938–1069); *Frequency:* Yearly; *Affected Public:* Private sector Business or other for-profits and Not-for-profit institutions; *Number of Respondents:* 476; *Total Annual Responses:* 476; *Total Annual Hours:* 3,340. (For policy questions regarding this collection contact Claudia Molinar at 410–786–8445.)

William N. Parham, III,

Director, Division of Information Collections and Regulatory Impacts, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2026–01008 Filed 1–20–26; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2025–N–7129]

Issuance of Priority Review Voucher; Rare Pediatric Disease Product; KYGEVVI (Doxecitine and Doxribtimine)

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the issuance of a priority review voucher to the sponsor of a rare pediatric disease product application. The Federal Food, Drug, and Cosmetic Act (FD&C Act) authorizes FDA to award priority review vouchers to sponsors of approved rare pediatric disease product applications that meet certain criteria. FDA is required to publish notice of the award of the priority review voucher. FDA has determined that KYGEVVI (doxycitine and doxribtimine), approved November 3, 2025, manufactured by UCB, Inc., meets the criteria for a priority review voucher.

FOR FURTHER INFORMATION CONTACT:

Quyen Tran, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Silver Spring, MD 20993–0002, 301–796–2771.

SUPPLEMENTARY INFORMATION: FDA is announcing the issuance of a priority review voucher to the sponsor of an approved rare pediatric disease product

application. Under section 529 of the FD&C Act (21 U.S.C. 360ff), FDA will award priority review vouchers to sponsors of approved rare pediatric disease product applications that meet certain criteria. FDA has determined KYGEVVI (doxecitine and doxribtimine), manufactured by UCB, Inc., meets the criteria for a priority review voucher. KYGEVVI (doxecitine and doxribtimine) powder is indicated for treatment of thymidine kinase 2 deficiency (TK2d) in adults and pediatric patients with an age of symptom onset on or before 12 years.

For further information about the Rare Pediatric Disease Priority Review Voucher Program and for a link to the full text of section 529 of the FD&C Act, go to <https://www.fda.gov/ForIndustry/DevelopingProductsforRareDiseasesConditions/RarePediatricDiseasePriorityVoucherProgram/default.htm>. For further information about KYGEVVI (doxecitine and doxribtimine), go to the “Drugs@FDA” website at <https://www.accessdata.fda.gov/scripts/cder/daf/>.

Lowell Zeta,

Deputy Commissioner for Policy, Legislation, and International Affairs.

[FR Doc. 2026-01065 Filed 1-20-26; 8:45 am]

BILLING CODE 4164-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA-2025-N-6951]

Notice of Approval of Product Under Voucher: Rare Pediatric Disease Priority Review Voucher; RHAPSIDO (Remibrutinib)

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the issuance of approval of a product redeeming a priority review voucher. The Federal Food, Drug, and Cosmetic Act (FD&C Act) authorizes FDA to award priority review vouchers to sponsors of approved rare pediatric disease product applications that meet certain criteria. FDA is required to publish notice of the issuance of priority review vouchers as well as the approval of products redeeming a priority review voucher. FDA has determined that RHAPSIDO (remibrutinib), approved September 30, 2025, meets the criteria for redeeming a priority review voucher.

FOR FURTHER INFORMATION CONTACT:

Quyen Tran, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 22, Room 5324, Silver Spring, MD 20993-0002, 301-796-2771, Quyen.Tran1@fda.hhs.gov.

SUPPLEMENTARY INFORMATION: FDA is announcing the approval of a product redeeming a rare pediatric disease priority review voucher. Under section 529 of the FD&C Act (21 U.S.C. 360ff), FDA will report the issuance of rare pediatric disease priority review vouchers and the approval of products for which a voucher was redeemed. FDA has determined that the RHAPSIDO (remibrutinib) meets the redemption criteria.

For further information about the Rare Pediatric Disease Priority Review Voucher Program and for a link to the full text of section 529 of the FD&C Act, go to <https://www.fda.gov/ForIndustry/DevelopingProductsforRareDiseasesConditions/RarePediatricDiseasePriorityVoucherProgram/default.htm>. For further information RHAPSIDO (remibrutinib), go to the “Drugs@FDA” website at <https://www.accessdata.fda.gov/scripts/cder/daf/>.

Lowell M. Zeta,

Acting Deputy Commissioner for Policy, Legislation, and International Affairs.

[FR Doc. 2026-01084 Filed 1-20-26; 8:45 am]

BILLING CODE 4164-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA-2025-D-2616]

Minimal Residual Disease and Complete Response in Multiple Myeloma: Use as Endpoints To Support Accelerated Approval; Draft Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA, Agency, or we) is announcing the availability of a draft guidance for industry entitled “Minimal Residual Disease and Complete Response in Multiple Myeloma: Use as Endpoints to Support Accelerated Approval.” When finalized, this guidance will provide recommendations to sponsors about using minimal residual disease (MRD) and complete response (CR) in multiple myeloma as primary endpoints in trials evaluating

drug and biological products intended to treat patients with multiple myeloma to support approval under accelerated approval.

DATES: Submit either electronic or written comments on the draft guidance by March 23, 2026 to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance.

ADDRESSES: You may submit comments on any guidance at any time 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-2025-D-2616 for “Minimal Residual Disease and Complete Response in Multiple Myeloma: Use as Endpoints to Support Accelerated Approval.” Received comments will be placed in the docket and, except for those

submitted as “Confidential Submissions,” publicly viewable at <https://www.regulations.gov> or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

- **Confidential Submissions**—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states “THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.” The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on <https://www.regulations.gov>. Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as “confidential.” Any information marked as “confidential” will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA’s posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: <https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf>.

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to <https://www.regulations.gov> and insert the docket number, found in brackets in the heading of this document, into the “Search” box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

Submit written requests for single copies of the draft guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

FOR FURTHER INFORMATION CONTACT: Bindu Kanapuru, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 22, Rm. 2102, Silver Spring, MD 20993, 240–402–1279; Philip Kurs, Center for Biologics Evaluation and Research, Food and Drug Administration, 240–402–7911; Center for Devices and Radiological Health, Food and Drug Administration, CDRHClinicalEvidence@fda.hhs.gov.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft guidance for industry entitled “Minimal Residual Disease and Complete Response in Multiple Myeloma: Use as Endpoints to Support Accelerated Approval.” When finalized, this guidance will provide recommendations to sponsors about using MRD and CR in multiple myeloma as primary endpoints in trials evaluating drug and biological products intended to treat patients with multiple myeloma to support approval under accelerated approval. For the purpose of this guidance, MRD endpoint refers to MRD negativity rate as assessed in the bone marrow by either flow cytometry- or sequencing-based methods in patients who have achieved a CR. The definition of CR includes patients who achieved CR or stringent CR.

Multiple myeloma is a plasma cell malignancy and accounts for 18% of all hematologic malignancies in the United States. In multiple myeloma, accelerated approval based on an endpoint of overall response rate (ORR, defined as a partial response or better) supported by duration of response has expedited access to new therapies. However, the overall response rates observed with new therapeutics have surpassed 60–70% in the relapsed or refractory setting and 90% in the newly diagnosed setting. With the improved outcomes observed in this disease area, demonstrating statistically significant difference in overall response rates may require infeasibly large clinical trials. Additionally, more sensitive response assessments will allow for continued expeditious drug development.

MRD, which is generally assessed in the bone marrow by either flow cytometry- or sequencing-based methods, can further quantify the depth of response to treatment beyond ORR or CR. MRD is a recognized prognostic biomarker; patients who attain MRD-negativity have improved long-term outcomes. The 2016 International Myeloma Working Group (IMWG) incorporated standardized definitions of MRD-negative response resulted in

greater inclusion of these assessments in clinical trials. In this treatment landscape, there has been interest in the use of MRD as a primary endpoint for clinical trials intended to support regulatory decision-making as opposed to an exploratory or a secondary endpoint.

At the April 12, 2024, Oncology Drug Advisory Committee meeting, pooled analyses of clinical trial data submitted to the Agency was presented to show the relationship between MRD and long-term outcomes (*i.e.*, Progression-Free Survival (PFS) and Overall Survival (OS)). Members unanimously agreed that it is acceptable to use MRD as an endpoint to support accelerated approval of drug or biological products intended to treat multiple myeloma.

When finalized, this guidance will provide specific recommendations for designing clinical trial using MRD as an endpoint for accelerated approval. The recommendations include general drug development considerations, trial design and statistical considerations, and assay considerations for MRD evaluation.

The draft guidance also includes considerations when proposing CR as an endpoint for accelerated approval as well as other regulatory considerations. CR is also a recognized prognostic biomarker; patients who attain CR have improved long-term outcomes. FDA conducted a pooled analysis of clinical trial data, which demonstrated an association between CR and long-term outcomes (*i.e.*, PFS and OS). The 2016 IMWG response criteria incorporate standardized definitions of CR and CR rate, which have been assessed in numerous multiple myeloma trials, often as a secondary endpoint with control of Type I error. Like MRD, CR can be used as an endpoint to support accelerated approval in trials evaluating drug and biological products intended to treat patients with multiple myeloma.

This draft guidance is being issued consistent with FDA’s good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the current thinking of FDA on “Minimal Residual Disease and Complete Response in Multiple Myeloma: Use as Endpoints to Support Accelerated Approval.” It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

As we develop final guidance on this topic, FDA will consider comments on costs or cost savings the guidance may generate, relevant for Executive Order 14192.

II. Paperwork Reduction Act of 1995

While this guidance contains no collection of information, it does refer to previously approved FDA collections of information. The previously approved collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3521). The collections of information in 21 CFR 201.56 and 201.57 have been approved under OMB control number 0910–0572; the collections of information in 21 CFR part 314 have been approved under OMB control number 0910–0001; the collections of information in 21 CFR part 601 have been approved under OMB control number 0910–0338.

III. Electronic Access

Persons with access to the internet may obtain the draft guidance at <https://www.fda.gov/drugs/guidance-compliance-regulatory-information/guidances-drugs>, <https://www.fda.gov/regulatory-information/search-fda-guidance-documents>, or <https://www.regulations.gov>.

Lowell M. Zeta,

Acting Deputy Commissioner for Policy, Legislation, and International Affairs.

[FR Doc. 2026–01068 Filed 1–20–26; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2025–D–2275]

M4Q(R2) The Common Technical Document for the Registration of Pharmaceuticals for Human Use: Quality; International Council for Harmonisation; Draft Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA, Agency, or we) is announcing the availability of a draft guidance for industry entitled “M4Q(R2) The Common Technical Document for the Registration of Pharmaceuticals for Human Use: Quality.” The draft guidance was prepared under the auspices of the International Council for Harmonisation of Technical Requirements for Pharmaceuticals for Human Use (ICH). The draft guidance is intended to establish a globally harmonized framework to organizing and presenting

quality data included in registration applications for medicinal products for human use. The draft guidance updates the quality section of the common technical document (CTD) to further improve registration and life cycle management efficiency, facilitate digitalization and knowledge management, and support provisions for emerging technologies.

DATES: Submit either electronic or written comments on the draft guidance by March 23, 2026 to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance.

ADDRESSES: You may submit comments on any guidance at any time 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–

2025–D–2275 for “M4Q(R2) The Common Technical Document for the Registration of Pharmaceuticals for Human Use: Quality.” Received comments will be placed in the docket and, except for those submitted as “Confidential Submissions,” publicly viewable at <https://www.regulations.gov> or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

- **Confidential Submissions—**To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states “THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.” The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on <https://www.regulations.gov>. Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as “confidential.” Any information marked as “confidential” will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA’s posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: <https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf>.

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to <https://www.regulations.gov> and insert the docket number, found in brackets in the heading of this document, into the “Search” box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

Submit written requests for single copies of the draft guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993–0002. Send one self-addressed adhesive

label to assist that office in processing your requests. The guidance may also be obtained by mail by calling CBER at 1-800-835-4709 or 240-402-8010. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

FOR FURTHER INFORMATION CONTACT:

Regarding the guidance: Lawrence Yu, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 4178, Silver Spring, MD 20993-0002, Lawrence.Yu@fda.hhs.gov; or Phillip Kurs, Center for Biologics Evaluation and Research, Food and Drug Administration, 240-402-7911.

Regarding the ICH: Brooke Dal Santo, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6304, Silver Spring, MD 20993-0002, 301-348-1967, Brooke.DalSanto@fda.hhs.gov.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft guidance for industry entitled “M4Q(R2) The Common Technical Document for the Registration of Pharmaceuticals for Human Use: Quality.” The draft guidance was prepared under the auspices of ICH. ICH seeks to achieve greater regulatory harmonization worldwide to ensure that safe, effective, high-quality medicines are developed, registered, and maintained in the most resource-efficient manner.

By harmonizing the regulatory requirements in regions around the world, ICH guidelines enhance global drug development, improve manufacturing standards, and increase the availability of medications. For example, ICH guidelines have substantially reduced duplicative clinical studies, prevented unnecessary animal studies, standardized the reporting of important safety information, and standardized marketing application submissions.

The six Founding Members of the ICH are the FDA; the Pharmaceutical Research and Manufacturers of America; the European Commission; the European Federation of Pharmaceutical Industries Associations; the Japanese Ministry of Health, Labour, and Welfare; and the Japanese Pharmaceutical Manufacturers Association. The Standing Members of the ICH Association include Health Canada and Swissmedic. ICH membership continues to expand to include other regulatory authorities and industry associations

from around the world (refer to <https://www.ich.org/>).

ICH works by engaging global regulatory and industry experts in a detailed, science-based, and consensus-driven process that results in the development of ICH guidelines. The regulators around the world are committed to consistently adopting these consensus-based guidelines, realizing the benefits for patients and for industry.

As a Founding Regulatory Member of ICH, FDA plays a major role in the development of each of the ICH guidelines, which FDA then adopts and issues as guidance for industry. FDA’s guidance documents do not establish legally enforceable responsibilities. Instead, they describe the Agency’s current thinking on a topic and should be viewed only as recommendations, unless specific regulatory or statutory requirements are cited.

In May 2025, the ICH Assembly endorsed the draft guideline entitled “M4Q(R2) The Common Technical Document for the Registration of Pharmaceuticals for Human Use: Quality” and agreed that the guideline should be made available for public comment. The draft guideline is the product of the Multidisciplinary Expert Working Group of the ICH. Comments about this draft will be considered by FDA and the Multidisciplinary Expert Working Group.

The draft guidance provides guidance on structure and location of quality information for the CTD. It provides a flexible framework to accommodate different types of products and submissions while organizing information in a granular, globally consistent format to facilitate digitalization and knowledge management.

This draft guidance has been left in the original ICH format. The final guidance will be reformatted and edited to conform with FDA’s good guidance practices regulation (21 CFR 10.115) and style before publication. The draft guidance, when finalized, will represent the current thinking of FDA on “M4Q(R2) The Common Technical Document for the Registration of Pharmaceuticals for Human Use: Quality.” It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

As we develop final guidance on this topic, FDA will consider comments on costs or cost savings the guidance may generate, relevant for Executive Order 14192.

II. Paperwork Reduction Act of 1995

While this guidance contains no collection of information, it does refer to previously approved FDA collections of information. The previously approved collections of information are subject to review by OMB under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3521). The collections of information in 21 CFR part 314 for submission of new drug applications and abbreviated new drug applications and master files have been approved under OMB control number 0910-0001. The collections of information in 21 CFR 312 for content and format have been approved under OMB control number 0910-0014. The collections of information for the submission of biological license applications under 21 CFR part 601 have been approved under OMB control number 0910-0338. The collections of information for the submission and review of biosimilar product applications and related biosimilar requirements have been approved under OMB control number 0910-0718. The collections of information for current good manufacturing practice in the manufacture, processing, packing and storage of finished pharmaceuticals in 21 CFR parts 210 and 211 have been approved under OMB control number 0910-0139. The collections of information in 21 CFR part 201 for labeling of prescription drug and biological products have been approved under OMB control number 0910-0572.

III. Electronic Access

Persons with access to the internet may obtain the draft guidance at <https://www.regulations.gov>, <https://www.fda.gov/drugs/guidance-compliance-regulatory-information/guidances-drugs>, <https://www.fda.gov/vaccines-blood-biologics/guidance-compliance-regulatory-information-biologics/biologics-guidances>, or <https://www.fda.gov/regulatory-information/search-fda-guidance-documents>.

Lowell M. Zeta,

Acting Deputy Commissioner for Policy, Legislation, and International Affairs.

[FR Doc. 2026-01073 Filed 1-20-26; 8:45 am]

BILLING CODE 4164-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA-2020-N-1584]

Authorization of Emergency Use of Certain Medical Devices During COVID-19; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or the Agency) is announcing the issuance of Emergency Use Authorizations (EUA) (the Authorizations) for certain medical devices related to Coronavirus Disease 2019 (COVID-19). FDA has issued the Authorizations listed in this document under the Federal Food, Drug, and Cosmetic Act (FD&C Act). Under the FD&C Act, FDA is required to publish in the **Federal Register** a notice of each authorization, and each termination or revocation of an authorization, and an explanation of the reasons for the action. These Authorizations contain, among other things, conditions on the emergency use of the authorized products. The Authorizations follow the February 4, 2020, determination by the Secretary of Health and Human Services (HHS), as amended on March 15, 2023, that there is a public health emergency, or a significant potential for a public health emergency, that affects, or has a significant potential to affect, national security or the health and security of U.S. citizens living abroad and that involves the virus that causes COVID-19, and the subsequent declarations on February 4, 2020, March 2, 2020, and March 24, 2020, that circumstances exist justifying the authorization of emergency use of in vitro diagnostics for detection and/or diagnosis of the virus that causes COVID-19, personal respiratory protective devices, and medical devices, including alternative products used as medical devices, respectively, subject to the terms of any authorization issued under the FD&C Act. These Authorizations, which include an explanation of the reasons for issuance, are listed in this document, and can be accessed on FDA's website from the links indicated.

DATES: These Authorizations are effective on their date of issuance.

ADDRESSES: Submit written requests for single copies of an EUA to the Office of Policy, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 5441, Silver Spring,

MD 20993-0002. Send one self-addressed adhesive label to assist that office in processing your request or include a fax number to which the Authorization may be sent. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the Authorization.

FOR FURTHER INFORMATION CONTACT: Kim Sapsford-Medintz, Office of Product Evaluation and Quality, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 3216, Silver Spring, MD 20993-0002, 301-796-0311 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION:

I. Background

Section 564 of the FD&C Act (21 U.S.C. 360bbb-3) allows FDA to strengthen the public health protection against a biological, chemical, radiological, or nuclear agent or agents. Among other things, section 564 of the FD&C Act allows FDA to authorize the use of an unapproved medical product or an unapproved use of an approved medical product in certain situations. With this EUA authority, FDA can help ensure that medical countermeasures may be used in emergencies to diagnose, treat, or prevent serious or life-threatening diseases or conditions caused by a biological, chemical, radiological, or nuclear agent or agents when there are no adequate, approved, and available alternatives.

Section 564(b)(1) of the FD&C Act provides that, before an EUA may be issued, the Secretary of HHS must declare that circumstances exist justifying the authorization based on one of the following grounds: (1) a determination by the Secretary of Homeland Security that there is a domestic emergency, or a significant potential for a domestic emergency, involving a heightened risk of attack with a biological, chemical, radiological, or nuclear agent or agents; (2) a determination by the Secretary of Defense that there is a military emergency, or a significant potential for a military emergency, involving a heightened risk to U.S. military forces, including personnel operating under the authority of title 10 or title 50 of the U.S. Code, of attack with (A) a biological, chemical, radiological, or nuclear agent or agents; or (B) an agent or agents that may cause, or are otherwise associated with, an imminently life-threatening and specific risk to U.S. military forces;¹ (3) a

determination by the Secretary of HHS that there is a public health emergency, or a significant potential for a public health emergency, that affects, or has a significant potential to affect, national security or the health and security of U.S. citizens living abroad, and that involves a biological, chemical, radiological, or nuclear agent or agents, or a disease or condition that may be attributable to such agent or agents; or (4) the identification of a material threat by the Secretary of Homeland Security pursuant to section 319F-2 of the Public Health Service (PHS) Act (42 U.S.C. 247d-6b) sufficient to affect national security or the health and security of U.S. citizens living abroad.

Once the Secretary of HHS has declared that circumstances exist justifying an authorization under section 564 of the FD&C Act, FDA may authorize the emergency use of a drug, device, or biological product if the Agency concludes that the statutory criteria are satisfied. Under section 564(h)(1) of the FD&C Act, FDA is required to publish in the **Federal Register** a notice of each authorization, and each termination or revocation of an authorization, and an explanation of the reasons for the action. Under section 564(h)(1) of the FD&C Act, revisions to an authorization shall be made available on the internet website of FDA. Section 564 of the FD&C Act permits FDA to authorize the introduction into interstate commerce of a drug, device, or biological product intended for use when the Secretary of HHS has declared that circumstances exist justifying the authorization of emergency use. Products appropriate for emergency use may include products and uses that are not approved, cleared, or licensed under section 505, 510(k), 512, or 515 of the FD&C Act (21 U.S.C. 355, 360(k), 360b, or 360e) or section 351 of the PHS Act (42 U.S.C. 262), or conditionally approved under section 571 of the FD&C Act (21 U.S.C. 360ccc). FDA may issue an EUA only if, after consultation with the HHS Assistant Secretary for Preparedness and Response, the Director of the National Institutes of Health, and the Director of the Centers for Disease Control and Prevention (to the extent feasible and appropriate given the applicable circumstances), FDA² concludes: (1) that an agent referred to in a declaration of emergency or threat can cause a serious or life-

within 45 calendar days of such determination, whether to make a declaration under section 564(b)(1) of the FD&C Act, and, if appropriate, shall promptly make such a declaration.

² The Secretary of HHS has delegated the authority to issue an EUA under section 564 of the FD&C Act to the Commissioner of Food and Drugs.

¹ In the case of a determination by the Secretary of Defense, the Secretary of HHS shall determine

threatening disease or condition; (2) that, based on the totality of scientific evidence available to FDA, including data from adequate and well-controlled clinical trials, if available, it is reasonable to believe that (A) the product may be effective in diagnosing, treating, or preventing (i) such disease or condition; or (ii) a serious or life-threatening disease or condition caused by a product authorized under section 564, approved or cleared under the FD&C Act, or licensed under section 351 of the PHS Act, for diagnosing, treating, or preventing such a disease or condition caused by such an agent; and (B) the known and potential benefits of the product, when used to diagnose, prevent, or treat such disease or condition, outweigh the known and potential risks of the product, taking into consideration the material threat posed by the agent or agents identified in a declaration under section 564(b)(1)(D) of the FD&C Act, if applicable; (3) that there is no adequate, approved, and available alternative to the product for diagnosing, preventing, or treating such disease or condition; (4) in the case of a determination described in section 564(b)(1)(B)(ii), that the request for emergency use is made by the Secretary of Defense; and (5) that such other criteria as may be prescribed by regulation are satisfied. No other criteria for issuance have been prescribed by regulation under section 564(c)(4) of the FD&C Act.

II. Electronic Access

An electronic version of this document and the full text of the Authorizations are available on the internet and can be accessed from <https://www.fda.gov/emergency-preparedness-and-response/mcm-legal-regulatory-and-policy-framework/emergency-use-authorization>.

III. The Authorizations

FDA concluded that the criteria for the issuance of the following Authorizations under section 564(c) of the FD&C Act are met, and therefore authorized the emergency use of the following products for diagnosing, treating, or preventing COVID-19 subject to the terms of each Authorization. The Authorizations in their entirety, including any authorized fact sheets and other written materials, can be accessed from FDA's web page titled "Emergency Use Authorization," available at <https://www.fda.gov/emergency-preparedness-and-response/mcm-legal-regulatory-and-policy-framework/emergency-use-authorization>. The list that follows includes Authorizations issued from

July 24, 2024, through December 11, 2025, and we have included explanations of the reasons for their issuance, as required by section 564(h)(1) of the FD&C Act. Additionally, FDA has incorporated an EUA issued on June 10, 2024, that was omitted from the previous compilation (89 FR 60432, July 25, 2024). The EUAs can be accessed from FDA's web page: <https://www.fda.gov/emergency-preparedness-and-response/mcm-legal-regulatory-and-policy-framework/emergency-use-authorization>.

FDA is hereby announcing the following Authorization for antigen test for COVID-19, excluding multianalyte tests:

- LumiraDx UK Ltd.'s (an indirect wholly owned subsidiary of Roche)³ LumiraDx SARS-CoV-2 Ag Test, re-issued on June 10, 2025.⁴

FDA is hereby announcing the following Authorizations for multianalyte tests:

- Aptitude Medical Systems Inc.'s Metrix COVID/Flu Test, issued on February 21, 2025;⁵ and
- Healgen Scientific, LLC's Healgen COVID-19/Flu A&B Ag Combo Rapid

³ On July 26, 2024, LumiraDx UK Ltd. and their US entity LumiraDx Inc. became indirect, wholly owned subsidiaries of Roche Holding AG and Roche Holdings, Inc., respectively (collectively referred to as "Roche" for ease of reference). Roche Diagnostics Operations, Inc., a wholly owned subsidiary of Roche Holdings, Inc., will act on behalf of LumiraDx UK Ltd. (an indirect, wholly owned subsidiary of Roche).

⁴ As set forth in the EUAs for this product, FDA has concluded that: (1) SARS-CoV-2 can cause a serious or life-threatening disease or condition, including severe respiratory illness, to humans infected by this virus; (2) based on the totality of scientific evidence available to FDA, it is reasonable to believe that the product may be effective in diagnosing COVID-19, and that the known and potential benefits of the product, when used for diagnosing COVID-19, outweigh the known and potential risks of such product; and (3) there is no adequate, approved, and available alternative to the emergency use of the product.

⁵ As set forth in the EUA for this product, FDA has concluded that: (1) SARS-CoV-2 can cause a serious or life-threatening disease or condition, including severe respiratory illness, to humans infected by this virus; (2) based on the totality of scientific evidence available to FDA, it is reasonable to believe that the product may be effective in diagnosing COVID-19 through the simultaneous detection and differentiation of SARS-CoV-2, influenza A virus and/or influenza B virus RNA, and that the known and potential benefits of the product when used for diagnosing COVID-19, outweigh the known and potential risks of such product; and (3) there is no adequate, approved, and available alternative to the emergency use of the product.

Test Cassette (Swab), issued on June 10, 2024.⁶

Lowell M. Zeta,

Acting Deputy Commissioner for Policy, Legislation, and International Affairs.

[FR Doc. 2026-01069 Filed 1-20-26; 8:45 am]

BILLING CODE 4164-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Information Technology Advisory Committee Schedule of Meetings

AGENCY: Assistant Secretary for Technology Policy (ASTP), HHS.

ACTION: Notice of meetings.

SUMMARY: The Health Information Technology Advisory Committee (HITAC) was established in accordance with the 21st Century Cures Act and the Federal Advisory Committee Act. The HITAC, among other things, identifies priorities for standards adoption and makes recommendations to the Assistant Secretary for Technology Policy/National Coordinator for Health Information Technology. The HITAC will hold public meetings throughout 2026. See list of public meetings below.

FOR FURTHER INFORMATION CONTACT: Seth Pazinski, Designated Federal Officer, at Seth.Pazinski@hhs.gov, (202) 384-2246.

SUPPLEMENTARY INFORMATION: Section 4003(e) of the 21st Century Cures Act (Pub. L. 114-255) establishes the Health Information Technology Advisory Committee (referred to as the "HITAC"). The HITAC will be governed by the provisions of the Federal Advisory Committee Act (FACA) (Pub. L. 92-463), as amended, (5 U.S.C. App.), which sets forth standards for the formation and use of federal advisory committees.

Composition: The HITAC is comprised of at least 25 members, of which:

- No fewer than 2 members are advocates for patients or consumers of health information technology;

⁶ As set forth in the EUA for this product, FDA has concluded that: (1) SARS-CoV-2 can cause a serious or life-threatening disease or condition, including severe respiratory illness, to humans infected by this virus; (2) based on the totality of scientific evidence available to FDA, it is reasonable to believe that the product may be effective in diagnosing COVID-19 through the simultaneous detection and differentiation of SARS-CoV-2, influenza A virus and/or influenza B virus protein antigens, and that the known and potential benefits of the product when used for diagnosing COVID-19, outweigh the known and potential risks of such product; and (3) there is no adequate, approved, and available alternative to the emergency use of the product.

- 3 members are appointed by the HHS Secretary:
 - 1 of whom shall be appointed to represent the Department of Health and Human Services, and
 - 1 of whom shall be a public health official;
- 2 members are appointed by the majority leader of the Senate;
- 2 members are appointed by the minority leader of the Senate;
- 2 members are appointed by the Speaker of the House of Representatives;
- 2 members are appointed by the minority leader of the House of Representatives;
- Other members are appointed by the Comptroller General of the United States.

Members serve for one-, two-, or three-year terms. All members may be reappointed for a subsequent three-year term. Each member is limited to two three-year terms, not to exceed six years of service. Members serve without pay but will be provided per-diem and travel costs for committee services, if warranted.

Recommendations: The HITAC recommendations to the Assistant Secretary for Technology Policy/National Coordinator for Health Information Technology are publicly available at <https://www.healthit.gov/topic/federal-advisory-committees/recommendations-national-coordinator-health-it>.

Public Meetings: All HITAC meetings will be virtual. Please note that some HITAC meetings may also have an in-person meeting option. For web conference instructions and the most up-to-date information, including in-person meeting location (if applicable), please visit the HITAC calendar on the ASTP website, www.healthit.gov/topic/federal-advisory-committees/hitac-calendar.

The schedule of meetings to be held in 2026 is as follows:

- February 19, 2026, from approximately 10:00 a.m. to 3:00 p.m./Eastern Time.
- May 7, 2026, from approximately 10:00 a.m. to 3:00 p.m./Eastern Time.
- September 24, 2026, from approximately 10:00 a.m. to 3:00 p.m./Eastern Time.
- November 5, 2026, from approximately 10:00 a.m. to 3:00 p.m./Eastern Time.

All meetings are open to the public. Additional meetings may be scheduled as needed.

Contact Person for Meetings: Seth Pazinski, Seth.Pazinski@hhs.gov. 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. Please email Seth Pazinski for the most current information about meetings.

Agenda: As outlined in the 21st Century Cures Act, the HITAC will develop and submit recommendations to the Assistant Secretary for Technology Policy/National Coordinator on Health Information Technology on the topics of interoperability, privacy and security, and patient access to information. In addition, the committee will also address any administrative matters and hear periodic reports from ASTP. ASTP intends to make background material available to the public no later than 24 hours prior to the meeting start time. If ASTP is unable to post the background material on its website prior to the meeting, the material will be made publicly available on ASTP's website after the meeting, at www.healthit.gov/hitac.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person prior to the meeting date. An oral public comment period will be scheduled at each meeting. Time allotted for each commenter will be limited to three minutes. If the number of speakers requesting to comment is greater than can be reasonably accommodated during the scheduled public comment period, ASTP will take written comments after the meeting.

ASTP welcomes the attendance of the public at its HITAC meetings. If you require special accommodations due to a disability, please contact Seth Pazinski at least seven (7) days in advance of the meeting.

Notice of these meetings are given under the Federal Advisory Committee Act (Pub. L. 92-463, 5 U.S.C., App. 2).

Dated: January 12, 2026.

Stanley S. Pazinski,

Designated Federal Officer, Assistant Secretary for Technology Policy/Office of the National Coordinator for Health Information Technology.

[FR Doc. 2026-01046 Filed 1-20-26; 8:45 am]

BILLING CODE 4150-45-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Meetings

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of meetings of the National Advisory Allergy and Infectious Diseases Council.

The meeting will be open to the public. The open sessions will be videocast and can be accessed from the NIH Videocasting and Podcasting website (<http://videocast.nih.gov>). Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

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 Advisory Allergy and Infectious Diseases Council.

Date: April 6, 2026.

Closed: 8:30 a.m. to 10:00 a.m.

Agenda: To review and evaluate grant applications.

Address: National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Grand Hall, Rockville, MD 20892.

Meeting Format: Virtual Meeting.

Open: 10:30 a.m. to 11:45 a.m.

Agenda: Report of Institute Director.

Address: National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Grand Hall, Rockville, MD 20892.

Meeting Format: Virtual Meeting.

Closed: 11:45 a.m. to 12:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Grand Hall, Rockville, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Kelly Y. Poe, Ph.D., Director, Division of Extramural Activities, National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, MSC 9834, Rockville, MD 20892, (240) 669-5036, poeky@mail.nih.gov.

Name of Committee: National Advisory Allergy and Infectious Diseases Council Meeting of Division of AIDS Subcommittee.

Date: April 6, 2026.

Time: 1:00 p.m. to 4:30 p.m.

Agenda: Report of Division Director and Division Staff.

Address: National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Grand Hall, Rockville, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Kelly Y. Poe, Ph.D., Director, Division of Extramural Activities, National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, MSC 9834, Rockville, MD 20892, (240) 669-5036, poeky@mail.nih.gov.

Name of Committee: National Advisory Allergy and Infectious Diseases Council Combined Meeting of Division of Allergy, Immunology and Transplantation and Division of Microbiology and Infectious Diseases Subcommittees.

Date: April 6, 2026.

Time: 1:00 p.m. to 4:30 p.m.

Agenda: Reports of Division Directors and Division Staff.

Address: National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Garden Room 1, Rockville, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Kelly Y. Poe, Ph.D., Director, Division of Extramural Activities, National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, MSC 9834, Rockville, MD 20892, (240) 669-5036, poeky@mail.nih.gov.

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

Information is also available on the Institute's/Center's home page: <https://www.niaid.nih.gov/about/advisory-council>, where an agenda and any additional information for the meeting will be posted when available.

Dated: January 15, 2026.

Bruce A. George,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2026-01021 Filed 1-20-26; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism; Notice of Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the National Advisory Council on Alcohol Abuse and Alcoholism.

The meeting will be open to the public as indicated below, with attendance limited to space available.

Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting. The meeting can be accessed from the NIH Videocast at the following link: <https://videocast.nih.gov/>.

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 Advisory Council on Alcohol Abuse and Alcoholism.

Date: May 5, 2026.

Closed: 11:00 a.m. to 12:30 p.m.

Agenda: To review and evaluate grant applications.

Open: 1:00 p.m. to 4:30 p.m.

Agenda: Presentations and other business of the Council.

Address: National Institutes of Health, National Institute on Alcohol Abuse and Alcoholism, 6700B Rockledge Drive, Bethesda, MD 20817, In Person and Virtual Meeting.

Contact Person: Philippe Marmillot, Ph.D., Director, Office of Extramural Activities, National Institute on Alcohol Abuse and Alcoholism, National Institutes of Health, 6700B Rockledge Drive, Room 2118, Bethesda, MD 20892, (301) 443-2861, marmillotp@mail.nih.gov.

The meeting identified below has been scheduled in the event that the Council is unable to complete all agenda items identified for the May 5, 2026, meeting. Information on the agenda items and/or the necessity to hold the meeting listed below will be posted on the Institute/Center homepage (link identified below).

Name of Committee: National Advisory Council on Alcohol Abuse and Alcoholism.

Date: June 11, 2026.

Closed: 11:00 a.m. to 12:30 p.m.

Agenda: To review and evaluate grant applications not completed at the May meeting.

Open: 1:00 p.m. to 4:30 p.m.

Agenda: Presentations and other business of the Council not completed at the May meeting.

Address: National Institutes of Health, National Institute on Alcohol Abuse and Alcoholism, 6700B Rockledge Drive, Bethesda, MD 20817, In Person and Virtual Meeting.

Contact Person: Philippe Marmillot, Ph.D., Director Office of Extramural Activities, National Institute on Alcohol Abuse and Alcoholism, National Institutes of Health, 6700B Rockledge Drive, Room 2118,

Bethesda, MD 20892, (301) 443-2861, marmillotp@mail.nih.gov.

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

Information is also available on the Institute's/Center's home page: <http://www.niaaa.nih.gov/AboutNIAAA/AdvisoryCouncil/Pages/default.aspx>, where an agenda and any additional information for the meeting will be posted when available.

Zieta M. Charles,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2026-01034 Filed 1-20-26; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Center for Scientific Review Special Emphasis Panel, Fellowships: Sensory and Motor Neurosciences, Cognition and Perception, January 22, 2026, 09:30 a.m. to January 23, 2026, 07:00 p.m., National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 which was published in the **Federal Register** on November 25, 2025, 90 FR 53371, Doc No. 2025-20892.

This meeting is being amended to change the meeting from a 2-day to a 1-day meeting on January 22, 2026. The meeting is closed to the public.

Dated: January 15, 2026.

Sterlyn H. Gibson,

Program Specialist, Office of Federal Advisory Committee Policy.

[FR Doc. 2026-01029 Filed 1-20-26; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism; Notice of Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the National Advisory Council on Alcohol Abuse and Alcoholism.

The meeting will be open to the public as indicated below, with attendance limited to space available.

Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting. The meeting can be accessed from the NIH Videocast at the following link: <https://videocast.nih.gov/>.

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 Advisory Council on Alcohol Abuse and Alcoholism.

Date: February 5, 2026.

Closed: 11:00 a.m. to 12:30 p.m.

Agenda: To review and evaluate grant applications.

Open: 1:00 p.m. to 4:30 p.m.

Agenda: Presentations and other business of the Council.

Address: National Institutes of Health, National Institute on Alcohol Abuse and Alcoholism, 6700B Rockledge Drive, Bethesda, MD 20817, Virtual Meeting.

Contact Person: Philippe Marmillot, Ph.D., Director, Office of Extramural Activities, National Institute on Alcohol Abuse and Alcoholism, 6700B Rockledge Drive, Room 2118, National Institutes of Health, Bethesda, MD 20892, (301) 443-2861, marmillotp@mail.nih.gov.

The meeting identified below has been scheduled in the event that the Council is unable to complete all agenda items identified for the February 5, 2026, meeting. Information on the agenda items and/or the necessity to hold the meeting listed below will be posted on the Institute/Center homepage (link identified below).

Name of Committee: National Advisory Council on Alcohol Abuse and Alcoholism.

Date: March 19, 2026.

Closed: 11:00 a.m. to 12:30 p.m.

Agenda: To review and evaluate grant applications not completed at the February meeting.

Open: 1:00 p.m. to 4:30 p.m.

Agenda: Presentations and other business of the Council not completed at the February meeting.

Address: National Institutes of Health, National Institute on Alcohol Abuse and Alcoholism, 6700B Rockledge Drive, Bethesda, MD 20817, Virtual Meeting.

Contact Person: Philippe Marmillot, Ph.D., Director, Office of Extramural Activities, National Institute on Alcohol Abuse and Alcoholism, 6700B Rockledge Drive, Room 2118, National Institutes of Health, Bethesda, MD 20892, (301) 443-2861, marmillotp@mail.nih.gov.

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

Information is also available on the Institute's/Center's home page: <http://www.niaaa.nih.gov/AboutNIAAA/AdvisoryCouncil/Pages/default.aspx>, where an agenda and any additional information for the meeting will be posted when available.

Zieta M. Charles,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2026-01030 Filed 1-20-26; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the AIDS Research Advisory Committee, NIAID.

The meeting will be open to the public. The open sessions will be videocast and can be accessed from the NIH Videocasting and Podcasting website (<http://videocast.nih.gov>). Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

Name of Committee: AIDS Research Advisory Committee, NIAID.

Date: April 6, 2026.

Time: 1:00 p.m. to 5:00 p.m.

Agenda: Report of Division Director and Division Staff.

Address: National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Grand Hall, Rockville, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Martin Gutierrez, Program Coordinator, Scientific Planning and Operations, Division of AIDS, National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 8D50, Rockville, MD 20892, 240-292-4844, mgutierrez@mail.nih.gov.

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

Dated: January 15, 2026.

Bruce A. George,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2026-01019 Filed 1-20-26; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG-2025-0394]

Great Lakes Pilotage Advisory Committee Meeting; February 2026 Meeting

AGENCY: U.S. Coast Guard, Department of Homeland Security.

ACTION: Notice of open Federal advisory committee meeting.

SUMMARY: The Great Lakes Pilotage Advisory Committee (Committee) will meet at the Firehouse Event Center in Covington, Louisiana, to discuss matters relating to Great Lakes Pilotage, including review of proposed Great Lakes Pilotage regulations and policies. The meeting will be open to the public.

DATES:

Meeting: The Committee will meet on Thursday, February 5, 2026, from 8 a.m. to 5:30 p.m. Eastern Standard Time (EST). Please note that this meeting may adjourn early if the Committee has completed its business.

Comments and supporting documentations: To ensure your comments are received by Committee members before the meeting, submit your written comments no later than January 28, 2026.

ADDRESSES: The meeting will be held at the City of Covington Firehouse Event Center at 432 N Theard Street, Covington, LA 7043; <https://www.covla.com/city-departments/facilities/fec/>.

Pre-registration Information: Pre-registration is not required for access to the meeting.

The Great Lakes Pilotage Advisory Committee is committed to ensuring all participants have equal access regardless of disability status. If you require reasonable accommodation due to a disability to fully participate, please email Mr. Francis Levesque at Francis.R.Levesque@uscg.mil or call (202) 906-0835 as soon as possible.

Instructions: You are free to submit comments at any time, including orally at the meeting, but if you want Committee members to review your comment before the meeting, please submit your comments no later than

January 28, 2026. We are particularly interested in comments on the topics in the "Agenda" section below. We encourage you to submit comments through the Federal Decision Making Portal at <https://www.regulations.gov>. To do so, go to <https://www.regulations.gov>, type USCG–2025–0394 in the search box and click "Search". Next, look for this document in the Search Results column and click on it. Then click on the Comment option. If your material cannot be submitted using <https://www.regulations.gov>, email the individual in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions. You must include the docket number USCG–2025–0394. Comments received will be posted without alteration at <https://www.regulations.gov> including any personal information you provided. You may wish to view the Privacy and Security Notice found via link on the homepage of <https://www.regulations.gov>. For more about the privacy and submissions in response to this document, see DHS's eRulemaking System of Records notice (85 FR 14226, March 11, 2020). If you encounter technical difficulties with comment submission, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

Docket Search: Documents mentioned in this notice as being available in the docket, and all public comment, will be in our online docket at <https://www.regulations.gov> and can be viewed by following that website's instructions. Additionally, if you go to the online docket and sign-up for email alerts, you will be notified when comments are posted.

FOR FURTHER INFORMATION CONTACT: Mr. Francis Levesque, Alternate Designated Federal Officer of the Great Lakes Pilotage Advisory Committee, telephone (202) 906–0835 or email Francis.R.Levesque@uscg.mil.

SUPPLEMENTARY INFORMATION: Notice of this meeting is in compliance with the *Federal Advisory Committee Act* (Pub. L. 117–286, 5 U.S.C. ch. 10). The Committee is established under the authority of 46 U.S.C. 9307 and makes recommendations to the Secretary of Homeland Security and the U.S. Coast Guard on matters relating to Great Lakes pilotage, including review of proposed Great Lakes pilotage regulations and policies.

Agenda

The Great Lakes Pilotage Advisory Committee will meet on Thursday,

February 5, 2026, to review, discuss, deliberate and formulate recommendations, as appropriate on the following topics:

1. Training for Masters and Pilots.
2. Reciprocity.
3. Supply Chain Reliability.
4. Financial Report Update.
5. Rates Update.
6. Maritime Pilots Institute Presentation.
7. Maritime Pilots Institute Facility overview and demonstration.
8. Great Lakes Pilotage Office: Resources, Personnel, Geographic Location and Organizational Structure.
9. Great Lakes Pilotage Memorandum of Understanding Update.
10. Ordering.
11. Public Comments.
12. Closing Remarks and Adjournment of Meeting.

A copy of all meeting documentation will be available at <https://www.dco.uscg.mil/Our-Organization/Assistant-Commandant-for-Prevention-Policy-CG-5P/Marine-Transportation-Systems-CG-5PW/Office-of-Waterways-and-Ocean-Policy/Great-Lakes-Pilotage-Advisory-Committee/> by January 28, 2026. Alternatively, you may contact Mr. Francis Levesque as noted in the **FOR FURTHER INFORMATION CONTACT** section above.

Public comments or questions will be taken throughout the meeting as the Committee discusses the issues and prior to deliberations and voting. There will also be a public comment period at the end of the meeting. Speakers are requested to limit their comments to 5 minutes. Contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section above, to register as a speaker.

Dated: January 16, 2026.

Michael D. Emerson,
Director, Marine Transportation Systems.

[FR Doc. 2026–01062 Filed 1–20–26; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2026–0002; Internal Agency Docket No. FEMA–B–2579]

Proposed Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: Notice.

SUMMARY: Comments are requested on proposed flood hazard determinations,

which may include additions or modifications of any Base Flood Elevation (BFE), base flood depth, Special Flood Hazard Area (SFHA) boundary or zone designation, or regulatory floodway on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports for the communities listed in the table below. The purpose of this notice is to seek general information and comment regarding the preliminary FIRM, and where applicable, the FIS report that the Federal Emergency Management Agency (FEMA) has provided to the affected communities. The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: Comments are to be submitted on or before April 21, 2026.

ADDRESSES: The Preliminary FIRM, and where applicable, the FIS report for each community are available for inspection at both the online location <https://hazards.fema.gov/femaportal/prelimdownload> and the respective Community Map Repository address listed in the tables below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at <https://msc.fema.gov> for comparison.

You may submit comments, identified by Docket No. FEMA–B–2579, to David N. Bascom, Acting Director, Engineering and Modeling Division, National Flood Insurance Program, Resilience, FEMA, 400 C Street SW, Washington, DC 20472, or (email) david.bascom@fema.dhs.gov.

FOR FURTHER INFORMATION CONTACT: David N. Bascom, Acting Director, Engineering and Modeling Division, National Flood Insurance Program, Resilience, FEMA, 400 C Street SW, Washington, DC 20472, or (email) david.bascom@fema.dhs.gov; or visit the FEMA Mapping and Insurance eXchange (FMIX) online at https://www.floodmaps.fema.gov/fhm/fmx_main.html.

SUPPLEMENTARY INFORMATION: FEMA proposes to make flood hazard determinations for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed flood hazard determinations, together with the

floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. These flood hazard determinations are used to meet the floodplain management requirements of the NFIP.

The communities affected by the flood hazard determinations are provided in the tables below. Any request for reconsideration of the revised flood hazard information shown on the Preliminary FIRM and FIS report that satisfies the data requirements outlined in 44 CFR 67.6(b) is considered an appeal. Comments unrelated to the

flood hazard determinations also will be considered before the FIRM and FIS report become effective.

Use of a Scientific Resolution Panel (SRP) is available to communities in support of the appeal resolution process. SRPs are independent panels of experts in hydrology, hydraulics, and other pertinent sciences established to review conflicting scientific and technical data and provide recommendations for resolution. Use of the SRP only may be exercised after FEMA and local communities have been engaged in a collaborative consultation process for at least 60 days without a mutually acceptable resolution of an appeal. Additional information regarding the SRP process can be found online at https://www.floodsrp.org/pdfs/srp_overview.pdf.

The watersheds and/or communities affected are listed in the tables below. The Preliminary FIRM, and where

applicable, FIS report for each community are available for inspection at both the online location <https://hazards.fema.gov/femaportal/prelimdownload> and the respective Community Map Repository address listed in the tables. For communities with multiple ongoing Preliminary studies, the studies can be identified by the unique project number and Preliminary FIRM date listed in the tables. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at <https://msc.fema.gov> for comparison.

(Catalog of Federal Domestic Assistance No. 97.022, "Flood Insurance.")

Elizabeth Asche,

Assistant Administrator, Federal Insurance Directorate, Resilience Federal Emergency Management Agency, Department of Homeland Security.

Community	Community map repository address
Worth County, Iowa and Incorporated Areas Project: 24-07-0039S Preliminary Date: September 10, 2025	
City of Fertile	City Hall, 3494 Eagle Avenue, Fertile, IA 50434.
City of Hanlontown	Community Center, 214 Main Street, Hanlontown, IA 50444.
City of Joice	City Hall, 102 North State Street, Joice, IA 50446.
City of Kensett	City Hall, 207 5th Street, Kensett, IA 50448.
City of Manly	City Hall, 106 South Broadway Street, Manly, IA 50456.
City of Northwood	City Hall, 627 Central Avenue, Northwood, IA 50459.
Unincorporated Areas of Worth County	Worth County Courthouse, 1000 Central Avenue, Northwood, IA 50459.

[FR Doc. 2026-01058 Filed 1-20-26; 8:45 am]

BILLING CODE 9110-12-P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA-2026-0002]

Changes in Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: Notice.

SUMMARY: New or modified Base (1-percent annual chance) Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, and/or regulatory floodways (hereinafter referred to as flood hazard determinations) as shown on the indicated Letter of Map Revision (LOMR) for each of the communities listed in the table below are finalized.

Each LOMR revises the Flood Insurance Rate Maps (FIRMs), and in some cases the Flood Insurance Study (FIS) reports, currently in effect for the listed communities.

DATES: Each LOMR was finalized as in the table below.

ADDRESSES: Each LOMR is available for inspection at both the respective Community Map Repository address listed in the table below and online through the FEMA Map Service Center at <https://msc.fema.gov>.

FOR FURTHER INFORMATION CONTACT:

David N. Bascom, Acting Director, Engineering and Modeling Division, National Flood Insurance Program, Resilience, FEMA, 400 C Street SW, Washington, DC 20472, or (email) david.bascom@fema.dhs.gov; or visit the FEMA Mapping and Insurance eXchange (FMIX) online at https://www.floodmaps.fema.gov/fhm/fmx_main.html.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) makes the final flood hazard determinations as shown in the LOMRs for each community listed in the table

below. Notice of these modified flood hazard determinations has been published in newspapers of local circulation and 90 days have elapsed since that publication. The Assistant Administrator, Federal Insurance Directorate, Resilience has resolved any appeals resulting from this notification.

The modified flood hazard determinations are made pursuant to section 206 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.*, and with 44 CFR part 65.

The current effective community number is shown and must be used for all new policies and renewals.

The new or modified flood hazard information is the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to remain qualified for participation in the National Flood Insurance Program (NFIP).

This new or modified flood hazard information, together with the floodplain management criteria required

by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities.

This new or modified flood hazard determinations are used to meet the floodplain management requirements of the NFIP. The changes in flood hazard determinations are in accordance with 44 CFR 65.4.

Interested lessees and owners of real property are encouraged to review the final flood hazard information available at the address cited below for each

community or online through the FEMA Map Service Center at <https://msc.fema.gov>.

(Catalog of Federal Domestic Assistance No. 97.022, "Flood Insurance.")

Elizabeth Asche,
Assistant Administrator, Federal Insurance
Directorate, Resilience Federal Emergency
Management Agency, Department of
Homeland Security.

State and county	Location and case No.	Chief executive officer of community	Community map repository	Date of modification	Community No.
Arkansas: Washington (FEMA Docket No.: B-2555).	City of Elkins (24-06-2439P).	The Honorable Troy Reed, Mayor, City of Elkins, 1874 Stokenbury Road, Elkins, AR 72727.	City Hall, 1874 Stokenbury Road, Elkins, AR 72727.	Nov. 17, 2025	050214
Delaware: New Castle (FEMA Docket No.: B-2555).	City of New Castle (25-03-0504P).	The Honorable Valarie Leary, Mayor, City of New Castle, 220 Delaware Street, New Castle, DE 19720.	Building Department, 900 Wilmington Road, New Castle, DE 19720.	Nov. 13, 2025	100026
Florida:					
Bay (FEMA Docket No.: B-2555).	Unincorporated areas of Bay County (24-04-7642P).	Robert Majka, Bay County Manager, 840 West 11th Street, Panama City, FL 32401.	Bay County Planning and Zoning Department, 840 West 11th Street, Panama City, FL 32401.	Nov. 17, 2025	120004
Charlotte (FEMA Docket No.: B-2558).	Unincorporated areas of Charlotte County (24-04-2314P).	The Honorable Joe Tiseo, Chair, Charlotte County Board of Commissioners, 18500 Murdock Circle, Suite 536, Port Charlotte, FL 33948.	Charlotte County Building Department, 18400 Murdock Circle, Port Charlotte, FL 33948.	Nov. 4, 2025	120061
Duval (FEMA Docket No.: B-2555).	City of Jacksonville (25-04-2677P).	The Honorable Donna Deegan, Mayor, City of Jacksonville, 117 West Duval Street, Suite 400, Jacksonville, FL 32202.	City Hall, 117 West Duval Street, Suite 400, Jacksonville, FL 32202.	Nov. 24, 2025	120077
Hillsborough (FEMA Docket No.: B-2555).	Unincorporated areas of Hillsborough County (25-04-0011P).	The Honorable Bonnie Wise, Hillsborough County Administrator, 601 East Kennedy Boulevard, 26th Floor, Tampa, FL 33602.	Hillsborough County Public Works Department, 601 East Kennedy Boulevard, 22nd Floor, Tampa, FL 33602.	Nov. 17, 2025	120112
Lake (FEMA Docket No.: B-2555).	City of Leesburg (25-04-1023P).	The Honorable Alan Reisman, Mayor, City of Leesburg, 501 West Meadow Street, Leesburg, FL 34748.	City Hall, 501 West Meadow Street, Leesburg, FL 34748.	Nov. 20, 2025	120136
Marion (FEMA Docket No.: B-2555).	City of Ocala (24-04-4815P).	The Honorable Ben Marciano, Mayor, City of Ocala, 110 Southeast Watula Avenue, Ocala, FL 34471.	Stormwater Engineering Department, 1805 Northeast 30th Avenue, Building 300, Ocala, FL 34470.	Nov. 24, 2025	120330
Monroe (FEMA Docket No.: B-2555).	Unincorporated areas of Monroe County (25-04-3303P).	The Honorable Jim Scholl, Mayor, Monroe County Board of Commissioners, 530 Whitehead Street, Key West, FL 33040.	Monroe County Building Department, 2798 Overseas Highway, Suite 300, Marathon, FL 33050.	Dec. 1, 2025	125129
Miami-Dade (FEMA Docket No.: B-2558).	Unincorporated areas of Miami-Dade County (25-04-2591P).	The Honorable Daniella Levine Cava, Mayor, Miami-Dade County, 111 Northwest 1st Street, 29th Floor, Miami, FL 33128.	Miami-Dade Regulatory and Economic Resources, 701 Northwest 1st Court, 5th Floor, Miami, FL 33136.	Nov. 4, 2025	120635
Nassau (FEMA Docket No.: B-2558).	Unincorporated areas of Nassau County (24-04-6682P).	Taco E. Pope, Manager, Nassau County, 96135 Nassau Place, Suite 1, Yulee, FL 32097.	Nassau County Public Services Building, 96161 Nassau Place, Yulee, FL 32097.	Nov. 28, 2025	120170
Nassau (FEMA Docket No.: B-2555).	Unincorporated areas of Nassau County (24-04-6683P).	Taco E. Pope, Manager, Nassau County, 96135 Nassau Place, Suite 1, Yulee, FL 32097.	Nassau County Public Services Building, 96161 Nassau Place, Yulee, FL 32097.	Nov. 13, 2025	120170
Palm Beach (FEMA Docket No.: B-2558).	Unincorporated areas of Palm Beach County (24-04-5577P).	The Honorable Todd C. Bonlarron, Interim Administrator, Palm Beach County, 301 North Olive Avenue, Suite 1101, West Palm Beach, FL 33401.	Palm Beach County Vista Center, Building Division, 2300 North Jog Road, West Palm Beach, FL 33411.	Nov. 24, 2025	120192
Palm Beach (FEMA Docket No.: B-2555).	Unincorporated areas of Palm Beach County (25-04-0808P).	The Honorable Todd C. Bonlarron, Interim Administrator, Palm Beach County, 301 North Olive Avenue, Suite 1101, West Palm Beach, FL 33401.	Palm Beach County Vista Center, Building Division, 2300 North Jog Road, West Palm Beach, FL 33411.	Nov. 17, 2025	120192
Polk (FEMA Docket No.: B-2555).	City of Lakeland (25-04-0671P).	The Honorable William "Bill" Mutz, Mayor, City of Lakeland, 228 South Massachusetts Avenue, Lakeland, FL 33801.	City Hall, 228 South Massachusetts Avenue, Lakeland, FL 33801.	Nov. 21, 2025	120267
Seminole. (FEMA Docket No.: B-2555).	City of Sanford (24-04-6186P).	The Honorable Art Woodruff, Mayor, City of Sanford, 300 North Park Avenue, Sanford, FL 32771.	City Hall, 300 North Park Avenue, Sanford, FL 32771.	Nov. 28, 2025	120294
Volusia (FEMA Docket No.: B-2555).	City of Daytona Beach (25-04-0867P).	The Honorable Derrick Henry, Mayor, City of Daytona Beach, 301 South Ridgewood Avenue, Daytona Beach, FL 32114.	City Hall, 301 South Ridgewood Avenue, Daytona Beach, FL 32114.	Nov. 17, 2025	125099
Indiana: Marion (FEMA Docket No.: B-2558).	City of Indianapolis (24-05-0915P).	The Honorable Joe Hogsett, Mayor, City of Indianapolis, 200 East Washington Street, Suite 2501, Indianapolis, IN 46204.	City-County Building, 200 East Washington Street, Suite 2501, Indianapolis, IN 46204.	Nov. 24, 2025	180159

State and county	Location and case No.	Chief executive officer of community	Community map repository	Date of modification	Community No.
Louisiana: East Baton Rouge (FEMA Docket No.: B-2563).	Unincorporated areas of East Baton Rouge Parish (24-06-2136P).	The Honorable Sid Edwards, Mayor-President, City of Baton Rouge and East Baton Rouge Parish, P.O. Box 1471, Baton Rouge, LA 70821.	Baton Rouge Planning Commission, 1100 Laurel Street, Baton Rouge, LA 70802.	Nov. 28, 2025	220058
Massachusetts:					
Essex (FEMA Docket No.: B-2555).	City of Haverhill (25-01-0730P).	The Honorable Melinda E. Barrett, Mayor, City of Haverhill, 4 Summer Street, Room 100, Haverhill, MA 01830.	Engineering Division, City Hall, Room 300, Haverhill, MA 01830.	Nov. 28, 2025	250085
Essex (FEMA Docket No.: B-2558).	Town of Andover (25-01-0731P).	Andrew P. Flanagan, Manager, Town of, Andover, 36 Bartlet Street, Andover, MA 01810.	Town Hall, 36 Bartlet Street, Andover, MA 01810.	Nov. 21, 2025	250076
Essex (FEMA Docket No.: B-2555).	Town of Groveland (25-01-0730P).	The Honorable Jason Naves, Chair, Town of Groveland Select Board, 183 Main Street, Groveland, MA 01834.	Engineering Division, City Hall, Room 300, Haverhill, MA 01830	Nov. 28, 2025	250083
Essex (FEMA Docket No.: B-2555).	Town of West Newbury (25-01-0730P).	Angus Jennings, Manager, Town of West Newbury, 381 Main Street, West Newbury, MA 01985.	Inspectional Services Department, 381 Main Street, West Newbury, MA 01985.	Nov. 28, 2025	250108
Middlesex (FEMA Docket No.: B-2558).	City of Woburn (25-01-0728P).	The Honorable Michael Concannon, Mayor, City of Woburn, 10 Common Street, Woburn, MA 01801.	City Hall, 6 Common Street, Woburn, MA 01801.	Nov. 26, 2025	250229
Middlesex (FEMA Docket No.: B-2555).	City of Waltham (25-01-0729P).	The Honorable Jeannette A. McCarthy, Mayor, City of Waltham, 610 Main Street, Waltham, MA 02452.	Clark Government Center, 119 School Street, Waltham, MA 02451.	Nov. 28, 2025	250222
Middlesex (FEMA Docket No.: B-2555).	Town of Belmont (25-01-0729P).	The Honorable Matt Taylor, Chair, Town of Belmont, Select Board, 455 Concord Avenue, Belmont, MA 02478.	Town Hall, 455 Concord Avenue, Belmont, MA 02478.	Nov. 28, 2025	250182
Worcester (FEMA Docket No.: B-2563).	City of Worcester (24-01-0348P)	Eric D. Batista, Manager, City of Worcester, 455 Main Street, Worcester, MA 01608.	City Hall, 455 Main Street, Worcester, MA 01608.	Dec. 1, 2025	250349
Worcester (FEMA Docket No.: B-2555).	Town of Holden (25-01-0727P).	The Honorable Thomas Curran, Chair, Town of Holden, Board of Selectmen, 1204 Main Street, Holden, MA 01520.	Town Hall, 1204 Main Street, Holden, MA 01520.	Nov. 28, 2025	250309
Minnesota: Anoka (FEMA Docket No.: B-2558).	City of Andover (24-05-0578P).	The Honorable Jamie Barthel, Mayor, City of Andover, 1685 Crosstown Boulevard Northwest, Andover, MN 55304.	City Hall, 1685 Crosstown Boulevard Northwest, Andover, MN 55304.	Dec. 1, 2025	270689
New York: Suffolk (FEMA Docket No.: B-2546).	Village of Southampton (25-02-0080P).	The Honorable William Manger, Jr., Mayor, Village of Southampton, 23 Main Street, Southampton, NY 11968.	Building Department, 23 Main Street, Southampton, NY 11968.	Nov. 28, 2025	365343
Oklahoma:					
Comanche (FEMA Docket No.: B-2555).	City of Lawton (25-06-0068P).	The Honorable Stan Booker, Mayor, City of Lawton, 212 Southwest 9th Street, Lawton, OK 73501.	City Hall, 212 Southwest 9th Street, Lawton, OK 73501.	Nov. 28, 2025	400049
Tulsa (FEMA Docket No.: B-2555).	City of Tulsa (24-06-2612P).	The Honorable Monroe Nichols IV, Mayor, City of Tulsa, 175 East 2nd Street, Tulsa, OK 74103.	City Hall, 175 East 2nd Street, Suite 690, Tulsa, OK 74103.	Nov. 24, 2025	405381
South Carolina: Richland (FEMA Docket No.: B-2558).	Unincorporated areas of Richland County (24-04-7825P).	The Honorable Leonard Brown, Richland County Administrator, P.O. Box 192, Columbia, SC 29204.	Richland County Administration Building, 2020 Hampton Street, 1st Floor, Columbia, SC 29204.	Nov. 17, 2025	450170
Tennessee: Davidson (FEMA Docket No.: B-2555).	Metropolitan Government of Nashville-Davidson County (24-04-1726P).	The Honorable Freddie O'Connell, Mayor, Metropolitan Government of Nashville-Davidson County, 1 Public Square, Suite 100, Nashville, TN 37201.	Metropolitan Government of Nashville-Davidson County, Metro Water Services, 1607 County Hospital Road, Nashville, TN 37218.	Nov. 24, 2025	470040
Texas:					
Collin (FEMA Docket No.: B-2558).	Town of Prosper (25-06-1026P).	The Honorable David F. Bristol, Mayor, Town of Prosper, 250 West 1st Street, Prosper, TX 75078.	Town Hall, 250 West 1st Street, Prosper, TX 75078.	Dec. 1, 2025	480141
Dallas (FEMA Docket No.: B-2555).	City of Grand Prairie (24-06-1445P).	The Honorable Ron Jensen, Mayor, City of Grand Prairie, P.O. Box 534045, Grand Prairie, TX 75053.	City Hall East, 300 West Main Street, Grand Prairie, TX 75050.	Dec. 1, 2025	485472
Denton (FEMA Docket No.: B-2558).	City of Carrollton (24-06-1309P).	The Honorable Steve Babick, Mayor, City of Carrollton, 1945 East Jackson Road, Carrollton, TX 75006.	City Hall, 1945 East Jackson Road, Carrollton, TX 75006.	Dec. 1, 2025	480167
Denton (FEMA Docket No.: B-2558).	City of Lewisville (24-06-1309P).	The Honorable T.J. Gilmore, Mayor, City of Lewisville, P.O. Box 299002, Lewisville, TX 75029.	City Hall, 151 West Church Street, Lewisville, TX 75057.	Dec. 1, 2025	480195
Harris (FEMA Docket No.: B-2558).	City of Houston (24-06-1406P).	The Honorable John Whitmire, Mayor, City of Houston, P.O. Box 1562, Houston, TX 77251.	Floodplain Management Office, 1002 Washington Avenue, Houston, TX 77002.	Dec. 1, 2025	480296
Harris (FEMA Docket No.: B-2558).	Unincorporated areas of Harris County (24-04-1406P).	The Honorable Lina Hidalgo, Harris County Judge, 1001 Preston Street, Suite 911, Houston, TX 77002.	Harris County Permit Office, 1111 Fannin Street, 8th Floor, Houston, TX 77002.	Dec. 1, 2025	480287
McClennan (FEMA Docket No.: B-2555).	City of Waco (24-06-1644P).	The Honorable Jim Holmes, Mayor, City of Waco, P.O. Box 2570, Waco, TX 76702.	Dr. Mae Jackson Development Center, 401 Franklin Avenue, Waco, TX 76701.	Nov. 28, 2025	480461

State and county	Location and case No.	Chief executive officer of community	Community map repository	Date of modification	Community No.
Tarrant (FEMA Docket No.: B-2558).	City of Arlington (24-06-2405P).	The Honorable Jim Ross, Mayor, City of Arlington, P.O. Box 90231, Arlington, TX 76010.	City Hall, 101 West Abram Street, Arlington, TX 76010.	Nov. 17, 2025	485454
Tarrant (FEMA Docket No.: B-2558).	City of Fort Worth (25-06-0122P).	The Honorable Mattie Parker, Mayor, City of Fort Worth, 100 Fort Worth Trail, Fort Worth, TX 76102.	Department of Transportation and Public Works, Stormwater Management Division, Fort Worth, TX 76102.	Nov. 17, 2025	480596

[FR Doc. 2026-01055 Filed 1-20-26; 8:45 am]

BILLING CODE 9110-12-P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA-2026-0002; Internal Agency Docket No. FEMA-B-2577]

Proposed Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: Notice.

SUMMARY: Comments are requested on proposed flood hazard determinations, which may include additions or modifications of any Base Flood Elevation (BFE), base flood depth, Special Flood Hazard Area (SFHA) boundary or zone designation, or regulatory floodway on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports for the communities listed in the table below. The purpose of this notice is to seek general information and comment regarding the preliminary FIRM, and where applicable, the FIS report that the Federal Emergency Management Agency (FEMA) has provided to the affected communities. The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: Comments are to be submitted on or before April 21, 2026.

ADDRESSES: The Preliminary FIRM, and where applicable, the FIS report for each community are available for inspection at both the online location <https://hazards.fema.gov/femaportal/prelimdownload> and the respective

Community Map Repository address listed in the tables below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at <https://msc.fema.gov> for comparison.

You may submit comments, identified by Docket No. FEMA-B-2577, to David N. Bascom, Acting Director, Engineering and Modeling Division, National Flood Insurance Program, Resilience, FEMA, 400 C Street SW, Washington, DC 20472, or (email) david.bascom@fema.dhs.gov.

FOR FURTHER INFORMATION CONTACT:

David N. Bascom, Acting Director, Engineering and Modeling Division, National Flood Insurance Program, Resilience, FEMA, 400 C Street SW, Washington, DC 20472, or (email) david.bascom@fema.dhs.gov; or visit the FEMA Mapping and Insurance eXchange (FMIX) online at https://www.floodmaps.fema.gov/fhm/fmx_main.html.

SUPPLEMENTARY INFORMATION: FEMA proposes to make flood hazard determinations for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. These flood hazard determinations are used to meet the floodplain management requirements of the NFIP.

The communities affected by the flood hazard determinations are provided in the tables below. Any request for reconsideration of the

revised flood hazard information shown on the Preliminary FIRM and FIS report that satisfies the data requirements outlined in 44 CFR 67.6(b) is considered an appeal. Comments unrelated to the flood hazard determinations also will be considered before the FIRM and FIS report become effective.

Use of a Scientific Resolution Panel (SRP) is available to communities in support of the appeal resolution process. SRPs are independent panels of experts in hydrology, hydraulics, and other pertinent sciences established to review conflicting scientific and technical data and provide recommendations for resolution. Use of the SRP only may be exercised after FEMA and local communities have been engaged in a collaborative consultation process for at least 60 days without a mutually acceptable resolution of an appeal. Additional information regarding the SRP process can be found online at https://www.floodsrp.org/pdfs/srp_overview.pdf.

The watersheds and/or communities affected are listed in the tables below. The Preliminary FIRM, and where applicable, FIS report for each community are available for inspection at both the online location <https://hazards.fema.gov/femaportal/prelimdownload> and the respective Community Map Repository address listed in the tables. For communities with multiple ongoing Preliminary studies, the studies can be identified by the unique project number and Preliminary FIRM date listed in the tables. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at <https://msc.fema.gov> for comparison.

(Catalog of Federal Domestic Assistance No. 97.022, "Flood Insurance.")

Elizabeth Asche,

Assistant Administrator, Federal Insurance Directorate, Resilience Federal Emergency Management Agency, Department of Homeland Security.

Community	Community map repository address
Worcester County, Massachusetts (All Jurisdictions) Project: 17-01-0182S Preliminary Date: November 26, 2024 and August 13, 2025	
City of Worcester	City Hall, 455 Main Street, Worcester, MA 01608.
Town of Auburn	Town Hall, 104 Central Street, Auburn, MA 01501.
Town of Blackstone	Town Hall, 15 St. Paul Street, Blackstone, MA 01504.
Town of Boylston	Town Hall, 221 Main Street, Boylston, MA 01505.
Town of Douglas	Municipal Center, 29 Depot Street, Douglas, MA 01516.
Town of Grafton	Memorial Municipal Center, 30 Providence Road, Grafton, MA 01519.
Town of Holden	Starbald Building, 1204 Main Street, Holden, MA 01520.
Town of Hopedale	Town Office, 78 Hopedale Street, Hopedale, MA 01747.
Town of Leicester	Town Hall, 3 Washburn Square, Leicester, MA 01524.
Town of Mendon	Town Hall, 20 Main Street, Mendon, MA 01756.
Town of Milford	Town Hall, 52 Main Street, Milford, MA 01757.
Town of Millbury	Town Hall, 127 Elm Street, Millbury, MA 01527.
Town of Millville	Town Hall, 290 Main Street, Millville, MA 01529.
Town of Northbridge	Town Hall, 7 Main Street, Northbridge, MA 01588.
Town of Oxford	Town Hall, 325 Main Street, Oxford, MA 01540.
Town of Paxton	Town Hall, 697 Pleasant Street, Paxton, MA 01612.
Town of Rutland	Town Hall, 250 Main Street, Rutland, MA 01543.
Town of Shrewsbury	Town Hall, 100 Maple Avenue, Shrewsbury, MA 01545.
Town of Sutton	Town Hall, 4 Uxbridge Road, Sutton, MA 01590.
Town of Upton	Town Hall, 1 Main Street, Upton, MA 01568.
Town of Uxbridge	Town Hall, 21 South Main Street, Uxbridge, MA 01569.
Town of Webster	Town Hall, 350 Main Street, Webster, MA 01570.
Town of West Boylston	Town Hall, 140 Worcester Street, West Boylston, MA 01583.
Town of Westborough	Town Hall, 34 West Main Street, Westborough, MA 01581.
Crawford County, Wisconsin and Incorporated Areas Project: 17-05-0965S Preliminary Date: May 15, 2025	
Unincorporated Areas of Crawford County	Crawford County Administration Building, 225 North Beaumont Road, Suite 233, Prairie Du Chien, WI 53821.
Village of Bell Center	Bell Center Village Hall, 430 Bell Center Road, Gays Mills, WI 54631.
Village of Gays Mills	Village Hall, 16381 State Highway 131, Suite 1, Gays Mills, WI 54631.
Village of Soldiers Grove	Village Hall, 102 Passive Sun Drive, Soldiers Grove, WI 54655.
Village of Steuben	Village Hall, 123 Midway Street, Steuben, WI 54657.
Village of Wauzeka	Village Hall, 213 East Front Street #B, Wauzeka, WI 53826.
Vernon County, Wisconsin and Incorporated Areas Project: 17-05-0965S Preliminary Date: April 30, 2025	
Ho-Chunk Nation of Wisconsin	Tribal Office Building, W9814 Airport Road, Black River Falls, WI 54615.
Unincorporated Areas of Vernon County	Vernon County Zoning, Erlandson Office Building, 318 Fairlane Drive, Room 227, Viroqua, WI 54665.
Village of La Farge	Village Hall, 105 West Main Street, La Farge, WI 54639.
Village of Ontario	Village Hall, 205 State Street, Ontario, WI 54651.
Village of Readstown	Village Hall, 116 North 4th Street, Readstown, WI 54652.
Village of Viola	Municipal Office, 106 West Wisconsin Street, Viola, WI 54664.

[FR Doc. 2026-01056 Filed 1-20-26; 8:45 am]

BILLING CODE 9110-12-P

DEPARTMENT OF HOMELAND SECURITY**Federal Emergency Management Agency**

[Docket ID FEMA-2026-0002]

Changes in Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: Notice.

SUMMARY: New or modified Base (1-percent annual chance) Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, and/or regulatory floodways (hereinafter referred to as flood hazard determinations) as shown on the indicated Letter of Map Revision (LOMR) for each of the communities listed in the table below are finalized. Each LOMR revises the Flood Insurance Rate Maps (FIRMs), and in some cases the Flood Insurance Study (FIS) reports, currently in effect for the listed communities.

DATES: Each LOMR was finalized as in the table below.

ADDRESSES: Each LOMR is available for inspection at both the respective Community Map Repository address listed in the table below and online through the FEMA Map Service Center at <https://msc.fema.gov>.

FOR FURTHER INFORMATION CONTACT: David N. Bascom, Acting Director, Engineering and Modeling Division, National Flood Insurance Program, Resilience, FEMA, 400 C Street SW, Washington, DC 20472, or (email) david.bascom@fema.dhs.gov; or visit the FEMA Mapping and Insurance eXchange (FMIX) online at https://www.floodmaps.fema.gov/fhm/fmx_main.html.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) makes the final flood hazard determinations as shown in the LOMRs for each community listed in the table below. Notice of these modified flood hazard determinations has been published in newspapers of local circulation and 90 days have elapsed since that publication. The Assistant Administrator, Federal Insurance Directorate, Resilience has resolved any appeals resulting from this notification.

The modified flood hazard determinations are made pursuant to section 206 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.*, and with 44 CFR part 65. The current effective community

number is shown and must be used for all new policies and renewals.

The new or modified flood hazard information is the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to remain qualified for participation in the National Flood Insurance Program (NFIP).

This new or modified flood hazard information, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or

pursuant to policies established by other Federal, State, or regional entities.

This new or modified flood hazard determinations are used to meet the floodplain management requirements of the NFIP. The changes in flood hazard determinations are in accordance with 44 CFR 65.4.

Interested lessees and owners of real property are encouraged to review the final flood hazard information available at the address cited below for each community or online through the FEMA Map Service Center at <https://msc.fema.gov>.

(Catalog of Federal Domestic Assistance No. 97.022, "Flood Insurance.")

Elizabeth Asche,

Assistant Administrator, Federal Insurance Directorate, Resilience, Federal Emergency Management Agency, Department of Homeland Security.

State and county	Location and case No.	Chief executive officer of community	Community map repository	Date of modification	Community No.
Connecticut: New Haven (FEMA Docket No.: B-2551).	Town of East Haven (25-01-0643X).	The Honorable Joseph A. Carfora, Mayor, Town of East Haven, 250 Main Street, East Haven, CT 06512.	Engineering Department, 461 North High Street, East Haven, CT 06512.	Oct. 23, 2025	040037
Florida:					
Bay (FEMA Docket No.: B-2551).	Unincorporated areas of Bay County (24-04-6962P).	Robert Majka, Manager, Bay County, 840 West 11th Street, Panama City, FL 32401.	Bay County Planning and Zoning Department, 840 West 11th Street, Panama City, FL 32401.	Nov. 10, 2025	120004
Collier (FEMA Docket No.: B-2551).	City of Marco Island, (25-04-1248P).	Mike McNees, Manager, City of Marco Island, 50 Bald Eagle Drive, Marco Island, FL 34145.	Building Services Department, 50 Bald Eagle Drive, Marco Island, FL 34145.	Oct. 9, 2025	120426
Duval (FEMA Docket No.: B-2551).	City of Jacksonville (24-04-6951P).	The Honorable Donna Deegan, Mayor, City of Jacksonville, 117 West Duval Street, Suite 400, Jacksonville, FL 32202.	City Hall, 117 West Duval Street, Jacksonville, FL 32202.	Oct. 15, 2025	120077
Duval (FEMA Docket No.: B-2551).	City of Jacksonville (25-04-0687P).	The Honorable Donna Deegan, Mayor, City of Jacksonville, 117 West Duval Street, Suite 400, Jacksonville, FL 32202.	City Hall, 117 West Duval Street, Jacksonville, FL 32202.	Nov. 6, 2025	120077
Leon (FEMA Docket No.: B-2551).	Unincorporated areas of Leon County (24-04-6936P).	The Honorable Vincent S. Long, Leon County, Administrator, 301 South Monroe Street, Tallahassee, FL 32301.	Leon County Renaissance Center, DSEM Environmental Services, 435 North Macomb Street, Tallahassee, FL 32301.	Nov. 4, 2025	120143
Monroe (FEMA Docket No.: B-2551).	Unincorporated areas of Monroe County (25-04-3831P).	The Honorable Jim Scholl, Mayor, Monroe County, Board of Commissioners, 530 Whitehead Street, Key West, FL 33040.	Monroe County Building Department, 2798 Overseas Highway, Suite 300, Marathon, FL 33050.	Nov. 14, 2025	125129
Orange (FEMA Docket No.: B-2551).	City of Orlando (25-04-1101P).	The Honorable Buddy Dyer, Mayor, City of Orlando, 400 South Orange Avenue, Orlando, FL 32801.	Public Works Department, Engineering Services Division, 400 South Orange Avenue, 8th Floor, Orlando, FL 32801.	Nov. 7, 2025	120186
Pasco (FEMA Docket No.: B-2551).	Unincorporated areas of Pasco County (24-04-6983P).	The Honorable Mike Carballa, Pasco County Administrator, 8731 Citizens Drive, New Port Richey, FL 34654.	Pasco County Government Center, 8731 Citizens Drive, New Port Richey, FL 34654.	Oct. 30, 2025	120230
St. Johns (FEMA Docket No.: B-2551).	Unincorporated areas of St. Johns County (25-04-1680P).	The Honorable Joy Andrews, St. Johns County Administrator, 500 San Sebastian View, St. Augustine, FL 32084.	St. Johns County Administration Building, 500 San Sebastian View, St. Augustine, FL 32084.	Oct. 28, 2025	125147
Volusia (FEMA Docket No.: B-2551).	City of Daytona Beach (24-04-4524P).	The Honorable Derrick Henry, Mayor, City of Daytona Beach, 301 South Ridgewood Avenue, Daytona Beach, FL 32114.	City Hall, 301 South Ridgewood Avenue, Daytona Beach, FL 32114.	Nov. 7, 2025	125099
Volusia (FEMA Docket No.: B-2551).	City of Ormond Beach (24-04-4524P).	The Honorable Jason Leslie, Mayor, City of Ormond Beach, 22 South Beach Street, Ormond Beach, FL 32174.	City Hall, 22 South Beach Street, Ormond Beach, FL 32174.	Nov. 7, 2025	125136
Volusia (FEMA Docket No.: B-2551).	Unincorporated areas of Volusia County (24-04-4524P).	George Recktenwald, Volusia County Manager, 123 West Indiana Avenue, DeLand, FL 32720.	Volusia County Thomas C. Kelly Administration Center, 123 West Indiana Avenue, DeLand, FL 32720.	Nov. 7, 2025	125155

State and county	Location and case No.	Chief executive officer of community	Community map repository	Date of modification	Community No.
Georgia: Chatham (FEMA Docket No.: B-2551).	City of Pooler (24-04-2433P).	The Honorable Karen L. Williams, Mayor, City of Pooler, 100 U.S. Highway 80 Southwest, Pooler, GA 31322.	City Hall, 100 U.S. Highway 80 Southwest, Pooler, GA 31322.	Oct. 15, 2025	130261
Illinois: Will (FEMA Docket No.: B-2546).	City of Aurora (25-05-1537X).	The Honorable John Laesch, Mayor, City of Aurora, 44 East Downer Place, Aurora, IL 60505.	Public Works Department,, Engineering Division, 2185 Liberty Street, Aurora, IL 60502.	Oct. 24, 2025	170320
Kentucky: Union (FEMA Docket No.: B-2551).	City of Sturgis (24-04-3552P).	The Honorable Billy Adams, Mayor, City of Sturgis, P.O. Box 98, Sturgis, KY 42459.	Union County Planning Commission, 510 South Mart Street, Morganfield, KY 42437.	Oct. 23, 2025	210217
Union (FEMA Docket No.: B-2551).	City of Uniontown (24-04-3544P).	The Honorable LaDonna N. Tapp, Mayor, City of Uniontown, P.O. Box 548, Uniontown, KY 42461.	Union County Planning Commission, 510 South Mart Street, Morganfield, KY 42437.	Oct. 16, 2025	210218
Louisiana: Livingston (FEMA Docket No.: B-2551).	Unincorporated areas of Livingston Parish (25-06-0302P).	The Honorable Randy Delatte, Livingston Parish President, P.O. Box 427, Livingston, LA 70754.	Livingston Parish Building and Permit Department, 20399 Government Boulevard, Livingston, LA 70754.	Oct. 17, 2025	220113
Massachusetts: Plymouth (FEMA Docket No.: B-2551).	Town of Hull (25-01-0177P).	Jennifer Constable, Manager, Town of Hull, 253 Atlantic Avenue, Hull, MA 02045.	Building Department, 253 Atlantic Avenue, Hull, MA 02045.	Oct. 10, 2025	250269
Minnesota: Anoka (FEMA Docket No.: B-2551).	City of Blaine (24-05-0743P).	The Honorable Tim Sanders, Mayor, City of Blaine, 10801 Town Square Drive Northeast, Blaine, MN 55449.	City Hall, 10801 Town Square Drive Northeast, Blaine, MN 55449.	Oct. 20, 2025	270007
Clay (FEMA Docket No.: B-2551).	City of Glyndon (24-05-0538P).	The Honorable Joe Olson, Mayor, City of Glyndon, 36 3rd Street Southeast, Glyndon, MN 56547.	City Hall, 36 3rd Street Southeast, Glyndon, MN 56547.	Oct. 24, 2025	270083
Clay (FEMA Docket No.: B-2551).	Unincorporated areas of Clay County (24-05-0538P).	The Honorable Kevin Campbell, Chair, Clay County, Board of Commissioners, P.O. Box 280, Moorhead, MN 56560.	Clay County Government Center, 3510 12th Avenue South, Moorhead, MN 56560.	Oct. 24, 2025	275235
Pennington (FEMA Docket No.: B-2551).	Unincorporated areas of Pennington County (24-05-0823P).	The Honorable Seth Nelson, Pennington County Commissioner, 101 Main Avenue North, Thief River Falls, MN 56701.	Pennington County SWCD, 201 Sherwood Avenue South, Thief River Falls, MN 56701.	Oct. 9, 2025	270651
North Carolina: Mecklenburg (FEMA Docket No. B-2558).	Town of Pineville (24-04-6398P).	The Honorable David Phillips, Mayor, Town of Pineville, P.O. Box 249, Pineville, NC 28134.	Mecklenburg County Stormwater Services, 2145 Suttle Avenue, Charlotte, NC 28208.	Dec. 8, 2025	370160
Wake (FEMA Docket No.: B-2558).	City of Raleigh (24-04-7419P).	The Honorable Janet Cowell, Mayor, City of Raleigh, P.O. Box 590, Raleigh, NC 27602.	Planning and Development, 219 Fayetteville Street, Raleigh, NC 27601.	Dec. 15, 2025	370243
Pennsylvania: Juniata (FEMA Docket No.: B-2551).	Township of Delaware (24-03-0070P).	The Honorable Douglas L. Roush, Chair, Township of Delaware Board of Supervisors, 815 Quarry Road, McAlisterville, PA 17049.	Township Hall, 815 Quarry Road, McAlisterville, PA 17049.	Nov. 7, 2025	421739
Montgomery (FEMA Docket No.: B-2551).	Township of Whitemarsh (24-03-0912P).	Craig McAnally, Township of Whitemarsh Manager, 616 Germantown Pike, Lafayette Hill, PA 19444.	Township Hall, 616 Germantown Pike, Lafayette Hill, PA 19444.	Nov. 7, 2025	420712
Texas: Bexar (FEMA Docket No.: B-2551).	City of San Antonio (25-06-0801P).	The Honorable Ron Nirenberg, Mayor, City of San Antonio, P.O. Box 839966, San Antonio, TX 78283.	Public Works, Storm Water Division, 1901 South Alamo Street, 2nd Floor, San Antonio, TX 78205.	Oct. 6, 2025	480045
Collin (FEMA Docket No.: B-2551).	City of Melissa (24-06-2260P).	The Honorable Jay Northcut, Mayor, City of Melissa, 3411 Barker Avenue, Melissa, TX 75454.	City Hall, 3411 Barker Avenue, Melissa, TX 75454.	Oct. 27, 2025	481626
Collin (FEMA Docket No.: B-2551).	Unincorporated areas of Collin County (24-06-2260P).	The Honorable Chris Hill, Collin County Judge, 2300 Bloomdale Road, 1st Floor, McKinney, TX 75071.	Collin County Engineering Department, 4690 Community Avenue, Suite 200, McKinney, TX 75071.	Oct. 27, 2025	480130
Dallas (FEMA Docket No.: B-2551).	City of Dallas (24-06-2275P).	Kimberly Bizer Tolbert, Manager, City of Dallas, 1500 Marilla Street, Room 4EN, Dallas, TX 75201.	Stormwater Operations Department, 2245 Irving Boulevard, 2nd Floor, Dallas, TX 75207.	Oct. 20, 2025	480171
Dallas (FEMA Docket No.: B-2551).	City of Dallas (25-06-0086P).	Kimberly Bizer Tolbert, Manager, City of Dallas, 1500 Marilla Street, Room 4EN, Dallas, TX 75201.	Stormwater Operations Department, 2245 Irving Boulevard, 2nd Floor, Dallas, TX 75207.	Oct. 20, 2025	480171
Dallas (FEMA Docket No.: B-2551).	City of Garland (25-06-1337P).	The Honorable Scott LeMay, Mayor, City of Garland, P.O. Box 469002, Garland, TX 75046.	City Hall, 200 North 5th Street, Garland, TX 75040.	Oct. 14, 2025	485471
Montgomery (FEMA Docket No.: B-2551).	City of Conroe (25-06-0024P).	The Honorable Duke W. Coon, Mayor, City of Conroe, P.O. Box 3066, Conroe, TX 77305.	City Hall, 300 West Davis Street, Conroe, TX 77301.	Nov. 4, 2025	480484

State and county	Location and case No.	Chief executive officer of community	Community map repository	Date of modification	Community No.
Rockwall (FEMA Docket No.: B-2551).	City of Rockwall (24-06-2387P).	The Honorable Tim McCallum, Mayor, City of Rockwall, 385 South Goliad Street, Rockwall, TX 75087.	City Hall, 385 South Goliad Street, Rockwall, TX 75087.	Oct. 27, 2025	480547
Tarrant Rockwall (FEMA Docket No.: B-2551).	City of Haltom City (25-06-0183P).	Rex Phelps, Manager, City of Haltom City, 4801 Haltom Road, Haltom City, TX 76117.	City Hall, 4801 Haltom Road, Haltom City, TX 76117.	Oct. 14, 2025	480599

[FR Doc. 2026-01054 Filed 1-20-26; 8:45 am]

BILLING CODE 9110-12-P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA-2026-0002; Internal Agency Docket No. FEMA-B-2578]

Proposed Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: Notice.

SUMMARY: Comments are requested on proposed flood hazard determinations, which may include additions or modifications of any Base Flood Elevation (BFE), base flood depth, Special Flood Hazard Area (SFHA) boundary or zone designation, or regulatory floodway on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports for the communities listed in the table below. The purpose of this notice is to seek general information and comment regarding the preliminary FIRM, and where applicable, the FIS report that the Federal Emergency Management Agency (FEMA) has provided to the affected communities. The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: Comments are to be submitted on or before April 21, 2026.

ADDRESSES: The Preliminary FIRM, and where applicable, the FIS report for each community are available for inspection at both the online location <https://hazards.fema.gov/femaportal/prelimdownload> and the respective

Community Map Repository address listed in the tables below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at <https://msc.fema.gov> for comparison.

You may submit comments, identified by Docket No. FEMA-B-2578, to David N. Bascom, Acting Director, Engineering and Modeling Division, National Flood Insurance Program, Resilience, FEMA, 400 C Street SW, Washington, DC 20472, or (email) david.bascom@fema.dhs.gov.

FOR FURTHER INFORMATION CONTACT:

David N. Bascom, Acting Director, Engineering and Modeling Division, National Flood Insurance Program, Resilience, FEMA, 400 C Street SW, Washington, DC 20472, or (email) david.bascom@fema.dhs.gov; or visit the FEMA Mapping and Insurance eXchange (FMIX) online at https://www.floodmaps.fema.gov/fhm/fmx_main.html.

SUPPLEMENTARY INFORMATION: FEMA proposes to make flood hazard determinations for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. These flood hazard determinations are used to meet the floodplain management requirements of the NFIP.

The communities affected by the flood hazard determinations are provided in the tables below. Any request for reconsideration of the

revised flood hazard information shown on the Preliminary FIRM and FIS report that satisfies the data requirements outlined in 44 CFR 67.6(b) is considered an appeal. Comments unrelated to the flood hazard determinations also will be considered before the FIRM and FIS report become effective.

Use of a Scientific Resolution Panel (SRP) is available to communities in support of the appeal resolution process. SRPs are independent panels of experts in hydrology, hydraulics, and other pertinent sciences established to review conflicting scientific and technical data and provide recommendations for resolution. Use of the SRP only may be exercised after FEMA and local communities have been engaged in a collaborative consultation process for at least 60 days without a mutually acceptable resolution of an appeal. Additional information regarding the SRP process can be found online at https://www.floodsrp.org/pdfs/srp_overview.pdf.

The watersheds and/or communities affected are listed in the tables below. The Preliminary FIRM, and where applicable, FIS report for each community are available for inspection at both the online location <https://hazards.fema.gov/femaportal/prelimdownload> and the respective Community Map Repository address listed in the tables. For communities with multiple ongoing Preliminary studies, the studies can be identified by the unique project number and Preliminary FIRM date listed in the tables. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at <https://msc.fema.gov> for comparison.

(Catalog of Federal Domestic Assistance No. 97.022, "Flood Insurance.")

Elizabeth Asche,

Assistant Administrator, Federal Insurance Directorate, Resilience, Federal Emergency Management Agency, Department of Homeland Security.

Community	Community map repository address
Bradford County, Florida and Incorporated Areas Project: 20-04-0049S Preliminary Date: May 29, 2025	
Unincorporated Areas of Bradford County	Bradford County Zoning Department, 945 North Temple Avenue, Starke, FL 32091.
Clay County, Florida and Incorporated Areas Project: 20-04-0049S Preliminary Date: May 29, 2025	
City of Green Cove Springs	City Hall, 321 Walnut Street, Green Cove Springs, FL 32043.
City of Keystone Heights	City Hall, 555 South Lawrence Boulevard, Keystone Heights, FL 32656.
Town of Orange Park	Economic and Community Development Department, 2042 Park Ave, Orange Park, FL 32073.
Town of Penney Farms	Town Hall, 4100 Clark Avenue, Penney Farms, FL 32079.
Unincorporated Areas of Clay County	Clay County Economic and Development Services, 477 Houston Street, Green Cove Springs, FL 32043.
Duval County, Florida (All Jurisdictions) Project: 20-04-0049S Preliminary Date: May 29, 2025	
City of Jacksonville	Development Services Division, 214 North Hogan Street, Room 2100, Jacksonville, FL 32202.
Flagler County, Florida and Incorporated Areas Project: 20-04-0049S Preliminary Date: May 29, 2025	
City of Bunnell	Administration Complex, 2400 Commerce Parkway, Bunnell, FL 32110.
City of Palm Coast	Community Development Division, 160 Lake Avenue, Palm Coast, FL 32164.
Unincorporated Areas of Flagler County	Flagler County Planning and Zoning Division, 1769 East Moody Boulevard, Building 2, Bunnell, FL 32110.
Putnam County, Florida and Incorporated Areas Project: 20-04-0049S Preliminary Date: May 29, 2025	
City of Crescent City	City Hall, 3 North Summit Street, Crescent City, FL 32112.
City of Palatka	City Hall, 201 North 2nd Street, Palatka, FL 32177.
Town of Pomona Park	Town Office, 1775 U.S. Highway 17 South, Pomona Park, FL 32181.
Town of Welaka	Town Hall, 400 4th Avenue, Welaka, FL 32193.
Unincorporated Areas of Putnam County	Putnam County Government Complex, 2509 Crill Avenue, Suite 100, Palatka, FL 32177.
Volusia County, Florida and Incorporated Areas Project: 20-04-0049S Preliminary Date: May 29, 2025	
City of Daytona Beach	City Hall, 301 South Ridgewood Avenue, Daytona Beach, FL 32114.
City of DeLand	City Hall, 120 South Florida Avenue, DeLand, FL 32720.
Town of Pierson	Town Hall, 116 West 1st Avenue, Pierson, FL 32180.
Unincorporated Areas of Volusia County	Volusia County Sheriff's Office, 123 West Indiana Avenue, DeLand, FL 32720.

[FR Doc. 2026-01057 Filed 1-20-26; 8:45 am]

BILLING CODE 9110-12-P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-6568-N-03]

Notice of HUD Non-Vacant Loan Sales (HNVLS 2026-1)

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

ACTION: Notice of sales of reverse mortgage loans.

SUMMARY: This notice announces HUD's intention to offer approximately 2,500 home equity conversion mortgages (HECM, or reverse mortgage loans) secured by occupied properties with a loan balance of approximately \$730 million. The sale will consist of due and payable Secretary-held reverse mortgage loans. The mortgage loans consist of first liens secured by real property that is occupied, where the borrower and any borrowing or non-borrowing spouse are deceased, and heirs have not come forward in the time elapsed. This initiative supports HUD's continued

efforts to reduce financial risk to the Mutual Mortgage Insurance Fund and promote the efficient disposition of defaulted assets. Additional information regarding sale structure, loan pool composition, and bidding procedures will be provided in subsequent announcements. This notice also generally describes the bidding process for the sale and certain entities who are ineligible to bid. This is the second sale offering of its type and is scheduled for February 10, 2026.

DATES: For this sale action, the Bidder Information Package (BIP) will be made available to qualified bidders on or about January 7, 2026. Bids for the

HNVLS 2026–1 sale will be accepted from 10:00 a.m. to 1:00 p.m. ET on the Bid Date, which is currently scheduled for February 10, 2026 (Bid Date). HUD anticipates that awards will be made on or about February 13, 2026 (the Award Date).

ADDRESSES: To become an eligible bidder and receive the BIP for the February sale, prospective bidders must complete, execute, and submit a Confidentiality Agreement and Qualification Statement acceptable to HUD. The documents will be available in preview form with free login on the Transaction Specialist (TS), Falcon Capital Advisors, website: <http://www.falconassetsales.com>. This website contains information and links to register for the sale and electronically complete and submit documents.

If you cannot submit electronically, please submit executed documents via mail or facsimile to Falcon Capital Advisors: Falcon Capital Advisors, 427 N Lee Street, Alexandria, VA 22314, Attention: Glenn Ervin, HUD HNVLS Loan Sale Coordinator. eFax: 1–202–393–4125.

FOR FURTHER INFORMATION CONTACT: John Lucey, Director, Office of Asset Sales, Room 9216, Department of Housing and Urban Development, 451 Seventh Street SW, Washington, DC 20410–8000; telephone 202–708–2625, extension 3927 (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: This notice announces HUD's intention to sell due and payable Secretary-held reverse mortgage loans in HNVLS 2026–1. HUD is offering approximately 2,500 reverse mortgage notes with a loan balance of approximately \$730 million. The mortgage loans consist of first liens secured by occupied single family properties, where the borrower and co-borrowing spouse are deceased, and heirs have not come forward in the time elapsed.

A listing of the mortgage loans will be included in the due diligence materials made available to eligible bidders. The mortgage loans will be sold without FHA insurance and with servicing released.

The Bidding Process

The BIP describes in detail the procedure for bidding in HNVLS 2026–

1. The BIP also includes the applicable standardized, non-negotiable sales contract for HNVLS 2026–1, called the Conveyance, Assignment, and Assumption Agreement (CAA). The CAA will NOT contain first look requirements or mission outcome goals.

HUD will evaluate the bids submitted and determine the successful bids in terms of the best value to HUD, in its sole and absolute discretion. If a bidder is successful, it will be required to submit a deposit. The deposit will be calculated based upon the total dollar value of the bidder's potential award. Awards are contingent on HUD receiving the deposit in the timeframe set out in the bid deposit confirmation. The deposit amount will be applied to the sale price on the settlement date.

This notice provides some of the basic terms of sale. The CAA will be released in the BIP or BIP Supplement, as applicable. These documents provide comprehensive contractual terms and conditions to which eligible bidders will acknowledge and agree. To ensure a competitive bidding process, the terms of the bidding process and the CAA are not subject to negotiation.

Due Diligence Review

The BIP describes how eligible bidders may access the due diligence materials remotely via a high-speed internet connection.

Mortgage Loan Sale Policy

HUD reserves the right to remove mortgage loans from a sale at any time prior to the Award Date and the settlement date. HUD also reserves the right to reject any and all bids, in whole or in part, and include any unsold reverse mortgage loans from the HNVLS 2026–1 sale in a later sale. Deliveries of mortgage loans will occur in conjunction with settlement and servicing transfer, no later than 60 days after the Award Date.

The reverse mortgage loans offered for sale were insured by and were assigned to HUD pursuant to section 255 of the National Housing Act, as amended. The sale of the reverse mortgage loans is pursuant to HUD's authority in section 204(g) of the National Housing Act.

Mortgage Loan Sale Procedure

HUD selected an open competitive whole-loan sale as the method to sell the reverse mortgage loans for this specific sale transaction. For the HNVLS 2026–1 sale, HUD has determined that this method of sale optimizes HUD's return on the sale of these reverse mortgage loans, affords the greatest opportunity for all eligible bidders to bid on the reverse mortgage loans, and

provides the quickest and most efficient vehicle for HUD to dispose of the due and payable reverse mortgage loans.

Bidder Ineligibility

In order to bid in HNVLS 2026–1 as an eligible bidder, a prospective bidder must complete, execute, and submit a Confidentiality Agreement and a Qualification Statement (HUD–9611) that are acceptable to HUD. In past sales, nonprofit and governmental entities were able to submit a qualification addendum (HUD–9612), which required additional certifications and documentation regarding the entity's organizational structure. This additional information collection will be removed for HNVLS 2026–1. Nonprofit and governmental entities will be required to certify eligibility only under the Qualification Statement (HUD–9611). The Confidentiality Agreement and Qualification Statement collectively are the "Qualification Documents." In the Qualification Statement, the prospective bidder must disclose its key employees, including officers, directors and other decision makers and provide certain representations and warranties regarding the prospective bidder, including (i) the prospective bidder's board of directors, (ii) the prospective bidder's direct parent, (iii) the prospective bidder's subsidiaries, (iv) any related entity with which the prospective bidder shares a common officer, director, subcontractor or subcontractor who has access to Confidential Information as defined in the Confidentiality Agreement or is involved in the formation of a bid transaction (collectively the "Related Entities"), and (v) the prospective bidder's repurchase lenders. The prospective bidder is ineligible to bid on any of the reverse mortgage loans included in HNVLS 2026–1 if the prospective bidder, its Related Entities, or its repurchase lenders, are any of the following, unless other exceptions apply as provided for in the Qualification Statement.

1. An individual or entity that is currently debarred, suspended, or excluded from doing business with HUD pursuant to the Governmentwide Suspension and Debarment regulations at 2 CFR parts 180 and 2424;

2. An individual or entity that is currently suspended, debarred, or otherwise restricted by any department or agency of the federal government or of a state government from doing business with such department or agency;

3. An individual or entity that is currently debarred, suspended, or

excluded from doing mortgage related business, including having a business license suspended, surrendered or revoked, by any federal, state, or local government agency, division, or department;

4. An entity that has had its right to act as a Government National Mortgage Association ("Ginnie Mae") issuer terminated and its interest in mortgages backing Ginnie Mae mortgage-backed securities extinguished by Ginnie Mae;

5. An individual or entity that is in violation of its neighborhood stabilizing outcome obligations or post-sale reporting requirements under a Conveyance, Assignment, and Assumption Agreement executed for a past sale;

6. An employee of HUD's Office of Housing, a member of such employee's household, or an entity owned or controlled by any such employee or member of such an employee's household with household to be inclusive of the employee's father, mother, stepfather, stepmother, brother, sister, stepbrother, stepsister, son, daughter, stepson, stepdaughter, grandparent, grandson, granddaughter, father-in-law, mother-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, first cousin, the spouse of any of the foregoing, and the employee's spouse;

7. A contractor, subcontractor, and/or consultant or advisor (including any agent, employee, partner, director, or principal of any of the foregoing) who performed services for or on behalf of HUD in connection with the sale;

8. An individual or entity that knowingly acquired or will acquire prior to the sale date material non-public information, other than that information which is made available to Bidder by HUD pursuant to the terms of the Qualification Statement, about mortgage loans offered in the sale;

9. An individual or entity that knowingly employs or uses the services of an employee of HUD's Office of Housing (other than in such employee's official capacity); or

10. An individual or entity that knowingly uses the services, directly or indirectly, of any person or entity ineligible under 1 through 10 to assist in preparing any of its bids on the mortgage loans.

The Qualification Statement has additional representations and warranties which the prospective bidder must make, including but not limited to the representation and warranty that the prospective bidder or its Related Entities are not and will not knowingly use the services, directly or indirectly, of any person or entity that is any of the

following (and, to the extent that any such individual or entity would prevent the prospective bidder from making the following representations, such individual or entity has been removed from participation in all activities related to this sale and has no ability to influence or control individuals involved in formation of a bid for this sale):

(1) An entity or individual that is ineligible to bid on any included reverse mortgage loan or on the pool containing such reverse mortgage loan because it is an entity or individual that:

(a) Serviced or held such reverse mortgage loan at any time during the six-month period prior to the bid, or

(b) Is any principal of any entity or individual described in the preceding sentence;

(c) Any employee or subcontractor of such entity or individual during that six-month period; or

(d) Any entity or individual that employs or uses the services of any other entity or individual described in this paragraph in preparing its bid on such reverse mortgage loan.

Freedom of Information Act Requests

HUD reserves the right, in its sole and absolute discretion, to disclose information regarding HNVLS 2026–1, including, but not limited to, the identity of any successful qualified bidder and its bid price or bid percentage for any pool of loans or individual loan, upon the closing of the sale of all the mortgage loans. Even if HUD elects not to publicly disclose any information relating to HNVLS 2026–1, HUD will disclose any information that HUD is obligated to disclose pursuant to the Freedom of Information Act and all regulations promulgated thereunder.

Scope of Notice

This notice applies to HNVLS 2026–1 and does not establish HUD's policy for the sale of other mortgage loans.

Frank Cassidy,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 2026–01026 Filed 1–20–26; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–6548–N–03]

Credit Watch Termination Initiative; Terminations of Direct Endorsement (DE) Approval

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing

Commissioner, Department of Housing and Urban Development (HUD).

ACTION: Notice.

SUMMARY: This notice advises of the cause and effect of terminations of Direct Endorsement (DE) approval taken by HUD's Federal Housing Administration (FHA) against HUD-approved mortgagees through the FHA Credit Watch Termination Initiative. This notice includes a list of mortgagees that have had their DE Approval terminated.

FOR FURTHER INFORMATION CONTACT: John Higgins, Director, Quality Assurance Division, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street SW, Washington, DC 20410–8000; telephone (202) 402–6730 (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: HUD has the authority to address deficiencies in the performance of lenders' loans as provided in HUD's mortgagee approval regulations at 24 CFR 202.3. On May 17, 1999, HUD published a notice (64 FR 26769) on its procedures for terminating Origination Approval Agreements with FHA lenders and placement of FHA lenders on Credit Watch status (an evaluation period). In the notice, HUD advised that it would publish in the **Federal Register** a list of mortgagees that have had their Approval Agreements terminated. HUD Handbook 4000.1 section V.E.3.a.iii outlines current procedures for terminating Underwriting Authority of Direct Endorsement mortgagees.

Termination of Direct Endorsement Approval: HUD approval of a DE mortgagee authorizes the mortgagee to underwrite single family mortgage loans and submit them to FHA for insurance endorsement. The approval may be terminated on the basis of poor performance of FHA-insured mortgage loans underwritten by the mortgagee. The termination of a mortgagee's DE Approval is separate and apart from any action taken by HUD's Mortgagee Review Board under HUD regulations at 24 CFR part 25.

Cause: HUD regulations and policy permit HUD to terminate the DE Approval of any mortgagee having a default and claim rate for loans endorsed within the preceding 24

months that exceeds 200 percent of the default and claim rate within the geographic area served by a HUD field office, and that exceeds the national default and claim rate for insured mortgages.

Effect: Termination of DE Approval precludes the mortgagee from underwriting FHA-insured single-family mortgages within the HUD field office jurisdiction(s) listed in this notice. Mortgagees authorized to hold or service FHA-insured mortgages may continue to do so.

Loans that closed or were approved before the termination became effective may be submitted for insurance endorsement. Approved loans are those already underwritten and approved by a DE underwriter and cases covered by a firm commitment issued by HUD. Cases at earlier stages of processing cannot be submitted for insurance by the terminated mortgagee; however, the

cases may be transferred for completion of processing and underwriting to another mortgagee with DE Approval in that geographic area. Mortgagees must continue to pay existing insurance premiums and meet all other obligations associated with insured mortgages.

A terminated mortgagee may apply for reinstatement if their DE Approval in the affected area or areas has been terminated for at least six months and the mortgagee continues to be an approved mortgagee meeting the requirements of 24 CFR 202.5, 202.6, 202.7, 202.10 and 202.12. The mortgagee's application for reinstatement must be in a format prescribed by the Secretary and signed by the mortgagee. In addition, the application must be accompanied by an independent analysis of the terminated office's operations as well as its mortgage production, specifically including the FHA-insured mortgages

cited in its termination notice. This independent analysis must identify the underlying cause for the mortgagee's high default and claim rate. The analysis must be prepared by an independent Certified Public Accountant (CPA) qualified to perform audits under Government Auditing Standards as provided by the Government Accountability Office. The mortgagee must also submit a written corrective action plan to address each of the issues identified in the CPA's report, along with evidence that the plan has been implemented. The application for reinstatement must be submitted through the Lender Electronic Assessment Portal (LEAP). The application must be accompanied by the CPA's report and the corrective action plan.

Action: The following mortgagees have had their DE Approval terminated by HUD:

Mortgagee name	Mortgagee home office address	HUD office jurisdictions	Termination effective date	Homeownership centers
Equity Prime Mortgage LLC	5 Concourse Pkwy., Ste. 2250, Atlanta, GA 30328–7121.	Atlanta, Columbia, Dallas, Houston.	12/24/2025	Atlanta, Denver.
Residential Acceptance Corporation	5027 W Laurel St., Tampa, FL 33607–3816.	Tampa	12/24/2025	Atlanta.

Vance T. Morris,

Associate General Deputy Assistant Secretary for Housing.

[FR Doc. 2026–01040 Filed 1–20–26; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[OMB Control Number 1076–0111;
267A2100DD/AAKP300000/
A0A501010.000000]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Payment for Appointed Counsel in Involuntary Indian Child Custody Proceedings in State Courts

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Bureau of Indian Affairs (BIA) is proposing to renew an information collection without change.

DATES: Interested persons are invited to submit comments. To be considered,

your comments must be received on or before February 20, 2026.

ADDRESSES: Send your written comments and recommendations for the proposed information collection request (ICR) to the Office of Information and Regulatory Affairs (OIRA) through https://www.reginfo.gov/public/do/PRA/icrPublicCommentRequest?ref_nbr=202505-1076-002 or by visiting <https://www.reginfo.gov/public/do/PRAMain> and selecting “Currently under Review—Open for Public Comments” and then scrolling down to the “Department of the Interior.”

FOR FURTHER INFORMATION CONTACT:

Steven Mullen, Information Collection Clearance Officer, Office of Regulatory Affairs and Collaborative Action—Indian Affairs, U.S. Department of the Interior, 1001 Indian School Road NW, Suite 229, Albuquerque, New Mexico 87104; comments@bia.gov; (202) 924–2650. 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. You may also view the ICR at <https://www.reginfo.gov/public/Forward?SearchTarget=PRA&textfield=1076-0111>.

SUPPLEMENTARY INFORMATION: In accordance with the Paperwork Reduction Act of 1995 (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 June 9, 2025 (90 FR 24287). 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 might the agency 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 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.

Abstract: The BIA is seeking renewal of the approval for the information collection conducted under 25 CFR 23.13, implementing the Indian Child Welfare Act (25 U.S.C. 1901). The information collection allows BIA to receive written requests by State courts that appoint counsel for an indigent Indian parent or Indian custodian in an involuntary Indian child custody proceeding when appointment of counsel is not authorized by State law. The applicable BIA Regional Director uses this information to decide whether to certify that the client in the notice is eligible to have his/her counsel compensated by the BIA in accordance with the Indian Child Welfare Act.

Title of Collection: Payment for Appointed Counsel in Involuntary Indian Child Custody Proceedings in State Courts, 25 CFR 23.13.

OMB Control Number: 1076–0111.

Form Number: None.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public: State courts.

Total Estimated Number of Annual Respondents: 2.

Total Estimated Number of Annual Responses: 2.

Estimated Completion Time per Response: 3 hours.

Total Estimated Number of Annual Burden Hours: 6 hours.

Respondent's Obligation: Required to obtain a benefit.

Frequency of Collection: On occasion.
Total Estimated Annual Nonhour Burden Cost: \$0.

Authority

An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Steven Mullen,

*Information Collection Clearance Officer,
Office of Regulatory Affairs and Collaborative
Action—Indian Affairs.*

[FR Doc. 2026–01036 Filed 1–20–26; 8:45 am]

BILLING CODE 4337–15–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1480]

Certain Wireless Communication Devices and Components Thereof; Notice of Institution of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on December 16, 2025, under section 337 of the Tariff Act of 1930, as amended, on behalf of Active Wireless Technologies LLC of Marshall, Texas. The complaint was supplemented by letter on January 5, 2026. The complaint, as supplemented, alleges violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain wireless communication devices and components thereof by reason of the infringement of certain claims of U.S. Patent No. 10,531,443 (“the ‘443 patent”); U.S. Patent No. 10,601,566 (“the ‘566 patent”); U.S. Patent No. 10,785,764 (“the ‘764 patent”); U.S. Patent No. 10,805,955 (“the ‘955 patent”); U.S. Patent No. 10,855,432 (“the ‘432 patent”); and U.S. Patent No. 11,019,557 (“the ‘557 patent”). The complaint, as supplemented, further alleges that an industry in the United States exists as required by the applicable Federal Statute. The complainant requests that the Commission institute an investigation and, after the investigation, issue a limited exclusion order and cease and desist orders.

ADDRESSES: The complaint, except for any confidential information contained

therein, may be viewed on the Commission’s electronic docket (EDIS) at <https://edis.usitc.gov>. For help accessing EDIS, please email EDIS3Help@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. 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 at <https://www.usitc.gov>.

FOR FURTHER INFORMATION CONTACT:

Susan Orndoff, The Office of the Secretary, Docket Services Division, U.S. International Trade Commission, telephone (202) 205–1802.

SUPPLEMENTARY INFORMATION:

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, and in section 210.10 of the Commission’s Rules of Practice and Procedure, 19 CFR 210.10 (2025).

Scope of Investigation: Having considered the complaint, the U.S. International Trade Commission, on January 15, 2026, *ordered that—*

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain products identified in paragraph (2) by reason of infringement of one or more of claims 1, 2, and 4 of the ‘443 patent; claims 1–7, and 15 of the ‘566 patent; claims 1, 2, and 5 of the ‘764 patent; claims 1, 2, and 5 of the ‘955 patent; claims 1–3 and 7–9 of the ‘432 patent; and claims 1–8 of the ‘557 patent, and whether an industry in the United States exists as required by subsection (a)(2) of section 337;

(2) Pursuant to section 210.10(b)(1) of the Commission’s Rules of Practice and Procedure, 19 CFR 210.10(b)(1), the plain language description of the accused products or category of accused products, which defines the scope of the investigation, is “mobile phones and tablet computers with wireless communication, and components thereof”;

(3) For the purpose of the investigation so instituted, the following are hereby named as parties upon which

this notice of investigation shall be served:

(a) *The complainant is:* Active Wireless Technologies LLC, 104 East Houston Street, Suite 140, Marshall, TX 75670.

(b) The respondents are the following entities alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

BLU Products, Inc., 8600 NW 36th Street, Suite 300, Doral, FL 33166
Coosea USA Technologies, Inc., 5850 Oberlin Drive, Suite 240, San Diego, CA 92121.

DISH Wireless LLC, 9601 South Meridian Boulevard, Englewood, CO 80112

EchoStar Corporation, 9601 South Meridian Boulevard, Englewood, CO 80112

HTC Corporation, No. 88, Section 3, Zhongxing Road, Xindian, District, New Taipei City 231, Taiwan

LG Electronics Inc., LG Twin Towers, 128 Yeoui-daero, Yeongdeungpo-gu, Seoul, Republic of Korea, 07736

OnePlus Technology (Shenzhen) Co., Ltd., 18C02, 18C03, 18C04, and 18C05, Shum Yip, Terra Building, Binhe Avenue North, Futian, District, Shenzhen, Guangdong, China

Qualcomm Technologies, Inc., 5775 Morehouse Drive, San Diego, CA 92121

TCL Communication Ltd., 5/F, Building 22E, 22 Science Park East Avenue, Hong Kong Science Park, Shatin, New Territories, Hong Kong

TTE Technology, Inc. d/b/a TCL North America, 189 Technology Dr., Irvine, CA 92618

TCL Technology Group Corporation, TCL TECH. Building, 17 Hui Feng Third Road, Zhongkai Hi-tech Development District, Huizhou City, Guangdong Province, China

T-Mobile USA, Inc., 12920 SE 38th St., Bellevue, WA 98006

(4) For the investigation so instituted, the Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

The Office of Unfair Import Investigations will not participate as a party in this investigation.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(e) and 210.13(a), such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the complaint and the

notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against the respondent.

By order of the Commission.

Issued: January 15, 2026.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2026-01031 Filed 1-20-26; 8:45 am]

BILLING CODE 7020-02-P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA-1643]

Importer of Controlled Substances Application: Mylan Pharmaceuticals Inc.

AGENCY: Drug Enforcement Administration Justice.

ACTION: Notice of application.

SUMMARY: Mylan Pharmaceuticals Inc. has applied to be registered as an importer 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 February 20, 2026. Such person may also file a hearing on the application on or before February 20, 2026.

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 <http://www.regulations.gov> and follow the

online instructions at the 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 <http://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. All requests for a hearing must be sent to (1) Drug Enforcement Administration, Attn: Hearing Clerk/OALJ, 8701 Morrisette Drive, Springfield, Virginia 22152, and (2) Drug Enforcement Administration, Attn: DEA Federal Register Representative/DPW, 8701 Morrisette Drive, Springfield, Virginia 22152. All requests for a hearing should also be sent to: Drug Enforcement Administration, Attn: Administrator, 8701 Morrisette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.34(a), this is notice that on December 4, 2025, Mylan Pharmaceuticals Inc., 2829 Manufacturers Road, Greensboro, North Carolina 27406-4600, applied to be registered as an importer of the following basic class(es) of controlled substance(s):

Controlled substance	Drug code	Schedule
Remifentanyl	9739	II

The company plans to import the listed controlled substance in finished dosage form for commercial distribution to their customers. No other activity for this drug code is authorized for this registration.

Approval of permit applications will occur only when the registrant's business activity is consistent with what is authorized under 21 U.S.C. 952(a)(2). Authorization will not extend to the import of Food and Drug Administration-approved or non-approved finished dosage forms for commercial sale.

Thomas Prevoznik,

Deputy Assistant Administrator.

[FR Doc. 2026-01072 Filed 1-20-26; 8:45 am]

BILLING CODE 4410-09-P

DEPARTMENT OF JUSTICE**Executive Office for Immigration Review**

[Dir. Order No. 01–2026]

Inflation Adjustment for EOIR OBBBA Fees; Fiscal Year 2026

AGENCY: Executive Office for Immigration Review, Department of Justice.

ACTION: Notice of inflationary fee adjustment.

SUMMARY: The Department of Justice (“Department”) is announcing inflationary adjustments to immigration-related fees for filings with the Executive Office for Immigration Review (“EOIR”) under the One Big Beautiful Bill Act (“OBBBA”) for Fiscal Year (“FY”) 2026. OBBBA requires the Attorney General to annually adjust for inflation the OBBBA fees that EOIR collects. This notice sets out the EOIR-collected OBBBA fees for the remainder of FY 2026 and their effective dates.

DATES: The fees announced in this notice are effective February 1, 2026. Any filing with an Immigration Court or the Board of Immigration Appeals postmarked on or after February 1, 2026, without the proper filing fee or an applicable request for fee waiver will be rejected.

FOR FURTHER INFORMATION CONTACT: Jamee E. Comans, Acting Assistant Director, Office of Policy, Executive Office for Immigration Review, 5107 Leesburg Pike, Suite 2500, Falls Church, VA 22041, telephone (703) 305-0289 (not a toll-free call).

SUPPLEMENTARY INFORMATION:**Table of Abbreviations**

CPI-U—Consumer Price Index for All Urban Consumers
 DHS—Department of Homeland Security
 EOIR—Executive Office for Immigration Review
 FRN—Federal Register Notice
 FY—Fiscal Year
 INA—Immigration and Nationality Act
 OBBBA—One Big Beautiful Bill Act
 PM—Policy Memorandum

I. Background and Authority

On July 4, 2025, a Congressional budget reconciliation bill (H.R. 1), commonly referred to as the OBBBA,¹ became law. Public Law 119–21, 139 Stat. 72. As relevant to EOIR, OBBBA (1) introduced new immigration fees to be collected by the Attorney General beginning in FY 2025 (“OBBBA fees”)

on top of any preexisting EOIR fees, (2) authorized the Attorney General to adjust EOIR-collected OBBBA fees through rulemaking, and (3) mandated that the Attorney General annually update EOIR-collected OBBBA fees for inflation based on the Consumer Price Index for All Urban Consumers (“CPI-U”). See OBBBA, Title X, Subtitle A, Part I, Sec. 100002, 100009, 100013; 8 U.S.C. 1802, 1808, 1812.

On July 9, 2025, EOIR issued a policy memorandum (“PM”) that explained the FY 2025 OBBBA fees to be collected by EOIR. See EOIR PM 25–35, *Statutory Fees Under the One Big Beautiful Bill Act* (July 9, 2025). Then, on July 17, 2025, EOIR issued another PM, which superseded and replaced PM 25–35 and clarified that OBBBA fees apply in addition to any other fees authorized by law, including preexisting EOIR fees. See EOIR PM 25–36, *Statutory Fees Under the One Big Beautiful Bill Act* (July 17, 2025) (amended). Thus, PM 25–36, as amended, provided additional information on the collection of fees and listed the total applicable EOIR fee amounts for the remainder of FY 2025, inclusive of any applicable FY 2025 OBBBA fees. *Id.* The total EOIR fees for the remainder of FY 2025, as set forth in PM 25–36, were as follows:

- \$2,940 for any application for adjustment of status (Form I–485) to that of a lawful permanent resident filed with the Immigration Court or adjudicated in Immigration Court, inclusive of the \$1,500 FY 2025 OBBBA fee set forth in Section 100013(a) (8 U.S.C. 1812(a));
- \$100 for any application for asylum (Form I–589) filed under section 208 of the Immigration and Nationality Act (“INA”) (8 U.S.C. 1158), inclusive of the \$100 FY 2025 OBBBA fee set forth in Section 100002 (8 U.S.C. 1802);
- \$100 annually for any application for asylum (Form I–589) for each calendar year that the asylum application remains pending, inclusive of the \$100 FY 2025 OBBBA fee set forth in Section 100009(a)–(b) (8 U.S.C. 1808);
- \$700 for any application for cancellation of removal (Form EOIR–42A) filed with an Immigration Court for an alien who is a lawful permanent resident, inclusive of the \$600 FY 2025 OBBBA fee set forth in Section 100013(i) (8 U.S.C. 1812(i));
- \$1,600 for any application for cancellation of removal and adjustment of status (Form EOIR–42B) filed with an Immigration Court by an alien who is not a lawful permanent resident, inclusive of the \$1,500 FY 2025 OBBBA fee set forth in Section 100013(j) (8 U.S.C. 1812(j));

- \$700 for any application for suspension of deportation (Form EOIR–40²) filed with an Immigration Court, inclusive of the \$600 FY 2025 OBBBA fee set forth in Section 100013(h) (8 U.S.C. 1812(h));

- \$500 for any application for temporary protected status (Form I–821) filed with an Immigration Court, inclusive of the \$500 FY 2025 OBBBA fee set forth in Section 100013(c) (8 U.S.C. 1812(c));

- \$2,100 for any application for waiver of grounds of inadmissibility (Form I–601) filed with an Immigration Court, inclusive of the \$1,050 FY 2025 OBBBA fee set forth in Section 100013(b) (8 U.S.C. 1812(b));

- \$1,010 for any appeal from a decision of an Immigration Judge (Form EOIR–26)—except for bond appeals, which have no fee—inclusive of the \$900 FY 2025 OBBBA fee set forth in Section 100013(d) (8 U.S.C. 1812(d));

- \$1,010 for any appeal from a decision of a Department of Homeland Security (“DHS”) officer (Form EOIR–29), inclusive of the \$900 FY 2025 OBBBA fee set forth in Section 100013(e) (8 U.S.C. 1812(e));

- \$2,000 for any appeal in a practitioner disciplinary case (Form EOIR–45), inclusive of the \$1,325 FY 2025 OBBBA fee set forth in Section 100013(f) (8 U.S.C. 1812(f));

- \$1,045 for any motion to reopen or reconsider a decision of an Immigration Judge—except for motions to reopen an in absentia removal order filed in accordance with INA 240(b)(5)(C)(ii) (8 U.S.C. 1229a(b)(5)(C)(ii)), or motions to reopen an in absentia deportation order filed in accordance with the former INA 242B(c)(3)(B) (prior to April 1, 1997)—inclusive of the \$900 FY 2025 OBBBA fee set forth in Section 100013(g) (8 U.S.C. 1812(g));

- \$1,010 for any motion to reopen or to reconsider a decision of the Board of Immigration Appeals, inclusive of the \$900 FY 2025 OBBBA fee set forth in Section 100013(g) (8 U.S.C. 1812(g)).

On October 30, 2025, the United States District Court for the District of Maryland issued a temporary stay of EOIR’s PM 25–36. *Asylum Seeker Advocacy Project v. USCIS*, No. SAG–25–03299, 2025 WL 3029552 at *9 (D. Md. Oct. 30, 2025) (ASAP). Although the order in ASAP temporarily stayed PM 25–36, it did not stay, restrain, or otherwise enjoin OBBBA’s fee-imposing provisions nor any of EOIR’s fee-imposing regulations. See *id.* On January 2, 2026, EOIR rescinded PM 25–36.

¹ The official name of the legislation is “An Act To provide for reconciliation pursuant to title II of H. Con. Res. 14.”

² PM 25–36 inadvertently labeled this form as Form I–881; however, Form EOIR–40 is the correct form.

Thus, the Department is adjusting EOIR-collected OBBBA fees for inflation for FY 2026 as required by OBBBA, and this FRN provides notice of those inflationary fee adjustments.

II. Basis for Adjustment

OBBBA requires that all EOIR-collected OBBBA fees be adjusted annually for inflation and directs that a specific adjustment formula be applied to each fee. *See, e.g.*, OBBBA sections 100002, 100009; 8 U.S.C. 1802, 1808.

For all but one EOIR-collected OBBBA fee, OBBBA states that the inflation-adjusted OBBBA fee is the sum of (1) “the amount of the fee required . . . for the most recently concluded fiscal year”; and (2) “the product resulting from the multiplication of the amount referred to in [(1)] by the percentage (if any) by which the [CPI–U] for the month of July preceding the date on which such adjustment takes effect exceeds the [CPI–U] for the same

month of the preceding calendar year, *rounded to the next lowest multiple of \$10.*” *See* sections 100002, 100013 (emphasis added); 8 U.S.C. 1802, 1812. In contrast, section 100009 (Annual Asylum Fee) uses the same formula but with the product resulting from the multiplication of the prior July FY’s OBBBA fee of July FY 2025 by the percentage of the change in CPI–U between July 2024 and July 2025 *rounded down to the nearest dollar* rather than to the next lowest multiple of \$10. *See* section 100009 (emphasis added); 8 U.S.C. 1808.

Thus, for all OBBBA fees except the Annual Asylum Fee, EOIR calculated the inflation-adjusted FY 2026 OBBBA fees by:

1. determining the percentage by which the CPI–U changed between July 2024 (314.540) and July 2025 (323.048) ³ (approximately 2.70 percent);
2. multiplying that result by the FY 2025 OBBBA fee;

3. rounding that result to the next lowest multiple of \$10;

4. and adding that result to the FY 2025 OBBBA fee.

For the Annual Asylum Fee, pursuant to section 100009, EOIR calculated the inflation-adjusted FY 2026 OBBBA fee by:

1. determining the percentage by which the CPI–U changed between July 2024 (314.540) and July 2025 (323.048) ⁴ (approximately 2.70 percent);

2. multiplying that result by the FY 2025 OBBBA fee;

3. rounding that result down to the nearest dollar;

4. and adding that result to the FY 2025 OBBBA total fee.

Table 1 summarizes the FY 2026 Inflation-Adjusted OBBBA fees. Additionally, Table 1 provides the new FY 2026 EOIR total fees, inclusive of the FY 2026 Inflation-Adjusted OBBBA fees.

TABLE 1—FY 2026 INFLATION-ADJUSTED OBBBA FEES AND FY 2026 EOIR TOTAL FEES

Immigration fee type	Current OBBBA fee	CPI–U change (%)	Inflation adjustment	Round down to next lowest \$10	Round down to nearest dollar	FY 2026 OBBBA fee	FY 2026 EOIR total fees ⁵
Form I–485, Application to Register Permanent Residence or Adjust Status	\$1,500	2.70	\$40.50	\$40	N/A	\$1,540	\$2,980
Form I–589, Application for Asylum and for Withholding of Removal—Initial Application	100	2.70	2.70	0	N/A	100	100
Form I–589, Application for Asylum and for Withholding of Removal—Annual Asylum Fee	100	2.70	2.70	N/A	2	102	102
Form EOIR–42A, Application for Cancellation of Removal for Certain Permanent Residents	600	2.70	16.20	10	N/A	610	710
Form EOIR–42B, Application for Cancellation of Removal and Adjustment of Status for Certain Nonpermanent Residents	1,500	2.70	40.50	40	N/A	1,540	1,640
Form EOIR–40, Application for Suspension of Deportation	600	2.70	16.20	10	N/A	610	710
Form I–821, Application for Temporary Protected Status	500	2.70	13.50	10	N/A	510	510
Form I–601, Application for Waiver of Grounds of Inadmissibility	1,050	2.70	28.35	20	N/A	1,070	2,120
Form EOIR–26, Notice of Appeal from a Decision of an Immigration Judge	900	2.70	24.30	20	N/A	920	1,030
Form EOIR–29, Notice of Appeal to the Board of Immigration Appeals from a Decision of a DHS Officer	900	2.70	24.30	20	N/A	920	1,030
Form EOIR–45, Notice of Appeal from a Decision of an Adjudicating Official in a Practitioner Disciplinary Case	1,325	2.70	35.78	30	N/A	1,355	2,030
Motion to reopen or reconsider a decision of an <i>Immigration Judge</i> —except for motions to reopen an in absentia removal order filed in accordance with INA § 240(b)(5)(C)(ii) and motions to reopen an in absentia deportation order filed in accordance with former INA § 242B(c)(3)(B) (prior to April 1, 1997), filed by an alien	900	2.70	24.30	20	N/A	920	1,065
Motions to reopen or reconsider a decision of the <i>Board of Immigration Appeals</i> filed by an alien	900	2.70	24.30	20	N/A	920	1,030

³ See U.S. Bureau of Labor Statistics, *Consumer Price Index News Release* (July 2025), https://www.bls.gov/news.release/archives/cpi_08122025.htm.

⁴ *Id.*

⁵ This amount does not include any applicable biometrics fees.

III. Effective Date and Implementation

EOIR will require the FY 2026 filing fees established in this notice for any filings with the Immigration Courts or the Board of Immigration Appeals postmarked on or after February 1, 2026. EOIR will reject any filings postmarked on or after February 1, 2026, that are not accompanied by a proper filing fee or request for an applicable fee waiver.

EOIR will update its website and electronic payment portal with the filing fee amounts established in this notice and any future inflationary adjustments.⁶ See, e.g., EOIR, *Types of Appeals, Motions, and Required Fees* (last updated Oct. 22, 2025), <https://www.justice.gov/eoir/types-appeals-motions-and-required-fees>; EOIR, *EOIR Forms* (last updated Nov. 21, 2025), <https://www.justice.gov/eoir/eoir-forms>; EOIR, *EOIR Payment Portal*, <https://epay.eoir.justice.gov/index>. EOIR may codify the fees covered by this notice and annual adjustments in a future rule.

Daren K. Margolin,

Director, Executive Office for Immigration Review, Department of Justice.

[FR Doc. 2026–01012 Filed 1–20–26; 8:45 am]

BILLING CODE 4410–30–P

DEPARTMENT OF LABOR

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Plan Asset Transactions Determined by In-House Asset Managers Under Prohibited Transaction Class Exemption 96–23

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting this Employee Benefits Security Administration (EBSA)-sponsored information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that the agency receives on or before February 20, 2026.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find this particular

information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function.

FOR FURTHER INFORMATION CONTACT: Michael Howell by telephone at 202–693–6782, or by email at DOL_PRA_PUBLIC@dol.gov.

SUPPLEMENTARY INFORMATION:

The Department granted PTE 84–14 (49 FR 9494, as corrected 50 FR 41430), a class exemption that permits various parties in interest (as defined in ERISA section 3(14)) to employee benefit plans to engage in transactions involving plan assets if, among other conditions, the assets are managed by a “qualified professional asset manager” (QPAM), but still did not provide relief for transactions involving the assets of plans managed by an in-house asset manager. The Department granted PTE 96–23 (61 FR 15975), Class Exemption for Plan Asset Transactions Determined by In-House Asset Managers. The class exemption permits various parties in interest to employee benefit plans to engage in transactions involving plan assets if, among other requirements, the assets are managed by an in-house asset manager (INHAM).

PTE 96–23 contains requirements for written guidelines between an INHAM and a property manager that an INHAM has retained to act on its behalf. The information collection requirements consist of the requirements that the INHAM develop written policies and procedures designed to assure compliance with the conditions of the exemption and have an independent auditor conduct an annual INHAM exemption audit and issue an audit report to each plan. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on July 11, 2025 (90 FR 30984).

Comments are invited on: (1) whether the collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (2) the accuracy of the agency’s estimates of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection

of information, and the public is generally not required to respond to an information collection, unless the OMB approves it and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid OMB Control Number. See 5 CFR 1320.5(a) and 1320.6.

DOL seeks PRA authorization for this information collection for three (3) years. OMB authorization for an ICR cannot be for more than three (3) years without renewal. The DOL notes that information collection requirements submitted to the OMB for existing ICRs receive a month-to-month extension while they undergo review.

Agency: DOL–EBSA.

Title of Collection: Plan Asset Transactions Determined by In-House Asset Managers under Prohibited Transaction Class Exemption 96–23.

OMB Control Number: 1210–0145.

Affected Public: Private sector.

Total Estimated Number of Respondents: 20.

Total Estimated Number of Responses: 20.

Total Estimated Annual Time Burden: 940 hours.

Total Estimated Annual Other Costs Burden: \$560,000.

(Authority: 44 U.S.C. 3507(a)(1)(D))

Michael Howell,

Senior Paperwork Reduction Act Analyst.

[FR Doc. 2026–01015 Filed 1–20–26; 8:45 am]

BILLING CODE 4510–29–P

NATIONAL CREDIT UNION ADMINISTRATION

Sunshine Act Meetings

TIME AND DATE: 10:00 a.m., Thursday, January 22, 2026.

PLACE: Board Room, 7th Floor, Room 7B, 1775 Duke Street (All visitors must use Diagonal Road Entrance), Alexandria, VA 22314–3428.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Board Briefing, NCUA Rules and Regulations, Part 701, Dependent Care and Board Member Expense Reimbursement.

2. Board Briefing, Central Liquidity Facility’s 2026–2027 Budget. (The NCUA Board, in its capacity as the Central Liquidity Facility Board).

⁶ The fee amount for each type of application, appeal, motion or other form is reflected on the EOIR Payment Portal, which includes options to pay based on which fee amount was operative at the time of filing.

CONTACT PERSON FOR MORE INFORMATION: Melane Conyers-Ausbrooks, Secretary of the Board, Telephone: 703-518-6304.

Melane Conyers-Ausbrooks,
Secretary of the Board.

[FR Doc. 2026-01035 Filed 1-16-26; 11:15 am]

BILLING CODE 7535-01-P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2026-150 and K2026-150]

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 26, 2026.

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:

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- I. Introduction
- II. Public Proceeding(s)
- III. Summary Proceeding(s)

I. Introduction

Pursuant to 39 CFR 3041.405, the Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to Competitive negotiated service agreement(s). The request(s) may propose the addition of a negotiated service agreement from the Competitive product list or the modification of an existing product currently appearing on the Competitive product list.

The public portions of the Postal Service's request(s) can be accessed via the Commission's website (<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

Section II identifies the docket number(s) associated with each Postal Service request, if any, that will be reviewed in a public proceeding as defined by 39 CFR 3010.101(p), the title of each such request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each such request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 and 39 CFR 3000.114 (Public Representative). The Public Representative does not represent any individual person, entity or particular point of view, and, when Commission attorneys are appointed, no attorney-client relationship is established. Section II also establishes comment deadline(s) pertaining to each such request.

The Commission invites comments on whether the Postal Service's request(s) identified in Section II, if any, are consistent with the policies of title 39. Applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3035, and 39 CFR part 3041. Comment deadline(s) for each such request, if any, appear in Section II.

Section III identifies the docket number(s) associated with each Postal Service request, if any, to add a standardized distinct product to the Competitive product list or to amend a standardized distinct product, the title of each such request, the request's acceptance date, and the authority cited by the Postal Service for each request. Standardized distinct products are negotiated service agreements that are variations of one or more Competitive products, and for which financial models, minimum rates, and classification criteria have undergone advance Commission review. *See* 39 CFR 3041.110(n); 39 CFR 3041.205(a). Such requests are reviewed in summary proceedings pursuant to 39 CFR 3041.325(c)(2) and 39 CFR 3041.505(f)(1). Pursuant to 39 CFR 3041.405(c)-(d), the Commission does not appoint a Public Representative or request public comment in proceedings to review such requests.

II. Public Proceeding(s)

1. *Docket No(s):* MC2026-150 and K2026-150; *Filing Title:* USPS Request to Add Priority Mail Express, Priority Mail & USPS Ground Advantage Contract 1478 to the Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance*

Date: January 15, 2026; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3035.105, and 39 CFR 3041.310; *Public Representative:* Christopher Mohr; *Comments Due:* January 26, 2026.

III. Summary Proceeding(s)

None. See Section II for public proceedings.

This Notice will be published in the **Federal Register**.

Danielle LeFlore,

Alternate Federal Register Liaison.

[FR Doc. 2026-01071 Filed 1-20-26; 8:45 am]

BILLING CODE 7710-FW-P

POSTAL REGULATORY COMMISSION

[Docket No. CP2023-275]

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, 2026.

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:

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- I. Introduction
- II. Public Proceeding(s)
- III. Summary Proceeding(s)

I. Introduction

Pursuant to 39 CFR 3041.405, the Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to Competitive negotiated service agreement(s). The request(s) may propose the addition of a negotiated service agreement from the Competitive product list or the modification of an existing product currently appearing on the Competitive product list.

¹ See Docket No. RM2018-3, Order Adopting Final Rules Relating to Non-Public Information,

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

Section II identifies the docket number(s) associated with each Postal Service request, if any, that will be reviewed in a public proceeding as defined by 39 CFR 3010.101(p), the title of each such request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each such request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 and 39 CFR 3000.114 (Public Representative). The Public Representative does not represent any individual person, entity or particular point of view, and, when Commission attorneys are appointed, no attorney-client relationship is established. Section II also establishes comment deadline(s) pertaining to each such request.

The Commission invites comments on whether the Postal Service's request(s) identified in Section II, if any, are consistent with the policies of title 39. Applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3035, and 39 CFR part 3041. Comment deadline(s) for each such request, if any, appear in Section II.

Section III identifies the docket number(s) associated with each Postal Service request, if any, to add a standardized distinct product to the Competitive product list or to amend a standardized distinct product, the title of each such request, the request's acceptance date, and the authority cited by the Postal Service for each request. Standardized distinct products are negotiated service agreements that are variations of one or more Competitive products, and for which financial models, minimum rates, and classification criteria have undergone advance Commission review. See 39 CFR 3041.110(n); 39 CFR 3041.205(a). Such requests are reviewed in summary proceedings pursuant to 39 CFR 3041.325(c)(2) and 39 CFR 3041.505(f)(1). Pursuant to 39 CFR 3041.405(c)–(d), the Commission does not appoint a Public Representative or

request public comment in proceedings to review such requests.

II. Public Proceeding(s)

1. *Docket No(s)*: CP2023–275; *Filing Title*: USPS Request Concerning Priority Mail & USPS Ground Advantage Contract 57, with Material Filed Under Seal; *Filing Acceptance Date*: January 14, 2026; *Filing Authority*: 39 CFR 3035.105, and 39 CFR 3041.505; *Public Representative*: Kenneth Moeller; *Comments Due*: January 23, 2026.

III. Summary Proceeding(s)

None. See Section II for public proceedings.

This Notice will be published in the **Federal Register**.

Danielle LeFlore,

Alternate Federal Register Liaison.

[FR Doc. 2026–01011 Filed 1–20–26; 8:45 am]

BILLING CODE 7710–FW–P

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review, Request for Comments

Summary: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Railroad Retirement Board (RRB) is forwarding an Information Collection Request (ICR) to the Office of Information and Regulatory Affairs (OIRA), Office of Management and Budget (OMB). Our ICR describes the information we seek to collect from the public. Review and approval by OIRA ensures that we impose appropriate paperwork burdens.

The RRB invites comments on the proposed collections of information to determine (1) the practical utility of the collections; (2) the accuracy of the estimated burden of the collections; (3) ways to enhance the quality, utility, and clarity of the information that is the subject of collection; and (4) ways to minimize the burden of collections on respondents, including the use of automated collection techniques or other forms of information technology. Comments to the RRB or OIRA must contain the OMB control number of the ICR. For proper consideration of your comments, it is best if the RRB and OIRA receive them within 30 days of the publication date.

1. *Title and purpose of information collection*: Employer Reporting; 3220–0005.

Under Section 9 of the Railroad Retirement Act (RRA), and Section 6 of the Railroad Unemployment Insurance Act (RUIA), railroad employers are required to submit reports of employee

service and compensation to the RRB as needed for administering the RRA and RUIA. To pay benefits due on a deceased employee's earnings records or determine entitlement to, and amount of annuity applied for, it is necessary at times to obtain from railroad employers current (lag) service and compensation not yet reported to the RRB through the annual reporting process. The reporting requirements are specified in 20 CFR 209.6 and 209.7.

The RRB currently utilizes the following forms to collect information to obtain the required lag service and related information from railroad employers: Form AA–12, *Notice of Death and Request for Service Needed for Eligibility*, Form G–88A.1 (or its internet equivalent, Form G–88A.1 (Internet)), *Request for Verification of Date Last Worked*, and Form G–88A.2 (or its internet equivalent, Form G–88A.2 (Internet)), *Notice of Retirement and Request for Service Needed for Eligibility*. Form AA–12 obtains a report of lag service and compensation from the last railroad employer of a deceased employee. This report covers the lag period between the date of the latest record of employment processed by the RRB and the date an employee last worked, the date of death or the date the employee may have been entitled to benefits under the Social Security Act. The information is used by the RRB to determine benefits due on the deceased employee's earnings record. Form G–88A.1 is sent by the RRB via a computer-generated listing or transmitted electronically via the RRB's Employer Reporting System (ERS) to employers. ERS consists of a series of screens with completion instructions and collects essentially the same information as the approved manual version. Form G–88A.1 is used for the specific purpose of verifying information previously provided to the RRB regarding the date last worked by an employee. If the information is correct, the employer need not reply. If the information is incorrect, the employer is asked to provide corrected information. Form G–88A.2 is used by the RRB to secure lag service and compensation information when it is needed to determine benefit eligibility.

In addition, 20 CFR 209.12(b) requires all railroad employers to furnish the RRB with the home addresses of all employees hired within the last year (new-hires). Form BA–6a, *Form BA–6 Address Report* (or its internet equivalent, Form BA–6a (Internet)) is used by the RRB to obtain home address information of employees from railroad employers who do not have the home address information computerized and

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).

who submit the information in a paper format. The form also serves as an instruction sheet to railroad employers who submit the information electronically by CD-ROM. Completion of the forms is mandatory. Multiple responses may be filed by respondent.

Previous Requests for Comments: The RRB has already published the initial 60-day notice (90 FR 52714 on November 21, 2025) required by 44 U.S.C. 3506(c)(2). That request elicited no comments.

Information Collection Request (ICR)

Title: Employer Reporting.
OMB Control Number: 3220-0005.
Form(s) submitted: AA-12, G-88A.1, G-88A.1 (Internet), G-88A.2, G-88A.2 (Internet), BA-6a, BA-6a (Internet), and BA-6a (Email).

Type of request: Revision of a currently approved collection of information.

Affected public: Private sector; Businesses or other for-profits.

Abstract: Under the Railroad Retirement Act and the Railroad

Unemployment Insurance Act, railroad employers are required to report service and compensation for employees needed to determine eligibility to and the amounts of benefits paid.

Changes proposed: The RRB proposes no changes to Forms AA-12, BA-6a, BA-6a (Email), BA-6a (Internet), G-88A.1, G-88A.1 (Internet), G-88A.2 and G-88A.2 (Internet).

The burden estimate for the ICR is as follows:

Form No.	Annual responses	Time (minutes)	Burden (hours)
AA-12	60	5	5
G-88A.1	100	5	8
G-88A.1 Internet	400	4	27
G-88A.2	100	5	8
G-88A.2 (Internet)	1,200	2.5	50
BA-6a Internet (RR initiated)	250	17	71
BA-6a Internet (RRB initiated)	250	12	50
BA-6a (Electronic Equivalents to include secure email and File Transfer Protocol)	20	15	5
BA-6a Paper (RRB initiated)	250	32	133
Total	2,630	.....	357

2. Title and purpose of information collection: Survivor Questionnaire; OMB 3220-0032.

Under Section 6 of the Railroad Retirement Act (RRA), benefits that may be due on the death of a railroad employee or a survivor annuitant include (1) a lump-sum death benefit (2) a residual lump-sum payment (3) accrued annuities due but unpaid at death, and (4) monthly survivor insurance payments. The requirements for determining the entitlement of possible beneficiaries to these benefits are prescribed in 20 CFR 234.

When the RRB receives notification of the death of a railroad employee or survivor annuitant, an RRB field office

utilizes Form RL-94-F, Survivor Questionnaire, to secure additional information from surviving relatives needed to determine if any further benefits are payable under the RRA. Completion is voluntary. One response is requested of each respondent.

Previous Requests for Comments: The RRB has already published the initial 60-day notice (90 FR 52715 on November 21, 2025) required by 44 U.S.C. 3506(c)(2). That request elicited no comments.

Information Collection Request (ICR)

Title: Survivor Questionnaire.
OMB Control Number: 3220-0032.
Form(s) submitted: RL-94-F.

Type of request: Revision of a currently approved collection.

Affected public: Individuals or Households.

Abstract: Under Section 6 of the Railroad Retirement Act, benefits are payable to the survivors or the estates of deceased railroad employees. The collection obtains information used to determine if and to whom benefits are payable; such as a widow(er) due survivor benefits, an executor of the estate, or a payer of burial expenses.

Changes proposed: The RRB proposes no changes to Form RL-94-F.

The burden estimate for the ICR is as follows:

Form No.	Annual responses	Time (minutes)	Burden (hours)
RL-94-F, Items 5-10, and 18	50	9	8
RL-94-F, Items 5-18	5,000	11	917
RL-94-F, Item 18 only	400	5	34
Total	5,450	.....	959

3. Title and Purpose of information collection: Request for Medicare Payment; OMB 3220-0131.

Under Section 7(d) of the Railroad Retirement Act, the RRB administers the Medicare program for persons covered by the railroad retirement system. The collection obtains the information needed by Palmetto GBA, the Medicare carrier for railroad retirement

beneficiaries, to pay claims for payments under Part B of the Medicare program. Authority for collecting the information is prescribed in 42 CFR 424.32.

The RRB currently utilizes Forms G-740S, Patient's Request for Medicare Payment, along with Centers for Medicare & Medicaid Services Form CMS-1500, to secure the information

necessary to pay Part B Medicare Claims. Completion is required to obtain a benefit. One response is completed for each claim.

Previous Requests for Comments: The RRB has already published the initial 60-day notice (90 FR 52715 on November 21, 2025) required by 44 U.S.C. 3506(c)(2). That request elicited no comments.

Information Collection Request (ICR)

Title: Request for Medicare Payment.
OMB Control Number: 3220–0131.
Form(s) submitted: CMS–1500 and G–740S.

Type of request: Revision of a currently approved collection.

Affected public: Individuals or Households.

Abstract: The RRB administers the Medicare program for persons covered by the Railroad Retirement System. The collection obtains the information needed by Palmetto GBA, the RRB's

carrier, to pay claims for services covered under Part B of the program.

Changes proposed: The RRB proposes no changes to Form G–740S.

The burden estimate for the ICR is as follows:

Form No.	Annual responses	Time (minutes)	Burden (hours)
G–740S	1	0	1

4. Title and purpose of information collection: Employer's Deemed Service Month Questionnaire; OMB 3220–0156.

Section 3(i) of the Railroad Retirement Act (RRA), as amended by Public Law 98–76, provides that the Railroad Retirement Board (RRB), under certain circumstances, may deem additional months of service in cases where an employee does not actually work in every month of the year, provided the employee satisfies certain eligibility requirements, including the existence of an employment relation between the employee and his or her employer. The procedures pertaining to the deeming of additional months of service are found in the RRB's regulations at 20 CFR 210, Creditable Railroad Service.

The RRB utilizes Form GL–99, Employer's Deemed Service Months Questionnaire, to obtain service and compensation information from railroad employers to determine if an employee can be credited with additional deemed months of railroad service. Completion is mandatory. One response is required for each RRB inquiry.

Previous Requests for Comments: The RRB has already published the initial 60-day notice (90 FR 52715 on November 21, 2025) required by 44 U.S.C. 3506(c)(2). That request elicited no comments.

Information Collection Request (ICR)

Title: Employer's Deemed Service Month Questionnaire.

OMB Control Number: 3220–0156.

Form(s) submitted: GL–99.

Type of request: Revision of a currently approved collection.

Affected public: Private Sector; Businesses or other for-profits.

Abstract: Under Section 3(i) of the Railroad Retirement Act, the Railroad Retirement Board may deem months of service in cases where an employee does not actually work in every month of the year. The collection obtains service and compensation information from railroad employers needed to determine if an employee may be credited with additional months of railroad service.

Changes proposed: The RRB proposes no changes to Form GL–99.

The burden estimate for the ICR is as follows:

Form No.	Annual responses	Time (minutes)	Burden (hours)
GL–99	2,000	2	67

Additional Information or Comments: Copies of the forms and supporting documents or comments regarding the information collection should be addressed to Brian Foster, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–1275 or emailed to Brian.Foster@rrb.gov.

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.

Brian Foster,

Clearance Officer.

[FR Doc. 2026–01024 Filed 1–20–26; 8:45 am]

BILLING CODE 7905–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 35824A; File No. 812–15775]

TCW Direct Lending VIII LLC, et al.

January 15, 2026.

AGENCY: Securities and Exchange Commission ("Commission" or "SEC").
ACTION: Notice.

Notice of application for an order under sections 12(d)(1)(J), 57(c), 57(i) and 60 of Investment Company Act of 1940 (the "Act") and rule 17d–1 under the Act to permit certain joint transactions otherwise prohibited by sections 12(d)(1)(A), 12(d)(1)(C), 57(a)(1), 57(a)(2) and 57(a)(4) of the Act and rule 17d–1 under the Act.

SUMMARY OF APPLICATION: Applicants seek an order to permit the Company (i) to conduct an exchange offer pursuant to which investors in the Company ("Unitholders"), including certain directors and officers of the Company and employees of TCW LLC, an affiliate

of TAMCO, (collectively, the "TCW Directors, Officers and Employees"), may elect to exchange all or a portion of their units in the Company ("Units") for an equivalent number of shares ("Shares") in the Extension Fund (each such Unitholder, an "Electing Unitholder"), and (ii) to transfer to the Extension Fund a pro rata portion of the Company's assets and liabilities, including a pro rata portion of each of the Company's portfolio investments, in proportion to the percentage of Units tendered and accepted for exchange.¹

APPLICANTS: TCW Direct Lending VIII LLC (the "Company"), TCW Specialty Lending LLC (the "Extension Fund"), and TCW Asset Management Company LLC ("TAMCO").

FILING DATES: The application was filed on May 2, 2025, and amended on December 12, 2025.

¹ The Commission issued a notice of application on December 16, 2025, Release No. IC–35824. This Amended Notice corrects the name of the Extension Fund.

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 Commission's Secretary at Secretarys-Office@sec.gov and serving the Applicants with a copy of the request by email, if an email address is listed for the relevant Applicant below, or personally or by mail, if a physical address is listed for the relevant Applicant below. Hearing requests should be received by the Commission by 5:30 p.m. on February 5, 2026, and should be accompanied by proof of service on the Applicants, in the form of an affidavit, or, for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by emailing the Commission's Secretary at Secretarys-Office@sec.gov.

ADDRESSES:

The Commission: Secretarys-Office@sec.gov.

Applicants: Andrew Bowden, Esq., Executive Vice President and General Counsel, The TCW Group, Inc.: 515 South Flower Street, Los Angeles, California 90071.

FOR FURTHER INFORMATION CONTACT: Toyin Momoh, Senior Counsel, or Thomas Ahmadifar, Branch Chief, at (202) 551–6825 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: For Applicants' representations, legal analysis, and conditions, please refer to Applicants' first amended application, dated December 12, 2025, which may be obtained via the Commission's website by searching for the file number at the top of this document, or for an Applicant using the Company name search field, on the SEC's EDGAR system. The SEC's EDGAR system may be searched at <https://www.sec.gov/edgar/search/>. You may also call the SEC's Office of Investor Education and Advocacy at (202) 551–8090.

For the Commission, by the Division of Investment Management, under delegated authority.

J. Matthew DeLesDernier,
Deputy Secretary.

[FR Doc. 2026–01014 Filed 1–20–26; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–104620; File No. SR–CboeEDGX–2025–072]

Self-Regulatory Organizations; Cboe EDGX Exchange, Inc.; Notice of Filing of a Proposed Rule Change To Modify Rule 11.21 To Adopt a Retail Price Improvement Program and Modify Rule 11.6(e)(2) and Rule 11.10(a)(4)(C)–(D) in Order To Describe the Behavior of Orders Containing a Non-Displayed Instruction

January 15, 2026.

On September 30, 2025, Cboe EDGX Exchange, Inc. (“Exchange” or “EDGX”) filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”),¹ and Rule 19b–4 thereunder,² a proposed rule change to modify Rule 11.21 to adopt a Retail Price Improvement program (“Retail Price Improvement Program”). The Exchange also proposes to modify Rule 11.6(e)(2) and Rule 11.10(a)(4)(C)–(D) in order to describe the behavior of orders containing a “Non-Displayed” instruction. The proposed rule change was published for comment in the **Federal Register** on October 3, 2025.³ On November 3, 2025, pursuant to Section 19(b)(2) of the Act,⁴ the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change.⁵ On December 19, 2025, the Commission instituted proceedings pursuant to Section 19(b)(2)(B) of the Act,⁶ to determine whether to approve or disapprove the proposed rule change.⁷ On December 22, 2025, the Exchange filed Amendment No. 1 to the proposed rule change. On January 8, 2026, the Exchange withdrew Amendment No. 1 and filed Amendment No. 2 to the proposed rule change. On January 12, 2026, the Exchange withdrew Amendment No. 2 and filed

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.

³ See Securities Exchange Act Release No. 104153 (Sept. 30, 2025), 90 FR 48098 (Oct. 3, 2025) (“Notice”). The Commission has not received any comments on the proposed rule change.

⁴ 15 U.S.C. 78s(b)(2).

⁵ See Securities Exchange Act Release No. 104173 (Nov. 3, 2025), 90 FR 51424 (Nov. 17, 2025) (designating January 1, 2026, as the date by which the Commission shall either approve, disapprove, or institute proceedings to determine whether to disapprove the proposed rule changes).

⁶ 15 U.S.C. 78s(b)(2)(B).

⁷ See Securities Exchange Act Release No. 104470 (Dec. 19, 2025), 90 FR 60784 (Dec. 29, 2025).

Amendment No. 3 to the proposed rule change.⁸ The Commission is publishing this notice to solicit comments on the proposed rule change, as amended by Amendment No. 3, from interested persons. Items I and II below have been prepared by the Exchange.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe EDGX Exchange, Inc. (the “Exchange” or “EDGX”) is filing with the Securities and Exchange Commission (“Commission”) a proposal to modify Rule 11.21 to adopt a Retail Price Improvement program. The Exchange also proposes to modify Rule 11.6(e)(2) and Rule 11.10(a)(4)(C)–(D) in order to describe the behavior of orders containing a Non-Displayed instruction. This Amendment No. 3 to SR–CboeEDGX–2025–072 supersedes and replaces in its entirety Amendment No. 2 to SR–CboeEDGX–2025–072, which was filed on January 8, 2026, and withdrawn on January 12, 2026. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Commission's website (<https://www.sec.gov/rules/sro.shtml>), the Exchange's website (https://www.cboe.com/us/equities/regulation/rule_filings/bzx/), and at the principal office of the Exchange.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

This Amendment No. 3 to SR–CboeEDGX–2025–072 supersedes and replaces in its entirety Amendment No. 2 to SR–CboeEDGX–2025–072, which was filed on January 8, 2026, and

⁸ Amendment No. 3 is publicly available on the Commission's website at: <https://www.sec.gov/comments/sr-cboeedgx-2025-072/srcboeedgx2025072-690827-2158314.pdf>.

withdrawn on January 12, 2026. The Exchange submits this Amendment No. 3 in order to clarify certain points regarding the behavior of orders containing a Non-Displayed instruction and provide additional detail regarding the proposed Retail Price Improvement program on the Exchange.

The Exchange proposes to amend Rule 11.21 to adopt a Retail Price Improvement Program on the Exchange (the “EDGX RPI Program”) for the benefit of retail investors. As described in greater detail below, the purpose of the EDGX RPI Program would be to attract retail order flow to the Exchange and allow such Retail Orders⁹ to receive potential price improvement at least \$0.001 better than the Protected NBB¹⁰ (for buy orders) or Protected NBO¹¹ (for sell orders) in securities priced at or above \$1.00.¹² Rule 11.21 is currently titled Retail Orders and allows a certain class of Members known as Retail Member Organizations (“RMOs”) to submit Retail Orders to the Exchange and designate that Retail Orders be identified as Retail on the EDGX Book Feed.¹³

The proposed EDGX RPI Program is structured similarly to the retail liquidity programs (“RLPs”) offered by the Exchange’s affiliate, Cboe BYX Exchange, Inc. (“BYX”), as well as retail liquidity programs offered by competitor exchanges such as the New York Stock Exchange (“NYSE”), NYSE

National, Inc. (“NYSE National”), Nasdaq BX, Inc. (“Nasdaq BX”) and Investors Exchange LLC (“IEX”).¹⁴ The proposed EDGX RPI Program will be structured similarly to other retail liquidity programs offered by the Exchange’s various affiliated equities exchanges and competitor exchanges. However, a substantive difference between the Exchange’s program and programs offered by the Exchange’s affiliate or competitor exchanges is that Retail Orders entered on the Exchange may be entered with a time-in-force other than Immediate-or-Cancel (“IOC”).¹⁵ As Retail Orders may be entered with a time-in-force other than IOC, Retail Orders will be allowed to post to the EDGX Book¹⁶ or route to away trading centers according to User instructions. In addition, the proposed Retail Price Improvement Order will only be eligible to execute against incoming Retail Orders and will not be eligible to remove resting Retail Orders from the EDGX Book. Further, Users will have the ability to enter the proposed Retail Price Improvement Order as a MidPoint Peg Order as described in Rule 11.8(d).

Background

The Commission has long recognized that U.S. capital markets should be structured with the interests of retail investors in mind.¹⁷ In response, exchanges have created various offerings to provide retail investors with benefits not afforded to other market participants. As noted by the Commission, the great majority of marketable orders of retail investors continue to be sent to wholesalers,¹⁸ even with the presence of RLPs offered by other national securities exchanges,¹⁹

including the Exchange’s affiliate, BYX.²⁰ Indeed, as noted in the Commission’s 2022 rule proposal related to minimum pricing increments, RLPs have not yet attracted a significant volume of retail order flow.²¹ In fact, since RLPs have been adopted, the percentage of on-exchange share volume has continued to decrease from approximately 71% to approximately 49% as of December 2024.²²

The Exchange has established itself as a venue that seeks to provide a positive experience for orders submitted on behalf of retail investors. Currently, EDGX offers Retail Priority, which changes the order allocation priority model from price-time priority to a price-retail priority-time priority model.²³ Retail Priority was designed to improve execution quality and trading outcomes for Retail Orders and RMOs by reducing their time to execution. Under the Retail Priority program, a displayed limit order designated with Retail Priority will be given queue priority over same-priced orders submitted on EDGX.²⁴ In addition to its Retail Priority offering, the Exchange also provides pricing incentives including low cost remove by Retail Orders and premium rebates for retail order flow on the Exchange.²⁵ Further, the Exchange provides a Retail Membership Program, which offers up to 18 months of discounted market data fees and connectivity as well as premium rebates for RMOs.²⁶

The Exchange believes that its current product offerings aimed at providing

bid or protected best offer. See also NYSE National Retail Liquidity program, which seeks to attract retail order flow to the Exchange through the potential of price improvement at the midpoint or better. Available at <https://www.nyse.com/markets/liquidity-programs>. See also IEX Retail Program, which incentivizes midpoint liquidity for retail orders through the use of retail liquidity provider orders. Available at <https://www.iexexchange.io/products/retail-program>. See also Nasdaq BX Retail Price Improvement, which allows retail orders to interact with price-improving liquidity. Available at <https://www.nasdaqtrader.com/content/BXRPfjs.pdf>.

²⁰ See Securities Exchange Act Release No. 87154 (September 30, 2019), 84 FR 53183 (October 4, 2019), SR-CboeBYX-2019-014 (“BYX RPI Approval Order”).

²¹ See Securities Exchange Act Release No. 96494 (December 14, 2022), 87 FR 80266 (December 29, 2022) (“Tick Size Proposal”) at 80273.

²² Source: Cboe internal data.

²³ See Exchange Rule 11.9(a)(2)(A) and Exchange Rule 11.9, Interpretations and Policies. See also “Cboe Retail Priority” available at: <https://www.cboe.com/us/equities/offerings/retail-priority/>.

²⁴ *Id.*

²⁵ See EDGX Equities Fee Schedule, Fee Codes, available at: https://www.cboe.com/us/equities/membership/fee_schedule/edgx/.

²⁶ See Cboe Retail Membership Program, available at: <https://www.cboe.com/us/equities/trading/offerings/retail-membership-program/>.

⁹ See Exchange Rule 11.21(a)(2). A “Retail Order” is an agency or riskless principal order that meets the criteria of FINRA Rule 5320.03 that originates from a natural person and is submitted to the Exchange by a Retail Member Organization, provided that no change is made to the terms of the order with respect to price or side of market and the order does not originate from a trading algorithm or any other computerized methodology. The Exchange notes that it has filed a separate proposal to amend the definition of Retail Order that would permit an RMO to enter a Retail Order in a principal capacity, but the proposed changes in the Retail Order Definition Proposal do not affect the Exchange’s proposed changes to Rule 11.21(a)(2) for the introduction of the RPI Program. See Securities Exchange Act Release No. 103182 (June 4, 2025), 90 FR 24476 (June 10, 2025), SR-CboeEDGX-2025-035 (“Retail Order Definition Proposal”).

¹⁰ See Exchange Rule 1.5(u). The term “Protected Bid” shall mean a bid in a stock that is (i) displayed by an automated trading center; (ii) disseminated pursuant to an effective national market system plan; and (iii) an automated quotation that is the best bid of a national securities exchange or association.

¹¹ See Exchange Rule 1.5(u). The term “Protected Offer” shall mean an offer in a stock that is (i) displayed by an automated trading center; (ii) disseminated pursuant to an effective national market system plan; and (iii) an automated quotation that is the best offer of a national securities exchange or association.

¹² As discussed, *infra*, the proposed Program will not apply to securities priced below \$1.00.

¹³ See Exchange Rule 13.8 for a description of the available EDGX Book Feeds.

¹⁴ See *infra* notes 41–44.

¹⁵ See Exchange Rule 11.6(q)(1). Immediate-or-Cancel (“IOC”) is an instruction the User may attach to an order stating the order is to be executed in whole or in part as soon as such order is received. The portion not executed immediately on the Exchange or another trading center is treated as cancelled and is not posted to the EDGX Book. An order with an IOC instruction that does not include a Book Only instruction and that cannot be executed in accordance with Rule 11.10(a)(4) on the System when reaching the Exchange will be eligible for routing away pursuant to Rule 11.11.

¹⁶ See Exchange Rule 1.5(d). The term “EDGX Book” shall mean the System’s electronic file of orders.

¹⁷ See U.S. Securities and Exchange Commission, Strategic Plan, Fiscal Years 2018–2022, available at https://www.sec.gov/files/SEC_Strategic_Plan_FY18-FY22_FINAL_0.pdf.

¹⁸ See Securities Exchange Act Release No. 96495 (December 14, 2022), 88 FR 128 (January 3, 2023) (“Order Competition Rule”) at 144.

¹⁹ See, e.g., NYSE Retail Liquidity program, which promotes cost savings through price improvement for individual investors provided by retail liquidity providers that submit non-displayed interest priced better than the best protected best

higher execution quality for retail investors can be further augmented. Accordingly, the Exchange now seeks to introduce an RPI Program on EDGX in order to provide an additional, lit market on which retail investors can submit order flow with the potential for price improvement. As proposed, the EDGX RPI Program will offer RMOs the ability to submit Retail Orders to the Exchange. Users²⁷ will be permitted to provide potential price improvement for Retail Orders in the form of non-displayed interest that is priced higher than the Protected NBB (for buy orders) or lower than the Protected NBO (for sell orders). While the proposed EDGX RPI Program will function similarly to the RPI Program on the Exchange's affiliate, BYX,²⁸ and the retail liquidity programs of other exchanges, certain differences, including the ability for Retail Orders to post to the EDGX Book and route away from the Exchange as well as the inability of a resting RPI Order to remove a resting Retail Order, will make the EDGX RPI Program a unique offering for retail order flow.

Proposal

Proposed Rule 11.21 (Retail Price Improvement Program); Proposed Rule 11.21(a) (Definitions)

Rule 11.21 is currently titled "Retail Orders" and sets forth in the following subparagraphs: (a) the definitions of RMO and Retail Order, (b) the qualification and application process for becoming an RMO, (c) the failure of an RMO to abide by Retail Order requirements, (d) appeals of disapproval or disqualification, (e) order designation, and (f) attribution. The Exchange proposes to amend the title of Rule 11.21 from "Retail Orders" to "Retail Price Improvement Program." Next, the Exchange proposes to amend Rule 11.21(a)(2) to add a sentence at the end of the current rule text that provides that a Retail Order shall operate in accordance with proposed Rule 11.21(f).

The Exchange next proposes to introduce proposed Rule 11.21(a)(3) to define a Retail Price Improvement Order, as described below.²⁹

- A "Retail Price Improvement Order" or "RPI Order" consists of non-displayed interest on the Exchange that is eligible to interact with incoming Retail Orders and that is identified by the Retail Liquidity Identifier described in paragraph (e) below. To be executable, an RPI Order for a security priced at or above \$1.00 must be priced at least \$0.001 better than the Protected NBB or Protected NBO and may be priced in \$0.001 increments (*e.g.*, \$10.001). An RPI Order may not be entered in securities priced below \$1.00. An RPI Order is ineligible to execute at prices equal to or inferior to the Protected NBB (for buy orders) or Protected NBO (for sell orders). An RPI Order that is ineligible to execute because it is priced equal to or inferior to the Protected NBB or Protected NBO will not be canceled and will become eligible to execute against incoming Retail Orders should the RPI Order become priced better than the Protected NBB (for buy orders) or Protected NBO (for sell orders) at a later time. An incoming RPI Order will not be eligible to interact with a resting Retail Order on the EDGX Book and upon entry will post to the EDGX Book to execute against later-arriving Retail Orders.

- An RPI Order may be entered as a limit order, in a sub-penny increment with an explicit limit price, as a MidPoint Peg Order (as defined in Rule 11.8(d)) (an "RPI MidPoint Peg Order"), or as a Primary Peg Order (as defined in Rule 11.6(j)(2)). An RPI Order that is also a Primary Pegged Order ("RPI Primary Pegged Order") must be entered with a positive (for buy orders) or negative (for sell orders) offset ("Offset Amount"). The ranked price of an RPI Primary Pegged Order is the price that results after application of the Offset Amount, as described in Rule 11.6(j)(2). An RPI Primary Pegged Order may have its Offset Amount entered in pricing increments of \$0.001. An RPI MidPoint Peg Order and an RPI Primary Pegged Order will not execute during a locked market.

- The System³⁰ will monitor whether RPI Orders, adjusted by any Offset Amount and subject to the limit price, are eligible to interact with incoming Retail Orders. An RPI Order remains non-displayed in its entirety, including any applicable Offset Amount and the limit price. Any User is permitted, but

not required, to submit an RPI Order. An RPI Order may be an odd lot, round lot, or mixed lot. An RPI Order may be entered as a Post Only or Book Only order and is not eligible for routing.

Proposed Rule 11.21(a)(3) is largely identical to the proposed definition of RPI Order in the Exchange's recent filing to introduce an Enhanced RPI Order to the BYX RPI Program.³¹ Notably, proposed Rule 11.21(a)(3) differs from the proposed definition of RPI Order in the BYX Enhanced RPI Proposal as it permits an RPI Order to be entered with a MidPoint Peg Order instruction, which is not contemplated on BYX. The MidPoint Peg Order instruction will be optional, and not required for Users of RPI Orders. The Exchange has included examples below to describe how RPI MidPoint Peg Orders will function.

Example 1

- Protected NBBO for security ABC is \$10.00 × \$10.05.
- User 1 enters displayed limit order to buy ABC at \$10.00 for 100 shares.
- User 2 enters an RPI MidPoint Peg Order to buy ABC at \$10.03 for 100 shares. User 2's RPI MidPoint Peg Order is posted to the EDGX Book and ranked at a price of \$10.025, non-displayed.
- The RPI Indicator is displayed for User 2's RPI MidPoint Peg Order.
- User 3 enters a Retail Order to sell ABC at \$10.00 for 100.
- *Result:* User 3's Retail Order executes against User 2's RPI MidPoint Peg Order at a price of \$10.025. User 2's RPI MidPoint Peg Order has price priority over User 1's displayed limit order pursuant to Exchange Rule 11.9 because it is ranked at \$10.025 while User 1's order has a ranked price of \$10.00. User 3's Retail Order receives \$0.025 of price improvement by executing with User 2's RPI MidPoint Peg Order.

Additionally, the Exchange's proposed definition of RPI Order provides that an RPI Order will not remove a resting Retail Order upon entry, but rather an RPI Order will be posted to the EDGX Book and may only execute against an incoming Retail Order. The Exchange notes that unlike Retail Orders in the current BYX RPI Program,³² the Exchange is proposing to permit Retail Orders to be entered with

²⁷ See Rule 1.5(ee). A "User" is defined as any member or sponsored participant of the Exchange who is authorized to obtain access to the System pursuant to Rule 11.3.

²⁸ See BYX Rule 11.24. The proposed EDGX RPI Program also differs from the current BYX RPI Program in that the EDGX RPI Program is limited to securities priced at or above \$1.00, does not include an Enhanced RPI Order type, and allows for Retail Orders to be entered with any time-in-force.

²⁹ Under the proposed RPI Program, the Exchange would accept and rank RPI Orders in \$0.001 increments. As such, the Exchange plans to submit a request for an exemption under Regulation NMS

Rule 612 that would permit it to accept and rank non-displayed RPI Orders in sub-penny increments.

³⁰ See Rule 1.5(cc). The term "System" shall mean the electronic communications and trading facility designated by the Board through which securities orders of Users are consolidated for ranking, execution and, when applicable, routing away.

³¹ See Securities Exchange Act Release No. 34-102681 (March 14, 2025), 90 FR 13240 (March 20, 2025), SR-CboeBYX-2025-007 ("BYX Enhanced RPI Proposal"). See also Securities Exchange Act Release No. 34-104210 (November 18, 2025), 90 FR 52727 (November 21, 2025) ("BYX Enhanced RPI Approval Order").

³² See BYX Exchange Rule 11.24(a)(2). A Retail Order must be entered with a time-in-force of IOC.

a time-in-force other than Immediate-or-Cancel (“IOC”). As Retail Orders under the EDGX RPI Program would be permitted to have a time-in-force that permits them to post to the EDGX Book or route to away markets, the Exchange believes that not allowing RPI Orders to remove liquidity upon arrival, but rather requiring RPI Orders to post to the EDGX Book would deepen the Exchange’s pool of available liquidity, which provides greater execution opportunities on the Exchange, particularly for Retail Orders. Finally, the Exchange’s proposed definition of RPI Order is limited to use in securities priced at or above \$1.00 (while the definition of RPI Order in the revised BYX RPI Program permits RPI Orders to be entered in all securities, regardless of price).³³ The Exchange has included examples below to describe how RPI Orders will post to the EDGX Book and interact with Retail Orders.

Example 2

- Protected NBBO for security ABC is \$10.00 × \$10.05.
- User 1 enters displayed limit order to buy ABC at \$10.00 for 100 shares.
- User 2 enters an RPI Order to buy ABC at \$10.001 for 100 shares. User 2’s RPI Order is posted to the EDGX Book and ranked at a price of \$10.001, non-displayed.
- The RPI Indicator is displayed for User 2’s RPI Order.
- User 3 enters a Retail Order to sell ABC at \$10.00 for 100.
- *Result:* User 3’s Retail Order executes against User 2’s RPI Order at a price of \$10.001. User 2’s RPI Order has price priority over User 1’s displayed limit order because User 2’s RPI Order is ranked at \$10.001 while User 1’s order is ranked at \$10.00. User 3 received \$0.001 of price improvement by executing with User 2’s RPI Order.

Example 3

- Protected NBBO for security ABC is \$10.00 × \$10.05.
- User 1 enters a Retail Order to sell ABC at \$10.05 for 100.
- User 2 enters an RPI Order to buy ABC at \$10.05 for 100. User 2’s RPI Order is posted to the EDGX Book and ranked at the locking price of \$10.05 with an executable price of \$10.045.³⁴

- The RPI Indicator is displayed for User 2’s RPI Order.
- User 3 enters a Retail Order to sell ABC at \$10.00 for 100.
- *Result:* User 3’s Retail Order executes against User 2’s RPI Order at a price of \$10.045. User 2’s RPI Order is ineligible to execute against User 1’s Retail Order because under proposed Rule 11.21(a)(3) an incoming RPI Order is not eligible to interact with a resting Retail Order on the EDGX Book and upon entry the incoming RPI Order will post to the EDGX Book to execute against later-arriving Retail Orders. As such, User 2’s RPI Order posted to the EDGX Book at the locking price of \$10.05 upon entry pursuant to proposed Rule 11.6(e)(2)(B)(i), discussed *infra*. Pursuant to proposed Rule 11.10(a)(4)(D), discussed *infra*, User 3’s incoming Retail Order was priced more aggressively (\$10.00) than the Locking Price (\$10.05) of a Resting Order (User 2’s RPI Order).³⁵ As such, the Exchange will execute User 2’s RPI Order at one-half minimum price variation less than the Locking Price of \$10.05, which results in an execution against User 3’s later-arriving Retail Order at a price of \$10.045. User 3 received \$0.045 of price improvement by executing with User 2’s RPI Order.

Proposed Rule 11.21(d) (Appeal of Disapproval or Disqualification)

The Exchange next proposes to make two amendments to Rule 11.21(d) (Appeal of Disapproval or Disqualification). First, the Exchange proposes to rename the Retail Attribution Panel described in Rule 11.21(d)(1) as the RPI Panel, to align with the name change of Rule 11.21 from Retail Orders to the Retail Price Improvement Program. The proposed change will ensure that the name of the review panel on the Exchange matches the name of the review panel on the Exchange’s affiliate, BYX, thus causing less confusion for RMOs or RMO applicants seeking to avail themselves of the panel.³⁶ Pursuant to Rule 11.21(d)(2), the proposed RPI Panel shall be made up of the Exchange’s Chief Regulatory Officer (“CRO”), or a designee of the CRO, and two officers of the Exchange designated by the Chief Information Officer (“CIO”). The Exchange now proposes to amend Rule 11.21(d)(2) to change to the Chief Information Officer referenced in the Rule to the Chief Operating Officer. The Exchange notes that it currently does

not have a Chief Information Officer and the corresponding rule of the Exchange’s affiliate, BYX, also references the Chief Operating Officer.³⁷ The Exchange believes this change is necessary in order to maintain continuity between the Exchange and its affiliate as well as reference the appropriate corporate officer responsible for selecting members of the RPI Panel.

Proposed Rule 11.21(e) (Retail Liquidity Identifier)

The Exchange proposes to amend Rule 11.21(e) (currently titled Order Designation) by changing the title to “Retail Liquidity Identifier,” deleting the rule text that describes how an RMO may designate an order as a Retail Order from current Rule 11.21(e), moving the rule text of current Rule 11.21(e) that describes the designation of a Retail Order when routed to an away Trading Center to proposed Rule 11.24(h) (Attribution), and introducing rule text that describes when the Retail Liquidity Identifier for RPI Orders will be displayed.³⁸ The proposed rule text is as follows:

- An identifier shall be disseminated through proprietary data feeds or as appropriate through the Consolidated Quotation System, when an RPI Order with a ranked price at least \$0.001 better than the Protected NBB or Protected NBO for a particular security, is available in the System (“Retail Liquidity Identifier”). The Retail Liquidity Identifier shall reflect the symbol for the particular security and the side (buy or sell) of the RPI Order, but shall not include the price or size of the RPI Order. The Retail Liquidity Identifier will only be disseminated when an RPI Order has a ranked price better than the Protected NBB or Protected NBO and will not disseminate if the price of the Protected NBB or Protected NBO moves such that the ranked price of the RPI Order is no longer priced higher than the Protected NBB or lower than the Protected NBO.

The Exchange notes that its proposed rule text for Rule 11.21(e) is nearly identical to the rule text in the BYX Enhanced RPI Proposal, except that the Exchange is not seeking to introduce an

³³ See BYX Exchange Rule 11.24(h).

³⁴ See proposed Exchange Rule 11.6(e)(2)(B)(i). If the entered limit price of a non-displayed order would lock the EDGX Book, the non-displayed order will be posted on the EDGX Book at the locking price and executed as set forth in proposed Rule 11.10(a)(4). An RPI Order is a non-displayed order and therefore is subject to the behavior described in proposed Exchange Rule 11.6(e)(2)(B)(i).

³⁵ The terms “Locking Price” and “Resting Order” are discussed in the *Non-Displayed Order Behavior* section, discussed *infra*.

³⁶ See BYX Rule 11.24(d)(1).

³⁷ See BYX Rule 11.24(d)(2).

³⁸ The Exchange plans on submitting a letter requesting assurance from staff of the Division of Trading and Markets that it will not recommend enforcement action to the Commission pursuant to Rule 602 of Regulation NMS (the “Quote Rule”) with respect to: (1) the Exchange with respect to collecting, processing, and making available to vendors the best bid, best offer, and quotation sizes communicated by members of the Exchange, or (2) liquidity providers entering RPI Orders under the EDGX RPI Program.

Enhanced RPI Order and will only seek to display the Retail Liquidity Identifier (“RLI”) when an RPI Order, rather than RPI Interest as described in the BYX Enhanced RPI Proposal, is priced better than the Protected NBB or Protected NBO in securities priced at or above \$1.00 by at least \$0.001. The proposed rule text describes that the RLI will be disseminated over the Exchange’s proprietary data feeds and the Consolidated Quotation System when there is an RPI Order priced at least \$0.001 above the Protected NBB or below the Protected NBO in securities priced at or above \$1.00. The RLI will not be disseminated if an RPI Order is priced equal to, below (for buy orders), or above (for sell orders) the Protected NBB or Protected NBO, even if the ranked price of the RPI Order does not change. In the event that the Protected NBB or Protected NBO moves such that a resting RPI Order is again priced above the Protected NBB or below the Protected NBO, the RLI will then be disseminated.

The purpose of the Identifier is to provide relevant market information to RMOs that there are RPI Orders available on the Exchange, thereby incentivizing RMOs to send Retail Orders to the Exchange. The Exchange believes that even in instances where the Identifier is not being disseminated due to RPI Order not having a ranked price at least \$0.001 above (for buy orders) or below (for sell orders) the Protected NBB or Protected NBO, RMOs continue to be incentivized to submit Retail Orders to the Exchange. The Exchange does not believe that RMOs are harmed by the Exchange accepting an RPI Order that is not executable at the time of receipt by the Exchange and therefore not disseminating an Identifier because there may be additional hidden liquidity on the EDGX Book with which a Retail Order submitted by an RMO may interact. First, not all RMOs rely on the Identifier when submitting Retail Orders to the Exchange. In addition, Retail Orders may continue to be submitted even when the Identifier is not being disseminated and will continue to be eligible to execute against contra-side hidden liquidity that may be priced equal to or above (for buy orders) or below (for sell order) the Protected NBB or Protected NBO.

Proposed Rule 11.21(f) (Retail Order Designation)

The Exchange proposes to amend Rule 11.21(f) (currently titled Attribution) by changing the title to “Retail Order Designation,” moving the text of current Rule 11.21(f) to proposed Rule 11.24(h) (Attribution), and

introducing rule text that describes how RMOs may designate Retail Orders submitted to the Exchange to interact with contra-side interest. Proposed Rule 11.21(f) is based off BYX Rule 11.24(f) (Retail Order Designation) and will contain a nearly identical definition of a Type 1 Retail Order³⁹ while also introducing a new Type 2 Retail Order.

The Exchange proposes to introduce Rule 11.21(f)(1), which describes a Type 1 Retail Order. Type 1-designated Retail Orders must be designated as IOC and will interact with available contra-side RPI Orders and other price improving contra-side interest but will not interact with other available contra-side interest in the System that is not offering price improvement or route to other markets. The portion of a Type 1-designated Retail Order that does not execute against contra-side RPI Orders or other price improving liquidity will be immediately and automatically cancelled.

The Exchange also proposes to introduce Rule 11.21(f)(2), which describes a Type 2 Retail Order. Type 2-designated Retail Orders will be executed, posted to the EDGX Book, or cancelled according to the User’s instructions. A Type 2-designated Retail Order will be ineligible to execute with a resting RPI Order that is not priced better than the Protected NBB or Protected NBO. A Type 2-designated Retail Order can either be submitted as an EDGX Only Order or as an order eligible for routing pursuant to Rule 11.11.

Proposed Rule 11.21(g) (Order Priority)

The Exchange proposes to introduce Rule 11.21(g) titled Order Priority which will describe how RPI Orders will be ranked and executed upon receipt by the Exchange. RPI Orders in the same security shall be ranked according to price then time of entry into the System, as provided for in Rule 11.9 and executions shall occur in price/time priority in accordance with Rule 11.9. Any remaining unexecuted portion of an RPI Order will remain available to interact with other incoming Retail Orders. Any remaining unexecuted portion of a Type 2 Retail Order will cancel, execute, or post to the EDGX Book in accordance User instruction. RPI Orders are ineligible to execute at prices that are equal to or inferior to the Protected NBB or Protected NBO. An RPI Order that is priced equal to or inferior to the Protected NBB or Protected NBO will not be cancelled and will become eligible to execute against Retail Orders should the RPI

Order become priced better to the Protected NBB or Protected NBO at a later time. The Exchange has provided the following examples to demonstrate how RPI Order priority will function.

Example 4

- Protected NBBO for security ABC is $\$10.00 \times \$10.05$.
- User 1 enters an RPI Order to buy ABC at \$10.015 for 500 shares.
- User 2 enters an RPI Order to buy ABC at \$10.02 for 500 shares.
- User 3 enters an RPI Order to buy ABC at \$10.035 for 500 shares.
- User 4 enters a Retail Order to sell ABC at \$10.00 for 1,000 shares.
- *Result:* User 4’s Retail Order to sell ABC for 1,000 executes first against User 3’s bid for 500 shares at \$10.035 because it is the best priced bid, then against User 2’s bid for 500 shares at \$10.02 because it is the next best priced bid. User 1 is not filled because the entire size of the Retail Order to sell 1,000 shares is depleted. The Retail Order executes against RPI Orders in price/time priority.

Example 5

- Protected NBBO for security ABC is $\$10.00 \times \$10.05$.
- User 1 enters an RPI Order to buy ABC at \$10.015 for 500 shares.
- User 2 enters an RPI Order to buy ABC at \$10.02 for 100 shares.
- User 3 enters an RPI Order to buy ABC at \$10.035 for 500 shares.
- User 4 enters a Retail Order to sell ABC at \$10.00 for 1,000 shares.
- *Result:* User 4’s Retail Order to sell ABC for 1,000 executes first against User 3’s bid for 500 shares at \$10.035 because it is the best priced bid, then against User 2’s bid for 100 at \$10.02 because it is the next best priced bid. User 1 then receives an execution for 400 of its bid for 500 at \$10.015, at which point the entire size of the Retail Order to sell 1,000 is depleted.

Example 6

- Protected NBBO for security ABC is $\$10.00 \times \$10.05$.
- User 1 enters an RPI Order to buy ABC at \$10.015 for 500 shares.
- User 2 enters an RPI Order to buy ABC at \$10.02 for 100 shares.
- User 3 enters a Non-Displayed Order to buy ABC at \$10.03 for 500 shares.
- User 4 enters a Retail Order to sell ABC at \$10.00 for 1,000 shares.
- *Result:* User 4’s Retail Order to sell ABC for 1,000 executes first against User 3’s bid for 500 shares at \$10.03 because it is the best priced bid, then against User 2’s bid for 100 at \$10.02 because it is the next best priced bid. User 1 then

³⁹ See BYX Rule 11.24(f)(1).

receives an execution for 400 of its bid for 500 at \$10.015, at which point the entire size of the Retail Order to sell 1,000 is depleted.

Proposed Rule 11.21(h) (Attribution)

The Exchange proposes to introduce Rule 11.21(h) titled Attribution, which will contain details about how RMOs may designate Retail Orders to be identified as such. The Exchange notes that the text from current Rule 11.21(f) (Attribution) will be relocated to proposed Rule 11.21(h) with minor changes in order to incorporate rule text from current Rule 11.21(e). Pursuant to proposed Rule 11.21(h), and as is currently described in Rule 11.21(f), an RMO may designate a Retail Order to be identified as a Retail Order on the EDGX Book Feed on an order-by-order basis. An RMO may also instruct the Exchange to identify all its Retail Orders as Retail Orders on a port-by-port basis where that port is also designated as a Retail Order Port. An RMO that instructs the Exchange to identify all its Retail Orders as Retail Orders on a Retail Order Port will be able to override such setting and designate any individual Retail Order from that port as Attributable or Non-Attributable, as set forth in Rule 11.6(a). The Exchange proposes to relocate the language from current Rule 11.21(e) (Order Designation) to proposed Rule 11.21(h) stating that a Retail Order will be identified as Retail when routed to an away Trading Center unless otherwise instructed by an RMO as this language more appropriately describes order attribution rather than how an order will interact with contra-side interest as is proposed in proposed Rule 11.21(f). The Exchange proposes to keep the existing language from current attribution Rule 11.21(f) stating all Retail Priority Orders, as defined in Interpretations and Policies .01 to Rule 11.9, will be identified as such on the EDGX Book Feed in order to avoid investor confusion. The Exchange notes that it is proposing non-substantive changes to the existing rule text being relocated from current Rules 11.21(e) and 11.21(f) to proposed Rule 11.21(h) to clarify that the term "Retail" refers to a Retail Order.

Proposed Rule 11.21(i)

As discussed in proposed Rule 11.21(a)(3), the EDGX RPI Program will be limited to trades occurring at prices equal to or greater than \$1.00 per share. The Exchange notes that it will periodically notify the membership regarding the securities included in the EDGX RPI Program through an information circular, which is the same

practice utilized by its affiliate, BYX, in its current RPI Program.⁴⁰

Comparison to Existing Retail Liquidity Programs

The Exchange notes that in addition to being substantially similar to the proposed RPI Program on its affiliate equity exchange, BYX, the proposed EDGX RPI Program is similar to other retail liquidity programs offered by the New York Stock Exchange LLC ("NYSE"),⁴¹ NYSE National, Inc. ("NYSE National"),⁴² Investors' Exchange LLC ("IEX"),⁴³ and Nasdaq BX, Inc. ("Nasdaq BX"),⁴⁴ with important distinctions highlighted below.

First, the Exchange notes that its proposal differs from all other retail liquidity programs as it is proposing to allow Retail Orders to be entered with any time-in-force and is not limiting Retail Orders to only be entered with a time-in-force of IOC. The Exchange believes allowing Retail Orders to be entered with any time-in-force instruction rather than limiting the time-in-force to IOC will provide for additional execution opportunities for Retail Orders and will create a deeper pool of liquidity on the Exchange, which provides for greater execution opportunities for all Users and provides for overall enhanced price discovery and price improvement opportunities on the Exchange. While a resting Retail Order will not be eligible to interact with a resting RPI Order that was not originally executable upon receipt of the Retail Order due to the RPI Order's requirement to execute only against incoming Retail Orders, the ability of the Retail Order to execute against other liquidity on the Exchange, including hidden liquidity that may offer price improvement, stands to provide additional execution opportunities to the Retail Order that it otherwise would not have received if required to be entered with a time-in-force of IOC.

Next, the Exchange notes that its proposed RPI Order may be entered in price increments of \$0.001, which is identical to the corresponding RPI Orders on BYX, NYSE, and Nasdaq BX but differs from the price increments of RPI Orders on IEX and NYSE National,

whose equivalent RPI Orders may only be entered in \$0.005 increments. The Exchange believes that providing Users the ability to enter RPI Orders in \$0.001 increments while simultaneously proposing to allow RPI Orders to be entered as MidPoint Peg Orders provides Users the appropriate balance in having the ability to control how much price improvement is offered to contra-side Retail Orders using \$0.001 increments while also having more certainty and control over its order flow by choosing to utilize the MidPoint Peg Order type. If a User chooses to submit an RPI Order with a limit price in a \$0.001 increment, the User risks being priced lower than other hidden liquidity on the EDGX Book and not earning an execution against an incoming Retail Order. Additionally, the User's RPI Order entered in \$0.001 increments may be subject to movement in the NBBO and become unexecutable if the order is no longer priced at least \$0.001 better than the Protected NBB or Protected NBO. Alternatively, if a User enters an RPI MidPoint Peg Order, the User knows that any execution will occur at the NBBO midpoint and that its order will remain executable, as it will always be priced at least \$0.001 better than the Protected NBB or Protected NBO as it is a pegged order with a limit price that updates as the NBBO updates.

The Exchange believes that the distinctions highlighted above will make the EDGX RPI Program an attractive alternative to other retail liquidity programs and provide RMOs with the ability to submit Retail Orders to the Exchange with a chance at receiving additional price improvement compared to what is already available on the Exchange.

Non-Displayed Order Behavior

The Exchange currently permits orders to be entered with a Non-Displayed instruction (a "Non-Displayed Order") pursuant to Rule 11.6(e)(2). The Exchange now proposes to amend Rule 11.6(e)(2) and Rule 11.10(a)(4)(C)–(D) in order to more accurately describe the price at which a Non-Displayed Order posts to the EDGX Book and at what price a Non-Displayed Order may execute in certain situations. The Exchange believes the below changes to Rule 11.6(e)(2) and Rule 11.10(a)(4)(C)–(D) are necessary in order to provide market participants with greater certainty and clarity regarding the entry and execution of orders with Non-Displayed instructions on the Exchange.

The Exchange proposes to introduce Rule 11.6(e)(2)(A), which provides that when a Non-Displayed Order is entered,

⁴⁰ See BYX Rule 11.24(h). The Exchange notes that BYX has proposed to remove BYX Rule 11.24(h) as part of the BYX Enhanced RPI Proposal, but currently the Program is limited to securities priced at or above \$1.00.

⁴¹ See NYSE Rule 7.44 (Retail Liquidity Program).

⁴² See NYSE National Rule 7.44 (Retail Liquidity Program).

⁴³ See IEX Rule 11.232 (Retail Price Improvement Program).

⁴⁴ See Nasdaq BX Equity 4, Rule 4780 (Retail Price Improvement Program).

the Non-Displayed Order will be executed against previously posted orders on the EDGX Book that are priced equal to or better than the price of the Non-Displayed Order, up to the full amount of such previously posted orders, unless such executions would trade through a Protected Quotation.⁴⁵ Any portion of a Non-Displayed Order that cannot be executed in this manner will be posted to the EDGX Book (unless the Non-Displayed Order has a time-in-force of IOC) and/or routed if it has been designated as a routable order.

The Exchange next proposes to introduce Rule 11.6(e)(2)(B), which describes the price at which a Non-Displayed Order is posted and ranked on the EDGX Book in the event that it is not executed pursuant to proposed Rule 11.6(e)(2)(A). Proposed Rule 11.6(e)(2)(B)(i) provides if the limit price of a Non-Displayed Order would lock the EDGX Book, the Non-Displayed Order will be posted on the EDGX Book at the locking price and will be executed as set forth in Rule 11.10(a)(4)(C). If, however, an inbound Non-Displayed Order cannot execute due to User instruction (e.g., Post Only⁴⁶ or minimum quantity) and does not contain a price slide instruction, the Non-Displayed Order will be cancelled. An inbound Non-Displayed Order that cannot execute upon entry and contains a price slide instruction will be ranked at the locking price upon entry. Proposed Rule 11.6(e)(2)(B)(ii) provides if the limit price of the Non-Displayed Order would cross a Protected Quotation and the Non-Displayed Order contains a price slide instruction, the Non-Displayed Order will be executed as set forth in Rule 11.6(l)(1)(B) or cancel, based on User instruction. If the entered limit price of the Non-Displayed Order would cross a Protected Quotation and the Non-Displayed Order does not contain a price slide instruction, the Non-Displayed Order will cancel or route, based on User instruction. Proposed Rule

11.6(e)(2)(B)(iii) provides in situations where there is a resting Non-Displayed Order on the buy (sell) side of the market and an incoming Non-Displayed Order on the sell (buy) side of the market is unable to execute due to User instruction (e.g., Post Only or minimum quantity) and posts to the EDGX Book at a price that locks the resting Non-Displayed Order, an incoming Non-Displayed Order on the buy (sell) side of the market may execute with the resting Non-Displayed Order on the sell (buy) side of the market at the locking price ahead of the Non-Displayed Order on the buy (sell) side of the market. The Exchange believes that it is more appropriate to permit later-arriving orders to execute ahead of a resting order posted to the EDGX Book that is in a locked state due to the presence of a contra-side order with specific User instructions (e.g., Post Only or minimum quantity) rather than cancel or slide the later-arriving order due to the information leakage that would occur as a result of the cancellation. The Exchange has included an example to demonstrate the operation of proposed Rule 11.6(e)(2)(B)(iii).

Example 7

- NBBO for security ABC is \$10.00 × \$10.05.
- User 1 enters a MidPoint Peg order to buy 100 shares of ABC at \$10.03. User 1's order is posted to the EDGX Book and ranked at \$10.025.
- User 2 enters a MidPoint Peg Post Only order to sell 100 shares of ABC at \$10.02. User 2's order is posted to the EDGX Book and ranked at \$10.025.
- User 3 enters an IOC order to buy 100 shares of ABC at \$10.05.
- *Result:* Pursuant to proposed Rule 11.6(e)(2)(B)(iii), User 3's order trades with User 2's MidPoint Peg Post Only order at a price of \$10.025. In this instance, User 3's order trades with User 2's order ahead of User 1's order because when User 2's order was originally entered, it was unable to execute due to the Post Only instruction. As both User 2's order and User 1's order are non-displayed orders (MidPoint Peg orders by nature are non-displayed), the Exchange allows User 2's order to post to the EDGX Book and be ranked at the locking price as the non-displayed nature of these orders would not cause a violation of Regulation NMS. The Exchange believes that if it were instead to slide User 2's order in accordance with Rule 11.6(l)(3) or cancel User 2's order so that it would not create an internal locked book, the act of sliding or cancelling User 2's order would result in information leakage. As such, the Exchange believes

that it is appropriate to permit User 3's order to trade ahead of User 1's resting order at a price of \$10.025.

In conjunction with the proposed changes to Rule 11.6(e)(2), the Exchange also proposes to amend Rule 11.10(a)(4)(C)–(D) to better describe the execution of Non-Displayed Orders in situations where a locked market exists on the EDGX Book. Rule 11.10(a)(4)(C) currently states that certain orders are permitted to post and rest on the EDGX Book at prices that lock contra-side liquidity, provided, however, that the System will never display a locked market. The Exchange proposes to add language to Rule 11.10(a)(4)(C) to provide that consistent with Rule 11.9, which sets forth the Exchange's rule regarding priority of orders, Non-Displayed Orders and orders subject to display-price sliding as set forth in Rule 11.6(l)(1) (defined as the "Resting Orders") cannot be executed pursuant to Rule 11.10 when such Resting Orders would be executed at prices equal to displayed orders on the opposite side of the market (the "Locking Price").⁴⁷ The Exchange also proposes to amend Rule 11.10(a)(4)(D) to conform with the proposed changes in Rule 11.10(a)(4)(C) with regard to the use of the terms Resting Order and Locking Price. Proposed Rule 11.10(a)(4)(D) will be revised from its current text to provide that in the event that an incoming order described in sub-paragraphs (A) and (B) is a Market Order or is a Limit Order priced more aggressively than the Locking Price of a Resting Order as described in sub-paragraph (C), the Exchange will execute the Resting Order at, in the case of a Resting Order bid, one-half minimum price variation less than the Locking Price, and, in the case of a Resting Order offer, one-half minimum price variation more than the Locking Price.

Implementation

The Exchange proposes to implement the RPI Program on EDGX during the first half of 2026 and will announce the date via Trade Desk Notice.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the "Act") and the rules and regulations thereunder applicable to the Exchange

⁴⁷ Any incoming order that would execute against the Resting Order at the Locking Price would receive a priority advantage over the displayed order at the Locking Price. As such, the Exchange does not execute a Resting Order against an incoming order at the Locking Price if there is also a displayed order resting on the EDGX Book at the Locking Price.

⁴⁵ See Rule 1.5(u). The term "Protected Quotation" shall mean a quotation that is a Protected Bid or Protected Offer.

⁴⁶ See Rule 11.6(n)(4). A Post Only instruction is an instruction that may be attached to an order that is to be ranked and executed on the Exchange pursuant to Rule 11.9 and Rule 11.10(a)(4) or cancelled, as appropriate, without routing away to another trading center except that the order will not remove liquidity from the EDGX Book, except as described below. An order with a Post Only instruction will remove contra-side liquidity from the EDGX Book if the order is an order to buy or sell a security priced below \$1.00 or if the value of such execution when removing liquidity equals or exceeds the value of such execution if the order instead posted to the EDGX Book and subsequently provided liquidity, include the applicable fees charged or rebates provided.

and, in particular, the requirements of Section 6(b) of the Act.⁴⁸ Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)⁴⁹ requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)⁵⁰ requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Commission has repeatedly emphasized that the U.S. capital markets should be structured with the interests of retail investors in mind⁵¹ and has recently proposed a series of rules designed, in part, to attempt to bring order flow back to the exchanges from off-exchange trading venues.⁵² The Exchange believes its proposal to introduce an RPI Program on EDGX is consistent with the Commission's goal of ensuring that the equities markets continue to serve the needs of the investing public. Specifically, introducing the Program on EDGX would protect investors and the public interest by providing retail investors the ability to obtain price improvement on EDGX, a national securities exchange. The Exchange is committed to innovation that improves the quality of the equities markets and believes that the proposed EDGX RPI Program may increase the attractiveness of the Exchange for the execution of Retail Orders submitted on behalf of the millions of ordinary investors that rely on these markets for their investment needs.

The Exchange believes the proposed EDGX RPI Program promotes just and equitable principles of trade and is not unfairly discriminatory. While the proposed EDGX RPI Program would

differentiate among its Members, the Exchange does not believe that such segmentation is inconsistent with section 6(b)(5) of the Act, as it does not permit *unfair* discrimination. The Commission has previously stated that the markets generally distinguish between retail investors, whose orders are considered desirable by liquidity providers because such retail investors are presumed to be less informed about short-term price movements, and professional traders, whose orders are presumed to be more informed.⁵³ The Commission has further stated that without opportunities for price improvement, retail investors may encounter wider spreads that are a consequence of liquidity providers interacting with more informed order flow.⁵⁴ The Exchange believes that its proposed EDGX RPI Program is reasonably designed to attract marketable retail order flow to the exchange as it will help to ensure that retail investors benefit from the better price that liquidity providers are willing to provide to retail orders in exchange for minimizing their adverse selection costs.

The Exchange believes that the proposed RPI Order behavior that does not permit an RPI Order to execute immediately against resting Retail Orders upon entry is not unfairly discriminatory because the proposed RPI Order is an optional order type that any liquidity provider may utilize as part of its investment strategy. As an example, a liquidity provider may choose to submit a limit order with a time-in-force of Day, and that order may execute immediately upon entry with hidden liquidity on the EDGX Book. Conversely, another liquidity provider may choose to submit an RPI Order knowing that the order will not execute immediately upon entry, but rather will be posted to the EDGX Book, foregoing potentially receiving an immediate executions in exchange for the strong likelihood of executing against an incoming, contra-side Retail Order, which is generally a more desirable outcome for more sophisticated market participants.⁵⁵ The Exchange is not

proposing to amend the functionality of any existing order types on the Exchange, but rather seeks to provide an additional order type that provides liquidity providers with greater control over its contra-side execution. The proposed RPI Order is completely optional, can be utilized by any liquidity provider, and will be an additional order type from which liquidity providers may choose when determining how best to submit order flow to the Exchange. While the proposed RPI Order is limited to executing only with incoming contra-side Retail Orders and not resting Retail Orders on the EDGX Book, the Exchange believes that liquidity providers are in the best position to determine whether the proposed RPI Order is appropriate for the liquidity provider's current investment strategy. If a liquidity provider wishes to prioritize speed of execution or wishes to have the ability to execute immediately upon entry without regard to the contra-side order type, it is free to utilize another order type on the Exchange.

The Exchange further believes the proposed change would promote just and equitable principles of trade, remove impediments to, and perfect the mechanism of, a free and open market and a national market system, and protect investors and the public interest because proposed Rule 11.21 is based on BYX Exchange Rule 11.24, providing for the BYX RPI Program, and is also similar to rules providing for the NYSE, NYSE National, IEX, and Nasdaq BX retail liquidity programs. The Exchange believes that its proposal to permit an RPI Order to be entered in pricing increments of \$0.001 or as an RPI MidPoint Peg Order provides Users the appropriate balance in having the ability to control how much price improvement is offered to contra-side Retail Orders while also having more certainty and control over its order flow. For example, if a User chooses to submit an RPI Order with a limit price in a \$0.001 increment, the User risks being priced lower than other hidden liquidity on the EDGX Book and not earning an execution against a Retail Order. Additionally, the User's RPI Order may be subject to movement in the NBBO and become unexecutable if the order is no longer priced at least \$0.001 better than the Protected NBB or Protected NBO. Alternatively, a User who elects to enter an RPI MidPoint Peg Order knows that any execution will occur at the NBBO midpoint and that its order will remain executable, as it will always be priced

⁴⁸ 15 U.S.C. 78f(b).

⁴⁹ 15 U.S.C. 78f(b)(5).

⁵⁰ *Id.*

⁵¹ *Supra* note 17.

⁵² *Supra* notes 18 and 21. See also, Securities Exchange Act Release No. 96496 (December 14, 2022), 88 FR 5440 (January 27, 2023) ("Regulation Best Execution"); Securities Exchange Act Release No. 96493 (December 14, 2022), 88 FR 3786 (January 20, 2023) ("Disclosure of Order Execution Information").

⁵³ *Id.*

⁵⁴ *Id.*

⁵⁵ Marketable retail order flow is generally seen as more desirable by institutional liquidity providers as executions against retail orders are less prone to adverse selection. Adverse selection is the phenomenon where the price of a stock drops right after a liquidity provider purchases the stock. The Commission has previously opined that retail liquidity programs may be beneficial to institutional investors as they may be able to reduce their possible adverse selection costs by interacting with retail order flow. See Securities Exchange Act Release No. 68303 (November 27, 2012), 77 FR

71652 (December 3, 2012), SR-BYX-2012-019 ("BYX RPI Pilot Approval Order") at 71656.

at least \$0.001 better than the Protected NBB or Protected NBO as it is a pegged order with a limit price that updates as the NBBO updates.

Proposed Rule 11.21 sets forth definitions, order types, and the operation, priority, and attribution of orders in the Program that are based on rules previously approved by the Commission for retail price improvement programs currently offered by equity exchanges. Additionally, proposed Rule 11.21 will retain the processes for RMO application, qualification, disapproval and disqualification that were previously approved under Rule 11.21 for the proposed RPI Program with non-substantive changes. Accordingly, the Exchange also believes the proposed change would promote just and equitable principles of trade, remove impediments to, and perfect the mechanism of, a free and open market and a national market system, and protect investors and the public interest by promoting consistency among exchange rules setting forth retail price improvement programs, which could encourage retail investors to direct order flow to the proposed Program to seek out price improvement opportunities.

The Exchange believes that the introduction of the EDGX RPI Program promotes just and equitable principles of trade and is consistent with Section 6(b)(5) of the Act as it encourages Users to submit RPI Orders with limit prices that are priced at least \$0.001 better than the Protected NBB or Protected NBO in exchange for the ability to guarantee the opportunity to execute against a contra-side Retail Order. As previously stated, all Users are eligible to submit RPI Orders. While the Exchange believes that most RPI Orders will be submitted by or on behalf of professional traders, retail investors will have the opportunity to receive better-priced executions should their executing broker choose to submit a marketable Retail Order to the Exchange. The Exchange believes the introduction of the EDGX RPI Program will deepen the Exchange's pool of available liquidity, increase marketable retail order flow to the Exchange and provide additional competition for marketable retail order flow, most of which is currently executed off-exchange in the OTC markets. Promoting competition for retail order flow among execution venues stands to benefit retail investors, who may be eligible to receive greater price improvement on the Exchange by interacting with an RPI Order than they would if their order was internalized by a broker-dealer on the OTC market.

The Exchange believes that its proposal to permit Retail Orders to be entered with any time-in-force and not be limited to a time-in-force of IOC as is the case with existing retail liquidity programs promotes just and equitable principles of trade and is consistent with Section 6(b)(5) of the Act because it provides an RMO submitting orders on behalf of retail customers additional control over how its Retail Orders will interact with liquidity resting on the EDGX Book. For instance, an RMO may choose to submit a Retail Order with a time-in-force of IOC, which would behave identical to a Retail Order submitted to the Exchange's affiliate RPI Program on BYX, and would immediately cancel if it does not receive an execution against an RPI Order or other price improving liquidity on the EDGX Book.⁵⁶ However, an RMO may also choose to utilize a time-in-force that permits the Retail Order to post to the EDGX Book or route to an away market center if it is not immediately executed.⁵⁷ By permitting a Retail Order to post to the EDGX Book, the Retail Order will be eligible not only to execute against a resting RPI Order immediately upon entry, but may also be designated as a Retail Priority Order⁵⁸ if the order does not execute against a resting RPI Order and instead posts to the EDGX Book. If an RMO chooses to designate its Retail Order as a Retail Priority Order, the displayed portion of the Retail Priority Order is given allocation priority ahead of all other available interest on the EDGX Book.

The Exchange views the ability to enter Retail Orders with any time-in-force an important feature that benefits retail investors by increasing both the likelihood and speed with which their non-marketable Retail Orders are executed. If speed is a priority, then an RMO is free to select a time-in-force of IOC and will only receive an execution if there is a resting RPI Order priced at least \$0.001 better than the NBBO or a hidden order providing price improvement. If, however, speed is not a concern and an RMO would like to increase its odds that its Retail Order will be filled on the Exchange after posting to the EDGX Book, the RMO may elect to submit its order as a Retail Priority Order. RMOs are also free to simply choose to designate a Retail

Order with a time-in-force other than IOC and not as a Retail Priority Order, which would permit the Retail Order to post to the EDGX Book or route to an away market and receive an execution under standard price/display/time priority. The Exchange has already proven that it can attract Retail Orders through its retail priority offering⁵⁹ and now believes that it can provide price improvement to those Retail Orders through the introduction of the RPI Program on the Exchange and building a greater depth of book against which Retail Orders may be eligible to execute.

The Exchange believes its proposal to introduce additional rule text describing the entry and execution of Non-Displayed Orders on the Exchange promotes just and equitable principles of trade by providing additional clarity and transparency to market participants on how the System processes Non-Displayed Orders. Specifically, the Exchange is providing additional information regarding the price at which a Non-Displayed Order is posted and ranked on the EDGX Book when a Non-Displayed Order either locks or crosses a Protected Quotation or when a Non-Displayed Order locks the EDGX Book. By introducing the proposed rule text, Users will have a better understanding of how a Non-Displayed Order is posted and ranked during certain scenarios involving locked and crossed markets, which benefits all Users and the marketplace as a whole. In addition, the Exchange believes its proposal to introduce additional rule text describing the entry and execution of Non-Displayed Orders on the Exchange is not unfairly discriminatory as all Users and market participants will be subject to the same application of the Exchange's rules and will have equal access to the Exchange rulebook.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that the proposal does not impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. Rather, the proposed rule change is designed to increase intramarket competition for

⁵⁶ See proposed Rule 11.21(f)(1).

⁵⁷ See proposed Rule 11.21(f)(2).

⁵⁸ See Rule 11.9, Interpretations and Policies .01. A Retail Priority Order is a Retail Order that is entered on behalf of a person that does not place more than 390 equity orders per day on average during a calendar month for its own beneficial account(s).

⁵⁹ A review of internal Exchange data found that approximately 44% of all Retail Orders submitted to EDGX between January 2025–July 2025 were designated as Retail Priority Orders. Retail Orders (including Retail Priority Orders) accounted for approximately 18.6% of all orders executed on EDGX during the period January 2025–July 2025.

retail order flow by introducing a retail liquidity program on a regulated market. The proposed change could encourage additional competition by promoting additional trading opportunities for retail investors at both the NBBO midpoint as well as at sub-penny increments priced better than the Protected NBB or Protected NBO. The proposed change regarding Non-Displayed Order entry and execution is not being made for competitive reasons, but rather to provide Users with additional clarity and transparency about what price a Non-Displayed Order is posted, ranked, and executed during certain scenarios involving locked and crossed markets.

The Exchange also believes the proposed rule change does not impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the Act. As discussed above, IEX, NYSE, NYSE National, and Nasdaq BX each operate RLPs and the Exchange believes that its proposed rule change will allow it to compete for additional retail order flow with the aforementioned exchanges.⁶⁰ Furthermore, the Exchange's proposal will promote competition between the Exchange and off-exchange trading venues where the majority of retail order flow trades today.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

(A) by order approve or disapprove such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.⁶¹

⁶⁰ *Supra* notes 41–44.

⁶¹ See *supra* note 7 (citing to the Commission's order instituting proceedings to determine whether to disapprove the proposed rule change). April 1, 2026, is the date by which the Commission shall issue an order approving, disapproving, or extending the period for not more than 60 days. See 15 U.S.C. 78s(b)(2)(B)(ii).

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning Amendment No. 3, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-CboeEDGX-2025-072 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.

All submissions should refer to file number SR-CboeEDGX-2025-072. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<https://www.sec.gov/rules/sro.shtml>). Copies of the filing will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection.

All submissions should refer to file number SR-CboeEDGX-2025-072 and should be submitted on or before February 11, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁶²

J. Matthew DeLesDernier,

Deputy Secretary.

[FR Doc. 2026-01016 Filed 1-20-26; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-104612]

Order Granting Temporary Exemptive Relief, Pursuant to Section 36(a)(1) of the Securities Exchange Act of 1934 From Compliance With Rule 600(b)(69)(ii) of Regulation NMS

January 15, 2026.

I. Introduction

On September 18, 2024, the Securities and Exchange Commission ("SEC" or "Commission") adopted Regulation NMS: Minimum Pricing Increments, Access Fees and Transparency of Better Priced Orders,¹ which among other things, accelerated the implementation of the odd-lot information definition in Rule 600(b)(69) of Regulation NMS² and added information about the best odd-lot order to the definition of odd-lot information.³ The Commission adopted a compliance date for implementing odd-lot information as the first business day of May 2026.⁴

By letter dated July 9, 2025, the Operating Committees of the Consolidated Quotation Plan ("CQ Plan"), Consolidated Tape Association Plan ("CTA Plan"), and the Joint Self-Regulatory Organization Plan Governing the Collection, Consolidation and Dissemination of Quotation and Transaction Information for Nasdaq-Listed Securities Traded on Exchanges on an Unlisted Trading Privileges Basis ("UTP Plan") (collectively, the "Plans")⁵ requested that the Commission provide temporary exemptive relief for two years from the requirement to disseminate certain odd-lot information as defined in Rule 600(b)(69)(ii) of Regulation NMS.⁶ As discussed below, the Commission is providing temporary exemptive relief to

¹ Securities Exchange Act Release No. 101070 (Sept. 18, 2024), 89 FR 81620 (Oct. 8, 2024) ("Adopting Release").

² 17 CFR 242.600(b)(69).

³ 17 CFR 242.600(b)(69)(iii).

⁴ See Adopting Release, *supra* note 1, at 81679–81681.

⁵ The Plans are effective national market system plans that govern the collection, consolidation, processing and dissemination of quotation and transaction information for NMS stocks by the exclusive SIPs. The Securities Industry Automation Corporation ("SIAC" an affiliate of the New York Stock Exchange LLC ("NYSE")) is the exclusive SIP for the CTA and CQ Plans, and the Nasdaq Stock Market LLC ("Nasdaq") is the exclusive SIP for the UTP Plan.

⁶ See letter from James P. Dombach, Davis Wright Tremaine, Counsel to the Operating Committees of the Plans, dated July 9, 2025 ("Request Letter") available at <https://www.sec.gov/files/rules/exorders/2026/34-104612-incoming-letter-james-p-dombach-davis-wright-tremaine.pdf>.

⁶² 17 CFR 200.30-3(a)(12).

the Plans' participants⁷ from compliance with Rule 600(b)(69)(ii) of Regulation NMS⁸ until the first business day of May 2028.

II. Discussion and Temporary Exemptive Relief

Section 36(a)(1) of the Securities Exchange Act of 1934 ("Exchange Act") authorizes the Commission, by rule, regulation, or order, to exempt, conditionally or unconditionally, any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provisions of the Exchange Act, or any rule or regulation thereunder, to the extent that such exemption is necessary or appropriate in the public interest, and is consistent with the protection of investors.⁹

In the Adopting Release, the Commission adopted amendments to Rules 600(b)(69)¹⁰ and 603(b)(3)¹¹ of Regulation NMS. Rule 600(b)(69) of Regulation NMS defines odd-lot information.¹² Rule 600(b)(69)(ii) includes "odd-lots at a price greater than or equal to the national best bid and less than or equal to the national best offer, aggregated at each price level at each national securities exchange and national securities association."¹³ Rule 600(b)(69)(iii) includes the highest priced odd-lot order to buy that is priced higher than the national best bid, and the lowest priced odd-lot order to sell that is priced lower than the national best offer (*i.e.*, the "BOLO").¹⁴ Rule 603(b)(3) of Regulation NMS, among other things, requires the national securities exchanges and national securities associations to make available to the exclusive SIPs all data

necessary to generate odd-lot information, and require the exclusive SIPs to collect, consolidate and disseminate odd-lot information.¹⁵

The Request Letter states that the exclusive SIPs will begin disseminating the BOLO in May 2026 but Participants seek to defer implementation of the odd-lot information as defined in Rule 600(b)(69)(ii) for two-years until May 2028. The Request Letter states that the Advisory Committee of the Plans¹⁶ has indicated support for the exemption request.¹⁷ In addition, a securities industry trade group submitted a letter that stated that it supports the exemptive request.¹⁸

The Request Letter states that the exclusive SIPs are facing "an unprecedented number of concurrent obligations and enhancements."¹⁹ Specifically, the Request Letter states that the exclusive SIPs implemented the round lot definition in November 2025, are incorporating fractional share trading data in February 2026, formulating plans to implement extended hours, need to accommodate the transition to amendments to minimum pricing increments²⁰ and are working to expand systems for increased message traffic, and upgrade equipment.²¹ Further, the Request Letter states that the requirement to disseminate "depth-of-book odd-lot quotations" as defined under Rule 600(b)(69)(ii) would "add considerable complexity to the operation of the [exclusive] SIPs," and create significant new operational challenges for the exclusive SIPs related to data aggregation complexity, latency and bandwidth, and the implementation timeline needed develop, test, and implement such changes.²² The Request

Letter states that deferring the dissemination of the odd-lot information required under Rule 600(b)(69)(ii) for two years would allow the exclusive SIPs to prioritize the requirements related to disseminating such odd-lot information and other competing initiatives, while ensuring that each project "can be implemented in a safe and effective manner."²³

In light of the information provided in the Request Letter, the Commission is using its authority under section 36(a)(1) of the Exchange Act to provide temporary exemptive relief to the Participants from the requirement to implement the odd-lot information required in Rule 600(b)(69)(ii) of Regulation NMS until the first business day of May 2028. The temporary exemptive relief is designed to help facilitate the systems and operational development necessary to implement the dissemination of this odd-lot information. The exemptive relief is necessary and appropriate in the public interest, and consistent with the protection of investors under section 36(a)(1) of the Exchange Act to provide temporary exemptive relief from compliance with the odd-lot information definition in Rule 600(b)(69)(ii) of Regulation NMS until the first business day of May 2028 so that the Participants have time to develop the systems changes necessary to make available all data necessary for the generation of such odd-lot information and for the Participants to disseminate such odd-lot information through the exclusive SIPs in an orderly manner.

III. Conclusion

Accordingly, *it is hereby ordered*, pursuant to section 36(a)(1) of the Exchange Act,²⁴ that the Commission grants exemptive relief as set forth in this order, from compliance with Rule 600(b)(69)(ii) of Regulation NMS until the first business day of May 2028.

By the Commission.

J. Matthew DeLesDernier,
Deputy Secretary.

[FR Doc. 2026–01013 Filed 1–20–26; 8:45 am]

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⁷ The participants are: 24X National Exchange LLC; Cboe BYX Exchange, Inc.; Cboe BZX Exchange, Inc.; Cboe EDGA Exchange, Inc.; Cboe EDGX Exchange, Inc.; Cboe Exchange, Inc.; Financial Industry Regulatory Authority, Inc.; Investors Exchange LLC; Long-Term Stock Exchange, Inc.; MEMX LLC; MIAx PEARL, LLC; Nasdaq; Nasdaq BX, Inc.; Nasdaq ISE, LLC; Nasdaq PHLX LLC; NYSE; NYSE American LLC; NYSE Arca Inc.; NYSE Texas, Inc.; and NYSE National Inc. ("Participants").

⁸ 17 CFR 242.600(b)(69)(ii).

⁹ 15 U.S.C. 78mm(a)(1).

¹⁰ 17 CFR 242.600(b)(69).

¹¹ 17 CFR 242.603(b)(3).

¹² 17 CFR 242.600(b)(69). Rule 600(b)(69)(i) requires odd-lot transaction data to be provided as part of odd-lot information. The exclusive SIPs already collect, consolidate and disseminate odd-lot transaction information. *See* Securities Exchange Act Release Nos. 70793 (Oct. 31, 2013), 78 FR 66788 (Nov. 6, 2013) (order approving Amendment No. 30 to the UTP Plan to require odd-lot transactions to be reported to consolidated tape); 70794 (Oct. 31, 2013), 78 FR 66789 (Nov. 6, 2013) (order approving Eighteenth Substantive Amendment to the Second Restatement of the CTA Plan to require odd-lot transactions to be reported to consolidated tape).

¹³ 17 CFR 242.600(b)(69)(iii).

¹⁴ 17 CFR 242.600(b)(69)(iii).

¹⁵ 17 CFR 242.603(b)(3).

¹⁶ The Advisory Committee to the Plans consist of representatives from a broker-dealer with substantial retail investor customer base, a broker-dealer with substantial institutional investor customer base, an alternative trading system, a data vendor, an investor, and members selected by each Participant. *See e.g.*, CTA Plan section III.(e) and UTP Plan section IV.E. *See also* CTA Plan Advisory Committee available at <https://www.ctaplan.com/advisory-committee> and UTP Plan Advisory Committee available at https://www.utpplan.com/DOC/UTP_ADVISORY_COMMITTEE_2025-09.pdf (last accessed Dec. 22, 2025).

¹⁷ *See* Request Letter.

¹⁸ *See* letter from Howard Meyerson, Managing Director, Financial Information Forum, dated Sept. 24, 2025 available at <https://www.sec.gov/files/rules/exorders/2026/34-104612-comment-letter-howard-meyerson.pdf>.

¹⁹ *See* Request Letter.

²⁰ *See* Securities Exchange Act Release No. 104172 (Oct. 31, 2025), 90 FR 51418 (Nov. 17, 2025) (Order granting temporary exemptive relief until the first business day of Nov. 2026 to implement amendments to Rule 612).

²¹ *See* Request Letter.

²² *Id.*

²³ *Id.*

²⁴ 15 U.S.C. 78mm(a)(1).

SECURITIES AND EXCHANGE COMMISSION

[Release No. SIPA-185; File No. SIPC-2026-01]

Securities Investor Protection Corporation; Notice of Inflation Adjustment Determination

AGENCY: Securities and Exchange Commission.

ACTION: Notice.

SUMMARY: Pursuant to section 3(e)(2) of the Securities Investor Protection Act of 1970 (“SIPA”), notice is hereby given that the Board of Directors of SIPC (the “Board”) filed with the Securities and Exchange Commission (“Commission”) on January 6, 2026, notification that the Board has determined, beginning January 1, 2027, and for the five year period immediately thereafter, that the standard maximum cash advance amount available to satisfy customer claims for cash in a SIPA liquidation proceeding will remain at \$250,000. The Commission is publishing this notice to solicit comments on Board’s determination from interested parties.

DATES: Comments are to be received on or before February 5, 2026.

ADDRESSES: Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission’s internet comment form (<https://www.sec.gov/comments/sipc-2026-01/securities-investor-protection-corporation-notice-inflation-adjustment-determination#no-back>); or
- Send an email to rule-comments@sec.gov. Please include File Number SIPC-2026-01 on the subject line.

Paper Comments

- Send paper comments to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.

All submissions should refer to File Number SIPC-2026-01. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method of submission. The Commission will post all comments on the Commission’s internet website (<https://www.sec.gov/comments/sipc-2026-01/securities-investor-protection-corporation-notice-inflation-adjustment-determination#no-back>). Do not include personal identifiable information in submissions; you should submit only information that you wish to make

available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection.

FOR FURTHER INFORMATION CONTACT:

Michael Macchiaroli, Office of Financial Responsibility, at (202) 551-5777, Division of Trading and Markets, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549.

I. SIPC’S Statement of the Purpose of and Statutory Basis of the Determination of the Board of Directors of SIPC Not To Adjust the Standard Maximum Cash Advance Amount for Inflation

In its filing with the Commission, SIPC included statements concerning the purpose of and statutory basis of the SIPC Board’s determination. The text of these statements may be examined at the places specified above, and appear in the text, below.

“Under Section 9(e)(1) of the Securities Investor Protection Act, (“SIPA”, 15 U.S.C. 78aaa *et seq.*),¹ the Board of Directors (“Board”) of the Securities Investor Protection Corporation (“SIPC”) must determine, every five years beginning no earlier and no later than January 1, 2011, whether to adjust for inflation the standard maximum amount that SIPC can advance to satisfy customer claims for cash under SIPA. See SIPA § 78fff-3(e)(1). The Board analyzed the issue at its Meeting on September 18, 2025, considering the criteria set forth in SIPA § 78fff-3(e)(5).

The Board has determined that an inflation adjustment of the maximum cash advance amount would not be appropriate. Pursuant to SIPA § 78fff-3(e)(4), and subject to the approval of the Securities and Exchange Commission (“Commission”) as provided under SIPA § 78ccc(e)(2) and 78fff-3(e)(1),² the standard maximum cash advance amount of \$250,000 will become effective on January 1, 2027. See SIPA 78fff-3(e)(4).³ Under SIPA section 78fff-3(e)(3)(A), the Commission is required to publish in the **Federal Register** notice of the maximum amount.

¹ For convenience, references herein to provisions of SIPA shall be to the United States Code, and shall omit “15 U.S.C.”

² SIPA § 78fff-3(e)(1) provides that approval by the Commission be obtained “as provided under section 78ccc(e)(2)” of SIPA. SIPA § 78ccc(e)(2) establishes procedures governing proposed changes to SIPC’s rules.

³ Under SIPA section 78fff-3(e)(4), any adjustment to the amount of the cash advance would take effect on January 1 of the year immediately after the year in which the adjustment was made.

Amount of Potential Adjustment

As a threshold matter, were the Board to have determined that an adjustment to the maximum cash advance amount should be made, the adjustment is calculated by multiplying \$250,000 by [t]he ratio of the annual value of the Personal Consumption Expenditures Chain-Type Price Index (or any successor index thereto), published by the Department of Commerce, for the calendar year preceding the year in which such determination is made, to the published annual value of such index for the calendar year preceding the year in which this subsection was enacted.

SIPA section 78fff-3(e)(1)(B).

Application of the formula based on currently available data projects to increase the limit by \$100,000 to \$350,000.⁴

Consideration of the Statutory Criteria

In deciding whether to adjust the maximum cash advance amount, the Board is to consider the following criteria under SIPA section 78fff-3(e)(5):

(A) The overall state of the fund and the economic conditions affecting members of SIPC;

(B) The potential problems affecting members of SIPC; and

(C) Such other factors as the Board of Directors of SIPC may determine appropriate.

In furtherance of the Board’s consideration of the statutory factors, input from the staffs of the Commission, Financial Industry Regulatory Authority (“FINRA”), and the Federal Depository Insurance Corporation (“FDIC”) along with the staffs of the Securities Industry and Financial Markets Association (“SIFMA”) and the American Securities

⁴ Pursuant to SIPA § 78fff-3(e), the \$100,000 amount was determined as follows: \$250,000 multiplied by 1.3907 (the ratio of the annual value of the Price Index for calendar year 2024, to the annual value of the index for 2009), equals \$97,684. The determination is to be made using the annual value of the Price Index for the “calendar year preceding the year in which such determination is made” namely, the year 2025; however, the 2025 annual value will not be available until later in 2026. Nevertheless, official releases available as of December 5, 2025, imply that in the first half of 2025 the index increased by approximately 1.38%. Adding to that number the inflation increase expected by market analysts (as per the most recent edition of the Survey of Professional Forecasters by the Federal Reserve Bank of Philadelphia) for the second half of the year, yields an estimated total increase for 2025 of 2.88%. Consequently, if the forecast inflation for 2025 is added to the total adjusted amount for 2024, the resulting total adjusted amount for 2025 would be \$357,698 (\$250,000 plus \$107,698). Under SIPA section 78fff-3(e)(2), “If the standard maximum cash advance amount determined under paragraph (1) for any period is not a multiple of \$10,000, the amount so determined shall be rounded down to the nearest \$10,000”. Accordingly, the adjusted amount considering the forecasted value of the index for 2025 would be \$350,000.

Association (“ASA”) was solicited and received.

A. The Overall State of the SIPC Fund and Economic Conditions Affecting Members, and Potential Problems Affecting Members of SIPC

In considering the overall state of the SIPC Fund and the economic conditions affecting members of SIPC, the Board reviewed SIPC’s historical experience and examined SIPC advances in past and present liquidation proceedings. The Board also considered potential problems affecting members of SIPC by reviewing the current state of the financial markets, technology

advancements that may affect the securities industry, and recent and pending changes in legislation that may affect the securities industry. The Board believed consideration of these statutory factors did not warrant an inflation adjustment of the standard cash advance amount.

B. Other Factors Considered by the Board

1. Potential Divergence Between FDIC and SIPC Protections May Be Undesirable

The Board noted, as it has in the past, the equivalency between SIPA’s cash

advance limit and the “standard maximum deposit insurance amount” that fixes the limit on bank deposit insurance under the Federal Deposit Insurance Act (“FDIA”), 12 U.S.C. 1821 *et seq.* An inflation adjustment to the former without a corresponding adjustment to the latter would result in an undesirable divergence between the cash advance limit under SIPA and the deposit insurance limit under the FDIA.

Increases to the limit of protection for cash claims under SIPA historically have been in lockstep with increases in FDIC deposit insurance. The below compares the limits of protection for cash under SIPA and the FDIA:

SIPA	FDIA
\$20,000 (Pub. L. 91–598, § 6(f)(1)(A)	\$20,000 (Pub. L. 91–151, § 7, 83 Stat. 371, 375 (1969)), 84 Stat. 1636, 1651 (1970)).
\$40,000 (Pub. L. 95–283, § 9, 92 Stat. 249, 265 (1978))	\$40,000 (Pub. L. 93–495, § 102(a), 88 Stat. 1500, 1502 (1974)).
\$100,000 (Pub. L. 96–433, § 1, 94 Stat. 1855 (1980))	\$100,000 (Pub. L. 96–221, § 308, 94 Stat. 132, 147 (1980)).
\$250,000 (Pub. L. 111–203, § 929H, 124 Stat. 1376, 1865	\$250,000 ((temporary until 12/31/2009) Pub. L. 110–343, § (2010) 136, 122 Stat. 3765, 3799 (2008); (permanent) Pub. L. 111–203, § 335, 124 Stat. 1376, 1540 (2010)).

In 2008, and again, in 2010, parity with deposit insurance was the primary reason for SIPC’s request to Congress to increase the SIPA limit of protection for cash claims. FDIC coverage is currently \$250,000.⁵ In 2016 and 2021, uniformity with deposit insurance was a primary factor in the Board’s determination not to adjust the standard maximum cash advance amount.

The Board considered that a unilateral increase to the SIPA limit could have unintended consequences considering the issue has not been widely studied or discussed. For example, increasing the SIPA limit above the deposit insurance limit could incentivize the movement of funds to brokerage accounts as a savings or cash management vehicle. These investors may not know that they would be ineligible for SIPC protection if their deposits were unrelated to securities investments.⁶

2. Based on Historical Claims Experience, an Inflation Adjustment May Provide Limited Benefit to Retail Customers

The Board also reviewed the number of claims for cash exceeding the limit of protection in past and present liquidation proceedings. This data suggests that the benefit to retail customers of an inflation adjustment may be limited. Of the more than 770,000 allowed claims in completed or substantially completed liquidation proceedings as of year-end 2024, only 355 were for cash and securities over the limits of protection under SIPA, and the unsatisfied portion of cash claims amounted to \$25 million. More than half of that amount involved only three claims. In the seven SIPA proceedings initiated since 2010, when the cash limit was raised to \$250,000, only one allowed cash claim remains unsatisfied.

3. Aggregate Credit Balances, Retail Market Participation Rate, and Sweeps Programs Indicate That Individual Credit Balances May Not Be Increasing

The Board also considered that aggregate free credit balances in customer securities accounts did not increase appreciably in the four years since March 2021, despite the unusually robust inflation during that same period. In addition, the Board considered that with projected positive demographic growth and high retail market participation rates, the number of securities accounts carried by SIPC members will likely increase in the

future, but the average free cash balance in customer securities accounts is expected to show a stagnant or declining trend in real terms over time. Finally, the Board considered that the significant amount of free cash balances moved by members as part of “sweeps” programs continues. Member firms have continued to experience the movement of customer free credit balances to banks through sweeps programs.

Consequently, the lack of impact of inflation on aggregate credit balances, the likelihood of stagnant or declining free-credit balances in customer accounts, and the continuation in the movement of customer free credit balances to FDIC-protected bank sweep products all mitigate any need for an inflation adjustment.

Conclusion

The Board weighed the statutory considerations and other appropriate factors as related to a potential inflation adjustment of \$100,000. The Board concluded that, on balance, in light of the undesirable break with the FDIC limit that would result, with possibly harmful consequences, and the absence of evidence that an appreciable number of investors would benefit, an inflation adjustment to the limit of protection for cash claims was not appropriate. Accordingly, the Board determined, subject to Commission approval, that the standard maximum cash advance amount will remain at \$250,000 per customer.”

* * * * *

⁵ While the FDIA includes similar language to SIPA related to adjusting for inflation, its adjustment is based upon a \$100,000 coverage level, and the FDIC has not increased coverage under the inflation provision. 12 U.S.C. 1821(a)(1)(F)(i)(I). *See* Deposit Insurance Regulations; Permanent Increase in Standard Coverage Amount; Advertisement of Membership; International Banking; Foreign Banks, 75 FR 49363 n.6 (Aug. 13, 2010).

⁶ *See* SIPA § 78III(2)(b)(i) (defining a “customer” under SIPA as including “any person who has deposited cash with the debtor for the purpose of purchasing securities”).

II. Date of Effectiveness and Timing for Commission Action

Within thirty-five days of the date of publication of this notice of the SIPC Board's determination in the **Federal Register**, or within such longer period (i) as the Commission may designate of not more than ninety days after such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which SIPC consents, the Commission shall:

(A) By order approve such determination or

(B) Institute proceedings to determine whether such determination should be disapproved.

III. Notice of the Determination of the SIPC Board Not To Adjust the Standard Maximum Cash Advance Amount for Inflation

Effective January 1, 2026, the Board determined, under section 9(e)(1) of the SIPA, 15 U.S.C. 78fff-3(e)(1), that an inflation adjustment to the standard maximum cash advance amount, as defined in section 9(d) of the Securities Investor Protection Act, 15 U.S.C. 78fff-3(d), would not be appropriate for the five-year period beginning on January 1, 2027. Accordingly, the standard maximum cash advance amount will remain at \$250,000 per customer, effective January 1, 2027, and for the five years immediately thereafter.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁷

Dated: January 14, 2026.

J. Matthew DeLesDernier,
Deputy Secretary.

[FR Doc. 2026-01093 Filed 1-16-26; 4:15 pm]

BILLING CODE 8011-01-P

SMALL BUSINESS ADMINISTRATION

[License No. 08/08-0175]

Surrender of License of Small Business Investment Company; Pelion Ventures V Financial Institutions Fund, L.P.

Pursuant to the authority granted to the United States Small Business Administration under Section 309 of the Small Business Investment Act of 1958, as amended, and 13 CFR 107.1900 of the Code of Federal Regulations to function as a small business investment company under the Small Business Investment Company license number 08/08-0175 issued to *Pelion Ventures V Financial*

Institutions Fund, L.P., said license is hereby declared null and void.

Paul Salgado,

Director, Investment Portfolio Management,
Office of Investment and Innovation, United
States Small Business Administration.

[FR Doc. 2026-01050 Filed 1-20-26; 8:45 am]

BILLING CODE P

SOCIAL SECURITY ADMINISTRATION

[Docket No. SSA-2025-0038]

Rescission of Social Security Ruling 64-13, 74-8c, 78-24, and 79-38

AGENCY: Social Security Administration.

ACTION: Notice of Rescission of Social Security Ruling (SSR).

SUMMARY: We are providing notice of the rescission of SSR 64-13; SSR 74-8c; SSR 78-24; and SSR 79-38.

DATES: We will apply this rescission on January 21, 2026.

FOR FURTHER INFORMATION CONTACT: Jeffrey Hemmeter, Disability Policy, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235-6401, (410) 597-1815.

For information on eligibility or filing for benefits, call our national toll-free number, 1-800-772-1213 or visit our internet site, Social Security Online, at <http://www.socialsecurity.gov>.

SUPPLEMENTARY INFORMATION: Although 5 U.S.C. 552(a)(1) and (a)(2) do not require us to publish SSRs, we publish SSRs in accordance with 20 CFR 402.160(b)(1).

SSRs represent precedential final opinions, orders, and statements of policy and interpretations that we have adopted relating to the Federal Old Age, Survivors, and Disability Insurance program, and Supplemental Security Income (SSI) program. We may base SSRs on determinations or decisions made in our administrative review process, Federal court decisions, decisions of our Commissioner, opinions from our Office of the General Counsel, or other interpretations of law and regulations. Although SSRs do not have the same force and effect as law, they are binding on all SSA components in accordance with 20 CFR 402.160(b)(1).

By this notice we are rescinding the following SSRs:

- SSR 64-13: Section 222(b).—Disability—Deduction For Refusal to Accept Vocational Rehabilitation Services.

- SSR 74-8c: Sections 216(i) and 223 (42 U.S.C. 416(i) and 423)—Disability—Expiration of Insured Status—Onset of Disability Subsequent Thereto.

- SSR 78-24: Disability—Refusal to Accept Vocational Rehabilitation Services.

- SSR 79-38: Title II and Title XVI—Increase in the Amount of Earnings Used in Determining When Work Activity is Excluded as “Services” for Trial Work Period Purposes.

These SSRs were published in the 1960s and 1970s as policy interpretations binding on all components of the agency. We are rescinding these SSRs which address vocational rehabilitation (VR) services, insured status, and trial work periods (TWP), which have become obsolete either because Congress has amended the Social Security Act (Act) or because we have incorporated the relevant policy into our regulations.

- SSR 64-13 and SSR 78-24 were based on Section 222(b) of the Act, which required individuals entitled to disability insurance benefits or child's, widow's, or widower's insurance benefits based on disability to cooperate with VR services unless they could demonstrate good cause not to do so.¹ However, Section 222(b) of the Act has been repealed² and thus these SSRs are obsolete.

- SSR 74-8c is obsolete because its policy was incorporated into the regulations at 20 CFR 404.131(a).³

- SSR 79-38 is obsolete because its policy was incorporated into the regulations at 20 CFR 404.1592 for title II disability cases,⁴ and because the TWP period no longer applies in SSI disability cases.⁵

As such, these SSRs are outdated or obsolete.

We are also rescinding these SSRs as part of the agency's compliance with Executive Order 14192, *Unleashing Prosperity through Deregulation*, which directs agencies to rescind sub-

¹ 42 U.S.C. 422(b) authorized deductions from payments up to the amount of an individual's benefit on account of refusal without good cause to accept rehabilitation services, and authorized deductions from payments to husbands, wives, or children of individuals who refused to accept such services with an exception for children between 18 and 22 who were full-time students.

² Ticket to Work and Work Incentives Improvement Act of 1999, Public Law 106-170, 101(b)(1)(C); 113 Stat. 1860, 1873 (1999).

³ Federal Old Age, Survivors, and Disability Insurance, 45 FR 25383 (Apr. 15, 1980).

⁴ Federal Old Age, Survivors, and Disability Insurance Benefits; Supplemental Security Income Benefits for the Aged, Blind, and Disabled, 45 FR 55566 (Aug. 20, 1980).

⁵ Employment Opportunities for Disabled Americans Act, Public Law 99-643, 4, 100 Stat. 3574, 3575-77 (1986); see also Determining Disability and Blindness; Substantial Gainful Activity Guides, 65 FR 42772, 42775 (July 11, 2000).

⁷ 17 CFR 200.30-3(f)(3).

regulatory guidance documents as appropriate.

Mark A. Steffensen,
General Counsel, Social Security
Administration.

[FR Doc. 2026-01006 Filed 1-20-26; 8:45 am]

BILLING CODE 4191-02-P

DEPARTMENT OF STATE

[Public Notice 12919]

60-Day Notice of Proposed Information Collection: Request To Change End-User, End-Use and/or Destination of Hardware and Open General Licenses

ACTION: Notice of request for public comment.

SUMMARY: The Department of State is seeking Office of Management and Budget (OMB) approval for the information collection described below. In accordance with the Paperwork Reduction Act of 1995, we are requesting comments on this collection from all interested individuals and organizations. The purpose of this notice is to allow 60 days for public comment preceding submission of the collection to OMB.

DATES: The Department will accept comments from the public up to March 23, 2026.

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

- *Web:* Persons with access to the internet may comment on this notice by going to www.Regulations.gov. You can search for the document by entering "Docket Number: DOS-2026-0100" in the Search field. Then click the "Comment Now" button and complete the comment form.

- *Email:* DDTCPublicComments@state.gov.

- *Regular Mail:* Send written comments to: Directorate of Defense Trade Controls, Attn: Andrea Battista, 2401 E St. NW, Suite H-1205, Washington, DC 20522-0112.

You must include the DS form number (if applicable), information collection title, and the OMB control number in any correspondence.

FOR FURTHER INFORMATION CONTACT:

Direct requests for additional information regarding the collection listed in this notice, including requests for copies of the proposed collection instrument and supporting documents, to Andrea Battista Directorate of Defense Trade Controls who may be reached on 202-992-0973 or at battistaal@state.gov.

SUPPLEMENTARY INFORMATION:

- *Title of Information Collection:* Request to Change End-User, End-Use

and/or Destination of Hardware and Open General Licenses.

- *OMB Control Number:* 1405-0173.
- *Type of Request:* Extension of a Currently Approved Collection.
- *Originating Office:* Directorate of Defense Trade Controls (DDTC).
- *Form Number:* DS-6004.
- *Respondents:* Individuals, businesses, or organizations engaged in the business of exporting or temporarily importing defense articles or defense services or those involved in with reexport or retransfer of unclassified defense articles otherwise authorized under the International Traffic in Arms Regulations (ITAR).
- *Estimated Number of Respondents:* 1,695.
- *Estimated Number of Responses:* 2,234.
- *Average Time per Response:* 1 hour.
- *Total Estimated Burden Time:* 2,234 hours.

- *Frequency:* On occasion.
- *Obligation to Respond:* Mandatory. We are soliciting public comments to permit the Department to:
 - Evaluate whether the proposed information collection is necessary for the proper functions of the Department.
 - 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.
 - Enhance the quality, utility, and clarity of the information to be collected.
 - Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Please note that comments submitted in response to this Notice are public record. Before including any detailed personal information, you should be aware that your comments as submitted, including your personal information, will be available for public review.

Abstract of Proposed Collection

This information collection is used for two main purposes: (1) the collection and submission of information required for DDTC approval of a reexport or retransfer; and (2) the collection and retention of certain information for authorizations and other approvals, including for reexports and retransfers under an Open General License (OGL) program. Under § 123.9(a) of the ITAR, unless an exemption applies, DDTC's written approval must be obtained before reselling, transferring, reexporting, retransferring, transshipping, or disposing of a defense article to any end-user, end-use, or

destination other than as stated on the export license or in the Electronic Export Information filing in cases where an exemption was claimed. Such approval is normally granted through case-by-case review of requests to authorize specific transfers. In addition, ITAR § 120.22(b) allows DDTC to provide export authorization for DDTC's own initiatives, including pilot programs and other specifically anticipated circumstances for which DDTC considers special authorizations appropriate. DDTC has launched a pilot program pursuant to its authorities in ITAR § 120.22(b) in order to assess the concept of an OGL mechanism by which it may authorize certain transfers of defense articles to predetermined parties. OGLs eliminate the need for the Department to individually review and approve certain lower-risk transactions involving certain recipients. DDTC believes the OGL program will provide unprecedented flexibility for the U.S. defense industry and U.S. allies to operate consistent with the ITAR and will enhance their ability to maintain, repair, and store defense articles.

Under ITAR § 123.1(c), DDTC may require pertinent documentation regarding the proposed transaction and proper completion of the application form, including information about the quantity and value of the defense article proposed for export and information on the proposed end-user, end-use, and ultimate destination. Under ITAR § 123.9(c), persons who seek approval from DDTC to reexport or retransfer defense articles are required to submit a description, quantity, and value of the defense article and a description and identification of the new end-user, end-use, and destination. Under ITAR § 120.15(e) any person engaging in any reexport or retransfer of a defense article pursuant to an exemption must maintain records of each such transfer including the following information: A description of the defense article, including technical data, or defense service; the name and address of the end-user and other available contact information (e.g., telephone number and email address); the name of the natural person responsible for the transaction; the stated end-use of the defense article or defense service; the date of the transaction; and the method of transmission.

DDTC seeks to ensure that persons who rely on any current or future OGLs to conduct reexports and retransfers abroad retain the same records as would be required if their transactions were authorized by either a specific license or an exemption. Accordingly, DDTC has restated the record-keeping

requirements articulated in ITAR § 120.15(e) in the OGLs themselves.

Methodology

Respondents will submit information as attachments to relevant license applications or requests for other approval. Applicants are referred to ITAR § 123.9 for guidance on what information to submit regarding the request to change end-user, end-use and/or destination of hardware. This information may be submitted electronically via a DS-6004, Reexport/Retransfer Application, through DDTC's case management system, the Defense Export Control and Compliance System (DECCS).

Separately, as described in ITAR § 120.15(e) and under the OGL pilot program and as described in each OGL, respondents will be required to retain certain information in their own records for a period of five years from the date of the reexport or retransfer.

Authority: 44 U.S.C. 3507.

* * * * *

Alice M. Kottmyer,

Attorney-Adviser, Federal Register Liaison,
Department of State.

[FR Doc. 2026-01018 Filed 1-20-26; 8:45 am]

BILLING CODE 4710-25-P

DEPARTMENT OF STATE

[Public Notice 12918]

60-Day Notice of Proposed Information Collection: Technology Security/Clearance Plans, Screening Records, and Non-Disclosure Agreements Pursuant to 22 CFR 126.18

ACTION: Notice of request for public comment.

SUMMARY: The Department of State is seeking Office of Management and Budget (OMB) approval for the information collection described below. In accordance with the Paperwork Reduction Act of 1995, we are requesting comments on this collection from all interested individuals and organizations. The purpose of this notice is to allow 60 days for public comment preceding submission of the collection to OMB.

DATES: The Department will accept comments from the public up to March 23, 2026.

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

- **Web:** Persons with access to the internet may comment on this notice by going to www.Regulations.gov. You can search for the document by entering "Docket Number: DOS-2026-0101" in

the Search field. Then click the "Comment Now" button and complete the comment form.

- **Email:** DDTCPublicComments@state.gov.

- **Regular Mail:** Send written comments to: Directorate of Defense Trade Controls, Attn: Andrea Battista, 2401 E St. NW, Suite H-1205, Washington, DC 20522-0112.

You must include the DS form number (if applicable), information collection title, and the OMB control number in any correspondence.

FOR FURTHER INFORMATION CONTACT:

Direct requests for additional information regarding the collection listed in this notice, including requests for copies of the proposed collection instrument and supporting documents, to Andrea Battista, who may be reached at battistaal@state.gov via email and 202-992-0973 via phone.

SUPPLEMENTARY INFORMATION:

- **Title of Information Collection:** Technology Security/Clearance Plans, Screening Records, and Non-Disclosure Agreements Pursuant to 22 CFR 126.18(c)(2).

- **OMB Control Number:** 1405-0195.
- **Type of Request:** Extension of Currently Approved Collection.

- **Originating Office:** Bureau of Political-Military Affairs, Directorate of Defense Trade Controls (PM/DDTC).

- **Form Number:** No form.
- **Respondents:** Business and Nonprofit Organizations.
- **Estimated Number of Respondents:** 10,000.
- **Estimated Number of Responses:** 10,000.
- **Average Time per Response:** 10 hours.
- **Total Estimated Burden Time:** 100,000 hours.

- **Frequency:** On occasion.
- **Obligation to Respond:** Mandatory.

We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary for the proper functions of the Department.
- 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.

- Enhance the quality, utility, and clarity of the information to be collected.

- Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Please note that comments submitted in response to this Notice are public

record. Before including any detailed personal information, you should be aware that your comments as submitted, including your personal information, will be available for public review.

Abstract of Proposed Collection

The export, temporary import, and brokering of defense articles, defense services, and related technical data are licensed by the Directorate of Defense Trade Controls (DDTC) in accordance with the International Traffic in Arms Regulations ("ITAR," 22 CFR parts 120-130) and Section 38 of the Arms Export Control Act ("AECA").

ITAR § 126.18 eliminates, subject to certain conditions, the requirement for an approval by DDTC of the transfer of unclassified defense articles, which includes technical data, to or within a foreign business entity, foreign governmental entity, or international organization that is an authorized end-user or consignee (including transfers to approved sub-licensees) for defense articles, including the transfer to dual nationals or third-country nationals who are bona fide regular employees directly employed by the foreign consignee or end-user.

To use ITAR § 126.18, effective procedures must be in place to prevent diversion to any destination, entity, or for purposes other than those authorized by the applicable export license or other authorization. Those conditions can be met by requiring a security clearance approved by the host nation government for its employees, or by the end-user or consignee having in place a process to screen all its employees and to have executed a Non-Disclosure Agreement that provides assurances that the employee will not transfer any defense articles to persons or entities unless specifically authorized by the consignee or end-user. ITAR § 126.18(c)(2) also provides that the technology security/clearance plans and screening records shall be made available to DDTC or its agents for civil and criminal law enforcement purposes upon request.

Methodology

When information kept on file pursuant to this recordkeeping requirement is required to be sent to the Directorate of Defense Trade Controls, it may be sent electronically or by mail according to guidance given by DDTC.

Alice M. Kottmyer,

Attorney-Adviser, Federal Register Liaison,
Department of State.

[FR Doc. 2026-01017 Filed 1-20-26; 8:45 am]

BILLING CODE 4710-25-P

DEPARTMENT OF STATE**[Public Notice: 12920]****Report to Congress Pursuant to the National Defense Authorization Act for Fiscal Year 2013 (FY13 NDAA)****ACTION:** Notice of report.

SUMMARY: Section 1245 of the National Defense Authorization Act for Fiscal Year 2013 (also known as the Iran Freedom and Counter-Proliferation Act of 2012 (IFCA)), as delegated by Presidential Memorandum of June 3, 2013, requires the Secretary of State, in consultation with the Secretary of the Treasury, to submit a report to the appropriate congressional committees every 180 days that contains a determination with respect to: Whether Iran is: using any of the materials described in IFCA as a medium for barter, swap, or any other exchange or transaction, or listing any of such materials as assets of the Government of Iran for purposes of the national balance sheet of Iran; which sectors of the economy of Iran are controlled directly or indirectly by Iran's Islamic Revolutionary Guard Corps (IRGC); and which of the materials described in subsection (d) are used in connection with the nuclear, military, or ballistic missile programs of Iran. Materials described are graphite, raw or semi-finished metals such as aluminum and steel, coal, and software for integrating industrial processes.

DATES: The Deputy Secretary of State approved this action on January 6, 2026.

FOR FURTHER INFORMATION CONTACT:

Office of Counterproliferation Initiatives, Department of State, Telephone: (202) 647-5193 or ACN_Sanctions@state.gov.

SUPPLEMENTARY INFORMATION: For the purpose of implementing the provisions of IFCA delegated to the Secretary of State, including Sections 1245(a)(1)(B), 1245(a)(1)(C), and 1245(e), "raw or semi-finished metals" under IFCA 1245(d) includes, but is not limited to, the following materials (including all types of such materials and all alloys or compounds containing such materials): Aluminum, Americium, Antimony, Barium, Beryllium, Bismuth, Boron, Cadmium, Calcium, Cerium, Cesium, Chromium, Cobalt, Copper, Dysprosium, Erbium, Europium, Gallium, Gadolinium, Germanium, Gold, Hafnium, Hastelloy, Inconel, Indium, Iridium, Iron, Lanthanum, Lithium, Lead, Lutetium, Manganese, Magnesium, Mercury, Molybdenum, Monel, Neodymium, Neptunium, Nickel, Niobium, Osmium, Palladium,

Platinum, Plutonium, Polonium, Potassium, Praseodymium, Promethium, Radium, Rhenium, Rhodium, Ruthenium, Samarium, Scandium, Silicon, Silver, Sodium, Steels, Strontium, Tantalum, Technetium, Tellurium, Terbium, Thallium, Thorium, Tin, Titanium, Tungsten, Uranium, Vanadium, Ytterbium, Yttrium, Zinc, and Zirconium.

This report pursuant to Section 1245(e) of IFCA covers the period January 1, 2025, to June 30, 2025.

Following a review of the available information, and in consultation with the Secretary of the Treasury, the Deputy Secretary of State has determined that Iran is not using the materials described in Section 1245(d) as a medium for barter, swap, or any other exchange or transaction. Following a review of the available information, and in consultation with the Secretary of the Treasury, the Deputy Secretary of State has determined that Iran is not listing any such materials as assets of the Government of Iran for purposes of the national balance sheet of Iran. Following a review of the available information, and in consultation with the Secretary of the Treasury, the Deputy Secretary of State has determined no additional sectors of the economy of Iran are controlled directly or indirectly by the IRGC.

Following a review of the available information, and in consultation with the Secretary of the Treasury, the Deputy Secretary of State has determined that the following additional types of materials described in Section 1245(d) were used in connection with the nuclear, military, or ballistic missile programs of Iran during the period of January to June 2025:

- Aluminum 5052, including in honeycomb form

Renee P. Sonderman,

Acting Deputy Assistant Secretary, Arms Control and Nonproliferation, Department of State.

[FR Doc. 2026-01038 Filed 1-20-26; 8:45 am]

BILLING CODE 4710-27-P

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****[Docket # FAA-2026-0005]****FAA Contract Tower Competitive Grant Program; Fiscal Year (FY) 2026 Funding Opportunity**

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

ACTION: Notice of funding opportunity.

SUMMARY: The Department of Transportation (DOT), Federal Aviation Administration (FAA) announces the opportunity to apply for up to \$120 million in Fiscal Year (FY) 2026 Airport Infrastructure Grant funds for the FAA Contract Tower (FCT) Competitive Grant Program, made available under the Infrastructure Investment and Jobs Act of 2021 (IIJA), Public Law 117-58. The purpose of the FCT Competitive Grant Program is to make annual grants available to eligible airports for airport-owned airport traffic control tower (ATCT) projects that address the aging infrastructure of our nation's airports.

DATES: Airport sponsors seeking consideration for FY 2026 FCT Competitive Grant Program funding should submit FAA Form 5100-144 as soon as possible, but no later than 5:00 p.m. Eastern Time on, February 17, 2026.

ADDRESSES: Submit applications electronically at <https://www.faa.gov/bil/airport-infrastructure/fct> by following the instructions under Frequently Asked Questions, "How to apply."

FOR FURTHER INFORMATION CONTACT:

Jesse Carriger, Manager, FAA Office of Airports IJA Infrastructure Branch (APP-540), at (202) 267-9590 or IJA.Airports@faa.gov.

SUPPLEMENTARY INFORMATION: The IJA established the FCT Competitive Grant Program that will provide up to \$20 million in grant funding for FY 2026 and up to \$100 million of FY 2022 unobligated Airport Infrastructure Grant (AIG) funding to sustain, construct, repair, improve, rehabilitate, modernize, replace, or relocate non-approach control towers; acquire and install air traffic control, communications, and related equipment to be used in those towers; or construct a remote tower certified by the FAA, including acquisition and installation of air traffic control, communications, or related equipment.

The full text of the Notice of Funding Opportunity (NOFO) is available on the FAA's website at *FAA Contract Tower*

Competitive Grant Program | Federal Aviation Administration. For more information applicants may also search *Grants.gov* using Funding Opportunity Number FAA-ARP-IIJA-G-26-002 or Assistance Listing Number 20.117. Mail and fax submissions will not be accepted.

Issued in Washington, DC, on January 16, 2026.

Jesse Carriger,

Manager, FAA Office of Airports I/JA Infrastructure Branch, APP-540.

[FR Doc. 2026-01042 Filed 1-20-26; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2025-1381]

Agency Information Collection Activities; Renewal of an Approved Information Collection: Commercial Motor Vehicle Marking Requirements

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

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FMCSA announces its plan to submit the Information Collection Request (ICR) described below to the Office of Management and Budget (OMB) for review and approval and invites public comment. FMCSA requests approval to renew an ICR titled, "Marking of Self-Propelled CMVs and Intermodal Equipment." The renewal of this ICR will enable FMCSA to continue documenting the burden associated with the commercial motor vehicle (CMV) marking regulations. These regulations require marking of self-propelled CMVs and intermodal equipment by motor carriers, freight forwarders, and intermodal equipment providers (IEPs) engaging in interstate transportation and motor carriers that transport hazardous materials (HM) in intrastate transportation subject to the Hazardous Materials Safety Permit (HMSP) rules.

DATES: Comments on this notice must be received on or before March 23, 2026.

ADDRESSES: You may submit comments identified by Docket Number FMCSA-2025-1381 using any of the following methods:

- *Federal eRulemaking Portal:* <https://www.regulations.gov>. Follow the online instructions for submitting comments.

- *Mail:* Dockets Operations; U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Ground Floor, Washington, DC 20590-0001.

- *Hand Delivery or Courier:* Dockets Operations, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Ground Floor, 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.

- *Fax:* (202) 493-2251.

To avoid duplication, please use only one of these four methods. See the "Public Participation and Request for Comments" portion of the **SUPPLEMENTARY INFORMATION** section for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT:

Stacy Ropp, Compliance Division, DOT, FMCSA, 1200 New Jersey Avenue SE, Washington, DC 20590-0001; 609-661-2062; Stacy.Ropp@dot.gov.

SUPPLEMENTARY INFORMATION:

Instructions

All submissions must include the Agency name and docket number. For detailed instructions on submitting comments, see the Public Participation heading below. Note that all comments received will be posted without change to <https://www.regulations.gov>, including any personal information provided. Please see the Privacy Act heading below.

Public Participation and Request for Comments

If you submit a comment, please include the docket number for this notice (FMCSA-2025-1381), indicate the specific section of this document to which your comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to <https://www.regulations.gov/docket/FMCSA-2025-1381/document>, click on this notice, click "Comment," and type your comment into the text box on the following screen.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by

11 inches, suitable for copying and electronic filing.

FMCSA will consider all comments and material received during the comment period.

Privacy Act

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its regulatory process. 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 (Federal Docket Management System (FDMS)), which can be reviewed at <https://www.transportation.gov/individuals/privacy/privacy-act-system-records-notices>. The comments are posted without edits and are searchable by the name of the submitter.

Background

The Secretary of Transportation (Secretary) is authorized to require marking of vehicles and intermodal equipment by motor carriers, freight forwarders and IEPs engaging in interstate transportation based on the authority of 49 U.S.C. 31133(a)(8), 31133(a)(10), and 31136(a)(1). The Secretary delegated authority pertaining to the marking of CMVs to the Administrator of FMCSA in 49 CFR 1.87(f). The Agency's regulations governing the marking of CMVs is codified at 49 CFR 390.21T and 49 CFR 390.21 for motor carriers, freight forwarders, and IEPs engaging in interstate transportation and at 49 CFR 390.3T(g)(4) and 49 CFR 390.3(g)(4) for motor carriers that transport hazardous materials in intrastate transportation subject to the HMSP program under 49 CFR part 385.

Vehicle marking requirements are intended to ensure that FMCSA, the National Transportation Safety Board, and State safety officials can identify motor carriers and correctly assign responsibility for regulatory violations during inspections, investigations, compliance reviews, and crash studies. These marking requirements also provide the public with beneficial information that could assist in identifying carriers engaged in interstate commerce and for complaints or emergency notification. The marking requirements apply to motor carriers, freight forwarders, and IEPs engaging in interstate transportation and motor carriers that transport hazardous materials in intrastate transportation subject to the HMSP program under 49 CFR part 385. The Agency does not require a specific method of marking if the marking complies with FMCSA's

regulations. The decrease of 2,509,249 estimated annual burden hours (7,196,938 approved estimated annual burden hours—4,687,689 proposed estimated annual burden hours) is due to adjustments in respondent and response estimates.

Title: Commercial Motor Vehicle Marking Requirements.

OMB Control Number: 2126–0054.

Type of Request: Renewal of a currently approved ICR.

Respondents: Freight-carrying commercial motor carriers, passenger-carrying commercial motor carriers, and intermodal equipment providers.

Estimated Number of Respondents: 938,861 total respondents (900,043 freight-carrying motor carriers; 20,878 intrastate hazardous materials transporting motor carriers; 16,409 passenger-carrying motor carriers; and 1,531 IEPs).

Estimated Time per Response: 26 minutes [12 minutes to affix USDOT Number + 14 minutes for affixing a carrier's name].

Expiration Date: July 31, 2026.

Frequency of Response: On occasion.

Estimated Total Annual Burden: 4,687,689 total hours (3,228,623 hours spent by freight-carrying motor carriers; 225,725 hours spent by intrastate hazardous materials transporting motor carriers; 58,375 hours spent by passenger-carrying motor carriers; and 1,174,966 hours spent by IEPs). All these entities spent these hours marking their CMVs with a USDOT number and motor carrier information.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including: (1) whether the proposed collection is necessary for the performance of FMCSA's functions; (2) the accuracy of the estimated burden; (3) ways for FMCSA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized without reducing the quality of the collected information. The Agency will summarize or include your comments in the request for OMB's clearance of this ICR.

Issued under the authority of 49 CFR 1.87.

Jonathan Mueller,

Acting Associate Administrator, Office of Research and Registration.

[FR Doc. 2026–01096 Filed 1–20–26; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Notice of OFAC Sanctions Actions

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the names of one or more persons that have been placed on OFAC's Specially Designated Nationals and Blocked Persons List (SDN List) based on OFAC's determination that one or more applicable legal criteria were satisfied. All property and interests in property subject to U.S. jurisdiction of these persons are blocked, and U.S. persons are generally prohibited from engaging in transactions with them.

DATES: This action was issued on October 22, 2025. See Supplementary Information section for relevant dates.

FOR FURTHER INFORMATION CONTACT: OFAC: Associate Director for Global Targeting, 202–622–2420; Assistant Director for Sanctions Compliance, 202–622–2490 or <https://ofac.treasury.gov/contact-ofac>.

SUPPLEMENTARY INFORMATION:

Electronic Availability

The SDN List and additional information concerning OFAC sanctions programs are available on OFAC's website: <https://ofac.treasury.gov>.

Notice of OFAC Actions

On October 22, 2025, OFAC determined that the property and interests in property subject to U.S. jurisdiction of the following persons are blocked under the relevant sanctions authorities listed below.

Entities

1. LIMITED LIABILITY COMPANY LUKOIL PERM (a.k.a. LUKOIL PERM), Ul. Lenina D. 62, Perm 614990, Russia; Secondary sanctions risk: See Section 11 of Executive Order 14024.; Tax ID No. 5902201970 (Russia); Registration Number 1035900103997 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of 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) as amended by Executive Order 14114 of December 22, 2023, “Taking Additional Steps With Respect to the Russian Federation's Harmful

Activities,” 88 FR 89271, 3 CFR, 2023 Comp., p. 721 (Dec. 22, 2023) (E.O. 14114) for operating or having operated in the energy sector of the Russian Federation economy.

2. LUKOIL AIK A LIMITED LIABILITY COMPANY (a.k.a. LUKOIL AIK), Ul. Mira D. 23 A, Kogalym 628484, Russia; Secondary sanctions risk: See Section 11 of Executive Order 14024.; Tax ID No. 8608059605 (Russia); Registration Number 1178617009251 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

3. LUKOIL KALININGRADMORNEFT (a.k.a. LUKOIL KMN), Ul. Kievskaya D. 23, Kaliningrad 236039, Russia; Secondary sanctions risk: See Section 11 of Executive Order 14024.; Tax ID No. 3900004998 (Russia); Registration Number 1023901643061 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

4. LUKOIL WEST SIBERIA LIMITED (a.k.a. LUKOIL ZAPADNAYA SIBIR), Ul. Pribaltiiskaya D. 20, Kogalym 628484, Russia; Secondary sanctions risk: See Section 11 of Executive Order 14024.; Tax ID No. 8608048498 (Russia); Registration Number 1028601441978 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

5. RUSSIAN INNOVATION FUEL AND ENERGY COMPANY (a.k.a. OBSHCHESTVO S OGRANICHENNOI OTVETSTVENNOSTYU ROSSISKAYA INNOVATIONNAYA TOPLIVNO ENERGETICHESKAYA KOMPANIYA; a.k.a. OOO RITEK), 120A, Ul. Leninskaya, Samara 443041, Russia; 85 Lesogorskaya st, Volgograd, Russia; Secondary sanctions risk: See Section 11 of Executive Order 14024.; Tax ID No. 6317130144 (Russia); Registration Number 1186313094681 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

6. URALOIL, Ul. Sibirskaya D. 4, Perm 614000, Russia; Secondary sanctions risk: See Section 11 of Executive Order 14024.; Tax ID No. 5902040755 (Russia); Registration Number 1166313158439 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having

operated in the energy sector of the Russian Federation economy.

7. JOINT STOCK COMPANY RYAZAN OIL REFINERY COMPANY (a.k.a. RYAZAN OIL REFINING COMPANY JOINT STOCK COMPANY; a.k.a. "AO RNPK"; a.k.a. "JSC RORC"), Yuzhnyi Promuzel D. 8, Ryazan 390011, Russia; Secondary sanctions risk: See Section 11 of Executive Order 14024.; Tax ID No. 6227007322 (Russia); Registration Number 1026200870321 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

8. OJSC ACHINSK REFINERY (a.k.a. ACHINSK OIL REFINERY OF THE EASTERN OIL COMPANY; a.k.a. ACHINSK REFINERY; a.k.a. JOINT STOCK COMPANY ACHINSK REFINERY OF EASTERN PETROLEUM COMPANY; a.k.a. JSC ACHINSK OIL REFINERY VNK; a.k.a. OAO ACHINSK OIL REFINERY VNK; a.k.a. "JSC ANPZ VNK"), Achinsk Refinery industrial area, Bolsheuluisky district, Krasnoyarsk territory 662110, Russia; Email Address sekr1@anpz.rosneft.ru; Executive Order 13662 Directive Determination—Subject to Directive 2; alt. Executive Order 13662 Directive Determination—Subject to Directive 4; Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; alt. Secondary sanctions risk: See Section 11 of Executive Order 14024.; Tax ID No. 2443000518 (Russia); Registration Number 1022401153532 (Russia); For more information on directives, please visit the following link: <http://www.treasury.gov/resource-center/sanctions/Programs/Pages/ukraine.aspx#directives>. [UKRAINE–EO13662] [RUSSIA–EO14024] (Linked To: OPEN JOINT–STOCK COMPANY ROSNEFT OIL COMPANY).

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

9. OJSC NOVOKUYBYSHEV REFINERY (a.k.a. NOVOKUIBYSHEVSK REFINERY; a.k.a. OJSC NOVOKUYBYSHEV REFINERY), Ul. Osipenko D. 12, Str. 1, Novokuybyshevsk, Samara Region 446207, Russia; Email Address sekr@nknzp.rosneft.ru; Executive Order 13662 Directive Determination—Subject to Directive 2; alt. Executive Order 13662 Directive Determination—Subject to Directive 4; Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; alt. Secondary sanctions risk: See Section 11 of Executive Order

14024.; Tax ID No. 6330000553 (Russia); Registration Number 1026303118126 (Russia); For more information on directives, please visit the following link: <http://www.treasury.gov/resource-center/sanctions/Programs/Pages/ukraine.aspx#directives>. [UKRAINE–EO13662] [RUSSIA–EO14024] (Linked To: OPEN JOINT–STOCK COMPANY ROSNEFT OIL COMPANY).

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

10. OJSC SYZRAN REFINERY (a.k.a. OPEN JOINT–STOCK OIL AND GAS COMPANY SYZRAN; a.k.a. SYZRAN REFINERY; a.k.a. "OAO SNPS"), 1 Astrakhanskaya st., Syzran, Samara region 446009, Russia; Moskvorechje street 105, Building 8, Moscow 115523, Russia; Email Address sekr@snpz.rosneft.ru; Executive Order 13662 Directive Determination—Subject to Directive 2; alt. Executive Order 13662 Directive Determination—Subject to Directive 4; Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; alt. Secondary sanctions risk: See Section 11 of Executive Order 14024.; Tax ID No. 6325004584 (Russia); Registration Number 1026303056823 (Russia); For more information on directives, please visit the following link: <http://www.treasury.gov/resource-center/sanctions/Programs/Pages/ukraine.aspx#directives>. [UKRAINE–EO13662] [RUSSIA–EO14024] (Linked To: OPEN JOINT–STOCK COMPANY ROSNEFT OIL COMPANY).

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

11. RN KOMSOMOLSKIY REFINERY LLC (a.k.a. KOMSOMOLSK REFINERY; a.k.a. LLC RN KOMSOMOLSKIY NPZ; a.k.a. LLC RN–KOMSOMOLSK REFINERY; a.k.a. RN–KOMSOMOLSKI NPZ OOO), 115 Leningradskaya st., Komsomolsk-on-Amur, Khabarovsk region 681007, Russia; Email Address knpz@rosneft.ru; Executive Order 13662 Directive Determination—Subject to Directive 2; alt. Executive Order 13662 Directive Determination—Subject to Directive 4; Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; alt. Secondary sanctions risk: See Section 11 of Executive Order 14024.; Tax ID No. 2703032881 (Russia); Registration Number 1052740255358 (Russia); For more information on directives, please visit the following link: <http://www.treasury.gov/resource-center/sanctions/Programs/Pages/ukraine.aspx#directives>. [UKRAINE–

EO13662] [RUSSIA–EO14024] (Linked To: OPEN JOINT–STOCK COMPANY ROSNEFT OIL COMPANY).

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

12. AKTSIONERNOE OBSHCHESTVO KUIBYSHEVSKII NEFTEPERERABATYVAYUSHCHII ZAVOD (a.k.a. JSC KUIBYSHEVSKY OIL REFINERY; a.k.a. KUIBYSHEVSKY REFINERY; a.k.a. "AO KNPZ"), Ul. Groznenskaya D.25, Samara 443004, Russia; Secondary sanctions risk: See Section 11 of Executive Order 14024.; Tax ID No. 6314006396 (Russia); Registration Number 1026300894179 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

13. LIMITED LIABILITY COMPANY RN TUAPSE OIL REFINERY, Ul. Sochinskaya D.1, Tuapse 352800, Russia; Secondary sanctions risk: See Section 11 of Executive Order 14024.; Tax ID No. 2365004375 (Russia); Registration Number 1052313098683 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

14. PUBLIC JOINT STOCK COMPANY SARATOV OIL REFINERY (a.k.a. PUBLICHNOE AKTSIONERNOE OBSHCHESTVO SARATOVSKIY NEFTEPERERABATYVAYUSHCHIY ZAVOD; a.k.a. SARATOVSKY REFINERY PJSC), 1 Bryanskaya Street, Saratov 410022, Russia; Secondary sanctions risk: See Section 11 of Executive Order 14024.; Tax ID No. 6451114900 (Russia); Registration Number 1026402483810 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

15. JOINT STOCK COMPANY EAST SIBERIAN OIL AND GAS COMPANY (a.k.a. AO VOSTSIBNEFTEGAZ; a.k.a. JSC VOSTSIBNEFTEGAZ), Pr-Kt Mira D. 36, Krasnoyarsk 660049, Russia; Secondary sanctions risk: See Section 11 of Executive Order 14024.; Tax ID No. 7710007910 (Russia); Registration Number 1028800000855 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

16. JOINT STOCK COMPANY GROZNEFTEGAZ, Ul. Im S. SH. Lorsanova D. 2A, Grozny 364024,

Russia; Secondary sanctions risk: See Section 11 of Executive Order 14024.; Tax ID No. 2020003571 (Russia); Registration Number 1022002543144 (Russia) [RUSSIA—EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

17. JOINT STOCK COMPANY ROSPAN INTERNATIONAL, Ul. Geologorazvedchikov D. 16V, Novyy Urengoy 629306, Russia; Secondary sanctions risk: See Section 11 of Executive Order 14024.; Tax ID No. 7727004530 (Russia); Registration Number 1027739465632 (Russia) [RUSSIA—EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

18. JOINT STOCK COMPANY SAMARANEFTEGAS (a.k.a. AO SAMARANEFTEGAZ), Pr. Volzhskii D. 50, Samara 443071, Russia; Secondary sanctions risk: See Section 11 of Executive Order 14024.; Tax ID No. 6315229162 (Russia); Registration Number 1026300956990 (Russia) [RUSSIA—EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

19. LIMITED LIABILITY COMPANY RN KRASNODARNEFTEGAZ, Ul. Kubanskaya Naberezhnaya D. 47, Krasnodar 350000, Russia; Secondary sanctions risk: See Section 11 of Executive Order 14024.; Tax ID No. 2309095298 (Russia); Registration Number 1052304983785 (Russia) [RUSSIA—EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

20. LIMITED LIABILITY COMPANY RN PURNEFTEGAZ, MKR 10—I D.3, Gubinskiy 629830, Russia; Secondary sanctions risk: See Section 11 of Executive Order 14024.; Tax ID No. 8913006455 (Russia); Registration Number 1058901407707 (Russia) [RUSSIA—EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

21. OJSC ORENBURGNEFT (a.k.a. OAO JSC ORENBURGNEFT; a.k.a. ORENBURGNEFT), St. Magistral'naya 2, Buzuluk 461040, Russia; Email Address orenburgneft@rosneft.ru; Executive Order 13662 Directive Determination—Subject to Directive 2; alt. Executive Order 13662 Directive Determination—Subject to Directive 4;

Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; alt. Secondary sanctions risk: See Section 11 of Executive Order 14024.; Tax ID No. 5612002469 (Russia); Registration Number 1025601802357 (Russia); For more information on directives, please visit the following link: <http://www.treasury.gov/resource-center/sanctions/Programs/Pages/ukraine.aspx#directives>. [UKRAINE—EO13662] [RUSSIA—EO14024] (Linked To: OPEN JOINT—STOCK COMPANY ROSNEFT OIL COMPANY).

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

22. OJSC SAMOTLORNEFTEGAZ (a.k.a. SAMOTLORNEFTEGAZ; a.k.a. SAMOTLORNEFTEGAZ JSC), Lenina St. 4, the Tyumen Region, Khanty-Mansiysk, Autonomous District, Nizhnevartovsk 628606, Russia; Ul. Lenina D. 4, Nizhnevartovsk 628600, Russia; Email Address NVSNGinfo@rosneft.ru; Executive Order 13662 Directive Determination—Subject to Directive 2; alt. Executive Order 13662 Directive Determination—Subject to Directive 4; Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; alt. Secondary sanctions risk: See Section 11 of Executive Order 14024.; Tax ID No. 8603089934 (Russia); Registration Number 1028600940576 (Russia); For more information on directives, please visit the following link: <http://www.treasury.gov/resource-center/sanctions/Programs/Pages/ukraine.aspx#directives>. [UKRAINE—EO13662] [RUSSIA—EO14024] (Linked To: OPEN JOINT—STOCK COMPANY ROSNEFT OIL COMPANY).

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

23. PJSC VERKHNECHONSKNEFTEGAZ (a.k.a. AO VCHNG; a.k.a. OJSC VERKHNECHONSKNEFTEGAZ; a.k.a. VERKHNECHONSKNEFTEGAZ), Baikalskaya St., 295 B, Irkutsk 664050, Russia; Pr-Kt Bolshoi Liteinyi D. 3, Irkutsk 664007, Russia; Email Address vcng@rosneft.ru; Executive Order 13662 Directive Determination—Subject to Directive 2; alt. Executive Order 13662 Directive Determination—Subject to Directive 4; Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; alt. Secondary sanctions risk: See Section 11 of Executive Order 14024.; Tax ID No. 3808079367 (Russia); Registration Number 1023801017580

(Russia); For more information on directives, please visit the following link: <http://www.treasury.gov/resource-center/sanctions/Programs/Pages/ukraine.aspx#directives>. [UKRAINE—EO13662] [RUSSIA—EO14024] (Linked To: OPEN JOINT—STOCK COMPANY ROSNEFT OIL COMPANY).

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

24. RN UVATNEFTEGAZ, Ul. Lenina D. 67, Floor 5, Tyumen 625000, Russia; Ul. Irtyshskaya D. 19, Uvat 626170, Russia; Secondary sanctions risk: See Section 11 of Executive Order 14024.; Tax ID No. 7225003194 (Russia); Registration Number 1027201295395 (Russia) [RUSSIA—EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

25. AO SIBNEFTEGAZ (a.k.a. SIBNEFTEGAZ), UL. Tazhnaya D. 78 A, Novyy Urengoy 629305, Russia; Secondary sanctions risk: See Section 11 of Executive Order 14024.; Tax ID No. 8904005920 (Russia); Registration Number 1028900619835 (Russia) [RUSSIA—EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

26. BASHNEFT DOBYCHA, UL. Karla Marksa D. 30, K. 1, Ufa 450077, Russia; Secondary sanctions risk: See Section 11 of Executive Order 14024.; Tax ID No. 0277106840 (Russia); Registration Number 1090280032699 (Russia) [RUSSIA—EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

27. CJSC VANKORNEFT (a.k.a. VANKORNEFT; a.k.a. ZAO VANKORNEFT), Dobrovolcheskoy Brigady St., 15, Krasnoyarsk Territory 660077, Russia; Ul. 78 Dobrovolcheskoi Brigady D. 15, Pervaya Bashnya, Floor 9, Krasnoyarsk 660077, Russia; Ul. Shadrina A.E. D. 20, Turukhansk 663230, Russia; Email Address info@vankoroil.ru; Executive Order 13662 Directive Determination—Subject to Directive 2; alt. Executive Order 13662 Directive Determination—Subject to Directive 4; Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; alt. Secondary sanctions risk: See Section 11 of Executive Order 14024.; Tax ID No. 2437261631 (Russia); Registration Number 1042400920077 (Russia); For more information on directives, please visit the following

link: <http://www.treasury.gov/resource-center/sanctions/Programs/Pages/ukraine.aspx#directives>. [UKRAINE–EO13662] [RUSSIA–EO14024] (Linked To: OPEN JOINT–STOCK COMPANY ROSNEFT OIL COMPANY).

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

28. JSC RN NYAGANNEFTEGAZ (a.k.a. AO RN NYAGANNEFTEGAZ), Ul. Sibirskaia D. 10, Korp. 1, Nyagan 628183, Russia; Secondary sanctions risk: See Section 11 of Executive Order 14024.; Tax ID No. 8610010727 (Russia); Registration Number 1028601496725 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

29. KHARAMPURNEFTEGAZ, UL. 1 Panel D. 3, Proizvodstvennaya Baza 0028, Floor 2 Kabinet 9, Gubkinskiy 629830, Russia; Secondary sanctions risk: See Section 11 of Executive Order 14024.; Tax ID No. 7536125117 (Russia); Registration Number 1127536001262 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

30. LIMITED LIABILITY COMPANY BASHNEFT POLUS (a.k.a. OOO BASHNEFT POLUS), Ul. Chernyshevskogo D. 60, Ufa 450076, Russia; Ul. Im V.I. Lenina D.31, Nar'yan-Mar 166000, Russia; Secondary sanctions risk: See Section 11 of Executive Order 14024.; Tax ID No. 2983998001 (Russia); Registration Number 1108383000549 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

31. LIMITED LIABILITY COMPANY KYNSKO CHASELSKOE NEFTEGAZ, Ul. 50 Let Oktyabrya D. 14, Floor 15 Office 42, Tyumen 625048, Russia; Secondary sanctions risk: See Section 11 of Executive Order 14024.; Tax ID No. 7705856587 (Russia); Registration Number 5087746092451 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

32. PUBLICHNOE AKTSIONERNOE OBSHCHESTVO UDMURTNEFT IMENI VI KUDINOVA, 182, Red Army Street, Udmurtia, Izhevsk 426057, Russia; Secondary sanctions risk: See Section 11 of Executive Order 14024.; Tax ID No. 1831034040 (Russia); Registration

Number 1021801147774 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

33. RN–YUGANSKNEFTEGAZ LLC (a.k.a. RN–YUGANSKNEFTEGAZ OOO; a.k.a. YUGANSKNEFTEGAZ), Lenina St., 26, Nefteyugansk, Tyumen Region 628309, Russia; Email Address rn_yng@yungjsc.com; Executive Order 13662 Directive Determination—Subject to Directive 2; alt. Executive Order 13662 Directive Determination—Subject to Directive 4; Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; alt. Secondary sanctions risk: See Section 11 of Executive Order 14024.; Tax ID No. 8604035473 (Russia); Registration Number 1058602819538 (Russia); For more information on directives, please visit the following link: <http://www.treasury.gov/resource-center/sanctions/Programs/Pages/ukraine.aspx#directives>. [UKRAINE–EO13662] [RUSSIA–EO14024] (Linked To: OPEN JOINT–STOCK COMPANY ROSNEFT OIL COMPANY).

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

34. TAAS YURYAKH NEFTEGAZODOBYCHA LLC, UL. Pervomaiskaya D.32 A, Lensk 678144, Russia; Secondary sanctions risk: See Section 11 of Executive Order 14024.; Tax ID No. 1433015633 (Russia); Registration Number 1021400967532 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

35. OPEN JOINT–STOCK COMPANY ROSNEFT OIL COMPANY (a.k.a. OAO ROSNEFT OIL COMPANY; a.k.a. OIL COMPANY ROSNEFT; a.k.a. OJSC ROSNEFT OIL COMPANY; a.k.a. ROSNEFT; a.k.a. ROSNEFT OIL COMPANY), 26/1 Sofiyskaya Embankment, Moscow 115035, Russia; website www.rosneft.com; alt. website www.rosneft.ru; Email Address postman@rosneft.ru; Executive Order 13662 Directive Determination—Subject to Directive 2; alt. Executive Order 13662 Directive Determination—Subject to Directive 4; Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; alt. Secondary sanctions risk: See Section 11 of Executive Order 14024.; Registration ID 1027700043502 (Russia); Tax ID No. 7706107510 (Russia); Government Gazette Number 00044428 (Russia); For more

information on directives, please visit the following link: <http://www.treasury.gov/resource-center/sanctions/Programs/Pages/ukraine.aspx#directives>. [UKRAINE–EO13662] [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

36. LUKOIL OAO (a.k.a. LUKOIL (Cyrillic: ЛУКОЙЛ); a.k.a. LUKOIL OIL COMPANY; a.k.a. NEFTYANAYA KOMPANIYA LUKOIL OOO; a.k.a. NK LUKOIL OAO; a.k.a. PUBLIC JOINT–STOCK COMPANY OIL COMPANY LUKOIL (Cyrillic: ПУБЛИЧНОЕ АКЦИОНЕРНОЕ ОБЩЕСТВО НЕФТЯНАЯ КОМПАНИЯ ЛУКОЙЛ)), 11 Sretenski boulevard, Moscow 101000, Russia; website www.lukoil.ru; Email Address info@lukoil.ru; Executive Order 13662 Directive Determination—Subject to Directive 4; Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; alt. Secondary sanctions risk: See Section 11 of Executive Order 14024.; Registration ID 1027700035769 (Russia); Tax ID No. 7708004767 (Russia); Government Gazette Number 00044434 (Russia); Legal Entity Number 549300LCJ1UJXHYBW124; For more information on directives, please visit the following link: <http://www.treasury.gov/resource-center/sanctions/Programs/Pages/ukraine.aspx#directives>. [UKRAINE–EO13662] [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the energy sector of the Russian Federation economy.

Bradley T. Smith,

Director, Office of Foreign Assets Control.

[FR Doc. 2026–01060 Filed 1–20–26; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Quarterly Publication of Individuals Who Have Chosen To Expatriate; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction notice.

SUMMARY: This document contains corrections to a publication of the Quarterly Publication of Individuals Who Have Chosen To Expatriate in accordance with IRC Section 6039G of the Health Insurance Portability and Accountability Act (HIPAA) of 1996, as

amended that was published in the **Federal Register** on January 29, 2024.
FOR FURTHER INFORMATION CONTACT: Kevin T Hall 267–466–0020 (not a toll-free number).
SUPPLEMENTARY INFORMATION:

Background

The publication of the Quarterly Publication Of Individuals Who Have Chosen To Expatriate for the fourth quarter of 2023 is required by IRC section 6039G of the Health Insurance Portability and Accountability Act (HIPAA) of 1996, as amended, is the subject of this correction is under section 6039(G) of the Internal Revenue Code.

Correction of Publication

Accordingly, FR Doc. 2024–01648, the publication of the Quarterly Publication

of Individuals Who Have Chosen To Expatriate for the fourth quarter of 2023, appearing on page 5606 in the **Federal Register** on Monday, January 29, 2024, is corrected on page 5619, in the first column, in the eighth line from the top of the column to read “SRINIVASAN . . .”.

Dated: October 7, 2025.
Kevin T. Hall,
Senior Revenue Agent Team 1942, CSDC—Compliance Support, Development & Communications.

Editorial Note: This document was received for publication by the Office of the Federal Register on January 16, 2026.
[FR Doc. 2026–01095 Filed 1–20–26; 8:45 am]
BILLING CODE P

DEPARTMENT OF VETERANS AFFAIRS
Advisory Committee on the Readjustment of Veterans, Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under the Federal Advisory Committee Act, 5 U.S.C. Ch. 10., that the Advisory Committee on the Readjustment of Veterans will meet virtually on March 24, 2026 via Microsoft Teams. The session will begin and end as follows, and is open to the public:

Dates	Times	Locations	Open session
March 24, 2026	1:00 p.m. to 2:30 p.m. Eastern Standard Time (EST).	Via Microsoft Teams link shown below	Yes.

The purpose of the Committee is to advise the VA regarding the provision by VA of benefits and services to assist Veterans in the readjustment to civilian life. The Committee, comprised of 9 subject matter experts, advises the Secretary through the VA Readjustment Counseling Service. In carrying out this duty, the Committee shall take into account the needs of Veterans who served in combat theaters of operation.
On March 24, 2026, the Committee will meet to review and vote on the 26th report, review the calendar forecast, and discuss the location and subject matter experts to consider presenting at the next full committee meeting. The meeting will be open to the public and time will be allotted for the public to provide comments starting at 2:00 p.m. EST and ending no later than 2:30 p.m. EST. The comment period may end

sooner if no comments are presented or they are exhausted before the end time. Individuals interested in providing comments during the public comment period are allowed no more than three minutes for their statements. Additionally, the Committee will accept written comments from interested parties on issues outlined in the meeting agenda or other issues regarding the readjustment of Veterans. Parties should contact Mr. Joshua Mathis via email at Joshua.Mathis@va.gov or by mail at Department of Veterans Affairs, Readjustment Counseling Service (10RCS), 810 Vermont Avenue, Washington, DC 20420.
Any member of the public seeking additional information should contact Mr. Mathis at the email address noted above.

March 24, 2026
https://teams.microsoft.com/l/meetup-join/19%3ameeting_MTNIOGQwMzItMDZmNi00MDVkLWI4ND?context=%7b%22Tid%22%3a%22e95f1b23-abaf-45ee-821d-b7ab251ab3bf%22%2c%22Oid%22%3a%223370e162-17c2-4423-8174-023497fa6815%22%7d
You can dial in by phone at 1–872–701–0185 and use the access code 758165421#.
Dated: January 16, 2026.
Jelessa M. Burney,
Federal Advisory Committee Management Officer.
[FR Doc. 2026–01067 Filed 1–20–26; 8:45 am]
BILLING CODE 8320–01–P



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Part II

Department of Justice

Antitrust Division

United States of America et al. v. RealPage, Inc. et al. Proposed Final Judgment and Competitive Impact Statement; Notice

DEPARTMENT OF JUSTICE

Antitrust Division

United States of America et al. v. RealPage, Inc. et al. Proposed Final Judgment and Competitive Impact Statement

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h), that a proposed Final Judgment, Stipulation, and Competitive Impact Statement have been filed with the United States District Court for the Middle District of North Carolina in *United States of America et al. v. RealPage, Inc. et al.*, Civil Action No. 1:24-cv-00710. On January 7, 2025, the United States filed a Complaint alleging that LivCor, LLC's agreements with RealPage and other landlords to share information and align pricing violate Section 1 of the Sherman Act, 15 U.S.C. 1. The proposed Final Judgment, filed on December 23, 2025, bars LivCor from licensing or using a revenue management software that relies on competitively sensitive data and prohibits LivCor from sharing competitively sensitive information with other landlords. LivCor must also establish an antitrust compliance policy and cooperate with the United States in this litigation.

Copies of the Complaint, proposed Final Judgment, and Competitive Impact Statement are available for inspection on the Antitrust Division's website at <http://www.justice.gov/atr> and at the Office of the Clerk of the United States District Court for the Middle District of North Carolina. Copies of these materials may be obtained from the Antitrust Division upon request and payment of the copying fee set by Department of Justice regulations.

Public comment is invited within 60 days of the date of this notice. Such comments, including the name of the submitter, and responses thereto, will be posted on the Antitrust Division's website, filed with the Court, and, under certain circumstances, published in the **Federal Register**. Comments should be submitted in English and directed to Danielle Hauck, Acting Chief, Technology and Digital Platforms Section, Antitrust Division, Department of Justice, 450 Fifth Street NW, Suite 7100, Washington, DC 20530 (email

address: *ATR.Public-Comments-Tunney-Act-MB@usdoj.gov*).

Suzanne Morris,

Deputy Director Civil Enforcement Operations, Antitrust Division.

In the United States District Court for the Middle District of North Carolina

UNITED STATES OF AMERICA, U.S. Department of Justice, Antitrust Division, 950 Pennsylvania Avenue NW, Washington, DC 20530; STATE OF NORTH CAROLINA, 114 W Edenton Street, Raleigh, NC 27603; STATE OF CALIFORNIA, 300 South Spring Street, Suite 1702, Los Angeles, CA 90013; STATE OF COLORADO, 1300 Broadway, 7th Floor, Denver, CO 80203; STATE OF CONNECTICUT, 165 Capitol Avenue, Hartford, CT 06106; STATE OF ILLINOIS, 115 S LaSalle St., Floor 23, Chicago, IL 60603; COMMONWEALTH OF MASSACHUSETTS, One Ashburton Place, 18th Floor, Boston, MA 02108; STATE OF MINNESOTA, 445 Minnesota Street, St. Paul, MN 55101; STATE OF OREGON, 100 SW Market St., Portland, OR 97201; STATE OF TENNESSEE, P.O. Box 20207, Nashville, TN 37202 and STATE OF WASHINGTON, 800 Fifth Avenue, Suite 2000, Seattle, WA 98104–3188, Plaintiffs, v. REALPAGE, INC., 2201 Lakeside Blvd., Richardson, TX 75082, CAMDEN PROPERTY TRUST, 11 Greenway Plaza, Ste. 2400, Houston, TX 77046; CORTLAND MANAGEMENT, LLC, 3424 Peachtree Rd., Ste. 300, Atlanta, GA 30326; CUSHMAN & WAKEFIELD, INC., 225 W Wacker Dr., Ste. 3000, Chicago, IL 60606; GREYSTAR REAL ESTATE PARTNERS, LLC, 465 Meeting St., Ste. 500, Charleston, SC 29403; LIVCOR, LLC, 233 South Wacker Dr., Ste. 4700, Chicago, IL 60606; PINNACLE PROPERTY MANAGEMENT SERVICES, LLC, 2401 Internet Blvd., Ste. 110, Frisco, TX 75034, and WILLOW BRIDGE PROPERTY COMPANY, LLC, 2000 McKinney Ave., Ste. 1100, Dallas, TX 75201, Defendants.

AMENDED COMPLAINT

Case No. 1:24-cv-00710–LCB–JLW

JURY TRIAL DEMANDED

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I. Introduction

1. Renters are entitled to the benefits of vigorous competition among landlords. In prosperous times, that competition should limit rent hikes; in harder times, competition should bring down rent, making housing more affordable. RealPage has built a business out of frustrating the natural forces of competition. In its own words, “a rising tide raises all ships.” This is more than a marketing mantra. RealPage sells software to landlords that collects nonpublic information from competing landlords and uses that combined information to make pricing recommendations. In its own words, RealPage “*helps curb [landlords'] instincts to respond to down-market conditions by either dramatically lowering price or by holding price when they are losing velocity and/or occupancy. . . . Our tool [] ensures that [landlords] are driving every possible opportunity to increase price even in the most downward trending or unexpected conditions*” (emphases added).

2. In fact, as RealPage's Vice President of Revenue Management Advisory Services described, “*there is greater good in everybody succeeding versus essentially trying to compete against one another in a way that actually keeps the entire industry down*” (emphasis added). As he put it, if enough landlords used RealPage's software, they would

“*likely move in unison versus against each other*” (emphasis added). To RealPage, the “greater good” is served by ensuring that otherwise competing landlords rob Americans of the fruits of competition—lower rental prices, better leasing terms, more concessions. At the same time, the landlords enjoy the benefits of coordinated pricing among competitors.

3. RealPage replaces competition with coordination. It substitutes unity for rivalry. It subverts competition and the competitive process. It does so openly and directly—and American renters are left paying the price.

* * * * *

4. Americans spend more money on housing than any other expense. On average, American households allocate more than one-third of their monthly income to housing. Some purchase a home, while others choose to, or must, rent. A family's selection of an apartment reflects a complex set of values and criteria including comfort, safety, access to schools, convenience, and critically, affordability. To ensure they secure the greatest value for their needs, renters rely on robust and fierce competition between landlords.

5. RealPage distorts that competition. Across America, RealPage sells landlords commercial revenue management software. RealPage develops, markets, and sells this software to enable landlords to sidestep vigorous competition to win renters' business. Many of the largest landlords in the United States, including Greystar, Camden, Cortland, Cushman & Wakefield and Pinnacle, LivCor, and Willow Bridge (collectively, Defendant Landlords), which would otherwise be competing with each other, submit or have submitted on a daily basis their competitively sensitive information to RealPage.¹ This nonpublic, material, and granular rental data includes, among other information, a landlord's rental prices from executed leases, lease terms, and future occupancy. RealPage collects a broad swath of such data from competing landlords, combines it, and feeds it to an algorithm.

6. Based on this process and algorithm, RealPage provides daily, near real-time pricing “recommendations” back to competing landlords. These recommendations are based on the sensitive information of their rivals. But these are more than just “recommendations.” Because, in its

¹ As used in this Complaint, the term “landlord” refers to a variety of entities that are responsible for setting rents and other lease terms at multifamily properties, including owners, operators, and managers.

own words, a “rising tide raises all ships,” RealPage monitors compliance by landlords to its recommendations. RealPage also reviews and weighs in on landlords' other policies, including trying to—and often succeeding in—ending renter-friendly concessions (like a free month's rent or waived fees) to attract or retain renters. A significant number of landlords then effectively agree to outsource their pricing function to RealPage with auto acceptance or other settings such that RealPage as a middleman, and not the free market, determines the price that a renter will pay. Competing landlords choose to share their information with RealPage to “eliminate the guessing game” about what their competitors are doing and ultimately take instructions from RealPage on how to make business decisions to “optimize”—or in reality, maximize—rents.

7. Each landlord pays steep fees to license RealPage's software. RealPage's stated goals and value proposition are not a secret. Its executives are blunt: They want landlords to “avoid the race to the bottom in down markets.” Sometimes RealPage is even more direct, acknowledging that its software is aimed at “driving every possible opportunity to increase price” or observing that among landlords, “there is a greater good in everybody succeeding versus essentially trying to compete against one another in a way that actually keeps the entire industry down.”

8. But that is not how the free market works. A free market requires that landlords compete on the merits, not coordinate pricing. Landlords should win renters by offering whatever combination of price and quality they think is most attractive. For example, landlords could lower rents or provide other financial concessions, like free months of rent, or with investments in amenities like gyms, grilling areas, or pools. Put differently, the fear of losing a renter to a competitor should motivate rival landlords to compete vigorously.

9. RealPage's revenue management software ingests on a daily basis nonpublic rental rates, future apartment availability, and changes in competitors' rates and occupancy. As competitor-landlords increase their rents, RealPage's software nudges other competing landlords to increase their rents as well. RealPage calls this “maximiz[ing] opportunity[.]” As RealPage explained to one landlord, by using competitors' data, they can identify situations where “we may have a \$50 increase instead of a \$10 increase for that day.” This is what RealPage

encourages as “stretch and pull pricing.”

10. RealPage allows landlords to manipulate, distort, and subvert market forces. One landlord observed that RealPage’s software “can eliminate the guessing game” for landlords’ pricing decisions. Discussing a different RealPage product, another landlord said: “I always liked this product because your algorithm uses proprietary data from other subscribers to suggest rents and term. That’s classic price fixing” A third landlord explained, “Our very first goal we came out with immediately out of the gate is that we will not be the reason any particular sub-market takes a rate dive. So for us our strategy was to hold steady and to keep an eye on the communities around us and our competitors.”

11. RealPage’s scheme not only distorts competition to the detriment of renters, but also allows it to reinforce its dominant position in the market for commercial revenue management software. By its own account, RealPage controls at least 80 percent of that market. Its dominant position is protected by substantial data advantages due to its massive reservoir of ill-gotten competitively sensitive information from competing landlords. No other revenue management company can match RealPage’s access to landlords’ nonpublic, competitively sensitive rental data. This is why RealPage acknowledges that it “does not have any true competitors, mainly because our data is based on real lease transaction data.” RealPage’s conduct is predatory and exclusionary, which has allowed it to distort the market opportunities for honest providers of revenue management software.

12. At bottom, RealPage is an algorithmic intermediary that collects, combines, and exploits landlords’ competitively sensitive information. And in so doing, it enriches itself and compliant landlords, including Defendant Landlords, at the expense of renters who pay inflated prices and honest businesses that would otherwise compete.

13. The United States, and the States of North Carolina, California, Colorado, Connecticut, Illinois, Minnesota, Oregon, Tennessee, and Washington, and the Commonwealth of Massachusetts, acting by and through their respective Attorneys General, bring this action pursuant to Sections 1 and 2 of the Sherman Act to rid markets of (i) RealPage’s and Defendant Landlords’ unlawful information-sharing and pricing alignment schemes, and (ii) RealPage’s illegal monopoly in commercial revenue management

software. In so doing, Plaintiffs seek to restore the free market to deserving individuals, families, and honest businesses.

II. RealPages’s Revenue Management Software Is Fueled by Nonpublic, Competitively Sensitive Information Shared by Landlords

14. RealPage dominates the market for commercial revenue management software that landlords use to price apartments, controlling at least 80 percent of that market, according to its own estimates. RealPage currently offers three revenue management systems to landlords: YieldStar, AI Revenue Management (AIRM), and Lease Rent Options (LRO). The company’s main legacy software, YieldStar, is the product of three acquisitions and subsequent internal development. Its successor, AIRM, uses much of the same codebase as YieldStar, but RealPage claims that AIRM’s refined models and forecasting are more precise. RealPage acquired its other revenue management software, LRO, in 2017. RealPage has made plans to sunset both YieldStar and LRO by the end of 2024.

15. Competitively sensitive data collected from competing landlords is a critical input to RealPage’s revenue management software. AIRM and YieldStar collect this data, such as rental applications, executed new leases, renewal offers and acceptances, and forward-looking occupancy, and use it to generate price recommendations for the competing landlords. This information is among the most competitively sensitive data a landlord maintains.

16. The exploitation of sensitive data from competing landlords is central to RealPage’s approach. As part of pitching its software to landlords, RealPage highlights that its pricing algorithms use their competitors’ data sourced directly from “lease transaction data.” RealPage describes this nonpublic data from competitors as one of three “building blocks of price” in AIRM and YieldStar. Landlords thus share their competitively sensitive information with RealPage with the understanding that RealPage’s software will use the data to generate recommendations for rivals (and vice versa).

A. Landlords Agree To Share Nonpublic, Competitively Sensitive Transactional Data With RealPage for Use in Generating Competitors’ Pricing Recommendations

17. RealPage amasses nonpublic, competitively sensitive data from competing landlords through use of its pricing algorithms, other rental property

software, and thousands of monthly phone calls. The combined troves of nonpublic, competitively sensitive data are much more granular, sensitive, timely, and comprehensive than alternatives—and far more detailed than any data publicly available to potential renters. RealPage then uses this data in generating competitors’ pricing recommendations.

18. *Data shared through YieldStar and AIRM.* Each AIRM and YieldStar client agrees to share detailed data with RealPage that are private, updated nightly, and granular. The data includes lease-level information on each unit’s effective rent (rent net of discounts), rent discounts, rent term, and lease status, as well as unit characteristics such as layout and amenities. It also includes the number of potential future renters who have visited a property or submitted a rental application.

19. Landlords understand that AIRM and YieldStar use their data to recommend prices not just for their own units, but also for competitors. For example, a revenue management director at Greystar testified that she understood that Greystar, and other competing landlords who used AIRM or YieldStar, agreed with RealPage to share their data, which was combined in a single data pool for use by YieldStar and AIRM. An executive at Willow Bridge noted the advantages to using YieldStar at a property if others in the property’s submarket—the small geographic area around the property—also used YieldStar because “the shared data between the models at different communities can be a benefit in getting accurate transactional data on a timely basis.”

20. Landlords agree to provide this information for use by their competitors because they understand they will be able to leverage the sensitive information of their rivals in turn. In its pitch to prospective clients, RealPage describes AIRM’s and YieldStar’s access to competitors’ granular, transactional data as a meaningful tool that it claims enables landlords to outperform their properties’ competitors by 2–7%. RealPage clients receive training that highlights the role of competitors’ transactional data in the price recommendation process.

21. *Data Shared Through Other RealPage Products.* AIRM and YieldStar are not the only ways that RealPage shares nonpublic, competitively sensitive information among landlords. RealPage obtains the same confidential transactional data from landlords that license at least three other programs: OneSite, Performance Analytics with

Benchmarking, and Business Intelligence.

22. *OneSite* is RealPage's property management software, which operates as the central source of data for landlords' leasing activity. *Performance Analytics with Benchmarking* allows landlords to compare the performance of their properties and floor plans (e.g., a one-bedroom, one-bathroom unit) to their competitors. *Business Intelligence* is a data analytics tool that pulls data from a landlord's property management software and other products.

23. Each landlord using RealPage's *OneSite*, *Business Intelligence*, and *Performance Analytics with Benchmarking* products agrees to share its proprietary data with RealPage and agrees that RealPage's revenue management software can use the data to generate pricing recommendations. The license agreements for these products specifically identify the shared data, such as pricing information, as confidential, nonpublic information. RealPage takes this deeply confidential information and uses it to provide rent recommendations to competitors of these clients.

24. These agreements grant RealPage access to confidential information from over 16 million units across the country, including many that do not use its revenue management products. With respect to *Performance Analytics with Benchmarking* alone, a RealPage sales representative told a prospective client that "we have over 16 million units of data coming from various source operating systems (PMS) [property management software] into the PAB platform," making RealPage the top choice for "transactional data benchmarking." With properties containing approximately 3 million units using AIRM and YieldStar, these additional agreements meaningfully multiply the scale of the transactional data used by AIRM and YieldStar. This gives RealPage greater visibility, including into markets with less penetration by AIRM and YieldStar, granting even initial AIRM and YieldStar adopters in a new market the benefit of access to a significant amount of nonpublic, competitively sensitive information.

25. Landlords understand that AIRM and YieldStar will use data from these products. A revenue management director at Greystar explained that RealPage ingests transactional data from several RealPage products, besides AIRM and YieldStar, for use in revenue management. A property owner requested information from Greystar on which competing properties used revenue management software. In an

internal response, the Greystar director noted that RealPage has "access to more transactional history than anyone and [is] pulling data from anyone using RealPage products which includes companies who manually price or use other revenue management firms but leveraging their BI [Business Intelligence] products."

26. A revenue management executive at Willow Bridge asked RealPage if other specific landlords were using RealPage's non-revenue management products. The landlord's owner client was concerned about the data available to YieldStar because competing properties were unsophisticated and did not use revenue management. This executive wanted to confirm that "YieldStar will be able to leverage actual transactional data behind the scenes and not just look at offered rents for their comps." RealPage reminded the Willow Bridge executive that RealPage collected transactional data for *all* users of *OneSite*, *Business Intelligence*, and *Performance Analytics with Benchmarking*, and reassured the executive that YieldStar had ample transactional and survey data for that area.

27. *Calling Landlords*. RealPage has an additional, complementary product called *Market Analytics*. *Market Analytics* compiles data from over 50,000 monthly phone calls that RealPage makes to landlords across the country. On these calls RealPage collects nonpublic, competitively sensitive information by floor plan on occupancy rates, effective rents, and concessions, as well as information on the owner, management company, and any revenue management software used at the property. These market surveys cover over 11 million units and approximately 52,000 properties. Landlords, including but not limited to those that use AIRM, YieldStar, or other RealPage products, knowingly share this nonpublic information with RealPage.

B. AIRM and YieldStar Users Agree With RealPage To Use the Software To Align Pricing

28. In addition to agreeing to share nonpublic, competitively sensitive data with RealPage, each AIRM and YieldStar licensee agrees with RealPage to use the AIRM or YieldStar pricing software as RealPage designed it.² Landlords are expected to review daily AIRM or YieldStar floor plan price recommendations and use the programs

to set scheduled floor plan rents or even unit-level prices.

29. While landlords may not accept every price recommendation, they use AIRM or YieldStar as their pricing software, regularly review AIRM or YieldStar floor plan recommendations, use AIRM or YieldStar to set a scheduled floor plan rent, and use AIRM or YieldStar to set unit-level prices.

30. Landlords who use AIRM and YieldStar know that others are using the same software. Some landlords track which revenue management software their competitors use, including by contacting competing properties directly and exchanging nonpublic information. Other landlords, including prospective AIRM and YieldStar users, ask RealPage whether there are existing AIRM and YieldStar users nearby before they themselves license the products.

31. An executive at Willow Bridge, for example, explained to her team how she would learn from RealPage data or from a property's website whether a property used revenue management. This information is important because properties that use revenue management tend to update prices much more frequently, and so a landlord will react differently to those price changes if it knows the competitor is using revenue management.

32. RealPage frequently tells prospective and current clients that a "rising tide raises all ships." A RealPage revenue management vice president explained that this phrase means that "there is greater good in everybody succeeding versus essentially trying to compete against one another in a way that actually keeps the industry down." This rising tide lifts all landlords, including but not limited to AIRM and YieldStar users.

33. In using AIRM and YieldStar, landlords expect this pricing alignment and use RealPage software in part for this reason. One landlord echoed the RealPage executive, using the phrase "a rising tide rises [sic] all ships" to explain that AIRM would move prices in a "similar manner" to how the top and bottom of the market move. Elsewhere that same landlord noted that "if everyone in the market is doing well and everyone in the market has [sic] is having the rates go up, so should ours, right?" An employee at Willow Bridge referenced RealPage's use of the phrase "a rising tide raises all ships" to explain how AIRM would provide price recommendations that amplify market trends. Multiple landlords have expressed their preference that their competitors use YieldStar and AIRM because widespread use would benefit

² Defendants Camden, Cushman & Wakefield and Pinnacle, Greystar, LivCor, and Willow Bridge were active beta testers for AIRM and provided feedback to RealPage during the AIRM design process.

them all. An executive of one landlord (which itself uses YieldStar and AIRM) said in a 2021 earnings call that more sophisticated, “high-quality competition” was better for that landlord when “they all use revenue management. They are all smart. They raised rents when they should.” RealPage highlighted in promotional materials the sentiments of another landlord who noted, “It actually gives me chills to think about what a disadvantage we’d be at if we hadn’t adopted YieldStar, knowing others are using it.”

C. RealPage’s Transactional Data Is Fundamentally Different From Other Data Available to Landlords

34. The data that RealPage uses and supplies is unique relative to public data available to landlords on listing or property websites. As compared to public data, RealPage data is much more granular, covers a broader array of business information, and includes competitively sensitive data across several dimensions. For example:

- *Information on Actual Transactions.* RealPage’s data include, for each lease, the unit, floor plan, listed

rent, final transacted lease price (including any discounts), and lease term.

- *Renewals.* RealPage’s data include the same information for lease renewals. Information on renewals is not listed publicly—not even asking rents—leaving a significant blind spot for landlords not using RealPage.

- *Time Span.* AIRM and YieldStar have access to current and historical lease data, from the previous day and going back two to three years.

- *Future Demand.* The shared data further includes information on tenant demand, including detailed information on inquiries and applications by potential future tenants.

- *Accuracy.* Landlords have greater assurance of the accuracy of the data because it comes directly from the landlords’ own databases.

- *Coverage.* The RealPage data covers millions of units from users of its revenue management software and other products.

35. RealPage touts how its data is different. As one RealPage pitch deck put it, “we have [the] most data and the best data.” And the “[q]uality of data is best in class given that it is ‘lease transaction data’—this provides insight

into performance data from actual signed leases, both new and renewal, net effective of concessions.” Another noted that without YieldStar “you’ll be pricing your renewals in the dark without insight into actual lease transaction data that YS uses to help you make pricing decisions. This is critical to price renewals right[, especially in a downturn.”

36. Access to this data proves important in winning over revenue management clients, including skeptical ones. One RealPage senior manager noted that a “highly suspicious CFO” was won over in part by YieldStar’s “lease transaction data” that allowed his company to “achieve what his people couldn’t achieve on their own.”

37. One landlord explained the benefits of YieldStar to its owner clients by calling the use of competitors’ transactional data a “game changer! We have 100% truth on [competitors’] activity powering YieldStar recommendations.”

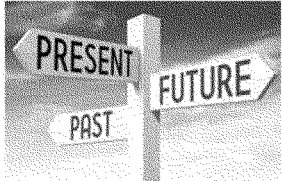
38. Another landlord’s internal training presentation on YieldStar highlighted the importance of having access to competitors’ transactional data:

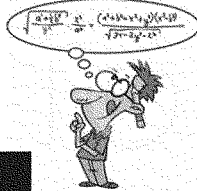
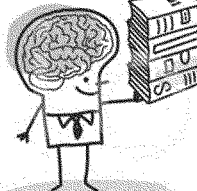
How Does it Work?

Calculates Price using complex algorithms:

- Historical data
- Current OneSite data
- Transactional Competitive Market Data

Used to generate a price recommendation
EVERY day for EVERY unit!



D. RealPage Revenue Management Software Uses Nonpublic, Competitively Sensitive Data To Recommend Prices

39. AIRM and YieldStar are built upon similar code and leverage competitive data in similar ways. LRO, on the other hand, was originally developed outside of RealPage and takes a different approach.

1. AIRM and YieldStar Leverage Competitively Sensitive Data To Generate Price Recommendations

40. AIRM uses competitors' nonpublic, transactional data in three separate stages of the pricing process: (1) model training, (2) floor plan price recommendations, and (3) unit-level prices. YieldStar uses competitors' nonpublic, transactional data in stages two and three of its process.

(a) AIRM Model Training Relies on Competitively Sensitive Data To Generate Learned Parameters

41. In the first stage, RealPage trains its AIRM models using nonpublic data from OneSite and other property management software, totaling millions of executed lease transactions, new lead applications, renewal applications, and guest cards filled out by visiting potential tenants. This data is run through a machine learning model to generate learned parameters for supply

and demand models that are then used for all AIRM clients across the country. Like the coefficients in a regression model, the learned parameters are applied to the data of a landlord's specific property, and to the data of its competitors, when AIRM makes pricing recommendations. RealPage generally retrain the models three to four times per year using updated nonpublic data.

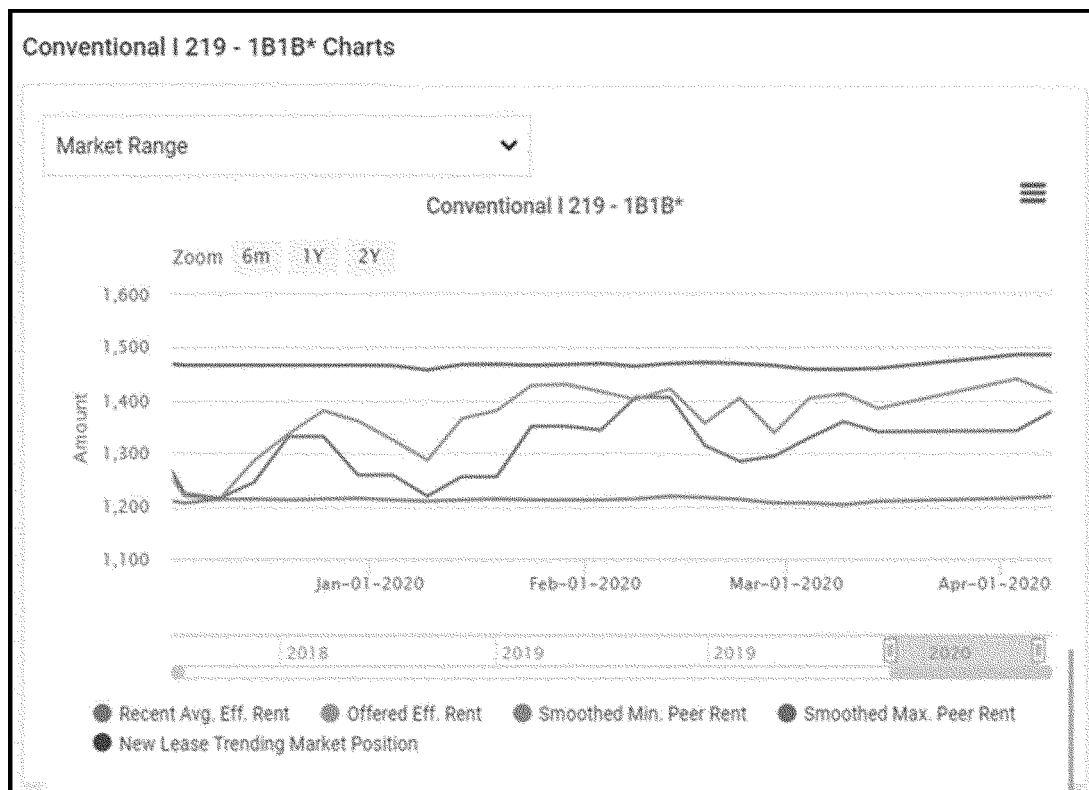
(b) AIRM and YieldStar Incorporate Competitors' Nonpublic Data To Generate Floor Plan Price Recommendations

42. In the second stage AIRM or YieldStar provides a price recommendation for every floor plan of a given property. A floor plan is a grouping of units that share similar characteristics, such as the number of bedrooms and bathrooms and square footage. Landlords define the floor plans in their buildings—for example, a large apartment building might have separate sets of floor plans for studios, one-bedroom, and two-bedroom apartments. As discussed below, AIRM and YieldStar use competitors' nonpublic, transactional data in nearly every step of setting a recommended floor plan price, including identifying peer properties, forecasting occupancy and leasing, increasing rents to match competitors' changes, and determining the magnitude of price changes.

43. *Identifying Peers.* First, AIRM and YieldStar use confidential transaction data to identify a property's peer properties, which include close competitors. In selecting peer properties, RealPage's algorithm generally looks for properties with similar floor plans, within close geographic proximity, and with similar effective rents over time. AIRM or YieldStar clients may review the list of peer properties and request that RealPage add or remove specific properties.

44. AIRM or YieldStar then uses the nonpublic data from competitors' executed leases to generate a market range chart for each floor plan. This chart identifies a "smoothed" market minimum effective rent and market maximum effective rent. The market minimum is a hard floor. AIRM and YieldStar will not recommend a rent below the market minimum. On the other hand, the market maximum is a "soft ceiling," and the programs will recommend prices above the ceiling.

45. The client has access to the market range chart within the AIRM and YieldStar interfaces. As shown below, for each floor plan the client can see the smoothed market minimum and market maximum and where the client's own floor plan sits within the market range.



46. *Forecasting Occupancy and Leasing.* Every night, for each participating property, AIRM applies the model's learned parameters to that property's internal transactional data to forecast the number of expected vacancies and expected lease applications for a certain period into the future. AIRM may also use competitors' data to adjust the projected supply.

47. AIRM or YieldStar then determines whether actual leasing for a floor plan is on track to meet predicted leasing. To do so, it creates a forecast of the number of leases over time, using nonpublic lease and application data from the subject property, and potentially from so-called surrogate properties (similar properties in the surrounding area).³ When there is an imbalance between a property's actual and forecasted leasing, it recommends a price change.

48. *Changing Rents to Match Competitors.* Even when a property's supply and demand are balanced, RealPage's software will still recommend a price change, based on competitors' nonpublic data, when it determines that the market is moving. For example, if the minimum and maximum of the competing floor plans' effective rents increase, it will recommend a price increase to maintain the floor plan's market position (its price position relative to its competitors).

49. *Determining Magnitude of Price Changes.* Once AIRM or YieldStar has determined that it will recommend a price increase or a price decrease, it again uses competitors' transactional data to determine *how much* the price should move and provide a floor plan price recommendation. It uses nonpublic transactional data from peer properties, in addition to data from the subject property and surrogate properties, to generate a market response curve—analogue to a market demand curve—for every floor plan. This demand curve provides an estimate of how demand for particular apartments would change in response to changes in rents, a measure that RealPage calls elasticity. In other words, it uses competitors' nonpublic transactional data to calculate how many leases the property will likely gain or lose for a particular floor plan, for every price point along the curve. Using this data, AIRM or YieldStar can determine how much the price can

increase and still achieve the target number of leases, or by how little price can decrease to maintain a target occupancy.

50. RealPage describes elasticity as a pivotal input into balancing supply and demand and, therefore, price.

51. The use of surrogate properties in this pricing process has the potential to push convergence on price even further. As two properties' surrogate sets become closer—and therefore their respective demand curves become more similar—AIRM and YieldStar will generate increasingly similar prices for the two properties. And the use of surrogates is common. One of the largest landlords in the country, for example, uses surrogates at over 80% of its properties.

52. This process repeats for every floor plan in the client's property, every night. A new floor plan price recommendation is generated daily.

(c) AIRM and YieldStar Use Competitors' Nonpublic Data—Including Data on Future Occupancy—To Determine Unit-Level Prices

53. A property manager at the landlord reviews each floor plan recommendation daily and enters the floor plan price. AIRM and YieldStar then use the floor plan price to generate prices for every unit within the floor plan. The unit price is shown in a pricing matrix, which provides the price for each combination of start date and lease term. To generate the price for an individual unit, the floor plan price is adjusted to account for unit-specific factors such as amenities (*e.g.*, a desirable view, the floor level, or an in-unit washer and dryer), staleness (*i.e.*, how long that specific unit has been vacant), and the timing of lease expirations. AIRM and YieldStar again use competitors' nonpublic data during this step in at least two ways.

54. First, AIRM and YieldStar use data on competitors' supply of multifamily housing to adjust recommendations to limit “exposure” with a feature called lease expiration management. Exposure refers to the number of units that are available for lease. Managing lease expirations is an important element of revenue management software. If too many leases expire and the corresponding units become available at the same time, supply increases and rents for those units will tend to drop. This process will also tend to repeat itself as the same units will become available at the same time a year later for leases with a standard twelve-month term.

55. The objective of expiration management is to smooth out this

exposure so that landlords, as explained by one RealPage employee, “remain in a position of pricing power.” For example, if AIRM or YieldStar sees that a large number of units will likely be available in twelve months, it will increase the price recommendation for a twelve-month lease relative to price recommendations for leases of other terms, such as 11 months or 13 months, in order to nudge potential renters to accept those terms. Expiration management can only raise prices—AIRM does not lower a unit's price if the lease term would fall in an underexposed period.

56. This calculation does not rely *only* on the predicted future supply for the client's property. For any landlord who uses a “market seasonality” setting, AIRM and YieldStar *also* rely on competitors' transactional data and the supply for those competitors—including the supply of competitors' existing leases that expire in the future. AIRM and YieldStar thus work to manage lease expirations for the client's units based on how competitors' supply will change. RealPage strongly recommends to landlords that they use market seasonality.

57. The use of competitors' nonpublic data in expiration management to fill out the pricing matrix occurs regardless of whether the landlord accepts the AIRM or YieldStar recommendation. Thus, even if a landlord were to override every price recommendation, its rental prices would still be influenced by nonpublic information about its competitors' supply.

58. Second, AIRM and YieldStar include an amenity optimization feature. By pricing specific amenities within units, landlords can avoid making wholesale pricing changes to a floor plan if a specific unit fails to lease. Within the amenity analysis, AIRM and YieldStar provide market values for specific amenities to landlords, allowing them to compare their perceived value of an amenity with the nonpublic valuation of their competitors. The peer data include the market minimum and maximum value for specific amenities.

2. LRO Relies Primarily on Landlords To Input Data on Competitors

59. RealPage's LRO also provides pricing recommendations to users. Each week, LRO users manually input competitor information into the system that they have obtained from public websites or more questionable means, such as communicating directly with their competitors.

60. A small number of LRO users subscribe to a feature called AutoComp. With this feature, RealPage provides

³ If there is insufficient historical data for a particular building, or floor plan within that building, RealPage will use data from what it calls a “surrogate property,” which is the confidential transactional data from another property with characteristics similar to the subject property.

information on competitors' rents, traffic, and occupancy. This information comes from market surveys that RealPage compiles using call centers to call competitor properties. Landlords may use LRO without using AutoComp.

E. RealPage Uses Multiple Mechanisms To Increase Compliance With Price Recommendations

61. AIRM and YieldStar provide daily price recommendations. RealPage has taken multiple steps to increase compliance with AIRM and YieldStar price recommendations. It designed AIRM and YieldStar to make it much easier to accept recommendations than to decline them. It built an auto-accept function and pushes clients to adopt it and increase its role. And its pricing advisors encourage landlords to follow AIRM and YieldStar pricing recommendations. Among their duties, pricing advisors review any request to override a price recommendation.

1. AIRM and YieldStar Make It Easy To Accept Recommendations and More Difficult and Time-Consuming To Decline

62. Every morning, the landlord's property manager chooses whether to accept the floor plan price recommendation, keep the previous day's rent, or override the recommendation. These options are the same for new leases and renewal leases. RealPage makes it easier and faster for a client to accept a recommendation than to decline it. When accepting recommendations, the manager can choose to do a bulk acceptance—she can accept all or multiple floor plan recommendations at once. But she cannot do the same when overriding, or rejecting, the recommendation.

63. Instead, for every recommendation that she does not accept—whether overriding or keeping the previous day's rent—the property manager must provide “specific business commentary” for diverging from the recommendation. This justification, RealPage instructs, should not be a mere preference for another price but must be based on a factor that the model cannot account for, such as local construction or renovations occurring in the building. It must be a “strong sound business minded approach.”

64. The property manager knows that these recommendation rejections and accompanying justifications will be sent to a RealPage pricing advisor.⁴ If the

pricing advisor disagrees with the rejection or justification, the disagreement is escalated for resolution to a landlord's regional manager, who typically supervises the property manager.

65. As one client who complained to RealPage explained, RealPage's design is “trying to persuade [clients] to take the recommendations (almost like we made it hard to do anything but).”

2. RealPage Pushes Clients To Adopt Auto-Accept Settings That Automatically Approve Recommendations

66. AIRM and YieldStar each include auto-accept functions. This functionality automatically accepts price recommendations falling within certain parameters. By default, AIRM and YieldStar set auto-accept parameters of a 3% daily change and an 8% weekly change. The landlord can change these parameters, disable or enable auto-accept, and even enable partial auto-accept. With partial auto-accept, if the recommendation exceeds the auto-accept parameters, the recommendation is accepted as far as the parameter permits. For example, if the auto-accept daily change limit is 4% and the price recommendation is 5%, using partial auto-accept will result in an increase of 4%. By enabling auto-accept, a landlord functionally delegates pricing authority to RealPage (within the bounds of the daily and weekly limits).

67. As part of the onboarding process, internal RealPage guidance states, “AUTO ACCEPT should be confirmed as ‘on’ with parameters in place.” Internal AIRM training explained that RealPage wanted to “widen auto accept parameters” by introducing the feature and then “creating enough trust so that over time we have client[s] that are willing to let auto accept run with very wide parameters . . . AKA—accept all recommendations.” RealPage trains pricing advisors to have an “accountability conversation” or a “refresher on short term vs long term goals” for clients that show less tolerance for increasing auto-accept parameters.

68. Even if a landlord does not want to use auto-accept, RealPage trains its advisors to convince the landlord to turn it on with 0% limits—a setting whereby auto-accept will never accept price changes. The reason? So that it is no longer a question of whether the client turns on auto-accept, but only a matter of convincing them to widen the

parameters and further delegate pricing decisions. RealPage instructs its advisors on best practices: “[I]f a partner is not ready to use auto acceptance, are they ready to use revenue management?”

3. RealPage Pricing Advisors Provide a “Check and Balance” on Property Managers To Increase Acceptance of Recommendations

69. RealPage offers landlords pricing advisory services. Landlords typically have an assigned pricing advisor, unless the client has internal revenue managers that were certified by RealPage. Pricing advisors play an important role in the daily review of pricing recommendations. Landlords' property managers are asked to review recommendations every morning by 9:30 a.m. After their review, a pricing advisor accepts agreed-upon pricing within an hour and escalates any disputes to the landlord's regional manager.

70. If a property manager disagrees with the direction of a recommended price change—e.g., the manager wants to implement a price decrease when the model recommends a price increase—the RealPage pricing advisor escalates the dispute to the manager's superior. As a pricing advisor manager explained in a client training, the advisor would “stop the process and reach out to our partners”—the property manager's supervisors—to “talk about this further.” The advisors, the manager elaborated, are part of a system of “checks and balances.” The client confirmed the value of this system to stop property managers from acting on emotions, which could limit RealPage's influence on their pricing.

71. Beyond the daily interactions between pricing advisors and their own property managers, clients agree to make meaningful changes when they use RealPage's pricing advisory services. Under the specifications for this service, clients agree to use AIRM or YieldStar exclusively to give quotes to potential renters, further tying landlords' pricing decisions to RealPage's software. Clients also agree to change their commission programs for leasing agents to “ensure these programs motivate sales behavior that is consistent with the objectives of revenue growth.” And clients further agree to revenue growth as the official metric to evaluate AIRM and YieldStar, as opposed to occupancy rates.

72. RealPage imposes additional requirements on landlords who want to use internal or in-house revenue management advisors with YieldStar or AIRM (rather than use RealPage pricing advisors). RealPage requires these

⁴ Some clients have internal revenue managers that are certified by RealPage. For those clients who have internalized the revenue management function, recommendation rejections may be routed

to the internal revenue manager rather than a RealPage pricing advisor.

landlords' employees go through RealPage certification. Certification is a multiday course in which landlords are trained—at times in the same session—on AIRM and YieldStar use and best practices, according to RealPage. Certification includes observing and leading pricing calls with property managers and passing a written exam. This certification program facilitates the landlords' agreements with RealPage to align pricing by ensuring that landlords' internal revenue managers are trained and tested to use AIRM and YieldStar in the same way.

4. Pricing Recommendations Heavily Influence Landlords' Behavior

73. RealPage defines an acceptance as where the final floor plan price is within 1% of the recommended floor plan price. According to that definition, the average acceptance rate across all landlords nationally for new leases between January 2017 and June 2023 is between 40–50%. But RealPage itself recognizes that acceptance rates are not necessarily the best measure of its influence; one employee explained that the spread between a floor plan recommendation and the final scheduled floor plan price is more useful for measuring model adoption—and therefore influence—than the binary accept/reject decision that the RealPage-defined acceptance rate reflects. Widening the definition of acceptance even slightly to account for partial acceptances illustrates the influence of recommendations: nearly 60% of final floor plan prices are within 2.5% of RealPage's recommendation, and more than 85% are within 5% of RealPage's recommendation.

74. RealPage's preferred measure of acceptance understates the influence of RealPage's price recommendations and the effect of competitors' data. AIRM and YieldStar use competitors' nonpublic transactional data to adjust unit-level pricing, after a floor plan recommendation has been accepted or rejected. RealPage's metric does not capture the cumulative effect of rate acceptances over time. Nor do they capture when a client is influenced by and partially accepts a recommendation.

III. Coordination Among Competing Landlords Is a Feature of This Industry

75. Several characteristics of apartment-rental markets make it easier for landlords to coordinate with, or accommodate, each other. Rental housing is a necessity for many Americans, meaning that demand is inelastic—that is, changes in rent produce relatively small changes in the number of renters. There is significant

concentration among landlords in local markets, and these landlords engage in widespread, regular communications with one another. And RealPage makes rental units more comparable to each other in AIRM and YieldStar, allowing landlords to track one another more easily. These industry characteristics exacerbate the harm to the competitive process—and ultimately to renters—from the exchange of nonpublic, competitively sensitive data through RealPage and the use of the AIRM and YieldStar models.

A. Rental Housing Is a Necessity for Millions of Americans

76. Shelter is a basic, foundational necessity of life. And for tens of millions of Americans, conventional multifamily apartment buildings are the only reasonable option for much of their lives. Many renters cannot afford the significant down payment needed to purchase a single-family home, among other requirements.

77. Demand for apartments is relatively inelastic. Rising rents have disproportionately affected low-income residents: The percentage of income spent on rent for Americans without a college degree increased from 30% in 2000 to 42% in 2017. In 2021, the proportion of severely burdened households—households spending more than half of their income on gross rent—was 25%, or approximately 10.4 million households, an increase in approximately 1 million households since 2019. By 2022, this number increased to 12.1 million households. For college graduates, the percentage of income spent on rent increased from 26% to 34% from 2000 to 2017.

B. The Multifamily Property Industry Is Rife With Cooperation Among Ostensible Competitors

78. Within particular metropolitan areas and neighborhoods, the multifamily property industry is concentrated and replete with competitively sensitive discussions among ostensible competitors. Landlords have agreed with one another to share nonpublic, sensitive information, both indirectly through RealPage software and directly outside of RealPage's software. RealPage facilitates some of these discussions, while others are made directly between competing landlords. These discussions supplement and reinforce the indirect information sharing among landlords that occurs through AIRM and YieldStar. As a result of this coordination, RealPage's pricing algorithms are even more likely to

restrain, rather than promote, competition.

1. At the Local Level, the Multifamily Property Industry Comprises a Small Number of Large Landlords Managing Buildings With Different Owners

79. In 595 zip codes with at least 1,000 total multifamily units across 125 core-based statistical areas, five or fewer landlords manage more than 50% of the multifamily units. Within the submarkets alleged in this complaint, there are at least 214 zip codes, each with at least 1,000 total multifamily units, in which five or fewer landlords manage more than half of those units. Similarly, within the ten core-based statistical areas alleged in the complaint, there are 144 zip codes, each with at least 1,000 total multifamily units, in which five or fewer landlords manage more than half of those units.

80. The same landlord often oversees nearby properties with different owners. In at least 502 zip codes, at least one landlord using AIRM or YieldStar oversees properties with different owners.

81. There is also overlap among RealPage pricing advisor assignments. In at least 683 zip codes, within 96 core-based statistical areas, a RealPage pricing advisor has responsibility for properties managed by different landlords. RealPage takes no steps to avoid assigning the same pricing advisor to properties with different owners, even if those properties compete with each other or are RealPage-mapped competitors.

2. Landlords Regularly Discuss Competitively Sensitive Topics With Their Competitors and Swap Information

82. Landlords regularly solicit and obtain nonpublic information about inquiries by prospective renters, occupancy, and rents from their direct competitors. Although this information is not as accurate or thorough as the transactional-level data shared with AIRM and YieldStar, it is nonetheless sensitive competitive information.

83. Landlords collect this information through a variety of means, including weekly phone calls, emails, and in-person visits. Some landlords also share information on their local geographic markets through shared Google Drive documents. One RealPage employee explained to his colleagues, reflecting on his former time working at a landlord, that these weekly inquiries "required cooperation among the comp[etitor]s but wasn't hard to get that." In June 2023, a senior director at Cushman & Wakefield admitted that

“this practice has been prevalent in our industry for a long time.”

84. Landlords not only knew of these so-called “market surveys,” but expected their property managers to participate. As a manager of Cushman & Wakefield’s revenue management department explained, “we have always expected our properties to continue doing a traditional market survey[,]” which “gives us insight into the very specific handful of competitors closest to the subject property.”

85. At a February 2020 industry event, representatives from Cushman & Wakefield and two other landlords shared tips on collecting information on concessions and net effective rents from competitors. The suggestions included bi-weekly and monthly meetings with competitors, sponsored “cocktail hours for regional competitors to share info and build relationships and rapport,” and using Google Drive documents to share information on a weekly basis. Building relationships with competitors to get accurate data was “critical.” The representatives cautioned that the collected data was used to make “major decisions about pricing,” so the landlord employees collecting data should be trained accordingly to ask such questions as “are you seeing a slow down?” and “are you adjusting pricing?”

86. Some landlords engage in even more sensitive communications about price, demand, and market conditions. These communications are not isolated instances at a specific property. Rather, they are conversations at the corporate revenue management level about strategies and approaches to market conditions that apply to the landlords’ business across all markets.

87. For example, in January 2018, Willow Bridge’s director of revenue management reached out to Greystar’s director of revenue management and asked about Greystar’s use of auto accept in YieldStar. In response, Greystar’s director provided Greystar’s standard auto-accept settings, including daily and weekly limits and for which days of the week auto accept was used. The Greystar director, explaining why she provided this information, testified that the Willow Bridge director was a “colleague,” even though Willow Bridge was a competitor to Greystar.

88. In March 2020, Cushman & Wakefield’s director of revenue management reached out to Willow Bridge’s director of revenue management. The Cushman & Wakefield director wanted to hold a call among revenue management executives at multiple landlords to discuss market conditions, use of YieldStar, and

strategy plans. The Willow Bridge director agreed and suggested a small number of landlords to invite to keep the group “tight.” The directors agreed to reach out to Greystar, as well as several other landlords.

89. Also in March 2020, a senior executive at Greystar obtained a copy of Willow Bridge’s sensitive strategic plans regarding the COVID-19 pandemic. The plans included Willow Bridge’s corporate protocols for concessions, rent increases, and lease terms. The plans recommended that property managers work closely with YieldStar and LRO to preserve rent integrity. The Greystar executive forwarded Willow Bridge’s plans to executives at Cushman & Wakefield and another landlord. All four landlords compete with one another.

90. In September 2020, Camden’s director of revenue management reached out to Greystar’s director of its internal revenue management team. Camden asked Greystar—a direct competitor—what increases on renewal pricing Greystar had seen in August and offered what it had seen. Greystar’s director replied with information not only on August renewals, but also on how Greystar planned to approach pricing in the upcoming quarter. Greystar’s director further disclosed its practices on accepting YieldStar rates and use of concessions. As the conversation continued, the two competitors shared additional highly-sensitive information on occupancy—including in specific markets—demand, and the strategic use of concessions.

91. At the same time, Camden’s director emailed a revenue management executive at LivCor and asked how LivCor was faring on raising renewal rates. He explained his request by noting that Performance Analytics provided some good data, but it was “hard to see what our competitors are signing today.” The two executives shared information about their respective renewal increases. After the Camden executive passed this information along internally, he continued his outreach with several other landlords and with the LivCor executive—who in the meantime had reached out to three other landlords about their renewal rates. Camden’s internal team decided to raise a renewal cap to get to the same renewal gains as LivCor.

92. Camden’s director received competitively sensitive information from at least four competitors. Another senior executive at Camden asked him to compile the information so it could be shared internally. That executive noted the usefulness of the competitors’

information and the need to take advantage of the shared information while it was fresh.

93. In June 2021, Willow Bridge’s head of revenue management emailed Greystar’s revenue management director. She proposed collaborating with Greystar to convince a client to move all of its properties, including those managed by Willow Bridge and those managed by Greystar, to AIRM. But she also noted that, in thinking about “the larger picture as well,” it could be useful to “coordinate with the other companies that we often share business with” to prepare to move their clients to AIRM as well. Greystar responded favorably to transitioning the joint client to AIRM.

94. In November 2021, a revenue management executive at LivCor emailed an executive at Camden to propose a call to discuss Camden’s “renewal philosophy,” for the purpose of informing how LivCor calculated renewal increases. The two spoke that day. The following day, another LivCor executive—who was included on the call—thanked the Camden executive for the opportunity to “connect on industry best practices” and asked another “operational question” about implementing “larger renewal increases.” The executives exchanged emails over the next few months, including discussing their respective strategies on maximum increases to lease renewal prices. They shared not only their increase limits in specific markets but also what price increases they were able to achieve. For example, in April 2022, the executive at LivCor reached out to Camden to share that “my current thinking (not sure it’s right, just where my mind is at) is . . . prices for almost everything are up 20%.” Therefore, unless there is a good reason not to, should we be increasing rates on rentable items by 20%?” The Camden executive responded, “I like your thinking.” He continued, “Typically, we lean into the demand signals to inspire a price increase . . . I’m divided on whether the default increase should be 20% or closer to the 10% . . . Curious what your thoughts are!?”

95. In September 2021, a property manager at Cortland explained to a colleague that the manager had called two competitors and received from them pricing information on two-bedroom and three-bedroom units. The property manager asked for the information to decide how to act on YieldStar’s price recommendations.

96. Landlords also engage in group discussions with local and national competitors about sensitive topics. For example, for a number of months in

2020, dozens of “high-level participants” from competing landlords participated in weekly “multifamily leadership huddle” videoconferences. The organizer informed participants that “the goal of the call is to share information about what our companies are doing, share some collateral and resources,” and then—perhaps recognizing the problematic nature of these calls—he claimed that “then we hang up and make our own decisions.”

97. In one such call in April 2020 with over 100 attendees, participants discussed a number of topics, including “pricing and renewal strategies.” Several senior landlord executives, including a Greystar senior managing director and a CEO of another landlord, participated and shared their practices on new leases and renewals, use of renter payment plans, and use of YieldStar and other revenue management software. On a similar call in October 2020, participants discussed current and forecast rent prices, renewal strategies, and use of concessions. A Willow Bridge employee forwarded a colleague notes from the call, and he specifically highlighted information about a competitor’s use of concessions.

98. These conversations among competing landlords have extended from the national level to local markets across the country. For example, in Minnesota, property managers from Cushman & Wakefield, Greystar, and other landlords regularly discussed competitively sensitive topics, including their future pricing. When a property manager from Greystar remarked that another property manager had declined to fully participate due to “price fixing laws,” the Cushman & Wakefield property manager replied to Greystar, “Huh . . . Price fixing laws huh? That’s a new one! Well, I’m happy to keep sharing so ask away. Hoping we can kick these concessions soon or at least only have you guys be the only ones with big concessions! It’s so frustrating to have to offer so much.” The property managers from Greystar and Cushman & Wakefield continued to discuss competitively sensitive topics. For example, in response to Greystar’s tipoff that it had reduced concessions and “hop[ed] the Spring/Summer market allow us to pull further back on concessions,” the Cushman & Wakefield property manager replied, “That’s great news and I love hearing about the concessions being pulled back. We have done the same and hoping the rest of the market follows suit.” These communications between RealPage users that are ostensibly competitors are examples of the industry-wide coordination that magnifies the

anticompetitive effects of RealPage’s software.

99. In addition to contacting each other directly, many landlords also exchange information through other intermediaries. One vendor offers a tool for landlords to exchange with one another nonpublic information on concessions, net effective rents, inquiries and visits by prospective renters, and occupancy that is pulled from each landlord’s property management software. Over 150 landlords nationally have used this service, including Greystar, LivCor, and some of the other largest landlords across the country. The vendor’s CEO described this as a “quid pro quo or give to get” arrangement among landlords where “if you share this data with me, I’ll share the same data.” A RealPage employee noted that this vendor makes it “quicker and easier to get your market surveys.”

100. Some landlords use this direct exchange of competitively sensitive information to update competitor rents within LRO—a practice that RealPage is aware of and accepts.

101. Recently, under the scrutiny of antitrust lawsuits, some landlords have adopted internal policies prohibiting “call arounds” and other direct sharing of competitively sensitive information with direct competitors. But even assuming that their property managers fully comply with these legally unenforceable internal policies, these landlords continue to use RealPage’s revenue management software.

3. At RealPage User Group Meetings, Landlords Discuss Competitively Sensitive Topics

102. RealPage holds monthly “user group” meetings attended by competing landlords that use RealPage’s software. There are separate user group meetings for LRO and for YieldStar and AIRM.⁵ One of RealPage’s stated purposes for the user groups is to “to promote communications between users.” Attendees include a wide mix of competing landlords. For example, the June 2022 YieldStar user group included representatives from five of the largest property management companies in the country, among a larger group.

103. Recurring topics at the user group meetings include product enhancements and an “idea exchange” on potential changes to the products. The user group participants often vote on the proposals discussed in the idea exchange. But discussions have covered competitively sensitive topics,

⁵ RealPage previously held separate AIRM and YieldStar user groups but combined them in 2023.

including managing lease expirations, pricing amenities, the use of concessions, pricing strategies, and how to manage properties during the COVID–19 pandemic. RealPage encouraged landlords to use the user group meetings to discuss such topics in their industry and set agendas for these meetings to aid them in doing just that, remarking that “[t]he user group is meant to be self-governed to a degree and the clients should be leading it.” These RealPage-fostered discussions among competitors enhance and facilitate the landlords’ agreement with RealPage to use AIRM and YieldStar to align pricing.

104. At an April 2020 YieldStar user group meeting, the participants discussed strategies for handling the COVID–19 pandemic. In the presentation, two RealPage employees and a landlord led a group discussion of trends in rent payments and collections and provided five strategic tips. One tip encouraged landlords to “push for occupancy but don’t give away the farm (pricing).” Another counseled landlords to “balance internal and external dynamics” and, referring to the nonpublic information used by YieldStar, to “use transactional market data for decision support and to know when you can be more aggressive” in pushing higher rents. Invited attendees included representatives from at least twelve landlords. At this meeting, Greystar and another landlord shared information on their usage of payment plans with tenants.

105. In May 2020, RealPage started a YieldStar user group meeting by surveying them on concessions. RealPage asked landlords how many of their properties offered concessions, whether concessions applied to new leases or renewals, and the types of concessions offered (such as discounts, gift cards, or other benefits). Invited attendees included representatives of thirteen landlords.

106. In March 2021, the user group meeting included a discussion on possible adjustments to how YieldStar calculated lease expiration premiums. A RealPage executive shared that she liked the idea of adding weekend premiums to incentivize prospective renters to move in during the week, and commented that “the rev[enue] potential would then scale up.” The LivCor representative responded in favor of weekend premiums, and another user group member suggested adding the proposal to the user group idea exchange. RealPage agreed to do so.

107. RealPage began its agenda for an April 2021 YieldStar user group meeting with “strategic insights” from a

RealPage economist. This employee shared “21 key strategic insights,” including “focus on renewals,” “be cautious with concessions,” and “drive up revenues—not just base rent.” Specifically, he urged the group to “push up new and renewal pricing where demand [is] solid” and warned against over-relying on concessions. They were instead to “trust the science” of YieldStar.

108. In May 2021, RealPage included a “Back to Basics” discussion in a YieldStar user group meeting. This discussion covered “returning to renewal increases post-COVID” and “declining concessions,” as well as eviction moratoria and areas where acceptance rates were “seeing significant uptick in past 6 months.” The meeting group chat is even more revealing. Over a period of approximately fifteen minutes, representatives from fifteen landlords shared their plans for renewal increases and their use of concessions. The questions were posed, “At what point do we go back to normal? If we go back to normal[,] [i]s it now? Is anyone seeing that the model is raising rent and are you doing it?” In response, these representatives made statements on renewal increases such as “increasing, back to normal,” “major rent growth on the west coast,” “increasing the renewals,” “almost all markets we are raising rents,” “actually raising more than before covid at some,” “raising,” and “we are pushing to get back to normal. Sending increases.” A representative from LivCor stated, “increasing renewals and pushing new lease rents.”

109. The user group members were similarly open about their disinterest in concessions, signaling to each other that they do not intend to offer them or would offer them less frequently. Their pronouncements included “no concessions [sic],” “no concessions,” “considerably less concessions,” “less frequent and less aggressive,” “no concessions except in markets with a lot of lease-ups,” and “almost no concessions currently.” A representative from Willow Bridge noted concessions had “gone away a LOT. People asking for a free month on renewals and being denied, but still signing the renewal.”

110. When the discussion turned to acceptance rates, a RealPage employee stated that rates had “pretty much gone back to pre-COVID. Rate Acceptance has grown 11% over the past 6 months.” A landlord responded that they had “seen our acceptance rate increase tremendously.” Another user group member explained to the group, for “about ⅓ of the communities I manage

the [YieldStar] model was too slow to respond, and we are pushing rates above market and above YS rec[ommendation].” A representative from Willow Bridge concluded, “Are we deciding as a group to remove hesitation?.”

111. The LivCor representative who attended this May 2021 meeting testified that similar discussions happened numerous times during the COVID–19 pandemic—specifically, the beginning of 2020 through the middle of 2022. In these meetings, user group members discussed new and renewal rent increases, concessions, and renewal strategies, as well as other sensitive topics.

112. RealPage claims that this and other user group meetings were not recorded.

113. The July 2021 YieldStar user group meeting, held at RealWorld (a RealPage-hosted industry event), included a roundtable discussion among competitors. One of the discussion topics? “What is the one thing you consistently consider outside of the model when accepting or changing price and why?”

114. At the October 2021 YieldStar user group meeting, a RealPage economist gave a presentation regarding the 2022 market outlook. RealPage presented analyses on current occupancy and pricing, and on expected occupancy and rent growth in 2022 by geographic regions.

115. At the July 2022 RealWorld YieldStar user group meeting, RealPage hosted a “roundtable discussion” on market volatility and its impact on how to use revenue management, unit amenities and their impact on tenant rents, and best practices for conducting lease ups.⁶

116. RealPage recognized the sensitive nature of the information shared at these meetings. Beginning in late 2022, after public reporting about AIRM and YieldStar, RealPage added an antitrust compliance statement in the user group presentations. Among other directions, the statement instructed participants not to discuss “confidential or competitively sensitive information,” and then noted that this included “you or your competitors’ prices or anything that may affect prices, such as current or future pricing strategies, costs, discounts, concessions or profit margins.” But these were the very topics of previous user group meetings, as described above, that RealPage

encouraged its users to discuss. And these are the very types of nonpublic information that AIRM and YieldStar use to recommend and determine prices.

117. Landlords frequently take advantage of RealPage user group meeting invites to email each other directly. In August 2020, for example, an employee of Cortland emailed a user group invitee list and asked them to support a change to how YieldStar calculated the number of leases needed. In response, an employee of a different landlord agreed, adding that “I also rely on comparing available units to adj[usted] leases needed, to forecast leases, to gut check the pricing recs. These data points are always a factor in my pricing decisions.”

C. RealPage Uses Nonpublic Information To Allow Landlords to More Easily Compare Units on an Apples-to-Apples Basis

118. Renters typically search for a rental unit using certain key criteria, including the number of bedrooms and the location. Recognizing this market reality, RealPage enables landlords to more easily compare unit prices. When picking a property’s “peer set,” RealPage matches floorplans with the same number of bedrooms that are geographically proximate. This makes it easier for landlords, through AIRM and YieldStar, to track and respond to competitors’ movements at the floor plan level.

119. To account for amenities, RealPage instructs landlords to identify amenities using standardized naming conventions so that RealPage can use machine learning to group amenities together. RealPage then provides the market value for specific amenities, allowing landlords to more accurately identify and track how their competitors value these amenities and adjust their own pricing accordingly. The peer data include the market minimum and maximum value, as well as market quartile values, for specific amenities.

IV. RealPage Harms the Competitive Process and Renters by Entering Into Unlawful Agreements With Landlords To Share and Exploit Competitively Sensitive Data

120. AIRM’s and YieldStar’s use of nonpublic, competitively sensitive data is likely to harm, and has harmed, the competitive process and renters. AIRM and YieldStar distort the competitive process by using nonpublic data to maximize pricing increases and minimize pricing decreases. AIRM and YieldStar incorporate special rules, called “guardrails,” that override the

⁶ A lease up is typically a pre-leasing period (such as with a newly constructed property) where a landlord is seeking to reach a certain, initial occupancy threshold.

ordinary functioning of the algorithms in ways that tend to push rival landlords' rental prices higher than would occur in a competitive market. RealPage presses landlords to curtail "concessions" to renters. And AIRM and YieldStar's "lease expiration management" features aim to sequence vacancies to maximize landlords' pricing power.

A. AIRM and YieldStar Have the Purpose and Effect of Distorting the Competitive Pricing of Apartments

121. As RealPage frequently trumpets to landlords, "a rising tide raises all ships." AIRM and YieldStar ensure that the 'tide' flows primarily one way—higher rental prices. In a hot market, AIRM and YieldStar will recommend price increases to test what the market will bear, while in a down market AIRM and YieldStar will, to the extent possible, still increase or hold prices and minimize price decreases to reach the target occupancy rate.

122. AIRM and YieldStar are designed to help landlords press pricing beyond what they could otherwise achieve while reducing the risk that other landlords would undercut them. A revenue manager at Willow Bridge explained it succinctly: YieldStar is "designed to always test the top of the market whenever it feels it's safe to." By using competitors' sensitive nonpublic data to generate elasticity estimates, among other things, AIRM and YieldStar can recommend higher price increases to extract more money from renters without losing an additional lease. As RealPage explained to a YieldStar client in training, this pricing elasticity measurement informs "how far do we stretch and pull pricing within the market." That, in turn, means that "we may have a \$50 increase instead of a \$10 increase for that day."

123. That insight, gleaned from competitors sharing sensitive, transactional data with RealPage, which is in turn shared with landlords through pricing recommendations, removes

uncertainty and competitive pressure that benefits renters. As one landlord put it, these products "eliminate the guessing game" on rent.

124. As RealPage explains to its clients, AIRM and YieldStar reveal "hidden yield." This extra yield or revenue is hidden in a competitive market—a market in which competitors do not share sensitive information with each other—because landlords "can't see the opportunity" and "fail to capture [the] full opportunity."

125. AIRM and YieldStar disrupt the normal competitive bargaining process between landlords and renters. They place landlords in a better negotiating position vis-à-vis renters. Landlords using AIRM and YieldStar know that these models recommend floor plan prices and price units incorporating nonpublic data of their competitors, including effective rents and occupancy rates, all of which allow landlords to raise price with more certainty.

126. As landlords appreciate, AIRM and YieldStar use competitors' nonpublic data to predict with more certainty the highest price that the market will bear for a particular unit. A landlord is therefore less likely to negotiate on price. Any potential negotiation instead turns on lease term and move-in date, which AIRM and YieldStar adjust the pricing for to avoid overexposure for the landlord in the future.

127. AIRM and YieldStar also encourage landlords to follow each other in raising rents. When transactional data reveal that peers are raising effective rents—particularly the highest and lowest competitors for a given floor plan—AIRM and YieldStar follow with recommendations to increase rental prices. This movement with the market is ingrained in the AIRM and YieldStar models; AIRM and YieldStar will not recommend a floor plan price that falls below the market minimum.

128. Accordingly, as adoption of AIRM and YieldStar increases among

peer competitors, the use of AIRM and YieldStar can push prices up through a feedback effect. As peers move up, other AIRM or YieldStar users may move up accordingly. This phenomenon, where participating landlords "likely move in unison versus against each other," a RealPage executive testified, explains "the rising tide." The same executive saw evidence of this "rising tide" in 2020: When looking at multiple peer sites using YieldStar, "we started to see the trajectory of performance and trends be eerily similar when comparing subject sites and comp sets, thus showing that we are in fact 'r[aising] the entire tide.'" He acknowledged that YieldStar contributed to market prices rising as a tide.

129. Landlords rely on competitors' data within AIRM and YieldStar to determine their prices and how hard they need to try to be competitive. A revenue management director at Greystar noted in an internal AIRM deck that competitors' data is "like the boundaries of the street you are driving on." The director elaborated that "the competitive market range are [sic] the edges of the road, staying in those boundaries are [sic] necessary to get you to the destination."

130. Another landlord that used YieldStar told RealPage that within a week of adopting YieldStar they started increasing their rents, and within eleven months had raised rents more than 25% and eliminated concessions. The landlord added that they were now pricing at the top of their peers and, importantly, had "brought the rest of the Comps rents up with us." A RealPage executive responded internally that this was a "great case study that highlights performance before, during, and a result of YS [YieldStar]."

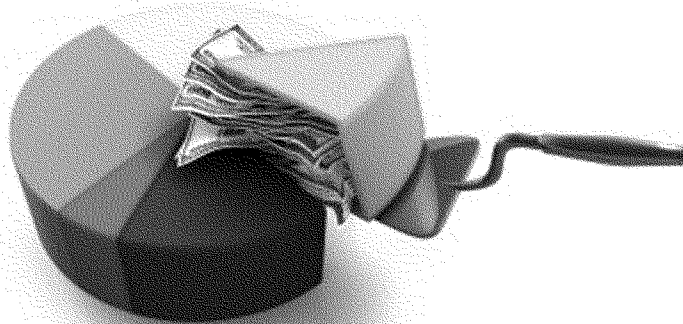
131. A landlord explained in an internal presentation that because YieldStar recommends floor plan pricing that moves with the market—a market position—YieldStar would use competitors' data to inform "how competitive we need to be [e]ach [d]ay."

Competing for the Pie

Demand is fixed, but our piece of the pie is variable

YieldStar recommends a Market Position every day, not a price

Previous achievement vs. Peers and Current need will determine *how competitive we need to be Each Day*



4

132. AIRM uses machine learning to train models on competing landlords' sensitive data. The parameters learned in this training are then applied to each AIRM client.⁷ As a result, the model uses the same method and learned parameters to generate price recommendations from the relevant data for each landlord.

133. This aligns and stabilizes prices in at least two ways. First, it reduces volatility in *how* prices change, compared to a situation in which each client sets prices independently. No longer do competitors react in distinctive ways to changing market conditions as they would in a market without access to competitors' transactional data. Instead, AIRM price recommendations tend to standardize those reactions. This leads to the second result: pricing recommendations, and consequently pricing decisions, become more predictable and aligned among competitors as each is using the same set of learned model parameters.

134. RealPage has even manipulated competitor mappings to increase the likelihood that AIRM or YieldStar

would recommend price increases. For example, a prominent client asked why a subject property had mapped peers located more than 100 miles away, in a different metropolitan area, when there were satisfactory mapped competitors within five miles. RealPage's response was that if these distant properties were not mapped, the client's property would be at the top of the market and it would be more difficult for AIRM to recommend price increases. RealPage had originally mapped these distant properties to give the model more room to recommend price increases for the client's property.

135. This dynamic exists not only in markets with growing demand, but also so-called "down markets," where demand is decreasing. In a competitive market with a fixed supply (at least in the short run) of housing units, a demand decrease would result in prices falling. But AIRM and YieldStar resist price decreases in down markets as much as possible while achieving targeted occupancy rates. RealPage told one prospective AIRM client that the combination of "AI and the robust data in the RealPage ecosystem" would allow the landlord to "avoid the race to the bottom in down markets."

136. Using competitors' transactional data to calibrate and set the bounds of its model enables YieldStar and AIRM

to decrease prices as little as possible in a down market. As one example, in 2023 a landlord reached out to RealPage with concerns about price recommendations at a property. Despite the property having too many vacancies and peer properties decreasing in price, AIRM was recommending price increases, frustrating the property owner. A senior RealPage executive responded that the model was not lowering prices because "there isn't much elasticity between the recommended position and the current one" and "the model would recommend the highest possible position [*i.e.*, price] without affecting demand."

137. RealPage succinctly summarized for landlords the effect of using AIRM and YieldStar in down markets: it "curbs [clients'] instincts to respond to down-market conditions by either dramatically lowering price or by holding price when they are losing velocity and/or occupancy." These tools instill pricing discipline in landlords, curbing normal fully independent competitive reactions by substituting them with interdependent decision-making (*i.e.*, through the use of pricing recommendations based on shared, competitively sensitive information). These products ensure that clients are "driving every possible opportunity to increase price even in the most

⁷ There are separate AI Supply models, and therefore potentially different learned model parameters, for clients using Yardi's property management software and clients using other property management software. But within these two categories the learned model parameters for the AI Supply models are the same.

downward trending or unexpected conditions.”

138. When one client wanted to cancel YieldStar, a RealPage executive noted to colleagues that with cancelation the client would lose “our helping them mitigate damage during rent control and covid.” In particular, the client would lose “us helping them rise with the tide given their strategy.”

139. Landlords understand the sensitivity of the information being shared and the likely anticompetitive effects. One potential client put it succinctly to RealPage: “I always liked this product [AIRM] because your algorithm uses proprietary data from other subscribers to suggest rents and term. That’s classic price fixing”

140. Cushman & Wakefield recognized the anticompetitive potential of sharing this level of detailed competitor data. When a property owner asked for information on specific competitors, Cushman & Wakefield’s director of revenue management replied that the requested tool, RealPage’s Performance Analytics with Benchmarking, did not provide information on specific competitors. The reason? Performance Analytics with Benchmarking “tracks transactional information therefore due [to] the potential pricing collusion, it’s anonymize[d] by RealPage.” Performance Analytics with Benchmarking draws from the same transactional database as AIRM and YieldStar. And while AIRM and YieldStar do not display the granular transactional data to the user, AIRM and YieldStar see and use that data. The price recommendations are based upon the very data that this client recognized could lead to collusion.

141. Even RealPage employees selling LRO recognized the anticompetitive harm from using competitors’ transactional data to recommend prices. In a 2018 training deck provided to clients, RealPage explained, “we often times get the question about if comps are on LRO, can we just update the rents for you? Unfortunately, no, we can’t. That could be considered price collusion, and it’s illegal□.” But this is precisely what AIRM and YieldStar do.

B. AIRM and YieldStar Impose Multiple Guardrails Intended To Artificially Keep Prices High or Minimize Price Decreases

142. Unsatisfied with relying merely on competitively sensitive data to advantage landlords, RealPage created “guardrails” within AIRM and YieldStar to force adjustments to the price recommendation. But these guardrails serve as one-way ratchets that help landlords, not renters, by increasing

price recommendations or limiting a recommended decrease. And each of these guardrails makes use of competitively sensitive data that landlords agree to share with RealPage. These guardrails have even spurred multiple landlords to tell RealPage that AIRM and YieldStar are not dropping recommended rents as much as their individual conditions, or even market conditions, would warrant.

143. *Hard Floor.* AIRM and YieldStar will not recommend a floor plan price that falls below the smoothed market minimum effective rent. The market minimum is a hard floor. AIRM and YieldStar thus explicitly constrain floor plan price recommendations based on the prices of competitors, using shared nonpublic information.

144. *Revenue Protection Mode.* RealPage created a “revenue protection” mode that effectively lowers output to increase revenues. Revenue protection activates when AIRM or YieldStar predict—using calculations incorporating competitors’ data—that demand is too low for a landlord to meet its target occupancy. Rather than lowering the price to stimulate demand, the algorithm reduces the target number of leases. AIRM and YieldStar then maximizes revenue for the *reduced* occupancy level, which tends to reduce price decreases or increase rental prices.

145. RealPage acknowledges that revenue protection “may seem counterintuitive to leasing needs.” In June 2023, a landlord complained to RealPage that “something in your model is broken” because “the pricing model is not lowering rents dramatically” despite the client’s high exposure during a busy summer leasing season. RealPage explained that, with revenue protection, “the model still sees the way to make more revenue is to lease fewer units at higher prices.” In other words, the model seeks to “raise rates to get the highest dollar value possible for the leases we can statistically achieve” and ignore those leases that the client wants but the model predicts, using competitors’ data, the client will not get.

146. The model’s hard price floor can trigger revenue protection mode. In May 2022, for example, a landlord complained that AIRM was recommending price increases despite a projected shortfall in leases. Because revenue protection mode cannot be turned off, the RealPage pricing advisor recommended that the client reduce sustainable capacity. Sustainable capacity is a client-set parameter that imposes an inventory constraint and determines the number of leases AIRM and YieldStar will try to achieve. This is, of course, what revenue protection

mode functionally does on its own: increase inventory constraints to reduce output.

147. This phenomenon, a RealPage employee explained internally, was “true revenue protection mode.” The client’s floor plan was priced toward the bottom of its competitors. AIRM did not see any price decrease that would achieve the original target number of leases without dropping below the market floor (determined using competitors’ data). Because AIRM never recommends prices below the market floor, AIRM instead reduced the number of leases and optimized against that new, lower occupancy rate.

148. Revenue protection mode interrupts AIRM’s and YieldStar’s normal revenue maximization process. As a RealPage data scientist explained, “the model really wants to reduce rent but is prevented from doing so by the revenue protection restriction.” Revenue protection leads to higher prices and lower occupancy.

149. *Sold-Out Mode.* Once a landlord reaches its targeted capacity for a particular floor plan, the model considers that floor plan “sold out” even though units may still be physically available. In that situation, AIRM and YieldStar recommends the maximum rent charged by a property’s competitors, even if the floor plan’s previous price was far lower.

150. RealPage intentionally designed sold-out mode to use competitively sensitive data to lift rents. In an earlier version of the software, sold-out mode pushed rents to 95% of that floor plan’s highest recently achieved rent. But RealPage modified the algorithm in 2022 to go “straight to 100% of comps,” deliberately aligning rents with competitors’ highest rents, rather than the property’s own historical performance.⁸

151. *The Governor.* AIRM and YieldStar favor recommended price increases over price decreases. When the model calculates that the current day’s “optimal” price will result in greater revenue than the previous day, a feature called the “governor” causes the model to recommend the current day’s optimal price.⁹ But when AIRM or YieldStar calculates that the current

⁸ RealPage has at least considered changing this model logic because it introduced meaningful pricing volatility and significant price increases. Even if RealPage has implemented this proposed logic change, the new model logic still incorporates competitors’ confidential rents because AIRM and YieldStar recommend a market position that is tied to the bottom and top of the market, as defined by mapped competitors.

⁹ In some circumstances AIRM will cap the floor plan recommended price increase at a five percent increase.

day's optimal price will result in less revenue than the previous day, the governor recommends the recent average price *even though it is not optimal for the current day*. In other words, when market conditions weaken and the model calculates that a price decrease is warranted, this guardrail kicks in and recommends keeping the recent rent even though it is suboptimal. This asymmetry favors price increases over price decreases.

152. The effect of these guardrails is intentionally asymmetric. AIRM and YieldStar recommend price increases generated by the model. But the guardrails reduce or eliminate certain proposed price decreases even though the model has determined such deviations may contravene the landlord's individual economic interest.

C. AIRM and YieldStar Harm the Competitive Process by Discouraging the Use of Discounts and Price Negotiations

153. RealPage discourages landlords using AIRM and YieldStar from discounting rents. In the multifamily property industry, discounts typically consist of "concessions," which are financial allowances (such as a free month's rent or waived fees) offered to incentivize renters. Concessions may be offered generally or negotiated individually with a potential tenant.

154. In a competitive marketplace, each landlord may independently decide to offer concessions so that it can better compete in enticing lessors. But, again, RealPage seeks to replace fully independent, competitive decision-making with collective action by ending concessions. AIRM and YieldStar do not work as well when landlords use one-off or lumpy concessions. In its "best practices" for revenue management to landlords, RealPage's guidance is simple: "Eliminate concessions." Detailed "best practices" documents for both YieldStar and AIRM users explain that "concessions will no longer be used in conjunction with" YieldStar and AIRM.

155. When onboarding a new property, RealPage emphasizes the importance of accepting price recommendations without offering discounts, including "no concessions." Concessions cause landlords to deviate from what RealPage determines is the maximum revenue-generating price.

156. Landlords have worked to implement RealPage's requests. In one YieldStar training, Greystar explained that "Concessions are gone!" In a client-facing FAQ document about its revenue management products, RealPage explained that "the vast majority of our clients have discontinued the use of

concessions." A 2023 RealPage client presentation showed that the number of units offering concessions generally trended downward from approximately 30% of units in 2013 to under 15% in 2023. A client's refusal to offer concessions is bolstered by its awareness of competing landlords receiving the same advice from RealPage. In addition to discouraging discounts, RealPage discourages negotiating prices with renters. RealPage trains landlords that "YieldStar [or AIRM] is managing your Price," so the landlord's staff can focus on other things. The YieldStar or AIRM rent matrix is to be the source of prices that are given to a prospective renter. RealPage instructs leasing staff to provide prospective renters the specific price from the matrix that corresponds to the prospect's desired move-in date, unit, and lease term. RealPage cautions landlords not to show renters the matrix itself.

D. AIRM and YieldStar Increase and Maintain Landlords' Pricing Power by Using Competitors' Data To Manage Lease Expirations

157. Supply is a basic component of pricing. For this reason, information on a company's supply is highly sensitive, and its disclosure to competitors is particularly concerning. Yet AIRM and YieldStar use competitors' supply data precisely for the purpose of adjusting unit-level pricing, regardless of whether the landlord accepts the floor plan price recommendation. The goal of this "lease expiration management" is clear: As a RealPage senior manager explained for a client, using this data means that the client's property "will remain in a position of pricing power."

158. The purpose of lease expiration management is to avoid too many units becoming available in the market at the same time. Expiration management only increases unit-level prices. It never reduces the price.

159. Every landlord can choose to use "market seasonality" to inform its lease expiration management. As the name suggests, market seasonality adjusts the landlord's prices based on how many of its competitors' units will be vacant—that is, *future supply*. This feature is popular among landlords. For example, one of the largest landlords in the United States uses it in 98% of its properties. Every single property that uses market seasonality is leveraging RealPage's access to this highly sensitive, nonpublic data about its competitors' supply to inform pricing. RealPage trains landlords to turn on market seasonality as a best practice.

160. When activated, the market seasonality function changes unit-level prices across the different possible lease terms *regardless* of whether the landlord accepts the AIRM or YieldStar floor plan price recommendation.

161. RealPage determines for landlords an important input into lease expiration management: the expirations threshold. This threshold influences the point at which expiration premiums are added. The threshold calculation relies on nonpublic lease transaction data for the property's submarket and pulls from numerous RealPage products, including YieldStar, AIRM, OneSite, Business Intelligence, and Performance Analytics with Benchmarking. Landlords cannot adjust the expirations threshold.

162. Fueled by competitor data, expiration management results in "increased stability" and "pricing power." Using competitors' data reduces the risk of overexposure that "could erode rent roll growth." By adjusting price recommendations based on how much total supply is forecast in the market for a given time period, AIRM empowers landlords to charge higher prices than they could without access to competitors' nonpublic data.

E. No Procompetitive Benefit Justifies, Much Less Outweighs, RealPage's Use of Competitively Sensitive Data To Align Competing Landlords

163. AIRM and YieldStar do not benefit the competitive process or renters. Any legitimate benefits of revenue management software can be achieved through less anticompetitive means, and any theoretical additional benefits of AIRM and YieldStar are not cognizable and outweighed by harm to the competitive process and to renters.

V. RealPage Uses Landlords' Competitively Sensitive Data To Maintain Its Monopoly and Exclude Commercial Revenue Management Software Competitors

164. Landlords are not the only ones that benefit from RealPage's rental pricing practices. RealPage benefits too through maintaining its monopoly over commercial revenue management software for conventional multifamily housing rentals. In that market, RealPage's internal documents reflect that it commands an 80% share.

165. RealPage's core value proposition creates a self-reinforcing feedback loop of data and scale advantages. The sharing of competitively sensitive information among rivals attracts more landlords that seek to maximize revenues and extract more money from renters. As a result of its exclusionary conduct, RealPage has been able to

obstruct rival software providers from competing on the merits via revenue management products that do not harm the competitive process.

166. Over time, RealPage has become more entrenched and has stymied alternatives unless they too enter into similar unlawful agreements with landlords to obtain and use nonpublic transactional data to price units. Even then, RealPage's unparalleled troves of competitively sensitive data provide an ill-gotten advantage.

A. Landlords Are Drawn to RealPage Because of Access to Nonpublic Transactional Data That Is Used To Increase Landlords' Revenue

167. Landlords prize RealPage's accumulation of nonpublic transactional data from competing landlords. For example, Greystar noted that "RealPage supplies the best set of transactional data available via their millions of units of data—this becomes a valuable source of truth to our competitive landscape." In a training document for its employees, the same landlord explained that "better data = better outcomes" and that AIRM has "over 15 million units of data available." From the perspective of Greystar, "pricing decisions start with data" and that precision in pricing "comes from data driven decisions." Importantly, the landlord believed that AIRM's ability to "examine data quality . . . each night" via its property management software integrations, including guest card entry, "plays an important role" in pricing.

168. As another example, Cushman & Wakefield identified this data as especially helpful in a dense market because of insights into competitors' actions in the market. The same landlord also concluded that the more data points, the better confidence a landlord has in RealPage's rental recommendations. According to Cushman & Wakefield, more data—especially data about concessions—enabled the landlord to make better decisions because it showed the landlord where the market stood. Cushman & Wakefield's director of revenue management explained to a colleague that YieldStar "collects about 14 MILLION transactional lease data across the US and has over 20 years of historical records." The director acknowledged that "[t]his is huge! Essentially, this is a window into the market and the shifts we are going to experience . . . Having insight into this data, allows [landlords] to make changes with the dynamic changes in the market."

169. Willow Bridge, who compared AIRM to another commercial revenue

management software product, noted that the competing product "is about half of the cost and does a good job in reviewing rents and making recommendations but does it without the additional reporting capabilities and market data that AIRM uses." Ultimately, this landlord decided to push their owner clients towards AIRM. The landlord's decision to use AIRM was in part based on receiving "more accurate and time sensitive data" and noted that, although revenue management is not changing, "the amount of data and how that information is used to grow revenue is bigger and better than ever" with AIRM.

170. Landlords want access to RealPage's transactional data because RealPage advertises, and landlords believe, that the use of this data will increase a landlord's revenue. "Due to the amount of data RealPage possesses," Greystar explained, RealPage developed AIRM "to leverage machine learning to improve both the supply and demand modeling and provide a tool to further customize to each asset's needs." The materials sent to the landlord's clients also included a flyer explaining that AIRM will "outperform the market 2–7% year over year" and that it provides "[a]ctionable intelligence derived from the industry's largest lease transaction database of 13M+ units."

171. Landlords view the lack of access to transactional data as a significant shortcoming in other commercial revenue management software. One landlord received a request from a property owner client for information on YieldStar and how it compared to another commercial revenue management product. A landlord executive explained that YieldStar was backed by robust data and "millions of units of transactional data to support not only their demand and forecast modeling but also their market/competitive set information." She concluded that the other revenue management software was "in a completely different class" than YieldStar. More than two years later, the same executive again concluded that this company's new revenue management product was inferior to AIRM because AIRM had far more transactional data, supported by RealPage's Market Analytics survey data. In another example, a different landlord compared multiple commercial revenue management products to RealPage's YieldStar. He concluded that a major weakness of these alternatives was that they lacked access to transactional data on competitors' rents.

B. RealPage's Collection and Use of Competitively Sensitive Data Excludes Competition in Commercial Revenue Management Software

172. RealPage recognizes the barriers to competition on the merits that its data, scale, and business model provide. RealPage understands that "pricing decisions start with data." RealPage explains to its clients that "[t]he data entered into your [property management software] and collected each night, along with current market data (and lead data if OneSite) provides insight into advantageous demand drivers, identifies revenue risk and opportunity, and captures this competitive landscape for informed pricing."

173. This data and scale advantage is significant and creates a feedback loop that further increases barriers to competition for commercial revenue management software. RealPage touts its access to an "unmatched database." In one case from 2023, a RealPage sales representative noted that RealPage's "revenue management is the most widely adopted solution in the industry" and RealPage had "approximately 4.8M units on revenue management." In a 2023 presentation for AIRM, RealPage advertised that the "[a]mount of data we have (~17mm units) is unique to RealPage" and that the "[q]uality of data is best in class given that it is 'Lease Transaction Data.'" RealPage claimed this "supports that fact that the industry views RealPage as the source of truth for performance data."

174. RealPage has used this competitively sensitive data to develop an AI-driven revenue management solution that leverages the scale and scope of its data. RealPage's plan to use this database as fuel for its AI pricing model is spelled out in a Go-To-Market summary from 2019. In that document, RealPage describes that:

RealPage can achieve \$10 Million in organic ACV growth through delivery of the next generation of revenue management. Failure to do so reduces the opportunity to harvest gains from our \$300M investment in LRO and places a portion of current \$100M revenue management revenue at risk to emerging competitors, including Yardi and low-cost alternatives that say 'all revenue management is the same.' Over time we can sunset YieldStar and LRO reducing expense, and leverage LRO capabilities as a revenue management lite offering.

175. This plan came to fruition with the introduction of AIRM. In a RealPage training presentation from February 2020—right before the launch of AIRM—RealPage discusses a new optimization solution that is built on the "RealPage Foundation" which is

defined as “13.5m units of lease transactional data informing our models with real actionable intelligence in near real time.” As described earlier in the deck, RealPage’s competitors “lack the foundational capabilities on which to build upon” leaving RealPage with the possibility “to tie together each capability . . . in a single view.”

176. RealPage knows that its rivals do not have access to similar data sets. In one presentation from 2022, RealPage discussed competing revenue management products from Yardi and Entrata. Yardi and Entrata have fewer than 250,000 units, RealPage concluded, while RealPage had at least 4 million. Unlike RealPage, Yardi had a limited data set that used data only from Yardi’s property management software. RealPage likewise explained that Entrata lacked much data outside of student housing and Entrata’s revenue management software worked only with its own property management software, meaning Entrata could not pull data from RealPage’s OneSite or other property management software products. RealPage further criticized manual in-house pricing options for having biased data, introducing errors through manual pricing, and being inefficient.

177. RealPage pitches prospective clients on its unique access to and use of nonpublic transactional data that is competitively sensitive. In 2021, RealPage discussed internally how to pitch AIRM to a prospective client who was considering an alternative revenue management solution. A RealPage employee pointed to the competitor’s lack of “AI driven competitor information derived from lease transaction data.” Another employee added that the salesperson should amplify the prospective client’s concerns about the competitor’s lack of nonpublic transactional data, comparing it to buying a “Ferrari without an engine.” RealPage’s chief economist concurred.

178. RealPage’s use of competitors’ nonpublic transactional data provides it an important advantage on pricing renewals. Information on renewals is not available publicly. Competing revenue management vendors who do not use nonpublic, competitively sensitive data are left partially blind to this important part of the rental market. In 2022, a RealPage salesperson stressed this advantage to a prospective client who was also considering a competing commercial revenue management solution. The salesperson noted the lease transaction data RealPage collected on a nightly basis and declared that RealPage had an

“unequaled ability to stress test renewals *nightly* and drive amenity optimization.”

179. RealPage recognizes that its use of competitively sensitive data minimizes any competitive pressure it faces. A RealPage senior vice president explained in a strategy document that RealPage’s unique nonpublic data on leasing decisions was a “data moat,” protecting RealPage from competitors. In 2020 RealPage’s chief economist noted that RealPage’s access to this data was a “major competitive advantage” and a “major reason we can do what we do.” In 2021 a prospective client asked RealPage why AIRM cost three times the amount of a competing revenue management product. Internally, a RealPage employee pointed to AIRM leveraging daily transactional data of over 13 million units to collect competitors’ rents and forecast demand. He noted that multiple large landlords had refused to adopt the competing revenue management product rather than AIRM even when the competitor offered it for free. The same RealPage employee explained to another client that RealPage’s leveraging of lease transaction data—with access to confidential data for over 14 million units—was a key advantage over a competing commercial revenue management provider.

180. In June 2023 a landlord emailed RealPage and asked, “who are your competitors?” A RealPage sales executive responded, “Our revenue management solution does not have any true competitors, mainly because our data is based on real lease transaction data from all kinds of third-party property management systems”

181. In addition, when discussing a potential entrant, a RealPage executive noted that the entrant needed “to get the data to enable [revenue management].” He further noted that [g]etting the data (and more modern methods) . . . will be hurdles for [the entrant].” Another RealPage senior executive explained that shifting clients from LRO, which is less reliant on competitively sensitive information of rivals, to AIRM, which is very reliant on such information, reduced the threat from new entry when she noted that migrating LRO clients to AIRM was “critical to reducing the risk that may come from this new [entrant’s] offering.”

182. RealPage’s power and conduct in connection with commercial revenue management software serves to exclude rivals and maintain its monopoly power. RealPage has ensured rivals cannot compete on the merits unless they enter into similar agreements with landlords, offer to share competitively

sensitive information among rival landlords, and engage in actions to increase compliance. As a result of its exclusionary conduct, RealPage has been able to obstruct rival software providers from competing via revenue management products that do not harm the competitive process in addition to cementing its massive data and scale advantage that keeps increasing due to feedback effects.

VI. Relevant Markets

A. Conventional Multifamily Rental Housing Markets

1. Product Markets

183. Conventional multifamily rental housing is a relevant product market. Conventional multifamily rental housing includes apartments available to the general public in properties that have five or more living units. Conventional rental housing does not include student housing, affordable housing, age-restricted or senior housing, or military housing. This product market reflects consumer preferences, industry practice, and governmental policy.

184. In 2023, RealPage estimated the conventional multifamily rental market to cover approximately 14 million units. The 2021 American Housing Survey estimated a total of 21.1 million multifamily apartments—not limited to conventional—in the United States.

(a) Conventional Multifamily Rentals Are Distinct From Other Types of Multifamily Housing

185. Other types of multifamily apartment buildings are not good substitutes for conventional multifamily rentals. Some kinds of multifamily buildings are restricted to specific types of renters, such as student housing units, affordable housing units (*i.e.*, income-restricted housing), senior (*i.e.*, age-restricted) housing, and military housing. These housing units focused on different classes of renters are not reasonable substitutes for conventional multifamily rentals. RealPage distinguishes conventional multifamily as being in a different market segment from senior, affordable, and student housing in the ordinary course of business.

186. Non-conventional units are not widely available to all renters and can exhibit different buying patterns. For example, student housing serves individuals enrolled in higher education and is typically located on or near universities. Student housing is typically leased by the bed instead of by unit, and faces a significantly different leasing cycle and different patterns in

renewals and leasing practices. Recognizing these differences, RealPage will assign to student properties surrogates that are distant student assets rather than nearby conventional assets. RealPage in fact offers a different version of both AIRM and OneSite, its property management software, for the “student market.”

187. Affordable housing units are available only to individuals or households whose income falls below certain thresholds. Multiple federal affordable housing regulations, for example, require participants in affordable housing programs to have incomes lower than a set percentage, such as 30%, of the median family income in the local area. Affordable housing units are also relatively scarce, with families seeking such housing often waiting years on a waitlist. These legal and practical restrictions prevent affordable housing from being a reasonable substitute to conventional multifamily housing for the typical renter.

188. Senior housing is typically restricted to individuals aged 55 and older. RealPage separates senior housing into four categories: independent living, assisted living, memory care, and nursing care. Independent living offers senior-focused amenities—such as transportation, meals, and social gatherings among community members—that materially increase housing costs and are less desirable to younger households. The other three categories of senior housing provide professional or special care to assist renters with basic tasks like eating, bathing, and dressing, and they are not reasonable substitutes for conventional multifamily rentals.

189. Military housing is also not a reasonable substitute to conventional multifamily rentals. It is typically geographically proximate to military installations, with roughly 95% of military housing found on-base. Although civilians may in some cases be able to live in military housing properties experiencing low occupancy rates, military regulations place them below five higher-priority categories of potential renters, including active and retired military personnel.

(b) Single-Family Housing Is Not a Reasonable Substitute to Multifamily Rentals

190. The multifamily industry, government regulators, and policy documents distinguish between

properties with at least five units, which are classified as “multifamily housing” and those with fewer units, which are classified as “single-family rentals.”

191. The purchase of single-family or other types of homes is not a reasonable substitute for conventional multifamily housing rentals. A former RealPage economist explained that “the choice between renting and owning is first and foremost a life stage and lifestyle choice over a financial one.” Single-family homes also generally require a substantial down payment. In March 2023, a RealPage economist estimated an “entry premium” of \$800 per month to home ownership over rentals. According to a 2021 RealPage strategic planning guide, the “myth” that people were abandoning multifamily properties for single-family homes is false, stating that “rising home sales do not hurt apartment demand.” Single-family home sales are not reasonable substitutes for conventional multifamily housing.

192. More broadly, renters living in conventional multifamily apartments will not switch to single-family homes—purchases or rentals—because of a small increase in rent. The decision to move from an apartment building to a single-family home is primarily a life-stage and lifestyle choice. For example, the decision by a household to have children may spur a move to a single-family home. In many areas, relatively few children live in conventional multifamily apartments. Multifamily apartments typically offer community amenities and a different lifestyle, such as high walkability in an urban area, whereas single-family homes generally do not offer the same amenities and offer instead increased privacy, including private yards. A RealPage analyst explained in 2022 that because a move to a single-family home is a “lifestyle choice,” single-family home rentals were not direct competitors to multifamily rental housing. A 2022 RealPage deck, shared with a landlord, stated that multifamily rentals and single-family rentals were “complementary, not competitive,” and targeted different renters, with different floor plans, in different locations. Another RealPage analyst explained to a multifamily property owner that single-family rentals offer a different renter profile than multifamily rentals.

193. Industry participants agree that single-family rentals attract a different pool of renters from multifamily rentals. A managing director of a single-family

rental property management company explained in 2021 that a renter’s journey from multifamily apartment living to single-family rentals came as life stages evolved. The CEO of a single-family rental developer similarly explained that these single-family rental homes are for renters who age out of multifamily apartments.

194. Single-family rentals are also typically priced higher than multifamily apartments, further reducing potential substitution between them. The chairman of one institutional multifamily property owner explained in a 2022 earnings call that multifamily housing was relatively affordable compared to single-family rentals. An industry price index showed that, in March 2024, single-family rent was approximately 18% higher than multifamily rent.

(c) Conventional Multifamily Rental Units With Different Bedroom Counts Are Relevant Product Markets

195. Different bedroom floor plans also constitute relevant product markets. A key criterion by which a current or prospective renter searches for a rental unit is the number of bedrooms. One-bedroom units are substitutes for other one-bedroom units, two-bedroom units are substitutes for other two-bedroom units, and so forth. Individual renters may change their desired numbers of bedrooms, but this is typically tied to changes in circumstance independent from price. For example, the birth of a new child may require a family to shift from a one-bedroom unit to a two-bedroom unit.

196. RealPage adopts this practical reality in the ordinary course of business. For every property using AIRM or YieldStar, RealPage maps peer floor plans. These mapped floor plans capture reasonable substitutes for the subject property floor plan and reflect the perceived market by a prospective renter.

197. To be selected as a peer, a floor plan must have the same number of bedrooms. A RealPage employee explained the mapping process to a client: “we are looking specifically at the bedroom level. The tool will only map 2b[edroom] with 2b[edroom] or 1b[edroom] with 1b[edroom].” The object of mapping peers is to mirror the prospect buying experience by identifying properties that a potential tenant will see in online searches when searching for a particular floor plan and price range.



Competitor Identification

Focused on buyer search behavior and not individual opinion

Google

1-bedroom apartments near me

Richardson, TX

1-bedroom

1,000

More ▾

Q

- Mirrors the prospect buying experience
- Leverages the RealPage Lease Transaction data set augmented with survey data from RealPage Analytics
- Algorithmically identifies competitive floor plans relative to yours
- Based on geographic, bedroom type and effective rental rate relationships over time

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198. AIRM and YieldStar price the different floor plans, which consist of different numbers of bedrooms, independently. RealPage testified that the model considers no cross-price elasticity between different floor plans: “when you set up the different floor plans, a one bedroom, a two bedroom, or three bedroom, those are completely independent. . . . [T]here’s no influence in what the pricing is for the two bedrooms, for example. . . . has no influence on what the pricing is for the one bedrooms.” Landlords also take steps to maintain a pricing spread between one- and two-bedroom units and avoid pricing one-bedrooms at a higher rate than two-bedroom units.

199. Landlords recognize that units with different bedroom counts face different demand from renters. For example, Greystar explained internally in 2022 that demand for studio apartments differs from demand for three-bedroom units. A separate 2023 training by Greystar reiterated that demand trends, and therefore pricing trends, differ by bedroom counts and that staff should not react to a downward trend in one category, such as two bedrooms, with discounts in one- or three-bedroom units. At another time, Greystar emphasized the benefit of RealPage’s lease expiration management feature because it is managed at the bedroom level—not at the property level—so it could match seasonal demand for units with that specific number of bedrooms. A revenue manager at Willow Bridge similarly

explained to colleagues that one-bedroom units have drastically different demand patterns from two-bedroom units and from three-bedroom units.

2. Geographic Markets

200. Defining relevant geographic markets help courts assess the potential anticompetitive impact of the agreements challenged. Here, the relevant geographic markets for the purposes of analyzing the anticompetitive effects of RealPage’s agreements with landlords are the areas in which the sellers (the landlords) sell and in which the purchasers (potential renters) can practicably turn for alternatives. RealPage’s agreements are alleged to have suppressed price competition in the markets for conventional multifamily housing. The relevant geographic markets to assess those agreements are those property locations close enough for their apartments to be considered reasonable substitutes. In delineating a geographic market for conventional multifamily housing, the focus is inherently local. Renters are typically tied to a particular location for work, family, or other needs.

201. RealPage recognizes the local nature of geographic markets. One RealPage former employee explained that under “Real Estate 101 rules, real estate is local, local, local.” Another RealPage former chief economist noted that an effective evaluation of a property’s performance must be done in comparison to similar properties in the

property’s neighborhood because competitive conditions in the neighborhood could differ widely from the city at large. When training landlords on lease expiration management, two RealPage executives explained that market seasonality was based on the most accurate geographic level, such as zip code, neighborhood, or submarket. They further explained that renters typically move locally. Similarly, a former property manager explained that potential tenants will look at a small number of properties in the same neighborhood, and it is on that neighborhood level where competition occurs among multifamily properties. This individual testified, “location really does matter in real estate.”

202. RealPage has created a tool called True Comps. Used in performance benchmarking products that provide decisional support to AIRM and YieldStar, True Comps provides a more accurate mapping of competitor properties. It uses an algorithm to find the properties most comparable to the subject property, as measured by characteristics including distance, effective rent, age, property height, and unit count and mix. By default, True Comps picks competitors within a 15-mile radius. In scoring distance, True Comps applies a “highly-punitive model”—the distance score drops from 99% for a distance of 0.05 miles, to 56% for a distance of 2 miles, and to 10% for a distance of 8 miles. Thus, RealPage acknowledges and incorporates small geographic areas as the appropriate

location in which to find true competitive alternatives.

203. During a property's implementation process, AIRM and YieldStar require the mapping of peer properties, including competitors. RealPage starts by looking for competitors within a half-mile radius from the subject property and then expands as necessary. Geographic proximity is in fact so important that YieldStar has a default radius that limits its search for competing properties to no more than 5 miles in urban settings, and to no more than 10 miles in suburban settings. RealPage has an internal process for escalating any proposed peer property that is more than 15 miles away.

(a) RealPage-Defined Submarkets Identify Relevant Geographic Markets

204. RealPage defines geographic submarkets in the ordinary course of business. Each submarket reflects the geographic area, defined by a set of zip codes, that features similar properties that compete for the same pool of potential renters. In constructing submarkets, which are generally larger than its neighborhoods, RealPage considers major roads, city and county boundaries, and school districts. RealPage also considers socioeconomic factors and apartment market characteristics, such as the age of properties and rental rates.

205. Even within a city, apartment demand varies significantly based on factors such as employment. Supply may also vary widely as existing properties and new construction may be located in different parts of a city. A former RealPage chief economist explained that because "real estate is very local . . . you typically want to take a . . . more narrow view if you can on what's going on in any given submarket."¹⁰

206. The multifamily industry recognizes submarkets as an important geographic area for analyzing competition and pools of renters. Multiple industry analysts offer data by submarkets. A revenue management director at Greystar testified about a submarket that "everybody in our industry uses this term." She further stated that submarkets are a standard

categorization system, used by RealPage and others, including to benchmark a subject property's performance with comparable properties. A revenue manager at Cushman & Wakefield circulated a scorecard comparing performance to the submarket, and exclaimed that "we're perfectly aligned with the submarket" on rent roll.

207. A revenue management executive at Willow Bridge testified that submarkets identify specific, smaller areas of a city where renters look to live to be close to schools or work. This executive testified that submarkets typically identify the area within which a renter is comparing apartment options. This landlord tracks other properties' rents in a subject property's submarket to make sure the subject property remains competitive, and if rents in a submarket increased, then the landlord expected that its property in that submarket would also raise its rents.

208. Appendix A lists RealPage-defined submarkets that identify relevant local markets in which the agreements among RealPage and landlords to share nonpublic, competitively sensitive information for use in pricing conventional multifamily rentals have harmed, or are likely to harm, competition and thus renters.

209. The RealPage-defined submarkets identified in Appendix A are relevant markets in which the agreements between RealPage and AIRM and YieldStar users to align pricing has harmed, or is likely to harm, competition and thus renters. In each of these markets, the penetration rate for AIRM and YieldStar ranges from at least around 26% to 69%, and for AIRM, YieldStar, and OneSite ranges from at least around 30% to 78%.¹¹ In each of these markets, the landlords using AIRM or YieldStar and/or sharing competitively sensitive information collectively have market power.

210. Appendix B identifies submarkets by bedroom count that are relevant markets in which the agreements between RealPage and

landlords, and agreements among landlords, to share nonpublic, competitively sensitive information for use in pricing conventional multifamily rentals have harmed, or are likely to harm, competition and thus renters.

211. The markets identified in Appendix B are relevant markets in which the agreements between RealPage and AIRM and YieldStar users to align pricing collectively have harmed, or are likely to harm, competition and thus renters. In each of these markets, the penetration rate for AIRM and YieldStar ranges from at least around 26% to 79%, and for AIRM, YieldStar, and OneSite ranges from at least around 30% to over 80%. In each of these markets, the landlords using AIRM or YieldStar and/or sharing competitively sensitive information collectively have market power.

(b) Core-Based Statistical Areas (CBSAs) Are Relevant Geographic Markets

212. A core-based statistical area (CBSA) is also a relevant geographic market. A CBSA is a geographic area based on a county or group of counties. A CBSA has at least one core of at least 10,000 individuals. A CBSA includes adjacent counties that have a high degree of social and economic integration with the core, as measured by commuting ties. A CBSA includes both metropolitan statistical areas and micropolitan statistical areas. A CBSA includes the set of reasonable conventional multifamily rental alternatives to which a renter would turn in response to a small but significant, nontransitory price increase.

213. RealPage itself tracks CBSAs in the ordinary course of business and refers to them as "markets."

214. Table 1 identifies relevant markets in which the agreements between RealPage and landlords, and agreements among landlords, to share nonpublic, competitively sensitive information for use in pricing conventional multifamily rentals collectively have harmed, or are likely to harm, competition and/or consumers. In each of these markets, the penetration rate for AIRM and YieldStar ranges from at least around 26% to 37%, and for AIRM, YieldStar, and OneSite ranges from at least around 35% to 45%. Three of these markets are located in North Carolina.

¹⁰ RealPage also tracks data at a more granular level than a submarket, called a neighborhood.

¹¹ Including penetration rates for RealPage's Business Intelligence and Performance Analytics with Benchmarking products, which landlord users agree to share nonpublic data with RealPage that RealPage then uses in AIRM and YieldStar, would increase the data penetration rates subject to unlawful agreements for these and all other relevant conventional multifamily rental housing markets identified in the Complaint.

TABLE 1—CORE-BASED STATISTICAL AREA (CBSA) MARKETS

Core-based statistical area (CBSA) markets	YS/AIRM 30% or more	YS/AIRM/ OneSite 30% or more
Atlanta-Sandy Springs-Roswell, GA	Yes	Yes
Austin-Round Rock, TX	Yes	Yes
Charleston-North Charleston, SC .....	.....	Yes
Charlotte-Concord-Gastonia, NC-SC	Yes	Yes
Dallas-Fort Worth-Arlington, TX	Yes	Yes
Denver-Aurora-Lakewood, CO	Yes	Yes
Durham-Chapel Hill, NC	Yes	Yes
Nashville-Davidson—Murfreesboro—Franklin, TN .....	.....	Yes
Orlando-Kissimmee-Sanford, FL	Yes	Yes
Raleigh, NC	Yes	Yes

215. The markets identified in Table 1 are relevant markets in which the agreements between RealPage and AIRM and YieldStar users to align pricing collectively have harmed, or are likely to harm, competition and thus renters.

216. Table 2 identifies relevant CBSAs by bedroom counts that are relevant

markets in which the agreements between RealPage and landlords, and agreements among landlords, to share nonpublic, competitively sensitive information for use in pricing conventional multifamily rentals collectively have harmed, or are likely

to harm, competition and/or consumers. In each of these markets, the penetration rate for AIRM and YieldStar ranges from at least around 27% to 42%, and for AIRM, YieldStar, and OneSite ranges from at least around 33% to 45%.

TABLE 2—CORE-BASED STATISTICAL AREA (CBSA) MARKETS BY BEDROOM COUNT

Core-based statistical area (CBSA) markets	Number of beds	YS/AIRM 30% or more	YS/AIRM/ OneSite 30% or more
Atlanta-Sandy Springs-Roswell, GA	1	Yes	Yes
Atlanta-Sandy Springs-Roswell, GA	2	Yes	Yes
Austin-Round Rock, TX	1	Yes	Yes
Austin-Round Rock, TX	2	Yes	Yes
Charleston-North Charleston, SC	1	Yes	Yes
Charleston-North Charleston, SC	2	.....	Yes
Charlotte-Concord-Gastonia, NC-SC	1	Yes	Yes
Charlotte-Concord-Gastonia, NC-SC	2	Yes	Yes
Dallas-Fort Worth-Arlington, TX	1	Yes	Yes
Dallas-Fort Worth-Arlington, TX	2	Yes	Yes
Denver-Aurora-Lakewood, CO	1	Yes	Yes
Denver-Aurora-Lakewood, CO	2	Yes	Yes
Durham-Chapel Hill, NC	1	Yes	Yes
Durham-Chapel Hill, NC	2	Yes	Yes
Nashville-Davidson—Murfreesboro—Franklin, TN	1	Yes	Yes
Nashville-Davidson—Murfreesboro—Franklin, TN	2	.....	Yes
Orlando-Kissimmee-Sanford, FL	1	Yes	Yes
Orlando-Kissimmee-Sanford, FL	2	Yes	Yes
Raleigh, NC	1	Yes	Yes
Raleigh, NC	2	Yes	Yes

217. The markets identified in Table 2 are relevant markets in which the agreements between RealPage and AIRM and YieldStar users to align pricing collectively have harmed, or are likely to harm, competition and thus renters.

218. Even assuming available land and no regulatory constrictions, local markets for conventional multifamily rental housing feature substantial barriers to entry. Landlords seeking to respond to rising rental prices by expanding supply, rather than simply acquiring an existing property, typically face substantial lead times to construct a new multifamily property. Additionally, there are significant

upfront capital costs, including to fund expenditures on building material and labor, that are recuperated over time, which may require landlords to secure financing.

B. Commercial Revenue Management Software Market

219. RealPage has monopoly power in the market for commercial revenue management software for conventional multifamily housing rentals in the United States, with a durable market share over 80%, according to internal documents and other information.

1. Product Market

220. Commercial revenue management software for conventional multifamily housing rentals is a relevant antitrust product market.

221. Other methods for pricing conventional multifamily housing units are not reasonable substitutes for commercial revenue management software. RealPage and others in the industry recognize that revenue management software companies for multifamily housing units compete primarily against each other and not manual or do-it-yourself pricing methods.

222. Internal documents from RealPage refer specifically to commercial revenue management for multifamily housing and recognize RealPage's substantial market share. For example, a 2021 strategy presentation described RealPage as "the market leader in commercial revenue management for multifamily [housing] with 45 of the 50 Top NMHC Owner and Operators" all using RealPage's revenue management products.

223. A presentation to RealPage's board in 2022 noted that "[RealPage] has gained [the] pole position in Revenue Management largely through the success of AI Revenue Management, which has become RealPage's leading differentiating product." Additionally, the presentation described how "Revenue Management is experiencing strong growth driven by AIRM" due to its "PMS agnostic approach" which gives RealPage the ability to aggregate data from its clients resulting in "revenue management [that] has achieved a market share of 95% of the top 50 owners and operators."

224. RealPage acknowledges its market power and durable market position. A 2023 RealPage presentation reviewing the use of artificial intelligence in property technology noted that "RealPage is already the de facto market leader in certain key areas at leveraging AI for multifamily proptech" and shows "revenue management" as the area where it is the furthest ahead." Later, the same presentation noted that RealPage's current offer for revenue management is "best-in-class" and that "[n]o other company is cross-pollinating their pricing tools with data in a way similar to [RealPage]." As early as 2019, a RealPage presentation for clients stated that RealPage "has around 80% of the Revenue Management market share." That share has proved durable over time. In 2023, during a sales pitch to a property owner, a RealPage representative noted that "[RealPage] has 80% to 85% of the market share with the closest competitor around 12% (<750K units)."

225. In late 2021, a RealPage employee preparing competitor intelligence explained to RealPage's chief economist that RealPage "dominate[d]" revenue management. He added that RealPage "dominate[d]" Yardi and Entrata, which are the next two largest commercial revenue management competitors.

226. RealPage's monopoly power is protected by barriers to entry, including the unlawful collection and use of competitors' nonpublic transactional data on millions of multifamily units.

227. Landlords also recognize RealPage's substantial market share and market power over commercial revenue management software. In 2024, a landlord revenue management executive testified that manual pricing does not compete with AIRM. The same landlord pitched YieldStar to its owner clients by explaining that "it's evident manual pricing cannot solve at the level a revenue management tool can."

228. In a 2023 pricing dispute with a large landlord, RealPage refused to lower the price for its AIRM software. In response, an employee employed by the landlord noted that it was no surprise they would not decrease their price, remarking that "[h]ere is the joy of a monopoly on a product category." In 2021, a different landlord commented that "the entire industry is feeling the monopolizing effects of RealPage right now and everyone is hungry for a new product." A third landlord noted during AIRM renewal negotiations in 2022 that it had no options besides RealPage, with a senior executive stating about RealPage, "too bad they have a monopoly going here!" Also in 2022, a fourth landlord, in the face of RealPage pushing a 400% increase in annual revenue management costs over a five-year period, bemoaned the "limited competition in the market around revenue management tools" and how "the industry desperately needs a solid competitor," and then discussed a plan to "incubate a viable alternative to AIRM in the future." In 2024, that alternative had less than one half of one percent market share.

2. Geographic Market

229. The United States is a relevant geographic market for commercial revenue management software. RealPage sells its commercial revenue management software in the United States and tracks its business in the United States in the ordinary course of business. RealPage sets its subscription prices on a nationwide basis. Further, RealPage can deploy its commercial revenue management software, which may use inputs from properties located throughout the country, in any U.S. state. Landlords in the United States purchase commercial revenue management software from RealPage to set rental prices for renters in the United States. Many landlords have centralized revenue management teams that set nationwide revenue management policies and conduct revenue management trainings for their employees across the United States.

VII. Jurisdiction, Venue, and Commerce

230. The United States brings this action pursuant to Section 4 of the Sherman Act, 15 U.S.C. 4, to prevent and restrain RealPage's violations of Sections 1 and 2 of the Sherman Act, 15 U.S.C. 1, 2.

231. The Attorneys General assert these claims based on their independent authority to bring this action pursuant to Section 16 of the Clayton Act, 15 U.S.C. 26, and common law, to obtain injunctive and other equitable relief based on RealPage's anticompetitive practices in violation of Sections 1 and 2 of the Sherman Act, 15 U.S.C. 1, 2.

232. The Attorneys General are the chief legal officers of their respective States. They have authority to bring actions to protect the economic well-being of their States and their residents, and to seek injunctive relief to remedy and protect against harm resulting from violations of the antitrust laws.

233. This Court has subject matter jurisdiction over this action under Section 4 of the Sherman Act, 15 U.S.C. 4, and 28 U.S.C. 1331, 1337(a), and 1345.

234. The Court has personal jurisdiction over RealPage, Inc. ("RealPage"); venue is proper in this District under Section 12 of the Clayton Act, 15 U.S.C. 22, and under 28 U.S.C. 1391 because RealPage transacts business and resides within this District.

235. RealPage is a privately-owned company organized and existing under the laws of the State of Delaware and is headquartered in Richardson, Texas. It is registered to do business in the State of North Carolina as a foreign corporation offering software solutions for the multifamily housing industry and software as a service.

236. RealPage engages in, and its activities substantially affect, interstate trade and commerce. RealPage provides a range of products and services that are marketed, distributed, and offered to consumers throughout the United States and across state lines.

237. The Court has personal jurisdiction over Camden Property Trust ("Camden"); venue is proper in this District under Section 12 of the Clayton Act, 15 U.S.C. 22, and under 28 U.S.C. 1391 because Camden transacts business and resides within this District.

238. Camden is a publicly-traded multifamily company organized under the laws of the State of Delaware and is headquartered in Houston, Texas. Camden is registered to do business in the State of North Carolina. Camden owns or manages at least one

multifamily rental property using AIRM within this District.

239. Camden engages in, and its activities substantially affect, interstate trade and commerce. Camden owns or manages multifamily rental units across the United States, including within this District. Camden's rental properties are marketed and offered to consumers throughout the United States and across state lines.

240. The Court has personal jurisdiction over Cortland Management, LLC ("Cortland"); venue is proper in this District under Section 12 of the Clayton Act, 15 U.S.C. 22, and under 28 U.S.C. 1391 because Cortland transacts business and resides within this District.

241. Cortland is a privately-owned company organized under the laws of the State of Delaware and is headquartered in Atlanta, Georgia. Cortland is responsible for the management of multifamily rental housing properties, either directly owned by an affiliated entity or other third-party owners of multifamily housing properties. Cortland is registered to do business in the State of North Carolina. Cortland owns or manages multiple multifamily rental properties within this District, which use (or recently used) AIRM. Cortland has a registered agent for service of process in this District.

242. Cortland engages in, and its activities substantially affect, interstate trade and commerce. Cortland owns or manages multifamily rental units across the United States, including within this District. Cortland's rental properties are marketed and offered to consumers throughout the United States and across state lines.

243. The Court has personal jurisdiction over Cushman & Wakefield, Inc. ("Cushman & Wakefield") and Pinnacle Property Management Services, LLC ("Pinnacle"); venue is proper in this District under Section 12 of the Clayton Act, 15 U.S.C. 22, and under 28 U.S.C. 1391 because Cushman & Wakefield, including its subsidiary Pinnacle, transacts business and resides within this District.

244. Cushman & Wakefield is organized under the laws of the State of New York and is headquartered in Chicago, Illinois. Cushman & Wakefield's multifamily rental property business is operated through its subsidiary Pinnacle, and also under the Cushman & Wakefield name since acquiring Pinnacle in March 2020. Pinnacle is organized under the laws of the State of Delaware and is headquartered in Frisco, Texas. Pinnacle is registered to do business in

the State of North Carolina. Cushman & Wakefield U.S., Inc. is also registered to do business in the State of North Carolina. Pinnacle owns or manages multiple multifamily rental properties using YieldStar within this District.

245. Cushman & Wakefield engages in, and its activities substantially affect, interstate trade and commerce. Through Pinnacle, Cushman & Wakefield owns or manages multifamily rental units across the United States, including within this District. Cushman & Wakefield provides a range of multifamily property and revenue management services that are marketed and offered to consumers throughout the United States and across state lines.

246. The Court has personal jurisdiction over Greystar Real Estate Partners, LLC ("Greystar"); venue is proper in this District under Section 12 of the Clayton Act, 15 U.S.C. 22, and under 28 U.S.C. 1391 because Greystar transacts business and resides within the District.

247. Greystar is a privately-owned company organized under the laws of the State of Delaware and is headquartered in Charleston, South Carolina. A Greystar management services entity is registered to do business in the State of North Carolina. Greystar owns or manages multiple multifamily rental properties using AIRM within this District.

248. Greystar engages in, and its activities substantially affect, interstate trade and commerce. Through its subsidiaries, including Greystar Management Services, LLC, Greystar North America Holdings, LLC, and GREP Washington, LLC, Greystar owns or manages multifamily rental units across the United States, including within this District. Greystar provides a range of products and services that are marketed and offered to consumers throughout the United States and across state lines.

249. The Court has personal jurisdiction over LivCor, LLC ("LivCor"); venue is proper in this District under Section 12 of the Clayton Act, 15 U.S.C. 22, and under 28 U.S.C. 1391 because LivCor transacts business and resides within this District.

250. LivCor is a privately-owned company organized under the laws of the State of Delaware and is headquartered in Chicago, Illinois. It is registered to do business in the State of North Carolina as a foreign corporation engaging in ownership and investment in real property and related services. LivCor owns or provides asset management services at least one multifamily rental property using AIRM within this District.

251. LivCor engages in, and its activities substantially affect, interstate trade and commerce. LivCor owns or provides asset management services for multifamily rental units across the United States, including within this District. LivCor provides multifamily asset management services that are marketed and offered to consumers throughout the United States and across state lines.

252. The Court has personal jurisdiction over Willow Bridge Property Company LLC ("Willow Bridge"); venue is proper in this District under 28 U.S.C. 1391 and Section 12 of the Clayton Act, 15 U.S.C. 22 because Willow Bridge transacts business and resides within this District.

253. Willow Bridge is a privately-owned company organized under the laws of the State of Texas and is headquartered in Dallas, Texas. Willow Bridge is registered to do business in the State of North Carolina as a foreign corporation offering services for the multifamily real estate industry. Willow Bridge owns or manages multiple multifamily rental properties using AIRM within this District.

254. Willow Bridge engages in, and its activities substantially affect, interstate trade and commerce. Willow Bridge owns or manages multifamily rental units across the United States, including within this District. Willow Bridge's rental properties are marketed and offered to consumers throughout the United States and across state lines.

255. The Durham-Chapel Hill CBSA is partially or entirely within the Middle District of North Carolina.

256. RealPage tracks the number of rental housing units that use its commercial revenue management software products, including AIRM and YieldStar, by market (*i.e.*, a CBSA) and submarket, and several of these markets and submarkets are entirely or partially within North Carolina. These RealPage-defined markets include Raleigh/Durham, NC; Charlotte-Concord-Gastonia, NC-SC; Greensboro/Winston-Salem, NC; Wilmington, NC; Fayetteville, NC; and Asheville, NC. The submarkets include Southwest Durham, Northwest Durham/Downtown, East Durham, and Chapel Hill/Carrboro, all of which are located entirely or partially within this District.

257. Defendant Landlords each own or manage one or more properties in one or more relevant markets within the Middle District of North Carolina for which they, along with other landlords and RealPage, currently agree (or have in the past agreed) to share information and align pricing by using AIRM or YieldStar to generate rental pricing

using pooled, competitively sensitive information.

258. A substantial part of the activities and conduct giving rise to the claims asserted in this Complaint occurred within this District. As alleged in paragraphs 208–211 above and Appendices A and B below, relevant local geographic markets in which competition and renters have been harmed by RealPage’s anticompetitive conduct include the RealPage-defined submarkets in Raleigh/Durham. As alleged in paragraphs 214–217 above, relevant geographic markets in which competition and renters have been harmed by RealPage’s anticompetitive conduct include the Durham-Chapel Hill CBSA.

VIII. Violations Alleged

First Claim for Relief: Violation of Section 1 of the Sherman Act by Unlawfully Sharing Information for Use in Competitors’ Pricing

(By All Plaintiffs Against RealPage, Cushman & Wakefield, Greystar, LivCor, and Pinnacle; By All Plaintiffs Except Washington Against Camden and Willow Bridge; By the United States, Colorado, and North Carolina Against Cortland)

259. Plaintiffs incorporate the allegations of paragraphs 1 through 258 above.

260. Each landlord using AIRM and YieldStar, including each Defendant Landlord, has agreed with RealPage to provide RealPage daily nonpublic, competitively sensitive data. RealPage invites each landlord to share this information so that it can be pooled to generate pricing recommendations for the landlord and its competitors. Each of these landlords, including Defendant Landlords, uses (or has used) RealPage software, knowing or learning that RealPage will use this data to train its models and provide floor plan price recommendations and unit-level pricing not only for the landlord, but for the landlord’s competitors (and vice versa). Landlords are therefore joining together in a way that deprives the market of fully independent centers of decision-making on pricing.

261. Each landlord using OneSite, Business Intelligence, or Performance Analytics with Benchmarking has agreed with RealPage to provide RealPage daily nonpublic, competitively sensitive data. RealPage invites each landlord to share this information, and each of these landlords understands that RealPage will use this data in RealPage’s other products, including revenue management products that provide

pricing recommendations and prices to competing landlords.

262. The transactional data these landlords agree to provide to RealPage, and indirectly to each other, includes current, forward-looking, granular, and highly competitively sensitive information. It includes information on effective rents, rent discounts, occupancy rates, availability, lease dates, lease terms, unit amenities, and unit layouts. Landlords also shared information on guest cards and lease applications.

263. Landlords, including Defendant Landlords and other landlords that compete with each other in the relevant markets alleged, have agreed with one another, through RealPage and directly, to exchange nonpublic, competitively sensitive data, both through RealPage’s revenue management software and by other means. The other means include RealPage user groups, direct communications, market surveys, and other intermediaries. The information exchanged includes future pricing plans, current pricing and occupancy rates, pricing discounts, and guest traffic.

264. RealPage uses this nonpublic, competitively sensitive data to train its AIRM models and provide floor plan price recommendations and unit-level pricing to AIRM- and YieldStar-using landlords. AIRM and YieldStar are designed to increase prices as much as possible and minimize price decreases.

265. RealPage engages in a variety of conduct to increase compliance with the output of its products and the objectives it touts.

266. The sharing of nonpublic, competitively sensitive data with RealPage, and its use in AIRM and YieldStar, is anticompetitive. It harms or is likely to harm the competitive process and results, or is likely to result, in harm to renters and prospective renters in at least the relevant antitrust markets identified in this complaint.

267. In each relevant market, RealPage and participating landlords collectively have sufficient market power, including market and data penetration, to harm the competitive process and renters.

268. AIRM and YieldStar do not benefit the competitive process or renters. Any theoretical benefits are outweighed by harm to the competitive process and to renters.

269. Less restrictive alternatives are available to RealPage and the market. RealPage has recently altered AIRM or YieldStar for some clients to remove those clients’ access to competitors’ nonpublic data in at least certain portions of the software. RealPage has the ability to make changes to remove

broader access to competitors’ nonpublic data in AIRM and YieldStar. RealPage has the capability to modify its software products to eliminate competitive defects. LRO does not require the same type and quantity of nonpublic, transactional data pulled from competitors’ property management software.¹² RealPage has stopped offering LRO to new clients and made plans to discontinue LRO for legacy clients by the end of 2024.

Second Claim for Relief: Violation of Section 1 of the Sherman Act Through Agreements to Align Pricing

(By All Plaintiffs Against RealPage, Cushman & Wakefield, Greystar, LivCor, and Pinnacle; By All Plaintiffs Except Washington Against Camden and Willow Bridge; By the United States, Colorado, and North Carolina Against Cortland)

270. Plaintiffs incorporate the allegations of paragraphs 1 through 268 above.

271. Each landlord, including Defendant Landlords, that licenses AIRM or YieldStar has agreed with RealPage to use the software as it has been designed. This includes providing nonpublic, competitively sensitive transactional data to RealPage, but more broadly is an agreement to use AIRM or YieldStar as the means to price the landlord’s rental units. The landlord agrees to review AIRM or YieldStar floor plan price recommendations, use AIRM or YieldStar to set a scheduled floor plan rent, and use the AIRM or YieldStar pricing matrix to price units to renters.

272. AIRM and YieldStar are designed to “raise the tide” for all landlords, including AIRM and YieldStar-using landlords. AIRM and YieldStar have the likely effect of aligning users’ pricing processes, strategies, and pricing responses.

273. These landlords understand this effect, and it is a reason why they sign up for and use AIRM or YieldStar and discuss their usage with one another in user group meetings and other settings.

274. RealPage engages in a variety of conduct to increase compliance with the output of its products and the objectives it touts.

275. RealPage’s user group meetings and its revenue management certification program facilitate landlords’ agreements with RealPage to align pricing.

276. Taken together, the agreements between each AIRM or YieldStar

¹² Landlords may nevertheless use LRO in ways that may likely harm competition, as illustrated in paragraphs 59–60 and 100 above.

landlord and RealPage to use AIRM or YieldStar, respectively, harm or are likely to harm the competitive process and renters.

277. The agreement by a landlord to use AIRM or YieldStar is an agreement to align users' pricing processes, strategies, and pricing responses. Collectively, these agreements between landlords using AIRM or YieldStar and RealPage are harmful to the competitive process and to renters.

278. In each relevant submarket and CBSA, RealPage and participating AIRM or YieldStar landlords collectively have sufficient market power, including market and data penetration, to harm the competitive process and renters.

279. AIRM and YieldStar do not benefit the competitive process or renters. Any theoretical benefits are outweighed by harm to the competitive process and to renters, and less restrictive alternatives are available to RealPage and these landlords.

Third Claim for Relief: Violation of Section 2 of the Sherman Act Through Monopolization of the Commercial Revenue Management Software Market

(By All Plaintiffs Against RealPage)

280. Plaintiffs incorporate the allegations of paragraphs 1 through 279 above.

281. Commercial revenue management software for conventional multifamily housing rentals in the United States is a relevant antitrust market, and RealPage has monopoly power in that market.

282. RealPage has unlawfully monopolized the commercial revenue management market through unlawful exclusionary conduct. RealPage has amassed a massive reservoir of competitively sensitive data from competing landlords and used that data to sell AIRM and YieldStar. RealPage has ensured that rivals cannot compete on the merits unless they enter into similar agreements with landlords, offer to share competitively sensitive information among rival landlords, and engage in actions to increase compliance. As a result of its exclusionary conduct, RealPage has been able to obstruct rival software providers from competing via revenue management products that do not harm the competitive process in addition to cementing its massive data and scale advantage that keeps increasing due to self-reinforcing feedback effects.

283. RealPage's anticompetitive acts have harmed the competitive process and reduced feasible and less restrictive alternatives for landlords, which

alternatives thereby pose less risk of competitive harm to renters.

284. RealPage's exclusionary conduct lacks a procompetitive justification that offsets the harm caused by RealPage's anticompetitive and unlawful conduct.

Fourth Claim for Relief, in the Alternative: Violation of Section 2 of the Sherman Act Through Attempted Monopolization of the Commercial Revenue Management Software Market

(By All Plaintiffs Against RealPage)

285. Plaintiffs incorporate the allegations of paragraphs 1 through 284 above.

286. Commercial revenue management software for conventional multifamily housing rentals in the United States is a relevant antitrust market.

287. RealPage has attempted to monopolize that market through unlawful exclusionary conduct enhanced by its self-reinforcing data and scale advantages. By amassing its massive reservoir of competitively sensitive data from competing landlords and the follow-on benefits that scale and its feedback effects provide in terms of blunting competition among landlords, RealPage's conduct excludes commercial revenue management rivals from competing on the merits in a lawful manner. As such, it has increased, maintained, or protected RealPage's power.

288. RealPage's anticompetitive acts have harmed the competitive process and reduced feasible and less restrictive alternatives for landlords, which alternatives thereby pose less risk of competitive harm to renters.

289. As inferred from the anticompetitive conduct described in Sections IV and V, *supra*, RealPage has acted with a specific intent to monopolize, and to eliminate effective competition in, the commercial revenue management software market in the United States. There is a dangerous probability that, unless restrained, RealPage will succeed in monopolizing the commercial revenue management software market in violation of Section 2 of the Sherman Act.

Fifth Claim for Relief: Violation of North Carolina Law

290. Plaintiff State of North Carolina incorporates the allegations of Paragraphs 1 through 289 above.

291. Defendants engaged in the conduct alleged above while operating their businesses in North Carolina markets, including, but not limited to, the markets alleged in paragraphs 214, 216, 256, and Appendices A and B.

Defendants' anticompetitive conduct has affected commerce in North Carolina to a substantial degree by harming the competitive process and renters across the State including, but not limited to, in the North Carolina markets identified in paragraphs 214, 216, 256, and Appendices A and B.

292. Defendants' acts as alleged in the First and Second claims for reliefs stated in paragraphs 259–279 above, violate the North Carolina Unfair or Deceptive Trade Practices Act in that they constitute contracts in restraint of trade or commerce in North Carolina, and/or acts and contracts in restraint of trade or commerce which violate the principles of the common law. N.C.G.S. §§ 75–1, 75–2.

293. Defendant Real Page's acts as alleged in the Third and Fourth claims for relief stated in paragraphs 280–289, above, violate the North Carolina Unfair or Deceptive Trade Practices Act, N.C.G.S. § 75–1 *et seq.*, in that they constitute unlawful monopolization of a part of trade or commerce in North Carolina. N.C.G.S. § 75–2.1. Plaintiff State of North Carolina seeks the following remedies available for claims under federal law and claims under N.C.G.S. §§ 75–1, 75–2, and 75–2.1, without limitation:

a. Injunctive and other equitable relief pursuant to Section 16 of the Clayton Act, 15 U.S.C. 26, N.C.G.S. § 75–14, and the common law of North Carolina;

b. Civil penalties pursuant to N.C.G.S. § 75–15.2, which provides a penalty of up to \$5,000 per violation;

c. Costs of suit, including expert witness fees, costs of investigation, and attorney's fees pursuant to Section 16 of the Clayton Act, 15 U.S.C. 26 and N.C.G.S. § 75–16.1; and

d. Other remedies as the court may deem appropriate under the facts and circumstances of the case.

Sixth Claim for Relief: Violation of California Law

295. The State of California incorporates the allegations of Paragraphs 1 through 289 above.

296. Defendants' practices, as alleged above, violate the Sherman Act sections 1 and 2 and therefore constitute unlawful business practices under California's Unfair Competition Law ("UCL"), Cal. Bus. & Prof. Code § 17200, *et seq.*

297. Plaintiff State of California seeks the following:

a. injunctive relief and penalties pursuant to sections 17203 and 17206 of the UCL,

b. costs of suit, including expert witness fees, costs of investigation, and

attorney's fees pursuant to Section 16 of the Clayton Act, 15 U.S.C. 26, and

c. other remedies as the court may deem appropriate under the facts and circumstances of the case.

Seventh Claim for Relief: Violation of Colorado Law

298. Plaintiff State of Colorado repeats and re-alleges and incorporates by reference Paragraphs 1 through 289 in this Complaint as if fully set forth herein.

299. The acts alleged in the Complaint violate the Colorado Antitrust Act, § 6–4–101 *et seq.*, including C.R.S. § 6–4–104 and C.R.S. § 6–4–105. These violations substantially affect the people of Colorado and have impacts within the State of Colorado.

300. Each of the unlawful agreements, arrangements, or acts alleged herein constitute at least one distinct violation of the Colorado Antitrust Act within the meaning of C.R.S. § 6–4–113.

301. Defendants' acts alleged herein constitute a continuous pattern and practice of behavior within the meaning of C.R.S. § 6–4–113(2)(c).

302. Defendants' acts alleged herein were willful within the meaning of C.R.S. § 6–4–113(2)(d).

303. The State of Colorado seeks the following remedies under federal law and the Colorado Antitrust Act, including, without limitation:

a. Injunctive and other equitable relief pursuant to Section 16 of the Clayton Act, 15 U.S.C. 26 and C.R.S. § 6–4–112;

b. Civil penalties pursuant to C.R.S. § 6–4–113 for each violation of the Colorado Antitrust Act;

c. Costs and attorneys' fees, pursuant to Section 16 of the Clayton Act, 15 U.S.C. 26, and C.R.S. § 6–4–112(5); and

d. Other remedies as the Court may deem appropriate based on the facts properly alleged and proven.

Eighth Claim for Relief: Violation of Connecticut Law

304. Plaintiff State of Connecticut, acting by and through its Attorney General pursuant to Conn. Gen. Stat. § 35–44a, incorporates the allegations of paragraphs 1 through 289 above. The State of Connecticut brings its state and federal law claims for relief against all Defendants except Cortland.

305. The acts alleged in the Complaint also constitute violations of the Connecticut Antitrust Act, Conn. Gen. Stat. § 35–24 *et seq.* These violations had impacts within the State of Connecticut and substantially affected the citizens of Connecticut.

306. Plaintiff State of Connecticut seeks all remedies available under federal law and the Connecticut

Antitrust Act, including, without limitation, the following:

a. Civil penalties pursuant to Conn. Gen. Stat. § 35–38, which provides that in any action instituted by the Attorney General, any person who has been held to have violated any of the provisions of the Connecticut Antitrust Act shall forfeit and pay to the state a civil penalty of not more than one million dollars for each violation;

b. Injunctive and other equitable relief pursuant to Section 16 of the Clayton Act, 15 U.S.C. 26, Conn. Gen. Stat. §§ 35–34, 35–44a;

c. Costs and fees including, without limitation, costs of investigation, litigation, expert witness fees, and attorney's fees pursuant to Section 16 of the Clayton Act, 15 U.S.C. 26, Conn. Gen. Stat. §§ 35–34, 35–44a; and

d. Other remedies as the Court may deem appropriate under the facts and circumstances of the case.

Ninth Claim for Relief: Violation of Illinois Law

307. Plaintiff State of Illinois, acting by and through its Attorney General, incorporates the allegations of paragraphs 1 through 289 above. The State of Illinois brings its state and federal law claims for relief against all Defendants except Cortland.

308. The acts alleged in the Complaint violate the Illinois Antitrust Act, 740 ILCS 10/1 *et seq.*, including 740 ILCS 10/3(1), 740 ILCS 10/3(2), and 740 ILCS 10/3(3). These violations substantially affect the people of Illinois and have impacts within the State of Illinois.

309. The State of Illinois seeks all available remedies under federal law and the Illinois Antitrust Act, including, without limitation:

a. Injunctive and other equitable relief pursuant to Section 16 of the Clayton Act, 15 U.S.C. 26; and 740 ILCS 10/7;

b. Civil penalties pursuant to 740 ILCS 10/7(4) for each violation of the Illinois Antitrust Act;

c. Disgorgement, damages, and/or other equitable or monetary relief pursuant to federal law including Section 4 of the Sherman Act, 15 U.S.C. 4, Section 4c of the Clayton Act, 15 U.S.C. 15c and state law including 740 ILCS 10/7, and treble damages for injuries sustained, directly or indirectly, by individuals residing in Illinois to their property, pursuant to the State of Illinois' *parens patriae* authority under 740 ILCS 10/7(2);

d. Costs and attorneys' fees, pursuant to Section 4c of the Clayton Act, 15 U.S.C. 15c, Section 16 of the Clayton Act, 15 U.S.C. 26, 740 ILCS 10/7(2); and

e. Other remedies as the Court may deem appropriate on the basis of the facts properly alleged and proven.

Tenth Claim for Relief: Violation of Massachusetts Law

310. Plaintiff Commonwealth of Massachusetts repeats, realleges, and incorporates the allegations of paragraphs 1 through 289 above as if fully set forth herein. The Commonwealth of Massachusetts brings its state and federal law claims for relief against all Defendants except Cortland.

311. The acts alleged in the aforementioned paragraphs of this Complaint, including but not limited to unlawful agreements in restraint of trade and unlawful monopolization, constitute unfair methods of competition and/or unfair or deceptive acts or practices in trade or commerce in violation of the Massachusetts Consumer Protection Act, M.G.L. c. 93A § 2 *et seq.*

312. Defendants knew or should have known that their conduct violated the Massachusetts Consumer Protection Act, M.G.L. c. 93A § 2 *et seq.*

313. Plaintiff Commonwealth of Massachusetts is entitled to and seeks the following relief under M.G.L. c. 93A § 4:

a. Injunctive and other equitable relief pursuant to M.G.L. c. 93A § 4;

b. Civil penalties of up to \$5,000 per each violation committed by the Defendants pursuant to M.G.L. c. 93A § 4;

c. Costs and fees including, without limitation, costs of investigation, litigation, and attorneys' fees pursuant to M.G.L. c. 93A § 4; and

d. Other remedies as the court may deem appropriate under the facts and circumstances of the case.

314. The Commonwealth of Massachusetts notified the Defendants of this intended action at least five days prior to the commencement of this action and gave the Defendants an opportunity to confer in accordance with M.G.L. c. 93A § 4.

Eleventh Claim for Relief: Violation of Oregon Law

315. Plaintiff State of Oregon, acting by and through its Attorney General, incorporates the allegations of paragraphs 1 through 289 above. The State of Oregon brings its state and federal law claims for relief against all Defendants except Cortland.

316. The acts alleged in the Complaint also constitute violations of the Oregon Antitrust Law, Oregon Revised Statutes ("ORS") 646.705 to ORS 646.836. These violations had impacts within the State

of Oregon and substantially affected the people of Oregon.

317. The State of Oregon appears in its sovereign or quasi-sovereign capacities and under its statutory, common law, and equitable powers, and as *parens patriae* on behalf of natural persons residing in the State of Oregon pursuant to ORS 646.775(1). The State of Oregon seeks all remedies available under federal law and the Oregon Antitrust Law, including, without limitation, the following:

- a. Disgorgement and/or other equitable relief pursuant to federal law including Section 4 of the Sherman Act, 15 U.S.C. 4, and state law pursuant to ORS 646.770, and ORS 646.775;
- b. Injunctive and other equitable relief pursuant to Section 16 of the Clayton Act, 15 U.S.C. 26, ORS 646.760, ORS 646.770, and ORS 646.775;
- c. Civil penalties pursuant to ORS 646.760(1) which provides that a court may assess for the benefit of the state a civil penalty of not more than \$1,000,000 for each violation of the Oregon Antitrust Law,
- d. Costs of suit, including expert witness fees, costs of investigation, and attorney's fees pursuant to Section 16 of the Clayton Act, 15 U.S.C. 26, ORS 646.760, ORS 646.770, ORS 646.775; and
- e. Other remedies as the court may deem appropriate under the facts and circumstances of the case.

Twelfth Claim for Relief: Violation of Tennessee Law

318. Plaintiff State of Tennessee incorporates the allegations of paragraphs 1 through 289 above. The State of Tennessee brings its state and federal law claims for relief against all Defendants except Cortland.

319. Defendants engaged in the conduct described above, individually and collectively, to thwart competition for multifamily housing in Tennessee. This anticompetitive conduct in Tennessee harmed thousands of multifamily renters across the state.

320. Defendants' business practices have caused a reduction in competition in relevant Tennessee markets, including, but not limited to, in the markets identified in paragraphs 214 and 216 and Appendices A and B, and, as a result, Tennesseans have suffered anticompetitive harms.

321. Accordingly, Defendants' actions violate the Tennessee Trade Practices Act, Tenn. Code Ann. § 47–25–101, as amended.

322. Defendant RealPage engaged in the conduct described above to maintain its monopoly and exclude competing

commercial revenue management software competitors.

323. Accordingly, Defendant RealPage's actions violate the Tennessee Trade Practices Act, Tenn. Code Ann. § 47–25–102, as amended.

324. This conduct has affected Tennessee trade and commerce to a substantial degree.

325. To remedy this anticompetitive conduct, the Tennessee Attorney General and Reporter seeks all remedies available to which it is entitled under federal law and claims under Tenn. Code Ann. §§ 47–25–101, 102, and 106, as amended, including, without limitation, the following:

- a. injunctive or other equitable relief; reasonable attorney fees, costs, and expenses, pursuant to Section 16 of the Clayton Act, 15 U.S.C. 26, Tenn. Code Ann. § 47–25–106(b), and the common law of Tennessee;
- b. civil penalties pursuant to Tenn. Code Ann. § 47–25–106(g);
- c. costs of suit, including expert witness fees, costs of investigation, and attorney's fees pursuant to Section 16 of the Clayton Act, 15 U.S.C. 26 and Tenn. Code Ann. § 47–25–106(b); and
- d. other legal and equitable remedies as the court may deem appropriate and the interest of justice may require under the facts and circumstances of the case.

Thirteenth Claim for Relief: Violation of Washington Law

326. The State of Washington incorporates the allegations in Paragraphs 1 through 289, except for the portions of paragraphs 95, 96, 97, 117, 131, 171, and 228 that Washington was unable to review due to confidentiality redactions. Washington reserves the right to adopt the portions of those paragraphs which are later disclosed.

327. Washington brings its federal and state law claims for relief against Defendants RealPage, Cushman & Wakefield, Pinnacle, Greystar, and LivCor ("Washington Defendants").

328. Washington Defendants engaged in the conduct alleged above while operating their businesses in Washington. This anticompetitive conduct in Washington harmed the competitive process and renters across the State including in, but not limited to, the markets identified in Appendices A and B.

329. The acts alleged in the paragraphs incorporated by the State of Washington also constitute antitrust violations of the Washington Consumer Protection Act under Wash. Rev. Code § 19.86.030, which declares unlawful every contract, combination, or conspiracy in restraint of trade or commerce.

330. The acts alleged in the paragraphs incorporated by the State of Washington also constitute antitrust violations of the Washington Consumer Protection Act under Wash. Rev. Code § 19.86.040, which declares monopolization or attempts to monopolize unlawful.

331. Washington seeks the following remedies available under the Washington Consumer Protection Act and federal law including, without limitation, the following:

- a. That the Court adjudge and decree that conduct alleged in the complaint to be unlawful and in violation of the Washington Consumer Protection Act, Wash. Rev. Code § 19.86.030 and § 19.86.040;
- b. Injunctive and other equitable relief pursuant to Wash. Rev. Code § 19.86.080;
- c. Damages including treble damages; disgorgement; and/or restitution and any appropriate interest pursuant to federal law including Sherman Act, 15 U.S.C. 4, 15c and pursuant to state law including Wash. Rev. Code § 19.86.080;
- d. Civil penalties pursuant to Wash. Rev. Code § 19.86.140;
- e. Costs and attorney's fees and any appropriate interest on those fees and costs pursuant to Sherman Act, 15 U.S.C. 15c and/or pursuant to Wash. Rev. Code § 19.86.080; and
- f. Other remedies, including pre-judgement interest, as the court may deem appropriate under the facts and circumstances of the case.

IX. Request for Relief

332. To remedy these illegal acts, Plaintiffs request that the Court:

- a. Adjudge and decree that Defendants have acted unlawfully to restrain trade in conventional multifamily rental housing markets across the United States in violation of Section 1 of the Sherman Act, 15 U.S.C. 1;
- b. Adjust and decree that RealPage has acted unlawfully to monopolize, or attempt to monopolize, the commercial revenue management software market in the United States in violation of Section 2 of the Sherman Act, 15 U.S.C. 2;
- c. Enjoin Defendants from continuing to engage in the anticompetitive practices described herein and from engaging in any other practices with the same purpose and effect as the challenged practices;
- d. Enter any other preliminary or permanent relief necessary and appropriate to restore competitive conditions in the markets affected by Defendants' unlawful conduct;
- e. Enter any additional relief the Court finds just and proper; and

f. Award Plaintiffs an amount equal to their costs, including reasonable attorneys' fees, incurred in bringing this action.

X. Demand for a Jury Trial

333. Pursuant to Federal Rule of Civil Procedure 38(b), Plaintiffs demand a trial by jury of all issues properly triable to a jury in this case.

Dated this 7th day of January, 2025.

Respectfully submitted,
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Appendix A: Submarkets

Appendix A: Submarkets

Area	Submarket	YS/AIRM 30% or more	YS/AIRM/ OneSite 30% or more
Anaheim-Santa Ana-Irvine, CA	South Orange County	Yes	Yes
Atlanta-Sandy Springs-Roswell, GA	Alpharetta/Cumming	Yes	Yes
Atlanta-Sandy Springs-Roswell, GA	Briarcliff	Yes	Yes
Atlanta-Sandy Springs-Roswell, GA	Buckhead	Yes	Yes
Atlanta-Sandy Springs-Roswell, GA	Chamblee/Brookhaven	Yes	Yes
Atlanta-Sandy Springs-Roswell, GA	Decatur	Yes	Yes
Atlanta-Sandy Springs-Roswell, GA	Downtown Atlanta	Yes	Yes
Atlanta-Sandy Springs-Roswell, GA	Duluth	Yes	Yes
Atlanta-Sandy Springs-Roswell, GA	Dunwoody	Yes	Yes
Atlanta-Sandy Springs-Roswell, GA	Kennesaw/Acworth	Yes	Yes
Atlanta-Sandy Springs-Roswell, GA	Midtown Atlanta	Yes	Yes
Atlanta-Sandy Springs-Roswell, GA	Norcross	Yes	Yes
Atlanta-Sandy Springs-Roswell, GA	Northeast Atlanta	Yes	Yes
Atlanta-Sandy Springs-Roswell, GA	Northeast Cobb/Woodstock	Yes	Yes
Atlanta-Sandy Springs-Roswell, GA	Northeast Gwinnett County	Yes	Yes
Atlanta-Sandy Springs-Roswell, GA	Roswell	Yes	Yes
Atlanta-Sandy Springs-Roswell, GA	Sandy Springs	Yes	Yes
Atlanta-Sandy Springs-Roswell, GA	Smyrna	Yes	Yes
Atlanta-Sandy Springs-Roswell, GA	South Cobb County/Douglasville	Yes	Yes
Atlanta-Sandy Springs-Roswell, GA	Southeast Gwinnett County	Yes	Yes
Atlanta-Sandy Springs-Roswell, GA	Southeast Marietta	Yes	Yes
Atlanta-Sandy Springs-Roswell, GA	Southwest Atlanta	Yes	Yes
Atlanta-Sandy Springs-Roswell, GA	Vinings	Yes	Yes
Atlanta-Sandy Springs-Roswell, GA	West Atlanta	Yes	Yes
Austin-Round Rock, TX	Arboretum	Yes	Yes
Austin-Round Rock, TX	Cedar Park	Yes	Yes
Austin-Round Rock, TX	Downtown/University	Yes	Yes
Austin-Round Rock, TX	East Austin	Yes	Yes
Austin-Round Rock, TX	Far South Austin	Yes	Yes
Austin-Round Rock, TX	Far West Austin	Yes	Yes
Austin-Round Rock, TX	Near North Austin	Yes	Yes
Austin-Round Rock, TX	North Central Austin	Yes	Yes
Austin-Round Rock, TX	Northwest Austin	Yes	Yes
Austin-Round Rock, TX	Pflugerville/Wells Branch	Yes	Yes
Austin-Round Rock, TX	Round Rock/Georgetown	Yes	Yes
Austin-Round Rock, TX	South Austin	Yes	Yes
Austin-Round Rock, TX	Southwest Austin	Yes	Yes
Baltimore-Columbia-Towson, MD	Columbia/North Laurel	Yes	Yes
Birmingham-Hoover, AL	Southeast Birmingham	Yes	Yes
Boston-Cambridge-Newton, MA-NH	Chelsea/Revere/Charlestown .....	.....	Yes
Boston-Cambridge-Newton, MA-NH	East Middlesex County .....	.....	Yes
Boston-Cambridge-Newton, MA-NH	Quincy .....	.....	Yes
Boston-Cambridge-Newton, MA-NH	West Norfolk County .....	.....	Yes
Charleston-North Charleston, SC	Downtown/Mount Pleasant/Islands	Yes	Yes
Charleston-North Charleston, SC	West Ashley	Yes	Yes
Charlotte-Concord-Gastonia, NC-SC	Ballantyne	Yes	Yes
Charlotte-Concord-Gastonia, NC-SC	Huntersville/Cornelius	Yes	Yes
Charlotte-Concord-Gastonia, NC-SC	Matthews/Southeast Charlotte .....	.....	Yes
Charlotte-Concord-Gastonia, NC-SC	Myers Park	Yes	Yes
Charlotte-Concord-Gastonia, NC-SC	North Charlotte	Yes	Yes
Charlotte-Concord-Gastonia, NC-SC	South Charlotte	Yes	Yes
Charlotte-Concord-Gastonia, NC-SC	Southwest Charlotte	Yes	Yes
Charlotte-Concord-Gastonia, NC-SC	UNC Charlotte	Yes	Yes
Charlotte-Concord-Gastonia, NC-SC	Uptown/South End	Yes	Yes
Chicago-Naperville-Elgin, IL-IN-WI	The Loop	Yes	Yes
Colorado Springs, CO	North Colorado Springs	Yes	Yes
Dallas-Plano-Irving, TX	Addison/Bent Tree	Yes	Yes
Dallas-Plano-Irving, TX	Allen/McKinney	Yes	Yes
Dallas-Plano-Irving, TX	Carrollton/Farmers Branch	Yes	Yes
Dallas-Plano-Irving, TX	Central/East Plano	Yes	Yes
Dallas-Plano-Irving, TX	East Dallas	Yes	Yes
Dallas-Plano-Irving, TX	Frisco	Yes	Yes
Dallas-Plano-Irving, TX	Grand Prairie	Yes	Yes
Dallas-Plano-Irving, TX	Intown Dallas	Yes	Yes
Dallas-Plano-Irving, TX	Las Colinas/Coppell	Yes	Yes
Dallas-Plano-Irving, TX	Lewisville/Flower Mound	Yes	Yes
Dallas-Plano-Irving, TX	North Irving	Yes	Yes

Area	Submarket	YS/AIRM 30% or more	YS/AIRM/ OneSite 30% or more
Dallas-Plano-Irving, TX	North Oak Cliff/West Dallas	Yes	Yes
Dallas-Plano-Irving, TX	Oak Lawn/Park Cities	Yes	Yes
Dallas-Plano-Irving, TX	Richardson	Yes	Yes
Dallas-Plano-Irving, TX	Rockwall/Rowlett/Wylie	Yes	Yes
Dallas-Plano-Irving, TX	The Colony/Far North Carrollton	Yes	Yes
Dallas-Plano-Irving, TX	West Plano	Yes	Yes
Denver-Aurora-Lakewood, CO	Broomfield	Yes	Yes
Denver-Aurora-Lakewood, CO	Downtown/Highlands/Lincoln Park	Yes	Yes
Denver-Aurora-Lakewood, CO	Highlands Ranch	Yes	Yes
Denver-Aurora-Lakewood, CO	Littleton	Yes	Yes
Denver-Aurora-Lakewood, CO	Northeast Denver	Yes	Yes
Denver-Aurora-Lakewood, CO	Parker/Castle Rock	Yes	Yes
Denver-Aurora-Lakewood, CO	South Lakewood	Yes	Yes
Denver-Aurora-Lakewood, CO	Southeast Aurora/East Arapahoe County	Yes	Yes
Denver-Aurora-Lakewood, CO	Southeast Denver	Yes	Yes
Denver-Aurora-Lakewood, CO	Tech Center	Yes	Yes
Denver-Aurora-Lakewood, CO	Thornton/Northglenn	Yes	Yes
Denver-Aurora-Lakewood, CO	Westminster	Yes	Yes
Fort Lauderdale-Pompano Beach-Deerfield Beach, FL	Plantation/Davie/Weston	Yes	Yes
Fort Worth-Arlington, TX	Grapevine/Southlake	Yes	Yes
Fort Worth-Arlington, TX	Northeast Fort Worth/North Richland Hills .....	.....	Yes
Hartford-West Hartford-East Hartford, CT	Southeast Hartford/Middlesex County .....	.....	Yes
Houston-The Woodlands-Sugar Land, TX	Bear Creek	Yes	Yes
Houston-The Woodlands-Sugar Land, TX	Downtown/Montrose/River Oaks	Yes	Yes
Houston-The Woodlands-Sugar Land, TX	Far West Houston	Yes	Yes
Houston-The Woodlands-Sugar Land, TX	Friendswood/Pearland	Yes	Yes
Houston-The Woodlands-Sugar Land, TX	Galleria/Uptown	Yes	Yes
Houston-The Woodlands-Sugar Land, TX	Greater Heights/Washington Avenue	Yes	Yes
Houston-The Woodlands-Sugar Land, TX	Greenway/Upper Kirby	Yes	Yes
Houston-The Woodlands-Sugar Land, TX	Katy	Yes	Yes
Houston-The Woodlands-Sugar Land, TX	Memorial	Yes	Yes
Houston-The Woodlands-Sugar Land, TX	Sugar Land/Stafford	Yes	Yes
Houston-The Woodlands-Sugar Land, TX	The Woodlands	Yes	Yes
Houston-The Woodlands-Sugar Land, TX	West University/Medical Center/Third Ward	Yes	Yes
Jacksonville, FL	Baymeadows	Yes	Yes
Jacksonville, FL	Upper Southside	Yes	Yes
Kansas City, MO-KS	Lee's Summit/Blue Springs/Raytown	Yes	Yes
Las Vegas-Henderson-Paradise, NV	Henderson	Yes	Yes
Las Vegas-Henderson-Paradise, NV	Northwest Las Vegas	Yes	Yes
Las Vegas-Henderson-Paradise, NV	Summerlin/The Lakes	Yes	Yes
Los Angeles-Long Beach-Glendale, CA	Downtown Los Angeles	Yes	Yes
Memphis, TN-MS-AR	Cordova/Bartlett	Yes	Yes
Memphis, TN-MS-AR	Germantown/Collierville	Yes	Yes
Mobile/Daphne, AL	North Mobile	Yes	Yes
Nashville-Davidson—Murfreesboro—Franklin, TN	Central Nashville	Yes	Yes
Nashville-Davidson—Murfreesboro—Franklin, TN	East Nashville	Yes	Yes
Nashville-Davidson—Murfreesboro—Franklin, TN	Franklin/Brentwood	Yes	Yes
Nashville-Davidson—Murfreesboro—Franklin, TN	South Nashville	Yes	Yes
Nashville-Davidson—Murfreesboro—Franklin, TN	Southeast Nashville	Yes	Yes
Nashville-Davidson—Murfreesboro—Franklin, TN	West Nashville .....	.....	Yes
Orlando-Kissimmee-Sanford, FL	Altamonte Springs/Apopka	Yes	Yes
Orlando-Kissimmee-Sanford, FL	Casselberry/Winter Springs/Oviedo	Yes	Yes
Orlando-Kissimmee-Sanford, FL	Central Orlando	Yes	Yes
Orlando-Kissimmee-Sanford, FL	East Orange County	Yes	Yes
Orlando-Kissimmee-Sanford, FL	East Orlando	Yes	Yes
Orlando-Kissimmee-Sanford, FL	Kissimmee/Osceola County	Yes	Yes
Orlando-Kissimmee-Sanford, FL	Sanford/Lake Mary	Yes	Yes
Orlando-Kissimmee-Sanford, FL	South Orange County	Yes	Yes
Orlando-Kissimmee-Sanford, FL	Southwest Orlando	Yes	Yes
Orlando-Kissimmee-Sanford, FL	Winter Park/Maitland	Yes	Yes
Phoenix-Mesa-Scottsdale, AZ	Chandler	Yes	Yes
Phoenix-Mesa-Scottsdale, AZ	Deer Valley	Yes	Yes
Phoenix-Mesa-Scottsdale, AZ	North Glendale	Yes	Yes
Phoenix-Mesa-Scottsdale, AZ	South Phoenix	Yes	Yes
Portland-Vancouver-Hillsboro, OR-WA	Aloha/West Beaverton	Yes	Yes
Portland-Vancouver-Hillsboro, OR-WA	Central Portland	Yes	Yes
Portland-Vancouver-Hillsboro, OR-WA	Hillsboro	Yes	Yes
Portland-Vancouver-Hillsboro, OR-WA	Lake Oswego/Tualatin/Wilsonville	Yes	Yes
Raleigh/Durham, NC	Central Raleigh	Yes	Yes
Raleigh/Durham, NC	Chapel Hill/Carrboro	Yes	Yes
Raleigh/Durham, NC	East Durham	Yes	Yes
Raleigh/Durham, NC	Far North Raleigh	Yes	Yes

Area	Submarket	YS/AIRM 30% or more	YS/AIRM/ OneSite 30% or more
Raleigh/Durham, NC	Near North Raleigh	Yes	Yes
Raleigh/Durham, NC	North Cary/Morrisville	Yes	Yes
Raleigh/Durham, NC	Northeast Raleigh	Yes	Yes
Raleigh/Durham, NC	Northwest Durham/Downtown .....	.....	Yes
Raleigh/Durham, NC	Northwest Raleigh	Yes	Yes
Raleigh/Durham, NC	South Cary/Apex	Yes	Yes
Raleigh/Durham, NC	Southwest Durham	Yes	Yes
Reno, NV	South Reno	Yes	Yes
Richmond, VA	Northwest Richmond	Yes	Yes
Richmond, VA	Tuckahoe/Westhampton	Yes	Yes
Riverside-San Bernardino-Ontario, CA	Corona .....	.....	Yes
Riverside-San Bernardino-Ontario, CA	Rancho Cucamonga/Upland	Yes	Yes
Riverside-San Bernardino-Ontario, CA	Temecula/Murrieta	Yes	Yes
Salt Lake City/Ogden/Clearfield, UT	Midvale/Sandy/Draper	Yes	Yes
Salt Lake City/Ogden/Clearfield, UT	Southwest Salt Lake City	Yes	Yes
San Antonio-New Braunfels, TX	Far North Central San Antonio	Yes	Yes
San Antonio-New Braunfels, TX	Far Northwest San Antonio	Yes	Yes
San Antonio-New Braunfels, TX	North Central San Antonio .....	.....	Yes
San Antonio-New Braunfels, TX	Northwest San Antonio	Yes	Yes
San Diego-Carlsbad, CA	Downtown San Diego/Coronado .....	.....	Yes
San Diego-Carlsbad, CA	Northeast San Diego	Yes	Yes
Seattle-Bellevue-Everett, WA	Downtown Seattle .....	.....	Yes
Seattle-Bellevue-Everett, WA	Federal Way/Des Moines .....	.....	Yes
Seattle-Bellevue-Everett, WA	Redmond .....	.....	Yes
Seattle-Bellevue-Everett, WA	Renton	Yes	Yes
Tampa-St. Petersburg-Clearwater, FL	Carrollwood/Citrus Park	Yes	Yes
Tampa-St. Petersburg-Clearwater, FL	Central Tampa	Yes	Yes
Tampa-St. Petersburg-Clearwater, FL	Town and Country/Westchase	Yes	Yes
Tucson, AZ	Casas Adobes/Oro Valley	Yes	Yes
Tucson, AZ	Catalina Foothills	Yes	Yes
Washington-Arlington-Alexandria, DC-VA-MD-WV	Germantown	Yes	Yes
Washington-Arlington-Alexandria, DC-VA-MD-WV	Loudoun County	Yes	Yes
Washington-Arlington-Alexandria, DC-VA-MD-WV	Manassas/Far Southwest Suburbs	Yes	Yes
Washington-Arlington-Alexandria, DC-VA-MD-WV	Navy Yard/Capitol South	Yes	Yes
Washington-Arlington-Alexandria, DC-VA-MD-WV	Northeast DC	Yes	Yes
Washington-Arlington-Alexandria, DC-VA-MD-WV	Reston/Herndon	Yes	Yes
Washington-Arlington-Alexandria, DC-VA-MD-WV	Tysons Corner/Falls Church/Merrifield	Yes	Yes
Washington-Arlington-Alexandria, DC-VA-MD-WV	West Alexandria	Yes	Yes
Washington-Arlington-Alexandria, DC-VA-MD-WV	West Fairfax County	Yes	Yes
Washington-Arlington-Alexandria, DC-VA-MD-WV	Woodbridge/Dale City	Yes	Yes

Appendix B: Submarkets By Bedroom Count

Area	Submarket	Number of beds	YS/AIRM 30% or more	YS/AIRM/ OneSite 30% or more
Anaheim-Santa Ana-Irvine, CA	South Orange County	1	Yes	Yes
Atlanta-Sandy Springs-Roswell, GA	Alpharetta/Cumming	1	Yes	Yes
Atlanta-Sandy Springs-Roswell, GA	Briarcliff	1	Yes	Yes
Atlanta-Sandy Springs-Roswell, GA	Buckhead	1	Yes	Yes
Atlanta-Sandy Springs-Roswell, GA	Chamblee/Brookhaven	1	Yes	Yes
Atlanta-Sandy Springs-Roswell, GA	Decatur	1	Yes	Yes
Atlanta-Sandy Springs-Roswell, GA	Downtown Atlanta	1	Yes	Yes
Atlanta-Sandy Springs-Roswell, GA	Duluth	1	Yes	Yes
Atlanta-Sandy Springs-Roswell, GA	Dunwoody	1	Yes	Yes
Atlanta-Sandy Springs-Roswell, GA	Kennesaw/Acworth	1	Yes	Yes
Atlanta-Sandy Springs-Roswell, GA	Midtown Atlanta	1	Yes	Yes
Atlanta-Sandy Springs-Roswell, GA	Norcross	1	Yes	Yes
Atlanta-Sandy Springs-Roswell, GA	Northeast Atlanta	1	Yes	Yes
Atlanta-Sandy Springs-Roswell, GA	Northeast Cobb/Woodstock	1	Yes	Yes
Atlanta-Sandy Springs-Roswell, GA	Northeast Gwinnett County	1	Yes	Yes
Atlanta-Sandy Springs-Roswell, GA	Roswell	1	Yes	Yes
Atlanta-Sandy Springs-Roswell, GA	Sandy Springs	1	Yes	Yes
Atlanta-Sandy Springs-Roswell, GA	Smyrna	1	Yes	Yes
Atlanta-Sandy Springs-Roswell, GA	South Cobb County/Douglasville	1	Yes	Yes
Atlanta-Sandy Springs-Roswell, GA	Southeast Gwinnett County	1	Yes	Yes
Atlanta-Sandy Springs-Roswell, GA	Southeast Marietta	1	Yes	Yes
Atlanta-Sandy Springs-Roswell, GA	Southwest Atlanta	1	Yes	Yes

Area	Submarket	Number of beds	YS/AIRM 30% or more	YS/AIRM/ OneSite 30% or more
Atlanta-Sandy Springs-Roswell, GA	Vinings	1	Yes	Yes
Atlanta-Sandy Springs-Roswell, GA	West Atlanta	1	Yes	Yes
Austin-Round Rock, TX	Arboretum	1	Yes	Yes
Austin-Round Rock, TX	Cedar Park	1	Yes	Yes
Austin-Round Rock, TX	Downtown/University	1	Yes	Yes
Austin-Round Rock, TX	East Austin	1	Yes	Yes
Austin-Round Rock, TX	Far South Austin	1	Yes	Yes
Austin-Round Rock, TX	Far West Austin	1	Yes	Yes
Austin-Round Rock, TX	Near North Austin	1	Yes	Yes
Austin-Round Rock, TX	North Central Austin	1	Yes	Yes
Austin-Round Rock, TX	Northwest Austin	1	Yes	Yes
Austin-Round Rock, TX	Pflugerville/Wells Branch	1	Yes	Yes
Austin-Round Rock, TX	Round Rock/Georgetown	1	Yes	Yes
Austin-Round Rock, TX	South Austin	1	Yes	Yes
Austin-Round Rock, TX	Southwest Austin	1	Yes	Yes
Baltimore-Columbia-Towson, MD	Columbia/North Laurel	1	Yes	Yes
Birmingham-Hoover, AL	Southeast Birmingham	1	Yes	Yes
Boston-Cambridge-Newton, MA-NH	Chelsea/Revere/Charlestown	1	.....	Yes
Boston-Cambridge-Newton, MA-NH	East Middlesex County	1	Yes	Yes
Boston-Cambridge-Newton, MA-NH	Quincy	1	Yes	Yes
Boston-Cambridge-Newton, MA-NH	West Norfolk County	1	.....	Yes
Charleston-North Charleston, SC	Downtown/Mount Pleasant/Islands	1	Yes	Yes
Charleston-North Charleston, SC	West Ashley	1	Yes	Yes
Charlotte-Concord-Gastonia, NC-SC	Ballantyne	1	Yes	Yes
Charlotte-Concord-Gastonia, NC-SC	Huntersville/Cornelius	1	Yes	Yes
Charlotte-Concord-Gastonia, NC-SC	Matthews/Southeast Charlotte	1	Yes	Yes
Charlotte-Concord-Gastonia, NC-SC	Myers Park	1	Yes	Yes
Charlotte-Concord-Gastonia, NC-SC	North Charlotte	1	Yes	Yes
Charlotte-Concord-Gastonia, NC-SC	South Charlotte	1	Yes	Yes
Charlotte-Concord-Gastonia, NC-SC	Southwest Charlotte	1	Yes	Yes
Charlotte-Concord-Gastonia, NC-SC	UNC Charlotte	1	Yes	Yes
Charlotte-Concord-Gastonia, NC-SC	Uptown/South End	1	Yes	Yes
Chicago-Naperville-Elgin, IL-IN-WI	The Loop	1	Yes	Yes
Colorado Springs, CO	North Colorado Springs	1	Yes	Yes
Dallas-Plano-Irving, TX	Addison/Bent Tree	1	Yes	Yes
Dallas-Plano-Irving, TX	Allen/McKinney	1	Yes	Yes
Dallas-Plano-Irving, TX	Carrollton/Farmers Branch	1	Yes	Yes
Dallas-Plano-Irving, TX	Central/East Plano	1	Yes	Yes
Dallas-Plano-Irving, TX	East Dallas	1	Yes	Yes
Dallas-Plano-Irving, TX	Frisco	1	Yes	Yes
Dallas-Plano-Irving, TX	Grand Prairie	1	Yes	Yes
Dallas-Plano-Irving, TX	Intown Dallas	1	Yes	Yes
Dallas-Plano-Irving, TX	Las Colinas/Coppell	1	Yes	Yes
Dallas-Plano-Irving, TX	Lewisville/Flower Mound	1	Yes	Yes
Dallas-Plano-Irving, TX	North Irving	1	Yes	Yes
Dallas-Plano-Irving, TX	North Oak Cliff/West Dallas	1	Yes	Yes
Dallas-Plano-Irving, TX	Oak Lawn/Park Cities	1	Yes	Yes
Dallas-Plano-Irving, TX	Richardson	1	Yes	Yes
Dallas-Plano-Irving, TX	Rockwall/Rowlett/Wylie	1	Yes	Yes
Dallas-Plano-Irving, TX	The Colony/Far North Carrollton	1	Yes	Yes
Dallas-Plano-Irving, TX	West Plano	1	Yes	Yes
Denver-Aurora-Lakewood, CO	Broomfield	1	Yes	Yes
Denver-Aurora-Lakewood, CO	Downtown/Highlands/Lincoln Park	1	Yes	Yes
Denver-Aurora-Lakewood, CO	Highlands Ranch	1	Yes	Yes
Denver-Aurora-Lakewood, CO	Littleton	1	Yes	Yes
Denver-Aurora-Lakewood, CO	Northeast Denver	1	Yes	Yes
Denver-Aurora-Lakewood, CO	Parker/Castle Rock	1	Yes	Yes
Denver-Aurora-Lakewood, CO	South Lakewood	1	Yes	Yes
Denver-Aurora-Lakewood, CO	Southeast Aurora/East Arapahoe County	1	Yes	Yes
Denver-Aurora-Lakewood, CO	Southeast Denver	1	Yes	Yes
Denver-Aurora-Lakewood, CO	Tech Center	1	Yes	Yes
Denver-Aurora-Lakewood, CO	Thornton/Northglenn	1	Yes	Yes
Denver-Aurora-Lakewood, CO	Westminster	1	Yes	Yes
Fort Lauderdale-Pompano Beach-Deerfield Beach, FL	Plantation/Davie/Weston	1	Yes	Yes
Fort Worth-Arlington, TX	Grapevine/Southlake	1	Yes	Yes
Fort Worth-Arlington, TX	Northeast Fort Worth/North Richland Hills	1	Yes	Yes
Hartford-West Hartford-East Hartford, CT	Southeast Hartford/Middlesex County	1	.....	Yes
Houston-The Woodlands-Sugar Land, TX	Bear Creek	1	Yes	Yes
Houston-The Woodlands-Sugar Land, TX	Downtown/Montrose/River Oaks	1	Yes	Yes
Houston-The Woodlands-Sugar Land, TX	Far West Houston	1	Yes	Yes
Houston-The Woodlands-Sugar Land, TX	Friendswood/Pearland	1	.....	Yes

Area	Submarket	Number of beds	YS/AIRM 30% or more	YS/AIRM/OneSite 30% or more
Houston-The Woodlands-Sugar Land, TX	Galleria/Uptown	1	Yes	Yes
Houston-The Woodlands-Sugar Land, TX	Greater Heights/Washington Avenue	1	Yes	Yes
Houston-The Woodlands-Sugar Land, TX	Greenway/Upper Kirby	1	Yes	Yes
Houston-The Woodlands-Sugar Land, TX	Katy	1	Yes	Yes
Houston-The Woodlands-Sugar Land, TX	Memorial	1	Yes	Yes
Houston-The Woodlands-Sugar Land, TX	Sugar Land/Stafford	1	Yes	Yes
Houston-The Woodlands-Sugar Land, TX	The Woodlands	1	Yes	Yes
Houston-The Woodlands-Sugar Land, TX	West University/Medical Center/Third Ward	1	Yes	Yes
Jacksonville, FL	Baymeadows	1	Yes	Yes
Jacksonville, FL	Upper Southside	1	Yes	Yes
Kansas City, MO-KS	Lee's Summit/Blue Springs/Raytown	1	Yes	Yes
Las Vegas-Henderson-Paradise, NV	Henderson	1	Yes	Yes
Las Vegas-Henderson-Paradise, NV	Northwest Las Vegas	1	Yes	Yes
Las Vegas-Henderson-Paradise, NV	Summerlin/The Lakes	1	Yes	Yes
Los Angeles-Long Beach-Glendale, CA	Downtown Los Angeles	1	Yes	Yes
Memphis, TN-MS-AR	Cordova/Bartlett	1	Yes	Yes
Memphis, TN-MS-AR	Germantown/Collierville	1	Yes	Yes
Mobile/Daphne, AL	North Mobile	1	Yes	Yes
Nashville-Davidson—Murfreesboro—Franklin, TN	Central Nashville	1	Yes	Yes
Nashville-Davidson—Murfreesboro—Franklin, TN	East Nashville	1	Yes	Yes
Nashville-Davidson—Murfreesboro—Franklin, TN	Franklin/Brentwood	1	Yes	Yes
Nashville-Davidson—Murfreesboro—Franklin, TN	South Nashville	1	Yes	Yes
Nashville-Davidson—Murfreesboro—Franklin, TN	Southeast Nashville	1	Yes	Yes
Nashville-Davidson—Murfreesboro—Franklin, TN	West Nashville	1	Yes	Yes
Orlando-Kissimmee-Sanford, FL	Altamonte Springs/Apopka	1	Yes	Yes
Orlando-Kissimmee-Sanford, FL	Casselberry/Winter Springs/Oviedo	1	Yes	Yes
Orlando-Kissimmee-Sanford, FL	Central Orlando	1	Yes	Yes
Orlando-Kissimmee-Sanford, FL	East Orange County	1	Yes	Yes
Orlando-Kissimmee-Sanford, FL	East Orlando	1	Yes	Yes
Orlando-Kissimmee-Sanford, FL	Kissimmee/Osceola County	1	Yes	Yes
Orlando-Kissimmee-Sanford, FL	Sanford/Lake Mary	1	Yes	Yes
Orlando-Kissimmee-Sanford, FL	South Orange County	1	Yes	Yes
Orlando-Kissimmee-Sanford, FL	Southwest Orlando	1	Yes	Yes
Orlando-Kissimmee-Sanford, FL	Winter Park/Maitland	1	Yes	Yes
Phoenix-Mesa-Scottsdale, AZ	Chandler	1	Yes	Yes
Phoenix-Mesa-Scottsdale, AZ	Deer Valley	1	Yes	Yes
Phoenix-Mesa-Scottsdale, AZ	North Glendale	1	Yes	Yes
Phoenix-Mesa-Scottsdale, AZ	South Phoenix	1	Yes	Yes
Portland-Vancouver-Hillsboro, OR-WA	Aloha/West Beaverton	1	Yes	Yes
Portland-Vancouver-Hillsboro, OR-WA	Central Portland	1	Yes	Yes
Portland-Vancouver-Hillsboro, OR-WA	Hillsboro	1	Yes	Yes
Portland-Vancouver-Hillsboro, OR-WA	Lake Oswego/Tualatin/Wilsonville	1	Yes	Yes
Raleigh/Durham, NC	Central Raleigh	1	Yes	Yes
Raleigh/Durham, NC	Chapel Hill/Carrboro	1	.....	Yes
Raleigh/Durham, NC	East Durham	1	Yes	Yes
Raleigh/Durham, NC	Far North Raleigh	1	.....	Yes
Raleigh/Durham, NC	Near North Raleigh	1	Yes	Yes
Raleigh/Durham, NC	North Cary/Morrisville	1	Yes	Yes
Raleigh/Durham, NC	Northeast Raleigh	1	Yes	Yes
Raleigh/Durham, NC	Northwest Durham/Downtown	1	Yes	Yes
Raleigh/Durham, NC	Northwest Raleigh	1	Yes	Yes
Raleigh/Durham, NC	South Cary/Apex	1	Yes	Yes
Raleigh/Durham, NC	Southwest Durham	1	Yes	Yes
Reno, NV	South Reno	1	Yes	Yes
Richmond, VA	Northwest Richmond	1	Yes	Yes
Richmond, VA	Tuckahoe/Westhampton	1	Yes	Yes
Riverside-San Bernardino-Ontario, CA	Corona	1	Yes	Yes
Riverside-San Bernardino-Ontario, CA	Rancho Cucamonga/Upland	1	Yes	Yes
Riverside-San Bernardino-Ontario, CA	Temecula/Murrieta	1	Yes	Yes
Salt Lake City/Ogden/Clearfield, UT	Midvale/Sandy/Draper	1	Yes	Yes
Salt Lake City/Ogden/Clearfield, UT	Southwest Salt Lake City	1	Yes	Yes
San Antonio-New Braunfels, TX	Far North Central San Antonio	1	Yes	Yes
San Antonio-New Braunfels, TX	Far Northwest San Antonio	1	Yes	Yes
San Antonio-New Braunfels, TX	North Central San Antonio	1	Yes	Yes
San Antonio-New Braunfels, TX	Northwest San Antonio	1	Yes	Yes
San Diego-Carlsbad, CA	Downtown San Diego/Coronado	1	Yes	Yes

Area	Submarket	Number of beds	YS/AIRM 30% or more	YS/AIRM/ OneSite 30% or more
San Diego-Carlsbad, CA	Northeast San Diego	1	Yes	Yes
Seattle-Bellevue-Everett, WA	Downtown Seattle	1	Yes	Yes
Seattle-Bellevue-Everett, WA	Federal Way/Des Moines	1	.....	Yes
Seattle-Bellevue-Everett, WA	Redmond	1	Yes	Yes
Seattle-Bellevue-Everett, WA	Renton	1	Yes	Yes
Tampa-St. Petersburg-Clearwater, FL	Carrollwood/Citrus Park	1	Yes	Yes
Tampa-St. Petersburg-Clearwater, FL	Central Tampa	1	Yes	Yes
Tampa-St. Petersburg-Clearwater, FL	Town and Country/Westchase	1	Yes	Yes
Tucson, AZ	Casas Adobes/Oro Valley	1	Yes	Yes
Tucson, AZ	Catalina Foothills	1	Yes	Yes
Washington-Arlington-Alexandria, DC-VA-MD-WV.	Germantown	1	Yes	Yes
Washington-Arlington-Alexandria, DC-VA-MD-WV.	Loudoun County	1	Yes	Yes
Washington-Arlington-Alexandria, DC-VA-MD-WV.	Manassas/Far Southwest Suburbs	1	Yes	Yes
Washington-Arlington-Alexandria, DC-VA-MD-WV.	Navy Yard/Capitol South	1	Yes	Yes
Washington-Arlington-Alexandria, DC-VA-MD-WV.	Northeast DC	1	Yes	Yes
Washington-Arlington-Alexandria, DC-VA-MD-WV.	Reston/Herndon	1	Yes	Yes
Washington-Arlington-Alexandria, DC-VA-MD-WV.	Tysons Corner/Falls Church/Merrifield	1	Yes	Yes
Washington-Arlington-Alexandria, DC-VA-MD-WV.	West Alexandria	1	Yes	Yes
Washington-Arlington-Alexandria, DC-VA-MD-WV.	West Fairfax County	1	Yes	Yes
Washington-Arlington-Alexandria, DC-VA-MD-WV.	Woodbridge/Dale City	1	Yes	Yes
Anaheim-Santa Ana-Irvine, CA	South Orange County	2	Yes	Yes
Atlanta-Sandy Springs-Roswell, GA	Alpharetta/Cumming	2	Yes	Yes
Atlanta-Sandy Springs-Roswell, GA	Briarcliff	2	Yes	Yes
Atlanta-Sandy Springs-Roswell, GA	Buckhead	2	Yes	Yes
Atlanta-Sandy Springs-Roswell, GA	Chamblee/Brookhaven	2	Yes	Yes
Atlanta-Sandy Springs-Roswell, GA	Decatur	2	Yes	Yes
Atlanta-Sandy Springs-Roswell, GA	Downtown Atlanta	2	Yes	Yes
Atlanta-Sandy Springs-Roswell, GA	Duluth	2	Yes	Yes
Atlanta-Sandy Springs-Roswell, GA	Dunwoody	2	Yes	Yes
Atlanta-Sandy Springs-Roswell, GA	Kennesaw/Acworth	2	Yes	Yes
Atlanta-Sandy Springs-Roswell, GA	Midtown Atlanta	2	Yes	Yes
Atlanta-Sandy Springs-Roswell, GA	Norcross	2	Yes	Yes
Atlanta-Sandy Springs-Roswell, GA	Northeast Atlanta	2	Yes	Yes
Atlanta-Sandy Springs-Roswell, GA	Northeast Cobb/Woodstock	2	Yes	Yes
Atlanta-Sandy Springs-Roswell, GA	Northeast Gwinnett County	2	Yes	Yes
Atlanta-Sandy Springs-Roswell, GA	Roswell	2	Yes	Yes
Atlanta-Sandy Springs-Roswell, GA	Sandy Springs	2	Yes	Yes
Atlanta-Sandy Springs-Roswell, GA	Smyrna	2	Yes	Yes
Atlanta-Sandy Springs-Roswell, GA	South Cobb County/Douglasville	2	Yes	Yes
Atlanta-Sandy Springs-Roswell, GA	Southeast Gwinnett County	2	Yes	Yes
Atlanta-Sandy Springs-Roswell, GA	Southeast Marietta	2	Yes	Yes
Atlanta-Sandy Springs-Roswell, GA	Southwest Atlanta	2	Yes	Yes
Atlanta-Sandy Springs-Roswell, GA	Vinings	2	Yes	Yes
Atlanta-Sandy Springs-Roswell, GA	West Atlanta	2	Yes	Yes
Austin-Round Rock, TX	Arboretum	2	Yes	Yes
Austin-Round Rock, TX	Cedar Park	2	Yes	Yes
Austin-Round Rock, TX	Downtown/University	2	Yes	Yes
Austin-Round Rock, TX	East Austin	2	Yes	Yes
Austin-Round Rock, TX	Far South Austin	2	Yes	Yes
Austin-Round Rock, TX	Far West Austin	2	Yes	Yes
Austin-Round Rock, TX	Near North Austin	2	Yes	Yes
Austin-Round Rock, TX	North Central Austin	2	Yes	Yes
Austin-Round Rock, TX	Northwest Austin	2	Yes	Yes
Austin-Round Rock, TX	Pflugerville/Wells Branch	2	Yes	Yes
Austin-Round Rock, TX	Round Rock/Georgetown	2	Yes	Yes
Austin-Round Rock, TX	South Austin	2	Yes	Yes
Austin-Round Rock, TX	Southwest Austin	2	Yes	Yes
Baltimore-Columbia-Towson, MD	Columbia/North Laurel	2	Yes	Yes
Birmingham-Hoover, AL	Southeast Birmingham	2	Yes	Yes
Boston-Cambridge-Newton, MA-NH	East Middlesex County	2	Yes	Yes
Charleston-North Charleston, SC	Downtown/Mount Pleasant/Islands	2	Yes	Yes
Charleston-North Charleston, SC	West Ashley	2	Yes	Yes

Area	Submarket	Number of beds	YS/AIRM 30% or more	YS/AIRM/OneSite 30% or more
Charlotte-Concord-Gastonia, NC-SC	Ballantyne	2	Yes	Yes
Charlotte-Concord-Gastonia, NC-SC	Huntersville/Cornelius	2	Yes	Yes
Charlotte-Concord-Gastonia, NC-SC	Myers Park	2	Yes	Yes
Charlotte-Concord-Gastonia, NC-SC	North Charlotte	2	Yes	Yes
Charlotte-Concord-Gastonia, NC-SC	South Charlotte	2	Yes	Yes
Charlotte-Concord-Gastonia, NC-SC	Southwest Charlotte	2	Yes	Yes
Charlotte-Concord-Gastonia, NC-SC	UNC Charlotte	2	Yes	Yes
Charlotte-Concord-Gastonia, NC-SC	Uptown/South End	2	Yes	Yes
Chicago-Naperville-Elgin, IL-IN-WI	The Loop	2	.....	Yes
Colorado Springs, CO	North Colorado Springs	2	Yes	Yes
Dallas-Plano-Irving, TX	Addison/Bent Tree	2	Yes	Yes
Dallas-Plano-Irving, TX	Allen/McKinney	2	Yes	Yes
Dallas-Plano-Irving, TX	Carrollton/Farmers Branch	2	.....	Yes
Dallas-Plano-Irving, TX	Central/East Plano	2	Yes	Yes
Dallas-Plano-Irving, TX	East Dallas	2	Yes	Yes
Dallas-Plano-Irving, TX	Frisco	2	Yes	Yes
Dallas-Plano-Irving, TX	Grand Prairie	2	Yes	Yes
Dallas-Plano-Irving, TX	Intown Dallas	2	Yes	Yes
Dallas-Plano-Irving, TX	Las Colinas/Coppell	2	Yes	Yes
Dallas-Plano-Irving, TX	Lewisville/Flower Mound	2	Yes	Yes
Dallas-Plano-Irving, TX	North Irving	2	.....	Yes
Dallas-Plano-Irving, TX	North Oak Cliff/West Dallas	2	Yes	Yes
Dallas-Plano-Irving, TX	Oak Lawn/Park Cities	2	Yes	Yes
Dallas-Plano-Irving, TX	Richardson	2	Yes	Yes
Dallas-Plano-Irving, TX	Rockwall/Rowlett/Wylie	2	Yes	Yes
Dallas-Plano-Irving, TX	The Colony/Far North Carrollton	2	Yes	Yes
Dallas-Plano-Irving, TX	West Plano	2	Yes	Yes
Denver-Aurora-Lakewood, CO	Broomfield	2	Yes	Yes
Denver-Aurora-Lakewood, CO	Downtown/Highlands/Lincoln Park	2	Yes	Yes
Denver-Aurora-Lakewood, CO	Highlands Ranch	2	Yes	Yes
Denver-Aurora-Lakewood, CO	Littleton	2	Yes	Yes
Denver-Aurora-Lakewood, CO	Northeast Denver	2	Yes	Yes
Denver-Aurora-Lakewood, CO	Parker/Castle Rock	2	Yes	Yes
Denver-Aurora-Lakewood, CO	South Lakewood	2	Yes	Yes
Denver-Aurora-Lakewood, CO	Southeast Aurora/East Arapahoe County	2	Yes	Yes
Denver-Aurora-Lakewood, CO	Southeast Denver	2	Yes	Yes
Denver-Aurora-Lakewood, CO	Tech Center	2	Yes	Yes
Denver-Aurora-Lakewood, CO	Thornton/Northglenn	2	Yes	Yes
Denver-Aurora-Lakewood, CO	Westminster	2	Yes	Yes
Fort Lauderdale-Pompano Beach-Deerfield Beach, FL	Plantation/Davie/Weston	2	Yes	Yes
Fort Worth-Arlington, TX	Grapevine/Southlake	2	Yes	Yes
Fort Worth-Arlington, TX	Northeast Fort Worth/North Richland Hills	2	.....	Yes
Hartford-West Hartford-East Hartford, CT	Southeast Hartford/Middlesex County	2	Yes	Yes
Houston-The Woodlands-Sugar Land, TX	Bear Creek	2	.....	Yes
Houston-The Woodlands-Sugar Land, TX	Downtown/Montrose/River Oaks	2	Yes	Yes
Houston-The Woodlands-Sugar Land, TX	Far West Houston	2	Yes	Yes
Houston-The Woodlands-Sugar Land, TX	Friendswood/Pearland	2	Yes	Yes
Houston-The Woodlands-Sugar Land, TX	Galleria/Uptown	2	Yes	Yes
Houston-The Woodlands-Sugar Land, TX	Greater Heights/Washington Avenue	2	Yes	Yes
Houston-The Woodlands-Sugar Land, TX	Greenway/Upper Kirby	2	Yes	Yes
Houston-The Woodlands-Sugar Land, TX	Memorial	2	Yes	Yes
Houston-The Woodlands-Sugar Land, TX	Sugar Land/Stafford	2	Yes	Yes
Houston-The Woodlands-Sugar Land, TX	The Woodlands	2	Yes	Yes
Houston-The Woodlands-Sugar Land, TX	West University/Medical Center/Third Ward	2	Yes	Yes
Jacksonville, FL	Baymeadows	2	Yes	Yes
Jacksonville, FL	Upper Southside	2	Yes	Yes
Kansas City, MO-KS	Lee's Summit/Blue Springs/Raytown	2	Yes	Yes
Las Vegas-Henderson-Paradise, NV	Henderson	2	Yes	Yes
Las Vegas-Henderson-Paradise, NV	Northwest Las Vegas	2	Yes	Yes
Las Vegas-Henderson-Paradise, NV	Summerlin/The Lakes	2	Yes	Yes
Los Angeles-Long Beach-Glendale, CA	Downtown Los Angeles	2	Yes	Yes
Memphis, TN-MS-AR	Cordova/Bartlett	2	Yes	Yes
Memphis, TN-MS-AR	Germantown/Collierville	2	Yes	Yes
Mobile/Daphne, AL	North Mobile	2	Yes	Yes
Nashville-Davidson—Murfreesboro—Franklin, TN	Central Nashville	2	Yes	Yes
Nashville-Davidson—Murfreesboro—Franklin, TN	East Nashville	2	Yes	Yes
Nashville-Davidson—Murfreesboro—Franklin, TN	Franklin/Brentwood	2	Yes	Yes
Nashville-Davidson—Murfreesboro—Franklin, TN	South Nashville	2	Yes	Yes

Area	Submarket	Number of beds	YS/AIRM 30% or more	YS/AIRM/OneSite 30% or more
Nashville-Davidson—Murfreesboro—Franklin, TN.	Southeast Nashville	2	Yes	Yes
Orlando-Kissimmee-Sanford, FL	Altamonte Springs/Apopka	2	Yes	Yes
Orlando-Kissimmee-Sanford, FL	Casselberry/Winter Springs/Oviedo	2	Yes	Yes
Orlando-Kissimmee-Sanford, FL	Central Orlando	2	Yes	Yes
Orlando-Kissimmee-Sanford, FL	East Orange County	2	Yes	Yes
Orlando-Kissimmee-Sanford, FL	East Orlando	2	Yes	Yes
Orlando-Kissimmee-Sanford, FL	Kissimmee/Osceola County	2	Yes	Yes
Orlando-Kissimmee-Sanford, FL	Sanford/Lake Mary	2	Yes	Yes
Orlando-Kissimmee-Sanford, FL	South Orange County	2	Yes	Yes
Orlando-Kissimmee-Sanford, FL	Southwest Orlando	2	Yes	Yes
Orlando-Kissimmee-Sanford, FL	Winter Park/Maitland	2	Yes	Yes
Phoenix-Mesa-Scottsdale, AZ	Chandler	2	Yes	Yes
Phoenix-Mesa-Scottsdale, AZ	Deer Valley	2	Yes	Yes
Phoenix-Mesa-Scottsdale, AZ	North Glendale	2	Yes	Yes
Phoenix-Mesa-Scottsdale, AZ	South Phoenix	2	Yes	Yes
Portland-Vancouver-Hillsboro, OR-WA	Aloha/West Beaverton	2	Yes	Yes
Portland-Vancouver-Hillsboro, OR-WA	Central Portland	2	Yes	Yes
Portland-Vancouver-Hillsboro, OR-WA	Hillsboro	2	Yes	Yes
Portland-Vancouver-Hillsboro, OR-WA	Lake Oswego/Tualatin/Wilsonville	2	Yes	Yes
Raleigh/Durham, NC	Central Raleigh	2	Yes	Yes
Raleigh/Durham, NC	Chapel Hill/Carrboro	2	Yes	Yes
Raleigh/Durham, NC	East Durham	2	Yes	Yes
Raleigh/Durham, NC	Far North Raleigh	2	Yes	Yes
Raleigh/Durham, NC	Near North Raleigh	2	Yes	Yes
Raleigh/Durham, NC	North Cary/Morrisville	2	Yes	Yes
Raleigh/Durham, NC	Northeast Raleigh	2	Yes	Yes
Raleigh/Durham, NC	Northwest Raleigh	2	Yes	Yes
Raleigh/Durham, NC	South Cary/Apex	2	Yes	Yes
Raleigh/Durham, NC	Southwest Durham	2	Yes	Yes
Reno, NV	South Reno	2	Yes	Yes
Richmond, VA	Northwest Richmond	2	Yes	Yes
Richmond, VA	Tuckahoe/Westhampton	2	Yes	Yes
Riverside-San Bernardino-Ontario, CA	Corona	2	Yes	Yes
Riverside-San Bernardino-Ontario, CA	Rancho Cucamonga/Upland	2	Yes	Yes
Riverside-San Bernardino-Ontario, CA	Temecula/Murrieta	2	Yes	Yes
Salt Lake City/Ogden/Clearfield, UT	Midvale/Sandy/Draper	2	Yes	Yes
Salt Lake City/Ogden/Clearfield, UT	Southwest Salt Lake City	2	Yes	Yes
San Antonio-New Braunfels, TX	Far North Central San Antonio	2	Yes	Yes
San Antonio-New Braunfels, TX	Far Northwest San Antonio	2	Yes	Yes
San Antonio-New Braunfels, TX	North Central San Antonio	2	.....	Yes
San Antonio-New Braunfels, TX	Northwest San Antonio	2	.....	Yes
San Diego-Carlsbad, CA	Downtown San Diego/Coronado	2	Yes	Yes
San Diego-Carlsbad, CA	Northeast San Diego	2	Yes	Yes
Seattle-Bellevue-Everett, WA	Downtown Seattle	2	Yes	Yes
Seattle-Bellevue-Everett, WA	Federal Way/Des Moines	2	.....	Yes
Seattle-Bellevue-Everett, WA	Renton	2	Yes	Yes
Tampa-St. Petersburg-Clearwater, FL	Carrollwood/Citrus Park	2	Yes	Yes
Tampa-St. Petersburg-Clearwater, FL	Central Tampa	2	Yes	Yes
Tampa-St. Petersburg-Clearwater, FL	Town and Country/Westchase	2	Yes	Yes
Tucson, AZ	Casas Adobes/Oro Valley	2	Yes	Yes
Tucson, AZ	Catalina Foothills	2	Yes	Yes
Washington-Arlington-Alexandria, DC-VA-MD-WV.	Germantown	2	Yes	Yes
Washington-Arlington-Alexandria, DC-VA-MD-WV.	Loudoun County	2	Yes	Yes
Washington-Arlington-Alexandria, DC-VA-MD-WV.	Manassas/Far Southwest Suburbs	2	Yes	Yes
Washington-Arlington-Alexandria, DC-VA-MD-WV.	Navy Yard/Capitol South	2	Yes	Yes
Washington-Arlington-Alexandria, DC-VA-MD-WV.	Northeast DC	2	Yes	Yes
Washington-Arlington-Alexandria, DC-VA-MD-WV.	Reston/Herndon	2	Yes	Yes
Washington-Arlington-Alexandria, DC-VA-MD-WV.	Tysons Corner/Falls Church/Merrifield	2	Yes	Yes
Washington-Arlington-Alexandria, DC-VA-MD-WV.	West Alexandria	2	Yes	Yes
Washington-Arlington-Alexandria, DC-VA-MD-WV.	West Fairfax County	2	Yes	Yes
Washington-Arlington-Alexandria, DC-VA-MD-WV.	Woodbridge/Dale City	2	Yes	Yes

United States District Court for the Middle District of North Carolina

UNITED STATES OF AMERICA, Plaintiffs,
v. LivCor, LLC, Defendant.
No. 1:24-cv-00710-WLO-JLW

Proposed Final Judgment

Whereas, Plaintiff, United States of America, filed its Complaint on January 7, 2025;

And whereas, the United States and Defendant, LivCor, LLC, have consented to entry of this Final Judgment without the taking of testimony, without trial or adjudication of any issue of fact or law, and without this Final Judgment constituting any evidence against or admission by any party relating to any issue of fact or law;

And whereas, Defendant agrees to undertake certain actions and refrain from certain conduct to remedy the loss of competition alleged in the Complaint;

And whereas, Defendant represents that the relief required by this Final Judgment can and will be made and that Defendant will not later raise a claim of hardship or difficulty as grounds for asking the Court to modify any provision of this Final Judgment;

Now therefore, it is ordered, adjudged, and decreed:

I. Jurisdiction

The Court has jurisdiction over the subject matter of, and each of the parties to, this action. The Complaint states a claim upon which relief may be granted against Defendant under Section 1 of the Sherman Act, 15 U.S.C. 1.

II. Definitions

As used in this Final Judgment:

A. “Defendant” means Defendant LivCor, LLC, a Delaware corporation with its headquarters in Chicago, Illinois, its successors and assigns, and all of its subsidiaries, divisions, groups, affiliates, parents, partnerships, and joint ventures engaged in the management or ownership of multifamily rental properties in the United States and its territories, and their directors, officers, managers, agents, and employees.

B. “Competitively Sensitive Information” means, in this Final Judgment, property-specific data or information (whether past, present, or prospective) which, individually or when aggregated with such data or information from other properties, (1) could be reasonably used to determine current or future rental supply, demand, or pricing at a property or of any property’s units, including but not limited to executed rents, rental price concessions or discounts, guest traffic, guest applications, occupancy or

vacancy, lease terms, or lease expirations; (2) relates to the Property Owner’s or Property Manager’s use of settings or user-specified parameters within Revenue Management Products with respect to such property or properties; or (3) relates to the Property Owner’s or Property Manager’s rental pricing amount, formula, or strategy, including rental price concessions or discounts with respect to such property or properties.

C. “Cooperation Subject Matter” means the claims alleged in *United States et al. v. RealPage et al.* (currently docketed as No. 1:24-cv-00710 in the Middle District of North Carolina).

D. “External Nonpublic Data” means all Nonpublic Data from any Third-Party. It does not include data for a Defendant Property.

E. “Defendant Property” means a multifamily rental property, located within the United States or its territories, for which Defendant provides revenue management or related reporting or consulting services (collectively referred to as “Defendant Properties”). Defendant Property does not include student housing, affordable housing, age-restricted or senior housing, or military housing.

F. “Defendant Revenue Management Product” means Defendant’s proprietary Revenue Management Product.

G. “Nonpublic Data” means any Competitively Sensitive Information that is not Public Data.

H. “Person” means any natural person, corporate entity, partnership, association, joint venture, limited liability company, fund, investment vehicle, or any other legal entity or trust.

I. “Property Manager(s)” means any Person, or the Person’s agent, who manages a multifamily rental property.

J. “Property Owner(s)” means any Person who (directly or indirectly) owns or controls a multifamily rental property or that Person’s agent; multifamily rental properties have the same Property Owner if they are (directly or indirectly) owned or controlled by the same Person.

K. “Pseudocode” means any description of the steps in an algorithm or other software program in plain or natural language.

L. “Public Data” means information on a rental property or unit’s asking rental price (including publicly offered rental price concessions), amenities, availability, and other information that is readily accessible to the general public, including but not limited to, on the property’s website, physical building, brochures, or on an internet listing service. Public Data includes

information on a rental property or unit’s asking price, concessions, amenities, and availability provided by a Property Manager or a Property Owner to any natural person who reasonably presents himself as a prospective renter. Public Data does not include any Competitively Sensitive Information obtained through communications between competitors, unless such information is also readily accessible to the general public.

M. “RealPage” means RealPage, Inc., a Delaware corporation with its headquarters in Richardson, Texas.

N. “Revenue Management Product(s)” means any software or service, including software as a service, that generates rental prices or rental pricing recommendations for multifamily housing rentals. For avoidance of doubt, a Revenue Management Product does not include general purpose spreadsheet software like Microsoft Excel.

O. “Runtime Operation” means any action taken by a Revenue Management Product while it runs, including generating rental prices or pricing recommendations for any units or set of units at a property. Runtime Operation does not mean training demand and supply models.

P. “Settled Civil Claims” means any civil claim by the United States arising from Defendant’s conduct accruing before the filing of the complaint in this action relating to (1) Revenue Management Products, including RealPage Revenue Management Products that use competitors’ Competitively Sensitive Information, as well as (2) communications described by Paragraph VI.A.

Q. “Third-Party” means any Person other than Defendant or a Defendant affiliate.

III. Applicability

This Final Judgment applies to Defendant, as defined above, and all other Persons in active concert or participation with Defendant who receive actual notice of this Final Judgment.

IV. Use of Proprietary Revenue Management Product(s)

A. The Defendant Revenue Management Product must not generate rental prices or rental pricing recommendations for a Defendant Property during its Runtime Operation using (1) External Nonpublic Data in any way, or (2) Nonpublic Data from one Defendant Property for another Defendant Property with a different Property Owner by pooling or combining Nonpublic Data from

Defendant Properties that have different Property Owners.

B. Defendant must not train the Defendant Revenue Management Product's model (1) using External Nonpublic Data in any way, or (2) by pooling or combining rental pricing, concessions, discounts, occupancy rates or capacity, or other rental pricing terms from Defendant Properties with different Property Owners. For the avoidance of doubt, Defendant is not prohibited from training Defendant's supply and demand models using pooled or combined Nonpublic Data from across all Defendant Properties that does not incorporate rental pricing, concessions, discounts, occupancy rates or capacity, or other rental pricing terms.

C. The Defendant Revenue Management Product must not disclose in any way Nonpublic Data from a Defendant Property to any Third-Party Property Manager or Third-Party Property Owner (other than a Third-Party Property Owner of the Defendant Property from which the data arises or to which it relates, or to a Third-Party Property Manager that provides services to Defendant Properties).

D. Except as provided in Paragraph V.A, by February 28, 2026, Defendant must cease all direct or indirect use of Third-Party Revenue Management Products used as part of setting rental prices or generating rental pricing recommendations for any Defendant Property.

E. Except as provided in Paragraph V.A, if, during the term of this Final Judgment, revenue management responsibilities or ownership of a property within the United States or its territories is transferred from a Third-Party Property Manager or a Third-Party Property Owner to Defendant, Defendant will have 90 days from the date of transfer to discontinue use of any Third-Party Revenue Management Product for that property and transition the transferred property to the Defendant Revenue Management Product.

V. Restrictions Concerning Use of Third-Party Revenue Management Product(s)

A. Notwithstanding Paragraphs IV.D and IV.E, Defendant may license or use a Third-Party Revenue Management Product for a Defendant Property before the expiration of this Final Judgment as long as Defendant does not:

1. license or use, for any Defendant Property, any Third-Party Revenue Management Product that: (1) uses External Nonpublic Data in any way to generate rental prices or rental pricing

recommendations for a Defendant Property; (2) uses Nonpublic Data from a Defendant Property (other than Nonpublic Data of the Property Owner of the subject Defendant Property) in any way to generate rental prices or rental pricing recommendations for any Defendant Property with different Property Owners or for a non-Defendant Property; (3) discloses in any way Nonpublic Data from a Defendant Property to any Third-Party Property Manager or Third-Party Property Owner (other than a Third-Party Property Owner of the Defendant Property from which the data arises or to which it relates, or to a Third-Party Property Manager that provides services to Defendant Properties); (4) pools or combines Nonpublic Data from Defendant Properties that have different Property Owners; or (5) contains or uses a pricing algorithm that has been trained using Nonpublic Data (other than Nonpublic Data of the Property Owner of the subject Defendant Property); or

2. license or use any Third-Party Revenue Management Product that: (1) incorporates a rental price floor or a limit on rental price recommendation decreases (excluding a rental price floor, or limit on rental price decreases, that Defendant manually selects and is not based on Nonpublic Data other than Nonpublic Data of the Property Owner of the subject Defendant Property); or (2) requires Defendant to accept, or provides financial rewards for Defendant to accept, any recommended rental prices.

B. Defendant may not agree, either expressly or implicitly, with any Third-Party Property Owner or Third-Party Property Manager to license or use a particular Third-Party Revenue Management Product (or the utilities or functionalities thereof) or require any other Third-Party to license or use a particular Third-Party Revenue Management Product (or the utilities or functionalities thereof), except that Defendant is not prohibited from licensing or using a particular Revenue Management Product at a particular Defendant Property pursuant to an agreement with a Third-Party Property Owner of such Defendant Property or a Third-Party Property Manager who provides services to such Defendant Property, provided that the Revenue Management Product complies with Paragraph V.A.

C. Before licensing or using a Third-Party Revenue Management Product, Defendant must first notify the United States, in writing, of its intention to license or use a Third-Party Revenue Management Product 30 calendar days

prior to using a Third-Party Revenue Management Product.

D. Notwithstanding Paragraphs IV.A–C and V.A, Defendant may license or use a Revenue Management Product that complies with the terms of a Final Judgment between the United States and RealPage and entered in *United States et al. v. RealPage et al.* (currently docketed as No. 1:24-cv-00710 in the Middle District of North Carolina) (“RealPage Final Judgment”).

E. If Defendant elects to license or use a Third-Party Revenue Management Product:

1. After entry by the Court of a RealPage Final Judgment, Defendant may license or use a RealPage Revenue Management Product at any Defendant Property without the need to obtain certification as required in this Paragraph V.E.

2. If Defendant licenses or uses a Third-Party Revenue Management Product from a Person other than RealPage or a reseller of a RealPage Revenue Management Product at any Defendant Property, or if Defendant licenses or uses a RealPage Revenue Management Product at any Defendant Property after a proposed RealPage Final Judgment is filed but before entry by the Court, Defendant must secure and submit to the United States a certification from the vendor of the Revenue Management Product that the Revenue Management Product complies with the requirements in Paragraph V.A or complies with the requirements for Revenue Management Products established in a proposed RealPage Final Judgment.

3. If Defendant licenses or uses a RealPage Revenue Management Product at any Defendant Property in the absence of a proposed RealPage Final Judgment, Defendant must provide to the United States a certification from a Monitor appointed pursuant to Section IX that the RealPage Revenue Management Product complies with the requirements in Paragraph V.A. If the Monitor has not yet been appointed, Defendant will have 90 days following appointment of the Monitor, subject to extension by the United States in its sole discretion, to obtain any certification required pursuant to this Paragraph V.E.

VI. Other Prohibited Conduct

A. Defendant must not, directly or indirectly, as part of setting rental prices or generating rental pricing recommendations for any Defendant Property (1) disclose Nonpublic Data to any Third-Party Property Manager or Third-Party Property Owner (except to a Third-Party Property Owner of the

particular Defendant Property from which the data arises or to which it relates, or a Third-Party Property Manager that provides services to Defendant Properties); (2) solicit External Nonpublic Data from any Third-Party Property Manager or Third-Party Property Owner (except from a Third-Party Property Owner of the particular Defendant Property from which the data arises or to which it relates, or from a Third-Party Property Manager that provides services to Defendant Properties); or (3) use External Nonpublic Data obtained from any Third-Party Property Manager or Third-Party Property Owner (except from a Third-Party Property Owner of the particular Defendant Property from which the data arises or to which it relates, or from a Third-Party Property Manager that provides services to Defendant Properties). For the avoidance of doubt, the restrictions set forth in this Paragraph include Nonpublic Data obtained through any means, whether directly or through an intermediary, including call rounds or market surveys, in-person meetings, calls, text messages, chat communications, emails, surveys, spreadsheets, shared documents (e.g., Google documents and SharePoint documents), industry meetings (e.g., user groups), online fora, private meetings, Revenue Management Products, or information-exchange services.

B. Notwithstanding Paragraph VI.A, a Defendant employee may (1) disclose or solicit Nonpublic Data about a particular property for the purpose of evaluating or effectuating a bona fide sale or purchase of the property, as long as any Nonpublic Data received is not used to set rental prices or generate rental pricing recommendations, or (2) disclose Nonpublic Data about a particular Defendant Property between a departing Property Manager and replacement Property Manager as part of a bona fide transfer of management responsibilities for that property.

C. Defendant must not, within the United States or its territories, use or access, as part of setting rental prices or generating rental pricing recommendations for any Defendant Property, any External Nonpublic Data, including such data derived from any RealPage Revenue Management Product, in Defendant's possession, custody, or control as of the Court's entry of the Stipulation and Order in this matter, acquired through any means. By February 28, 2026, Defendant must identify to the United States in writing the existence and location of any structured data set containing such

External Nonpublic Data. For the avoidance of doubt, the proscriptions in this Paragraph do not apply to data for Defendant Properties maintained in OneSite or other property management software.

VII. Antitrust Compliance

A. Within 30 days of entry of the Stipulation and Order, Defendant must adopt a written antitrust compliance policy, to be approved by the United States in its sole discretion, that complies with the obligations set forth in this Final Judgment. Defendant must annually train all employees on this written policy. As part of that policy, Defendant must designate a chief antitrust compliance officer, who will be responsible for implementing and enforcing this policy. Defendant must identify to the United States the chief antitrust compliance officer's name, business address, telephone number, and email address. Within forty-five (45) days of a vacancy in Defendant's chief antitrust compliance officer position, Defendant must appoint a replacement and must identify to the United States the replacement's name, business address, telephone number, and email address. Defendant's initial and replacement appointment of a chief antitrust compliance officer is subject to the approval of the United States in its sole discretion. Defendant is responsible for all costs and expenses related to the chief antitrust compliance officer. The chief antitrust compliance officer will conduct an annual antitrust compliance audit. The annual audits must, at a minimum, cover: (1) employees (including supervisors) in Defendant's residential-property revenue management group; and (2) a yearly, randomly selected, local, regional, or supervisory employees who manage property operations (at least 8 each year). The chief antitrust compliance officer will provide the United States with an annual report identifying all individuals audited.

B. On an annual basis beginning 180 calendar days after entry of the Stipulation and Order, during the term of this Final Judgment, LivCor, LLC must:

1. submit to the Antitrust Division a certification from the General Counsel of LivCor, LLC, attesting under penalty of perjury that (1) LivCor, LLC, has established and maintained the annual antitrust compliance policy and training required by Paragraph VII.A; (2) LivCor, LLC has provided the Antitrust Division with an annual report identifying the individuals audited pursuant to Paragraph VII.A; (3) LivCor, LLC's Revenue Management Product

continues to satisfy the requirements in Section IV or if applicable, the requirements of a proposed RealPage Final Judgment; (4) and if required under this Final Judgment, the vendors of any Third-Party Revenue Management Products licensed or used by LivCor, LLC, have provided the certification(s) required by Paragraph VII.B.2.

2. If required under this Final Judgment, including Paragraph V.E, obtain and submit to the Antitrust Division a certification, as described in Paragraph V.E, that each Third-Party Revenue Management Product that LivCor, LLC, licenses or uses complies with Paragraph V.A or complies with the requirements for Revenue Management Products established in a proposed RealPage Final Judgment; and

3. If applicable, provide the Antitrust Division a report that identifies for each Defendant Property for which LivCor, LLC, uses a Third-Party Revenue Management Product: (1) the name of the Property Owner(s) and (2) any Third-Party Revenue Management Product used within the preceding twelve months for that Defendant Property.

VIII. Cooperation

A. Defendant must cooperate fully and truthfully with the United States relating to the Cooperation Subject Matter in any civil investigation or civil litigation the United States brings or has brought. Defendant must use its best efforts to ensure that all current and former officers, directors, agents, and employees also fully and promptly cooperate with the United States relating to the Cooperation Subject Matter in any civil investigation or civil litigation the United States brings or has brought. Defendant's cooperation must include:

1. as requested on reasonable notice by the Antitrust Division, making up to 10 employees available for voluntary interviews for up to 40 hours total regarding the Cooperation Subject Matter;

2. providing full and truthful written or oral testimony in any deposition, trial, or other proceeding relating to the Cooperation Subject Matter and making witnesses available to the United States upon reasonable notice before any such testimony;

3. providing proffers, which may be made by counsel for Defendant, describing Defendant's knowledge of and evidence relating to the Cooperation Subject Matter;

4. within 30 days of receiving a written request (whether formal process or informal request) from the United

States for documents, information, or other material relating to the Cooperation Subject Matter (or whatever additional time the Antitrust Division grants in its sole discretion), producing to the United States all responsive documents, information, and other materials, wherever located, not protected under the attorney-client privilege or the work-product doctrine, in the possession, custody, or control of Defendant, as well as a log of any responsive documents, information, or other materials that were not provided, including an explanation of the basis for withholding such materials;

5. authenticating or otherwise assisting with establishing the evidentiary foundation of any documents Defendant produced or produces to the United States; and

6. taking all necessary steps to preserve all documents, information, and other materials relating to the Cooperation Subject Matter until the United States provides written notice to Defendant that its obligation to do so has expired.

B. Subject to Defendant's full, truthful, and continuing cooperation, as required under Paragraph VIII.A, Defendant is fully and finally discharged and released from Settled Civil Claims.

C. Nothing in this Section VIII affects Defendant's obligation to respond to any formal discovery requests in litigation or a civil investigative demand issued by the United States.

IX. Appointment of Monitor

A. Defendant will not be subject to a Monitor if all Third-Party Revenue Management Products that Defendant licenses or uses at Defendant Properties have been certified pursuant to, or are otherwise compliant with, Paragraph V.E.

B. However, if Defendant elects to license or use a Third-Party Revenue Management Product that has not been certified pursuant to, or is not otherwise compliant with, Paragraph V.E, at any Defendant Property, or if a Court finds that Defendant has violated any other term of the Final Judgment, upon application of the United States, which Defendant may not oppose, the Court will appoint an independent Third-Party antitrust monitor (the "Monitor") selected by the United States and approved by the Court.

C. Defendant may propose to the United States a pool of three candidates to serve as the Monitor, and the United States may consider Defendant's perspectives on the proposed candidates or any other candidates identified and considered by the United States. The

United States will retain the ultimate right, in its sole discretion, either to select the Monitor from among the three candidates proposed by Defendant or to select a different candidate. Once approved, the Monitor should be considered by the United States and Defendant to be an arm and representative of the Court.

D. The Monitor will have the power and authority to monitor Defendant's compliance with Section IV and Paragraphs V.A, VII.A, and VII.B of this Final Judgment, including by determining whether employees (including supervisors) in Defendant's residential-property revenue management group have complied with their obligations set forth in those Sections. As part of its monitoring duties, the Monitor may also choose, in consultation with the United States, a yearly selection of other local, regional, or supervisory employees of Defendant who manage property operations (not to exceed 15 annually) and investigate whether those individuals have complied with the obligations set forth in Paragraphs V.B and VI.A. The Monitor will have other powers as the Court deems appropriate. The Monitor will have no responsibility for the operation of the Defendant's business. No attorney-client relationship will be formed between Defendant and the Monitor.

E. The Monitor will have the authority to take such steps as, in the Monitor's discretion and the United States' view, may be necessary to accomplish the Monitor's responsibilities. The Monitor may seek information from Defendant's personnel, including in-house counsel, compliance personnel, and internal auditors. Defendant will annually communicate to all employees that employees may disclose any information to the Monitor without reprisal for such disclosure. Defendant must not retaliate against any employee or Third-Party for disclosing information to the Monitor.

F. Defendant may not object to actions taken by the Monitor in fulfillment of the Monitor's responsibilities under any Order of the Court on any ground other than malfeasance by the Monitor. Disagreements between the Monitor and Defendant related to the scope of the Monitor's responsibilities do not constitute malfeasance. Objections by Defendant must be conveyed in writing to the United States and the Monitor within 10 calendar days of the Monitor's action that gives rise to Defendant's objection, or else Defendant will have waived any such objections.

G. The Monitor will serve at the cost and expense of Defendant pursuant to a written agreement, on terms and conditions, including confidentiality requirements and conflict of interest certifications, approved by the United States in its sole discretion. If the Monitor and Defendant are unable to reach such a written agreement within 14 calendar days of the Court's appointment of the monitor, or if the United States, in its sole discretion, declines to approve the proposed written agreement, the United States, in its sole discretion, may take appropriate action, including making a recommendation as to the Monitor's costs and expenses to the Court, which may set the terms and conditions for the Monitor's costs and expenses.

H. The Monitor may hire, at the cost and expense of Defendant, any agents and consultants, including investment bankers, attorneys, and accountants, that are reasonably necessary in the Monitor's judgment to assist with the Monitor's duties. These agents or consultants will be directed by and solely accountable to the Monitor and will serve on terms and conditions, including confidentiality requirements and conflict-of-interest certifications, approved by the United States in its sole discretion. Within three business days of hiring any agents or consultants, the Monitor must provide written notice of the hiring and the rate of compensation to Defendant and the United States.

I. The Monitor must provide yearly reports to the United States, with the first report due six months after the Monitor is appointed and subsequent reports due yearly thereafter, setting forth Defendant's efforts to comply with its obligations under this Final Judgment. If the Monitor learns of any potential violation of the Final Judgment by Defendant's officers, agents, or employees, the Monitor must promptly disclose to the Antitrust Division the nature and extent of any such potential violation and the Antitrust Division may require, in its sole discretion and without prejudice to any other remedy available for any violation of the Final Judgment, that the Monitor conduct additional investigation of compliance with this Final Judgment beyond any limits set forth in Paragraph IX.C.

J. The Monitor must account for all costs and expenses incurred.

K. The compensation of the Monitor and agents or consultants retained by the Monitor must be on reasonable and customary terms commensurate with the individuals' experience and responsibilities.

L. Defendant's failure to promptly pay the Monitor's accounted-for costs and expenses, including for agents and consultants, will constitute a violation of this Final Judgment and may result in sanctions imposed by the Court. If Defendant disputes any part of the Monitor's accounted-for costs and expenses, Defendant must establish an escrow account into which Defendant must pay the disputed costs and expenses until the dispute is resolved.

M. Defendants must use best efforts to cooperate fully with the Monitor and to assist the Monitor to monitor Defendant's compliance with its obligations under this Final Judgment. Subject to reasonable protection for trade secrets, other confidential research, development, or commercial information, or any applicable privileges, Defendant must provide the Monitor and agents or consultants retained by the Monitor with full and complete access to all personnel (current and former), agents, consultants, books, records, and facilities. Defendant may not take any action to interfere with or to impede accomplishment of the Monitor's responsibilities.

N. If the United States determines that the Monitor is not acting diligently or in a reasonably cost-effective manner, or if the Monitor becomes unable to continue in its role for any reason, the United States may recommend that the Court appoint a substitute.

O. Once appointed by the Court, the Monitor will serve until (1) the expiration of the Final Judgment; or (2) if a Monitor has been appointed pursuant to Paragraph IX.B, the United States will move the Court to terminate the monitorship upon the United States' determination that Defendant complies with the requirements in Paragraph V.E.

X. Compliance Inspection

A. For the purposes of determining or securing compliance with this Final Judgment or of related orders such as the Stipulation and Order entered in this matter or of determining whether this Final Judgment should be modified or vacated, upon written request of an authorized representative of the Assistant Attorney General for the Antitrust Division, and reasonable notice to Defendant, Defendant must permit, from time to time and subject to legally recognized privileges, authorized representatives, including agents retained by the United States:

1. to have access during Defendant's office hours to inspect and copy, or at the option of the United States, to require Defendant to provide, no later than 30 days after receiving a written

request (whether formal or informal) from the United States, electronic copies of all books, ledgers, accounts, records, data, and documents in the possession, custody, or control of Defendant relating to any matters contained in this Final Judgment; and

2. to interview, either informally or on the record, Defendant's officers, agents, or employees, who may have their individual counsel present, relating to any matters contained in this Final Judgment. The interviews must be subject to the reasonable convenience of the interviewee and without restraint or interference by Defendant.

B. Upon request of the United States, Defendant must provide documents sufficient to show how Defendant's Revenue Management Product is trained and how it determines prices for Defendant Properties during its Runtime Operation, and changes to these processes.

C. The United States will have the right to obtain and inspect at an Antitrust Division office, or at another location at the Antitrust Division's discretion, the code and Pseudocode of the Defendant Revenue Management Product to ensure compliance with Section IV. Defendant will be responsible for the costs and expenses associated with said inspection once annually.

XI. Public Disclosure

A. No information or documents obtained pursuant to any provision or this Final Judgment, including reports the Monitor provides to the United States pursuant to Paragraph IX.I, may be divulged by the United States or the Monitor to any person other than an authorized representative of the executive branch of the United States, except in the course of legal proceedings to which the United States is a party, including grand-jury proceedings, or as otherwise required by law.

B. In the event that the Monitor should receive a subpoena, court order, or other court process seeking production of information or documents obtained pursuant to any provision in this Final Judgment, including reports the Monitor provides to the United States pursuant to Paragraph IX.I, the Monitor must notify Defendant immediately and prior to any disclosure, so that Defendant may address such potential disclosure and, if necessary, pursue alternative legal remedies, including intervention in the relevant proceedings.

C. In the event of a request by a Third-Party, pursuant to the Freedom of Information Act, 5 U.S.C. 552, for disclosure of information obtained

pursuant to any provision of this Final Judgment, the Antitrust Division will act in accordance with that statute, and the Department of Justice regulations at 28 CFR part 16, including the provision on confidential commercial information, at 28 CFR 16.7. Defendant, when submitting information to the Antitrust Division, should designate the confidential commercial information portions of all applicable documents and information under 28 CFR 16.7. Designations of confidentiality expire 10 years after submission, "unless the submitter requests and provides justification for a longer designation period." See 28 CFR 16.7(b).

D. If at the time that Defendant furnishes information or documents to the United States pursuant to any provision of this Final Judgment, Defendant represents and identifies in writing information or documents for which a claim of protection may be asserted under Rule 26(c)(1)(G) of the Federal Rules of Civil Procedure, and the Defendant marks each pertinent page of such material, "Subject to claim of protection under Rule 26(c)(1)(G) of the Federal Rules of Civil Procedure," the United States must give Defendant 10 calendar days' notice before divulging the material in any legal proceeding (other than a grand-jury proceeding).

XII. Retention of Jurisdiction

The Court retains jurisdiction to enable any party to this Final Judgment to apply to the Court at any time for further orders and directions as may be necessary or appropriate to carry out or construe this Final Judgment, to modify any of its provisions, to enforce compliance, and to punish violations of its provisions.

XIII. Enforcement of Final Judgment

A. The United States retains and reserves all rights to enforce the provisions of this Final Judgment, including the right to seek an order of contempt from the Court. Defendant agrees that in a civil contempt action, a motion to show cause, or a similar action brought by the United States relating to an alleged violation of this Final Judgment, the United States may establish a violation of this Final Judgment and the appropriateness of a remedy therefor by a preponderance of the evidence, and Defendant waives any argument that a different standard of proof should apply.

B. This Final Judgment should be interpreted to give full effect to the procompetitive purposes of the antitrust laws and to restore the competition the United States alleges was harmed by the

challenged conduct. Defendant agrees that it may be held in contempt of, and that the Court may enforce, any provision of this Final Judgment that, as interpreted by the Court in light of these procompetitive principles and applying ordinary tools of interpretation, is stated specifically and in reasonable detail, whether or not it is clear and unambiguous on its face. In any such interpretation, the terms of this Final Judgment should not be construed against either party as the drafter.

C. In an enforcement proceeding in which the Court finds that Defendant has violated this Final Judgment, the United States may apply to the Court for an extension of this Final Judgment, together with other relief that may be appropriate. In connection with a successful effort by the United States to enforce this Final Judgment against Defendant, whether litigated or resolved before litigation, Defendant agrees to reimburse the United States for the fees and expenses of its attorneys, as well as all other costs including experts' fees, incurred in connection with that effort to enforce this Final Judgment, including in the investigation of the potential violation.

D. For a period of four years following the expiration of this Final Judgment, if the United States has evidence that Defendant violated this Final Judgment before it expired, the United States may file an action against Defendant in this Court requesting that the Court order: (1) Defendant to comply with the terms of this Final Judgment for an additional term of at least four years following the filing of the enforcement action; (2) all appropriate contempt remedies; (3) additional relief needed to ensure Defendant complies with the terms of this Final Judgment; and (4) fees or expenses as called for by this Section.

XIV. Expiration of Final Judgment

Unless the Court grants an extension, this Final Judgment will expire 4 years from the date of its entry, except that after two years from the date of its entry, this Final Judgment may be terminated upon notice by the United States to the Court and Defendant that the continuation of this Final Judgment is no longer necessary or in the public interest.

XV. Reservation of Rights

The Final Judgment relates only to the resolution of the Settled Civil Claims. The United States reserves all rights for any other claims against Defendant that may be brought in the future. The entry of the Final Judgment does not limit the ability of any non-settling attorney general of any State to bring or maintain

any action under federal or state law against Defendant.

XVI. Public Interest Determination

Entry of this Final Judgment is in the public interest. The parties have complied with the requirements of the Antitrust Procedures and Penalties Act, 15 U.S.C. 16, including by making available to the public copies of this Final Judgment and the Competitive Impact Statement, public comments thereon, and any response to comments by the United States. Based upon the record before the Court, which includes the Competitive Impact Statement and, if applicable, any comments and response to comments filed with the Court, entry of this Final Judgment is in the public interest.

Date: _____

[Court approval subject to procedures of Antitrust Procedures and Penalties Act, 15 U.S.C. 16]

United States District Judge

United States District Court for the Middle District of North Carolina

UNITED STATES OF AMERICA, et al.,
Plaintiffs, v. *LivCor, LLC*, Defendant.
No. 1:24-cv-00710-LCB-JLW

Competitive Impact Statement

In accordance with the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h) (the “APPA” or “Tunney Act”), the United States of America files this Competitive Impact Statement related to the proposed Final Judgment against Defendant LivCor, LLC, which has been filed in this civil antitrust proceeding (ECF No. 164–1).

I. Nature and Purpose of the Proceeding

On August 23, 2024, the United States, along with co-plaintiff States, filed a civil antitrust Complaint (the “Complaint”) against RealPage, Inc. (“RealPage”). On January 7, 2025, the United States and its co-plaintiff States amended the Complaint to add LivCor, LLC (“LivCor”) and five other property management companies (“property managers”) as Defendants. LivCor licenses revenue management products called AI Revenue Management (“AIRM”) and YieldStar from RealPage. RealPage also licenses AIRM and YieldStar to LivCor’s competitors, including the other property managers or property owners (collectively, “landlords”) named in the Complaint. LivCor and other landlords use RealPage’s revenue management products to determine how to price floor plans and units for the conventional multifamily rental housing that they each manage and lease, in competition

with each other in numerous local rental housing markets around the country.

The Complaint alleges that LivCor violated Section 1 of the Sherman Act, 15 U.S.C. 1, by unlawfully sharing its confidential and competitively sensitive information with RealPage for use in its and competing landlords’ pricing. Under their licensing agreements with RealPage, LivCor and competing landlords have provided RealPage with daily, competitively sensitive, nonpublic information relating to their leasing businesses, including details like how many leases have been renewed, for what terms, and at what price. The transactional data that LivCor and other landlords have agreed to provide to RealPage includes current, forward-looking, granular, and highly competitively sensitive information. As reflected in the design, development, and operation of its revenue management products, RealPage has used LivCor’s competitively sensitive, nonpublic information to influence rental prices and other recommendations across conventional multifamily rental housing managed by competing landlords. Through RealPage’s revenue management products, LivCor’s rental prices and related recommendations for conventional multifamily housing rentals were likewise influenced by its competitors’ competitively sensitive, nonpublic information. In each relevant market, RealPage and participating landlords, including LivCor, collectively have sufficient market power, as indicated by market and data penetration, to harm renters and the competitive process through their unlawful sharing of confidential and competitively sensitive information with each other.

The Complaint also alleges that LivCor and other landlords, by adopting and using RealPage’s revenue management products, have agreed with RealPage to align their pricing, thereby violating Section 1 of the Sherman Act, 15 U.S.C. 1. RealPage has entered into agreements with LivCor and its competing landlords relating to how to price floor plans and rental units by licensing its revenue management products, AIRM and YieldStar, to landlords, and by training and running its revenue management products using competitively sensitive, nonpublic transactional data shared by landlords. Adoption and use of RealPage’s revenue management products by LivCor and other landlords has the likely effect of aligning their pricing processes, strategies, and pricing responses, and

LivCor and other landlord users understand this likely effect.

The Complaint also alleges monopolization and attempted monopolization claims against RealPage, but not against LivCor or any of its competing landlords. Through its licensing agreements, RealPage has amassed a massive reservoir of competitively sensitive data from competing landlords. RealPage has ensured that other providers of revenue management products cannot compete on the merits unless they enter into similar agreements with landlords, thereby obstructing them from competing with products that do not harm the competitive process.

On December 23, 2025, the United States filed a proposed Final Judgment and a Stipulation and Order (“Stipulation and Order”), which are designed to remedy the loss of competition alleged in the Complaint due to LivCor’s conduct.

The proposed Final Judgment, which is explained more fully below, imposes several requirements and restrictions on LivCor that address the United States’ concerns regarding LivCor’s anticompetitive conduct alleged in the Complaint. Specifically:

- i. Any LivCor proprietary revenue management product cannot use any third-party nonpublic data, including in training its models or in the run-time operation;
- ii. Any LivCor proprietary revenue management product cannot pool pricing information across its different owners;
- iii. The supply and demand for any LivCor proprietary revenue management product cannot be trained using rental pricing, concessions, discounts, occupancy rates or capacity, or other rental pricing terms data across different owners;
- iv. LivCor cannot license or use any third-party revenue management product that uses third-party nonpublic data to recommend or set prices;
- v. LivCor cannot license or use any third-party revenue management product that pools information across LivCor properties with different owners;
- vi. LivCor cannot disclose, solicit, or use competitively sensitive information from competitors that can be used to set rental prices or generate pricing;
- vii. LivCor must cooperate in this civil antitrust proceeding (*United States et al. v. RealPage et al.*) with respect to the claims against other defendants;
- viii. LivCor must adopt a written antitrust compliance policy and designate a chief antitrust compliance officer who will train LivCor employees on the policy, enforce the policy, and

perform annual audits for compliance with the policy;

- ix. LivCor must allow the United States to inspect its documents and to interview its employees to ensure compliance with the Final Judgment;
- x. LivCor must allow the United States to inspect documents regarding its proprietary revenue management product and review the relevant code and pseudocode;
- xi. If LivCor uses a third-party revenue management product, LivCor will be subject to the appointment of a monitor unless LivCor obtains a certification that meets certain requirements, including affirming, among other things, that the product complies with all required limitations regarding use of competitors’ competitively sensitive data in its runtime operation or model training; and

xii. LivCor will also be subject to the appointment of a monitor if the Court finds that LivCor has violated the terms of the proposed Final Judgment.

Under the terms of the Stipulation and Order, LivCor must abide by and comply with the provisions of the proposed Final Judgment until it is entered by the Court or until the time for all appeals of any Court ruling declining entry of the proposed Final Judgment has expired.

The United States and LivCor have stipulated that the proposed Final Judgment may be entered by the Court after compliance with the APPA. Entry of the proposed Final Judgment will terminate this action with respect to LivCor, except that the Court will retain jurisdiction to construe, modify, or enforce the provisions of the proposed Final Judgment and to punish violations thereof by LivCor.

II. Description of Events Giving Rise to the Alleged Sherman Act Violations

LivCor has been a user of commercial revenue management and property management products that RealPage licenses to landlords, and it has used RealPage’s revenue management product to help set rental prices for the properties it manages and/or owns. RealPage currently licenses three revenue management products, including AIRM, to landlords. AIRM, which LivCor has been using, leverages confidential, competitively sensitive data collected from competing landlords as a critical input to generate price recommendations for competing landlords. This data includes rental applications, executed new leases, renewal offers and acceptances, and occupancy estimates and projections. The data is pulled from property

management software, such as RealPage’s OneSite product, that LivCor and other landlords use to collect and track rental payments, manage leases, property maintenance, accounting, and other property management functions.

When deciding where to live, renters often visit numerous properties that are owned and managed by competing landlords so that they can compare rental offerings and select their best housing option considering price and other terms. When competing landlords do not have access to each other’s nonpublic data, or recommendations informed by competitors’ nonpublic data, they are more likely to act independently and compete more vigorously on price and better leasing terms to secure new leases and renewals from renters. RealPage, however, provides landlords who use its revenue management products with pricing recommendations and pricing based on competitors’ competitively sensitive data. Widespread adoption and use of RealPage’s revenue management products leads to pricing decisions by competing landlords such as LivCor that are based on recommendations coming from a common pricing model and powered by competitively sensitive, nonpublic data, harming the ability of renters to obtain a competitive price for their housing. The use of competitors’ competitively sensitive data in this manner thus harms renters as well as the competitive process itself.

LivCor, headquartered in Chicago, Illinois, is one of the largest apartment managers in the United States. As of 2025, LivCor managed over 150,000 units in the United States. As an apartment manager, LivCor makes strategic and competitive decisions for the apartments it manages, including determination of new lease and renewal terms, such as rental price. As of the date of the Complaint, LivCor licensed AIRM and YieldStar from RealPage. Per the licensing agreement, LivCor relied on AIRM and YieldStar to recommend rental prices for its units, which is informed by competitively sensitive data provided by LivCor’s competitors. LivCor also provided its competitively sensitive data to RealPage, to be used to inform the rental prices that RealPage’s software recommends to LivCor’s competitors. Further, LivCor has agreed with RealPage to use AIRM and YieldStar as RealPage designed them. It reviews AIRM and YieldStar floor plan price recommendations daily and uses these revenue management products to set scheduled floor plan rents and even unit-level prices.

In summary, the Complaint alleges that LivCor unlawfully shared its

competitively sensitive information for use in pricing by competing landlords that also license RealPage's revenue management products, that LivCor benefited from using competitors' sensitive information for its own pricing, and that LivCor agreed to align its pricing with that of its competitors by using RealPage's revenue management products in the way the products were designed and with the data it uses. LivCor uses RealPage's revenue management products to inform its setting of rental prices and discounts—such as concessions of a free month of rent—and to make other competitive and strategic decisions relating to rental prices and terms.

III. Explanation of the Proposed Final Judgment

The relief required by the proposed Final Judgment will remedy the loss of competition in the conventional multifamily rental housing market¹³ alleged in the Complaint by precluding LivCor from sharing competitively sensitive, nonpublic information, directly or indirectly, with competing landlords and from forming agreements, directly or indirectly, to align prices with its competitors. The terms described below are designed to ensure that LivCor ends its anticompetitive conduct and to prevent LivCor from engaging in the same or similar conduct in the future.

A. LivCor's Use of Proprietary Revenue Management Product(s)

LivCor has agreed to stop licensing and using third-party revenue management products and will instead use its own proprietary revenue management product in all of its properties by February 28, 2026, except as permitted by Paragraph V.A, discussed below. It has further agreed that it will transfer any future properties it will manage from third-party revenue management products to its proprietary revenue management product within 90 days from the date it begins managing such property. LivCor using a proprietary product that it does not license or otherwise provide to other property management companies reduces the risk of LivCor being able to align pricing with its competitors. Additionally, LivCor will no longer participate in RealPage-sponsored

meetings, in which sensitive data has been or may be shared.

The proposed Final Judgment requires LivCor to limit the type of data it uses in its proprietary software. Paragraph IV.A of the proposed Final Judgment precludes LivCor's proprietary revenue management product from using other landlords' competitively sensitive data to set rental prices. Paragraph IV.A also prevents LivCor from pooling different property owners' competitively sensitive data even if they are LivCor clients. This prohibition ensures that property owners who compete in the multifamily rental housing industry are not using their relationship with LivCor to gain access to each other's data.

Paragraph IV.B prohibits LivCor from training its revenue management product's models using certain competitively sensitive data from other landlords. A model is a set of rules or instructions that software relies on to calculate a defined output which, in this case, is a recommended rental price for a floorplan or unit. Models are trained using data to define and refine the rules or instructions by which it operates. Paragraph IV.B restricts LivCor from pooling or combining data on rental pricing, concessions, discounts, occupancy rates or capacity, or other rental pricing terms from LivCor properties for different property owners. The restriction on pooling competitors' data thus also prohibits LivCor from training its software models using pricing and occupancy data from competing property owners, therefore reducing concerns about competitors benefiting from each other's competitively sensitive data to plan their pricing.

Paragraph IV.C prohibits LivCor's proprietary revenue management product from disclosing any of LivCor's property data to any other property management company or property owner.

B. Restrictions Concerning Use of Third-Party Revenue Management Products

The decree prohibits LivCor from using third-party revenue management products unless certain conditions are met. If LivCor decides to use a third-party revenue management product, Paragraph V.A requires LivCor to select a product that does not (1) use competitively sensitive data from other landlords to set rental prices or generate rental pricing recommendations, (2) use data from different LivCor owners to set rental prices or generate rental pricing recommendations, (3) disclose data from a LivCor property to a rival property management company or property owner, (4) pool or combine data from

different owners, or (5) contain or use a pricing algorithm that has been trained using non-LivCor data. Paragraph V.A also prohibits LivCor from selecting and using a third-party revenue management product that has rental floors or limits rental pricing recommendation decreases based on competing properties' rental prices.

The proposed Final Judgment includes an additional restriction on LivCor's ability to make agreements with non-clients regarding revenue management products. Specifically, Paragraph V.B prohibits LivCor from agreeing with a non-client property owner or a competing property management company to use a particular revenue management product. This provision reduces the risk of competitors agreeing with each other to use the same revenue management product across their clients.

If LivCor chooses to use a third-party revenue management product in the future, Paragraph V.C requires LivCor to notify the United States 30 days prior to switching to that product. LivCor must also submit to the United States a certification from the third-party revenue management product vendor that the product complies with the requirements in Paragraph V.A of the proposed Final Judgment.

C. Other Prohibited Conduct

In addition to restrictions and conditions on LivCor's use of revenue management products, the proposed Final Judgment also limits LivCor's ability to communicate with competitors regarding certain competitively sensitive information for the purpose of setting prices. Paragraph VI.A prohibits LivCor from disclosing, soliciting, or using any competitively sensitive data from competitors as part of setting rental prices or generating rental price recommendations, except for the property owner of that particular property. Paragraph VI.A clarifies that the restrictions include any data obtained through any form of communication, including call rounds or market surveys, meetings, calls, text messages, emails, or shared documents.

Paragraph VI.C prevents LivCor from using any competitively sensitive data belonging to other landlords, whether LivCor derived that non-LivCor data from a revenue management product or obtained it from direct communications with other landlords. LivCor must also identify to the United States the existence and location of any such data. This does not apply to any data for LivCor properties maintained in OneSite.

¹³ As stated in the Complaint, the conventional multifamily rental housing market includes apartments available to the general public in properties that have five or more living units. It does not include student housing, affordable housing, age-restricted or senior housing, or military housing. (Am. Compl. ¶ 183).

D. Cooperation

Under the terms of the proposed Final Judgment, LivCor must cooperate with the United States relating to the United States' claims against the remaining defendants included in the Complaint. This required cooperation includes voluntary interviews with up to 10 LivCor employees for up to 40 hours. In addition, LivCor must provide cooperation to the United States by making witnesses available before trial, providing testimony, proffering evidence, and producing documents and other information.

E. Compliance Terms

Pursuant to Paragraph X.A, LivCor must provide the United States with access to LivCor's books, records, data, and documents, including communications with other property managers, to enable the United States to assess LivCor's compliance with the terms of the Final Judgment. LivCor must also permit the United States to interview LivCor's officers, employees, or agents relating to any matters contained in this Final Judgment. LivCor must also provide the United States with documents describing how LivCor's proprietary revenue management product is trained and how it determines prices for properties it manages, as well as changes to these processes. LivCor must also allow the United States to inspect LivCor's software code and pseudocode of that software for independent verification.

Additionally, Paragraph VII.A requires LivCor's chief antitrust compliance officer to audit LivCor's operations. The annual audits must, at a minimum, include employees in LivCor's revenue management group and a randomly selected group of employees who manage property operations. Paragraph VII.B requires LivCor to submit an annual certification from its General Counsel that LivCor has established and maintained the annual antitrust compliance policy and training, that LivCor identified the audited individuals to the United States, and that any revenue management product used by LivCor continues to satisfy the requirements in the proposed Final Judgment.

F. Compliance Monitor

The proposal Final Judgment requires that LivCor be subject to an appointed compliance monitor in certain circumstances.

First, Paragraph IX.B requires that a monitor be appointed if the Court determines that LivCor has violated the proposed Final Judgment.

Second, Paragraph IV.C requires LivCor to notify the United States if it chooses to license or use any commercially available revenue management product at any of its properties. In that circumstance, Paragraph IX.B requires that LivCor be subject to a monitor unless LivCor obtains a certification for such product, as required by Paragraph V.E: (a) for a non-RealPage revenue management product, the product's vendor must certify that the product does not use competitors' competitively sensitive data to determine rental prices and satisfies other software requirements; (b) for a RealPage revenue management product, a monitor appointed pursuant to other terms of the proposed Final Judgment must certify that the product complies with the proposed Final Judgment's requirements.

In the event a monitor is appointed, which selection shall be in the United States' sole discretion, the monitor will assess LivCor's compliance with the Final Judgment, in particular, its use of a revenue management product and its communications with other landlords. Paragraph IX.D provides the monitor with authority to investigate LivCor's compliance with the Final Judgment, including by selecting up to 15 LivCor employees to interview and giving the monitor access to review those employees' files. Further, per Paragraph IX.E, the monitor will have the authority to take steps necessary to ensure compliance with the Final Judgment. These steps may include interviewing LivCor employees and collecting LivCor documents. The monitor will also provide an annual report to the United States setting forth LivCor's efforts to comply with its obligations under the Final Judgment.

If appointed, the monitor will serve at LivCor's expense, on such terms and conditions as the United States approves in its sole discretion. LivCor will be required to assist the monitor in fulfilling his or her obligations. The monitor will serve for the remainder of the term of the Final Judgment or until LivCor obtains the certification required by the proposed Final Judgment, as described above.

G. Other Provisions

The proposed Final Judgment also contains provisions designed to promote compliance with and make enforcement of the Final Judgment as effective as possible. Paragraph XIII.A provides that the United States retains and reserves all rights to enforce the Final Judgment, including the right to seek an order of contempt from the Court. Under the terms of this paragraph, LivCor has

agreed that in any civil contempt action, any motion to show cause, or any similar action brought by the United States regarding an alleged violation of the Final Judgment, the United States may establish the violation and the appropriateness of any remedy by a preponderance of the evidence and that LivCor has waived any argument that a different standard of proof should apply. This provision aligns the standard for compliance with the Final Judgment with the standard of proof that applies to the underlying offense addressed by the Final Judgment.

Paragraph XIII.B provides additional clarification regarding the interpretation of the provisions of the proposed Final Judgment. Pursuant to Paragraph XIII.B of the proposed Final Judgment, LivCor agrees that it will abide by the proposed Final Judgment and that it may be held in contempt of the Court for failing to comply with any provision of the proposed Final Judgment that is stated specifically and in reasonable detail, as interpreted in light of its procompetitive purpose.

Paragraph XIII.C provides that if the Court finds in an enforcement proceeding that LivCor has violated the Final Judgment, the United States may apply to the Court for an extension of the Final Judgment, together with such other relief as may be appropriate. In addition, to compensate American taxpayers for any costs associated with investigating and enforcing violations of the Final Judgment, Paragraph XIII.C provides that in any successful effort by the United States to enforce the Final Judgment against LivCor, whether litigated or resolved before litigation, LivCor must reimburse the United States for attorneys' fees, experts' fees, and other costs incurred in connection with that effort to enforce this Final Judgment, including the investigation of the potential violation.

Paragraph XIII.D of the proposed Final Judgment states that the United States may file an action against LivCor for violating the Final Judgment for up to four years after the Final Judgment has expired or been terminated. This provision is meant to address circumstances such as when evidence that a violation of the Final Judgment occurred during the term of the Final Judgment is not discovered until after the Final Judgment has expired or been terminated, or when there is not sufficient time for the United States to complete an investigation of an alleged violation until after the Final Judgment has expired or been terminated. This provision therefore makes clear that, for four years after the Final Judgment has expired or been terminated, the United

States may still challenge a violation that occurred during the term of the Final Judgment.

Finally, Section XIV of the proposed Final Judgment provides that the Final Judgment will expire four years from the date of its entry, except that after two years from that date, the Final Judgment may be terminated upon notice by the United States to the Court and to LivCor that continuation of the Final Judgment is no longer necessary or in the public interest.

IV. Remedies Available to Potential Private Plaintiffs

Section 4 of the Clayton Act, 15 U.S.C. 15, provides that any person who has been injured as a result of conduct prohibited by the antitrust laws may bring suit in federal court to recover three times the damages the person has suffered, as well as costs and reasonable attorneys' fees. Entry of the proposed Final Judgment neither impairs nor assists the bringing of any private antitrust damage action. Under the provisions of Section 5(a) of the Clayton Act, 15 U.S.C. 16(a), the proposed Final Judgment has no prima facie effect in any subsequent private lawsuit that may be brought against LivCor.

V. Procedures Available for Modification of the Proposed Final Judgment

The United States and LivCor have stipulated that the proposed Final Judgment may be entered by the Court after compliance with the provisions of the APPA, provided that the United States has not withdrawn its consent. The APPA conditions entry upon the Court's determination that the proposed Final Judgment is in the public interest.

The APPA provides a period of at least 60 days preceding the effective date of the proposed Final Judgment within which any person may submit to the United States written comments regarding the proposed Final Judgment. Any person who wishes to comment should do so within 60 days of the date of publication of this Competitive Impact Statement in the **Federal Register**, or within 60 days of the first date of publication in a newspaper of the summary of this Competitive Impact Statement, whichever is later. All comments received during this period will be considered by the U.S. Department of Justice, which remains free to withdraw its consent to the proposed Final Judgment at any time before the Court's entry of the Final Judgment. The comments and the responses of the United States will be filed with the Court. In addition, the comments and the United States'

responses will be published in the **Federal Register** unless the Court agrees that the United States instead may publish them on the U.S. Department of Justice, Antitrust Division's internet website.

Written comments should be submitted in English to: Danielle Hauck, Acting Chief, Technology and Digital Platforms Section, Antitrust Division, United States Department of Justice, 450 Fifth St. NW, Suite 7100, Washington, DC 20530.

The proposed Final Judgment provides that the Court retains jurisdiction over this action, and the parties may apply to the Court for any order necessary or appropriate for the modification, interpretation, or enforcement of the Final Judgment.

VI. Alternatives to the Proposed Final Judgment

As an alternative to the proposed Final Judgment, the United States considered a full trial on the merits against LivCor. The United States could have continued its litigation against LivCor and brought the case to trial, seeking relief including an injunction against LivCor's sharing of its competitively sensitive, nonpublic data with RealPage and other landlords, an injunction against LivCor using AIRM, YieldStar, or similar revenue management products that use competing properties' nonpublic data to recommend prices, and an injunction preventing any communication with competitors that leads to alignment of prices. Under the circumstances present here, however, the United States concludes that entry of the proposed Final Judgment is in the public interest insofar as it avoids the time, expense, and uncertainty of a full trial on the merits.

VII. Standard of Review Under the APPA for the Proposed Final Judgment

Under the Clayton Act and APPA, proposed Final Judgments, or "consent decrees," in antitrust cases brought by the United States are subject to a 60-day comment period, after which the Court shall determine whether entry of the proposed Final Judgment "is in the public interest." 15 U.S.C. 16(e)(1). In making that determination, the Court, in accordance with the statute as amended in 2004, is required to consider:

(A) the competitive impact of such judgment, including termination of alleged violations, provisions for enforcement and modification, duration of relief sought, anticipated effects of alternative remedies actually considered, whether its terms are ambiguous, and any other competitive considerations bearing upon the adequacy of

such judgment that the court deems necessary to a determination of whether the consent judgment is in the public interest; and

(B) the impact of entry of such judgment upon competition in the relevant market or markets, upon the public generally and individuals alleging specific injury from the violations set forth in the complaint including consideration of the public benefit, if any, to be derived from a determination of the issues at trial.

15 U.S.C. 16(e)(1)(A) & (B). In considering these statutory factors, the Court's inquiry is necessarily a limited one as the government is entitled to "broad discretion to settle with the defendant within the reaches of the public interest." *United States v. Microsoft Corp.*, 56 F.3d 1448, 1461 (D.C. Cir. 1995); *United States v. U.S. Airways Grp., Inc.*, 38 F. Supp. 3d 69, 75 (D.D.C. 2014) (explaining that the "court's inquiry is limited" in Tunney Act settlements); *United States v. InBev N.V./S.A.*, No. 08–1965 (JR), 2009 U.S. Dist. LEXIS 84787, at *3 (D.D.C. Aug. 11, 2009) (noting that a court's review of a proposed Final Judgment is limited and only inquires "into whether the government's determination that the proposed remedies will cure the antitrust violations alleged in the complaint was reasonable, and whether the mechanisms to enforce the final judgment are clear and manageable"); *United States v. Charleston Area Med. Ctr., Inc.*, No. CV 2:16–3664, 2016 WL 6156172, at *2 (S.D.W. Va. Oct. 21, 2016) (explaining that in evaluating whether the proposed final judgment is in the public interest, the inquiry is "a narrow one"); *United States v. Mountain Health Care*, 1:02–CV–288–T, 2003 WL 22359598, at *7 (W.D.N.C. 2003) ("[W]ith respect to the adequacy of the relief secured by the decree, a court may not 'engage in an unrestricted evaluation of what relief would best serve the public.'") citing *United States v. BNS Inc.*, 858 F.2d 456, 462–63 (9th Cir. 1988)).

As the U.S. Court of Appeals for the D.C. Circuit has held, under the APPA a court considers, among other things, the relationship between the remedy secured and the specific allegations in the government's Complaint, whether the proposed Final Judgment is sufficiently clear, whether its enforcement mechanisms are sufficient, and whether it may positively harm third parties. See *Microsoft*, 56 F.3d at 1458–62; *United States v. Math Works*, No. 02–888–A, 2003 WL 1922140, *17 (E.D. Va. 2003). With respect to the adequacy of the relief secured by the proposed Final Judgment, a court may not "make de novo determination of facts and issues." *United States v. W.*

Elec. Co., 993 F.2d 1572, 1577 (D.C. Cir. 1993) (quotation marks omitted); see also *Microsoft*, 56 F.3d at 1460–62; *United States v. Alcoa, Inc.*, 152 F. Supp. 2d 37, 40 (D.D.C. 2001); *United States v. Enova Corp.*, 107 F. Supp. 2d 10, 16 (D.D.C. 2000); *InBev*, 2009 U.S. Dist. LEXIS 84787, at *3. Instead, “[t]he balancing of competing social and political interests affected by a proposed antitrust decree must be left, in the first instance, to the discretion of the Attorney General.” *W. Elec. Co.*, 993 F.2d at 1577 (quotation marks omitted). “The court should also bear in mind the flexibility of the public interest inquiry: the court’s function is not to determine whether the resulting array of rights and liabilities is the one that will best serve society, but only to confirm that the resulting settlement is within the reaches of the public interest.” *Microsoft*, 56 F.3d at 1460 (quotation marks omitted); see also *United States v. Deutsche Telekom AG*, No. 19–2232 (TJK), 2020 WL 1873555, at *7 (D.D.C. Apr. 14, 2020); *Math Works*, 2003 WL 1922140 at *18; *Mountain Health Care*, 2003 WL 22359598, at *7. More demanding requirements would “have enormous practical consequences for the government’s ability to negotiate future settlements,” contrary to congressional intent. *Microsoft*, 56 F.3d at 1456. “The Tunney Act was not intended to create a disincentive to the use of the consent decree.” *Id.*

The United States’ predictions about the efficacy of the remedy are to be afforded deference by the Court. See, e.g., *Microsoft*, 56 F.3d at 1461 (recognizing courts should give “due respect to the Justice Department’s . . . view of the nature of its case”); *United States v. Iron Mountain, Inc.*, 217 F. Supp. 3d 146, 152–53 (D.D.C. 2016) (“In evaluating objections to settlement agreements under the Tunney Act, a court must be mindful that [t]he government need not prove that the settlements will perfectly remedy the alleged antitrust harms[;] it need only provide a factual basis for concluding that the settlements are reasonably adequate remedies for the alleged harms.” (internal citations omitted));

United States v. Republic Servs., Inc., 723 F. Supp. 2d 157, 160 (D.D.C. 2010) (noting “the deferential review to which the government’s proposed remedy is accorded”); *United States v. Archer-Daniels-Midland Co.*, 272 F. Supp. 2d 1, 6 (D.D.C. 2003) (“A district court must accord due respect to the government’s prediction as to the effect of proposed remedies, its perception of the market structure, and its view of the nature of the case.”). The ultimate question is whether “the remedies [obtained by the Final Judgment are] so inconsonant with the allegations charged as to fall outside of the ‘reaches of the public interest.’” *Microsoft*, 56 F.3d at 1461 (quoting *W. Elec. Co.*, 900 F.2d at 309).

Moreover, the Court’s role under the APPA is limited to reviewing the remedy in relationship to the violations that the United States has alleged in its Complaint, and does not authorize the Court to “construct [its] own hypothetical case and then evaluate the decree against that case.” *Microsoft*, 56 F.3d at 1459; see also *U.S. Airways*, 38 F. Supp. 3d at 75 (noting that the court must simply determine whether there is a factual foundation for the government’s decisions such that its conclusions regarding the proposed settlements are reasonable); *InBev*, 2009 U.S. Dist. LEXIS 84787, at *20 (“[T]he ‘public interest’ is not to be measured by comparing the violations alleged in the complaint against those the court believes could have, or even should have, been alleged”); *Math Works*, 2003 WL 1922140 at *18; *Mountain Health Care* 2003 WL 22359598, at *8. Because the “court’s authority to review the decree depends entirely on the government’s exercising its prosecutorial discretion by bringing a case in the first place,” it follows that “the court is only authorized to review the decree itself,” and not to “effectively redraft the complaint” to inquire into other matters that the United States did not pursue. *Microsoft*, 56 F.3d at 1459–60.

In its 2004 amendments to the APPA, Congress made clear its intent to preserve the practical benefits of using judgments proposed by the United

States in antitrust enforcement, Public Law 108–237 § 221, and added the unambiguous instruction that “[n]othing in this section shall be construed to require the court to conduct an evidentiary hearing or to require the court to permit anyone to intervene.” 15 U.S.C. 16(e)(2); see also *U.S. Airways*, 38 F. Supp. 3d at 76 (indicating that a court is not required to hold an evidentiary hearing or to permit intervenors as part of its review under the Tunney Act). This language explicitly wrote into the statute what Congress intended when it first enacted the Tunney Act in 1974. As Senator Tunney explained: “[t]he court is nowhere compelled to go to trial or to engage in extended proceedings which might have the effect of vitiating the benefits of prompt and less costly settlement through the consent decree process.” 119 Cong. Rec. 24,598 (1973) (statement of Sen. Tunney). “A court can make its public interest determination based on the competitive impact statement and response to public comments alone.” *U.S. Airways*, 38 F. Supp. 3d at 76 (citing *Enova Corp.*, 107 F. Supp. 2d at 17).

VIII. Determinative Documents

There are no determinative materials or documents within the meaning of the APPA that were considered by the United States in formulating the proposed Final Judgment.

Dated: January 8, 2026
Respectfully submitted,
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Part III

Department of Commerce

National Oceanic and Atmospheric Administration

15 CFR Parts 970 and 971

Deep Seabed Mining: Revisions to Regulations for Exploration License and
Commercial Recovery Permit Applications; Final Rule

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Parts 970 and 971

[Docket No. 260113–0029]

RIN 0648–BN96

Deep Seabed Mining: Revisions to Regulations for Exploration License and Commercial Recovery Permit Applications

AGENCY: Office for Coastal Management, National Ocean Service, National Oceanic Atmospheric Administration (NOAA), Department of Commerce.

ACTION: Final rule.

SUMMARY: The Deep Seabed Hard Mineral Resources Act (DSHMRA or the Act) charges NOAA with the responsibility for issuing licenses for exploration and permits for commercial recovery of hard mineral resources, as defined in the Act, from the deep seabed in areas beyond national jurisdiction and promulgating regulations necessary to carry out the provisions of the Act. Some provisions of the regulations require updating to reflect significant technological and information changes since promulgation of the initial regulations in the 1980s. NOAA has included a consolidated license and permit application process in a section of the regulations reserved for this purpose and has made other clarifying and conforming changes.

DATES: Effective Date: This rule is effective January 21, 2026.

ADDRESSES: The public docket for this rulemaking is available using the Federal eRulemaking Portal at <https://www.regulations.gov/docket/NOAA-NOS-2025-0108>.

FOR FURTHER INFORMATION CONTACT: Kerry Kehoe, Federal Consistency Specialist, (240) 560–8518, kerry.kehoe@noaa.gov.

SUPPLEMENTARY INFORMATION:**I. Background**

DSHMRA (30 U.S.C. 1401–1473) charges the NOAA Administrator with the responsibility for issuing to U.S. citizens licenses for exploration and permits for commercial recovery of hard mineral resources from the deep seabed in areas beyond national jurisdiction. U.S. citizens must obtain licenses and permits from NOAA before undertaking deep seabed mining exploration or commercial recovery activities.¹ The

Act and the DSHMRA regulations define “hard mineral resources” as any deposit or accretion on, or just below, the surface of the deep seabed of nodules which include one or more minerals, at least one of which contains manganese, nickel, cobalt, or copper. Therefore, for purposes of the Act, the regulations, and this final rule, “hard mineral resources” refers to polymetallic nodules and the regulations and this final rule refer to both “hard mineral resources” and “nodules.” A broader interpretation of the phrase “hard mineral resources” could suggest that DSHMRA covers sulphides and crusts, which it does not.

NOAA, under U.S. law, regulates deep seabed mining in areas beyond national jurisdiction for US citizens and companies. The International Seabed Authority (ISA) regulates deep seabed mining in areas beyond national jurisdiction for countries that are parties to the Law of the Sea Convention (LOSC). The United States is not a party to the LOSC. Under U.S. law, NOAA may issue licenses and permits to U.S. citizens in areas beyond national jurisdiction under DSHMRA, provided all statutory and regulatory requirements are met.

On April 24, 2025, the President signed Executive Order (E.O.) 14285, “Unleashing America’s Offshore Critical Minerals and Resources,” (90 FR 17735) establishing policies to advance U.S. leadership in seabed mineral exploration and responsible commercial recovery.

DSHMRA, signed into law in 1980, required the NOAA Administrator, no later than 270 days after June 28, 1980, to issue proposed regulations that were necessary and appropriate to implement the Act. NOAA published its final DSHMRA exploration license regulations (15 CFR part 970) in 1981, and its final commercial recovery permit regulations (15 CFR part 971) in 1989. As required by the Act, the regulations state that priority of right is established through the licensing process. The regulations further provide that a permittee must be the holder of a valid exploration license to apply for and receive a commercial recovery permit (§ 971.200). At that time, the sequential nature of the licensing and permitting processes was dictated by the developmental state of deep seabed

mining technology and the information required to prepare an application for commercial recovery. But NOAA acknowledged even then, when it reserved § 971.214, that once the industry matured and gained experience from activities undertaken during site-specific exploration, circumstances may evolve that might allow later entrants to capitalize on work completed by previous explorers or significant technological advances and lessen the need for further exploration. See 51 FR 26794, 26796 (July 25, 1986). In such cases, there may be a need for a consolidated license and permit application process in which applicants could meet both exploration license requirements, to establish priority of right, and permit requirements simultaneously. In the 1980s, consolidation of the two procedures may have been premature. NOAA, however, understood the potential and included a reserved section (§ 971.214) precisely for such later development. See *id.*

NOAA is now issuing this final rule revising the regulations under 30 U.S.C. 1413(a)(2)(A) and 30 U.S.C. 1426. Under 30 U.S.C. 1413(a)(2)(A), exploration license and commercial recovery permit applications “shall be made in such form and manner as the Administrator shall prescribe in general and uniform regulations.” The same provision authorizes the Administrator to require by regulation, as being necessary and appropriate for carrying out DSHMRA, “such relevant financial, technical, and environmental information” that applicants must provide. Under 30 U.S.C. 1426, NOAA is authorized to “issue regulations to carry out [the Act] . . . only after public notice and opportunity for comment” in accordance with the procedures outlined in that section.

As the agency anticipated, over the past decades there has been a vast improvement in the technological capability for deep seabed mining, and the industry has obtained a substantial amount of information from deep seabed exploration activities and demonstrated a readiness for commercial recovery.

For example, the development of autonomous underwater vehicles (AUVs), deep-sea sensors, machine learning, artificial intelligence, and other technology has substantially improved the ability to more efficiently map and explore the sea floor.

At the same time, knowledge of the sea floor has also increased. Unlike when the regulations were first promulgated, today NOAA and many other entities operating under regimes

¹ Mining activities within the U.S. outer continental shelf are governed by the Outer

Continental Shelf Lands Act (43 U.S.C. 1331–1356C), which is administered by the Bureau of Ocean Energy Management and Bureau of Safety and Environmental Enforcement within the Department of the Interior. The term “U.S. outer continental shelf” includes the extended continental shelf in areas adjacent to the U.S. States and is limited to the exclusive economic zone in areas adjacent to any territory of the United States.

other than DSHMRA have undertaken detailed mapping of areas of the seabed both within countries' national jurisdiction and in areas beyond national jurisdiction. For example, all deep-sea mineral-related data that is collected during NOAA-funded expeditions is made publicly available and accessible according to FAIR data practices. This data can be found at the NOAA National Centers of Environmental Information (NCEI) at <https://www.ncei.noaa.gov/maps/bathymetry/?layers=multibeam> and <https://www.ncei.noaa.gov/products/seafloor-mapping>. In addition, industry has conducted scientific testing on hard mineral resources, developed and tested new deep-sea mining-relevant technology, and gained scientific and technical expertise and experience in deep seabed mining exploration. And many of these organizations contribute their data to the international seabed mapping effort Seabed 2030, and that data can be found at <https://www.gebco.net/data-products>. This knowledge, experience, and expertise may now be leveraged by U.S. citizens operating under DSHMRA who are interested in pursuing commercial recovery of hard mineral resources of the deep seabed in areas beyond national jurisdiction.

The need for regulatory changes were foreseen by NOAA in the 1980s when it published its proposed and final rules for the DSHMRA commercial recovery permits by reserving a section for a consolidated license and permit application process in which applicants could meet necessary exploration license requirements to establish priority of right and permit requirements simultaneously. See 15 CFR 971.214; 51 FR at 26796. For the reasons set forth above and throughout this preamble, NOAA has concluded that establishing this consolidated application process and specifying the financial, technical, and environmental information that shall be submitted as part of a consolidated application is necessary and appropriate for carrying out the provisions of DSHMRA. See 30 U.S.C. 1413(a)(2)(A). This approach is consistent with DSHMRA, which does not require a sequential process to first hold a license before applying for a permit, and is in keeping with the Act's finding that "the present and future national interest of the United States requires the availability of hard mineral resources which is independent of the export policies of foreign nations," 30 U.S.C. 1401(a)(3). The consolidated application process is an alternative application method and does not

supplant existing regulations allowing for the sequential application of licenses and permits. Therefore, an applicant could still opt to apply for only a license initially.

NOAA has also made technical, clarifying, and conforming changes to other obsolete sections of the license and permit regulations. These changes do not alter the substantive standards to which applications are held.

Finally, this final rule is effective on the date of publication because it relieves a restriction under the Administrative Procedure Act (APA). The APA generally requires that substantive rules incorporate a minimum 30-day delay of effective date following publication. 5 U.S.C. 553(d). Delayed effective dates give the public reasonable time to prepare to comply with a rule. But the APA provides an exception to the 30-day delayed effective date for rules which grant or recognize an exemption or relieve a restriction. 5 U.S.C. 553(d)(1). This final rule relieves a restriction on the regulated community (applicants for exploration licenses and commercial recovery permits under DSHMRA) in the form of sequential license and permit applications—a requirement that is not present in DSHMRA but that was established by NOAA's regulations. NOAA received no public comments, from existing applicants or otherwise, expressing a need for additional time to comply with this rule. Because the final rule relieves a restriction, it is exempt from the 30-day delay in effective date and is effective immediately under 5 U.S.C. 553(d)(1).

NOAA has created a new DSHMRA website where NOAA will post application information as it becomes publicly available.

II. Changes From Proposed to Final Rule

Following publication of the proposed rule, in consideration of public comments, interagency comments, and further review, NOAA has made changes to the regulatory text that were in the proposed rule, which are described in detail in section IV of this final rule. These changes include: in §§ 970.200, 971.200, and 971.214, adding a clarifying sentence regarding computation of time for purposes of the Administrator's required response time; in §§ 970.208, 971.208, and 971.214, revising how the fee payment is to be described in the application, in light of electronic submission of applications; revising § 971.214(a) to better clarify the applicability of other sections of parts 970 and 971 to the consolidated application process; making clarifying

edits to the provisions of § 971.214(b) regarding environmental impact statements; adding minor clarifications to § 971.214(c); correcting an internal reference in § 971.214(d) and making minor clarifying and formatting edits, typographical corrections to the subsections within § 971.214(d); in § 971.214(d)(1), and in corresponding language in § 971.214(e)(1), clarifying language regarding demonstrating that an applicant can pursue commercial recovery activities in an expeditious and diligent manner; in § 971.214(d)(2), adding text directing submission of an estimated schedule of expenditures, as required in DSHMRA, and clarifying that an applicant may submit other types of economic analysis; revising § 971.214(d)(3) to clarify the information regarding technological capability that must be submitted; in § 971.214(d)(4), correcting internal citations and clarifying that applicants may provide an explanation as to why designing and testing system components or mining systems is not necessary; in § 971.214(d)(5), clarifying that environmental safeguards and monitoring systems may evolve over time and that the resource assessment may be preliminary at the time of the consolidated application; in § 971.214(d)(6), clarifying that a monitoring plan may be preliminary at the time of application and making conforming edits to refer consistently to any environmental impact statements that may be prepared on the proposed activities in a consolidated license and permit application; in § 971.214(d)(9), clarifying that "affiliate" has the same definition as in § 970.101(d); in § 971.214(e), adding internal citations that were inadvertently omitted from the proposed rule and clarifying the statutory requirements for approval of the size and location of an exploration and commercial recovery area; and in 971.214(g), clarifying the procedure for processing of an amended application. In section IV of this preamble, NOAA explains why these changes constitute minor technical, clarifying, and/or conforming edits that are consistent with the purpose, scope, and NOAA's intent of the proposed rule and do not alter substantive rights or obligations.

In addition to the changes described in detail in section IV of the final rule, NOAA has made some clarifying or conforming edits to sections throughout parts 970 and 971 to reference the consolidated application process established in § 971.214, where applicable and necessary. These edits, which were inadvertently omitted from the proposed rule, do not result in any

substantive changes and constitute technical conforming amendments. These conforming amendments made to reference the consolidated application process are in the following regulatory sections: Section 970.303, Procedures for new entrants; Section 970.500, General; Section 970.513, Revision of a license; Section 971.101, Definitions; Section 971.400, General; Section 971.407, Safety at sea; Section 971.412, Changes in permits and permit terms, conditions, and restrictions; Section 971.413, Revision of permit; Section 971.503, Diligent commercial recovery; Section 971.701, Criteria for safety of life and property at sea; and Section 971.900, Public disclosure of documents received by NOAA.

III. Response to General Comments on the Proposed Rule, and Comments on the Regulatory Impact Analysis and Initial Regulatory Flexibility Analysis, Paperwork Reduction Act Analysis, and Implementation of Executive Order 14294

On July 7, 2025, NOAA published the proposed rule, (90 FR 29806), and comments were due by September 5, 2025. NOAA held two virtual public hearings on September 3 and 4, 2025, to receive oral comments. Public comments and transcripts of the virtual public hearings, including the oral comments, are available on the Federal e-Rulemaking Portal, <https://www.regulations.gov/docket/NOAA-NOS-2025-0108>.

In this section, NOAA summarizes the general comments that do not relate to a specific regulatory section and provides responses. NOAA also summarizes and responds to comments on the Regulatory Impact Analysis (RIA)/Initial Regulatory Flexibility Analysis (IRFA), Paperwork Reduction Act (PRA) analysis, and the virtual public hearings. NOAA has included comments that relate to specific regulatory sections and responses to those comments after each applicable regulatory section in section IV.

NOAA received a total of 24,441 written and oral comments in response to the Proposed Rule; of these, 24,384 are general comments, in opposition and support, that are addressed in this section. There were 1,736 individual written submissions, with 22,660 attached duplicate or similar comments to several commenters: one commenter attached an Excel spreadsheet with 17,581 entries, and another commenter attached to its comment an additional comment signed by 3,537 of its U.S.-based supporters. Of the 1,736 individual written submissions, 1,477 opposed deep seabed mining and/or

NOAA's rulemaking and 203 supported deep seabed mining and NOAA's rulemaking. Of the total number of written and oral comments, 24,156 were the same or similar comments in opposition to deep seabed mining or general opposition to the proposed changes to the DSHMRA regulations. Of the total written and oral comments received, 228 were the same or similar comments in support of deep seabed mining or general support for NOAA's proposed changes to the DSHMRA regulations.

Some of the comments pertaining to specific issues or sections of the regulations are addressed in section IV. Comments can be viewed at the Federal e-Rulemaking Portal for the Proposed Rule, <https://www.regulations.gov/docket/NOAA-NOS-2025-0108>. Comments containing profane or abusive language or foreign language comments without an English language translation were not posted.

NOAA considered the written and oral comments and appreciates the information provided. The comment summaries present the significant issues raised in public comments and are illustrative of the comments and arguments opposing and supporting deep seabed mining and/or NOAA's rulemaking.

1. General Objections to Deep Seabed Mining or NOAA's Rulemaking

Comment 1. General opposition to deep seabed mining was expressed for a variety of stated reasons, including, but not limited to the following assertions: effects on the environment; effects on seabed habitat and to marine species including undiscovered species especially in the Clarion-Clipperton Fracture Zone; harm to cultural resources and Pacific Islander livelihoods and beliefs; inadequate scientific research and information; inadequate resource protection measures and regulations; uncertainties regarding environmental impacts and a nascent industry; significant technical challenges to deep seabed mining; opposition to deep seabed mining from many U.S. states, countries, and global companies; that deep seabed mining is contrary to international agreements and efforts; the need for moratoria; that deep seabed minerals are not needed to meet U.S. demand for critical minerals and domestic sources and recycling of such minerals should be used instead; the U.S. needs to focus on building domestic refineries; using renewable and alternative resources rather than deep-sea minerals; and jeopardizing vital carbon sinks. Commenters argued that deep-sea minerals are not necessary

to address national security issues and that the real problem is foreign dominance in processing critical minerals, not in extracting critical minerals. General opposition was also expressed on the asserted grounds that the regulations inadequately address biodiversity loss, sediment dispersion, sediment plume, and combined mining effects. Commenters also expressed that urgent improvements are needed to strengthen impact assessments, start ongoing monitoring, enhance public consultations, prioritize precaution, and explore sustainable alternatives to mining. Commenters also expressed opposition to deep seabed mining in terms of environmental stewardship, national sovereignty, economic responsibility, constitutional government oversight, and that stewardship over God's creation is a biblical and moral responsibility and deep seabed mining poses a serious and irreversible threat to some of the planet's most mysterious and fragile ecosystems. One commenter argued that a single agency should not be responsible for both exploration licenses and commercial recovery.

Commenters stated that deep-sea ecosystems are important for protecting biodiversity and that the deep sea is the largest biome on Earth, with a unique set of characteristics that make it distinct from all other marine and terrestrial ecosystems. Commenters argued that baseline information regarding the deep sea is limited and that seabed mining could have lasting damage where the deep ocean remains one of Earth's least explored environments, with vast regions never sampled biologically. Commenters stated that deep-sea species are vulnerable to impacts, being often highly specialized, slow-growing, and long-lived. Commenters argued that impacts of deep-sea mining include the direct physical destruction of benthic habitat; diminishment of deep-sea oxygen production; release of methane and sequestered carbon; generation of sediment plumes and the subsequent burial of benthic habitats; toxic releases and geochemical alteration from deep-sea mining operations; and noise, light, and vibration impacts from deep-sea mining. Commenters stated that there could be ocean-wide and cascading effects and that the knowledge gaps and uncertainty demand caution.

Response. NOAA's proposed rule, and this final rule, are for the purpose of updating the DSHMRA regulations to reflect significant technological and information changes since the initial regulations were promulgated in the 1980s and to include a consolidated

license and permit application process in a section of the regulations that was reserved for this purpose. NOAA's rulemaking did not pose the policy question of whether NOAA should authorize deep seabed mining under DSHMRA. The statute itself and implementing regulations not being revised in this rulemaking authorize deep seabed mining in areas beyond national jurisdiction and contain standards that address the issues raised in this comment. No changes to those standards are made via this rulemaking, which is procedural in nature. In addition, DSHMRA designates NOAA as the agency with the authority to issue exploration licenses and commercial recovery permits.

DSHMRA and NOAA's regulations contain substantial requirements for applicants and NOAA to address protection of the environment, conservation of natural resources, and monitoring requirements. See 30 U.S.C. 1419, 1420, and 1424. These requirements include producing an environmental impact statement (EIS) pursuant to the National Environmental Policy Act (NEPA) for the issuance of an exploration license and a commercial recovery permit (or both). 30 U.S.C. 1419(d). As part of a license or permit NOAA also includes terms, conditions, and restrictions (TCRs) that include environmental considerations. 30 U.S.C. 1419(b). NOAA can also, after the issuance or transfer of a license or permit, modify any TCR if required to protect the quality of the environment. 30 U.S.C. 1415(c)(1)(B). See also numerous sections of the DSHMRA regulations regarding environmental, conservation, and monitoring requirements, 15 CFR 970.204, 970.506, 970.518, 970.519, 970.522, 970.700, 970.701, 970.702, and 971.204, 971.406, 971.419, 971.420, 971.424, and 971.600–606.

Moreover, the President can determine by Executive Order that an immediate suspension of a license or permit, or immediate suspension or modification of particular activities under such a license or permit, is necessary for the reasons set forth in 30 U.S.C. 1416(a)(2)(B), or the Administrator determines that an immediate suspension of such a license or permit, or immediate suspension or modification of particular activities under such a license or permit, “is necessary to prevent a significant adverse effect on the environment or to preserve the safety of life and property at sea, and the Administrator issues an emergency order requiring such immediate suspension.” 30 U.S.C. 1416(c). See also 15 CFR 970.511 and

971.417. No changes to those standards are made via this rulemaking, which is procedural in nature.

One commenter attached to its comments numerous scientific papers, pamphlets, articles, web pages, testimony, etc., about deep seabed mining, asserted impacts and use conflicts related to deep seabed mining, DSHMRA, the ISA, and NEPA. NOAA has considered these attachments as supplemental information.

Comment 2. Commenters expressed general opposition to NOAA's rulemaking to establish a consolidated license and permit application process and argued that NOAA should withdraw the consolidated application process from its final regulations and refrain from issuing any commercial recovery permits under DSHMRA. Commenters argued that the proposed regulations violate DSHMRA, stating that Congress structured DSHMRA to create two distinct legal instruments—an exploration license and a commercial recovery permit—each with its own application, plan, review, and decision. Commenters argued that Congress intended for a sequenced process in which exploration was a prerequisite for commercial recovery. In support, a commenter quoted Section 1412(b)(3) of the Act, which provides: “A valid existing license shall entitle the holder, if otherwise eligible under the provisions of this chapter and regulations issued under this chapter, to a permit for commercial recovery.” The commenter also pointed to Section 1413, which the commenter stated distinguishes the content and review of an “exploration plan” for a license from the “recovery plan” for a permit, and which establishes priority of right based on the filing date of license applications in substantial compliance with statutory requirements. The commenter also argued that the Act contemplates EISs linked to each separate license or permit decision. Finally, the commenter argued that the consolidated application process would compress what Congress designed as two distinct notice and comment opportunities into one.

Response. Section 1412(b)(3) of DSHMRA does not preclude a single consolidated application, as described in the proposed rule and this final rule. Rather, Section 1412 is simply a protective measure for the applicant: it assures the applicant that, if it was willing to spend the time and expense in obtaining an exploration license and completing exploration work, and if the applicant was otherwise eligible for a commercial recovery permit under DSHMRA and the implementing regulations, NOAA could not arbitrarily

deny a license-holder a permit for commercial recovery. As exploration work by definition will not generate income, and the first opportunity for income-generation will occur only at commercial recovery, this provision helps to encourage investment in deep-sea mining by responsible private companies, in keeping with one of the stated purposes of DSHMRA. See 30 U.S.C. 1401(b)(5).

The opportunity to submit a consolidated application is not at odds with Section 1412(b)(3). First, this final rule only modifies the application process. If the applicant is otherwise eligible, NOAA will issue both a license and a permit to the applicant. Second, the final rule establishes an alternative consolidated method to submit a license and permit application; the final rule does not supplant existing regulations allowing for the sequential application of licenses and permits. Therefore, an applicant can still opt to apply for only a license initially. Such an applicant would therefore still rely upon the protections of Section 1412(b)(3) when making investment decisions and when choosing whether to apply for a commercial recovery permit.

Likewise, Section 1413 does not prohibit a consolidated license and permit application. Section 1413 describes the requirements for an exploration plan and a commercial recovery plan. 30 U.S.C. 1413(a)(2)(B), (C). It also states that “priority of right for the issuance of licenses to applicants shall be established on the basis of the chronological order in which [substantially compliant] license applications . . . are filed.” The final rule requires a consolidated application to seek both a license and a permit and to contain both an exploration plan and a commercial recovery plan, and the regulations are consistent with the requirements for the exploration plan and commercial recovery plan in 30 U.S.C. 1413(a)(2)(A) and (B). Contrary to the comment, the Act does not require that these plans be delivered sequentially—just that the applicant must have the plans for each category of activities, depending on if the applicant is seeking a license, a permit, or both. As to the establishment of priority of right, the final rule is consistent with 30 U.S.C. 1413(b). The Act specifically keys priority of right to the application for a license, but it does not require a license to be obtained prior to the application for a permit.

The commenter also argues that it is impermissible to collapse two applications into a single public hearing or single opportunity for public comment. NOAA respectfully disagrees.

DSHMRA clarifies that “[a]ll time periods for the review of an application for issuance or transfer of a license or permit . . . shall, to the maximum extent practicable, run concurrently.” 30 U.S.C. 1413(f). Thus, the statute actually encourages holding concurrent public review opportunities where practicable. Further, throughout the application process NOAA will continue to ensure ample opportunity for public comment, in keeping with both statutory and regulatory requirements. NOAA retains discretion to hold multiple public hearings, for example, if it deems there is sufficient public interest. Nothing in the proposed rule impermissibly infringes on the public’s right to comment on the applications.

Finally, the commenter argues NOAA should refrain from issuing any commercial recovery permits under DSHMRA. However, this suggestion is beyond the scope of this rulemaking. Further, as to license-holders, as noted above, the statute explicitly states that a “valid existing license *shall* entitle the holder, if otherwise eligible . . . , to a permit for commercial recovery.” 30 U.S.C. 1413(b)(3). So under the statute, NOAA does not have discretion to refuse to issue commercial recovery permits to otherwise eligible applicants. As to applicants seeking to use the consolidated process, NOAA is not precluded from issuing commercial recovery permits subject to satisfaction of all statutory and regulatory requirements, including requirements of the consolidated application process as applicable.

Comment 3. Commenters asserted that proceeding according to the proposed regulations would violate NEPA since NOAA’s proposed rule attempts to collapse what Congress designed as two distinct phases—exploration and commercial recovery—into a single, consolidated licensing process. Commenters argued that a primary purpose of exploration is to generate baseline data to better evaluate reasonably foreseeable impacts of commercial recovery, the environmental baseline for these actions remains incomplete, there is still a significant amount of the seafloor left to be mapped at high resolution, impacts of commercial recovery cannot meaningfully be analyzed in the absence of exploration, and authorizing exploration and commercial recovery simultaneously would undermine NEPA obligations. A commenter argued that NOAA’s existing DSHMRA regulations contemplate using information gathered under an exploration license to ensure that commercial recovery operations

cannot reasonably be expected to result in a significant adverse effect on the quality of the environment. A commenter also argued that consolidation would foreclose the development and consideration of NEPA alternatives for commercial recovery as informed by the baseline data from exploration. Commenters argued that NOAA must ensure reasonable timeframes for review and input by all relevant agencies implementing statutes related to the coastal and marine environment, including the Endangered Species Act (ESA), Marine Mammal Protection Act (MMPA), Magnuson-Stevens Fishery Conservation and Management Act (MSA), Coastal Zone Management Act (CZMA), and National Historic Preservation Act (NHPA). Finally, a commenter argued that under NEPA, NOAA would be required to issue a supplemental EIS after exploration and before commercial recovery even if both proposed actions were initially evaluated in a single EIS.

Response. The final rule ensures that NOAA will comply with its NEPA responsibilities for a thorough environmental review including the development of an environmental baseline and a reasonable range of alternatives to meaningfully analyze the impacts of exploration and commercial recovery. As explained in the preamble to the proposed and final rule, over the past decades NOAA and the industry have obtained a substantial amount of information from deep seabed exploration activities, including detailed mapping of areas of the seabed, scientific testing on polymetallic nodules, and expertise and experience in deep seabed mining exploration. NOAA, for example, conducted the Deep Ocean Mining Environmental Study (DOMES), drafted the Deep Seabed Mining Technical Guidance Document, and prepared a Deep Seabed Mining Programmatic EIS. These studies, along with more recent developments, establish a foundation for considering potential environmental impacts of exploration and commercial recovery, and will ensure that an EIS for a consolidated license and permit application is informed by a robust environmental baseline. NOAA is also required to hold consultations to assure compliance with, as applicable, the ESA, the MMPA, the CZMA, and the MSA, among other statutes. See 15 CFR 970.502 and 971.402. These consultations will also enhance environmental baseline information in furtherance of NEPA compliance.

Indeed, NOAA’s final rule requires consolidated applications to

demonstrate that the applicant can proceed to commercial recovery in an expeditious and diligent manner, including by describing any exploration activities undertaken prior to application submission, and to include any relevant environmental baseline information obtained during past exploration activities. Therefore, NOAA expects to have the necessary information from prior studies (*e.g.*, the DOMES study, Deep Seabed Mining Technical Guidance, Deep Seabed Mining Programmatic EIS), recent developments, and applicant exploration activities to develop and consider a reasonable range of alternatives for commercial recovery in the EIS. Moreover, as stated in the proposed rule, there may be situations in which two EISs are appropriate, and NOAA will base any determination that a second or supplemental EIS is needed on the record for any specific application and circumstance.

In addition, NOAA is updating its DSHMRA technical guidance in a process that is separate from this rulemaking. Updating the technical guidance is critical for having data acquisition standards for monitoring potential impacts. NOAA expects to release a draft of the revised technical guidance for public review later this year.

The commenter also asserts that Section 1415(b), which requires that an environmental impact statement be prepared before either a license or permit is issued, requires a sequential process and that a “consolidated process that attempts to resolve both exploration and commercial recovery with a single, front-end EIS would frustrate [DSHMRA’s] framework.” But again, nothing in Section 1415(b) requires a sequential process. And while it is true that NOAA’s previously-issued DSHMRA regulations provide for a sequential process, NOAA has explained in the proposed rule and final rule preambles why a consolidated application option is now appropriate for some applicants given the more mature state of the industry. As noted above, the consolidated application process is an alternative application method and does not supplant existing regulations allowing for the sequential application of licenses and permits. Therefore, an applicant could still opt to apply for only a license initially.

Moreover, the Administrator sets enforceable terms, conditions, and restrictions for, among other things, the protection of the environment on each license and/or permit issued under the Act and its implementing regulations. See 30 U.S.C. 1419(b). Other

environmental safeguards include the applicant's required environmental monitoring plan, TCRs that the Administrator imposes related to the environmental monitoring plan and protection of the environment, and enforcement and license suspension actions that the Administrator can take if there are significant adverse environmental effects. The Act and the DSHMRA regulations describe NOAA's enforcement authority under this regulatory framework and contain several provisions for monitoring compliance with legal requirements and pursuing appropriate enforcement action when necessary. See, e.g., 30 U.S.C. 1424, 1461–1468; 15 CFR part 971, subpart J.

Comment 4. Commenters stated that NOAA cannot finalize the proposed regulations without first complying with NEPA and ESA and that the act of promulgating these regulations is itself a “major federal action” under NEPA requiring an EIS and an “agency action” under ESA § 7, each of which requires advance environmental review. A commenter argued that an EIS is required for this rulemaking because it constitutes a regulatory change with significant consequences for how and when environmental review occurs, and it will make environmental impacts of deep seabed mining more likely. A commenter argued that the term “extraordinary circumstances” appears under the G7 categorical exclusion but remains undefined, creating uncertainty about when a full EA or EIS is required. Commenters argued that NOAA should codify specific triggers—such as impacts on hydrothermal-vent fields, areas designated as critical habitat for listed species, or regions of high seafloor biodiversity—for case-by-case NEPA analysis. Finally, a commenter also argued that issuing these regulations “may affect” numerous ESA-listed species, and NOAA cannot defer consultation to a later stage.

Response. This rulemaking includes only technical and/or procedural changes to the regulatory text and does not change the substantive standards to which applications will be held. NOAA has determined that the rulemaking falls within a category of actions that NOAA has determined normally does not significantly affect the quality of the human environment and therefore may be categorically excluded from the need to prepare a further NEPA analysis. NOAA has also not identified any extraordinary circumstances under NOAA's Companion Manual, Policy and Procedures for Compliance with the National Environmental Policy Act and Related Authorities (effective June 30,

2025) that would preclude this categorical exclusion. The Companion Manual provides examples of extraordinary circumstances under which NOAA has determined further NEPA analysis may be required. Moreover, the use of the NEPA G7 categorical exclusion is only for purposes of this rulemaking, not for DSHMRA applications for exploration or commercial recovery, which require the preparation of an EIS. As required by DSHMRA, NOAA would prepare an EIS before issuing any license or permit.

With respect to ESA § 7, NOAA has determined that the administrative action of a rulemaking that includes only technical and/or procedural changes will have no effect on ESA-listed species. Before the issuance of any license or permit, NOAA is required to hold consultations to assure compliance with, as applicable, the ESA, the MMPA, and the MSA, among other statutes. See 15 CFR 970.502 and 971.402.

Comment 5. A commenter opposed the proposed consolidation of exploration and commercial recovery licensing under DSHMRA on grounds rooted in indigenous values. The commenter supported efforts to modernize outdated 1980s-era regulations and improve administrative efficiency but opposed the push to fast-track licensing and permitting for deep-sea mining activities for a number of reasons related to religious, spiritual, and/or cultural beliefs and ecological wisdom. The commenter stated that NOAA should uphold its trust responsibilities to indigenous peoples and should reject the proposed consolidation of exploration and commercial recovery licenses; maintain a two-step licensing process to ensure accountability; include Native Hawaiian and Pacific Islander cultural practitioners in any future regulatory review process, consistent with executive orders on indigenous consultation; and support only those regulatory updates that improve clarity and fairness without sacrificing oversight or enabling hasty extraction.

Response. NOAA appreciates and respects the commenter's statements regarding Native Hawaiian and Pacific Islander cultural beliefs and concerns. As noted in NOAA's response to Comment 1, and as described in this rule's background section, DSHMRA establishes a process for NOAA to issue to U.S. citizens licenses and permits for deep seabed mining of hard mineral resources as defined in the Act. Moreover, as stated in E.O. 14285, there is a critical need for the U.S. to obtain critical minerals from the deep seabed.

The consolidated license and permit process will not erode any environmental, scientific, or cultural considerations. As stated in NOAA's explanation of § 971.214 and in the response to Comment 1, the Act and regulations contain substantial provisions for the protection of the environment and conservation of resources.

Consistent with E.O. 13175, NOAA engages in government-to-government consultation with federally-recognized tribes in the development of federal policies that have tribal implications. NOAA has not identified tribal implications associated with this rule, which is a procedural update to the DSHMRA regulations to establish a consolidated application process in a section previously reserved for that purpose. However, NOAA will fulfill any applicable tribal consultation obligations in future regulatory actions that may have tribal implications under E.O. 13175 for federally recognized tribes.

Comment 6. Commenters argued that this rulemaking did not follow procedures required in DSHMRA, 30 U.S.C. 1468, because NOAA did not undergo formal rulemaking and did not make a determination that the proposed rule was necessary and appropriate to provide for the conservation of natural resources, protection of the environment, and the safety of life and property at sea. A commenter argued that NOAA should rescind its existing seabed mining regulations and prior determinations, which are likewise invalid because they rest on informal rulemaking procedures inconsistent with DSHMRA and the APA.

Response. In proposing and then finalizing this rulemaking, NOAA has followed all applicable procedures required under DSHMRA and the APA. NOAA published a **Federal Register** notice of the proposed rule, afforded a 60-day comment period for members of the public to provide written comments, held two virtual public hearings to accept oral comments, has considered comments received, prepared a response to comments, and is now issuing a **Federal Register** notice of the final rule.

The applicable sections of DSHMRA that authorize NOAA to undertake this rulemaking are 30 U.S.C. 1413(a)(2)(A) (License and permit applications, review, and certification) and 30 U.S.C. 1426(a) (Public notice and hearings; Required procedures). Section 1413(a)(2)(A) provides in relevant part that exploration license and commercial recovery permit applications “shall be made in such form and manner as the Administrator shall prescribe in general

and uniform regulations and shall contain such relevant financial, technical, and environmental information as the Administrator may by regulations require as being necessary and appropriate for carrying out the provisions of [DSHMRA].” Section 1426(a) provides that the NOAA Administrator “may issue regulations to carry out this chapter . . . only after public notice and opportunity for comment and hearings in accordance with the following: (1) The Administrator shall publish in the **Federal Register** notice of . . . all regulations implementing this chapter Interested person shall be permitted to examine the materials relevant to any of these actions, and shall have at least 60 days after publication of such notice to submit written comments to the Administrator. (2) The Administrator shall hold a public hearing in an appropriate location and may employ such additional methods as the Administrator deems appropriate to inform interested persons about each action specified in paragraph (1) and to invite their comments thereon.” NOAA has implemented each of these steps, as noted above.

This rulemaking process also follows the procedures required by the applicable section of the APA, 5 U.S.C. 553 (Rule making). NOAA issued a general notice of proposed rulemaking in the **Federal Register** with the information required in 5 U.S.C. 553(b); NOAA offered an opportunity for public comment consistent with 5 U.S.C. 553(c); and NOAA has explained why this rule, which “relieves a restriction,” is effective immediately, consistent with 5 U.S.C. 553(d)(1).

The section of DSHMRA cited by the commenter, 30 U.S.C. 1468(c), which requires rulemaking on the record after an opportunity for an agency hearing, is not applicable to this rule. Section 1468(c) applies to amending regulations under DSHMRA “as the Administrator determines necessary and appropriate in order to provide for the conservation of natural resources within the meaning of Section 1420 of this title, protection of the environment, and safety of life and property at sea.” This rulemaking does not constitute a regulatory amendment within the scope of 30 U.S.C. 1468(c). Rather, this rulemaking implements procedural changes to the DSHMRA application process as authorized by 30 U.S.C. 1413(a)(2)(A) and 30 U.S.C. 1426(a).

Nor was formal rulemaking required for the initial regulations promulgated by NOAA. NOAA published its DSHMRA exploration license

regulations (15 CFR part 970) in 1981 and its commercial recovery permit regulations (15 CFR part 971) in 1989 pursuant to Section 1468(a) and (b), which required that the NOAA Administrator propose and finalize such regulations as are required by or necessary and appropriate to implement DSHMRA, “*in accordance with section 553 of title 5.*” See 30 U.S.C. 1468(a) and (b) (emphasis added). Section 553 of title 5 is the section of the APA governing informal rulemaking, which is the process that NOAA followed to issue the original DSHMRA regulations and which it is following for this rulemaking. As such, NOAA has complied with the requirements of DSHMRA and the APA and the existing regulations need not be rescinded.

Comment 7. Commenters argued that the proposed rule is arbitrary and capricious because the administrative record mostly repeats the agency’s rationale from 1986 without evidence that the statements are true. Commenters argued that the deep seabed mining industry has not matured and that a single business does not demonstrate a high technology readiness level, nor is there a high market readiness level. Commenters argued that the industry is nascent and no commercial deep-sea mining has yet occurred. Several commenters argued that the administrative record fails to discuss environmental impacts. Commenters further argued that advancing the deep seabed mining industry will result in advancement of industry’s impacts to the marine environment, but the proposed rule ignores advancements in environmental science.

Response. When NOAA, in 1986, reserved § 971.214 for potential later development, it anticipated that as the deep seabed mining industry matured and gained experience from exploration activities, implementing a consolidated license and permit application process may be appropriate. NOAA has explained the developments over the last several decades that demonstrate that the industry has indeed matured and gained both technological capability and information, such that implementing a consolidated process is timely. For example, a significant amount of mapping work has already occurred, and is ongoing, in areas where hard mineral resources are known to be concentrated—such as in the Clarion-Clipperton Zone. Many entities have performed substantial deep-sea mining exploration- and development-type work over the last decade, gaining and developing information, technology, and experience which has helped to

mature the industry and which means that many eligible entities may now be ready to move to commercial recovery. Additionally, modern technology, such as autonomous underwater vehicles, has increased the speed in which areas can be explored as well as increased the quality of the data that can be collected efficiently. Technologies that could be applied to deep-sea resource recovery have also developed considerably since the promulgation of the original regulations, with at least two companies promoting prototype recovery equipment. Altogether, it is evident that the industry has matured since the 1980s and it is now appropriate to allow for a single consolidated application. NOAA is not relying on the readiness level of any single business but rather the maturation of the industry as a whole.

Comment 8. Several commenters made general comments in opposition based on international considerations and offered specific recommendations. Commenters argued that DSHMRA requires that U.S. seabed mining activities conform to international obligations, including LOSC Articles 192 and 194, and the precautionary principle. Commenters stated that acting unilaterally on deep seabed mining undermines the ISA process, international norms, global stability, and the rule of law, and that it could result in harm to protected areas, such as Areas of Particular Environmental Interest designated by the ISA. One commenter recommended that NOAA revise its regulations to require all exploration and/or commercial recovery permit applicants planning activity in areas beyond national jurisdiction to provide a plan for how the material recovered, knowledge gained, and general outcomes of their operations will “be carried out for the benefit of all mankind” and adhere to LOSC Article 140 and the policies in Article 150 on Development of Resources of the Area. The commenter also stated that NOAA should also notify the ISA Secretariat of applications for activities in areas beyond national jurisdiction.

One commenter argued that NOAA failed to engage with Regional Fishery Management Organizations (RFMOs) in this rulemaking process, including the Inter-American Tropical Tuna Commission under the Tuna Conventions Act.

Another commenter stated that U.S. deep-sea mining poses an international offshore disconnection with the ISA and the LOSC and that the U.S. has not aligned with growing international consensus on a deep seabed mining moratorium. The commenter asserted

that the Biodiversity Beyond National Jurisdiction Agreement, adopted in 2023 under the framework of the LOSC, is the first global treaty to address the conservation and sustainable use of marine biological diversity in the high seas and if the U.S. pursues seabed mining without engaging this institutional architecture, it may lack necessary levers to influence emerging conservation and resource regulation frameworks. The commenter stated that geopolitical consequences of not ratifying the LOSC and of acting unilaterally on deep seabed mining would be far-reaching. The commenter argued proceeding under E.O. 14285 risks isolating the U.S. diplomatically, especially from key trading partners and global industries moving toward higher environmental standards.

Another commenter argued that the international legal landscape governing the exploration and exploitation of mineral resources in areas of the sea floor that lie beyond any nation's jurisdiction has changed substantially since NOAA published its DSHMRA exploration license regulations in 1981 and 1989 and it is essential that any updates to U.S. regulations take these changes into account. The commenter asserted that the current legal regime has eliminated the "reciprocating states" regime that existed on an interim basis in the 1980s, to which DSHMRA and the regulations refer, but on which licensees and permittees today may no longer rely and reduces to a small group the potential partner corporations on which a DSHMRA licensee or permittee may rely due to potential conflicts with contracts issued by the ISA. The commenter argued that licenses and permits issued under DSHMRA that conflict with exploration and exploitation contracts issued by the ISA could increase the likelihood of creating "a situation which may reasonably be expected to lead to a breach of international peace and security involving armed conflict," 30 U.S.C. 1415(a)(3). The commenter then asserted that an applicant working outside the ISA regime cannot demonstrate that it possesses the scientific, technical, and financial resources to pursue commercial recovery activities in an expeditious and diligent manner as required in the new § 971.214(b). The commenter then, based on these international considerations, recommended that NOAA acknowledge in its regulations the substantial changes in the legal landscape since the 1980s, the incompatibility of DSHMRA and its associated regulations with the

international legal framework now in place in the Area, and decline to entertain any applications for DSHMRA licenses and permits. If, however, NOAA intends to review applications, the commenter recommended that the agency maintain the current separation between the application processes for exploration licenses and commercial recovery permits. Lastly, the commenter provided suggested changes that NOAA should make to various paragraphs of § 971.214 and throughout 15 CFR part 971. Under the commenter's suggested changes, an applicant would not be required to provide information in its application that involves partnerships with Nations or work performed as part of those partnerships that were done under the LOSC and the ISA regulatory regime.

Response. Under DSHMRA, NOAA may issue licenses and permits to U.S. citizens in areas beyond national jurisdiction, provided all domestic statutory and regulatory requirements are met. The United States is not a party to the LOSC. While the United States views the LOSC provisions relating to traditional uses of the oceans as reflecting customary international law binding on all States, the United States does not consider Part XI of the LOSC or the 1994 agreement relating to Part XI to reflect customary international law. In 1980, the United States enacted DSHMRA, which states "exploration for and commercial recovery of hard mineral resources of the deep seabed are freedoms of the high seas subject to a duty of reasonable regard to the interests of other states in their exercise of those and other freedoms recognized by general principles of international law." DSHMRA dictates that the U.S. private sector's deep-sea exploration and commercial recovery activities in areas beyond national jurisdiction must be undertaken with strong standards and environmental impact statements, and those activities must not unreasonably interfere with the interests of other states in their exercise of high seas freedoms. The international considerations raised by these comments are not implicated by the changes made in this rulemaking, which consolidate and expedite existing regulatory processes under DSHMRA. Accordingly, no modifications to the regulations are necessary. Regarding notifying the ISA, NOAA notifies the public and provides an opportunity to comment—worldwide via the **Federal Register** and *regulations.gov*—on applications that are in full compliance, and NOAA considers public comments on such applications before NOAA

makes final decisions on whether to issue DSHMRA licenses or permits.

Regarding engaging with RFMOs for this rulemaking, these organizations were aware of the rulemaking via the proposed rule **Federal Register** notice and had the opportunity to submit comments through the public *regulations.gov* process. As applicable, NOAA and the State Department will work through the appropriate process established in each RFMO to address potential impacts of specific U.S.-authorized deep-sea mining projects on internationally-managed fisheries.

2. General Support for Deep Seabed Mining or NOAA's Rulemaking

Comment 9. Commenters voiced support for deep seabed mining and asserted the need for critical minerals, strengthening the independence and reliability of U.S. supply chains by advancing U.S. leadership in seabed mineral exploration and responsible commercial recovery, the need for reduced reliance on China and other foreign sources of critical minerals, the need (on environmental and other grounds) to pursue alternatives to land-based mining for critical minerals, and the nature of updated deep seabed mining technology. Some commenters expressed particular support for polymetallic nodule collection from the Clarion-Clipperton Zone. Commenters also supported technological developments for selective harvesting with reduced environmental impacts.

Response: NOAA appreciates the supportive comment.

Comment 10. Commenters supported NOAA's efforts to modernize the DSHMRA regulations to streamline the permitting and licensing process and endorsed NOAA's efforts to consolidate the exploration license and commercial recovery permit into a single, unified application process. Commenters considered that the shift from dual-track reviews to an integrated permitting pathway is a substantial improvement that reduces redundancy, shortens regulatory timelines, and aligns with best practices in modern governance. Commenters also supported NOAA's move to digital applications and stated that it eliminates outdated paper-based requirements, saving applicants time and money while improving transparency and efficiency. A commenter stated that these reforms are particularly beneficial for small businesses, which often struggle with compliance costs and process complexity, and which benefit from regulatory certainty and efficiency. Commenters commended NOAA for advancing a system that enhances

predictability, accelerates access to critical minerals, lowers the cost of capital and unlocks innovation, and promotes fairer participation in offshore economic opportunities and stated that the regulatory changes directly align with national objectives around critical mineral independence, economic competitiveness, and responsible deregulation. Another commenter argued that NOAA should expedite commercial/exploratory applications for two key reasons: current terrestrial mining methods are devastating to the environment, and the biggest threat to the maritime ecosystem is China's unrestricted and unreported fishing.

Response. NOAA appreciates the supportive comment.

3. Other Comments

Comment 11. A commenter asked how NOAA's current regulatory framework both supports responsible innovation in deep-sea mining and ensures that environmental protections are effectively enforced.

Response. This comment is beyond the scope of this rulemaking. NOAA notes that DSHMRA authorizes NOAA to issue licenses and permits, but does not currently provide NOAA with funding for deep seabed mining technology development and innovation. In reviewing applications for exploration licenses and commercial recovery permits, NOAA considers information presented regarding effectiveness of technology and environmental effects. In addition, the Administrator sets enforceable terms, conditions, and restrictions for, among other things, the protection of the environment on each license and/or permit issued under the Act and its implementing regulations. See 30 U.S.C. 1419(b). The Act and the DSHMRA regulations describe NOAA's enforcement authority under this regulatory framework and contain several provisions for monitoring compliance with legal requirements and pursuing appropriate enforcement action when necessary. See, e.g., 30 U.S.C. 1424, 1461–1468; 15 CFR part 971, subpart J.

Comment 12. One commenter noted many published articles regarding the occurrence of various metals in polymetallic nodules. The commenter asked whether given the slow, cold, and high-pressure environment in which the metal deposition occurs, there is the potential for depletion/enrichment of a lower or higher mass isotopes. The commenter stated that the following additional elements have two or more stable isotopes that are naturally occurring: Fe(4), Si(3), Mg(3), Ti(5),

K(2), V(2), Cu(2), Ni(5), Zn(5), and Ba(7). The commenter also recommended that there should be consideration to updated analyses of the heterogeneity of several NORM analytes (e.g., 238U, 235U, 234U, 232Th, 231Pa, 230Th, 226Ra, 214Bi, 214Pb, and 210Pb) in a representative collection of polymetallic nodules. The commenter stated there is an open question whether the concentrations of uranium, thorium, and radium may be sufficient to specifically extract and market.

Response. Pursuing the recommended research is beyond the scope of this rulemaking action. It may be that DSHMRA licensees and permittees may be able to obtain this information as they proceed with their exploration and commercial recovery operations.

Comment 13. A commenter noted that NOAA is analyzing this proposed rule in accordance with NEPA (42 U.S.C. 4321 *et seq.*), the NOAA Administrative Order 216–6A, and the NOAA Companion Manual, Policy and Procedures for Compliance with the National Environmental Policy Act and Related Authorities (effective January 13, 2017). The commenter asked if, given E.O. 14154, “Unleashing American Energy,” which directed the Council on Environmental Quality to propose rescinding its NEPA regulations and to provide guidance on implementing NEPA, the referenced NOAA manuals contain the appropriate and updated content.

Response. During the publication of the proposed rule, NOAA finalized revisions to the agency's procedures for implementing NEPA in the NOAA Companion Manual, Policy and Procedures for Compliance with the National Environmental Policy Act and Related Authorities (effective June 30, 2025). This final rule reflects the agency's revised procedures.

Comment 14. Commenters encouraged NOAA to ensure that the process for transferring and/or revising existing licenses and permits is streamlined to at least the same extent as the proposed consolidated license and permit application process. A commenter also expressed concern over NOAA's retention of open-ended discretion across key regulatory touchpoints, including fee adjustments, review timelines, and EIS requirements. The commenter urged NOAA to adopt defined timelines, appeals processes, and transparent criteria to ensure fairness and accountability. The commenter argued that NOAA should establish clear thresholds and procedures in the final rule for determining when separate EIS processes would be required, ensuring

predictability and compliance with NEPA requirements. The commenter also stated that NOAA should create a formal mechanism for applicants to challenge or appeal agency actions.

Response. Regarding streamlining the process for the transfer or revision of an existing license, NOAA notes that under § 971.214(g), an existing applicant may submit an amended application in compliance with the consolidated application process. NOAA has not otherwise proposed changes regarding existing licenses as such changes are outside the scope of this rulemaking. Regarding NOAA's discretion at various steps in the regulatory process, the Act and the DSHMRA regulations provide clear and sufficient standards regarding timelines and criteria to provide applicants with a reasonable and expedited path toward completion of NOAA's review. As NOAA gains further experience with processing new DSHMRA license and permit applications as well as the consolidated license and permit applications, NOAA will determine whether to propose further refinements to regulatory procedures, which may include further refinement to EIS processes if necessary and appropriate. Regarding appeal procedures, the Act and regulations contain administrative and judicial appeal procedures. See 30 U.S.C. 1416(b) and (d), and 15 CFR part 971, subpart I.

Comment 15. Some commenters requested that NOAA establish a public dashboard showing where each application stands in the process and making supporting information, such as environmental data, public in real time.

Response. NOAA publishes in the **Federal Register** notice of all applications for licenses and permits that are in full compliance and the materials relevant to such actions, and will publish the draft and final EISs with the accompanying TCRs. See 30 U.S.C. 1419(d), 1426(a).

Comment 16. A commenter argued that NOAA should provide for more Deep Ocean Mining Environmental Study (DOMES) funds to allow the U.S. to collect necessary data.

Response. The comment is outside the scope of this rulemaking.

Comment 17. A commenter requested that NOAA update § 970.100 to reference the LOSC and E.O. 14285 and to establish a clear strategy for “securing reliable supplies of critical minerals independent of foreign adversary control.”

Response. NOAA did not propose changes to § 970.100 as this section reiterates the Act's stated purposes and provides the flexibility for NOAA to

make changes to the regulations based on changes in the industry over time. See 30 U.S.C. 1401(b).

Comment 18. A commenter argued that the regulations, 15 CFR 971.801, should require collecting, preserving, and making available deep seabed mining data.

Response. The regulations already require licensees and permittees to maintain, make available, and submit specified data and records to NOAA, and NOAA will continue to make these records available to the public in accordance with the applicable regulations. As part of this final rule, NOAA has updated the procedures for the public disclosure of documents received by NOAA, to remove outdated procedures and cross-references for handling records and instead replace the section with a cross-reference to the current regulations which govern public disclosure of documents received by NOAA.

Comment 19. Some commenters provided recommendations on NOAA's environmental review of proposed exploration license or commercial recovery permit activities. Some commenters expressed concern that retaining the possibility of two separate EISs—one for exploration and one for recovery—could lead to duplicative efforts, costly delays, and regulatory uncertainty without delivering additional environmental benefits. A commenter recommended clearer guidelines to avoid unnecessary procedural repetition and to prioritize streamlined, single-track environmental assessments when feasible. Another commenter requested that NOAA establish best available technology requirements in regulation, with independent monitoring and third-party audits.

Response. As stated in § 971.214(b), NOAA may issue a single EIS for a consolidated license and permit application, but there may be instances when other NEPA reviews may be necessary or a supplemental EIS is needed. At this time NOAA is not developing guidelines for when NOAA will prepare one or two EISs, or supplemental EISs, as these are case-specific determinations based on each application, how an applicant amends its application over time, and whether evolving information indicates the potential for significant impacts to the human environment not previously evaluated.

The Act and the regulations contain sufficient monitoring and reporting provisions for NOAA to evaluate environmental impacts. NOAA is not determining through this rulemaking

what technology a company should use; rather, the technologies should be developed and selected by each applicant and then NOAA, in the application review process, will consider whether the proposed technologies and other components of the applications meet the requirements in the Act and regulations. The Act and regulations contain sufficient provisions for monitoring, including potentially, observers. As for scaling up a project, the scope of exploration and commercial recovery activities is included in the DSHMRA applications.

Comment 20. One comment pertained to the environmental problem of the great Pacific garbage patch, which the commenter said no one is doing anything about. The commenter stated that if deep seabed mining is commercially successful, resources or profits could be used to deal with the great Pacific garbage patch.

Response: This comment is beyond the scope of the current rulemaking.

Comment 21. One commenter stated that even with digital reforms, NOAA estimates over 4,000 annual burden hours and nearly \$478,000 in wage costs per applicant. The commenter viewed this as excessive and a potential deterrent to participation, particularly for small and mid-sized enterprises, and argued that NOAA should do more to reduce these costs through smarter form design, pre-filled templates, and elimination of duplicative information requests.

Response. The burden hours and wage costs are an estimate and NOAA will adjust these as necessary in future actions for this PRA information collection. See the PRA section herein, which describes how NOAA estimated the hours and costs for applicants and NOAA. In addition, NOAA has developed a DSHMRA web page that serves, in part, as a small business compliance guide for purposes of the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA). With respect to the request for pre-filled templates or other streamlining forms, NOAA may determine, after reviewing several applications, whether to propose additional guidance. More information on costs is also provided in Responses to Comments 33 and 34 regarding the fee for the consolidated application process.

Comment 22. Several commenters provided comments on NOAA's RIA. One commenter argued that the RIA shows only meager administrative cost savings from the proposed process consolidation. The commenter argued that this minimal amount does not justify expansion of speedy pathways

for an untested, high-risk new industry and that the amendments are not about cost savings for the American people—they are about cost savings and shortcuts benefiting only private commercial entities.

Another commenter pointed to the economic analysis in the RIA and considered that the efficiency gains are expected to accelerate America's offshore mineral development capabilities, potentially unlock billions of dollars in untapped seabed resources, and help establish U.S. leadership in the global critical minerals supply chain, particularly for rare earth elements and strategic metals essential for clean energy and defense technologies. Another commenter asserted that the 100-day time savings is non-trivial in commercial cycles and could substantially affect economic viability.

Commenters stated that the consolidated license process and cost savings for small businesses will boost innovation and competitiveness. NOAA's IRFA estimates cost savings of \$5,099 for small businesses transitioning to electronic applications and a 100-day reduction in review time for consolidated applications, enabling faster market entry. A commenter stated that these efficiencies will attract additional U.S. companies to the sector, fostering a competitive and innovative industry ecosystem. Other commenters expressed concern that the consolidated application fee was too high and risks entrenching the largest operators at the expense of small businesses.

Response. The RIA is an objective evaluation of the information to which NOAA has access to evaluate the economic impacts of a rulemaking. NOAA uses the RIA to comply with E.O. 12866 (Regulatory Planning and Review) and the RFA. As a result of the public comments and additional public data available, NOAA has revised the RIA as follows.

First, NOAA has partially monetized the benefit of 100 days saved through the consolidated license and permit application process. NOAA has monetized the cost savings for the applicant's administrative labor overhead that would be incurred during this waiting period and has found an annual cost-savings benefit of \$2,411,192. Second, NOAA revised the applicant's wage burden benefit calculated using the PRA Supporting Statement OMB Control # 0648–0145, Section 12 to find a cost savings benefit of \$43,125 for transitioning from a sequential to a consolidated permit application. NOAA has also included the calculation of the government's reduced wage burden using the PRA

Supporting Statement OMB Control # 0648–0145, Section 14, by reviewing a single consolidated instead of a sequential exploration and commercial recovery application, showed a benefit to NOAA of \$119,803 in cost savings per year. Third, NOAA updated the Final RIA benefit calculations including the 100-day cost savings and reduced government wage burden. NOAA also updated the FRFA to include the 100-day cost savings only.

For additional information, please refer to the Final RIA and FRFA, available at the Federal eRulemaking Portal at <https://www.regulations.gov/docket/NOAA-NOS-2025-0108>, as well as the summary pertaining to the RFA in Section V, Miscellaneous Rulemaking Requirements, below. See also NOAA's Responses to Comments 33 and 34 below, regarding the fee for the consolidated application process.

Comment 23. One commenter stated that on September 3, 2025, the virtual public hearing platform failed to load and would not allow members of the commenter's coalition to join the virtual public hearing. The commenter argued the lack of reliable access effectively denied them the opportunity to participate in the hearing and share their input in real time. The commenter asserted that public hearings are a crucial part of the democratic process, especially when it comes to federal regulations that impact communities, stakeholders, and the environment and that it is essential that all interested members of the public have a fair and functional opportunity to engage in the regulatory process. The commenter requested that NOAA schedule an additional public hearing using a more accessible and reliable platform.

Response. On September 3, 2025, NOAA experienced technical difficulties with the virtual public hearing platform, which was scheduled to commence at 3:00 p.m. eastern time (ET) and run through 7:00 p.m. ET. At the outset of the hearing, many members of the public as well as NOAA staff were unable to access the hearing. NOAA staff immediately contacted the platform provider to troubleshoot the issue and sent the following message to all registered hearing participants at approximately 4:50 p.m. ET, informing them of the technical issues: "Dear Hearing Registrant—NOAA is aware of the technical difficulties with today's hearing. We are working to resolve this issue and we will follow up with additional information within the next hour. We apologize for any inconvenience." Soon after that, the problem was resolved, and NOAA decided to hold the hearing from 5:45–

7:30 p.m. ET. At 5:30 p.m. ET, NOAA sent an updated message to all registered participants with that information and a working virtual public hearing room link. The message also reminded participants of the second hearing on September 4 and encouraged them to register for that one, if preferred. The September 3 hearing began at 5:45 p.m. ET and proceeded without incident until there were no additional oral comment requests, ending at approximately 7:15 p.m. ET. All participants who joined the hearing and who requested to speak had the opportunity to do so. About 99 of the 268 registrants attended at least part of the hearing. On September 4, NOAA conducted the second virtual public hearing, as scheduled, from 3:00 p.m. ET until there were no additional oral comment requests, at approximately 5:10 p.m. ET. All participants who attended and requested to speak had the opportunity to do so. All comments shared during both hearings were transcribed and posted to the [regulations.gov](https://www.regulations.gov) e-Portal docket for the proposed rulemaking. Members from the group making this comment spoke at the September 3, 2025, virtual public hearing. No additional virtual public hearing is necessary.

Comment 24. A commenter requested an extension to the 60-day public comment period and stated that there was insufficient publicity on this critical matter.

Response. NOAA declines to extend the public comment period because there was ample publicity and opportunity for public comment in this rulemaking process. As required by DSHMRA, 30 U.S.C. 1426, and consistent with the APA, 5 U.S.C. 553, NOAA provided notice in the **Federal Register** of the proposed rule, afforded a 60-day period for public comments, and has considered comments received. DSHMRA requires that the Administrator shall hold a public hearing on proposed regulations, 30 U.S.C. 1426; NOAA conducted two virtual public hearings. NOAA also published a **Federal Register** notice of the virtual public hearings (90 FR 36425, Aug. 4, 2025) in addition to the notice regarding the proposed rule (90 FR 29806), and NOAA's DSHMRA website (<https://oceanservice.noaa.gov/deep-seabed-mining/>) discusses the rulemaking.

IV. Summary of Final Regulations and Response to Comments on Specific Sections of the Regulations.

In this section, NOAA explains the changes to the DSHMRA regulations implemented by this final rule. Some of

the changes are in response to comments on the proposed rule. NOAA has included public comments on specific sections of the proposed rule and NOAA's responses at the end of each applicable section. For a summary of other conforming changes that are necessary to reference the consolidated application process, as applicable, throughout parts 970 and 971, see section II. Changes from Proposed to Final Rule.

§ 970.200(b) Place, Form and Copies

NOAA revises paragraph (b) to remove the requirement for mailing 30 hard copies, replace it with a requirement to submit electronically only, and remove addresses that are no longer valid. NOAA also adds a requirement that applications must be formatted according to regulatory sections and topics, which will help ensure that an application contains the required information and will allow NOAA to complete its review of an application in an expeditious manner. At this final rule stage, NOAA has also added a clarifying sentence to paragraph (b) stating: "For applications received electronically after the close of business, for purposes of computing the Administrator's required response time, the application shall be deemed to be received at 8 a.m. ET on the next business day." This change is consistent with the proposed rule language transitioning to electronic submission of applications and with existing language in the DSHMRA regulations on computation of time (15 CFR 971.805). This change pertains to the Administrator's response time computation only and does not alter substantive rights or obligations of applicants. As such, this is a clarifying change.

§ 970.208(b) Fee

NOAA made corresponding changes to the required application description of the fee payment in §§ 970.208, 971.208, and 971.214(d)(1), in light of the new electronic submission requirements for applications (described above). Since there will no longer be a physical application that can be "accompanied" by a physical payment (such as a check), NOAA is simply requiring the fee payment to be made prior to or concurrent with the submission of the electronic application and explaining that the application should contain a description of when and in what manner the fee was paid. Other provisions of § 970.208, such as the amount of the fee, were left unchanged. This is a clarifying change that does not alter substantive rights.

Related Comments

Comment 25. A commenter supported the proposed changes to the text at § 970.200(b) to remove the requirement for applicants to mail hard copies of exploration license applications to NOAA and to replace it with a requirement for electronic submission of applications only. The commenter asserted that this change would considerably increase efficiency in the application process and reduce the resource burden on both applicants and NOAA. The commenter requested further clarity on what NOAA means by “The application format shall be organized according to the specific regulatory topics and sections” and invited NOAA to consider developing a template or guidelines for exploration license applications for applicants to use in future.

Response. NOAA is specifying that applications must be formatted so that they follow the specific regulatory topics and sections included in the part 970 and 971 regulations, which describe the application requirements. If applications are otherwise organized into headings of the applicant’s own design, then it is difficult for the applicant and NOAA to determine that the application contains the required information addressing each applicable section of the regulations. NOAA has also developed a DSHMRA web page that serves, in part, as a small business compliance guide for SBREFA purposes. NOAA may determine, after reviewing several applications, whether to propose additional guidance or regulatory changes.

§ 970.209 Substantial Compliance With Application Requirements

NOAA revises § 970.209 by making clarifying changes regarding substantial compliance and to reference the § 971.214 consolidated license and permit procedure. NOAA notes that this section applies to “new entrants,” which is defined in § 970.101(m) as any applicant with respect to any application or amendment that has not been accorded a pre-enactment explorer priority of right. A holder of an exploration license who then applies for an exploration license or consolidated license and permit for a new area would be considered a “new entrant” with respect to the application for a new area. NOAA is not changing how to determine priority of right; the submission date of the exploration license application that is found to be in substantial compliance (rather than payment of the administrative fee) determines priority of right under the

terms of § 970.200(e), which also describes how priority of right may be lost during the application process. NOAA is also not changing the 30-day and 60-day time periods for determining substantial and full compliance as these time periods facilitate expedited review.

§ 970.210 Reasonable Time for Full Compliance

NOAA revises § 970.210 to reference the new § 971.214 consolidated license and permit procedure.

Related Comments

Comment 26. A commenter supported the proposed revision to the text at § 970.210 to expressly include reference to consolidated license and permit applications filed under § 971.214.

Response. NOAA appreciates the supportive comment.

§ 971.200(b) Place, Form and Copies

NOAA revises paragraph (b) to remove the requirement for mailing 25 hard copies, replace it with a requirement to submit electronically, and remove addresses that are no longer valid. NOAA also adds a sentence that applications must be formatted according to regulatory sections and topics. Formatting an application by the regulatory sections and topics will help ensure that an application contains the required information and will allow NOAA to complete its review of an application in an expeditious manner. At this final rule stage, NOAA has also added a clarifying sentence to paragraph (b) stating: “For applications received electronically after the close of business, for purposes of computing the Administrator’s required response time, the application shall be deemed to be received at 8 a.m. ET on the next business day.” This change is consistent with the proposed rule language transitioning to electronic submission of applications and with existing language in the DSHMRA regulations on computation of time (15 CFR 971.805). This change pertains to the Administrator’s response time computation only and does not alter substantive rights or obligations of applicants. As such, this is a clarifying change.

§ 971.208(b) Fee

NOAA made corresponding changes to the description of the required application fee payment in §§ 970.208, 971.208, and 971.214(d)(1) in light of the new electronic submission requirements for applications (described above). Since there will no longer be a physical application that can be “accompanied” by a physical payment

(such as a check), NOAA is requiring the fee payment to be made prior to or concurrent to the submission of the electronic application and explaining that the application should contain a description of when and in what manner the fee was paid. Other provisions of § 971.208, such as the amount of the fee, were left unchanged. This is a clarifying change that does not alter substantive rights.

Related Comments

Comment 27. A commenter requested further clarity on what NOAA intends to mean by “The application format shall be organized according to the specific regulatory topics and sections” and invited NOAA to consider developing a template or guidelines for CRP applications for applicants to use in future.

Response. NOAA is specifying that applications must be formatted so that they follow the specific regulatory topics and sections included in the part 970 and 971 regulations. If applications are otherwise organized into headings of the applicant’s own design, then it is difficult for the applicant and NOAA to determine that the application contains the required information for each section of the regulations. NOAA has also developed a DSHMRA web page that serves, in part, as a small business compliance guide for SBREFA purposes, <https://oceanservice.noaa.gov/deep-seabed-mining/>. NOAA may determine, after reviewing several applications, whether to propose additional guidance or regulatory changes.

§ 971.214 Consolidated License and Permit Procedures

NOAA is using this reserved section to add a process whereby U.S. citizens who are qualified for these consolidated procedures may concurrently apply for an exploration license and a commercial recovery permit. A U.S. citizen is qualified to use these consolidated procedures if it can demonstrate that the applicant possesses the scientific, technical, and financial resources to pursue commercial recovery activities in an expeditious and diligent manner.

Under the consolidated license and permit process, a qualified applicant does not submit two, sequential applications (one for the exploration license and one for the commercial recovery permit) but, rather, submits one application for both the exploration license and commercial recovery permit at the same time that meets the requirements of the new § 970.214. The Administrator then conducts a consolidated review through one process, not two separate reviews, and,

where necessary, publishes separate proposals to issue a license and permit; TCRs on the licenses and permits; and the licenses and permits.² The Administrator provides an opportunity for public comment and will hold a public hearing on the consolidated license and permit application. NOAA expects that the Administrator will likely prepare a single EIS that would evaluate the impacts of both exploration activities and commercial recovery activities as opposed to separate EISs. However, there may be situations in which two EISs are appropriate. See 30 U.S.C. 1419(d).

While paragraph (g) will require that an applicant with a pending license application file an amended consolidated application if the applicant seeks to use the consolidated license and permit procedure, it would not be a new application and would not negate work completed to date. To the contrary, NOAA would apply whatever work has been done to date, and then continue under § 971.214, supplementing already-completed steps as necessary to account for changes and additions in the consolidated application, including for example, substantial changes (if any) to the exploration plan as well as new plans and information regarding a commercial recovery permit. If any existing applicant wishes to take advantage of the consolidated application process, that applicant would be directed to submit an amended application consistent with §§ 970.213 and 971.213. And under § 970.213, priority of right established by the filing of the original application would generally not be affected by the filing of the amended application unless the amended application proposes new coordinates outside of the area of the proposed exploration area of the original application. If the amended application proposes new coordinates, the applicant would maintain priority of right over any proposed area in the original application that is also in the amended application, and, if there are no conflicts with the new proposed areas in the amended application, the applicant would obtain priority of right over new areas as of the date of submission of the amended application, as long as the amended application is determined to be in substantial compliance. NOAA has added to paragraph (g) a clause at the

end of the last sentence that states, “except that any work, actions or decisions by NOAA, including required findings at various stages of the application process, shall continue to apply to the extent still applicable.”

The Administrator may issue the exploration license and commercial recovery permit at the same time, thereby confirming the priority of right required that would otherwise be established through the licensing process and the ability of the permit holder to proceed to commercial recovery. The Administrator would issue the license and permit when the TCRs are finalized and if the requirements of 15 CFR part 970, subpart E, part 971, subpart D, and §§ 970.509 and 971.410 are satisfied and the applicant is otherwise eligible for a license and permit. That priority of right continues through the commercial recovery permit. The length of the terms for an exploration license (10 years) and commercial recovery permit (20 years) does not change nor does the ability to extend these terms as described in the regulations and the Act. Once the Administrator issues the license and permit under the consolidated process, the applicant may immediately proceed to commercial recovery of hard mineral resources, if it wishes, but in any event must begin to diligently pursue its commercial recovery plan. See 30 U.S.C. 1417(b), 1418. Similarly, the applicant must diligently pursue its exploration plan. 30 U.S.C. 1418. However, if an applicant determined that it no longer needed to conduct further exploration, it could decide to not extend its exploration license or it could opt to relinquish its license early without penalty. See 30 U.S.C. 1425(a).

NOAA recognizes that there may be instances where an applicant for a consolidated license and permit is found to qualify for a license only. In such instances, NOAA may issue an exploration license while withholding the granting of a permit.

The fee for the consolidated application has been set at \$350,000, which partially accounts for inflation that has occurred in the time since the fee was set at \$100,000 for a license application and \$100,000 for a permit application. Additionally, NOAA has clarified that, given the electronic submission of the application, the fee payment must be made prior to or concurrent with the submission of a consolidated application and that the application should describe when the payment was made and the method of payment.

NOAA has made some technical and clarifying changes to § 971.214 based on

comments on the proposed rule, and these changes are addressed in the responses to comments below.

Related Comments

Comment 28. A commenter expressed confusion as to which provisions of Parts 970 and 971 apply to a consolidated exploration license and commercial recovery permit application. The commenter requested that NOAA redesignate the existing text of paragraph (a) as paragraph (a)(2) and insert a new paragraph (a)(1) at the outset of § 971.214(a) as follows: “(1) Applicability and Order of Precedence. This section governs all applications that seek both exploration and commercial recovery under DSHMRA. Except as expressly modified herein, applicants must comply with any provision of Parts 970 and 971 that is not in conflict with the requirements of this section. In the event of any conflict or inconsistency between any provision of this section and any provision of Parts 970 or 971, the provision of this section shall control.”

Response. To accommodate the concerns expressed in the comment, NOAA has added some of the suggested text to paragraph (a) and changed the title of paragraph (a). NOAA has also made some minor conforming edits to this text to further clarify the applicability of the referenced sections. NOAA agrees that adding some of the proposed text provides clarification regarding the meaning of this section, and it does not alter substantive obligations.

Comment 29. A commenter requested that NOAA replace each citation that now reads “§ 970.103(b)” with the exact subsection housing the relevant text. For example, any reference to the definition of “deep seabed” would become “§ 970.103(b)(1)(i),” and references relating to financial assurance requirements would become “§ 970.103(b)(2)(ii).”

Response. It is not clear what the commenter is referring to. In the proposed regulatory text for § 971.214, there are only two references to § 970.103(b), and one of these is a duplicate that NOAA has removed (proposed paragraph (e)(5)). The one use of § 970.103(b) is meant to cover all the restrictions in that section.

Comment 30. Commenters stated that under § 971.214(d), there are no objective thresholds for how applicants can demonstrate scientific, technical, and financial resources and show the need for further exploration activities is minimal or not needed. Commenters requested that NOAA provide clear guidance on documentation

² As under the existing regulations, and pursuant to DSHMRA, priority of right shall be based on “the chronological order in which license applications which are in substantial compliance with the requirements established under subsection (a)(2) of this section are filed with the Administrator.” 30 U.S.C. 1413(b).

expectations, such as publishing illustrative thresholds.

Response. The Act and NOAA's regulations contain substantial guidance for the information needed to support the issuance of an exploration license and commercial recovery permit. The information required will be the same under the consolidated license and permit procedure. To the extent an interested party has additional questions, under existing regulations, applicants are encouraged (and in some cases required) to engage in pre-application consultations. The scientific, technical, and financial resources necessary and the types of documentation required will necessarily depend on the applicant's chosen exploration and commercial recovery plan, and through the pre-application consultation process NOAA can work with applicants to clarify requirements given an interested party's specific situation. In addition, NOAA is updating its DSHMRA technical guidance in a process that is separate from this rulemaking. Updating the technical guidance is critical for having data acquisition standards for monitoring potential impacts. NOAA expects to release a draft of the revised technical guidance for public review later this year. As NOAA gains experience with new DSHMRA applications, NOAA may provide additional guidance regarding thresholds for net financial resources or technological capabilities.

NOAA is not pre-determining, even by providing non-binding examples, what information a prospective applicant for the consolidated license and permit might propose to NOAA to demonstrate that it is eligible for a consolidated license and permit application and that the applicant could proceed to commercial recovery in an expeditious and diligent manner. As described in greater detail below, however, NOAA has removed the reference to "the need for further exploration activities" in order to clarify the required qualifications for using the consolidated application process.

Comment 31. A commenter stated that under § 971.214(e), NOAA must certify a consolidated application or identify any deficiencies within 100 days of submission. The commenter expressed confusion about how this provision relates to § 970.210, which allows a 60-day cure period for "substantial but not full compliance," a window that can extend past the 100-day review deadline and leave stakeholders unsure which clock governs. The commenter argued that the rule should state the 100-day review clock is suspended when NOAA

issues a cure notice and resumes only once all deficiencies are fully resolved.

Response. The 60-day period for an application to meet full compliance in § 970.210 serves a different purpose than the 100-day certification period in 30 U.S.C. 1413(g), § 970.400(c), and the new § 971.214(e). The 100-day period begins after the 60-day period. The 60-day period begins when NOAA finds an application to be in substantial compliance, but not full compliance, and the applicant then has 60 days to provide the information NOAA has identified that is needed for full compliance. The 60-day period in § 970.210 applies to exploration license applications submitted as part of a consolidated license and permit application under § 971.214. The 100-day period begins once NOAA finds an application to be in full compliance; NOAA then has 100 days to certify the application. This has been NOAA's long-standing interpretation of the Act and the regulations regarding the 100-day period for certification of an application for an exploration license. NOAA interprets the phrase "submission of the application which is in full compliance" as the date of the submission of the amended application that is in full compliance. Therefore, NOAA interprets references to a license "application" in both the Act and Part 970 to refer to a fully compliant, and not substantially compliant, application for purposes of starting the certification 100-day period. Similarly, NOAA interprets references to permit applications in both the Act and Part 971 to refer to fully complete applications, and not incomplete applications, for purposes of starting the 100-day certification period. See 15 CFR 971.300(c).

Comment 32. A commenter argued that NOAA should formalize notification for permits beyond areas of national jurisdiction. The commenter stated this approach mirrors the "due regard" duty articulated in LOSC Article 56(2) and the LOSC Part XI provisions (Arts. 138–140) that underlie ISA procedures, demonstrating good-faith adherence to customary obligations under the "common heritage of mankind" principle.

Response. The Act and NOAA's regulations contain provisions for interagency coordination, including coordination with the Department of State, and NOAA complies with this requirement. The Act and regulations also provide for public notification of and comment on applications that are in full compliance. In keeping with this requirement, NOAA notifies the public and provides an opportunity to

comment—worldwide via the **Federal Register** and *regulations.gov*—to applications that are in full compliance, and NOAA considers public comments on such applications before NOAA makes final decisions on whether to issue DSHMRA licenses or permits. In addition, the Act and the regulations contain provisions that are sufficient for NOAA and the public to evaluate whether there are any potential use conflicts in a proposed area of the ocean beyond national jurisdiction. If any potential use conflicts exist, NOAA can develop appropriate TCRs for DSHMRA licenses or permits to address such conflicts. In addition, informal dialogue and consultation or formal negotiation can be used to address potential use conflicts that may remain or may later arise.

Comment 33. Some commenters argued that the consolidated application fee is too high. Commenters argued that the proposed consolidated-permit process risks entrenching the largest, best-funded operators at the expense of smaller innovators and is potentially exclusionary and disadvantages smaller entrants to the market and diversified competition. For startups and small marine tech firms, commenters thought this fee may present a prohibitive barrier to market entry. Commenters argued NOAA should adopt a sliding-scale, tiered, or phased fee structure that reduces upfront costs for entities with lower annual revenues or early-stage exploration achievements. A commenter argued that NOAA has not shown that the increased fee aligns with the actual costs incurred per application. Commenters also requested that NOAA implement a grandfather provision whereby applications submitted prior to the effective date of the new rule would be subject to the fee schedule in effect at the time of submission under the existing rule prior to the proposals.

Response. The Act, 30 U.S.C. 1414, requires that NOAA establish a "reasonable administrative fee" that "shall reflect the reasonable administrative costs incurred in reviewing and processing the application" for a license or permit. NOAA has set a \$350,000 fee for the consolidated license and permit application, which partially accounts for inflation that has occurred in the time since the fee was set at \$100,000.³

³ Using the Office of Management and Budget (OMB) recommended Gross Domestic Product (GDP) deflator, adjusting \$200,000 (\$100,000 each for an exploration license application and a commercial recovery permit application) from 1989 to 2024 would be \$438,144, substantially more than the \$350,000.

While an inflation adjustment alone would result in an amount greater than \$350,000, the \$350,000 amount is a reasonable initial fee for the consolidated license and permit process, given technological improvements that may increase the efficiency of application processing. In addition, under §§ 970.208, 971.208, and 971.214, regardless of the initial fee (\$100,000 or \$350,000), NOAA may adjust the fee up or down for each application, depending on the administrative costs incurred. If, after further experience processing consolidated applications, NOAA determines that the reasonable cost of processing these applications is higher or lower than the estimated \$350,000, NOAA may promulgate new rules further adjusting the initial application fee.

Given the estimated costs of exploration and commercial recovery programs that an applicant must be financially responsible for carrying out, see 30 U.S.C. 1413(c)(1), NOAA does not expect this initial fee to pose an undue barrier to entry to smaller businesses who wish to submit consolidated applications. See the Final RIA for more information.

After this rule becomes effective, in the instances where an applicant has a pending exploration license application and then submits a consolidated license and permit application, NOAA will determine the additional fee amount, if any, that an applicant will need to pay for the consolidated application.

NOAA also made technical changes to how the fee is described in the application and similar edits to the corresponding sections for §§ 970.208 and 971.208. Instead of requiring that the fee payment “accompany” the application, in light of the new electronic submission requirement NOAA now requires an applicant to submit the fee payment to NOAA prior to or concurrent with the submission of the application and to include in the application a description of when the fee was paid and the manner of payment. This is a technical, clarifying change.

Comment 34. Some commenters argued that the consolidated application fee is too low. One commenter stated that priority by receipt date can encourage low-effort filings on prime areas and argued that NOAA should require a modest, refundable reservation bond—released once an applicant delivers a minimum dataset or completes an initial survey—to discourage speculative claims without penalizing serious developers. Another commenter argued that the consolidated

application fee is grossly insufficient to reflect the harm that deep-sea mining activities cause to the oceans and for costs of restoration and remediation activities along with the loss of ecosystems. The commenter argued that the fee for each of the licensing and permitting phases should be separate and use a fee schedule based on the size of the geographic area to be mined, the present value of the ecosystem, the value of each impacted species, and the gross cost of restoring the area to a pre-mined state, with a minimum fee of \$10,000,000 for each of the licensing and permitting phases.

Response. As stated in the Act, the “administrative fee imposed by the Administrator on any applicant shall reflect the reasonable administrative costs incurred in reviewing and processing the application.” 30 U.S.C. 1414. So, NOAA is not adjusting the fee structure to establish by rulemaking a new “reservation bond” nor impose separate fees for each application to account for restoration and remediation. Such bonds or fees are outside the limited scope of this rulemaking and the Act.

In addition, the fee structure (an initial \$100,000 or \$350,000, with adjustment upwards or downwards to reflect the actual administrative cost of an application), the findings NOAA must make under the Act and the regulations, and the diligence requirements under the Act and the regulations, provide sufficient authority to address speculative claims. For example, under the DSHMRA reporting requirements, license and permit holders are required to show diligent progress in the execution of their exploration and commercial recovery plans in order to maintain those licenses and permits.

Comment 35. Commenters argued that the regulations are of general applicability to all deep seabed mining which may include all sorts of geological formations, and it is not appropriate to single out one type of mining by referring to polymetallic nodules, but rather to refer to minerals, or mineral deposits. Although the DSHMRA resource definition may be read narrowly to apply only to polymetallic nodules, the commenters asserted that the President’s Executive Order is much broader in scope and nothing in DSHMRA would appear to limit NOAA’s authority to address this broader scope. Commenters suggested elimination of language which would suggest that licenses and permits cannot address the full range of minerals in application areas.

Response. The Act and the DSHMRA regulations define “hard mineral resources” as “any deposit or accretion on, or just below, the surface of the deep seabed of nodules which include one or more minerals, at least one of which contains manganese, nickel, cobalt, or copper.” 30 U.S.C. 1403(6); 15 CFR 970.101(j); 15 CFR 971.101(k). Therefore, for purposes of the Act, the regulations, and this final rule, the term “hard mineral resources” refers to polymetallic nodules. As such, and because “nodules” is used elsewhere in the DSHMRA regulations, NOAA has not made changes to the use of “nodules” in the regulatory text. A broader interpretation of hard mineral resources could suggest that DSHMRA covers sulphides and crusts, which it does not. As this definition is in the Act, NOAA cannot by regulation change the definition.

Comment 36. A commenter argued that many sections provide redundant information and stated that it is important to determine an overall structure and then allocate the information to these sections.

Response. In creating the new § 971.214 consolidated license and permit process, NOAA has mirrored some corollary sections within 15 CFR parts 970 and 971 in § 971.214. NOAA has taken this approach for greater clarity and specificity as to the requirements of the consolidated application process and to ensure that, where applicable, there are consistent application requirements between applicants using the consolidated application process and those opting to pursue sequential licenses and permits.

Comment 37. A commenter stated that it is important to the Applicant to understand what is required, early on in the document such as the: Application Form, Statement of Financial Resources, Exploration Plan, Commercial Recovery Plan, Environmental Impact Statement, Economic Feasibility Analysis, Technical Feasibility Study, Legal Feasibility Study, Monitoring Plan, Hearings (Processing Outside the US), and Schedule of Commercial Recovery.

Response. The current regulatory structure in 15 CFR part 970 and part 971, and now also in § 971.214, contain information on the sections needed for an application.

Comment 38. A commenter argued that in § 971.214(b), the word “separate” creates confusion and requested that NOAA replace it with an “Exploration License and a Commercial Recovery Permit.”

Response. For clarity, NOAA has replaced the first instance of “separate” with “an exploration license and a

commercial recovery permit.” This is a clarifying change that does not alter the meaning of this section.

Comment 39. A commenter stated that, given that public hearings have not yet been mentioned, § 971.214(b) should be reserved for a section on hearings.

Response. Regulations regarding public hearings can be found in the existing regulations and are also included in the new § 971.214. See also §§ 970.212, 971.212.

Comment 40. A commenter argued that in § 971.214(b) the word “may” is confusing as it allows the possibility that NOAA will not prepare the EIS and requested that NOAA reserve a section especially for this part of the process.

Response. NOAA’s intent for this section is to explain that NOAA may prepare a single EIS rather than one EIS for the exploration license and another EIS for the commercial recovery permit. To clarify this intent, NOAA has deleted “also” from the sentence and added at the end of the sentence the clause “rather than one environmental impact statement for the exploration license and another environmental impact statement for the commercial recovery permit.” This is a clarifying edit that does not alter the consolidated application process.

Comment 41. A commenter stated that in the last sentence of § 971.214(b), the word “proposal” indicates that there is a process that needs to be explained in its own section.

Response. NOAA has added some clarifying text in response to this comment. Under the Act, NOAA will publish “proposals to issue or transfer licenses and permits” in the **Federal Register**. 30 U.S.C. 1426(a)(1). The language in the proposed rule for § 971.214(b) refers to proposals to issue licenses under §§ 970.500(a) and 970.401. NOAA has added text to clarify this point; this text is consistent with the proposed rule and does not change the process or requirements.

Comment 42. A commenter stated that in § 971.214(c), the first sentence is confusing and should say “the information required in each of the following sub-sections of paragraph (d), in the order they appear.”

Response. NOAA agrees and has referenced paragraph (d) as suggested. This is a clarifying change. NOAA has also added a clarifying sentence to paragraph (c) stating: “For applications received electronically after the close of business, for purposes of computing the Administrator’s required response time, the application shall be deemed to be received at 8 a.m. ET on the next business day.” This change is consistent with the proposed rule language

transitioning to electronic submission of applications and with existing language in the DSHMRA regulations on computation of time (15 CFR 971.805). This change pertains to the Administrator’s response time computation only and does not alter substantive rights or obligations of applicants. As such, this is a clarifying change.

Comment 43. A commenter requested that NOAA delete the following from § 971.214(d): “information sufficient to enable the Administrator to make the findings set forth in 30 U.S.C. 1415(a) and 15 CFR 970.500(c), 971.214(f), and 971.400(c), including the following items:”

Response. The specified sections of regulations that the commenter requested be deleted are the findings that the Administrator must make before approving or denying the issuance or transfer of a license or permit and must remain. However, NOAA has made a clarifying edit to § 971.214(d) to correct an inadvertent typographical error in the proposed rule: the reference in this section to § 971.214(f) has been replaced with a reference to the correct section, § 971.214(e).

Comment 44. A commenter stated that § 971.214(d)(1) provides the same information as paragraph (4) describing the exploration plan.

Response. Paragraph (d)(1) is distinct from paragraph (d)(4). The information required in paragraph (d)(1) is to allow NOAA to assess whether the applicant is currently qualified to use the consolidated license and permit application and seek information on any pre-application exploration work. The information required in paragraph (d)(4) is for any exploration activities the applicant proposes to undertake under the license for which it is applying via the consolidated process. However, NOAA has made clarifying changes in response to this and other comments expressing confusion about this language. The purpose of the clarified regulatory text in sections 971.214(d)(1) and e(1) is to establish the applicant’s qualifications to use the consolidated license and permit application instead of requiring the applicant to first apply for, and obtain, an exploration license before seeking a commercial recovery permit. In order to qualify for the consolidated application, and in keeping with DSHMRA, an applicant to a commercial recovery permit must be able to “pursue diligently the activities described in the recovery plan.” 30 U.S.C. 1417(b), 1418(a). NOAA further modified the text of § 971(d)(1) to clarify that information on exploration work (if any) performed by either the applicant

or by entities affiliated with the applicant may be relevant to determining whether the applicant can demonstrate it possesses the scientific, technical, and financial resources to pursue commercial recovery activities in an expeditious and diligent manner. NOAA removed text that could imply that past exploration is required to make such a demonstration. See also response to Comment 48.

Comment 45. A commenter requested that, in § 971.214(d)(1)(i), NOAA replace “This” with “Each section,” delete “the applicant’s access to,” and delete “including the following items.”

Response. NOAA has not included “Each section” as § 971.214(d)(1)(i) refers to the information in this paragraph only and not other sections of the regulations. However, NOAA has made a clarifying change to replace “This” with “The description of past exploration activities” NOAA has deleted “the applicant’s access to.” NOAA notes that there may be instances when an applicant does not have access to all information resulting from previous exploration activities. NOAA has retained “including the following items,” as this text is needed to refer to § 971.214(d)(1)(i)(A)–(F).

Comment 46. A commenter argued that § 971.214(d)(1)(i)(A) should include the specific location and size of the deposit and area requested for the exploration license and recovery permit.

Response. Section 971.214(d)(1) describes past exploration activities—not the activities or location proposed under the consolidated license and permit application. Therefore, for § 971.214(d)(1)(i)(A), the survey cruises are from past exploration activities that could be for the area proposed in the DSHMRA application or other areas, but which are relevant to the issue of whether the applicant will be able to proceed to commercial recovery in an expeditious and diligent manner. NOAA is not pre-determining what past exploration activities, if any, an applicant may use to meet the requirements for a consolidated license and permit. Section 971.214(d)(4) contains the information requirements for the consolidated license and permit application.

Comment 47. A commenter argued that in § 971.214(d)(1)(i)(F), economic feasibility ought to be shown by an Internal Rate of Return (IRR) analysis of the first 10 years of commercial operations using likely, high and low scenarios. This should include estimates of capital costs up until date of first commercial recovery and during recovery; amount of mineral recovered, cost of extraction, refining, and

transport, other costs, amount of metal recovered going to the applicant, price of metal, and profits before taxes. The commenter also stated that this paragraph should be divided into several parts: Economic feasibility, Technical Feasibility, Legal Feasibility, and Environmental Considerations.

Response. Section 971.214(d)(1), including paragraphs (d)(1)(i)(A)–(F), pertains to past exploration activities not the activities proposed under the consolidated license and permit application. NOAA is not pre-determining what types of analysis an applicant may provide to describe work that was performed to evaluate the feasibility of commercial scale operations. NOAA does not believe that paragraph (F) should be broken out into separate paragraphs as there is no need to delineate each of the items in further detail.

Comment 48. A commenter argues that in § 971.214(d)(1)(ii), the clause “and the applicant possesses the scientific, technical, and financial resources to pursue commercial recovery activities in an expeditious and diligent manner” is redundant and should be deleted.

Response. NOAA disagrees that this language is redundant. The items specified in this subparagraph inform the explanation of why the applicant qualifies to use the consolidated license and permit procedures and that the applicant can pursue commercial recovery activities in an expeditious and diligent manner. However, on review, NOAA has made a formatting change to this paragraph, and to corresponding language in §§ 971.214(d)(1) and 971.214(e)(1), to clarify how an applicant may demonstrate that the applicant can pursue commercial recovery activities in an expeditious and diligent manner. NOAA has further clarified, with examples, the types of information that may be used by the applicant to demonstrate that it is qualified to use the consolidated application process. These examples are illustrative only, however, and are not intended to require additional information or limit the information or explanation that an applicant may provide in response to this requirement, nor do they necessarily reflect NOAA’s views as to how much weight should be accorded to the types of information an applicant may provide. These are clarifying changes that do not change substantive rights or obligations.

Comment 49. A commenter argued that § 971.214(d)(2) must mention that the plans referenced are requirements detailed below in paragraph 4 for the exploration plan, and in paragraph 5 for

the commercial recovery plan. The commenter argued the general estimated costs should not be included here but in paragraph (d)(1)(i)(F). The commenter argued that instead of the financial statements and Form 10–K referenced in this regulation, the applicant should do an IRR analysis based on data generated by exploration and market metal prices. Regarding the description of those entities upon which the applicant will rely to finance the exploration, the commenter stated that small exploration companies will often trade future production for cash during the exploration phase and argued that it is essential that these deals are monetized before doing the IRR analysis as the applicant may have pre-sold future production.

Response. NOAA agrees in part with the suggested changes. NOAA has added a clarifying reference to the requirements in paragraphs (4) and (5) for the exploration plan and commercial recovery plan.

Paragraph (2) is the appropriate place to describe general estimated costs and not in paragraph (d)(1)(i)(F), as (d)(1) is for past exploration activities.

If available, a company’s financial statements and Form 10–K are useful documents for evaluating a company’s financial resources. There may be other useful documents and analyses, including an IRR, which evaluates the expected annualized rate of return an investment is expected to generate over its lifetime. NOAA has added a sentence to note that applicants may also provide other economic analyses. These technical and procedural revisions are consistent with the scope and NOAA’s intent that the applicant provide information sufficient to demonstrate that it is capable of committing or raising sufficient resources for the proposed exploration and commercial recovery activities.

Comment 50. A commenter argued that § 971.214(d)(3) is redundant and should be divided between exploration and recovery and put in subparagraphs (4) and (5). With respect to § 971.214(d)(3), the commenter also argued that: subparagraph (3)(ii) is where the requirement for an EIS should appear; the description of environmental monitoring equipment in paragraph 3(ii) should be moved to subparagraph (d)(4); subparagraph (3)(iii)(A)–(D) should be incorporated in § 971.214(d)(5); in subparagraph (3)(iii), the phrase “mining process” should be replaced with “mineral extraction” and the phrase “for persons operating its equipment” in subparagraph (3)(iii)(D) should be replaced with “during the mineral recovery stage.”

Response. Section 971.214(d)(3) requires that an applicant provide a statement of the technology, equipment, and capabilities that will be used during exploration and commercial recovery, not the actual exploration and commercial recovery plans of work contained in paragraphs (4) and (5). Paragraph (3)(ii) is a description of the environmental monitoring equipment that will be used separate from the EIS requirements referenced elsewhere in the regulations. “Mining process” is an appropriate term, and the term is used in the existing regulations. See § 971.202(b)(1). Finally, paragraph (D) refers to the qualifications of personnel operating the equipment, not just regarding resource recovery.

Comment 51. A commenter argued that in § 971.214(d)(4), the enforcement of TCRs needs to be defined.

Response. 15 CFR 971.214 sets forth procedures governing consolidated exploration license and commercial recovery permit applications. Paragraph (d) of this section identifies the information required for the Administrator to make necessary findings under the Act and parts 970 and 971. This information includes a description of the applicant’s proposed exploration activities sufficient for, among other things, the development and enforcement of TCRs. NOAA disagrees that the enforcement of TCRs needs to be defined in this section. The Act and the DSHMRA regulations already contain various provisions describing NOAA’s enforcement authorities, which may be applied to the enforcement of TCRs. See, e.g., 30 U.S.C. 1424, 1461–1468; 15 CFR part 971, subpart J.

Comment 52. A commenter argued that subparagraph 971.214(d)(4)(iii) is a repetition of sub-sections of paragraph (d)(1) and should be deleted and replaced with a reference to paragraph (d)(1).

Response. Paragraph (d)(1) refers to a description of past exploration activities. Paragraph (4) pertains to the exploration plan, which shall include the intended exploration schedule as further delineated in parts of paragraph (d)(4)(iii).

Comment 53. A commenter stated that in § 971.214(d)(9)(iii), “copper, nickel, cobalt or manganese minerals or any metals refined from these minerals” is particular to polymetallic nodules mining. The commenter suggested that the regulations should apply a broader definition.

Response. These minerals are specifically mentioned in the definition of “hard mineral resource” in Section 1403(6) of DSHMRA.

Comment 54. A commenter inquired what the process is for getting the determination under § 971.214(d)(11) that the “President or his designee does not determine that this restriction contravenes the overriding national interests of the United States.”

Response. Section 971.408 mirrors the requirements of the Act, which describes when and how the Administrator may authorize processing outside of the United States. See 30 U.S.C. 1412(c)(5). It is unnecessarily detailed to include in the regulations the intra-governmental process necessary to reach the determination.

Comment 55. A commenter argued that this rulemaking will delay the processing of existing applications for commercial recovery permits. The commenter stated that NOAA should apply the new amended rules retroactively and/or grandfather in existing applications so that the commercial recovery permit decision can be expedited.

Response. Paragraph 971.214(g) establishes that applicants who have pending applications for exploration licenses may notify the Administrator of their intent to proceed under the consolidated procedures. While paragraph (g) would require that the existing applicant file an amended consolidated application, it would not be a new application and would not negate work completed to date. NOAA has added to paragraph (g) a clause at the end of the last sentence that states, “except that any work, actions or decisions by NOAA, including required findings at various stages of the application process, shall continue to apply to the extent still applicable.” NOAA has added further explanation to the preamble. This regulation will not impact the processing of any pending applications for commercial recovery for any applicant that already holds an existing exploration license.

Comment 56. A commenter argued that § 971.214(d)(7)(ii), regarding foreign flag vessels, disregards the April 9, 2025, E.O. 14269, “Restoring America’s Maritime Dominance.” The commenter requested that the regulations be revised to allow only the use of United States-built and flagged vessels.

Response. Section 971.214(d)(7) does not change the statutory and regulatory requirements for U.S. Flag and foreign flag vessels; rather, paragraph (d)(7) is describing the U.S. Coast Guard and other safety information and certifications required for all vessels used in exploration or commercial recovery. The regulatory provisions for when U.S. Flag vessels must be used remain unchanged and these provisions

are based on the Act’s requirements that commercial recovery vessels be U.S. Flag vessels and that at least one commercial recovery transportation vessel be a U.S. Flag vessel. See 30 U.S.C. 1412(c)(2) and (3). The regulations contemplate the very limited number of vessels that could undertake deep seabed mining exploration and commercial recovery, and revising the requirements for U.S. Flag and foreign flag vessels are beyond the scope of this regulatory action.

Comment 57. For § 971.214(b) (Who may apply; how), a commenter supported the proposed consolidation of public hearings and other proceedings related to the issuance or transfer of an exploration license and a commercial recovery permit in a consolidated application process and asserted that this approach would promote efficiency and reduce duplication of hearings while maintaining transparency. The commenter also supported the proposal to allow NOAA to prepare a single EIS covering both exploration and commercial recovery activities.

Response. NOAA appreciates the supportive comment.

Comment 58. For § 971.214(d)(1) Past exploration description and affirmation, a commenter supported the proposed provision to allow a consolidated exploration license and commercial recovery permit applicant to refer to the exploration activities of “other entities” outside of the work of the applicant or the proposed transferor to demonstrate that the applicant will be able to proceed to commercial recovery with limited or no additional exploration.

Response. NOAA appreciates the supportive comment.

Comment 59. For § 971.214(d)(1)(i)(F) Past exploration description and affirmation, a commenter requested that NOAA remove the term “continued” in “Evaluating the continued feasibility of commercial scale operations” The commenter asserted that the feasibility of commercial operations should be assessed based on current and projected conditions at the time of the consolidated application. A second commenter requested that NOAA retain the term “continued” in this provision and recommended that NOAA conduct a rigorous review of applications with respect to this criterion, including requiring that financial projections be prepared by independent consultants. The second commenter also argued that NOAA should conduct a legal feasibility review for DSHMRA applicants and their foreign partners, especially those foreign partners who are signatories to the LOSC. A third commenter argued that NOAA should consider whether it

could approve an application if the U.S.-based company would rely on foreign processing, and NOAA would have no authority or NEPA review over that foreign source.

Response. Paragraph (d)(1)(i)(F) of § 971.214 directs that an applicant who is using the consolidated license and permit application process shall provide a description of past exploration activities that includes an evaluation of the feasibility of commercial scale operations, and lessons learned from past exploration activities for the continued feasibility of commercial recovery activities are relevant to NOAA’s evaluation of a consolidated license or permit application. Moreover, § 971.214(d)(1)(i)(F) mirrors the existing language of § 970.203(b)(3)(vi).

Regarding NOAA’s evaluation of the feasibility of commercial recovery activities based on an applicant’s past exploration and commercial recovery activities, NOAA understands that there is inherent risk in deep seabed mining and that past successes and failures can inform an applicant’s decision to proceed with new deep seabed mining proposals and NOAA’s review of a DSHMRA application. NOAA acknowledges, however, that as of the date of application commercial recovery may not have occurred; the use of the word “continued” is not meant to imply (or require) that the applicant, any affiliate of the applicant, or any other entity has already become engaged in commercial recovery prior to the submission of a consolidated application.

As to processing, NOAA will determine whether to authorize proposals to use foreign sources for processing recovered hard mineral resources pursuant to §§ 971.209 and 971.408, which allow for foreign processing under certain circumstances.

Applicants must adhere to the provisions of the Act and the regulations. As such, regarding NOAA’s review of the legal feasibility not only for a DSHMRA applicant, but also for its foreign partners, to the extent an applicant is relying on financial or other support from domestic or foreign partners, NOAA evaluates those arrangements as part of its DSHMRA application review.

Comment 60. For § 971.214(d)(1)(ii) Past exploration description and affirmation, a commenter supports the proposed text at § 971.214, paragraph (d)(1)(ii).

Response. NOAA appreciates the supportive comment.

Comment 61. For § 971.214(d)(2) Statement of financial resources, a commenter supported the proposed text

at § 971.214, paragraph (d)(2) which would allow applicants to include information in their consolidated application that demonstrates their capability to commit “or raise” sufficient financial resources to cover

the estimated costs of their proposed exploration and commercial recovery programs.

Response. NOAA appreciates the supportive comment.

Comment 62. For § 971.214(d)(3) Statement of technological experience and capabilities, a commenter requested that NOAA make the following change (in strikeout/underlined text) to § 971.214, paragraph (d)(3):

“Statement of technological experience and capabilities. Information sufficient to demonstrate that the applicant ~~has~~ possesses or has access to the technological capability to carry out the exploration program contained in the exploration plan and the commercial recovery program contained in the commercial recovery plan....”

The commenter considered that the above amendment was necessary because an applicant may not always directly possess or own the technological capability to carry out the proposed exploration and commercial recovery activities; rather, the applicant may partner with or subcontract to other entities that own or possess the technological capability to execute the proposed activities on behalf of the applicant.

Response. NOAA agrees with this comment and has made the change to the text in § 971.214(d)(3). Paragraph

(d)(3) does not require that an applicant have possession of the technology required at the time an application is filed or NOAA issues its approval. Rather, an applicant needs to show what technology is needed and demonstrate that it will have access to such technology (which may be, for example, through agreements, partnerships, or contracts). This is a clarifying comment that is consistent with the initial DSHMRA regulations as well as § 971.214(e)(4)(ii).

Comment 63. For § 971.214(d)(3)(ii) Statement of technological experience

and capabilities, a commenter noted that there may be cases where a consolidated license and commercial recovery permit application may include an exploration plan that covers only exploration activities that fall within the scope of § 970.701(a)(1–10) (listing activities have no potential for significant environmental impact and will require no further environmental assessment). The commenter requested that NOAA revise § 971.214(d)(3)(ii) as follows (proposed change in strikeout/underlined text):

“(ii) Where the exploration plan contains exploration activities which fall outside the scope of § 970.701(a), paragraphs 1-10, a ~~A~~ description of the environmental monitoring equipment to be used by the applicant in monitoring the environmental effects of the exploration program;”

Response. In reviewing a consolidated application, NOAA needs the full suite of information available so that it can assess in the first instance the scope of the proposed exploration activities, potential for significant environmental impacts, and any applicable monitoring equipment. Relatedly, and as relevant to § 971.214(d)(3)(ii), it is critical that the applicant provide a description of the environmental monitoring equipment so that NOAA may assess the applicant’s technological experience and capabilities.

Comment 64. For § 971.214(d)(4)(iii) Exploration plan, a commenter requested that NOAA adopt the existing text at § 970.203(b)(3) for § 971.214(d)(4)(iii):

“The intended exploration schedule which must be responsive to the

diligence requirements in § 970.602. Taking into account that different applicants may have different concepts and chronologies with respect to the types of activities described, the schedule should include an approximate projection for the exploration activities planned. Although the details in each schedule may vary to reflect the applicant’s particular approach, it should address in some respect approximately when each of the following types of activities is projected to occur.”

Response. NOAA has modified the proposed text in § 971.214(d)(4)(iii) but these changes have not changed the meaning of § 970.203(b)(3). The text in § 971.214(d)(4)(iii) that states the “intended exploration schedule addressing which of the following

exploration activities the applicant intends to conduct after the issuance of the license and when each of these proposed activities will occur” is a clearer statement and still provides flexibility for the applicants regarding “intended” schedules. However, in order to better mirror the language of §§ 970.203(b)(6) and 971.201(b), NOAA has added additional language to § 971.214(d)(2) to make clear that the applicants are still expected to provide a schedule of expenditures and that the schedule of expenditures must be responsive to both the exploration plan and the commercial recovery plan. This is a technical and clarifying change in response to public comment that is consistent with the proposed rule.

Comment 65. For § 971.214(d)(4)(iii)(C) and (D)

Exploration plan, a commenter requested that NOAA revise

§ 971.214(d)(4)(iii)(C) and (D) as follows (proposed text underlined):

“(C) Designing and testing system components onshore and at sea (if required);

(D) Designing and testing mining systems which simulate commercial recovery (if required).”

The commenter argued that the deep-sea mining industry has significantly advanced since DSHMRA came into force, and some technology (such as those related to onshore and at sea mining systems) has already been designed and tested.

Response. NOAA agrees with the comment that designing and testing these components and systems may not be needed for all applicants or technologies that have already been sufficiently designed and tested and has added clarifying language “or an

explanation as to why this is not necessary” to § 971.214(d)(4)(iii)(C) and (D). This is a technical and clarifying change in response to public comment that is consistent with the proposed rule.

Comment 66. For § 971.214(d)(4)(iv)(C) Exploration plan, a commenter noted that there may be cases where a consolidated license and commercial recovery permit application may include an exploration plan that covers only exploration activities which fall within the scope of § 970.701(a)(1-10) (listing activities that have no potential for significant environmental impact and will require no further environmental assessment). The commenter requested that NOAA revise § 971.214(d)(4)(iv)(C) as follows (proposed change in strikeout/underlined text): “(ii) Where the exploration plan contains exploration activities which fall outside the scope of § 970.701(a), paragraphs 1-10, mMeasures to protect the environment and to monitor the effectiveness of environmental safeguards and monitoring systems. These measures must take into account the provisions in §§ 970.506, 970.518, 970.522 and subpart G of this part.”

Response. In reviewing a consolidated application, NOAA needs the full suite of information available so that it can assess in the first instance the scope of the proposed exploration activities, potential for significant environmental impacts, and any applicable monitoring

equipment. However, NOAA has made a revision to correct an inadvertent typographical error in this section of the proposed rule: the reference to “subpart G of this part” has been replaced with “subpart G of part 970.”

Comment 67. For § 971.214(d)(5)(iii) Commercial recovery plan, a commenter requested that NOAA revise § 971.214(d)(5)(iii) as follows (underlined text):

“(iii) Environmental safeguards and monitoring systems, which may evolve over time in light of the findings of the Environmental Impact Statement and as required for project development phases and must take into account requirements under subpart F of this part, including best available technologies (BAT) (§ 971.604) and monitoring (§ 971.603);”

The commenter asserted that it is standard practice for environmental monitoring and management plans to be refined following the completion of preliminary assessments.

Response. NOAA agrees with the comment, has made this change with a modification to ensure consistency in referring to environmental impact statements throughout these regulations, and notes that it is the inherent nature of the Act, regulations, monitoring plan, and monitoring plan TCRs that the plan may be refined and evolve over time based on any EISs and subsequent deep-sea mining activities. See, e.g., 30 U.S.C.

1424(3), 15 CFR 971.603(g). As such, this is a technical change, consistent with the Act and regulations, to provide clarification in response to public comment. NOAA made a further technical change to the text of § 971.214(d)(5)(v), clarifying that the resource assessment is required to address the requirements of § 971.501 only to the extent practicable and that the resource assessment may be preliminary at the time of the application. The requirements of § 971.501 were structured for applicants using a sequential application process,

but these requirements may not make full sense in the case of some applicants using the consolidated process. The additional language is intended to clarify that the resource assessment may be more preliminary for some applicants using the consolidated application process. This is a clarifying change that does not change the substance of the regulation.

Comment 68. For § 971.214(d)(6)(ii) Environmental and use conflict analysis, a commenter requested that NOAA revise § 971.214(d)(6)(ii) as follows (underlined text):

“(ii) A monitoring plan for any proposed but not yet completed exploration activities, including test mining, and any at-sea commercial recovery activities that meets the objectives and requirements of § 971.603. The monitoring plan may be preliminary at the time of application and shall be finalized following completion of the EIS and in coordination with the development of the TCRs, incorporating relevant environmental data, impact modeling, and assessment outcomes.”

Response. NOAA agrees with the comment, has made this change, and notes that it is the inherent nature of the Act, regulations, monitoring plan, and monitoring plan TCRs that the plan may be refined and evolve over time based on any EISs and subsequent deep-sea mining activities. See, e.g., 16 U.S.C. 1424(3), 15 CFR 971.603(g). As such, this is a technical change, consistent

with the Act and regulations, to provide clarification in response to public comment. NOAA has also made conforming and clarifying edits throughout § 971.214(d)(6) to consistently refer to any EISs that may be prepared on the proposed activities in the consolidated license and permit application.

Comment 69. For 15 CFR 971.214(d)(8)(ii)(D) Statement of Ownership, a commenter requested that NOAA revise § 971.214(d)(8)(ii)(D) as follows (strikeout text):

“Sufficient information to demonstrate that the applicant is a U.S. citizen, including:
[. . .]

~~(D) Certification of essential and nonproprietary provisions in articles of incorporation, charter or articles of association;~~”

The commenter expressed concern as to a certification requirement, including the mechanism by which certification would operate and who would be responsible to certify.

Response. NOAA agrees in part with the comment and has changed § 971.214(d)(8)(ii)(D) to require “copies” and not “certification” of all essential and nonproprietary information. This edit is consistent with § 971.206(b)(2)(iv) and § 970.206(b)(4), which is asking for copies of certificates of incorporation and copies of essential and nonproprietary information and not certification of the information.

Therefore, NOAA has retained paragraph (D) and replaced “certification” with “copies.” NOAA has also made a revision to §§ 971.214(d)(8)(i) and (ii) to correct an inadvertent omission in the proposed rule, by adding “and commercial recovery” after “exploration.” Finally, in § 971.214(d)(9)(i) and (ii), NOAA has corrected an inadvertent omission in the proposed rule by adding references to commercial recovery permits. These are technical changes to clarify the scope of the rule, and they are consistent with the purpose of the proposed rule and

NOAA’s intent in promulgating this section.

Comment 70. For 15 CFR 971.214(e) Certification, a commenter supported the proposed language of § 971.214(e), regarding certification of applications which are in full compliance.

Response. NOAA appreciates the supportive comment and has made a technical and clarifying edit to § 971.214(e)(1) to correct an inadvertent omission in the proposed rule. NOAA has added “and 971.211” after the reference to § 970.211, to reference the corresponding provisions regarding

consultation in both part 970 and part 971.

Comment 71. For § 971.214(e)(2) Certification, a commenter requested

that NOAA revise § 971.214(e)(2) as follows (underline text):

“(2) The issuance or transfer of the license and the permit would not violate any of the restrictions of 15 CFR § 970.103(b) and 15 CFR § 971.103(b).”

The commenter proposed that the regulation also explicitly reference § 971.103(b) to ensure comprehensive coverage of restrictions applicable to commercial recovery permits, not just exploration licenses.

Response. NOAA agrees with the comment that § 971.214(e)(2) applies to both licenses and permits and has added the reference to § 971.103(b). This

is a technical clarification to the text of the proposed rule to correct an inadvertent omission. NOAA has also made a clarifying change to § 971.214(e)(3) to address an inadvertent omission in the proposed rule; the clarification, which is consistent with NOAA’s intent for, and scope of, the proposed rule, aligns the language of

§ 971.214(e)(3) with the statutory language in 30 U.S.C. 1413(a)(2)(D) regarding approval of the size and location of an area selected by an applicant.

Comment 72. For § 971.214(e)(5) Certification, a commenter requested that NOAA revise § 971.214(e)(5) as follows (strikeout text):

~~“(5) Issuing the exploration license and the commercial recovery permit described in the application would not violate any of the restrictions in § 970.103(b).”~~

The commenter asserted that this provision was redundant of § 971.214(e)(2).

Response. NOAA agrees with the comment and has removed paragraph (e)(5).

Comment 73. For § 971.214(f)(C) Denial of Certification, a commenter

requested that NOAA revise § 971.214(f)(1)(ii)(C) as follows (strikeout text):

“(C) The number of days from receipt of the amended application in which the Administrator will certify or deny certification of the amended application in accordance with 15 CFR § 970.400. The Administrator shall ~~endeavor to complete~~ certification of an amended application within 50 days of receipt.”

Response. The term “endeavor” is from the Act when referring to the 100-day deadline to certify an application. See 30 U.S.C. 1413(g). This term is then mirrored in the regulations. For § 971.214(f)(1)(ii)(C), rather than

endeavoring to complete a review in 100 days, 50 days is a reasonable period to endeavor to complete review of the amended application, given NOAA’s experience to date in processing DSHMRA exploration applications.

Comment 74. For § 971.214(g) Effect of this section on pending applications, a commenter requested that NOAA revise § 971.214(g) as follows (underline text):

“(g) Effect of this section on pending applications. Within 60 days of this rule becoming final, an applicant who has an application for a license pending before the Administrator may notify the Administrator in writing of its intention to proceed under these consolidated procedures. Such applicants shall submit an amended application that complies with this subpart, and the amended application shall be processed in accordance with this subpart. In reviewing amended applications submitted under this section, the Administrator shall take into account prior review work completed under the previous procedures and avoid unnecessary duplication.”

Response. NOAA agrees with the comment in principle and addresses the comment above in the preamble explanation for paragraph (g). NOAA added a clause to the end of the paragraph that states that “except that any work, actions or decisions by NOAA, including required findings at various stages of the application process, shall continue to apply to the extent still applicable.” This change is a technical and procedural clarification that reflects NOAA’s original intent in proposing § 971.214(g) and that is consistent with the purpose and scope of the proposed rule. It does not establish or alter substantive rights.

Comment 75. One commenter urged NOAA to modify the DSHMRA regulations, including proposed 15 CFR 971.214(d)(6)(iii), to alert applicants to the need to coordinate with submarine cable companies and regulators in the proposed consolidated license and permit area and to require due diligence and specific identification of existing and planned submarine cables. More generally, the commenter urged NOAA to develop comprehensive cable protection regulations and guidance for deep seabed mining that ensures submarine cable protection and coordination between submarine cables and mining at the earliest stages of mining project proposals and planning. The commenter also urged NOAA to consult and coordinate with those agencies with licensing and policy responsibilities for submarine cables and telecommunications sector critical infrastructure, including the Federal Communications Commission, the Department of Commerce’s National Telecommunications and Information Administration, the Department of Homeland Security, and the Department of State.

Response. NOAA is aware of the potential for use conflicts between deep

seabed mining and submarine cables. However, the changes proposed by the commenter to establish comprehensive cable regulations and guidance for deep seabed mining are outside the scope of the present rulemaking and NOAA did not propose, or request public comment on, these issues, including the suggested guidance and further regulations related to submarine cables. Moreover, it is unnecessary to revise § 971.214(d)(6)(iii) as proposed by the commenter, as that provision is broad enough as written for applicants and NOAA to address submarine cables, including TCRs specific to submarine cables. NOAA declines to include a requirement for applicants to conduct additional due diligence steps regarding use conflicts and notes that under the regulations, the Administrator may require the applicant to submit additional data if the basis for determining appropriate TCRs is not available. In the future, NOAA could choose to consider revising the regulations to expressly address submarine cables via a separate action. Under the Act and the DSHMRA regulations there are substantial opportunities for both interagency consultation during the application review process, including with the Federal Trade Commission, Coast Guard, State Department, other Department of Commerce offices, and other federal agencies including the Federal Communications Commission if appropriate, and accepting comments from the public, including the opportunity for private companies and trade groups to give advice on specific TCRs to be attached to a given license or permit. See 30 U.S.C. 1426.

Comment 76. One commenter requested clarification that, under the proposed consolidated procedures, both the timeline for review set forth in current § 971.400 and the consultations required under § 971.402 would occur

concurrently with the Administrator’s review of a consolidated application. The commenter supported NOAA’s 100-day timeline to certify consolidated applications (as referenced in new § 971.214(e)) and requested clarification that this timeline encompasses the full review, consultation, and issuance or transfer process, thereby avoiding sequential delays.

Response. NOAA begins its interagency consultations early in the application review process under §§ 970.211 and 971.211, before certification of such application under § 971.214(e). However, interagency consultations will continue, as necessary and appropriate, throughout the application process even after certification has been completed. Section 971.402 simply describes the need to conclude these ongoing interagency consultations prior to the issuance or transfer of a commercial recovery permit; § 971.402 does not create a new, separate time period during the application process. The timeline for the development of TCRs for commercial recovery permits falls under § 971.400(b). The 100-day timeline is the period during which NOAA will endeavor to certify the consolidated application, but the issuance or transfer of the application would occur after the 100-day period.

Comment 77. A commenter recommended that NOAA explicitly include the imposition and content of TCRs for new, transferred, or modified licenses or permits under the provisions of § 971.214(e).

Response. As noted in § 971.214(a), all requirements set forth in 15 CFR parts 970 and 971, *except* those sections that § 971.214(a) states are inapplicable or those sections that are in conflict with the requirements of § 971.214, continue to apply. Section 971.214(e) applies to the certification stage of an

application; TCRs are drafted and finalized after certification and before issuance. The provisions governing TCRs for licenses or permits that were applied for under the consolidated process would continue to be 15 CFR part 970 subpart E and part 971 subpart D. However, one of the changes to the proposed rule text that NOAA has made regarding § 971.214 addresses this comment by modifying §§ 970.500(a) and 971.400(a) to say, “After certification of an application pursuant to subpart C of this part or § 971.214, the Administrator will proceed with a proposal to issue or transfer a permit for the commercial recovery activities described in the application.” For the consolidated license and permit application process, certification occurs under § 971.214(e) and not subpart C. By making a conforming change to reference § 971.214 in §§ 970.500(a) and 971.400(a), the connection to the TCR process is made explicit. These are conforming and clarifying edits that are consistent with the proposed rule and that do not alter any substantive rights.

Comment 78. Commenters supported an efficient and scientifically grounded approach to data submissions under § 971.214(d)(1) and suggested that NOAA allow the use of environmental, geological, and operational data required by this section from an adjacent, similarly situated area with the same, or substantially similar, deep-sea characteristics, such as habitat and fauna, as the area that is the subject of an application for a license or permit.

Response. Section 971.214(d)(1) describes past exploration activities that could be in the area proposed in the DSHMRA application or other areas and that are relevant to whether exploration activities are needed for the consolidated license and permit application. NOAA is not pre-determining what past exploration activities an applicant may include in its applications for a consolidated license and permit and the applicant can describe past exploration activities in the proposed area or adjacent or other similar areas as part of its explanation for § 971.214(d)(1)(ii), to the extent the applicant can explain the relevancy of the information.

Comment 79. A commenter requested clarification that under the proposed § 971.214(d)(1)(ii), an applicant may alternatively satisfy the informational requirement by filing a detailed plan with NOAA prior to the commencement of commercial recovery operations.

Response. Section 971.214(d)(1) describes past exploration activities, and an applicant must provide in its consolidated license and permit

application the explanation required under § 971.214(d)(1)(ii) so that NOAA can determine if the applicant is eligible to use the consolidated application based on whether the applicant can pursue commercial recovery activities in an expeditious and diligent manner.

Comment 80. A commenter recommended that NOAA clarify that the description of technology, equipment, methods, processing locations, and other related operational data provided under §§ 971.214(d)(3)(iii), (d)(5), and (d)(6), as applicable, may be based upon either the currently available techniques, knowledge and know-how, or the applicant's current expectations at the time of submission. The commenter argued that this flexibility would reflect the current capabilities of offshore mineral operations and processing operations while still affording the NOAA sufficient information to execute informed decisions.

Response. The current regulations and § 971.214 do not limit or pre-determine how an applicant can describe how it will address technology, equipment, methods, processing locations, and other related operational data.

Comment 81. A commenter argued that although DSHMRA provides for antitrust review, it does not mandate detailed information requirements such as those proposed in the Proposed Rule (§ 971.214(d)(9)). The commenter asserted they are counterproductive and should be eliminated.

Response. The Act requires that NOAA conduct an antitrust review, 30 U.S.C. 1413(d), and eliminating the information requirements in the new § 971.214(d)(9) would require changing the antitrust provisions in 15 CFR parts 970 and 971 for individual license or permit applications, which NOAA considers to be beyond the scope of this rulemaking. Moreover, the information collected pursuant to these regulatory provisions is important for compliance with the statutory requirement. However, NOAA has made some minor clarifying edits in § 971.214(d)(9), including clarifying that “affiliate” has the same definition as in § 970.101(d).

Comment 82. A commenter argued that the consolidated approach removes a critical separation of two processes, which introduces problems and issues that limit the ability of the agency to ensure effective protection of the marine environment. The commenter stated that the proposed rule language “exploration, if any . . .” is vague and, as written, could imply that exploration is not necessary before commercial recovery. The commenter argued that baseline characterization of the seabed

mineral resource, the physical and geochemical environment, and associated biological communities, all of which should occur during the exploration phase, is fundamental to an accurate environmental impact statement of the activity and the design of test mining and effective monitoring of impacts, which also occurs during the exploration phase. The commenter requested adding a formal requirement for a test mining phase after exploration and before commercial recovery.

Response. The consolidated license and permit application does not remove the need for the collection or provision of baseline data; rather, as explained in this preamble, the consolidated license and permit application process recognizes the advancements that have taken place in the deep seabed mining industry and exploration activities that industry has completed. As such, eligible applicants for the consolidated license and permit application process will need to explain why they can undertake commercial recovery activities in an expeditious and diligent manner. As noted herein, NOAA is not pre-determining what an applicant may use in its consolidated license and permit application to meet the requirements, and the applicant can describe past exploration activities in the proposed area or adjacent or other similar areas as part of its explanation for § 971.214(d)(1)(ii), new technologies that would allow for the quick generation of the necessary information, and/or access to necessary baseline data from another source, among other options. As for requiring a formal test mining phase after exploration and before commercial recovery, that requirement would be beyond the scope of this rulemaking. An applicant for an exploration license describes in its application the test mining that would be conducted as part of its proposed exploration activities, if any. However, depending on the information that an applicant provides in its initial license application, an applicant intending to conduct test mining at a later date may need to seek a revision to its license before conducting test mining and NOAA may need to supplement its NEPA evaluation.

Comment 83. A commenter requested that NOAA require explicit communication of uncertainty in the information provided to prepare the EIS and in quantification of the direct impact and potential longer-term effect of activities. Characterizing uncertainty could take the form of providing a range of outcomes for pollutants discharged or information on data quality and underlying assumptions used in

determining expected quantities of material recovered, duration and extent of disruption to marine ecosystems, etc. The commenter argued that characterizing uncertainty as precisely as possible is important to reduce risk as the industry progresses. To advance the acceptance of this industry, the commenter requested that NOAA focus on developing best practices and operational guidance rather than streamlining the permitting process.

Response. NOAA is not developing guidance on uncertainties in the industry, best practices, or operational guidance. However, NOAA is updating its DSHMRA technical guidance in a process that is separate from this rulemaking. Updating the technical guidance is critical for having data acquisition standards for monitoring potential impacts. NOAA expects to release a draft of the revised technical guidance for public review later this year. As NOAA gains experience with new DSHMRA applications, NOAA may provide additional guidance regarding thresholds for net financial resources or technological capabilities.

The 15 CFR part 970 and part 971 regulations include relevant provisions regarding the evaluation of environmental impacts, as well as best available technologies for the protection of safety, health, and the environment (§ 971.604). Regarding possible uncertainties in the industry, the regulations require that applicants using the consolidated license and permit application process must demonstrate that they possess the ability to proceed with commercial recovery in an expedited and diligent manner. Regarding the possibility of uncertainties in longer-term impacts of a proposed deep-sea mining activity, NOAA notes that it retains discretion, in evaluating the impacts of any particular proposal, to “draw what it reasonably concludes is a manageable line—one that encompasses the effects of the project at hand, but not the effects of projects separate in time or place.” *Seven County Infrastructure v. Eagle County, Colorado*, 605 U.S. 168, 189 (2025) (citations omitted).

§ 971.802 Public Disclosure of Documents Received by NOAA

NOAA revises § 971.802 to remove outdated procedures and cross-references for handling records and instead replaces the section with a cross-reference to the current regulations which govern public disclosure of documents received by NOAA. The changes revise paragraph (a), remove paragraphs (b) through (e), and redesignate paragraphs (f) and (g) as

paragraphs (b) and (c). The text of the redesignated paragraphs (b) and (c) remain unchanged from the current paragraphs (f) and (g). When an applicant requests that parts or all of an application be kept confidential, e.g., under § 971.214(c), the applicant should understand that NOAA must provide for public review of applications and that NOAA expects to release substantial portions of an application for this review.

Related Comments

Comment 84. A commenter argued that the open-ended requirement to submit proprietary technology details may chill R&D investment or spur excessive redactions. The commenter requested that NOAA clarify the confidential business information process under 15 CFR part 4 by specifying how to mark sensitive material, how it will be stored and redacted, and guaranteed review timelines.

Response. The Act requires that NOAA find that an applicant has the technological capability to carry out the activities described in an application. See 30 U.S.C. 1413(c)(2). This process will include NOAA’s evaluation of proprietary technological details. Regarding the treatment of proprietary information by NOAA or other federal agencies, the intent of the changes to § 971.802 was to replace outdated information with a single source for the Department of Commerce’s treatment of documents and proprietary information, 15 CFR part 4.

Comment 85. A commenter supported the proposed amendment to 15 CFR 971.802.

Response. NOAA appreciates the supportive comment.

Comment 86. Commenters expressed concern that the proposed changes to public disclosure of documents do not make clear when and how applications are made accessible to the public. A commenter stated that it was not clear from the proposed revision to § 971.802 how the public would access the applications for exploration and commercial recovery submitted to NOAA, in particular when and how the information would be made available. The commenter argued that members of the public have a legal right to review and comment on all aspects of DSHMRA applications, and it is incumbent on applicants to demonstrate that any information in an application warrants designation as confidential. The commenter further argued that the application as a whole cannot be shielded from public access as that would violate NOAA’s legal obligations

to provide opportunities for public review and comment. The commenter argued that interested persons should not have to make a formal FOIA request to obtain relevant application materials that have been submitted; it is NOAA’s obligation pursuant to 15 CFR 970.212 and 971.212 to allow for examination of such materials in order for the public to be able to comment within the allotted time period.

Response. The original public disclosure text in § 971.802 was outdated and no longer reflected present public disclosure requirements for federal agencies. Regarding public review and comment of formal DSHMRA applications that applicants have submitted to NOAA, NOAA will provide public review and opportunities to comment on those parts of applications that are not confidential in accordance with the applicable provisions of DSHMRA and 15 CFR parts 4, 970, and 971. NOAA publishes notices of DSHMRA applications and opportunities to comment in the **Federal Register** after NOAA finds an application in full compliance or fully complete.

V. Miscellaneous Rulemaking Requirement

Executive Order 12372: Intergovernmental Review

NOAA has concluded that this regulatory action does not affect any state’s intergovernmental review process established under Executive Order 12372.

Executive Order 13132: Federalism Assessment

NOAA has concluded that this regulatory action is consistent with federalism principles, criteria, and requirements stated in Executive Order 13132. The changes to the DSHMRA regulations will facilitate the submission of exploration license and commercial recovery permit applications as well as NOAA and interagency review of the applications. DSHMRA and these regulatory changes do 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. Because DSHMRA and these regulations do not affect the principles of federalism, no federalism assessment was prepared.

Executive Order 12866: Regulatory Planning and Review

Based on the analysis in the RIA and public comment received during the

proposed rule stage, OMB has determined this final rule is a significant but not economically significant action under Executive Order 12866, “Regulatory Planning and Review,” 58 FR 51735 (Oct 4, 1993).

Executive Order 14192: Unleashing Prosperity Through Deregulation

This final rule is an E.O. 14192 deregulatory action.

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

This final rule is not a “significant energy action” for purposes of Executive Order 13211. Therefore, NOAA has not prepared a statement of energy effects. The DSHMRA regulations and these revisions will not result in a “significant adverse effect on the supply, distribution, or use of energy.”

Executive Order 14285: Unleashing America’s Offshore Critical Minerals and Resources.

E.O. 14285 establishes policies to advance U.S. leadership in seabed mineral exploration and responsible commercial recovery. Section 3(a) directs the Secretary of Commerce, acting through NOAA, to expedite the process for reviewing and issuing exploration licenses and commercial recovery permits under DSHMRA, consistent with applicable law, to “ensure efficiency, predictability, and competitiveness for American companies.” This rulemaking responds to the directives of E.O. 14285 by providing an option for a consolidated application process, which will streamline and expedite the process for eligible and qualified applicants to apply for and receive an exploration license and commercial recovery permit.

Executive Order 14294 Fighting Overcriminalization in Federal Regulations

Section 5 of Executive Order 14294 provides, in relevant part, that notices of final rules published in the **Federal Register**, the violation of which may constitute criminal regulatory offenses, should include a statement identifying that the rule is a criminal regulatory offense and the authorizing statute.

The Executive Order defines a “criminal regulatory offense” as “a Federal regulation that is enforceable by a criminal penalty.” E.O. 14294 section 3(b) (90 FR 20363).

DSHMRA establishes that a person subject to the jurisdiction of the United States is guilty of a criminal offense “if

such person willfully and knowingly commits any act prohibited by section 1461 of [DSHMRA].” 30 U.S.C. 1463(a). Acts prohibited under Section 1461 include “violat[ing] . . . any regulation issued under [DSHMRA].” 30 U.S.C. 1461(1). As such, for any criminal regulatory offense enforced under the authority of DSHMRA, the Act requires that the offense be committed “willfully and knowingly” to satisfy the applicable mens rea requirement.

NOAA received no public comments on the implementation of E.O. 14294.

Regulatory Flexibility Act

The RFA (5 U.S.C. 601 *et seq.*) requires Federal agencies to prepare an analysis of a rule’s impact on small businesses whenever the agency is required to publish a rulemaking, unless the agency certifies, pursuant to 5 U.S.C. 605, that the action will not have significant economic impact on a substantial number of small businesses. The RFA requires agencies to consider, but not necessarily minimize, the effects of rules on small businesses. The goal of the RFA is to inform the agency and public of expected economic effects of the action and to ensure the agency considers alternatives that minimize the expected economic effects on small businesses while meeting applicable goals and objectives.

NOAA developed the FRFA discussing the impacts of the proposed rule on small businesses. The analysis was updated to incorporate revisions to benefit and cost estimates for the final rule with no changes to its conclusion. The Final RIA, Section 7, Final Regulatory Flexibility Analysis (FRFA), contains additional information. NOAA has also developed a DSHMRA web page that serves, in part, as a small business compliance guide for SBREFA purposes, <https://oceanservice.noaa.gov/deep-seabed-mining/>. NOAA received some public comments on the Initial Regulatory Flexibility Analysis that NOAA has considered and addressed in the FRFA. Please see the response to Comment 22. For responses to comments on the consolidated application fee, please refer to NOAA’s responses to Comments 33 and 34.

Summary of Findings

NOAA has determined that the final rule would result in a cost savings for the affected businesses. Based on the information from this analysis we found that: (1) there are an estimated seven U.S. businesses that would be affected by this final rule; (2) for these seven businesses, we estimate that 57% (or four businesses) are considered small based on the Small Business

Administration (SBA) size standards; and (3) although we estimate that seven businesses would be affected by this final rule, we recognize that the number of applicants could be even smaller since currently there are no U.S. companies engaged in deep seabed commercial recovery of hard mineral resources and there are specific technological, engineering, capital and support services required to undertake seabed mining.

1. Final Regulatory Flexibility Analysis

The RFA establishes “as a principle of regulatory issuance that agencies shall endeavor, consistent with the objectives of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the businesses, organizations, and governmental jurisdictions subject to regulation. To achieve this principle, agencies are required to solicit and consider flexible regulatory proposals and to explain the rationale for their actions to assure that such proposals are given serious consideration.”

2. Statement of Need for and Objectives for the Rule

Prior to this final rule, the DSHMRA regulations required a sequential process. Applicants first had to obtain an exploration license before a commercial recovery permit could be applied for. While this sequential approach was initially appropriate due to the nascent stage of deep seabed mining technology and the data needed for a commercial recovery application, a consolidated review was always envisioned for a more mature industry.

The statutory authority for NOAA to prescribe, change, revise, or amend the affected regulations under 15 CFR parts 970 and 971 is provided under DSHMRA (30 U.S.C. 1413, 1426). NOAA published its DSHMRA exploration license regulations (15 CFR part 970) in 1981, and its commercial recovery permit regulations (15 CFR part 971) in 1989.

The objective of this final rule is to provide the option for a consolidated application that streamlines the process for qualified applicants, in accordance with E.O. 14285, “Unleashing America’s Offshore Critical Minerals and Resources,” establishing policies to advance U.S. leadership in seabed mineral exploration and responsible commercial recovery.

3. Summary of Substantive Issues Raised by Public Comments and Statement of Changes

As a result of the public comments and additional public data available,

NOAA has updated the FRFA estimates based on the following changes: (1) partial monetization of the applicant's benefit of 100 days saved through the consolidated permit process and (2) included a revision to the applicant's wage burden benefit calculated using PRA "OMB Control #0648-0145," Section 12. For more information on these updates, please see Section 1.2.a. of the Final RIA. The changes did not impact the number of entities affected by the rule but resulted in an increased benefit to the small business when accounting for the 100 days cost savings. The detailed description of the cost impact to the small businesses is described in the *Cost Impact Analysis* of this FRFA.

4. Description of the Estimated Number of Small Businesses

NOAA used the North American Industry Classification System (NAICS)

codes of the current businesses that have applied or expressed interest (prospective DSHMRA applicants). The agency identified seven businesses likely to be affected by this rule. Research and compilation of employee size and revenue data for all seven businesses was conducted. Available name and address information was used to research public and proprietary databases for business type (subsidiary or parent business), primary line of business, employee size, and revenue. The preferred source, deemed most authoritative, came directly from prospective DSHMRA applicants. Employee size and revenue data for all seven businesses was collected and analyzed. Using names and addresses, public and proprietary databases were consulted to determine business type (subsidiary or parent), primary line of business, employee count, and revenue. The most authoritative information was

obtained directly from prospective DSHMRA applicants. In cases where the prospective DSHMRA applicant did not provide this information, the secondary preferred source came from Dun & Bradstreet, which provides a comprehensive database of business records for over 600 million organizations internationally. This information was matched to the SBA's "Table of Small Business Size Standards" to determine if a business is small in NAICS 212290—All Other Metal Ore Mining which best describes deep-sea mining. This industry has an SBA size standard of 1,250 employees. Based on the information available, four out of seven businesses were classified as potentially impacted by this final rule as small businesses.⁴ In addition to these directly impacted small businesses, businesses in several other industries may be indirectly impacted and are included in Table 1.

TABLE 1—NAICS CATEGORIES FOR SMALL BUSINESSES

NAICS code	Description	Number of small businesses by industry *	Small business share of industry * (%)	Estimated revenue per small business *	SBA standard **	Number of small businesses affected by the rule ***
212290 ...	All Other Metal Ore Mining	30	88	\$40.5 M	1,250 Employees ..	4
213114 ...	Support Activities for Metal Mining	158	90	2.3 M	\$41.0 M .....	.....
213115 ...	Support Activities for Nonmetallic Minerals (except Fuels) Mining.	175	90	2.7 M	20.5 M .....	.....
523110 ...	Investment Banking and Securities Intermediation.	1,861	91	2.6 M	47.0 M .....	.....
541620 ...	Environmental Consulting Services	8,119	97	1.2 M	19.0 M .....	.....
541690 ...	Other Scientific and Technical Consulting Services.	25,810	98	0.8 M	19.0 M .....	.....

* Source: U.S. Census Bureau Statistics of US Businesses.

** Source: SBA Office of Size Standards.

*** Source: NOAA records. The number of small businesses is calculated based on business information received from potential DSHMRA applicants and SBA Size Standards by 6-digit NAICS code. In some cases, the SBA Size Standard is based on a business's total annual receipts (gross income plus cost of goods sold). Due to a lack of data on businesses' annual receipts it was not possible to determine whether they met the standard for a small business.

5. Cost Impact Analysis

As noted in the Final RIA, there are cost efficiencies in the transition from print to digital for submission of the application and also efficiencies in the consolidation of the permitting process rather than completing both the exploratory license and commercial recovery permit processes. Monetized savings are found in the preparation of one report rather than two and the need to attend only one adjudicatory hearing in the event certification is denied, rather than two. The applying business would also see a savings of 100 days

through only one review process rather than two.

For an individual small business considering the consolidated application over the separate and sequential exploratory and recovery permit processes, they would see a cost savings of 5,099 from transitioning from paper to digital application,⁵ 43,125 from submitting only one application package, 26,358 from reducing the number of adjudicatory hearings for any denial of certification from two to one, and 2,411,192 from time savings of 100 days to start the recovery process. For a business electing the sequential process

of exploratory licenses and commercial recovery permit applications, the benefits of transitioning from paper to digital application submissions would be 5,002.⁶ Other benefits from the standardization of the exploratory and commercial recovery applications were not quantified.

The net benefits associated with these cost savings over the 10-year period between 2026–2035 are presented in Table 2. The total net benefits (USD) of the final rule is 23,523,304 undiscounted, 20,065,855 discounted at three percent, and 16,521,784 discounted at seven percent.

⁴ Out of the seven businesses analyzed one business was determined not a small business and two businesses could not be assessed due to a lack of employment information.

⁵ This includes the net benefits resulting from transitioning from paper to digital for the exploration and recovery applications (2,856 – 97 = 2,759 and 2,533 – 97 = 2,436) less the cost of digital submission for the consolidated application (97).

⁶ This includes the net benefits resulting from transitioning from paper to digital for the exploration and recovery applications (2,856 – 97 = 2,759 and 2,533 – 97 = 2,436) less the cost of two digital submissions (194).

TABLE 2—FRFA ESTIMATES OF COSTS AND BENEFITS TO APPLICANT BUSINESSES OVER TEN YEARS
[2026 USD]

Year	Costs (New costs)			Benefits (Cost savings)			Net benefit		
	Undiscounted	3% Discount	7% Discount	Undiscounted	3% Discount	7% Discount	Undiscounted	3% Discount	7% Discount
2026	\$150,872	\$146,478	\$141,002	\$2,503,202	\$2,430,294	\$2,339,441	\$2,352,330	\$2,283,816	\$2,198,440
2027	150,872	142,211	131,777	2,503,202	2,359,508	2,186,394	2,352,330	2,217,297	2,054,616
2028	150,872	138,069	123,156	2,503,202	2,290,785	2,043,359	2,352,330	2,152,716	1,920,202
2029	150,872	134,048	115,099	2,503,202	2,224,063	1,909,681	2,352,330	2,090,015	1,794,582
2030	150,872	130,143	107,570	2,503,202	2,159,284	1,784,749	2,352,330	2,029,141	1,677,179
2031	150,872	126,353	100,532	2,503,202	2,096,393	1,667,989	2,352,330	1,970,040	1,567,457
2032	150,872	122,673	93,955	2,503,202	2,035,333	1,558,869	2,352,330	1,912,660	1,464,913
2033	150,872	119,100	87,809	2,503,202	1,976,051	1,456,887	2,352,330	1,856,951	1,369,078
2034	150,872	115,631	82,064	2,503,202	1,918,496	1,361,576	2,352,330	1,802,865	1,279,512
2035	150,872	112,263	76,696	2,503,202	1,862,618	1,272,501	2,352,330	1,750,355	1,195,805
Total	1,508,719	1,286,968	1,059,661	25,032,023	21,352,824	17,581,446	23,523,304	20,065,855	16,521,784
Annualized	150,872	150,872	150,872	2,503,202	2,503,202	2,503,202	2,352,330	2,352,330	2,352,330

Note: Discounted and annualized amounts are calculated assuming expenditures and payments at the end of year.

This final rule would result in benefits (*i.e.*, compliance cost savings) to the small businesses. To assess the impact to small businesses, benefits were calculated as a percentage of businesses' revenues. Annual revenue figures could be found for only two of the four applicants that were determined to be small businesses⁷ and showed an interest in applying for a deep seabed mining license and/or commercial recovery permit. This was primarily due to the majority of interested businesses being newly incorporated in 2025. Using business reports and financial records, it was found that the small business benefits of the final rule would have greater than a one percent positive impact on annual revenues.

6. Description of Recordkeeping and Other Compliance Requirements

This final rule will reduce the current requirements for reporting, recordkeeping, and other paperwork requirements for affected businesses by transitioning to electronic delivery and offering an optional consolidated process to streamline exploration licensing and commercial recovery permit applications. These changes and their impacts are described in more depth in Chapters 4 and 5 of the Final RIA.

7. Overlapping, Duplicative, or Conflicting Federal Rules

The requirements of this final rule will not duplicate, overlap, or conflict with any other Federal requirement.

⁷ Due to limited data on business revenue and/or employee totals, it could not be determined whether two potential DSHMRA applicants were small businesses. Hence, these businesses were not included in this analysis.

8. Steps Taken To Minimize the Significant Impact on Small Entities

The requirements in the final rule would bring benefits (*i.e.*, compliance cost savings) to small businesses. NOAA's ability under the Act to develop alternatives to the license and permit processes are limited, as DSHMRA states that an application for an exploration license establishes priority of right to an area. Therefore, NOAA could not, through regulation, remove the requirement for an exploration license. NOAA did consider various amounts for the administrative fee for the consolidated license and permit process. Under existing regulations, the fee for an exploration license application is \$100,000, and the fee for a commercial recovery permit application would be another \$100,000. NOAA is proposing a \$350,000 fee for the consolidated license and permit application, which imposes a cost burden of \$150,000 when compared to the total cost of \$200,000 when permits are pursued sequentially. Additionally, as required in the Act (30 U.S.C. 1414) and described in the regulations (15 CFR 970.208 and 971.208), an applicant must pay to the Administrator a reasonable administrative fee, and the amount of the administrative fee shall reflect the reasonable administrative costs incurred in reviewing and processing the application. Therefore, this fee may be adjusted up or down depending on the administrative costs incurred. For further discussion of the consolidated application fee, please refer to Comments 33 and 34, and NOAA's responses to those comments, above.

Paperwork Reduction Act

This rule contains a collection-of-information requirement subject to

review and approval by the OMB under the PRA, 44 U.S.C. 3501 *et seq.* This rule extends and revises the requirements for the collection of information 0648–0145, formerly titled "Deep Seabed Mining Regulations for Exploration Licenses" and now renamed "Deep Seabed Mining Regulations." In accordance with Section 3507(d) of the PRA, the information collection requirements included in this rule have been submitted for approval to OMB.

This rule permits the submissions of consolidated applications seeking both exploration licenses and commercial recovery permits. Anyone seeking an exploration license or commercial recovery permit must submit certain information that allows NOAA to ensure the applicant meets the standards of the Act. Licensees and permittees are required to conduct monitoring and make reports, including annual reports regarding the licensee's or permittee's conformance to the schedule of activities and expenditures contained in the license or permit, and they may request revisions, transfers, or extensions of licenses or permits. Information required for the issuance, revision, transfer, and extension of licenses and permits ensures that the Administrator is able to make determinations on the findings set forth in 30 U.S.C. 1413(c) and 30 U.S.C. 1415(a) and the factors set forth in the DSHMRA regulations. These findings and factors include that applicants have identified areas of interest for deep seabed hard mineral exploration and production; developed plans for those activities; have the financial resources available to conduct the proposed activity; and have considered the effects of the activity on the natural and human environment. This information is used

to determine whether licenses and permits should be issued, revised, transferred, or extended. The licenses and permits are subject to annual reporting requirements and may be subject to extension requests (every five years for exploration licenses, or every twenty years for commercial recovery permits).

NOAA estimates that the public reporting burden for applicants taking advantage of the consolidated exploration license and commercial recovery permit process would be 1,125 hours per applicant; with an estimated one applicant per year using the consolidated process, the total annual burden hours for this process would be 1,125 hours. This estimate takes into account the one-time initial cost (in hours) per entity to prepare and submit to NOAA the consolidated license and permit application. NOAA estimates that the public reporting burden for applicants submitting an exploration license application alone would be 750 hours per applicant, with seven applicants anticipated per year resulting in total annual burden hours of 5,250. A commercial recovery permit application alone would be 750 hours, with one anticipated commercial recovery permit applicant per year for a total of 750 anticipated annual burden hours. This estimate takes into account the one-time initial cost (in hours) per entity to prepare and submit to NOAA either a license application or a permit application.

NOAA anticipates a total of seven annual exploration license applications, one annual commercial recovery permit application, and one annual consolidated application for both an exploration license and a commercial recovery permit. These estimates reflect an upper bound which may overstate the anticipated annual burden, and the burden estimates will be updated in the next renewal cycle based on the actual number of applications received. NOAA sought information from potential respondents as to the time estimates of preparing applications. One potential respondent estimated a total of 3,600 hours to prepare three applications, resulting in an estimated 1,200 hours per application. Another respondent estimated a total of 600 hours to prepare two applications, resulting in an estimated 300 hours per application. Averaging the estimated time burden between these two potential respondents results in an estimated 750 hours per application. NOAA used this hour estimate for the time burden of preparing a single license or permit application. For a consolidated exploration license and commercial

recovery permit application, this is a new proposed process, but NOAA provides an educated estimate that the time burden would be 1.5 times that of a single application, due to efficiencies gained in reducing duplication of effort. As such, NOAA estimates that preparation of a consolidated application would take 1,125 hours. NOAA will update this information in future renewals of this collection based on the actual number of license applications, permit applications, and consolidated applications received during the collection approval cycle, and on further information.

NOAA estimates that there may be one objection to license or permit terms, conditions, or restrictions received per year. NOAA anticipates that the respondent would spend 250 hours per objection for an estimated total annual burden of 250 hours.

Every subsequent year, NOAA anticipates that the total annual cost burden (in hours) for applicable entities to implement the rule by filing annual reports would be 20 hours per report, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. The estimated total burden to produce an annual report will vary according to the amount of activities by the license and/or permit holder and is expected to average 20 hours based on previous reports submitted to NOAA. With 10 anticipated annual reports per year, that would result in a total of 200 annual burden hours for annual reports.

The estimated total burden to prepare a license or permit extension request which includes an exploration plan or commercial recovery plan is 250 hours. A license is issued for a period of ten years. Extension requests may be submitted every five years for exploration licenses, or may be submitted after ten or twenty years (depending on circumstances) for commercial recovery permits. NOAA estimates that the annualized burden hours of extension requests is 100 annualized hours for exploration license extension requests and 25 annualized hours for commercial recovery permit extension requests.

The estimated total burden to prepare a license or permit revision is 40 hours. Based on historical data, NOAA expects to receive 2 revision requests in a given year for a total of 80 annual burden hours.

The estimated total burden to prepare a license or permit transfer request is 750 hours. Based on historical data, NOAA expects to receive 1 transfer

request every 10 years. NOAA estimates that the annualized burden of a transfer request is 75 hours.

NOAA has made an educated estimate, based on its experience with processing other types of permit or license hearings or appeals, that the applicant may spend 200 hours of time preparing submittals for an adjudicatory hearing if such hearing is requested or necessary. NOAA anticipates that there may be one adjudicatory hearing per year for a total of 200 annual burden hours.

In sum, the estimated annual public reporting burden hours for this collection of information is 8,055 hours. The estimated total annual wage burden costs would be \$926,325 based on the Bureau of Labor Statistics Occupational Outlook Handbook mean annual wage estimate for Chief Executives (11-1011) at \$239,200 (<https://www.bls.gov/ooh/management/top-executives.htm#tab-5>). The hourly wage rate was calculated by dividing the mean annual salary by 2,080 hours for an hourly wage rate of \$115.

NOAA anticipates that the annual cost burden for applicable entities taking advantage of the consolidated exploration license and commercial recovery permit process is \$350,000 since the consolidated application fee has been set at this amount. With one anticipated consolidated application per year, this would be a total estimated annual cost to respondents of \$350,000 for the consolidated permit process.

NOAA anticipates that the annual cost burden for applicants submitting an exploration license application alone or a commercial recovery permit application alone would be \$100,000 for the application fee. With an anticipated seven exploration license applications and one commercial recovery permit application per year, this would be a total estimated annual cost to respondents of \$800,000 for the exploration license and commercial recovery permit applications. NOAA anticipates that there may be one adjudicatory hearing per year. It is anticipated that a respondent will hire an attorney for any adjudicatory hearings. The cost anticipates that the attorney will spend approximately 200 hours of work submitting evidence, providing oral argument, and submitting written arguments if desired. The mean hourly wage rate for a lawyer (BLS occupational code 23-1011, <https://data.bls.gov/oesprofile/>) is \$87.86. A multiplier of 1.5 was used to calculate the loaded salary/anticipated billing rate, for an hourly rate of \$131.79. 200 hours × \$131.79/hour = \$26,358.

In sum, the total estimated annual cost burden to respondents or record keepers is \$1,176,358. This total estimated annual cost burden does not include the cost of wage burden hours described above; the total estimated wage burden cost is \$926,325 as described above.

These hour and cost estimates are subject to variations among responsible entities depending on the size of the area being explored or mined and the extent of operations. As NOAA gains experience with the regulatory program, burden estimates will be revised.

The estimated annual federal salary cost to the U.S. Government is \$2,222,226. These estimates are based on base salaries calculated using the General Schedule (GS) pay tables (<https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2025/RUS.pdf>) for the Rest of U.S. location. The Rest of U.S. location was used since NOAA employees are geographically dispersed. A multiplier of 1.5 was used to calculate the loaded salary. The estimated number of federal employees needed to process the information collection for the applications and other reporting requirements are 20 employees, with ten employees at a salary level of GS–15, five employees at a salary level of GS–14, and five employees at a salary level of GS–13.

NOAA anticipates travel may be required for public hearings, with an estimated annual cost of \$48,000 based on an estimated four trips per year for four staff, costing \$3,000 each.

NOAA anticipates there may be one adjudicatory hearing per year. The base salary cost for the Administrative Law Judge for the hearing was calculated using the GS pay tables (<https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2025/ALJ.pdf>) and using a multiplier of 1.5 to obtain the loaded salary for an estimated cost of \$6,023.

In sum, the total estimated annual cost to the U.S. Government is \$2,276,249.

NOAA solicited comments on this determination in the proposed rule, and several comments addressing the impact to small business and the cost burden were received. These comments were reviewed and addressed in the previous comment section. See NOAA Responses to Comments 21 and 22.

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.

National Environmental Policy Act

NOAA analyzed this rule in accordance with the National Environmental Policy Act (NEPA, 42 U.S.C. 4321 *et seq.*), the NOAA Administrative Order 216–6A, and the NOAA Companion Manual, “Policy and Procedures for Compliance with the National Environmental Policy Act and Related Authorities” (effective June 30, 2025). This rule establishes a consolidated permit application process without changing the substantive standards to which applications will be held. Because this rulemaking includes only technical and/or procedural changes to the regulatory text, it falls within a category of actions that NOAA has determined normally does not significantly affect the quality of the human environment and therefore maybe excluded from the requirement to prepare an environmental assessment or an environmental impact statement. Specifically, the rule is consistent with the criteria of categorical exclusion reference number G7 in Appendix E of the NOAA Companion Manual, Preparation of policy directives, rules, regulations, and guidelines of an administrative, financial, legal, technical, or procedural nature, or for which the environmental effects are too broad, speculative or conjectural to lend themselves to meaningful analysis and will be subject later to the NEPA process, either collectively or on a case-by-case basis. NOAA has not identified any extraordinary circumstances that would preclude this categorical exclusion. Furthermore, as required by DSHMRA (30 U.S.C. 1419(d)), NOAA will prepare an environmental impact statement before issuing any license or permit. Therefore, NOAA has determined that this rule would not result in significant effects to the human environment and qualifies to be categorically excluded from the need to prepare a further NEPA analysis. NOAA reviewed comments submitted in response to the notice of proposed rulemaking prior to concluding this NEPA process and finalizing this rule, and responses to those comments are included in the preamble of this final rule.

List of Subjects in 15 CFR Parts 970 and 971

Administrative practice and procedure, Marine resources, Mineral resources.

Neil A. Jacobs,

Under Secretary of Commerce for Oceans and Atmosphere and NOAA Administrator, National Oceanic and Atmospheric Administration.

For the reasons stated in the preamble, NOAA amends 15 CFR parts 970 and 971 as follows:

PART 970—DEEP SEABED MINING REGULATIONS FOR EXPLORATION LICENSES

■ 1. The authority citation for part 970 continues to read as follows:

Authority: 30 U.S.C. 1401 *et seq.*

■ 2. Amend § 970.200 by revising paragraph (b) to read as follows:

§ 970.200 General.

* * * * *

(b) *Place, form and copies.*

Applications for the issuance or transfer of exploration licenses shall be submitted in electronic format, verified and signed by an authorized officer or other authorized representative of the applicant, to an email address or website as specified by NOAA. The application format shall be organized according to the specific regulatory topics and sections. For applications received electronically after the close of business, for purposes of computing the Administrator’s required response time, the application shall be deemed to be received at 8 a.m. eastern time on the next business day.

* * * * *

■ 3. Amend § 970.208 by revising the first sentence in paragraph (b) to read as follows:

§ 970.208 Fee.

* * * * *

(b) *Amount.* In order to meet this requirement, a fee payment of \$100,000 payable to the National Oceanic and Atmospheric Administration, Department of Commerce, shall be submitted prior to or concurrent with each application; the application should state the method of payment and the date the payment was submitted. * * *

■ 4. Revise § 970.209 to read as follows:

§ 970.209 Substantial compliance with application requirements.

(a) Priority of right for the issuance of licenses to new entrants shall be established on the basis of the chronological order in which

exploration license applications filed under subpart A of this part and consolidated license and permit applications filed under § 971.214 of this chapter that are in substantial compliance are received by the Administrator.

(b) In order for an application to be in substantial compliance, it shall include information specifically identifiable with and materially responsive to the requirements contained in, as applicable, §§ 970.201 through 970.208 or § 971.214(d) of this chapter. A determination on substantial compliance shall relate only to whether the application contains the required information and does not constitute a determination on certification of the application, or on issuance or transfer of a license or permit.

(c) The Administrator shall notify the applicant in writing whether the application is in substantial compliance within 30 days of receipt of an application. The notice shall identify, if applicable, in what respects the application is not in either full or substantial compliance. If the application is in substantial but not full compliance, the notice shall specify the information which the applicant shall submit in order to bring it into full compliance, and why the additional information is necessary.

■ 5. Revise § 970.210 to read as follows:

§ 970.210 Reasonable time for full compliance.

Priority of right shall not be lost in case of any application filed which is in substantial but not full compliance, as specified in § 970.209, if the Administrator determines that the applicant, within 60 days after issuance to the applicant by the Administrator of written notice that the application is in substantial but not full compliance, has brought the application into full compliance with the requirements, as applicable, of §§ 970.201 through 970.208 or § 971.214(d) of this chapter.

■ 6. Amend § 970.303 by revising paragraph (a) to read as follows:

§ 970.303 Procedures for new entrants.

(a) *Filing of new entrant applications or amendments; priority of right.* New entrant applications or amendments shall be filed in accordance with § 970.200 or, as applicable, § 971.214(b) and (c) of this chapter. A new entrant may file an application or amendment only at or after 1500 hours GMT (11:00 a.m. EDT) January 3, 1983. All applications or amendments filed at that time shall be deemed to be filed simultaneously, and, if in accordance with § 970.209, shall have priority of

right over any application or amendment filed subsequently. Priority of right for any application or amendment filed after that time shall be established as described in § 970.209.

* * * * *

■ 7. Amend § 970.500 by revising paragraph (a) to read as follows:

§ 970.500 General.

(a) *Proposal.* After certification of an application pursuant to subpart D of this part, or, as applicable, § 971.214(e) of this chapter, the Administrator shall proceed with a proposal to issue or transfer a license for the exploration activities described in the application.

* * * * *

■ 8. Amend § 970.513 by revising the third sentence in paragraph (a) and paragraphs (b) and (c)(1) to read as follows:

§ 970.513 Revision of a license.

(a) * * * In some cases, it may even be advisable to recognize at the time of filing the original license application that although the essential information for issuing or transferring a license as specified in §§ 970.201 through 970.208, or as specified in § 971.214(d) of this chapter, as applicable, shall be included in such application, some details may have to be provided in the future in the form of a revision. * * *

(b) The Administrator shall approve such application for a revision upon a finding in writing that the revision shall comply with the requirements of the Act and this part.

(c) * * *

(1) The bases for certifying the original application pursuant to §§ 970.401 through 970.406, or, as applicable, pursuant to § 971.214(e) of this chapter;

* * * * *

PART 971—DEEP SEABED MINING REGULATIONS FOR COMMERCIAL RECOVERY PERMITS

■ 9. The authority citation for part 971 continues to read as follows:

Authority: 30 U.S.C. 1401 *et seq.*

■ 10. Amend § 971.101 by revising paragraphs (d) and (r) to read as follows:

§ 971.101 Definitions.

* * * * *

(d) *Applicant* means an applicant for a commercial recovery permit pursuant to the Act and this part; as used in § 971.214, applicant means an applicant using the consolidated exploration license and commercial recovery permit application process; as used in subparts H, I and J of this part, “applicant” also

means an applicant for an exploration license pursuant to the Act and part 970 of this chapter. “Applicant” also means a proposed permit transferee;

* * * * *

(r) *Recovery plan or commercial recovery plan* means the plan submitted by an applicant for a commercial recovery permit pursuant to § 971.203 or, as applicable, pursuant to § 971.214;

* * * * *

■ 11. Amend § 971.200 by revising paragraph (b) to read as follows:

§ 971.200 General.

* * * * *

(b) *Place, form and copies.* An application for the issuance or transfer of a commercial recovery permit shall be submitted in electronic format, verified and signed by an authorized officer or other authorized representative of the applicant, to an email address or website as specified by NOAA. The application format shall be organized according to the specific regulatory topics and sections. For applications received electronically after the close of business, for purposes of computing the Administrator’s required response time, the application shall be deemed to be received at 8 a.m. eastern time on the next business day.

* * * * *

■ 12. Amend § 971.208 by revising the first sentence in paragraph (b) to read as follows:

§ 971.208 Fee.

* * * * *

(b) *Amount.* A fee payment of \$100,000 payable to the National Oceanic and Atmospheric Administration, Department of Commerce, shall be submitted prior to or concurrent with each application; the application should state the method of payment and the date the payment was submitted. * * *

■ 13. Add § 971.214 to read as follows:

§ 971.214 Consolidated license and permit procedures.

(a) *Applicability and Order of Precedence.* This section shall govern all consolidated applications that seek both an exploration license and a commercial recovery permit under the Act. Consolidated license and permit applications shall follow the requirements in this section and not the requirements set forth in §§ 970.200 through 970.208 of this chapter, 970.400 through 970.408 of this chapter, and §§ 971.200 through 971.210, and 971.300 through 971.303. All other requirements set forth in 15 CFR parts 970 and 971 that are not in conflict with

the requirements of this section shall apply to a consolidated license and permit application, and all the sections in part 970 of this chapter and this part, except for this section, shall continue to apply to individual license or permit applications. With respect to consolidated applications filed under this section, in the event of any conflict or inconsistency between any provision of this section and any provision of part 970 of this chapter and this part, the provision of this section shall control.

(b) *Who may apply; how.* Any United States citizen who can demonstrate that he, she, or it possesses the scientific, technical, and financial resources to pursue commercial recovery activities in an expeditious and diligent manner may apply to the Administrator for issuance or transfer of an exploration license and a commercial recovery permit using the “consolidated license and permit procedures” as set out in this section. Under these consolidated procedures, a qualified applicant may submit a single consolidated application that seeks both an exploration license and a commercial recovery permit. The Administrator shall issue an exploration license and a commercial recovery permit to the applicant if the application complies with the Act and regulations. The Administrator shall consolidate public hearings and other proceedings for the concurrent processing of the issue or transfer of the license or permit to the extent practicable. The Administrator may prepare a single environmental impact statement that evaluates the impacts of both exploration activities and commercial recovery activities, rather than one environmental impact statement for the exploration license and another environmental impact statement for the commercial recovery permit. Further, the Administrator shall prepare and issue separate proposals to issue or transfer the license or permit, in accordance with §§ 970.500 of this chapter and § 971.400; each proposed license or permit will have its own proposed terms, conditions, and restrictions.

(c) *Application and form of applications.* The application shall contain the information required in paragraph (d) of this section, in the order they appear. Each portion of the application shall identify the requirements of this section to which it responds. An applicant shall request to have any information in its application be kept confidential at the time of submitting the information. An applicant shall include information previously submitted that the applicant will rely on in the consolidated license

and permit application. Applications shall be submitted electronically as specified by the Administrator. For applications received electronically after the close of business, for purposes of computing the Administrator’s required response time, the application shall be deemed to be received at 8 a.m. eastern time on the next business day.

(d) *Contents.* The application shall contain information sufficient to enable the Administrator to make the findings set forth in 30 U.S.C. 1415(a) and 15 CFR 970.500(c), 971.214(e), and 971.400(c), including the items in paragraphs (d)(1) through (11) of this section.

(1) *Past exploration description and statement of diligence.* A statement by the applicant demonstrating that it possesses the scientific, technical, and financial resources to pursue commercial recovery activities in an expeditious and diligent manner, and detailed support for this statement. Support for this statement may include descriptions of past exploration activities or other relevant information, including, to the extent applicable, paragraphs (d)(1)(i) through (iii) of this section (to the extent this information is not applicable, the application should affirmatively state so):

(i) The description of past exploration activities shall contain information on what relevant work, if any, was performed prior to application submission by the applicant, the proposed transferor, or other entities prior to application. This description shall also include when the work was performed, what entity performed the work, the applicant’s relationship to the entity performing the work, and the information collected as a result, including the items in paragraphs (d)(1)(i)(A) through (F) of this section:

(A) Survey cruises to determine the location and abundance of nodules as well as the sea floor configuration, ocean currents and other physical characteristics of potential commercial recovery sites;

(B) Assaying nodules to determine their metal contents;

(C) Designing and testing system components onshore and at sea;

(D) Designing and testing mining systems that simulate commercial recovery;

(E) Designing and testing processing systems to prove concepts and designing and testing systems that simulate commercial processing; and

(F) Evaluating the continued feasibility of commercial scale operations based on technical, economic, legal, and environmental considerations.

(ii) An explanation, with support, for why the applicant qualifies to use the consolidated license and permit procedures in this section, including demonstrating that the applicant possesses the scientific, technical, and financial resources to pursue commercial recovery activities in an expeditious and diligent manner. Support for this statement may include, but is not limited to, past exploration activities (described in paragraph (d)(1)(i) of this section), any other relevant prior work or experience of the applicant or affiliates of the applicant, including work in ocean exploration, mineral extraction, or processing, or other relevant information, such as access to or analysis of information regarding resource assessments or sea floor data, agreements with other entities experienced in deep-sea exploration or commercial recovery, access to or the development of relevant emergent technologies, or any other information the applicant deems to be relevant to and supportive of its assertion it is qualified to use the consolidated application.

(iii) Documentation of any agreements, contracts, or partnerships of other businesses or entities that the applicant will rely on for the various parts of any exploration or commercial recovery operations or financing.

(2) *Statement of financial resources.* Information sufficient to demonstrate that the applicant is capable of committing or raising sufficient resources to cover the estimated costs of the exploration program contained in the exploration plan and the commercial recovery program contained in the commercial recovery plan, required by paragraphs (d)(4) and (5) of this section, including general estimated costs of the exploration and commercial recovery plans. In addition to general estimated costs, the application shall provide an estimated schedule of expenditures that lists estimated expenditures for the work proposed in both the exploration plan and the recovery plan. Other information shall include, to the extent it is available, the most recent audited financial statement (for publicly-held companies, the most recent annual report and Form 10-K filed with the Securities and Exchange Commission) for the applicant and those entities upon which the applicant will rely to finance the exploration activities and the credit and bond rating of the applicant and such financing entities. An applicant may provide other economic analyses to demonstrate the ability to raise sufficient financial resources, including an internal rate of return (IRR) analysis.

(3) *Statement of technological experience and capabilities.* Information sufficient to demonstrate that the applicant possesses or has access to the technological capability to carry out the exploration program contained in the exploration plan and the commercial recovery program contained in the commercial recovery plan. In particular, the information submitted pursuant to this section shall describe the equipment, knowledge, and skills the applicant possesses or to which it can demonstrate access, including:

(i) A description of the exploration equipment to be used by the applicant in carrying out the exploration program;

(ii) A description of the environmental monitoring equipment to be used by the applicant in monitoring the environmental effects of the exploration program;

(iii) A description of the technology, equipment, and methods to be used by the applicant in carrying out each step in the mining process, including nodule collection, retrieval, transfer to ship, environmental monitoring, transport to processing facilities, nodule processing, waste disposal and compliance with applicable water quality standards. The description shall include:

(A) An analysis of the performance of experimental systems, sub-systems, or analogous machinery;

(B) The rationale for extrapolating from test results to commercial mining;

(C) Anticipated system reliability within the context of anticipated production time lost through equipment failure; and

(D) A functional description of the types of technical qualifications the applicant will require for persons operating its equipment.

(4) *Exploration plan.* A description of the applicant's proposed exploration activities including sufficient information for the Administrator to make the necessary determinations pertaining to the certification and issuance of a license and to the development and enforcement of the terms, conditions and restrictions (TCRs) for a license; and the specific items in paragraphs (d)(4)(i) through (iv) of this section:

(i) A description of the activities proposed to be carried out during the period of the license;

(ii) A description of the area that will be explored, including its delineation according to § 970.601 of this chapter;

(iii) The intended exploration schedule addressing which of the exploration activities in paragraphs (d)(4)(iii)(A) through (F) of this section the applicant intends to conduct after the issuance of the license and when

each of these proposed activities will occur:

(A) Conducting survey cruises to determine the location and abundance of nodules as well as the sea floor configuration, ocean currents and other physical characteristics of potential commercial recovery sites;

(B) Assaying nodules to determine their metal contents;

(C) Designing and testing system components onshore and at sea, or an explanation as to why this is not necessary;

(D) Designing and testing mining systems which simulate commercial recovery, or an explanation as to why this is not necessary;

(E) Designing and testing processing systems to prove concepts and designing and testing systems which simulate commercial processing; and

(F) Evaluating the continued feasibility of commercial scale operations based on technical, economic, legal, political and environmental considerations;

(iv) For exploration activities that the applicant intends to conduct under an exploration license:

(A) A description of the methods to determine the location, abundance, and quality (*i.e.*, assay) of nodules and to measure physical conditions in the area that will affect nodule recovery system design and operations (*e.g.*, seafloor topography, seafloor geotechnical properties, and currents);

(B) A general description of the recovery and processing technology related to the proposed license and of any planned testing and evaluation of such technology addressing such factors as nodule collection technique, seafloor sediment rejection subsystem, mineship nodule separation scheme, pumping method, anticipated equipment test areas, and details on the testing plan; and

(C) Measures to protect the environment and to monitor the effectiveness of environmental safeguards and monitoring systems. These measures shall take into account the provisions in §§ 970.506, 970.518, 970.522 of this chapter and subpart G of part 970 of this chapter.

(5) *Commercial Recovery Plan.*

Description of the applicant's projected commercial recovery activities for the twenty-year period to be covered by the proposed permit, including: sufficient information for the Administrator to make the necessary determinations pertaining to the certification and issuance of a permit and to the development and enforcement of the TCRs for a permit; and the specific

items in paragraphs (d)(5)(i) through (vii) of this section:

(i) A description of the activities proposed to be carried out during the period of the permit;

(ii) The intended schedule of commercial recovery (see "Diligent commercial recovery," § 971.503);

(iii) Environmental safeguards and monitoring systems, which may evolve over time in light of the findings of any environmental impact statements (EIS) that the Administrator prepares on the proposed activities in the consolidated license and permit application and as required for project development phases and shall take into account requirements under subpart F of this part, including best available technologies (BAT) (§ 971.604) and monitoring (§ 971.603);

(iv) Details of the area or areas proposed for commercial recovery, which meet requirements for diligence (§ 971.503) and conservation of resources pursuant to subpart E of this part (including § 971.502);

(v) A resource assessment of the area or areas proposed for commercial recovery which addresses the requirements for resource assessment and logical mining unit (§ 971.501) to the extent practicable. The resource assessment may be preliminary at the time of application and may be supplemented following completion of any EISs or during the duration of the license or permit, as additional information is collected;

(vi) A description of the methods and technology to be used for commercial recovery and processing (see § 971.202(b)(1)); and

(vii) The methods to be used for disposal of wastes from recovery and processing, including the areas for disposal and identification of any toxic substances in wastes.

(6) *Environmental and use conflict analysis.* Sufficient marine environmental information for the Administrator to prepare any environmental impact statements (EIS) on the proposed activities in the consolidated license and permit application and to determine the appropriate permit TCRs, including the items in paragraphs d(6)(i) through (iv) of this section. The Administrator may require the submission of additional data in the event the Administrator determines that the bases for suitable EISs or a determination of appropriate TCRs is not available.

(i) Physical, chemical and biological information describing the environmental characteristics of the relevant area, including relevant

environmental information obtained during past exploration activities;

(ii) A monitoring plan for any proposed but not yet completed exploration activities, including test mining, and any at-sea commercial recovery activities that meet the objectives and requirements of § 971.603. The monitoring plan may be preliminary at the time of application and shall be finalized following completion of any EISs and in coordination with the development of the TCRs, incorporating relevant environmental data, impact modeling, and assessment outcomes;

(iii) Information known to the applicant on other uses of the proposed mining area to support the Administrator's determination regarding potential use conflicts between commercial mining activities and those activities of other nations or of other U.S. citizens and to assist the Administrator in making determinations related to potential use conflicts pursuant to §§ 970.503, 970.505, and 970.520 of this chapter, and §§ 971.403, 971.405, and 971.421; and

(iv) Onshore information including the location and operation of nodule processing facilities in accordance with § 971.606.

(7) *Vessel safety and documentation.* In order to provide a basis for the necessary determinations with respect to the safety of life and property at sea, the application shall contain the information in paragraphs (d)(7)(i) through (iii) of this section for vessels used for the purposes covered by the application, except for vessels under 300 gross tons which are engaged in oceanographic research:

(i) *U.S. flag vessel.* A demonstration or affirmation that any U.S. flag vessel used in exploration activities shall possess a current valid Coast Guard Certificate of Inspection (COI). All mining ships and at least one of the transport ships used by each permittee shall be documented under the laws of the United States. To the extent that the applicant knows which U.S. flag vessels it will use, it shall include with its application copies of the vessels' current valid Coast Guard COIs.

(ii) *Foreign flag vessels.* To the extent that the applicant knows which foreign flag vessel(s) it will be using for other purposes, the application shall include evidence that:

(A) Any foreign flag vessel whose flag state is party to the International Convention for the Safety of Life at Sea, 1974 (SOLAS 74) possesses current valid SOLAS 74 certificates;

(B) Any foreign flag vessel whose flag state is not party to SOLAS 74 but is

party to the International Convention for the Safety of Life at Sea, 1960 (SOLAS 60) possesses current valid SOLAS 60 certificates; and

(C) Any foreign flag vessel whose flag state is not a party to either SOLAS 74 or SOLAS 60 meets all applicable structural and safety requirements contained in the published rules of a member of the International Association of Classification Societies (IACS).

(iii) *Supplemental certification.* If the applicant does not know at the time of submitting an application which vessels it will be using, it shall submit the applicable certification to the Administrator for each vessel before the cruise on which it will be used.

(8) *Statement of Ownership.* Sufficient information to demonstrate that the applicant is a U.S. citizen, including:

(i) Name, address, and telephone number of the U.S. citizen responsible for exploration and commercial recovery operations to whom notices and orders are to be delivered; and

(ii) A description of the citizen or citizens engaging in such exploration and commercial recovery, including:

(A) Whether the citizen is a natural person, partnership, corporation, joint venture, or other form of association;

(B) The state of incorporation or state in which the partnership or other business entity is registered;

(C) The name of the registered agent or equivalent representative and places of business;

(D) Copies of essential and nonproprietary provisions in articles of incorporation, charter or articles of association; and

(E) The name of each member of the association, partnership, or joint venture, including information about the participation of each partner and joint venturer and/or ownership of stock.

(9) *Antitrust information.* In order to facilitate antitrust review pursuant to section 103(d) of the Act, the application shall contain:

(i) A copy of each agreement between any parties to any joint venture which is submitting a consolidated license and permit application, provided that said agreement relates to deep seabed hard mineral resource exploration or commercial recovery;

(ii) The identity of any affiliate, as defined in § 970.101(d) of this chapter, of any person submitting a consolidated license and permit application; and

(iii) For each applicant, its affiliate, or parent or subsidiary of an affiliate which is engaged in production in, or the purchase or sale in or to, the United States of copper, nickel, cobalt or

manganese minerals or any metals refined from these minerals;

(A) The annual tons and dollar value of any of these minerals and metals so purchased, sold or produced for the two preceding years;

(B) Copies of the annual report, balance sheet and income statement for the two preceding years; and

(C) Copies of each document submitted to the Securities and Exchange Commission.

(10) *Fee.* A fee payment of \$350,000 payable to the National Oceanic and Atmospheric Administration, Department of Commerce, shall be submitted prior to or concurrent with each application; the application should state the method of payment and the date the payment was submitted. If the administrative costs of reviewing and processing the application are significantly less than or in excess of \$350,000, the Administrator shall refund the difference or require the applicant to pay the additional amount before issuance or transfer of the license or permit. In the case of an application for transfer of a license or permit to, or for a significant change to a license or permit held by, an entity that has previously been found qualified for a permit, the Administrator may reduce the fee in advance by an appropriate amount which reflects costs avoided by reliance on previous findings made in relation to the proposed transferee. Payment of the application fee does not determine priority of right.

(11) *Processing outside the United States.* Except as provided in this section and § 971.408, the processing of nodules recovered pursuant to a permit shall be conducted within the United States, provided that the President or his designee does not determine that this restriction contravenes the overriding national interests of the United States. The application shall contain the information outlined in § 971.408 if applicable.

(e) *Certification.* To the maximum extent practicable, the Administrator shall certify a consolidated application within 100 days of the submission of an application which is in full compliance. If final certification or denial of certification has not occurred within 100 days after submission of the application, the Administrator shall inform the applicant in writing of the then pending unresolved issues, the agency's efforts to resolve them, and an estimate of the time required to do so. Certification shall occur after consultation with other departments and agencies pursuant to § 970.211 of this chapter and § 971.211 and determining in writing that:

(1) The applicant is qualified to use this consolidated license and permit application procedure as the applicant has demonstrated that the applicant possesses the scientific, technical, and financial resources to pursue commercial recovery activities in an expeditious and diligent manner.

(2) The issuance or transfer of the license and the permit would not violate any of the restrictions of 15 CFR 970.103(b) or 971.103(b).

(3) The size and location of the exploration and commercial recovery area selected by the applicant is approved, and this approval shall occur unless the Administrator determines that the area is not a logical mining unit under § 970.601 of this chapter and § 971.501, or commercial recovery activities in the proposed area would result in a significant adverse environmental effect which cannot be avoided by imposition of reasonable restrictions.

(4) The applicant:

(i) Has demonstrated that, upon issuance or transfer of the license and the permit, the applicant shall be financially responsible to meet all obligations which may be required to engage in its proposed exploration and commercial recovery activities;

(ii) Has demonstrated that, upon issuance or transfer of the license and the permit, the applicant shall possess or have access to the technological capability to engage in the proposed exploration and commercial recovery;

(iii) Has satisfactorily fulfilled all past obligations under any license or permit previously issued or transferred to the applicant under the Act;

(iv) Has an exploration plan which meets the requirements of paragraph (d)(4) of this section;

(v) Has a commercial recovery plan which meets the requirements of paragraph (d)(5) of this section; and

(vi) Has paid the application fee specified in paragraph (d)(10) of this section.

(f) *Denial of certification.* The Administrator may deny certification of an application if it does not meet the requirements of paragraph (e) of this section or the requirements for issuance or transfer under §§ 970.503 through 970.507 of this chapter or §§ 971.403 through 971.408. The Administrator shall send to the applicant and publish in the **Federal Register** written notice of a proposed denial of certification.

(1) Such notice shall include:

(i) The basis for the denial;

(ii) If the basis for the proposed denial is because the applicant is not qualified to use the consolidated procedures under this subsection:

(A) The reasons for that determination;

(B) The time within which the applicant may submit an amended application for an exploration license under part 970 of this chapter without disturbing the applicant's priority of right, which shall be 60 days except as specified by the Administrator for good cause; and

(C) The number of days from receipt of the amended application in which the Administrator shall certify or deny certification of the amended application in accordance with 15 CFR 970.400. The Administrator shall endeavor to complete certification of an amended application within 50 days of receipt.

(iii) If the basis for the proposed denial is a deficiency that the applicant can correct:

(A) How to correct the deficiency; and

(B) The time within which the corrected application shall be submitted, which shall not exceed 180 days except as specified by the Administrator for good cause.

(2) The Administrator shall deny certification:

(i) On the 30th day after the date the notice is sent to the applicant, under paragraph (f) of this section unless before that date the applicant files with the Administrator a written request for an administrative review of the proposed denial; or

(ii) On the last day of the period established under paragraph (f)(1)(ii)(B) of this section during which the applicant may submit an amended application for an exploration license under part 970 of this chapter, if the applicant fails to submit such an amended application before such day and an administrative review requested pursuant to paragraph (f)(2)(i) of this section is not pending;

(iii) On the last day of the period established under paragraph (f)(1)(iii)(B) of this section during which the applicant may correct a deficiency, if such deficiency has not been corrected before such day and an administrative review requested pursuant to paragraph (f)(2)(i) of this section is not pending.

(3) If a timely request for administrative review of the proposed denial is made by the applicant under paragraph (f)(2)(i) of this section, the Administrator shall promptly begin a formal hearing in accordance with subpart I of this part. If the proposed denial is the result of a correctable deficiency, the administrative review shall proceed concurrently with any attempts to correct the deficiency, unless the parties agree otherwise or the administrative law judge orders differently.

(4) The Administrator shall send the applicant written notice of any denial of certification including the reasons therefore.

(5) Any final determination granting or denying certification is subject to judicial review as provided in chapter 7 of title 5, United States Code.

(g) *Effect of this section on pending applications.* Within 60 days of this rule becoming final, an applicant who has an application for a license pending before the Administrator may notify the Administrator in writing of its intention to proceed under these consolidated procedures. Such applicants shall submit an amended application that complies with this subpart, and the amended application shall be processed in accordance with this subpart, except that any work, actions or decisions by NOAA, including required findings at various stages of the application process, shall continue to apply to the extent still applicable.

■ 14. Amend § 971.400 by revising paragraph (a) to read as follows:

§ 971.400 General.

(a) *Proposal.* After certification of an application pursuant to subpart C of this part, or, as applicable, § 971.214(e), the Administrator shall proceed with a proposal to issue or transfer a permit for the commercial recovery activities described in the application.

* * * * *

■ 15. Revise § 971.407 to read as follows:

§ 971.407 Safety at sea.

Before issuing or transferring a commercial recovery permit, the Administrator shall find that the commercial recovery proposed in the application shall not pose an inordinate threat to the safety of life and property at sea. This finding shall be based on the requirements in § 971.205, or as applicable, § 971.214(d)(7), and subpart G of this part.

■ 16. Amend § 971.412 by revising paragraph (c)(1) to read as follows:

§ 971.412 Changes in permits and permit terms, conditions, and restrictions.

* * * * *

(c) * * *

(1) The bases for certifying the original application pursuant to § 971.301 or, as applicable, pursuant to § 971.214(e);

* * * * *

■ 17. Amend § 971.413 by revising the second sentence in paragraph (a) to read as follows:

§ 971.413 Revision of a permit.

(a) * * * In some cases, it may be advisable to recognize at the time of filing the original permit application that, although the essential information for issuing or transferring a permit as specified in §§ 971.201 through 971.209, or as applicable, § 971.214(d), shall be included in such application, some details may have to be provided in the future in the form of a revision. * * *

* * * * *

- 18. Amend § 971.503 by revising paragraph (b) to read as follows:

§ 971.503 Diligent commercial recovery.

* * * * *

(b) To meet the diligence requirement, the applicant shall propose to the Administrator an estimated schedule of activities and expenditures pursuant to § 971.203(b)(2), or as applicable, pursuant to § 971.214(d)(2) and (d)(4)(iii). The schedule(s) shall show, and the Administrator must be able to make a reasonable determination, that the applicant can reasonably develop the resources in the permit area within the term of the permit. There must be a reasonable relationship between the size of the recovery area and the financial and technological resources reflected in the application. The permittee shall

initiate the recovery of nodules in commercial quantities within ten years of the issuance of the permit unless this deadline is extended by the Administrator for good cause.

* * * * *

- 19. Amend § 971.701 by revising the third, fourth, and fifth sentences to read as follows:

§ 971.701 Criteria for safety of life and property at sea.

* * * United States flag vessels shall be required to meet all applicable regulatory requirements, including the requirement for a current valid Coast Guard Certificate of Inspection (pursuant to § 971.205(a) or, as applicable, pursuant to § 971.214(d)(7)(i)). United States flag vessels are under United States jurisdiction on the high seas and subject to domestic enforcement procedures. With respect to foreign flag vessels, the SOLAS 74 or SOLAS 60 certificate requirements specified in § 971.205(b), or, as applicable, specified in § 971.214(d)(7)(ii), apply.

- 20. Amend § 971.802 by:

■ a. Revising paragraph (a);

■ b. Removing paragraphs (b) through (e); and

- c. Redesignating paragraphs (f) and (g) as paragraphs (b) and (c).

The revisions read as follows:

§ 971.802 Public disclosure of documents received by NOAA.

(a) *General.* Procedures for requesting confidential treatment of information submitted to, reported to, or collected by the Administrator pursuant to this part and 15 CFR part 970 shall be in accordance with 15 CFR part 4. Procedures for requesting records and handling requests for records containing information submitted to, reported to, or collected by the Administrator pursuant to this part and 15 CFR part 970 shall also be in accordance with 15 CFR part 4.

* * * * *

- 21. Amend § 971.900 by revising paragraph (e) to read as follows:

§ 971.900 Applicability.

* * * * *

(e) Hearings conducted in accordance with § 971.302 or 15 CFR 970.407, or, as applicable, in accordance with § 971.214(f) on a proposal to deny certification of an application;

* * * * *

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