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The Code of Federal Regulations is sold by the Superintendent of Documents.

NUCLEAR REGULATORY COMMISSION

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[NRC–2025–0479]

RIN 3150–AL39

The Sunset Rule; Correction

AGENCY: Nuclear Regulatory Commission.

ACTION: Direct final rule; confirmation of effective date; correction.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is correcting a document published in the **Federal Register** on January 8, 2026, regarding the confirmation of effective date for the direct final rule published in the **Federal Register** on December 3, 2025, amending the NRC's regulations to insert a conditional sunset date into certain regulations in response to Executive Order 14270, ''Zero-Based Regulatory Budgeting to Unleash American Energy.'' This action is necessary to correct the number of comments docketed on the companion proposed rule.

DATES: Effective February 3, 2026.

ADDRESSES: Please refer to Docket ID NRC–2025–0479 when contacting the NRC about the availability of information for this action. You may obtain publicly available information related to this action by any of the following methods:

- *Federal Rulemaking Website:* Electronically at *https://www.regulations.gov.* Search for Docket ID NRC–2025–0479. Address questions about NRC dockets to Helen Chang; telephone: 301–415–3228; email: *Helen.Chang@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''Begin ADAMS Public Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, at 301–415–4737, or by email to *PDR.Resource@nrc.gov.*
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FOR FURTHER INFORMATION CONTACT: Araceli Billoch Colon, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–3302; email: *araceli.billochcolon@nrc.gov.*

SUPPLEMENTARY INFORMATION: The NRC has received correspondence requesting clarification of the number of comment submissions received on the proposed rule, ''The Sunset Rule,'' (90 FR 55699; December 3, 2025). The NRC received and docketed (Docket ID NRC–2025–0479) 15 comment submissions; only one version of four identical comments from the same individual has been posted to the docket. This document clarifies the administrative record for the rulemaking action.

NRC has included on the docket the two clarification requests; also on the docket is a submission from the Small Business Administration's Office of Advocacy, dated January 12, 2026, after the close of the comment period. The Office of Advocacy listed seven rules for NRC consideration that have been suggested by small entities. The NRC has been evaluating aspects of these rules during a wholesale review of its regulations at 10 CFR chapter I. All stakeholders will have opportunity to comment on NRC's proposals in a forthcoming set of proposed rules. The NRC will continue to consider regulatory matters affecting small entities when conducting sunset activities and Regulatory Flexibility Act section 610 reviews.

Correction

In the **Federal Register** of January 8, 2026, in FR Doc. 2026–00175, on page 553, in the second column, in the **SUPPLEMENTARY INFORMATION** section, correct the last complete sentence in the paragraph to read as follows:

''The NRC received and docketed 15 comments on the companion proposed rule (90 FR 55699; December 3, 2025).''

Dated: January 30, 2026.

For the Nuclear Regulatory Commission.

Araceli Billoch Colon,

Chief, Regulatory Analysis and Rulemaking Support Branch, Division of Rulemaking, Environmental, and Financial Support. Office of Nuclear Material Safety and Safeguards.

[FR Doc. 2026–02165 Filed 2–2–26; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2026–0021; Project Identifier MCAI–2024–00668–R; Amendment 39–23245; AD 2026–02–09]

RIN 2120–AA64

Airworthiness Directives; Leonardo S.p.a. Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all Leonardo S.p.a. Model AB412 and AB412 EP helicopters. This AD was prompted by reports of a cracked main gearbox (MGB) support case. This AD requires revising the existing rotorcraft flight manual (RFM) for the helicopter. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective February 18, 2026.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of February 18, 2026.

The FAA must receive comments on this AD by March 20, 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–2026–0021; 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 European Union Aviation Safety Agency (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.*
- 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. It is also available at *regulations.gov* under Docket No. FAA–2026–0021.

FOR FURTHER INFORMATION CONTACT: Camille Seay, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: (817) 222–5149; email: *camille.l.seay@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this final rule. Send your comments using a method listed under **ADDRESSES**. Include ''Docket No. FAA–2026–0021; Project Identifier MCAI–2024–00668–R'' at the beginning of your comments. The most helpful comments reference a specific portion of the final rule, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this final rule because of those comments.

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

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this AD contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this 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 Camille Seay, 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 2024–0212, dated November 13, 2024 (EASA AD 2024–0212) (also referred to as the MCAI), to correct an unsafe condition on Leonardo S.p.A Model AB412 and AB412EP helicopters. The MCAI states that occurrences of a cracked MGB support case have been reported on Bell Textron Inc. Model 412 helicopters. The MCAI further states that Bell Textron Inc. reported situations of rapid buildup of one-per-rev vertical vibration associated with a large steady state forward cyclic displacement in combination with collective input while at 100% to 103% revolutions per minute with any part of the skid gear touching the ground. The FAA issued AD 2020–22–07, Amendment 39–21303 (85 FR 69485, November 3, 2020) (AD 2020–22–07) for all Bell Textron Inc. Model 412, 412CF, and 412EP helicopters. AD 2020–22–07 requires revising the existing RFM for the helicopter to add a caution regarding what to do if a sudden increase in one-per-rev vertical vibrations occurs with large steady state forward cyclic displacements in combination with collective input while at a certain RPM percentage with any part of the skids touching the ground. The MCAI states that, due to similarity of design, Leonardo S.p.A. Model AB412 helicopters could also be affected by this unsafe condition. This condition, if not addressed, could result in structural failure of the MGB support case and loss of control of the helicopter.

You may examine the MCAI in the AD docket at *regulations.gov* under Docket No. FAA–2026–0021.

Material Incorporated by Reference Under 1 CFR Part 51

The FAA reviewed EASA AD 2024–0212, which specifies procedures for amending the existing RFM for the helicopter by incorporating the RFM revision identified within the material referenced in EASA AD 2024–0212, as applicable by helicopter model and serial number, informing all flight crews, and thereafter, operating the helicopter accordingly. The RFM revision includes Normal Procedures by updating ''before takeoff,'' ''in-flight operation,'' and ''after landing'' information by adding a caution regarding the forward cyclic displacement.

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 AD after determining that the unsafe condition described previously is likely to exist or develop on other products of the same type design.

AD Requirements

This AD requires accomplishing the actions specified in EASA AD 2024–0212, described previously, as incorporated by reference, 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

The MCAI requires operators to ''inform all flight crews'' of the revisions

to the RFM, and thereafter to ''operate the helicopter accordingly.'' However, this AD does not require those actions, as those actions are already required by FAA regulations. FAA regulations require operators furnish to pilots any changes to the RFM (for example, 14 CFR 135.21) and to ensure the pilots are familiar with the RFM (for example, 14 CFR 91.505). As with any other flight crew training requirement, training on the updated RFM 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 RFM including all updates. Therefore, including a requirement in this AD to inform the flight crew and operate the helicopter according to the revised RFM 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 been coordinating this process with manufacturers and CAAs. As a result, EASA AD 2024–0212 is incorporated by reference in this AD. This AD requires compliance with EASA AD 2024–0212 in its entirety through that incorporation, except for any differences identified as exceptions in the regulatory text of this AD. Using common terms that are the same as the heading of a particular section in EASA AD 2024–0212 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 2024–0212. Material required by EASA AD 2024–0212 for compliance will be available at *regulations.gov* under Docket No. FAA–2026–0021 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.

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

Regulatory Flexibility Act

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

Costs of Compliance

There are no costs of compliance with this AD because there are no helicopters with this type certificate on the U.S. Registry.

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 this regulation:

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

(2) Would 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:

2026–02–09 Leonardo S.p.a.: Amendment 39–23245; Docket No. FAA–2026–0021; Project Identifier MCAI–2024–00668–R.

(a) Effective Date

This airworthiness directive (AD) is effective February 18, 2026.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all Leonardo S.p.a. Model AB412 and AB412 EP helicopters, certificated in any category.

(d) Subject

Joint Aircraft System Component (JASC) Code 6320, Main Rotor Gearbox.

(e) Unsafe Condition

This AD was prompted by reports of a cracked main gearbox (MGB) support case. The FAA is issuing this AD to prevent structural failure of the MGB support case. The unsafe condition, if not addressed, could result in loss of control of the helicopter.

(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 2024–0212, dated November 13, 2024 (EASA AD 2024–0212).

(h) Exceptions to EASA AD 2024–0212

(1) Where EASA AD 2024–0212 refers to its effective date, this AD requires using the effective date of this AD.

(2) Where paragraph (1) of EASA AD 2024–0212 specifies to inform all flight crews and, thereafter, operate the helicopter accordingly, this AD does not require those actions as those actions are already required by existing FAA operating regulations (see 14 CFR 91.505 and 14 CFR 135.21).

(3) Where paragraph (2) of EASA AD 2024–0212 specifies ''the same content as defined in the SB'', this AD requires replacing that text with ''information identical to that in Section II Normal Procedures as defined in the material referenced in EASA AD 2024–0212''.

Note 1 to paragraph (h)(3): The serial numbers in paragraph 1 of the ACCOMPLISHMENT INSTRUCTIONS of Leonardo Helicopters Service Bulletin 412–163, dated January 27, 2021, reference the titles of the applicable Leonardo Flight Manuals.

(4) This AD does not adopt the ''Remarks'' section of EASA AD 2024–0212.

(i) No Reporting Requirement

Although the material referenced in EASA AD 2024–0212 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 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.*

(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.

(k) Additional Information

For more information about this AD, contact Camille Seay, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: (817) 222–5149; email: *camille.l.seay@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) European Union Aviation Safety Agency (EASA) AD 2024–0212, dated November 13, 2024.

(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 20, 2026.

Steven W. Thompson,

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

[FR Doc. 2026–02139 Filed 2–2–26; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2026–0017]

RIN 1625–AA09

Drawbridge Operation Regulation; New Rochelle Harbor, Westchester County, NY

AGENCY: Coast Guard, DHS.

ACTION: Temporary Interim Rule with request for comments

SUMMARY: The Coast Guard is temporarily modifying the operating schedule that governs the Glen Island Bridge, across New Rochelle Harbor, mile 0.8, in Westchester County, NY. This modification is required to complete the rehabilitation of the existing bridge and removal of the temporary bridge. Approving this temporary modification will allow the bridge to return to normal operating schedule and complete the rehabilitation project earlier than originally scheduled.

DATES: This temporary interim rule is effective February 3, 2026 through 5 p.m. on June 26, 2026.

Comments and related material must reach the Coast Guard on or before March 5, 2026.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov.* Type the docket number (USCG–2026–0017) in the ''SEARCH'' box and click ''SEARCH''. In the Document Type column, select ''Supporting & Related Material''.

You may submit comments identified by docket number USCG–2026–0017 at *https://www.regulations.gov.*

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

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary interim rule, call or email Stephanie E. Lopez, Northeast District Bridge Management Specialist, U. S. Coast Guard, telephone 571–608–5676, *Stephanie.E.Lopez@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
DHS Department of Homeland Security
FR Federal Register
NPRM Notice of proposed rulemaking
Pub. L. Public Law
§ Section
U.S.C. United States Code

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary interim rule under the authority in 5 U.S.C. 553(b). This 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.'' Under 5 U.S.C. 553(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. This bridge is non-operational and will remain non-operational until rehabilitation work can be completed.

On September 12, 2025, the Coast Guard issued a General Deviation that allowed the bridge owner, Westchester County Department of Public Works and Transportation to deviate from the current operating schedule in 33 CFR 117.802(a). This deviation allowed the bridge to remain in the closed position to conduct rehabilitation of the existing bridge. The construction schedule anticipated subsequent deviations to complete rehabilitation work and remove the temporary bridge, with project completion anticipated in October 2026. However, the bridge owner notified the Coast Guard that rehabilitation work is ahead of schedule and requested extending the current deviation to complete all rehabilitation work and remove the temporary bridge by June 26, 2026. Under this new construction schedule, the existing bridge cannot be brought back to an operating condition until rehabilitation

work is complete and traffic is shifted from the temporary bridge. Therefore, there is insufficient time to provide a reasonable comment period and then consider those comments before issuing the modification.

However, we will be soliciting comments on this rulemaking during the first 30 days while this rule is in effect. If the Coast Guard determines that changes to the temporary interim rule are necessary, we will publish a temporary final rule or other appropriate document.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making it effective in less than 30 days after publication in the **Federal Register**. For reasons presented above, delaying the effective date of this rule would be impracticable and contrary to the public interest due to the fact that the bridge is currently inoperable and will not be back into operation until the rehabilitation work can be completed.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this temporary interim rule under authority in 33 U.S.C. 499 which gives us the authority to regulate drawbridge operation schedules.

The Glen Island Bridge, across New Rochelle Harbor, mile 0.8, is a steel bascule bridge with a temporary steel bascule bridge adjacent. Both bridges have a vertical clearance of 13 feet in the closed position and unlimited in the open position, the bridge operates under 33 CFR 117.802(a).

On December 19, 2025, Westchester County Department of Public Works and Transportation conducted a meeting with USCG Northeast District bridge management staff to discuss the project's schedule. The bridge owner proposed a new schedule that will speed construction and bring the bridge back to normal operating regulation by late June 2026 instead of the original completion date of late October 2026.

This waterway is transited primarily by recreational vessels with a maximum length of 75 feet, maximum beam 20 feet, and maximum height of 80 feet. The bridge owner has been in contact with local waterway users, including the Huguenot Yacht Club, commercial mariners, the Westchester Police Department, and local residents, none of whom expressed objections to the revised construction schedule.

IV. Discussion of the Temporary Interim Rule

The current temporary deviation approved on September 12, 2025, allows the bridge to remain in the closed position from 7 a.m. on October 2, 2025, through 5 p.m. on April 29, 2026. Additional deviations would have been required for bridge closures from 7 a.m. on August 11, 2026, through 5 p.m. on August 17, 2026, and from 7 a.m. on October 2, 2026, through 5 p.m. on October 29, 2026. The new deviation will allow the bridge to remain in the closed position through 5 p.m. on June 26, 2026. At this time, no additional deviations will be required to complete the rehabilitation project to the existing bridge and remove the temporary bridge.

V. Regulatory Analyses

We developed this temporary interim 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 calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

C. Federalism and Indian Tribal Government

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

Also, this 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

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

E. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01, Rev.1, associated implementing instructions, and Environmental Planning Policy COMDTINST 5090.1 (series) which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321–4370f). The Coast Guard has 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 promulgates the operating regulations or procedures for drawbridges and is categorically excluded from further review, under paragraph L49, of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1.

Neither a Record of Environmental Consideration nor a Memorandum for the Record are required for this rule.

VI. Public Participation and Request for Comments

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

document to which each comment applies, and provide a reason for each suggestion or recommendation.

Submitting comments. We encourage you to submit comments at *https://www.regulations.gov.* To do so, go to *https://www.regulations.gov,* type USCG–2026–0017 in the search box and click ''Search.'' Next, look for this document in the Search Results column, and click on it. Then click on the Comment option. If your material cannot be submitted using *https://www.regulations.gov,* contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

Viewing material in docket. To view documents mentioned in this proposed rule as being available in the docket, find the docket as described in the previous paragraph, and then select ''Supporting & Related Material'' in the Document Type column. Public comments will also be placed in our online docket and can be viewed by following instructions on the *https://www.regulations.gov* Frequently Asked Questions web page. Also, if you go to the online docket and sign up for email alerts through the ''Subscribe'' option, you will be notified when comments/updates are posted, or a final rule is published.

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

List of Subjects in 33 CFR Part 117

Bridges.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

■ 1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 33 CFR 1.05–1; and DHS Delegation No. 00170.1. Revision No. 01.4.

■ 2. Amend § 117.802 by:
■ a. Staying paragraph (a).
■ b. Adding paragraph (c).
The addition reads as follows:

§ 117.802 New Rochelle Harbor.

* * * * *

(c) The draw of the Glen Island Bridge, mile 0.8, across New Rochelle Harbor at New Rochelle, may be maintained in the closed to navigation position until 5 p.m. on June 26, 2026.

M.E. Platt,

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

[FR Doc. 2026–02175 Filed 2–2–26; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2026–0003]

RIN 1625–AA00

Safety Zone; Ice Accumulations; Allegheny River, Pittsburgh, PA

AGENCY: Coast Guard, Department of Homeland Security.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for all waters of the Allegheny River within the Captain of the Port Pittsburgh Zone, which includes mile marker 1.0 to mile marker 72.0 on the Allegheny River. This safety zone is needed to protect persons, property, and vessels transiting the area from the hazards associated with ice accumulations on the waterways. Entry into this zone is prohibited unless specifically authorized by the Captain of the Port (COTP) Pittsburgh or a designated representative.

DATES: This rule is effective without actual notice from February 3, 2026, through March 1, 2026. For purposes of enforcement, actual notice will be used from January 29, 2026, through February 3, 2026.

ADDRESSES: To view available documents go to *https://www.regulations.gov* and search for USCG–2026–0003.

FOR FURTHER INFORMATION CONTACT: If you have questions about this rule, contact Petty Officer Brett Lanzel, MSU Pittsburgh, U.S. Coast Guard; telephone 206–815–6624, or email *Brett.J.Lanzel@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 COTP Pittsburgh Zone has recently experienced consecutive weeks of sub-freezing temperatures resulting in significant ice accumulations on the Allegheny River. This ice is obstructing the waterway and presents a significant risk of damage to vessels that may transit through or within this area. The Captain of the Port (COTP) Pittsburgh has determined that potential hazards associated with ice accumulation are a safety concern for anyone on the Allegheny River. 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 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. Due to the emergent ice situation, the Coast Guard must establish this safety zone immediately 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

The Coast Guard is establishing a safety zone for all waters of the Allegheny Rivers within the COTP Pittsburgh Zone, which includes mile marker 1.0 to mile marker 72.0 on the Allegheny River. Entry into this zone is prohibited to all vessels and persons, except persons and vessels specifically authorized by the COTP Pittsburgh. This rule is effective immediately and will be enforced from January 29, 2026, until March 1, 2026, or until ice conditions within the COTP Pittsburgh Zone have improved, whichever occurs earlier.

The COTP Pittsburgh will inform the public through Broadcast Notices to Mariners (BNM) of details regarding enforcement and any changes to this safety zone during ice accumulation conditions.

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; DHS Delegation No. 00170.1, Revision No. 01.4.

■ 2. Add § 165.T08–0003 to read as follows:

§ 165.T08–0003 Safety Zone; Ice Accumulations; Allegheny River, Pittsburgh, PA.

(a) *Location.* The following area is a safety zone: all waters of the Allegheny River within the Captain of the Port (COTP) Pittsburgh Zone, Mile Marker 1.0 to Mile Marker 72.0 on the Allegheny River.

(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 Pittsburgh (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 through Marine Safety Unit Pittsburgh at (412) 670–4288. 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 period.* This section will be enforced from January 29, 2026 until 11:59 p.m. on March 1, 2026, unless cancelled earlier by the COTP. The COTP will inform the public through Broadcast Notices to Mariners (BNM) of the safety zone and any changes to the enforcement periods.

Justin R. Jolley,

Commander, U.S. Coast Guard, Captain of the Port MSU Pittsburgh.

[FR Doc. 2026–02203 Filed 2–2–26; 8:45 am]

BILLING CODE 9110–04–P

SURFACE TRANSPORTATION BOARD

49 CFR Parts 1002, 1007, 1011, 1012, 1018, 1019, 1021, 1102, 1103, 1104, 1105, 1109, 1110, 1113, 1114, 1115, 1116, 1130, 1132, 1150, 1151, 1152, 1155, 1177, 1180, and 1253

[Docket No. EP 786]

Nomenclature Corrections Due to Office Reorganization, Removal of Obsolete References, and Payment Processing Changes

AGENCY: Surface Transportation Board.

ACTION: Final rule.

SUMMARY: The Surface Transportation Board (Board) recently completed a reorganization in which it combined its two legal offices, the Office of the General Counsel and the Office of Proceedings, to form the Office of Chief Counsel. The Board is issuing a final rule to make nomenclature changes reflecting the establishment of the Office of Chief Counsel as a result of this reorganization, to remove obsolete references, and to revise its rules to no longer accept paper checks or money orders as a form of payment.

DATES: This final rule is effective on February 3, 2026.

FOR FURTHER INFORMATION CONTACT: Amy Ziehm at (202) 918–5462. If you require an accommodation under the Americans with Disabilities Act, please call (202) 245–0245.

SUPPLEMENTARY INFORMATION: The Board has made a change to its agency organization. Effective August 1, 2025,

the Board's two legal offices, the Office of Proceedings and the Office of the General Counsel, were combined into the Office of Chief Counsel. The Board is therefore revising its regulations at 49 CFR Chapter X to update office names and personnel titles to reflect the new consolidated structure. These nomenclature changes will not result in any substantive changes to the Board's regulations.

Additionally, the Board is removing and replacing three outdated references to the Office of Compliance and Enforcement, which is now known as the Office of Public Assistance, Governmental Affairs, and Compliance. *See Removal of Delegations of Auth. to Sec'y,* EP 685, slip op. at 3 (STB served Oct. 15, 2009) (noting that ''[t]here is no longer an Office of Compliance and Enforcement'' and replacing references to that office with references to the Office of Public Assistance, Governmental Affairs, and Compliance).

Furthermore, in accordance with Executive Order14247, ''Modernizing Payments To and From America's Bank Account,'' 90 FR 14001 (Mar. 25, 2025), the Board is also revising its rules to no longer accept paper checks or money orders as a form of payment. Executive Order14247 directs that, as soon as practicable, payments made to the federal government must be processed electronically. Accordingly, effective February 3, 2026, the Board will require electronic payment of fees.

The Board currently utilizes, and will continue to utilize, *Pay.gov,* an electronic payment system operated by the U.S. Department of the Treasury. *Pay.gov* allows payment through bank accounts, credit cards, debit cards with a MasterCard or Visa logo, and digital wallets. Payors may access *Pay.gov* via the Board's website. Consistent with Executive Order 14247, all payments to the Board will be processed electronically unless the payor does not have access to banking services or electronic payment systems, or the payor qualifies for an exception under applicable law. Payors that qualify for an exception from the use of electronic payment systems should contact the Board's Rail Customer and Public Assistance (RCPA) staff for assistance by calling (866) 254–1792 (toll-free) or (202) 245–0238, or by emailing *rcpa@stb.gov.*

The revised regulations are set forth below and are issued without prior public notice or opportunity for public comment. The Administrative Procedure Act (APA) does not require that process for ''rules of agency organization, procedure, or practice,'' 5 U.S.C. 553(b)(A), or ''when the agency for good cause finds . . . that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest,'' 5 U.S.C. 553(b)(B). In this proceeding, the Board is revising its regulations to reflect internal reorganization within the Board, to remove obsolete references, and to clarify certain procedures related to payments. Additionally, there is good cause here to find that public notice and comment are unnecessary because the rule does not make any substantive changes. There is also good cause to make this rule effective on less than 30 days' notice in order to update the Board's regulations to reflect the current organizational structure of the Board, remove obsolete references, and comply with the requirements of Executive Order 14247 promptly. *See* 5 U.S.C. 553(d).

The Regulatory Flexibility Act (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 601–612, generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Because the Board has determined that notice and comment are not required under the APA for this rulemaking, the requirements of the RFA do not apply.

Executive Order 12866, as modified by Executive Order 14215, provides that the Office of Information and Regulatory Affairs will review all significant rules. In section 3(d), Executive Order 12866 defines ''regulation'' or ''rule'' to exclude regulations or rules that are limited to agency organization, management, or personnel matters. This rule relates to internal agency organization and management; therefore, it is exempt from the provisions of Executive Order 12866.

The Board has determined that this action is not a rule as defined by the Congressional Review Act, 5 U.S.C. 804(3).

This rulemaking does not contain a new or amended information collection requirement subject to the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3521.

It is ordered:

1. Parts 1002, 1007, 1011, 1012, 1018, 1019, 1021, 1102, 1103, 1104, 1105, 1109, 1110, 1113, 1114, 1115, 1116, 1130, 1132, 1150, 1151, 1152, 1155, 1177, 1180, and 1253 are modified as set forth below, and notice will be published in the **Federal Register**.

2. The modifications to Parts 1002, 1007, 1011, 1012, 1018, 1019, 1021, 1102, 1103, 1104, 1105, 1109, 1110, 1113, 1114, 1115, 1116, 1130, 1132, 1150, 1151, 1152, 1155, 1177, 1180, and 1253 are effective on February 3, 2026. The remainder of this decision is effective on its date of service.

List of Subjects

49 CFR Part 1002

Administrative practice and procedure, Common carriers, Freedom of information.

49 CFR Part 1007

Privacy.

49 CFR Part 1011

Administrative practice and procedure, Authority delegations (Government agencies), Organization and functions (Government agencies).

49 CFR Part 1012

Sunshine Act.

49 CFR Part 1018

Claims, Income taxes.

49 CFR Part 1019

Conflict of interest.

49 CFR Part 1021

Claims.

49 CFR Part 1102

Administrative practice and procedure.

49 CFR Part 1103

Administrative practice and procedure, Lawyers.

49 CFR Part 1104

Administrative practice and procedure.

49 CFR Part 1105

Environmental impact statements, Reporting and recordkeeping requirements.

49 CFR Part 1109

Administrative practice and procedure, Maritime carriers, Motor carriers, Railroads.

49 CFR Part 1110

Administrative practice and procedure.

49 CFR Part 1113

Administrative practice and procedure.

49 CFR Part 1114

Administrative practice and procedure.

49 CFR Part 1115

Administrative practice and procedure.

49 CFR Part 1116

Administrative practice and procedure.

49 CFR Part 1130

Administrative practice and procedure.

49 CFR Part 1132

Administrative practice and procedure.

49 CFR Part 1150

Administrative practice and procedure, Railroads.

49 CFR Part 1151

Administrative practice and procedure, Railroads.

49 CFR Part 1152

Administrative practice and procedure, Railroads, Reporting and recordkeeping requirements, Uniform System of Accounts.

49 CFR Part 1155

Administrative practice and procedure, Railroads, Waste treatment and disposal.

49 CFR Part 1177

Administrative practice and procedure, Archives and records, Maritime carriers, Railroads.

49 CFR Part 1180

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

49 CFR Part 1253

Freight forwarders, Maritime carriers, Motor carriers, Pipelines, Railroads, Reporting and recordkeeping requirements.

Decided: January 29, 2026.

By the Board, Board Members Fuchs, Hedlund, and Schultz.

Jeffrey Herzig,

Clearance Clerk.

For the reasons set forth in the preamble, and under the authority of 49 U.S.C. 1321(a), the Surface Transportation Board amends parts 1002, 1007, 1011, 1012, 1018, 1019, 1021, 1102, 1103, 1104, 1105, 1109, 1110, 1113, 1114, 1115, 1116, 1130, 1132, 1150, 1151, 1152, 1155, 1177, 1180, and 1253 of title 49, chapter X, of the Code of Federal Regulations as follows:

PART 1002—FEES

■ 1. The authority citation for part 1002 continues to read as follows:

Authority: 5 U.S.C. 552(a)(4)(A), (a)(6)(B), and 553; 31 U.S.C. 9701; and 49 U.S.C. 1321. Section 1002.1(f)(11) is also issued under 5 U.S.C. 5514 and 31 U.S.C. 3717.

■ 2. Amend § 1002.1 by revising paragraph (g) to read as follows:

§ 1002.1 Fees for records search, review, copying, certification, and related services.

* * * * *

(g) Fees for services described in paragraphs (a) through (f) of this section must be paid via the Board's electronic payment system in accordance with § 1002.2(a)(2).

* * * * *

■ 3. Amend § 1002.2 by:

■ a. Revising paragraph (a)(2);

■ b. In paragraphs (e)(1)(i) and (ii) and (e)(2)(i) and (iii), removing the text ''Chief, Section of Administration, Office of Proceedings'' and adding, in its place, the text ''Chief of Case Administration, Office of Chief Counsel''; and

■ c. Removing paragraph (g).

The revision reads as follows:

§ 1002.2 Filing fees.

(a) * * *

(2) Filing fees for all filings must be paid via the Board's electronic payment system found on the Board's website.

* * * * *

PART 1007—RECORDS CONTAINING INFORMATION ABOUT INDIVIDUALS

■ 4. The authority citation for part 1007 continues to read as follows:

Authority: 5 U.S.C. 552, 49 U.S.C. 1321.

■ 5. Amend § 1007.5 by revising the third sentence of paragraph (f) to read as follows:

§ 1007.5 Disclosure of requested information to individuals; fees for copies of records.

* * * * *

(f) * * * Payment must be made via the Board's electronic payment system found on the Board's website. * * *

* * * * *

PART 1011—BOARD ORGANIZATION; DELEGATIONS OF AUTHORITY

■ 6. The authority citation for part 1011 continues to read as follows:

Authority: 5 U.S.C. 553; 31 U.S.C. 9701; 49 U.S.C. 1301, 1321, 11123, 11124, 11144, 14122, and 15722.

■ 7. Amend § 1011.2 by revising paragraph (a)(7) to read as follows:

§ 1011.2 The Board.

(a) * * *

(7) All appeals of initial decisions issued by the Chief Counsel under the authority delegated by § 1011.7(a), and all appeals of initial decisions issued by the Office of Public Assistance, Governmental Affairs, and Compliance under the authority delegated by § 1011.7(b). Appeals must be filed within 10 days after service of the initial decision or publication of the notice, and replies must be filed within 10 days after the due date for appeals or any extension thereof.

* * * * *

■ 8. Amend § 1011.6 by revising paragraphs (c)(3), (d), (g) introductory text, and (h) to read as follows:

§ 1011.6 Delegations of authority by the Chairman.

* * * * *

(c) * * *

(3) Unless otherwise ordered by the Board in individual proceedings, authority to dispose of routine procedural matters in proceedings assigned for handling under modified procedure, other than those assigned to an administrative law judge or a Board Member, is assigned to the Chief Counsel. The Chief Counsel shall also have authority, unless otherwise ordered by the Chairman or by a majority of the Board in individual proceedings, to decide whether complaint proceedings shall be handled under the modified procedure or be assigned for oral hearings. In carrying out these duties, the Chief Counsel shall consult, as necessary, with the Director of any Board office to which an individual proceeding has been assigned.

(d) Except as provided at 49 CFR 1113.3(b)(1), authority to dismiss a complaint on complainant's request, or an application on applicant's request, is delegated to the Chief Counsel.

* * * * *

(g) The Chief Counsel is delegated authority, under the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.,* to:

* * * * *

(h) Issuance of certificates and decisions authorizing Consolidated Rail Corporation to abandon or discontinue service over lines for which an application under section 308 of the Regional Rail Reorganization Act of 1973, 45 U.S.C. 748, has been filed is delegated to the Chief Counsel.

* * * * *

■ 9. Amend § 1011.7 by revising paragraph (a) to read as follows:

§ 1011.7 Delegations of authority by the Board to specific offices of the Board.

(a) *Office of Chief Counsel.* (1) The Chief Counsel shall head the Office of Chief Counsel and shall also fulfill the role of the General Counsel of the Board.

(2) The Chief Counsel is delegated the authority to determine (in consultation with involved Offices) whether to waive filing fees set forth at 49 CFR 1002.2(f).

(3) In addition to the authority delegated at § 1011.6(c)(3), (d), (g), and (h), the Chief Counsel shall have authority initially to determine the following:

(i) Whether to designate abandonment proceedings for oral hearings on request.

(ii) Whether offers of financial assistance satisfy the statutory standards of 49 U.S.C. 10904(d) for purposes of negotiations or, in exemption proceedings, for purposes of partial revocation and negotiations.

(iii) Whether:

(A) To impose, modify, or remove environmental or historic preservation conditions; and

(B) In abandonment proceedings, to impose public use conditions under 49 U.S.C. 10905 and the implementing regulations at 49 CFR 1152.28.

(iv) In abandonment proceedings, when a request for interim trail use/rail banking is filed under 49 CFR 1152.29, to determine whether the National Trails System Act, 16 U.S.C. 1247(d), is applicable and, where appropriate, to issue Certificates of Interim Trail Use or Abandonment (in application proceedings) or Notices of Interim Trail Use or Abandonment (in exemption proceedings).

(v) In any abandonment proceeding where interim trail use/rail banking is an issue, to make such findings and issue decisions as may be necessary for the orderly administration of the National Trails System Act, 16 U.S.C. 1247(d).

(vi) Whether to institute requested declaratory order proceedings under 5 U.S.C. 554(e).

(vii) To issue decisions, after 60 days' notice by any person discontinuing a subsidy established under 49 U.S.C. 10904 and at the railroad's request:

(A) In application proceedings, immediately issuing decisions authorizing abandonment or discontinuance; and

(B) In exemption proceedings, immediately vacating the decision that postponed the effective date of the exemption.

(viii) In proceedings under the Feeder Railroad Development Program under 49 U.S.C. 10907 and the implementing regulations at 49 CFR part 1151:

(A) Whether to accept or reject primary applications under 49 CFR 1151.2(b); competing applications under 49 CFR 1151.2(c); and incomplete applications under 49 CFR 1151.2(d).

(B) Whether to grant waivers from specific provisions of 49 CFR part 1151.

(ix) In exemption proceedings subject to environmental or historic preservation reporting requirements, to issue a decision, under 49 CFR 1105.10(g), making a finding of no significant impact where no environmental or historic preservation issues have been raised by any party or identified by the Board's Office of Environmental Analysis.

(x) Whether to issue notices of exemption under 49 U.S.C. 10502:

(A) For acquisition, lease, and operation transactions under 49 U.S.C. 10901 and 10902 and the implementing regulations at 49 CFR part 1150, subparts D and E;

(B) For connecting track constructions under 49 U.S.C. 10901 and the implementing regulations at 49 CFR 1150.36;

(C) For rail transactions under 49 U.S.C. 11323 and the implementing regulations at 49 CFR 1180.2(d); and

(D) For abandonments and discontinuances under 49 U.S.C. 10903 and the implementing regulations at 49 CFR 1152.50.

(xi) When an application or a petition for exemption for abandonment is filed, the Chief Counsel will issue a notice of that filing pursuant to 49 CFR 1152.24(e)(2) and 1152.60, respectively.

(xii) Whether to issue a notice of exemption under 49 U.S.C. 13541 for a transaction under 49 U.S.C. 14303 within a motor passenger carrier corporate family that does not result in adverse changes in service levels, significant operational changes, or a change in the competitive balance with motor passenger carriers outside the corporate family.

(xiii) Whether to issue rail modified certificates of public convenience and necessity under 49 CFR part 1150, subpart C.

(xiv) Whether to waive the regulations at 49 CFR part 1152, subpart C, on appropriate petition.

(xv) To reject applications, petitions for exemption, and verified notices (filed in class exemption proceedings) for noncompliance with the environmental rules at 49 CFR part 1105.

(xvi) To reject applications by BNSF Railway Company to abandon rail lines in North Dakota exceeding the 350-mile cap of section 402 of Public Law 97–102, 95 Stat. 1465 (1981), as amended by The Department of Transportation and Related Agencies Appropriations Act, 1992, Public Law 102–143, section 343 (Oct. 28, 1991).

(xvii) To authorize parties to a proceeding before the Board, upon mutual request, to participate in mediation with a Board-appointed mediator, for a period of up to 30 days and to extend the mediation period at the mutual request of the parties.

(xviii) To authorize a proceeding to be held in abeyance while mediation procedures are pursued, pursuant to the mutual request of the parties to the matter.

(xix) To order arbitration of program-eligible matters under the Board's regulations at 49 CFR part 1108, subpart A, or upon the mutual request of parties to a proceeding before the Board.

(xx) To delegate to Board staff any necessary parties for purposes of accelerated emergency service proceedings at 49 CFR 1146.2.

* * * * *

PART 1012—MEETINGS OF THE BOARD

■ 10. The authority citation for part 1012 continues to read as follows:

Authority: 5 U.S.C. 552b(g), 49 U.S.C. 1301, 1321.

■ 11. Amend § 1012.5 by revising paragraph (c)(5) to read as follows:

§ 1012.5 Transcripts; minutes.

* * * * *

(c) * * *

(5) A copy of the certification issued by the Chief Counsel that, in his or her opinion, the meeting was one that might properly be closed to the public.

■ 12. Amend § 1012.7 by revising paragraph (c) to read as follows:

§ 1012.7 Meetings which may be closed to the public.

* * * * *

(c) With respect to any meeting closed to the public under this section, the Chief Counsel will issue his or her certification that, in his or her opinion, the meeting is one which may properly be closed pursuant to one or more of the provisions of paragraph (d) of this section.

* * * * *

PART 1018—DEBT COLLECTION

■ 13. The authority citation for part 1018 continues to read as follows:

Authority: 31 U.S.C. 3701, 31 U.S.C. 3711 *et seq.,* 49 U.S.C. 1321, 31 CFR parts 900–904.

■ 14. Amend § 1018.25 by revising the second sentence of paragraph (a) to read as follows:

§ 1018.25 Sanctions.

(a) * * * The Board will notify the account holder that the account has been frozen. * * *

* * * * *

■ 15. Amend § 1018.29 by revising the introductory text of paragraph (c) to read as follows:

§ 1018.29 Payments.

* * * * *

(c) *To whom payment is made.* Payment of a debt to the Board is made via the Board's electronic payment system found on the Board's website, unless payment is:

* * * * *

PART 1019—REGULATIONS GOVERNING CONDUCT OF SURFACE TRANSPORTATION BOARD EMPLOYEES

■ 16. The authority citation for part 1019 continues to read as follows:

Authority: 49 U.S.C. 1321.

■ 17. Amend § 1019.2 by revising paragraph (a) to read as follows:

§ 1019.2 Interpretation and advisory service.

(a) The Board's Chief Counsel shall be the Board's Designated Agency Ethics Official (DAEO).

* * * * *

PART 1021—ADMINISTRATIVE COLLECTION OF ENFORCEMENT CLAIMS

■ 18. The authority citation for part 1021 continues to read as follows:

Authority: 31 U.S.C. 3701, 3711, 3717, 3718.

■ 19. Revise § 1021.3 to read as follows:

§ 1021.3 Enforcement collection designee.

The Director, Office of Public Assistance, Governmental Affairs, and Compliance, Surface Transportation Board, is the Board's designee to take all necessary action administratively to settle by collection, compromise, suspension or termination, enforcement claims within the contemplation of the Federal Claims Collection Act of 1966.

■ 20. Revise § 1021.6 to read as follows:

§ 1021.6 Method of claim payment.

Debtors shall be required to settle claims by:

(a) Payment via the Board's electronic payment system found on the Board's website.

(b) Installment payments via the Board's electronic payment system found on the Board's website after the execution of a promissory note containing an agreement for judgment.

PART 1102—COMMUNICATIONS

■ 21. The authority citation for part 1102 continues to read as follows:

Authority: 49 U.S.C. 1321.

■ 22. Amend part 1102 by removing the text ''Chief, Section of Administration, Office of Proceedings'', wherever it appears, and adding, in its place, the text ''Chief of Case Administration, Office of Chief Counsel''.

PART 1103—PRACTITIONERS

■ 23. The authority citation for part 1103 continues to read as follows:

Authority: 21 U.S.C. 862; 49 U.S.C. 1303(c), 1321.

■ 24. Amend § 1103.3 by revising the second and third sentences of paragraph (d) to read as follows:

§ 1103.3 Persons not attorneys-at-law—qualifications and requirements for practice before the Board.

* * * * *

(d) * * * Payment must be made via the Board's electronic payment system found on the Board's website. Cash payment or payment via check or money order will not be accepted.

* * * * *

■ 25. Amend § 1103.4 by revising the first sentence of paragraph (d) to read as follows:

§ 1103.4 Initial appearances.

* * * * *

(d) Filing a letter with the Chief of Case Administration, Office of Chief Counsel, Surface Transportation Board stating that practitioner is authorized to represent a party. * * *

PART 1104—FILING WITH THE BOARD—COPIES—VERIFICATION—SERVICE—PLEADINGS, GENERALLY

■ 26.The authority citation for part 1104 continues to read as follows:

Authority: 5.U.S.C. 553 and 559; 18 U.S.C. 1621; and 49 U.S.C. 1321.

■ 27. Amend § 1104.1 by revising paragraph (a) to read as follows:

§ 1104.1 Address, identification, and electronic filing option.

(a) Except as provided in 49 CFR 1115.7, pleadings should be addressed to the ''Chief of Case Administration, Office of Chief Counsel, Surface Transportation Board, Washington, DC 20423–0001,'' and should designate the docket number and title of the proceeding, if known.

* * * * *

PART 1105—PROCEDURES FOR IMPLEMENTATION OF ENVIRONMENTAL LAWS

■ 28. The authority citation for part 1105 continues to read as follows:

Authority: 16 U.S.C. 1456 and 1536; 42 U.S.C. 4332 and 6362(b); 49 U.S.C. 1301 note (1995) (Savings Provisions), 1321(a), 10502, and 10903–10905; 54 U.S.C. 306108.

■ 29. Revise § 1105.12 to read as follows:

§ 1105.12 Sample newspaper notices for abandonment exemption cases.

In every abandonment exemption case, the applicant shall publish a notice in a newspaper of general circulation in each county in which the line is located and certify to the Board that it has done this by the date its notice of (or petition for) exemption is filed. The notice shall alert the public to the proposed abandonment, to available reuse alternatives, such as trail use and public use, and to how it may participate in a Board proceeding. Sample newspaper notices are provided in appendix A to this part for guidance to the railroads.

■ 30. Add appendix A to part 1105 to read as follows:

Appendix A to Part 1105—Sample Newspaper Notices

Sample Local Newspaper Notice for Out-of-Service Abandonment Exemptions

Notice of Intent To Abandon or To Discontinue Rail Service

Name of railroad) gives notice that on or about (insert date notice of exemption will be filed with the Surface Transportation Board), it intends to file with the Surface Transportation Board, Washington, DC, a notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments permitting the (abandonment of or discontinuance of service on) a____mile line of railroad between railroad milepost ____, near (station name), which traverses through United States Postal Service ZIP Codes (ZIP Codes) and railroad milepost ____, near (station name) which traverses through United States Postal Service ZIP Codes (ZIP Codes) in____County(ies), (State). The proceeding will be docketed as No. AB____ (Sub-No.____X).

The Board's Office of Environmental Analysis (OEA) will generally prepare an Environmental Assessment (EA), which will normally be available 25 days after the filing of the notice of exemption. Comments on environmental and energy matters should be filed no later than 15 days after the EA becomes available to the public and will be addressed in a Board decision. Interested persons may obtain a copy of the EA or make inquiries regarding environmental matters by writing to the Office of Environmental Analysis (OEA), Surface Transportation Board, Washington, DC or by calling that office at [INSERT TELEPHONE NUMBER].

Appropriate offers of financial assistance to continue rail service can be filed with the Board. Requests for environmental conditions, public use conditions, or rail banking/trails use also can be filed with the Board. An original and 10 copies of any

pleading that raises matters other than environmental issues (such as trails use, public use, and offers of financial assistance) must be filed directly with the Board's Office of Chief Counsel, Washington, DC [See 49 CFR 1104.1(a) and 1104.3(a)], and one copy must be served on applicants' representative [See 49 CFR 1104.12(a)]. Questions regarding offers of financial assistance, public use or trails use may be directed to the Board's Office of Public Assistance, Governmental Affairs, and Compliance at [INSERT TELEPHONE NUMBER]. Copies of any comments or requests for conditions should be served on the applicant's representative: (Name, address and phone number).

Sample Local Newspaper Notice for Petitions for Abandonment Exemptions

Notice of Intent To Abandon or To Discontinue Rail Service

(Name of railroad) gives notice that on or about (insert date petition for abandonment exemption will be filed with the Surface Transportation Board) it intends to file with the Surface Transportation Board, Washington, DC, a petition for exemption under 49 U.S.C. 10502 from the prior approval requirements of 49 U.S.C. 10903, *et seq.,* permitting the (abandonment of or discontinuance of service on) a____mile line of railroad between railroad milepost____, near (station name) which traverses through United States Postal Service ZIP Codes (ZIP Codes), and railroad milepost____, near (station name) which traverses through United States Postal Service ZIP Codes (ZIP Codes) in____County(ies), (State). The proceeding has been docketed as No. AB____ (Sub-No.____X).

The Board's Office of Environmental Analysis (OEA) will generally prepare an Environmental Assessment (EA), which will normally be available 60 days after the filing of the petition for abandonment exemption. Comments on environmental and energy matters should be filed no later than 30 days after the EA becomes available to the public and will be addressed in a Board decision. Interested persons may obtain a copy of the EA or make inquiries regarding environmental matters by writing to OEA, Surface Transportation Board, Washington, DC or by calling OEA at [INSERT TELEPHONE NUMBER].

Appropriate offers of financial assistance to continue rail service can be filed with the Board. Requests for environmental conditions, public use conditions, or rail banking/trails use also can be filed with the Board. An original and 10 copies of any pleading that raises matters other than environmental issues (such as trails use, public use, and offers of financial assistance) must be filed directly with the Board's Office of Chief Counsel, Washington, DC [See 49 CFR 1104.1(a) and 1104.3(a)], and one copy must be served on applicants' representative [See 49 CFR 1104.12(a)]. Questions regarding offers of financial assistance, public use or trails use may be directed to the Board's Office of Public Assistance, Governmental Affairs, and Compliance at [INSERT TELEPHONE NUMBER]. Copies of any comments or requests for conditions should be served on the applicant's representative (name and address).

PART 1109—USE OF MEDIATION IN BOARD PROCEEDINGS

■ 31. The authority citation for part 1109 continues to read as follows:

Authority: 49 U.S.C. 1321(a) and 5 U.S.C. 571 *et seq.*

■ 32. Amend § 1109.3 by revising the second sentence of paragraph (e) to read as follows:

§ 1109.3 Mediation procedures.

* * * * *

(e) * * * Any such request should be submitted to the Chief of Case Administration, Office of Chief Counsel. * * *

* * * * *

PART 1110—PROCEDURES GOVERNING INFORMAL RULEMAKING PROCEEDINGS

■ 33. The authority citation for part 1110 continues to read as follows:

Authority: 49 U.S.C. 1321.

■ 34. Amend part 1110 by:

■ a. Removing the text ''Office of Proceedings'', wherever it appears, and adding, in its place, the text ''Office of Chief Counsel''; and

■ b. Removing the text ''Chief, Section of Administration'', wherever it appears, and adding, in its place, the text ''Chief of Case Administration''.

PART 1113—ORAL HEARINGS

■ 35. The authority citation for part 1113 continues to read as follows:

Authority: 5 U.S.C. 559; 49 U.S.C. 1321.

■ 36. Amend § 1113.2 by revising the second sentence of paragraph (a) and the fifth sentence of paragraph (d) to read as follows:

§ 1113.2 Subpoenas.

(a) * * * A subpoena may be issued by the Board or by the officer presiding at a hearing and must be signed by the Chief Counsel or a member of the Board.

* * * * *

(d) * * * The original subpoena bearing or accompanied by the required return, affidavit, statement, or acceptance of service, should be returned forthwith to the Chief of Case Administration, Office of Chief Counsel, unless otherwise directed.

* * * * *

■ 37. Amend § 1113.17 by revising the third sentence of paragraph (c) to read as follows:

§ 1113.17 Transcript of record.

* * * * *

(c) * * * If no objections are timely filed, the Office of Chief Counsel shall make the suggested corrections to the transcript. * * *

* * * * *

PART 1114—EVIDENCE; DISCOVERY

■ 38. The authority citation for part 1114 continues to read as follows:

Authority: 5 U.S.C. 559; 49 U.S.C. 1321.

■ 39. Amend § 1114.24 by revising the first sentence of paragraph (h) to read as follows:

§ 1114.24 Depositions; procedures.

* * * * *

(h) * * * The officer shall either submit the deposition and all exhibits by e-filing (provided the filing complies with 49 CFR 1104.1(e)) or securely seal the deposition and all exhibits in an envelope endorsed with sufficient information to identify the proceeding and marked ''Deposition of (here insert name of witness)'' and personally deliver or promptly send it by registered mail to the Office of Chief Counsel. * * *

* * * * *

■ 40. Amend § 1114.31 by revising paragraph (a)(4) as follows:

§ 1114.31 Failure to respond to discovery.

(a) * * *

(4) *Ruling on motion to compel in stand-alone cost and simplified standards rate cases.* Within 5 business days after a conference with the parties convened pursuant to paragraph (a)(3) of this section, the Chief Counsel will issue a summary ruling on the motion to compel discovery. If no conference is convened, the Chief Counsel will issue this summary ruling within 10 days after the filing of the reply to the motion to compel. Appeals of a Chief Counsel's ruling will proceed under 49 CFR 1115.9, and the Board will attempt to rule on such appeals within 20 days after the filing of the reply to the appeal.

* * * * *

PART 1115—APPELLATE PROCEDURES

■ 41. The authority citation for part 1115 continues to read as follows:

Authority: 5 U.S.C. 559; 49 U.S.C. 1321; 49 U.S.C. 11708.

■ 42. Revise § 1115.7 to read as follows:

§ 1115.7 Petitions for judicial review; mailing address.

Petitions for judicial review of final agency orders may be served on the Board pursuant to 28 U.S.C. 2112(a) and be addressed to ''Chief Counsel, Office

of Chief Counsel, Surface Transportation Board, Washington, DC 20423.''

PART 1116—ORAL ARGUMENT BEFORE THE BOARD

■ 43. The authority citation for part 1116 continues to read as follows:

Authority: 49 U.S.C. 1321.

■ 44. Amend § 1116.1 by revising paragraph (a) to read as follows:

§ 1116.1 Requests.

(a) *Addressee.* Requests for oral argument should be addressed to the Chief of Case Administration, Office of Chief Counsel, Surface Transportation Board, Washington, DC 20423–0001.

* * * * *

PART 1130—INFORMAL COMPLAINTS

■ 45. The authority citation for part 1130 continues to read as follows:

Authority: 49 U.S.C. 1321, 13301(f), 14709.

■ 46. Amend § 1130.2(g)(2) by revising the first and second sentences of paragraph (g)(2) to read as follows:

§ 1130.2 When damages sought.

* * * * *

(g) * * *

(2) * * * Tariff reconciliation petitions (letters of intent) shall be served on all parties named in the petition by the party that files the petition and will be made available by the Board for public inspection in the Office of Public Assistance, Governmental Affairs, and Compliance, Surface Transportation Board, Washington, DC 20423. Any interested person may protest the granting of a petition by filing a letter of objection with the Office of Public Assistance, Governmental Affairs, and Compliance within 30 days of Board receipt of the petition. * * *

* * * * *

PART 1132—PROTESTS REQUESTING SUSPENSION AND INVESTIGATION OF COLLECTIVE RATEMAKING ACTIONS

■ 47. The authority citation for part 1132 continues to read as follows:

Authority: 49 U.S.C. 1321, 13301(f), and 13703.

■ 48. Amend § 1132.1 by revising the first sentence of paragraph (c) to read as follows:

§ 1132.1 Protest against collective ratemaking actions.

* * * * *

(c) * * * Every protest or reply filed under this section should be directed to the attention of the Chief of Case Administration, Office of Chief Counsel, Surface Transportation Board. * * *

* * * * *

PART 1150—CERTIFICATE TO CONSTRUCT, ACQUIRE, OR OPERATE RAILROAD LINES

■ 49. The Authority citation for part 1150 continues to read as follows:

Authority: 49 U.S.C. 1321(a), 10502, 10901, and 10902.

■ 50. Amend part 1150 by:

■ a. Removing the text ''Chief, Section of Administration, Office of Proceedings'', wherever it appears, and adding, in its place, the text ''Chief of Case Administration, Office of Chief Counsel''; and

■ b. Removing the text ''Director of the Office of Proceedings'', wherever it appears, and adding, in its place, the text ''Chief Counsel''.

PART 1151—FEEDER RAILROAD DEVELOPMENT PROGRAM

■ 51. The authority citation for part 1151 continues to read as follows:

Authority: 49 U.S.C. 10907.

■ 52. Amend § 1151.2 by:

■ a. Revising the first sentences of paragraphs (b)(1) and (2) and (c)(2); and

■ b. Revising paragraphs (d)(2) and (j). The revision reads as follows:

§ 1151.2 Procedures.

* * * * *

(b) * * *

(1) The Board, through the Chief Counsel, will accept a complete application no later than 30 days after the application is filed by publishing a notice in the **Federal Register**. * * *

(2) The Board, through the Chief Counsel, will reject an incomplete application by serving a decision no later than 30 days after the application is filed. * * *

(c) * * *

(2) The Board, through the Chief Counsel, will issue a decision accepting or rejecting a competing application no later than 15 days after it is filed. * * *

(d) * * *

(2) The Board, through the Chief Counsel, will by decision conditionally accept incomplete initial or competing applications, if the Chief Counsel determines that the discovery sought is necessary for the application and primarily or exclusively within the knowledge of the owning carrier.

* * * * *

(j) *Waiver.* Prior to filing an initial or competing application, an applicant may file a petition to waive or clarify specific portions of this part. A decision by the Chief Counsel granting or denying a petition for waiver or clarification will be issued within 30 days of the date the petition is filed. Appeals from the Chief Counsel's decision will be decided by the entire Board.

* * * * *

PART 1152—ABANDONMENT AND DISCONTINUANCE OF RAIL LINES AND RAIL TRANSPORTATION UNDER 49 U.S.C. 10903

■ 53. The authority citation for part 1152 continues to read as follows:

Authority: 11 U.S.C. 1170; 16 U.S.C. 1247(d) and 1248; 45 U.S.C. 744; and 49 U.S.C. 1301, 1321(a), 10502, 10903–10905, and 11161.

■ 54. Amend part 1152 by:

■ a. Removing the text ''Director'' and ''Director of the Office of Proceedings'', wherever it appears, and adding, in its place, the text ''Chief Counsel'';

■ b. Removing the text ''Chief, Section of Administration, Office of Proceedings'', wherever it appears, and adding, in its place, the text ''Chief of Case Administration, Office of Chief Counsel''; and

■ c. Removing the text ''Director's decision'', wherever it appears, and adding, in its place, the text ''Chief Counsel's decision''.

■ 55. Amend § 1152.24 by revising the third sentence of paragraph (a) to read as follows:

§ 1152.24 Filing and service of application.

(a) * * * The applicable filing fee must be paid via the Board's electronic payment system (see 49 CFR part 1002). * * *

* * * * *

PART 1155—SOLID WASTE RAIL TRANSFER FACILITIES

■ 56. The authority citation for part 1155 continues to read as follows:

Authority: 49 U.S.C. 1321(a), 10908, 10909, 10910.

■ 57. Amend part 1155 by:

■ a. Removing the text ''Director of the Office of Proceedings'', wherever it appears, and adding, in its place, the text ''Chief Counsel'';

■ b. Removing the text ''Chief, Section of Administration, Office of Proceedings'', wherever it appears, and adding, in its place, the text ''Chief of Case Administration, Office of Chief Counsel''; and

■ c. Removing the text ''Director's decision'', wherever it appears, and adding, in its place, the text ''Chief Counsel's decision''.

PART 1177—RECORDATION OF DOCUMENTS

■ 58. The authority citation for part 1177 continues to read as follows:

Authority: 49 U.S.C. 1321, 11301.

■ 59. Amend part 1177 by:
■ a. Removing the text ''Chief, Section of Administration, Office of Proceedings'', wherever it appears, and adding, in its place, the text ''Chief of Case Administration, Office of Chief Counsel''; and
■ b. Removing the text ''Chief, Section of Administration, Office of Proceedings''', wherever it appears, and adding, in its place, the text ''Chief of Case Administration, Chief Counsel's''.

PART 1180—RAILROAD ACQUISITION, CONTROL, MERGER, CONSOLIDATION PROJECT, TRACKAGE RIGHTS, AND LEASE PROCEDURES

■ 60. The authority citation for part 1180 continues to read as follows:

Authority: 5 U.S.C. 553 and 559; 11 U.S.C. 1172; 49 U.S.C. 1321, 10502, 11323–11325.

§ 1180.4 [Amended]

■ 61. Amend § 1180.4 by:
■ a. In paragraph (c)(2)(ii), removing the text ''Chief, Section of Administration, Office of Proceedings'' and adding, in its place, the text ''Chief of Case Administration, Office of Chief Counsel'';
■ b. In paragraph (c)(6)(iii), removing the text removing the text ''Office of Proceedings'' and adding, in its place, the text ''Office of Chief Counsel''; and
■ c. In paragraph (g)(1) introductory text, removing the text ''Section of Administration, Office of Proceedings'' and adding, in its place, the text ''Section of Case Administration, Office of Chief Counsel''.

PART 1253—RATE-MAKING ORGANIZATION; RECORDS AND REPORTS

■ 62. The authority citation for part 1253 continues to read as follows:

Authority: 49 U.S.C. 1321, 10706, 13703, 11144, and 11145.

■ 63. Amend § 1253.20 by:
■ a. Revising paragraph (c)(1); and
■ b. Removing the parenthetical authority citation at the end of the section.

The revision reads as follows:

§ 1253.20 Other records.

* * * * *

(c) * * *

(1) Advise the Board of any change in legal address by notifying the Chief of Case Administration, Office of Chief Counsel; and

* * * * *

[FR Doc. 2026–02179 Filed 2–2–26; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 250312–0037; RTID 0648–XF457]

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Vessels Using Pot Gear in the Western 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 vessels using pot gear in the Western 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 vessels using pot gear in the Western Regulatory Area of the GOA.

DATES: Effective 1200 hours, Alaska local time (A.l.t.), February 1, 2026, through 1200 hours, A.l.t., September 1, 2026.

FOR FURTHER INFORMATION CONTACT: Adam Zaleski, 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 vessels using pot gear in the Western Regulatory Area of the GOA is 1,027 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).

In accordance with § 679.20(d)(1)(i), the Regional Administrator, Alaska Region, NMFS (Regional Administrator) has determined that the A season allowance of the 2026 Pacific cod TAC apportioned to vessels using pot gear in the Western Regulatory Area of the GOA will be or has been reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 1,027 mt and is setting aside 0 mt as incidental catch because it is not necessary 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 vessels using pot gear in the Western Regulatory Area of the GOA to prevent exceeding this 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 vessels using pot gear in the A season in the Western Regulatory Area of the GOA. 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 29, 2026.

There is good cause under 5 U.S.C. 553(d)(3) to establish an effective date less than 30 days after the 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 30, 2026.

Kelly Denit,

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

[FR Doc. 2026–02166 Filed 1–30–26; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 91, No. 22
Tuesday, February 3, 2026

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.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 890

[Docket ID: OPM–2023–0037]

RIN 3206–AO47

Federal Employees Health Benefits Program: Modification of Effective Date of Coverage for Employees With an Initial Opportunity To Enroll

AGENCY: Office of Personnel Management.

ACTION: Withdrawal of proposed rule.

SUMMARY: The Office of Personnel Management withdraws a proposed rule published on February 1, 2024. The notice of proposed rulemaking proposed to modify the Federal Employees Health Benefits (FEHB) regulations and would have also applied to the Postal Service Health Benefits (PSHB) Program, to allow for coverage to take effect as soon as an employee becomes eligible for coverage under the FEHB Program.

DATES: OPM withdraws the proposed rule as of February 3, 2026.

ADDRESSES: The docket for this withdrawn rule is available at *https://www.regulations.gov/docket/OPM-2023-0037.*

FOR FURTHER INFORMATION CONTACT: Meredith Gitangu by email at *meredith.gitangu@opm.gov* or by telephone at 202–606–2378.

SUPPLEMENTARY INFORMATION: On February 1, 2024, the Office of Personnel Management (OPM) published a notice of proposed rulemaking (NPRM or proposed rule) titled ''Federal Employees Health Benefits Program: Modification of Effective Date of Coverage for Employees with an Initial Opportunity to Enroll,'' in the **Federal Register**. *See* 89 FR 6436. The NPRM proposed to modify the Federal Employees Health Benefits (FEHB) regulations to allow for coverage to take effect as soon as an employee becomes eligible for coverage under the FEHB Program. The rulemaking would have also applied to the Postal Service Health Benefits (PSHB) Program within the FEHB Program. The proposed changes would have allowed FEHB and PSHB coverage to become effective at the beginning of the pay period that the employee in pay status has an initial opportunity to enroll.

In response to the NPRM, OPM received approximately 47 comments during the 60-day comment period which ended on April 1, 2024. Some commenters raised significant implementation and legal concerns with the proposal.

OPM is withdrawing the proposed rule and does not intend to issue a final rule. OPM did not receive widespread support from the larger federal employee population or agency partners, including those from outside the executive branch that would have been impacted by the changes in the proposed rule. We have determined that pursuing a final rule does not align with current needs, priorities, and objectives. Further, the associated costs are not an effective use of limited agency resources and valuable taxpayer dollars.

The Director of OPM, Scott Kupor, reviewed and approved this document and has authorized the undersigned to electronically sign and submit this document to the Office of the Federal Register for publication.

Office of Personnel Management.

Jerson Matias,

Federal Register Liaison.

[FR Doc. 2026–02192 Filed 2–2–26; 8:45 am]

BILLING CODE 6325–63–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2026–0736; Project Identifier MCAI–2025–00698–R]

RIN 2120–AA64

Airworthiness Directives; Bell Textron Canada Limited 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 certain Bell Textron Canada Limited (BTCL) Model 407 helicopters. This proposed AD was prompted by a determination that chafing can occur at various locations on the electrical harnesses located in the aircraft instrument panel area. This proposed AD would require a one-time detailed visual inspection of the electrical harnesses for chafing and corrective actions if necessary. This proposed AD would also require rotation of the backshell cast housing of connectors of the lower engine airframe unit and installation of a wire harness bracket and support, and for certain helicopters, installation of a wire bundle sleeve. 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 20, 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–2026–0736; 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 Transport Canada material identified in this proposed AD, contact Transport Canada, Transport Canada National Aircraft Certification, 159 Cleopatra Drive, Nepean, Ontario, K1A 0N5, CANADA; phone: (888) 663–3639; email: *TC.AirworthinessDirectives-Consignesdenavigabilite.TC@tc.gc.ca.* You may find the Transport Canada material on the Transport Canada website at *tc.canada.ca/en/aviation.*

• 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) 222–5118.

FOR FURTHER INFORMATION CONTACT: Matthew Williams, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: (316) 946–4134; email: *matthew.t.williams@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 the **ADDRESSES** section. Include ''Docket No. FAA–2026–0736; Project Identifier MCAI–2025–00698–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 Matthew Williams, 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

Transport Canada, which is the aviation authority for Canada, has issued Transport Canada AD CF–2025–22, dated April 23, 2025 (Transport Canada AD CF–2025–22) (also referred to as the MCAI), to correct an unsafe condition on certain BTCL Model 407 helicopters. The MCAI states that chafing could occur between the primary flight display/multi-function display harnesses and the cable harness protection system rack and could also occur between the electrical harnesses and the shroud behind the instrument panel area. This condition, if not addressed, could result in smoke or fire in the cockpit and loss of control of the helicopter.

You may examine the MCAI in the AD docket at *regulations.gov* under Docket No. FAA–2026–0736.

Material Incorporated by Reference Under 1 CFR Part 51

The FAA reviewed Transport Canada AD CF–2025–22, which specifies procedures for a detailed visual inspection of the electrical harnesses located behind the instrument panel for chafing and, depending on the inspection results, repairing damaged parts (chafed electrical harnesses) and performing further inspections; rotating the backshell cast housing; and installing the wire harness bracket and support. This material also specifies procedures for certain helicopters without a sleeve installed on the wire bundle, installing a sleeve to cover the wire bundle.

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 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 for any differences identified as exceptions in the regulatory text of this proposed 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 proposes to incorporate Transport Canada AD CF–2025–22 by reference in the FAA final rule. This proposed AD would, therefore, require compliance with Transport Canada AD CF–2025–22 in its entirety through that incorporation, except for any differences identified as exceptions in the regulatory text of this proposed AD. Material referenced in Transport Canada AD CF–2025–22 for compliance will be available at *regulations.gov* under Docket No. FAA–2026–0736 after the FAA final rule is published.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 333 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
Inspect electrical harness	8 work-hours × $85 per hour = $680	$0	$680	$226,440.
Install wire bundle sleeve	1 work-hour × $85 per hour = $85	0	85	Up to 28,305.
Rotate backshell cast housing	1 work-hour × $85 per hour = $85	0	85	Up to 28,305.

ESTIMATED COSTS—Continued

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Secure wire harness and install bracket and support.	1 work-hour × $85 per hour = $85	100	185	61,605.

The FAA estimates the following cost to do any repair that would be required based on the results of the proposed inspection. The agency has no way of determining the number of helicopters that might need this repair:

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Repair wire bundle	1 work-hour × $85 per hour = $85	$0	$85

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:

Bell Textron Canada Limited: Docket No. FAA–2026–0736; Project Identifier MCAI–2025–00698–R.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by March 20, 2026.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Bell Textron Canada Limited Model 407 helicopters, serial numbers 54300 through 54752, 54805 through 54999, and 56300 through 56366 and 56368, certificated in any category.

(d) Subject

Joint Aircraft System Component (JASC) Code 1420, Electrical Connectors.

(e) Unsafe Condition

This AD was prompted by a determination that chafing can occur at various locations on the electrical harnesses located in the aircraft instrument panel area. The FAA is issuing this AD to detect and address chafing. The unsafe condition, if not addressed, could result in smoke or fire in the cockpit and loss of control of the helicopter.

(f) Compliance

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

(g) Required Actions

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–2025–22, dated April 23, 2025 (Transport Canada AD CF–2025–22).

(h) Exceptions to Transport Canada AD CF–2025–22

(1) Where Transport Canada AD CF–2025–22 refers to its effective date, this AD requires using the effective date of this AD.

(2) Where Transport Canada AD CF–2025–22 requires compliance in terms of air time, this AD requires using hours time-in-service.

(3) Where the material referenced in Transport Canada AD CF–2025–22 specifies ''grounding screw heads should face on the left hand side'' or ''grounding screw heads should face left hand side'', this AD requires replacing that text with ''grounding screw heads must face on the left-hand side''.

(i) Special Flight Permits

Special flight permits are prohibited.

(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 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.*

(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.

(k) Additional Information

For more information about this AD, contact Matthew Williams, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: (316) 946–4134; email: *matthew.t.williams@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) Transport Canada AD CF–2025–22, dated April 23, 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; phone: (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, 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) 222–5118.

(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 28, 2026.

Steven W. Thompson,

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

[FR Doc. 2026–02138 Filed 2–2–26; 8:45 am]

BILLING CODE 4910–13–P

Notices

Federal Register
Vol. 91, No. 22
Tuesday, February 3, 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

Forest Service

Newspapers Used for Publication of Legal Notices by the Intermountain Region: Utah, Nevada, Parts of Idaho and Wyoming

AGENCY: Forest Service, Agriculture (USDA).

ACTION: Notice of newspapers of record.

SUMMARY: This notice lists the newspapers that will be used by the ranger districts, forests, and regional office of the Intermountain Region to publish legal notices. The intended effect of this action is to inform interested members of the public which newspapers the Forest Service will use to publish notices of proposed actions and notices of decision. This will provide the public with constructive notice of Forest Service proposals and decisions, provide information on the procedures to comment, object, and establish the date that the Forest Service will use to determine if comments or objections were timely.

DATES: Publication of legal notices in the listed newspapers will begin on the date of this publication and continue until further notice.

ADDRESSES: Jennifer Purvine, Regional Administrative Review Coordinator, Intermountain Region, 324 25th St. Ogden, UT 84401.

FOR FURTHER INFORMATION CONTACT: Jennifer Purvine, Regional Administrative Review Coordinator, by telephone at 385–262–5117, or by email at *jennifer.purvine@usda.gov.*

SUPPLEMENTARY INFORMATION: The administrative procedures at 36 CFR parts 218 and 219 require the Forest Service to publish notices in a newspaper of general circulation. The content of the notices is specified in 36 CFR parts 218 and 219. In general, the notices will identify: The decision or project, by title or subject matter; the name and title of the official making the decision; how to obtain additional information; and where and how to file comments or objections. The date the notice is published will be used to establish the official date for the beginning of the comment or objection period. The newspapers to be used are as follows:

Regional Forester, Intermountain Region

Regional Forester decisions affecting National Forests in Idaho: *Idaho Statesman*
Regional Forester decisions affecting National Forests in Nevada: *Reno Gazette-Journal*
Regional Forester decisions affecting National Forests in Wyoming: *Casper Star-Tribune*
Regional Forester decisions affecting National Forests in Utah: *Salt Lake Tribune*
Regional Forester decisions that affect all National Forests in the Intermountain Region: *Salt Lake Tribune*

Ashley National Forest

Ashley Forest Supervisor decisions: *Vernal Express*
District Ranger decisions for Duchesne, Roosevelt: *Uintah Basin Standard*
Flaming Gorge District Ranger for decisions affecting Wyoming: *Rocket Miner*
Flaming Gorge and Vernal District Ranger for decisions affecting Utah: *Vernal Express*

Boise National Forest

Boise Forest Supervisor decisions: *Idaho Statesman*
Cascade District Ranger decisions: *The Star-News*
Emmett District Ranger decisions: *Emmett Messenger Index*
District Ranger decisions for Idaho City and Mountain Home Districts: *Idaho Statesman*
Lowman District Ranger decisions: *The Idaho World*

Bridger Teton National Forest

Bridger-Teton Forest Supervisor and District Ranger decisions: *Casper Star-Tribune*

Caribou-Targhee National Forest

Caribou-Targhee Forest Supervisor decisions for the Caribou portion: *Idaho State Journal*
Caribou-Targhee Forest Supervisor decisions for the Targhee portion: *Post Register*
District Ranger decisions for Ashton, Dubois, Island Park, Palisades and Teton Basin: *Post Register*
District Ranger decisions for Montpelier, Soda Springs and Westside: *Idaho State Journal*

Dixie National Forest

Dixie Forest Supervisor decisions: *The Spectrum*
District Ranger decisions for Cedar City and Pine Valley: *The Spectrum*
District Ranger decisions for Escalante and Powell: *The Insider*
Decisions affecting the former Teasdale RD area of the Dixie NF; now managed by the Fishlake NF Fremont River District Ranger: *The Richfield Reaper*

Fishlake National Forest

Fishlake Forest Supervisor and District Ranger decisions: *The Richfield Reaper*

Humbolt-Toiyabe National Forest

Humboldt-Toiyabe Forest Supervisor decisions that encompass all or portions of both the Humboldt and Toiyabe National Forests: *Reno Gazette-Journal*
Humboldt-Toiyabe Forest Supervisor decisions for the Humboldt portion: *Elko Daily Free Press*
Humboldt-Toiyabe Forest Supervisor decisions for the Toiyabe portion: *Reno Gazette-Journal*
Austin-Tonopah District Ranger decisions: *Reno Gazette-Journal*
Bridgeport District Ranger decisions: *Reno Gazette-Journal*
Carson District Ranger decisions: *Reno Gazette-Journal*
Ely District Ranger decisions: *Bristlecone Tribune*
Mountain City, Ruby Mountains and Jarbidge District Ranger decisions: *Elko Daily Free Press*
Santa Rosa District Ranger decisions: *Great Basin Sun*
Spring Mountains National Recreation Area District Ranger decisions: *Las Vegas Review Journal*

Manti-La Sal

Manti-La Sal Forest Supervisor decisions: *ETV News (Emery Telcom)*
Ferron District Ranger decisions: *ETV News (Emery Telcom)*
Moab District Ranger decisions: *The Times-Independent*

Monticello District Ranger decisions: *San Juan Record*
Price District Ranger decisions: *ETV News (Emery Telcom)*
Sanpete District Ranger decisions: *Sanpete Messenger*

Payette National Forest

Payette Forest Supervisor decisions: *Idaho Statesman*
Council District Ranger decisions: *The Record Reporter*
District Ranger decisions for Krassel, McCall and New Meadow: *Star-News*
Weiser District Ranger decisions: *Weiser Signal American*

Salmon-Challis National Forest

Salmon-Challis Forest Supervisor decisions for the Salmon portion: *The Recorder-Herald*
Salmon-Challis Forest Supervisor decisions for the Challis portion: *The Challis Messenger*
District Ranger decisions for Lost River, Middle Fork and Challis-Yankee Fork: *The Challis Messenger*
District Ranger decisions for Leadore, North Fork and Salmon-Cobalt: *The Recorder-Herald*

Sawtooth National Forest

Sawtooth Forest Supervisor decisions: *Times-News*
District Ranger decisions for Fairfield and Minidoka: *Times-News*
Ketchum District Ranger decisions: *Idaho Mountain Express*
Sawtooth National Recreation Area: *The Challis Messenger*

Uinta-Wasatch-Cache National Forest

Forest Supervisor decisions for the Uinta portion, including the Vernon Unit: *Provo Daily Herald*
Forest Supervisor decisions for the Wasatch-Cache portion: *Salt Lake Tribune*
Forest Supervisor decisions for the entire Uinta-Wasatch-Cache: *Salt Lake Tribune*
District Ranger decisions for the Heber-Kamas, Pleasant Grove and Spanish Fork Ranger Districts: *Provo Daily Herald*
District Ranger decisions for Evanston-Mountain View: *Uinta County Herald*
District Ranger decisions for Salt Lake: *Salt Lake Tribune*
District Ranger decisions for Logan*: Logan Herald Journal*
District Ranger decisions for Ogden: *Standard Examiner*

Lisa Northrop,

Associate Deputy Chief State, Private, and Tribal Forestry, National Forest System.

[FR Doc. 2026–02111 Filed 2–2–26; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Forest Service

Newspapers Used for Publication of Legal Notices in the Southwestern Region; Arizona, New Mexico, and Parts of Oklahoma and Texas

AGENCY: Forest Service, Agriculture (USDA).

ACTION: Notice of newspapers of record.

SUMMARY: This notice lists the newspapers that will be used by all ranger districts, national forests and grasslands, and regional office of the Southwestern Region to publish legal notices. The intended effect of this action is to inform interested members of the public which newspapers the Forest Service will use to publish notices of proposed actions, notices of decision, and notices of opportunity to file an objection. This will provide the public with constructive notice of Forest Service proposals and decisions, provide information on the procedures to comment or object, and establish the date that the Forest Service will use to determine if comments or objections were timely.

DATES: Publication of legal notices in the listed newspapers will begin on the date of this publication and continue until further notice.

ADDRESSES: Roxanne Turley, Regional Administrative Review Coordinator, Forest Service, Southwestern Region; 333 Broadway SE, Albuquerque, NM 87102–3498.

FOR FURTHER INFORMATION CONTACT: Roxanne Turley, Regional Administrative Review Coordinator, by email at: *Roxanne.Turley@usda.gov* or by phone at: (505) 842–3178.

SUPPLEMENTARY INFORMATION: The administrative procedures at 36 Code of Federal Regulations (CFR) 218 and 219 require the Forest Service to publish notices in a newspaper of general circulation. The content of the notices is specified in 36 CFR 218 and 219. In general, the notices will identify: the decision or project, by title or subject matter; the name and title of the official making the decision; how to obtain additional information; and where and how to file comments or objections. The date the notice is published will be used to establish the official date for the beginning of the comment or objection period.

Southwestern Regional Office

Regional Forester notices of availability for comment, decisions, and objections affecting National Forest System lands in the State of New Mexico for any projects of region-wide impact, or for any projects affecting more than one national forest or national grassland in New Mexico are published in: *Albuquerque Journal,* Albuquerque, New Mexico.

Regional Forester notices of availability for comment, decisions, and objections affecting National Forest System lands in the State of Arizona for any projects of region-wide impact, or for any projects affecting more than one national forest in Arizona are published in: *East Valley Tribune,* Tempe, Arizona.

Regional Forester notices of availability for comment, decisions, and objections affecting national grasslands in New Mexico, Oklahoma, and Texas are listed by grassland and location as follows:

Kiowa National Grassland notices in Colfax, Harding, Mora and Union Counties, New Mexico, are published in: *Union County Leader,* Clayton, New Mexico.

Rita Blanca National Grassland in Cimarron County, Oklahoma, notices are published in: *Boise City News,* Boise City, Oklahoma.

Rita Blanca National Grassland in Dallam County, Texas, notices are published in: *The Dalhart Texan,* Dalhart, Texas.

Black Kettle National Grassland in Roger Mills County, Oklahoma, notices are published in: *Cheyenne Star,* Cheyenne, Oklahoma.

Black Kettle National Grassland in Hemphill County, Texas, notices are published in: *The Canadian Record,* Canadian, Texas.

McClellan Creek National Grassland in Gray County, Texas, notices are published in: *The Pampa News,* Pampa, Texas.

Regional Forester notices of availability for comment, decisions, and objections affecting only one national forest or national grassland unit will appear in the newspaper of record elected by each national forest or national grassland as listed below.

Apache-Sitgreaves National Forests, Arizona

Notices for availability for comment, decisions, and objections by Forest Supervisor, Alpine Ranger District, Black Mesa Ranger District, Lakeside Ranger District, and Springerville Ranger District are published in: *The White Mountain Independent,* Apache County, Arizona.

Clifton Ranger District notices are published in: *Copper Era,* Clifton, Arizona.

Coconino National Forest, Arizona

Notices for availability for comment, decisions, and objections by Forest Supervisor, Mogollon Rim Ranger District and Flagstaff Ranger District are published in: *Arizona Daily Sun,* Flagstaff, Arizona.

Red Rock Ranger District notices are published in: *Red Rock News,* Sedona, Arizona.

Coronado National Forest, Arizona

Notices for availability for comment, decisions, and objections by the Forest Supervisor and Santa Catalina Ranger District are published in: *The Daily Territorial,* Tucson, Arizona.

Douglas Ranger District notices for projects occurring within the Chiricahua and Dragoon Mountain Ranges (the Chiricahua and Dragoon Ecosystem Management Areas) are published in: *Herald/Review,* Sierra Vista, Arizona; notices for projects occurring within the Peloncillo Mountain Range (the Peloncillo Ecosystem Management Area) are published in: *Hidalgo County Herald,* Lordsburg, New Mexico.

Nogales Ranger District notices are published in: *Nogales International,* Nogales, Arizona.

Sierra Vista Ranger District notices are published in: *Herald/Review,* Sierra Vista, Arizona.

Safford Ranger District notices are published in: *Eastern Arizona Courier,* Safford, Arizona.

Kaibab National Forest, Arizona

Notices for availability for comment, decisions, and objections by Forest Supervisor, North Kaibab Ranger District, Tusayan Ranger District, and Williams Ranger District are published in: *Arizona Daily Sun,* Flagstaff, Arizona.

Prescott National Forest, Arizona

Notices for availability for comment, decisions, and objections by Forest Supervisor, Bradshaw Ranger District, and Chino Valley Ranger District are published in: *Daily Courier,* Prescott, Arizona.

Verde Ranger District notices are published in: *Verde Independent,* Cottonwood, Arizona.

Tonto National Forest, Arizona

Notices for availability for comment, decisions, and objections by Forest Supervisor, Cave Creek Ranger District and Mesa Ranger District are published in: *Arizona Capitol Times,* in Phoenix, Arizona.

Globe Ranger District notices are published in: *Arizona Silver Belt,* Globe, Arizona.

Payson Ranger District, Pleasant Valley Ranger District and Tonto Basin Ranger District notices are published in: *Payson Roundup,* Payson, Arizona.

Carson National Forest, New Mexico

Notices for availability for comment, decisions, and objections by Forest Supervisor, Camino Real Ranger District, Tres Piedras Ranger District and Questa Ranger District are published in: *The Taos News,* Taos, New Mexico.

Canjilon Ranger District and El Rito Ranger District notices are published in: *Rio Grande Sun,* Espanola, New Mexico.

Jicarilla Ranger District notices are published in: *Farmington Daily Times,* Farmington, New Mexico.

Cibola National Forest and National Grasslands, New Mexico, Oklahoma and Texas

Notices for availability for comment, decisions, and objections by Forest Supervisor affecting National Forest System lands in New Mexico, except the national grasslands, are published in: *Albuquerque Journal,* Albuquerque, New Mexico.

Mt. Taylor Ranger District notices are published in: *Cibola Citizen,* Grants, New Mexico.

Magdalena Ranger District notices are published in: *El Defensor-Chieftain,* Socorro, New Mexico.

Mountainair Ranger District notices are published in: *The Independent,* Edgewood, New Mexico.

Sandia Ranger District notices are published in: *Albuquerque Journal,* Albuquerque, New Mexico.

Forest Supervisor notices affecting national grasslands in New Mexico, Oklahoma, and Texas are published by grassland and location as follows:

Kiowa National Grassland notices in Colfax, Harding, Mora and Union Counties, New Mexico, are published in: *Union County Leader,* Clayton, New Mexico.

Rita Blanca National Grassland in Cimarron County, Oklahoma, notices are published in: *Boise City News,* Boise City, Oklahoma.

Rita Blanca National Grassland in Dallam County, Texas, notices are published in: *The Dalhart Texan,* Dalhart, Texas.

Black Kettle National Grassland in Roger Mills County, Oklahoma, notices are published in: *Cheyenne Star,* Cheyenne, Oklahoma.

Black Kettle National Grassland in Hemphill County, Texas, notices are published in: *The Canadian Record,* Canadian, Texas.

McClellan Creek National Grassland in Gray County, Texas, notices are published in: *The Pampa News,* Pampa, Texas.

Gila National Forest, New Mexico

Notices for availability for comment, decisions, and objections by Forest Supervisor, Quemado Ranger District, Reserve Ranger District, Glenwood Ranger District, Silver City Ranger District, and Wilderness Ranger District are published in: *Silver City Daily Press,* Silver City, New Mexico.

Black Range Ranger District notices are published in: *Sierra County Sentinel,* Truth or Consequences, New Mexico.

Lincoln National Forest, New Mexico

Notices for availability for comment, decisions, and objections by Forest Supervisor and the Sacramento Ranger District are published in: *Alamogordo Daily News,* Alamogordo, New Mexico.

Guadalupe Ranger District notices are published in: *Carlsbad Current Argus,* Carlsbad, New Mexico.

Smokey Bear Ranger District notices are published in: *Ruidoso News,* Ruidoso, New Mexico.

Santa Fe National Forest, New Mexico

Notices for availability for comment, decisions, and objections by Forest Supervisor, Coyote Ranger District, Cuba Ranger District, Espanola Ranger District, Jemez Ranger District, and Pecos-Las Vegas Ranger District are published in: *Albuquerque Journal,* Albuquerque, New Mexico.

Lisa Northrop,

Associate Deputy Chief State, Private, and Tribal Forestry, National Forest System.

[FR Doc. 2026–02183 Filed 2–2–26; 8:45 am]

BILLING CODE 3411–15–P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Louisiana Advisory Committee to the U.S. Commission on Civil Rights; Cancellation

AGENCY: U.S. Commission on Civil Rights.

ACTION: Notice; Cancellation of Meeting.

SUMMARY: The U.S. Commission on Civil Rights published a notice in the **Federal Register** concerning a meeting of the Louisiana Advisory Committee. The meeting, scheduled for Monday, February 2, 2026, at 10:00 a.m. CT, has been cancelled because the Committee concluded its work. The notice is in the **Federal Register** on Friday September 12, 2025, in FR Document Number 2025–17579 on pages 44160–44161.

FOR FURTHER INFORMATION CONTACT: Corrine Sanders, Support Services Specialist, at *csanders@usccr.gov* or (202) 768–5474.

Dated: January 30, 2026.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2026–02200 Filed 2–2–26; 8:45 am]

BILLING CODE P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Guam Advisory Committee to the U.S. Commission on Civil Rights

AGENCY: U.S. Commission on Civil Rights.

ACTION: Announcement of public meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act, that the Guam Advisory Committee (Committee) to the U.S. Commission on Civil Rights will hold a series of virtual, public meetings via Zoom. The purpose of these meetings is to discuss the Committee's final report on the topic, *Overrepresentation of FAS Members in the Criminal Justice System on Guam.*

DATES:

- Friday, February 6, 2026, from 10:00 a.m.–11:00 a.m. ChST (Thursday, February 5, 2026, from 7:00 p.m.–8:00 p.m. ET);
- Wednesday, February 18, 2026, from 9:00 a.m.–10:00 a.m. ChST (Tuesday, February 17, 2026, from 6:00 p.m.–7:00 p.m. ET); and
- Tuesday, March 3, 2026, from 10:00 a.m.–11:00 a.m. ChST (Monday, March 2, 2026, from 7:00 p.m.–8:00 p.m. ET).

ADDRESSES: The meetings will be held via Zoom Webinar.

Registration Link (Audio/Visual):

- *Friday, February 6, 2026: https://www.zoomgov.com/webinar/register/WN_k-I_7kbAS-67ZJ3smCNEvw*;
- *Wednesday, February 18, 2026: https://www.zoomgov.com/webinar/register/WN_PIjL7VXaTFK1r1bKu50J0w*; and
- *Tuesday, March 3, 2026: https://www.zoomgov.com/webinar/register/WN_CEoMG51VR6--7ZxlNH5g2A.*

Join by Phone (Audio Only): (833) 435–1820 USA Toll Free;

- *Friday, February 6, 2026, Meeting ID:* 160 665 6363.
- *Wednesday, February 18, 2026, Meeting ID:* 161 849 5018.
- *Tuesday, March 3, 2026, Meeting ID:* 161 192 8029.

Agenda: https://usccr.box.com/s/kcw8gd9pxob2khvremjms544oalrn906 (Note: final meeting agendas will be available prior to each meeting date.).

FOR FURTHER INFORMATION CONTACT: Kayla Fajota, DFO, at *kfajota@usccr.gov* or (434) 515–2395.

SUPPLEMENTARY INFORMATION: This committee meeting is available to the public through the registration link above. Any interested member of the public may listen to the meeting. An open comment period will be provided to allow members of the public to make a statement as time allows. Per the Federal Advisory Committee Act, public minutes of the meeting will include a list of persons who are present at the meeting. If joining via phone, callers can expect to incur regular charges for calls they initiate over wireless lines, according to their wireless plan. The Commission will not refund any charges incurred. Callers will incur no charge for calls when they initiate over land-line connections to the toll-free telephone number. Closed captioning will be available for individuals who are deaf, hard of hearing, or who have certain cognitive or learning impairments. To request additional accommodations, please email Liliana Schiller, Support Services Specialist, at *lschiller@usccr.gov* at least 10 business days prior to the meeting.

Members of the public are entitled to submit written comments; the comments must be received within 30 days following the meeting. Written comments may be emailed to Kayla Fajota at *kfajota@usccr.gov.* Persons who desire additional information may contact the Regional Programs Coordination Unit at (434) 515–2395.

Records generated from this meeting may be inspected and reproduced at the Regional Programs Coordination Unit, as they become available, both before and after the meeting. Records of the meeting will be available via the file sharing website: *www.box.com,* as well as at: *www.facadatabase.gov* (under the Commission on Civil Rights and selecting the Advisory Committee of interest). Persons interested in the work of this Committee are directed to the Commission's website, *www.usccr.gov,* or may contact the Regional Programs Coordination Unit at the above phone number.

Dated: January 30, 2026.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2026–02164 Filed 2–2–26; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

Census Bureau

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; 2026 Operational Test in Support of the 2030 Census

AGENCY: U.S. Census Bureau, Department of Commerce.

The Department of Commerce will submit the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. We invite the general public and other Federal agencies to comment on proposed, and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. The purpose of this notice is to allow for 30 days of public comment on the proposed request to OMB to update the ACS Methods Panel prior to the submission of the information collection request (ICR) to OMB for approval.

DATES: To ensure consideration, comments regarding this proposed information collection must be received on or before March 5, 2026.

ADDRESSES: Interested persons are invited to submit written comments by email to *addc.2030.census.paperwork@census.gov.* Please reference ''2026 Operational Test in Support of the 2030 Census'' in the subject line of your comments. You may also submit comments, identified by Docket Number USBC–2026–0034, to the Federal e-Rulemaking Portal: *http://www.regulations.gov.* All comments received are part of the public record. No comments will be posted to *http://www.regulations.gov* for public viewing until after the comment period has closed. Comments will generally be posted without change. All Personally Identifiable Information (for example, name and address) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information. You may submit attachments to electronic comments in Microsoft Word, Excel, or Adobe PDF file formats.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or specific questions related to collection activities should be directed to Christopher Denno, Program Manager,

Decennial Census Management Division, by phone at 301.763.4092 or by email to *addc.2030.census.paperwork@census.gov.*

Title: 2026 Operational Test in Support of the 2030 Census.

OMB Control Number: 0607–0936.

Form Number(s): Electronic Instruments (Draft Content Specifications for them): Internet Self-Response Instrument—D6–QE–ISR, In-Field Enumeration Instrument—D6–QE–IFE.

Type of Request: Regular submission, Request for Comment.

Number of Respondents: 154,600 for all operations.

Average Hours per Response: 25 minutes.

Total Burden Hours: 64,417.

2026 Operational Test in Support of the 2030 Census

Operation or category	Estimated number of respondents	Estimated time per response (minutes)	Total burden hours
Self-Response	77,300	40	51,533
In-Field Enumeration	77,300	10	12,883
Totals	154,600		64,417

Needs and Uses: The 2026 Operational Test in Support of the 2030 Census (hereafter, ''Test'') is an American Community Survey (ACS) test using the ACS Methods Panel that is planned to help the Census Bureau prepare for the 2030 Census. The Test is not an end-to-end test of all operational work. Instead, it is a scaled-down version with appropriate adjustments of the selected aspects of the census. The Test will be conducted in two test sites—Spartanburg, SC and Huntsville, AL—which allows for testing in real world situations and on a larger scale than research simulations allow. The Test will test the viability of new and revamped systems and methods researched and developed for the census; to identify, document, and address potential challenges. Additionally, the Test will evaluate and assess the use of United States Postal Service (USPS) staff to increase efficiency in various capacities typically performed by temporary Census Bureau field workers. Some decisions, including names of operations and workload estimates for those operations, have yet to be made; however, at this time, the Census Bureau can present aspects of the test that affect the public.

Administrative Enhancements

The Test will focus on evaluating how well improved processes and solutions work for Recruit Applications and Selecting and Hiring Applicants. Specifically, the test will evaluate the effectiveness of a new online job application and onboarding solution for recruiting, a virtual hiring process and revised supervisory assessment for selecting and hiring applicants.

The Test will also test new Office Management, Payroll, and HR Administration procedures which involves running the offices and providing the following support functions:

- Personnel and payroll administration
- Administration of claims related to occupational health, employee assistance, safety, worker's compensation, and personal property
- Staffing
- Management and supervision
- Offboarding temporary staff when their employment period ends (*i.e.,* separate from federal service)

Self-Response

Self-Response collects respondent information via the internet. A housing unit (HU) is a private residence for a person or small group of people (such as a family or group of roommates). Each HU must have a separate entrance that provides direct access to the outdoors or to a common space within a building (such as a hall, lobby, or stairwell) without having to pass through the living quarters of any other people. A living quarter (LQ) is typically a structure that is intended for residential use. However, any structure or place where someone is living (or where someone is sleeping without having a usual home elsewhere) is also considered a LQ, even if it is not intended for residential use.

Internet Self-Response

Internet Self-Response (ISR) allows the public to respond online. ISR was available in a decennial census for HUs for the first time in the 2020 Census. For the Test, ISR will be available in English.

In-Field Enumeration

In-Field Enumeration (IFE) is a field activity that collects responses in person. IFE captures the status of HUs and enumerates HUs through in-person interviews. IFE also includes follow-up with nonmailable addresses. For the Test, IFE will be collecting information to create cost and staffing estimates to help inform 2030 Census IFE estimates. For the Test, USPS staff will support the IFE operation. The purpose of the USPS Pilot is to study the feasibility of using Postal Participants in the capacity of Census Bureau enumerators during the Test. USPS staff will contact households and conduct interviews in the same manner as Census Bureau enumerators. Additionally, the Test IFE will implement numerous enhancements to streamline data collection, reduce time in the field, and improve data accuracy. These capabilities (on a mobile device) include functionality that provide field staff an address list with a map, allows users to add and delete addresses, view surrounding addresses, and flag addresses as duplicates.

Affected Public: Individuals or households.

Frequency: One-time.

Respondent's Obligation: Mandatory.

Legal Authority: Title 13, U.S. Code, Sections 23(c), 141, 193, 221, and 223.

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. 2026–02206 Filed 2–2–26; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–583–879]

Certain Monomers and Oligomers From Taiwan: Final Affirmative Determination of Sales at Less Than Fair Value and Final Affirmative Critical Circumstances Determination

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

SUMMARY: The U.S. Department of Commerce (Commerce) determines that certain monomers and oligomers (monomers and oligomers) from Taiwan are being, or are likely to be, sold in the United States at less than fair value (LTFV) and determines that critical circumstances existed with respect to imports of subject merchandise from Taiwan. The period of investigation (POI) is January 1, 2024, through December 31, 2024.

DATES: Applicable February 3, 2026.

FOR FURTHER INFORMATION CONTACT: Jaron Moore, AD/CVD Operations, Office VIII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–3640.

SUPPLEMENTARY INFORMATION:

Background

On September 9, 2025, Commerce published in the **Federal Register** the *Preliminary Determination* and invited interested parties to comment.[1]

Due to the lapse in appropriations and Federal Government shutdown, on November 14, 2025, Commerce tolled all deadlines in administrative proceedings by 47 days.[2] Additionally, due to a backlog of documents that were electronically filed via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS) during the Federal Government shutdown, on November 24, 2025, Commerce tolled all deadlines in administrative proceedings by an additional 21 days, to January 26, 2026.[3] Finally, due to the closure of Commerce offices due to inclement weather, the deadline for this final determination was postponed until the next business day,[4] *i.e.,* January 28, 2026.

A summary of the events that occurred since Commerce published the *Preliminary Determination,* as well as a full discussion of the issues raised by parties for this final determination, *see* the Issues and Decision Memorandum.[5] The Issues and Decision Memorandum is a public document and is on file electronically via ACCESS. ACCESS is available to registered users at *http://access.trade.gov.* In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at *https://access.trade.gov/public/FRNoticesListLayout.aspx.*

Scope of the Investigation

The product covered by this investigation is certain monomers and oligomers. For a complete description of the scope of this investigation, *see* Appendix I.

Scope Comments

No interested party commented on the scope of the investigation as it appeared in the *Preliminary Determination.* Therefore, we made no changes to the scope of the investigation from that published in the *Preliminary Determination.*

Verification

Because the non-responsive companies did not participate in this investigation, Commerce did not conduct a verification in this investigation.[6]

Analysis of Comments Received

All issues raised in the case and rebuttal briefs submitted by interested parties in this investigation are addressed in the Issues and Decision Memorandum. A list of the issues addressed in the Issues and Decision Memorandum is attached to this notice at Appendix II.

Use of Adverse Facts Available

As discussed in the *Preliminary Determination,* Commerce assigned to mandatory respondents Eternal Materials, Qualipoly, and Synth-Edge an estimated weighted-average dumping margin on the basis of facts available with adverse inferences (AFA), pursuant to sections 776(a) and (b) of the Act because they declined to participate in this investigation and therefore did not act to the best of their ability.[7] There is no new information on the record that would cause us to revisit our decision to apply AFA in the *Preliminary Determination.* Accordingly, for the reasons explained in the *Preliminary Determination,* and consistent with Commerce's practice, as AFA, we assigned Eternal Materials, Qualipoly, and Synth-Edge a dumping margin based on AFA.[8]

Changes Since the Preliminary Determination

Based on our review of the comments received from parties, we made no changes for the final determination. However, based on review and analysis of the record, we made certain changes to the preliminary dumping margins assigned to Eternal Materials, Qualipoly, Synth-Edge, and for all other producers and/or exporters. Further, based on our review and analysis of the information received regarding critical circumstances, we made certain changes to our analysis of imports for all-other producers and/or exporters. For a discussion of these changes, *see* the Issues and Decision Memorandum.

Final Affirmative Determination of Critical Circumstances

In the *Preliminary Determination,* Commerce preliminarily determined, in accordance with section 703(e) of the Act and 19 CFR 351.206, that critical

[1] *See Certain Monomers and Oligomers from Taiwan: Preliminary Affirmative Determination of Sales at Less Than Fair Value and Preliminary Affirmative Determination of Critical Circumstances,* 90 FR 43409 (September 9, 2025) (*Preliminary Determination*), and accompanying Preliminary Decision Memorandum (PDM).

[2] *See* Memorandum, ''Deadlines Affected by the Shutdown of the Federal Government,'' dated November 14, 2025.

[3] *See* Memorandum, ''Tolling of all Case Deadlines,'' dated November 24, 2025.

[4] *See Notice of Clarification: Application of ''Next Business Day'' Rule for Administrative Determination Deadlines Pursuant to the Tariff Act of 1930, As Amended,* 70 FR 24533 (May 10, 2005).

[5] *See* Memorandum, ''Issues and Decision Memorandum for the Final Affirmative Determination of Sales at Less Than Fair Value in the Investigation of Certain Monomers and Oligomers from Taiwan,'' dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

[6] *See Preliminary Determination,* 90 FR at 43410.

[7] *Id.,* 90 FR at 43409, and accompanying PDM.

[8] *See, e.g., Welded Stainless Pressure Pipe from Thailand: Final Determination of Sales at Less Than Fair Value,* 79 FR 31093 (May 30, 2014), and accompanying Issues and Decision Memorandum at Comment 3.

circumstances exist with respect to imports of subject merchandise for Eternal Materials Co., Ltd. (Eternal Materials), Qualipoly Chemical Corporation (Qualipoly), Synth-Edge Advanced Material Co., Ltd. (Synth-Edge), and all other producers and/or exporters.[9] For this final determination, in accordance with section 705(a)(2) of the Act and 19 CFR 351.206, Commerce continues to find that critical circumstances exist for Eternal Materials, Qualipoly, Synth-Edge, and all other producers and/or exporters. With respect to finding that critical circumstances exist for Eternal Materials, Qualipoly, Synth-Edge, we relied on AFA, pursuant to sections 776(a) and (b) of the Act. For a full description of the methodology and an analysis of the comments received, *see* the Issues and Decision Memorandum.

All-Others Rate

Section 735(c)(5)(A) of the Act provides that the estimated weighted-average dumping margin for all other producers and exporters not individually examined shall be an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any rates that are zero, *de minimis* margins, or determined entirely under section 776 of the Act. We cannot apply the methodology described in section 735(c)(5)(A) of the Act to calculate the all-others rate, as the margins applied in this final determination are determined entirely under section 776 of the Act.

Pursuant to section 735(c)(5)(B) of the Act, if the estimated weighted-average dumping margins established for all exporters and producers individually examined are zero, *de minimis,* or determined based entirely on facts otherwise available, Commerce may use any reasonable method to establish the estimated weighted-average dumping margin for all other producers or exporters. In cases where dumping margins are determined entirely under section 776 of the Act for individually examined entities, Commerce's normal practice under these circumstances is to calculate the all-others rate as a simple average of the alleged dumping margins from the petition.[8] Therefore, as the all-others rate, we are assigning the simple average of the dumping margins calculated from the information in the petition, which is 130.23 percent.[10] For a full description of the methodology underlying Commerce's analysis, *see* the Issues and Decision Memorandum.

Final Determination

Commerce determines that the following estimated weighted-average dumping margins exist:

Producer or exporter	Weighted average dumping margin (percent)
Eternal Materials Co., Ltd	* 130.23
Qualipoly Chemical Corporation	* 130.23
Synth-Edge Advanced Material Co., Ltd	* 130.23
All Others	130.23

* Rate is based on facts available with adverse inferences.

Disclosure

Commerce intends to disclose its calculations and analysis performed to interested parties for these preliminary results within five days of any public announcement, or if there is no public announcement, within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

Suspension of Liquidation

In accordance with sections 733(d)(1)(B) and (e)(2)(A) of the Act, we instructed U.S. Customs and Border Protection (CBP) to suspend liquidation of all entries of monomers and oligomers from Taiwan, as described in Appendix I of this notice, which were entered or withdrawn from warehouse for consumption on or after June 11, 2025, 90 days prior to the date of publication of the *Preliminary Determination* of this investigation in the **Federal Register** for entries produced and/or exported by Eternal Materials, Qualipoly, Synth-Edge, and all other producers and/or exporters. In accordance with section 733(d) of the Act, we instructed CBP to discontinue the suspension of liquidation of all entries of subject merchandise entered or withdrawn from warehouse, on or after January 7, 2026, the first day provisional measures were no longer in effect, but to continue the suspension of liquidation of all entries of subject merchandise on or before January 6, 2026.

If the U.S. International Trade Commission (ITC) issues a final affirmative injury determination, we will issue an antidumping duty order, reinstate the suspension of liquidation under section 736(a) of the Act, and require a cash deposit of estimated antidumping duties for such entries of subject merchandise in the amounts indicated above. If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated, and all estimated duties deposited or securities posted as a result of the suspension of liquidation will be refunded or canceled.

To determine the cash deposit rates in LTFV investigations, Commerce normally adjusts the estimated weighted-average dumping margins by the amount of export subsidies countervailed in the companion countervailing duty (CVD) investigation when CVD provisional measures are in effect. Accordingly, where Commerce has made a final affirmative determination of countervailable export subsides, Commerce offsets the estimated weighted average dumping margins in the companion LTFV investigation by the appropriate export subsidy rate. Here, Commerce normally would have adjusted the estimated weighted-average dumping margins that are listed in the table above by the appropriate export subsidy rate determined in the companion CVD investigation to determine the cash deposit rate. However, in the companion CVD investigation there were no countervailable subsidies found.[11]

ITC Notification

In accordance with section 735(d) of the Act, Commerce will notify the ITC of its final affirmative determination of sales at LTFV. As Commerce's final determination is affirmative, in accordance with section 735(b)(2) of the Act, the ITC will make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports or sales for importation of monomers and oligomers from Taiwan, no later than 45 days after this final determination. If the ITC determines that such injury does not exist, this proceeding will be terminated, all cash deposits posted will be refunded, and suspension of liquidation will be lifted. If the ITC determines that such injury does exist, Commerce will issue an antidumping duty order directing CBP to assess, upon further instruction by Commerce, antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective

[9] *See Preliminary Determination,* 90 FR at 43409.

[10] *See Certain Monomers and Oligomers from the Republic of Korea and Taiwan: Initiation of Less-Than-Fair-Value Investigations,* 90 FR 17044 (April 23, 2025).

[11] *See Certain Monomers and Oligomers from Taiwan: Final Affirmative Countervailing Duty Determination and Final Affirmative Critical Circumstances Determination,* 91 FR 3114 (January 26, 2026) (*Monomers and Oligomers from Taiwan CVD Final Determination*).

date of the suspension of liquidation, as discussed above in the ''Continuation of Suspension of Liquidation'' section above.

To determine the cash deposit rates in LTFV investigations, Commerce normally adjusts the estimated weighted-average dumping margins by the amount of export subsidies countervailed in the companion countervailing duty (CVD) investigation when CVD provisional measures are in effect. Accordingly, where Commerce has made a final affirmative determination of countervailable export subsides, Commerce offsets the estimated weighted average dumping margins in the companion LTFV investigation by the appropriate export subsidy rate. Here, Commerce normally would have adjusted the estimated weighted-average dumping margins that are listed in the table above by the appropriate export subsidy rate determined in the companion CVD investigation to determine the cash deposit rate. However, in the companion CVD investigation there were no countervailable subsidies found.[12]

Administrative Protective Order (APO)

In the event that the ITC issues a final negative injury determination, this notice will serve as the only reminder to parties subject to an APO of their responsibility concerning the destruction of proprietary information disclosed under APO, in accordance with 19 CFR 351.305(a)(3). 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

This determination is issued and published pursuant to sections 735(d) and 777(i)(1) of the Act, and 19 CFR 351.210(c).

Dated: January 28, 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.

Appendix I

Scope of the Investigation

The products subject to this investigation are certain multifunctional acrylate and methacrylate monomers, and acrylated bisphenol-A epoxy based oligomers (collectively, certain monomers and oligomers or CMOs) that are derived from chemical reactions involving the use of acrylic or methacrylic acid. Products within the scope are listed below and have the following Chemical Abstracts Service (CAS) numbers:

CAS No.	Description	Molecular formula
109–16–0	Triethylene glycol dimethacrylate (TEGDMA)	$C_{14}H_{22}O_6$
13048–33–4	1,6-hexanediol diacrylate (HDDA)	$C_{12}H_{18}O_4$
42978–66–5	Tripropylene glycol diacrylate (TPGDA)	$C_{15}H_{24}O_6$
3290–92–4	Trimethylolpropane trimethacrylate (TMPTMA)	$C_{18}H_{26}O_6$
15625–89–5	Trimethylolpropane triacrylate (TMPTA)	$C_{15}H_{20}O_6$
28961–43–5	Ethoxylated trimethylol-propane triacrylate (EOTMPTA)	$(C_2H_4O)_n(C_2H_4O)_n(C_2H_4O)_nC_{15}H_{20}O_6$
57472–68–1	Dipropylene glycol diacrylate (DPGDA)	$C_{12}H_{18}O_5$
55818–57–0	Bisphenol-A-epichlorohydrin copolymer acrylate (EPOXY ACRYLATE).	$(C_{15}H_{16}O_2.C_3H_5ClO)_x.xC_3H_4O_2$

The monomers are generally known as multifunctional acrylates (MFAs) or multifunctional methacrylates (MFMAs) depending on whether the functional groups are acrylate or methacrylate. The monomers generally contain stabilizers/inhibitors, which include but are not limited to Hydroquinone, Methyl Hydroquinone, and Butylated Hydroxy Toluene. The monomers are either difunctional or trifunctional (having 2 or 3 functional groups/molecule), have viscosities of 9 to 15 centipoise (cPs) at 25 degrees Celsius (if difunctional) or 44 to 110 cPs at 25 degrees Celsius (if trifunctional), have (meth)acrylate equivalent weights (molecular weight per number of functional groups) between 99 and 158 and molecular weights between 226 and 472 grams per mol.

The acrylated bisphenol-A epoxy based oligomer is commonly referred to as epoxy acrylate or acrylated epoxy. In contrast to epoxy resin, the main characteristic of the epoxy acrylate oligomer is that it contains acrylate functional groups which make them curable by free-radical polymerization. The epoxy acrylate has a molecular weight between 508 to 536 grams per mol and a viscosity of 2400 to 3600 cPs at 65 degrees Celsius. The epoxy acrylate generally contains stabilizers/inhibitors, which include but are not limited to Hydroquinone, Methyl Hydroquinone, and Butylated Hydroxy Toluene.

Certain monomers and oligomers are subject to the scope even if an in-scope monomer or oligomer is blended or mixed with one or more other in-scope monomers or oligomers.

Certain monomers and oligomers in any blend or mixture are also subject to the scope, so long as the blend or mixture contains no less than 20 percent by weight of in-scope CMOs.

The scope includes merchandise matching the above description that has been processed in a third country, including by commingling, diluting, introducing, or removing ingredients, or performing any other processing that would not otherwise remove the merchandise from the scope of the investigation if performed in the subject country.

The scope also includes CMOs that are commingled, mixed or blended with in-scope product from sources not subject to this investigation.

Only the subject component(s) of such blends, mixtures or commingled products described above is covered by the scope of this investigation. Subject merchandise contained in a blended, mixed or commingled product described above will not have undergone a chemical reaction as a result of being blended, mixed or commingled.

Notwithstanding the above, specifically excluded from the scope are downstream products, including but not limited to, inks, coatings and overprint varnishes. For purposes of this exclusion, the downstream product requires only the application of energy to be cured, *e.g.,* inks or varnish applied to packaging, coatings applied to wood flooring, *etc.* The energy source required to cure the downstream product to its substrate can be thermal, ultraviolet radiation, visible light, electron beam radiation, or infrared radiation.

This merchandise is currently classifiable under Harmonized Tariff Schedule of the United States (HTSUS) subheadings 2916.12.5050, 2916.14.2050, 3824.99.2900, 3907.29.0000 and 3907.30.0000. Subject merchandise may also be entered under subheadings 2916.12.1000 and 3824.99.9397. The HTSUS subheadings and CAS registry numbers are provided for convenience and customs purposes only; the written description of the scope is dispositive.

Appendix II

List of Topics Discussed in the Issues and Decision Memorandum

I. Summary

[12] *Id.*

II. Background
III. Changes from the *Preliminary Determination*
IV. Final Determination of Critical Circumstances
V. Use of Facts Otherwise Available and Application of Adverse Inferences
VI. Discussion of the Issues
Comment 1: Whether Commerce's Application of Adverse Facts Available (AFA) in its Critical Circumstances Determination for the Mandatory Respondents is in Accordance with Law
Comment 2: Whether Commerce Should Have Provided an Opportunity to Submit Rebuttal Factual Information
Comment 3: Use of Harmonized Tariff System (HTS) Basket Categories in the Critical Circumstances Analysis with Respect to All-Other Producers and/or Exporters
VII. Recommendation

[FR Doc. 2026–02123 Filed 2–2–26; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[C–533–872]

Finished Carbon Steel Flanges From India: Preliminary Results and Rescission, in Part, of Countervailing Duty Administrative Review; 2023

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

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily determines that countervailable subsidies were provided to certain producers and/or exporters of finished carbon steel flanges (steel flanges) from India. The period of review (POR) is January 1, 2023, through December 31, 2023. Interested parties are invited to comment on these preliminary results.

DATES: Applicable February 3, 2026.

FOR FURTHER INFORMATION CONTACT: Amber Hodak, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 842–8034.

SUPPLEMENTARY INFORMATION:

Background

On September 20, 2024, Commerce published in the **Federal Register** a notice of initiation of an administrative review of the countervailing duty (CVD) order on steel flanges from India.[1] On October 29, 2024, Commerce selected Norma (India) Ltd. (Norma) and R. N. Gupta & Company Limited (RNG) as mandatory respondents in this review.[2] On December 9, 2024, Commerce tolled the deadline to issue the preliminary results in this administrative review by 90 days.[3] On July 16, 2025, Commerce extended the deadline for the preliminary results by 110 days, until November 19, 2025, in accordance with section 751(a)(3)(A) of the Act and 19 CFR 351.213(h)(2).[4] Due to the lapse in appropriations and Federal Government shutdown, on November 14, 2025, Commerce tolled all deadlines in this administrative proceedings by 47 days.[5] Additionally, due to a backlog of documents that were electronically filed via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS) during the Federal Government shutdown, on November 24, 2025, Commerce tolled all deadlines in administrative proceedings by an additional 21 days, to January 26, 2026.[6] Finally, due to the closure of Commerce offices due to inclement weather, the deadline for these preliminary results, is postponed until the next business day,[7] *i.e.,* January 28, 2026.

For a complete description of the events that followed the initiation of this review, *see* the Preliminary Decision Memorandum.[8] A list of topics discussed in the Preliminary Decision Memorandum is provided as an appendix to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via ACCESS. ACCESS is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *https://access.trade.gov/public/FRNoticesListLayout.aspx.*

Scope of the Order

The product covered by the *Order* is steel flanges from India. For a complete description of the scope of the *Order, see* the Preliminary Decision Memorandum.

Rescission of Administrative Review, in Part

In accordance with 19 CFR 351.213(d)(1), Commerce will rescind an administrative review, in whole or in part, if all parties that requested the review withdraw their requests within 90 days of the date of publication of the notice of initiation of the requested review. Commerce received timely filed withdrawal requests with respect to Balkrishna Steel Forge Pvt. Ltd., Cetus Engineering Private Limited, and Jai Auto Pvt. Ltd., pursuant to 19 CFR 351.213(d)(1). Because the withdrawal requests were timely filed, and no other parties requested a review of these companies, in accordance with 19 CFR 351.213(d)(1), Commerce is rescinding this administrative review with respect to these three companies.

Methodology

Commerce is conducting this administrative review in accordance with section 751(a)(l)(A) of the Act. For each of the subsidy programs found to be countervailable, Commerce preliminarily determines that there is a subsidy, *i.e.,* a financial contribution by an ''authority'' that give rise to a benefit to the recipient, and that the subsidy is specific.[9] For a full description of the methodology underlying our conclusions, including our reliance, in part, on facts otherwise available with adverse inferences pursuant to sections 776(a) and (b) of the Act, *see* the accompanying Preliminary Decision Memorandum.

Companies Not Selected for Individual Review [10]

The Act and Commerce's regulations do not address the establishment of a rate to apply companies not selected for individual examination when Commerce limits its examination in an administrative review pursuant to section 777A(e)(2) of the Act. However, Commerce normally determines the rates for non-selected companies in reviews in a manner that is consistent with section 705(c)(5) of the Act, which provides instructions for calculating the all-others rate in an investigation.

[1] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 89 FR 77079, 77086 (September 20, 2024); *see also Finished Carbon Steel Flanges from India: Countervailing Duty Order,* 82 FR 40138 (August 24, 2017) (*Order*).

[2] *See* Memorandum, ''Respondent Selection,'' dated October 29, 2024.

[3] *See* Memorandum, ''Tolling of Deadlines for Antidumping and Countervailing Duty Proceedings,'' dated December 9, 2024.

[4] *See* Memorandum, ''Extension of Deadline for Preliminary Results of Countervailing Duty Administrative Review,'' dated July 16, 2025.

[5] *See* Memorandum, ''Deadlines Affected by the Shutdown of the Federal Government,'' dated November 14, 2025.

[6] *See* Memorandum, ''Tolling of all Case Deadlines,'' dated November 24, 2025.

[7] *See Notice of Clarification: Application of ''Next Business Day'' Rule for Administrative Determination Deadlines Pursuant to the Tariff Act of 1930, As Amended,* 70 FR 24533 (May 10, 2005).

[8] *See* Memorandum, ''Decision Memorandum for the Preliminary Results of the Countervailing Duty Administrative Review of Finished Carbon Steel Flanges from India; 2023,'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

[9] *See* sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

[10] *See* Appendix II for a list of companies not selected for individual examination.

Section 777A(e)(2) of the Act provides that ''the individual countervailable subsidy rates determined under subparagraph (A) shall be used to determine the all-others rate under section 705(c)(5) {of the Act}.'' Section 705(c)(5)(A) states that for companies not investigated, in general, we will determine an all-others rate by weight averaging the countervailable subsidy rates established for each of the companies individually investigated, excluding zero and *de minimis* rates or any rates based solely on the facts available.

Three companies under review were not selected as mandatory respondents or found to be cross-owned with a mandatory respondent: (1) BFN Forgings Private Limited, (2) Echjay Industries Pvt. Ltd., and (3) Munish Forge Private Limited.[11] Accordingly, to determine the rate for companies not selected for individual examination, Commerce's practice is to weight-average the countervailable subsidy rates for the selected mandatory respondents, excluding rates that are zero, *de minimis,* or based entirely on facts available.[12] In this review, Commerce calculated preliminary individual estimated subsidy rates for Norma and RNG that are not zero, *de minimis,* or based entirely on facts otherwise available. Commerce calculated the rate assigned to the companies under review that were not selected for individual examination using a weighted average of the individual estimated subsidy rates calculated for the examined respondents using each company's publicly ranged values for the merchandise under consideration.[13]

Preliminary Results of Review

As a result of this review, we preliminarily determine the following net countervailable subsidy rates exist for the POR, January 1, 2023, through December 31, 2023: [14]

Company	Subsidy rate (percent *ad valorem*)
Norma (India) Ltd.; USK Export Private Limited; Uma Shanker Khandelwal and Co.; and Bansidhar Chiranjilal	2.40
R.N. Gupta & Co. Ltd	2.27
Companies Not Selected for Review	2.32

Disclosure

Commerce intends to disclose its calculations and analysis performed to interested parties for these preliminary results within five days of any public announcement, or if there is no public announcement, within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

Public Comment

Pursuant to 19 CFR 351.309(c)(1)(ii), we have modified the deadline for interested parties to submit case briefs to Commerce to no later than 21 days after the date of publication of this notice. Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than five days after the date for filing case briefs.[15] Interested parties who submit case briefs or rebuttal briefs in this proceeding must submit: (1) table of contents listing each issue; and (2) a table of authorities.[16] All briefs must be filed electronically using ACCESS. An electronically filed document must be received successfully in its entirety in ACCESS by 5:00 p.m. Eastern Time on the established deadline.

As provided under 19 CFR 351.309(c)(2)(iii) and (d)(2)(iii), we request that interested parties provide at the beginning of their briefs a public, executive summary for each issue raised in their briefs.[17] Further, we request that interested parties limit their executive summary of each issue to no more than 450 words, not including citations. We intend to use the executive summaries as the basis of the comment summaries included in the issues and decision memorandum that will accompany the final results in this administrative review. We request that interested parties include footnotes for relevant citations in the public executive summary of each issue. Note that Commerce has amended certain of its requirements pertaining to the service of documents in 19 CFR 351.303(f).[18]

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, filed electronically via ACCESS by 5:00 p.m. Eastern Time within 30 days after the date of publication of this notice. Requests should contain: (1) the party's name, address and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. Oral presentations at the hearing will be limited to issues raised in the briefs. If a request for a hearing is made, Commerce will inform parties of the scheduled date for the hearing.[19]

Assessment Rates

Consistent with section 751(a)(1) of the Act and 19 CFR 351.212(b)(2), upon issuance of the final results, Commerce shall determine, and U.S. Customs and Border Protection (CBP) shall assess, countervailing duties on all appropriate entries covered by this review.

For the companies listed above for which the review is being rescinded, Commerce will instruct CBP to assess

[11] As noted in the Preliminary Decision Memorandum, this company filed a letter notifying Commerce of its company name change. However, Commerce requires additional time to assess if any changes have been made to its operations, ownership and legal structure.

[12] With two respondents under examination, Commerce normally calculates: (A) a weighted-average of the estimated subsidy rates calculated for the examined respondents; (B) a simple average of the estimated subsidy rates calculated for the examined respondents; and (C) a weighted-average of the estimated subsidy rates calculated for the examined respondents using each company's publicly-ranged U.S. sale values for the merchandise under consideration. Commerce then compares (B) and (C) to (A) and selects the rate closest to (A) as the most appropriate rate for all other producers and exporters. *See, e.g., Ball Bearings and Parts Thereof from France, Germany, Italy, Japan, and the United Kingdom: Final Results of Antidumping Duty Administrative Reviews, Final Results of Changed-Circumstances Review, and Revocation of an Order in Part,* 75 FR 53661, 53662 (September 1, 2010), and accompanying Issues and Decision Memorandum at Comment 1.

[13] As complete publicly ranged sales data were available, Commerce based the all-others rate on the publicly ranged sales data of the mandatory respondents. For a complete analysis of the data, *see* Memorandum, ''Preliminary Results Calculation of Subsidy Rate for Non-Selected Companies Under Review,'' dated concurrently with this notice.

[14] As discussed in the Preliminary Decision Memorandum, Commerce has found the following companies to be cross owned with Norma (India) Ltd.: USK Export Private Limited; Uma Shanker Khandelwal and Co.; and Bansidhar Chiranjilal. This rate applies to all cross-owned companies.

[15] *See* 19 CFR 351.309(d); *see also Administrative Protective Order, Service and Other Procedures in Antidumping and Countervailing Duty Proceedings,* 88 FR 67069, 67077 (September 29, 2023) (*APO and Service Procedures*).

[16] *See* 19 CFR 351.309(c)(2) and 351.309(d)(2).

[17] We use the term ''issue'' here to describe an argument that Commerce would normally address in a comment of the Issues and Decision Memorandum.

[18] *See APO and Service Procedures.*

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

countervailing duties on all appropriate entries at a rate equal to the cash deposit of estimated countervailing duties required at the time of entry, or withdrawal from warehouse for consumption, during the period January 1, 2023, through December 31, 2023 in accordance with 19 CFR 351.212(c)(1)(i). Commerce intends to issue rescission instructions to CBP no earlier than 35 days after the date of publication of this notice in the **Federal Register**.

For the companies remaining in the review, Commerce will instruct CBP to assess countervailing duties on all appropriate entries at the subsidy rates calculated in the final results of this review. 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.,* without 90 days of publication).

Cash Deposit Requirements

Pursuant to section 751(a)(2)(C) of the Act, Commerce intends to instruct CBP to collect cash deposits of estimated countervailing duties in the amount indicated above with regard to shipments of subject merchandise entered, withdrawn from warehouse, for consumption on or after the date of publication of the final results of this review. For all non-reviewed firms, we will instruct CBP to continue to collect cash deposits of estimated countervailing duties at the most recent company-specific or all-others rate applicable to the company, as appropriate. These cash deposit instructions, when imposed, shall remain in effect until further notice.

Final Results

Unless the deadline is extended pursuant to section 751(a)(3)(a) of the Act and 19 CFR 351.213(h)(2), Commerce intends to issue the final results of this administrative review, which will include the results of its analysis of issues raised in the case briefs, within 120 days of publication of these preliminary results in the **Federal Register**, pursuant to Section 751(a)(3)(A) of the Act.

Notification to Interested Parties

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

Dated: January 28, 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.

Appendix

List of Topics Discussed in the Preliminary Decision Memorandum

I. Summary
II. Background
III. Scope of the *Order*
IV. Munish Forge Private Corporate Name Change
V. Diversification of India's Economy
VI. Use of Facts Otherwise Available and Application of Adverse Inferences
VII. Subsidies Valuation
VIII. Benchmarks and Interest Rates
IX. Analysis of Programs
X. Recommendation

[FR Doc. 2026–02125 Filed 2–2–26; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–910, C–570–911]

Circular Welded Carbon Quality Steel Pipe From the People's Republic of China: Final Affirmative Determination of Circumvention of the Antidumping Duty and Countervailing Duty Orders

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

SUMMARY: The U.S. Department of Commerce (Commerce) determines that imports of circular welded carbon quality steel pipe (CWP) completed in the Sultanate of Oman (Oman) using hot-rolled steel (HRS) produced in the People's Republic of China (China) are circumventing the antidumping duty (AD) and countervailing duty (CVD) orders on CWP from China.

DATES: Applicable February 3, 2026.

FOR FURTHER INFORMATION CONTACT: Shawn Gregor, Office of Policy, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–3226.

SUPPLEMENTARY INFORMATION:

Background

On July 22, 2025, Commerce published in the **Federal Register** its *Preliminary Determination* that imports of CWP completed in Oman using HRS produced in China are circumventing the *Orders*.[1] Pursuant to section 781(e) of the Tariff Act of 1930, as amended (the Act), on August 6, 2025, Commerce notified the U.S. International Trade Commission (ITC) of its preliminary affirmative determination of circumvention.[2] The ITC did not request consultations with Commerce.

On August 7, 2025, Al Jazeera Steel Products Co. SAOG (Al Jazeera) submitted a case brief.[3] On August 15, 2025, the Bull Moose Tube Company, Maruichi American Corporation, Wheatland Tube Company, and the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL–CIO, CLC (collectively, the domestic interested parties) submitted a rebuttal brief.[4] On August 21, 2025, Commerce extended the deadline for issuing the final determination in this circumvention inquiry until November 19, 2025.[5] Due to the lapse in appropriations and Federal Government shutdown, on November 14, 2025, Commerce tolled all deadlines in administrative proceedings by 47 days.[6] Additionally, due to a backlog of documents that were electronically filed via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS) during the Federal Government shutdown, on November 24, 2025, Commerce tolled all deadlines in administrative proceedings by an additional 21 days, to January 26, 2026.[7] Finally, due to the closure of Commerce offices due to inclement weather, the deadline for this final determination, is

[1] *See Notice of Antidumping Duty Order: Circular Welded Carbon Quality Steel Pipe from the People's Republic of China,* 73 FR 42547 (July 22, 2008) (*AD Order*); *see also Circular Welded Carbon Quality Steel Pipe from the People's Republic of China: Notice of Amended Final Affirmative Countervailing Duty Determination and Notice of Countervailing Duty Order,* 73 FR 42545 (July 22, 2008) (*CVD Order*) (collectively, the *Orders*); *see also Circular Welded Carbon Quality Steel Pipe from the People's Republic of China: Preliminary Affirmative Determination of Circumvention of the Antidumping Duty and Countervailing Duty Orders,* 90 FR 34427 (July 22, 2025) (*Preliminary Determination*), and accompanying Preliminary Decision Memorandum (PDM).

[2] *See* Commerce's Letter, ''Preliminary Affirmative Determinations of Circumvention; Antidumping and Countervailing Duty Orders on Circular Welded Carbon Quality Steel Pipe from the People's Republic of China,'' dated August 6, 2025.

[3] *See* Al Jazeera's Letter, ''Al Jazeera Case Brief,'' dated August 7, 2025.

[4] *See* Domestic Interested Parties' Letter, ''Rebuttal Brief,'' dated August 15, 2025.

[5] *See* Memorandum, ''Extension of Deadline for the Final Determination in the Circumvention Inquiry Pertaining to the Sultanate of Oman,'' dated August 21, 2025.

[6] *See* Memorandum, ''Deadlines Affected by the Shutdown of the Federal Government,'' dated November 14, 2025.

[7] *See* Memorandum, ''Tolling of All Case Deadlines,'' dated November 24, 2025.

postponed until the next business day,[8] *i.e.,* January 28, 2026. For a summary of events that occurred since the *Preliminary Determination,* as well as a full discussion of the issues raised by parties for consideration in the final determination, *see* the Issues and Decision Memorandum.[9]

The Issues and Decision Memorandum is a public document and is on file electronically via ACCESS. ACCESS is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Issues and Decision Memorandum can be accessed at *https://access.trade.gov/public/FRNoticesListLayout.aspx.*

Scope of the Orders

The products covered by the *Orders* include certain welded carbon quality steel pipes and tubes from China. For a full description of the scope of the *Order, see* Appendix I of this notice.

Merchandise Subject to the Circumvention Inquiry

This circumvention inquiry covers CWP completed in Oman using Chinese-origin HRS that is subsequently exported from Oman to the United States (inquiry merchandise).

Analysis of Comments Received

All issues raised in this inquiry are addressed in the Issues and Decision Memorandum. A list of the issues raised is attached to this notice as Appendix II.

Methodology and Final Circumvention Determination

Commerce conducted this circumvention inquiry in accordance with section 781(b) of the Act and 19 CFR 351.226. As detailed in the Issues and Decision Memorandum, Commerce determines, pursuant to section 781(b) of the Act, that imports of HRS from China that are further processed in Oman into inquiry merchandise are circumventing the *Orders.* We are applying our decision on a country-wide basis. *See* the ''Suspension of Liquidation and Cash Deposit Requirements'' section, below, for details regarding suspension of liquidation and cash deposit requirements.

Certifications

To administer the final affirmative country-wide determination of circumvention for Oman, Commerce established importer and exporter certifications, which allow companies to certify that specific entries of CWP from Oman are not subject to suspension of liquidation or the collection of cash deposits pursuant to this affirmative country-wide determination of circumvention if the merchandise is not made with Chinese-origin HRS or is made with an input other than HRS (*see* Appendix III to this notice).

Importers and exporters that claim that the entry of CWP is not subject to suspension of liquidation or the collection of cash deposits because the merchandise is not made with Chinese-origin HRS or is made with an input other than HRS must complete the applicable certification and meet the certification and documentation requirements described below, as well as the requirements identified in the applicable certification.

Certification Requirements

Exporters are required to complete and maintain the applicable exporter certification and provide the importer with a copy of that certification and all supporting documentation (*e.g.,* invoice, purchase order, production records, *etc.*). With the exception of the entries described below, the exporter certification must be completed, signed, and dated by the time of shipment of the relevant entries. The exporter certification should be completed by the party selling the CWP that was manufactured in Oman to the United States.

Importers are required to complete and maintain the applicable importer certification, and maintain a copy of the applicable exporter certification, and retain all supporting documentation for both certifications. With the exception of the entries described below, the importer certification must be completed, signed, and dated by the time the entry summary is filed for the relevant entry.

The importer, or the importer's agent, must submit the importer's certification, the exporter's certification, the commercial invoice, and the bill of lading to U.S. Customs and Border Protection (CBP) at the time of entry summary by uploading these documents into the document imaging system (DIS) in the Automated Commercial Environment (ACE). Where the importer uses a broker to facilitate the entry process, the importer should obtain the entry summary number from the broker. Agents of the importer, such as brokers, however, are not permitted to certify on behalf of the importer. Consistent with CBP's procedures, importers shall identify certified entries by using importers' additional declaration (record 54) AD/CVD Certification Designation (type code 06) when filing an entry summary.[10]

If it is determined that an importer has not met the certification and/or related documentation requirements for certain entries, Commerce intends to instruct CBP to suspend, pursuant to this country-wide affirmative determination of circumvention and the *Order,* all unliquidated entries for which these requirements were not met and require the importer to post applicable cash deposits. Commerce may instruct CBP to assess antidumping or countervailing duties at the applicable rate.

The claims made in the certifications and any supporting documentation are subject to verification by Commerce or CBP. Importers and exporters are required to maintain the certifications and supporting documentation until the later of: (1) the date that is five years after the latest entry date of the entries covered by the certification; or (2) the date that is three years after the conclusion of any litigation in United States courts regarding such entries.

For all CWP from Oman that was entered, or withdrawn from warehouse, for consumption during the period November 19, 2024 (the date of initiation of this circumvention inquiry), through August 13, 2025, where the entry has not been liquidated (and entries for which liquidation has not become final), the importer and exporter certifications should have been completed, signed, and uploaded to the DIS in ACE by September 8, 2025.

For unliquidated entries (and entries for which liquidation has not become final) of CWP that were declared as non-AD or non-CVD type entries (*e.g.,* type 01) and entered, or withdrawn from warehouse, for consumption in the United States during the period November 19, 2024 (the date of initiation of these circumvention inquiries), through August 13, 2025, for which the above certification and document requirements were not met, importers must have filed a post-summary correction with CBP, in accordance with CBP's regulations, regarding conversion of such entries

[8] *See Notice of Clarification: Application of ''Next Business Day'' Rule for Administrative Determination Deadlines Pursuant to the Tariff Act of 1930, As Amended,* 70 FR 24533 (May 10, 2005).

[9] *See* Memorandum, ''Circular Welded Carbon Quality Steel Pipe from the People's Republic of China: Final Decision Memorandum for the Circumvention Inquiry on the Antidumping Duty and Countervailing Duty Orders,'' dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

[10] *See* Cargo System Messaging Service #59384253, dated February 12, 2024; *see also Announcing an Importer's Additional Declaration in the Automated Commercial Environment Specific to Antidumping/Countervailing Duty Certifications,* 89 FR 7372 (February 2, 2024).

from non-AD or non-CVD type entries to AD or CVD type entries (*e.g.,* type 01 to type 03). The importer must pay cash deposits on those entries consistent with the regulations governing post summary corrections that require payment of additional duties.

Suspension of Liquidation and Cash Deposit Requirements

Based on the affirmative country-wide determination of circumvention with respect to Oman, in accordance with 19 CFR 351.226(l)(3) and (m)(1)(ii), Commerce will direct CBP to suspend liquidation and to require a cash deposit of estimated duties on unliquidated entries of inquiry merchandise that were entered, or withdrawn from warehouse, for consumption, on or after November 19, 2024, the date of publication of the initiation of this circumvention inquiry in the **Federal Register**.

CWP completed in Oman from HRS that is not of Chinese origin is not subject to this inquiry. However, Commerce finds that CWP completed in Oman using China-origin HRS is circumventing the AD and CVD *Orders* on CWP from China. Imports of such merchandise are subject to certification requirements, and cash deposits may be required.

Entries for which the importer and exporter have met the certification and documentation requirements described above and in Appendix III to this notice will not be subject to suspension of liquidation or the cash deposit requirements.

Where the certification and documentation requirements are not met for an entry, Commerce intends to instruct CBP to suspend the entry and collect cash deposits at the rates applicable to the AD and CVD *Orders* on CWP from China. For companies with their own company-specific rates under the AD and CVD *Orders,* the cash deposit rates will be the company-specific rates. Otherwise, Commerce will instruct CBP to require AD cash deposits equal to the China-wide rate of 85.55 percent and CVD cash deposits equal to the all-others rate of 39.01 percent.[11]

Commerce established the following third-country case numbers in ACE for entries of CWP completed in Oman using China-origin HRS: A–523–910 and C–523–911.

[11] *See AD Order,* 73 FR at 42549; *see also Circular Welded Carbon Quality Steel Pipe from the People's Republic of China: Final Results of the Expedited Third Sunset Review of the Countervailing Duty Order,* 89 FR 73064 (September 9, 2024), and accompanying Issues and Decision Memorandum at 5.

These suspension of liquidation requirements will remain in effect until further notice.

Administrative Protective Order (APO)

This notice will serve as the only reminder to all parties subject to an APO of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

Notification to Interested Parties

Commerce is issuing and publishing this notice in accordance with sections 781(b) and 777(i) of the Act, and 19 CFR 351.226(g)(2).

Dated: January 28, 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.

Appendix I

Scope of the Orders

The merchandise subject to the *Orders* is certain welded carbon quality steel pipes and tubes, of circular cross-section, and with an outside diameter of 0.372 inches (9.45 mm) or more, but not more than 16 inches (406.4 mm), whether or not stenciled, regardless of wall thickness, surface finish (*e.g.,* black, galvanized, or painted), end finish (*e.g.,* plain end, beveled end, grooved, threaded, or threaded and coupled), or industry specification (*e.g.,* ASTM, proprietary, or other), generally known as standard pipe and structural pipe (they may also be referred to as circular, structural, or mechanical tubing).

Specifically, the term ''carbon quality'' includes products in which (a) iron predominates, by weight, over each of the other contained elements; (b) the carbon content is 2 percent or less, by weight; and (c) none of the elements listed below exceeds the quantity, by weight, as indicated:

(i) 1.80 percent of manganese;
(ii) 2.25 percent of silicon;
(iii) 1.00 percent of copper;
(iv) 0.50 percent of aluminum;
(v) 1.25 percent of chromium;
(vi) 0.30 percent of cobalt;
(vii) 0.40 percent of lead;
(viii) 1.25 percent of nickel;
(ix) 0.30 percent of tungsten;
(x) 0.15 percent of molybdenum;
(xi) 0.10 percent of niobium;
(xii) 0.41 percent of titanium;
(xiii) 0.15 percent of vanadium; or
(xiv) 0.15 percent of zirconium.

Standard pipe is made primarily to American Society for Testing and Materials (ASTM) specifications, but can be made to other specifications. Standard pipe is made primarily to ASTM specifications A–53, A–135, and A–795. Structural pipe is made primarily to ASTM specifications A–252 and A–500. Standard and structural pipe may also be produced to proprietary specifications rather than to industry specifications. This is often the case, for example, with fence tubing. Pipe multiple-stenciled to a standard and/or structural specification and to any other specification, such as the American Petroleum Institute (API) API–5L specification, is also covered by the scope of the *Orders* when it meets the physical description set forth above and also has one or more of the following characteristics: is 32 feet in length or less; is less than 2.0 inches (50 mm) in outside diameter; has a galvanized and/or painted surface finish; or has a threaded and/or coupled end finish. (The term ''painted'' does not include coatings to inhibit rust in transit, such as varnish, but includes coatings such as polyester.)

The scope of the *Orders* does not include: (a) pipe suitable for use in boilers, superheaters, heat exchangers, condensers, refining furnaces and feedwater heaters, whether or not cold drawn; (b) mechanical tubing, whether or not cold-drawn; (c) finished electrical conduit; (d) finished scaffolding; (e) tube and pipe hollows for redrawing; (f) oil country tubular goods produced to API specifications; and (g) line pipe produced to only API specifications.

The pipe products that are the subject of the *Orders* are currently classifiable in HTSUS statistical reporting numbers 7306.30.10.00, 7306.30.50.25, 7306.30.50.32, 7306.30.50.40, 7306.30.50.55, 7306.30.50.85, 7306.30.50.90, 7306.50.10.00, 7306.50.50.50, 7306.50.50.70, 7306.19.10.10, 7306.19.10.50, 7306.19.51.10, and 7306.19.51.50. However, the product description, and not the Harmonized Tariff Schedule of the United States (HTSUS) classification, is dispositive of whether merchandise imported into the United States falls within the scope of the *Orders*.

Appendix II

List of Topics Discussed in the Issues and Decision Memorandum

I. Summary
II. Background
III. Scope of the *Orders*
IV. Merchandise Subject to the Circumvention Inquiry
V. Period of the Circumvention Inquiry
VI. Discussion of the Issues
  Comment 1: Multiple Antidumping Duty (AD) Orders
  Comment 2: Period of Inquiry
  Comment 3: Patterns of Trade
  Comment 4: Al Jazeera Affiliations
  Comment 5: Whether Omani Imports of Chinese HRS Increased
VII. Recommendation

Appendix III

Importer Certification

I hereby certify that:

A. My name is {IMPORTING COMPANY OFFICIAL'S NAME} and I am an official of {IMPORTING COMPANY}, located at {ADDRESS OF IMPORTING COMPANY};

B. I have direct personal knowledge of the facts regarding the importation into the

Customs territory of the United States of circular welded carbon quality steel pipe (CWP) produced in the Sultanate of Oman (Oman) that entered under entry summary number(s), identified below, and are covered by this certification. ''Direct personal knowledge'' refers to facts the certifying party is expected to have in its own records. For example, the importer should have direct personal knowledge of the importation of CWP, including the exporter's and/or foreign seller's identity and location;

C. If the importer is acting on behalf of the first U.S. customer, include the following sentence as paragraph C of this certification:

The CWP covered by this certification was imported by {IMPORTING COMPANY} on behalf of {U.S. CUSTOMER}, located at {ADDRESS OF U.S. CUSTOMER};

If the importer is not acting on behalf of the first U.S. customer, include the following sentence as paragraph C of this certification:

{NAME OF IMPORTING COMPANY} is not acting on behalf of the first U.S. customer.

D. The CWP covered by this certification was shipped to {NAME OF PARTY IN THE UNITED STATES TO WHOM THE MERCHANDISE WAS FIRST SHIPPED}, located at {U.S. ADDRESS TO WHICH MERCHANDISE WAS SHIPPED}.

E. I have personal knowledge of the facts regarding the production of the imported products covered by this certification. ''Personal knowledge'' includes facts obtained from another party, (*e.g.,* correspondence received by the importer (or exporter) from the producer regarding the source of hot-rolled steel (HRS) or other inputs used to produce the imported CWP);

F. This certification applies to the following entries (repeat this block as many times as necessary):

Entry Summary #:

Entry Summary Line Item #:

Foreign Seller:

Foreign Seller's Address:

Foreign Seller's Invoice #:

Foreign Seller's Invoice Line Item #:

Country of Origin of HRS: [12]

Producer:

Producer's Address:

G. The CWP covered by this certification does not contain HRS produced in the People's Republic of China (China);

H. I understand that {IMPORTING COMPANY} is required to maintain a copy of this certification and sufficient documentation supporting this certification (*i.e.,* documents maintained in the normal course of business, or documents obtained by the certifying party, for example, certificates of origin, product data sheets, mill test reports, productions records, invoices, *etc.*) until the later of: (1) the date that is five years after the date of the latest entry covered by the certification or; (2) the date that is three years after the conclusion of any litigation in the United States courts regarding such entries;

I. I understand that {IMPORTING COMPANY} is required to maintain a copy of the exporter's certification (attesting to the production and/or exportation of the imported merchandise identified above), and any supporting documentation provided to the importer by the exporter, until the later of: (1) the date that is five years after the date of the latest entry covered by the certification; or (2) the date that is three years after the conclusion of any litigation in United States courts regarding such entries;

J. I understand that {IMPORTING COMPANY}is required to submit a copy of the importer and exporter certifications, the commercial invoice, and the bill of lading at the time of entry summary by uploading these documents into the Document Imaging System in the Automated Commercial Environment, and to provide U.S. Customs and Border Protection (CBP) and/or the U.S. Department of Commerce (Commerce) with the importer certification, a copy of the exporter's certification, the commercial invoice, the bill of lading, and any supporting documentation provided to the importer by the exporter, upon request of either agency. Consistent with CBP's procedures, importers shall identify certified entries by using importers' additional declaration (record 54) AD/CVD Certification Designation (type code 06) when filing entry summary.

K. I understand that the claims made herein, and the substantiating documentation, are subject to verification by CBP and/or Commerce;

L. I understand that failure to maintain the required certification and supporting documentation, or failure to substantiate the claims made herein, or not allowing CBP and/or Commerce to verify the claims made herein, may result in a *de facto* determination that all entries to which this certification applies are within the scope of the antidumping duty (AD) and countervailing duty (CVD) orders on CWP from China. I understand that such finding will result in:

(i) suspension of liquidation of all unliquidated entries (and entries for which liquidation has not become final) for which these requirements were not met;

(ii) the importer being required to post the antidumping duty and countervailing duty cash deposits determined by Commerce; and

(iii) the importer no longer being allowed to participate in the certification process.

M. I understand that agents of the importer, such as brokers, are not permitted to make this certification;

N. This certification was completed and signed on, or prior to, the date of the entry summary if the entry date is after August 13, 2025. If the entry date is on or before August 13, 2025, this certification was completed and signed by no later than September 8, 2025, and the importer and exporter certifications, the commercial invoice, and the bill of lading were uploaded to DIS in ACE by no later than September 8, 2025.

O. I am aware that U.S. law (including, but not limited to, 18 U.S.C. 1001) imposes criminal sanctions on individuals who knowingly and willfully make material false statements to the U.S. government.

Signature

{NAME OF COMPANY OFFICIAL}

{TITLE OF COMPANY OFFICIAL}

{DATE}

Exporter Certification

The party that made the sale to the United States should fill out the exporter certification.

I hereby certify that:

A. My name is {COMPANY OFFICIAL'S NAME} and I am an official of {NAME OF FOREIGN COMPANY THAT MADE THE SALE TO THE UNITED STATES); located at {ADDRESS OF FOREIGN COMPANY THAT MADE THE SALE TO THE UNITED STATES);

B. I have direct personal knowledge of the facts regarding the production and exportation of the circular welded carbon quality steel pipe (CWP) from the Sultanate of Oman (Oman) for which sales are identified below. ''Direct personal knowledge'' refers to facts the certifying party is expected to have in its own records. For example, an exporter should have direct personal knowledge of the producer's identity and location;

C. The CWP covered by this certification was shipped to {NAME OF PARTY IN THE UNITED STATES TO WHOM MERCHANDISE WAS FIRST SHIPPED}, located at {U.S. ADDRESS TO WHICH MERCHANDISE WAS SHIPPED};

D. The CWP covered by this certification does not contain hot-rolled steel (HRS) produced in the People's Republic of China (China);

E. This certification applies to the following sales to {NAME OF U.S. CUSTOMER}, located at {ADDRESS OF U.S. CUSTOMER} (repeat this block as many times as necessary):

Foreign Seller's Invoice # to U.S. Customer:

Foreign Seller's Invoice to U.S. Customer Line item #:

Producer Name:

Producer's Address:

Producer's Invoice # to Foreign Seller: (*If the foreign seller and the producer are the same party, put NA here.*)

Name of Producer of HRS: [13]

Location (Country) of Producer of HRS: [14]

F. The CWP covered by this certification was shipped to {NAME OF U.S. PARTY TO WHOM MERCHANDISE WAS SHIPPED}, located at {U.S. ADDRESS TO WHICH MERCHANDISE WAS SHIPPED};

G. I understand that {NAME OF FOREIGN COMPANY THAT MADE THE SALE TO THE UNITED STATES} is required to maintain a copy of this certification and sufficient documentation supporting this certification (*i.e.,* documents maintained in the normal course of business, or documents obtained by the certifying party, for example, product data sheets, mill test reports, productions records, invoices, *etc.*) until the later of: (1) the date that is five years after the latest date of the entries covered by the certification; or (2) the date that is three years after the conclusion of any litigation in the United States courts regarding such entries;

H. I understand that {NAME OF FOREIGN COMPANY THAT MADE THE SALE TO

[12] Put ''N/A'' if the Country of Origin involves an input other than HRS.

[13] Put ''N/A'' if the producer did not use HRS in the production of CWP.

[14] Put ''N/A'' if the producer did not use HRS in the production of CWP.

THE UNITED STATES} is required to provide the U.S. importer with a copy of this certification and is required to provide U.S. Customs and Border Protection (CBP) and/or the U.S. Department of Commerce (Commerce) with this certification, and any supporting documents, upon request of either agency;

I. I understand that the claims made herein, and the substantiating documentation, are subject to verification by CBP and/or Commerce;

J. I understand that failure to maintain the required certification and supporting documentation, or failure to substantiate the claims made herein, or not allowing CBP and/or Commerce to verify the claims made herein, may result in a *de facto* determination that all sales to which this certification applies are within the scope of the antidumping duty and countervailing duty orders on CWP from China. I understand that such a finding will result in:

(i) suspension of all unliquidated entries (and entries for which liquidation has not become final) for which these requirements were not met;

(ii) the importer being required to post the antidumping duty and countervailing duty cash deposits determined by Commerce; and

(iii) the seller/exporter no longer being allowed to participate in the certification process.

K. I understand that agents of the seller/exporter, such as freight forwarding companies or brokers, are not permitted to make this certification.

L. This certification was completed and signed, and a copy of the certification was provided to the importer, on, or prior to, the date of shipment if the shipment date is after August 13, 2025. If the shipment date is on or before August 13, 2025, this certification was completed and signed, and a copy of the certification was provided to the importer, by no later than September 8, 2025; and

M. I am aware that U.S. law (including, but not limited to, 18 U.S.C. 1001) imposes criminal sanctions on individuals who knowingly and willfully make material false statements to the U.S. government.

Signature

{NAME OF COMPANY OFFICIAL}

{TITLE OF COMPANY OFFICIAL}

{DATE}

[FR Doc. 2026–02104 Filed 2–2–26; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XF037]

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to the Naval Base Point Loma Deperming Pier Replacement Project and the Naval Base San Diego Chollas Creek Quay Wall Repair Project in San Diego Bay, California

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

ACTION: Notice; two proposed incidental harassment authorizations; request for comments on two proposed authorizations and possible renewals.

SUMMARY: NMFS has received separate requests from the U.S. Navy (Navy) for authorization to take marine mammals incidental to the Naval Base Point Loma (NBPL) Deperming Pier Replacement Project and the Naval Base San Diego (NBSD) Chollas Creek Quay Wall Repair Project, respectively, both in San Diego Bay, California (CA). Pursuant to the Marine Mammal Protection Act (MMPA), NMFS is requesting comments on its proposals to issue separate incidental harassment authorizations (IHAs) to incidentally take marine mammals during the specified activities. NMFS is also requesting comments on a possible one-time, 1-year renewal for each IHA that could be issued under certain circumstances, provided all requirements are met, as described in Request for Public Comments at the end of this notice. NMFS will consider public comments prior to making any final decision on the issuance of the requested MMPA authorizations. Agency responses will be summarized in the final notice of our decision.

DATES: Comments and information must be received no later than March 5, 2026.

ADDRESSES: Comments should be addressed to the Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service, and should be submitted via email to *ITP.Graham@noaa.gov.* Electronic copies of the application and supporting documents, as well as a list of the references cited in this document, may be obtained online at: *https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-construction-activities.* In case of problems accessing these documents, please call the contact listed below.

Instructions: NMFS is not responsible for comments sent by any other method, to any other address or individual, or received after the end of the comment period. Comments, including all attachments, must not exceed a 25-megabyte file size. All comments received are a part of the public record and will generally be posted online at *https://www.fisheries.noaa.gov/permit/incidental-take-authorizations-under-marine-mammal-protection-act* without change. All personal identifying information (*e.g.,* name, address) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information.

FOR FURTHER INFORMATION CONTACT: Krista Graham, Office of Protected Resources, NMFS, (301) 427–8401.

SUPPLEMENTARY INFORMATION:

Background

The MMPA prohibits the ''take'' of marine mammals, with certain exceptions. Section 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) directs the Secretary of Commerce (as delegated to NMFS) to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are proposed or, if the taking is limited to harassment, a notice of a proposed IHA is provided to the public for review.

Authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s) and will not have an unmitigable adverse impact on the availability of the species or stock(s) for taking for subsistence uses (where relevant). Further, NMFS must prescribe the permissible methods of taking; other ''means of effecting the least practicable adverse impact'' on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of the species or stocks for taking for certain subsistence uses (collectively referred to as ''mitigation''); and requirements pertaining to the monitoring and reporting of the takings. The definitions of all applicable MMPA statutory terms used above are included in the relevant sections below (*see also* 16 U.S.C. 1362; 50 CFR 216.103).

National Environmental Policy Act

To comply with the National Environmental Policy Act of 1969 (NEPA; 42 U.S.C. 4321 *et seq.*) and NOAA Administrative Order (NAO) 216–6A, NMFS must review our proposed action (*i.e.,* the issuance of an IHA) with respect to potential impacts on the human environment.

These actions are consistent with categories of activities identified in Categorical Exclusion B4 (IHAs with no anticipated serious injury or mortality) of the Companion Manual for NAO 216–6A, which do not individually or cumulatively have the potential for significant impacts on the quality of the human environment and for which we have not identified any extraordinary circumstances that would preclude this categorical exclusion. Accordingly, for both proposed IHAs, NMFS has preliminarily determined that the issuance of the proposed IHA qualifies for categorical exclusion from further NEPA review.

Summary of Request

On April 23, 2025, NMFS received a request from the Navy for an IHA to authorize incidental take of marine mammals during the NBPL Deperming Pier Replacement Project, which involves removing and replacing damaged fender piles at three large piers at NBPL in San Diego Bay, CA. Then, on April 30, 2025, NMFS received another request from the Navy for an IHA to authorize incidental take during the NBSD Chollas Creek Quay Wall Repair Project, which includes removing and replacing the existing quay wall and dock pilings in Chollas Creek, San Diego Bay, CA. Since both projects are proposed by the Navy and are located in San Diego Bay, CA, and the Navy has requested the authorizations be issued near concurrently, NMFS is announcing its proposals of the two IHAs and soliciting public comment within this single **Federal Register** notice.

Following NMFS' review of the applications, the Navy submitted a revised version of both applications on November 13, 2025. Both applications were deemed adequate and complete on November 19, 2025. For the NBPL Deperming Pier Replacement Project, the Navy's request is for the take of six species of marine mammals, by Level A harassment and/or Level B harassment only; for the NBSD Chollas Creek Quay Wall Repair Project, the Navy's request is for the take of three species of marine mammals, by Level B harassment only. Neither the Navy nor NMFS expects serious injury or mortality to result from either activity; therefore, an IHA for each project is appropriate. Both IHAs would be valid for the statutory maximum of 1 year from the date of effectiveness, and would become effective upon written notification from the Navy to NMFS, but not beginning later than 1 year from the date of issuance or extending beyond 2 years from the date of issuance.

Description of Proposed Activity

Overview

The purpose of both Navy projects is to maintain structurally sound and operational areas at both naval bases, to continue safely supporting Pacific Fleet surface ships, and to allow berth-side repair, maintenance, and storage of vessels. Both proposed projects are located at naval bases within San Diego Bay, CA, either near the mouth of the Bay at Point Loma (NBPL), or in the south-central part of the Bay, at Chollas Creek (NBSD). The Navy would remove existing piles using a dead pull, high-pressure water jetting, or a vibratory extractor, and install permanent piles using high-pressure water jetting, vibratory hammer, or an impact hammer to replace the existing piers. For the NBPL Project, the proposed activities would result in removing 192 piles and installing 192 piles over approximately 171 in-water work days. For the NBSD Project, 190 in-water work days are estimated to remove 544 piles, and 121 days to install 936 piles. Pile removal via vibratory extractor and pile installation via vibratory hammer or impact hammer have the potential to result in marine mammal harassment, and, therefore, IHAs are warranted.

Dates and Duration

Each proposed IHA would be valid for the statutory maximum of 1 year from the date of effectiveness. They would become effective upon written notification from the applicant to NMFS, but not beginning later than 1 year from the date of issuance or extending beyond 2 years from the date of issuance. Pile driving is expected to occur at NBPL between June 1, 2026, and May 31, 2027, for 171 days. Pile driving is expected to occur at NBSD between January 1, 2027, and December 31, 2027, for 190 days. However, project delays may occur due to several factors, including project funding, permitting requirements, equipment and/or material availability, weather-related delays, equipment maintenance and/or repair, and other contingencies. For both projects, pile removal and driving would occur only during daylight hours.

Specific Geographic Region

The NBPL Deperming Pier Replacement Project is located on the peninsula of Point Loma near the mouth and along the northern edge of San Diego Bay, CA. This area, known as North Bay, extends from the Bay mouth to the area offshore Downtown San Diego.

The NBSD Chollas Creek Quay Wall Repair Project is located in the San Diego Bay in an area known as South-Central Bay. Specifically, the project is located at the mouth of Chollas Creek, a highly militarized area on both sides of the Creek.

The U.S. Army Corps of Engineers dredges the main navigation channel into and through San Diego Bay to maintain a depth of 47 feet (ft) (14.3 meters (m)) below mean lower low water (MLLW), ensuring safe passage for private, commercial, and military vessels within the Bay (NOAA 2010). In North Bay, typical depths range from 36 to 38 ft (11.0 to 11.6 m) below MLLW to support large ship turning and anchorage (Merkel & Associates, Inc., 2008, 2009). In Central Bay, typical depths range from 11 to 12 m (35 to 38 ft) below MLLW (Merkel & Associates, 2009).

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Figure 1 -- NBPL Deperming Pier Replacement Project area denoted by a pin drop

Figure 2 -- Zoomed in vicinity map of the NBPL Deperming Pier Replacement Project

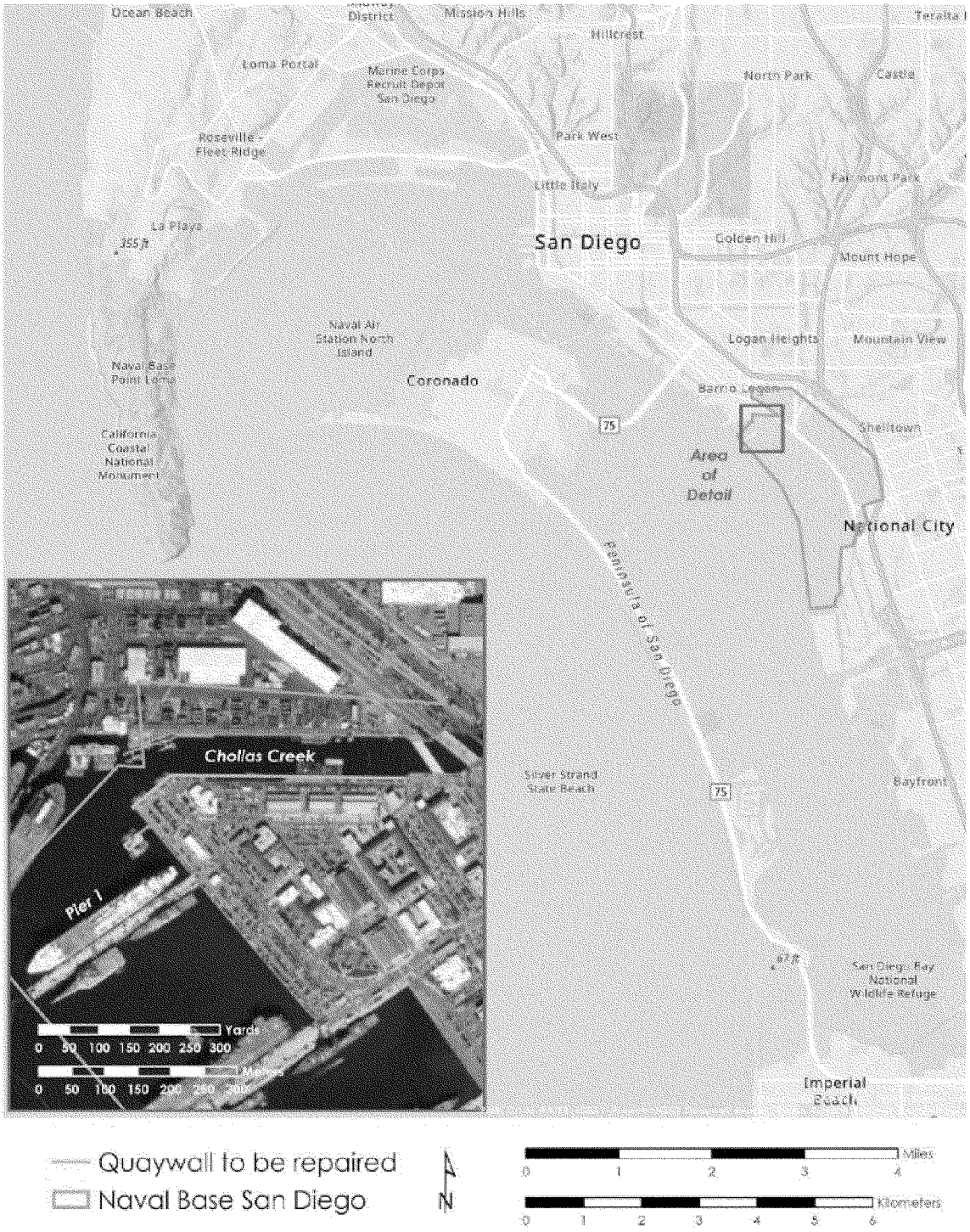

Figure 3 -- NBSD Chollas Creek Quay Wall Repair Project area

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Detailed Description of the Specified Activity

NBPL Deperming Pier Replacement Project

For the NBPL Project, the Navy proposes in-water construction work at three piers: the two Magnetic Silencing Facility (MSF) piers (*i.e.,* the Deperming Pier and the Electromagnetic Roll Garden (ERG) Pier), and Pier 5002 North Inner Berth. Specifically, the Navy proposes to remove and replace damaged piles at the Deperming Pier and the ERG Pier, and replace plastic fender piles at Pier 5002. The MSF provides mission-critical magnetic treatment (deperming) of Navy surface vessels, and calibration and testing of magnetic signature reduction systems (degaussing), thereby significantly reducing the risk to Navy ships from magnetic mines. The project would maintain the Deperming Pier, ERG Pier, and Pier 5002 in a structurally sound, operational condition so that the Navy

may safely continue to support Pacific Fleet surface ships.

During construction activities at NBPL, 192 16-inch timber piles would be removed via vibratory extraction over an estimated 86 days. High-pressure water jetting or dead pull may also be used to remove piles. The installation of the 192 16-inch round fiberglass-reinforced plastic piles would be carried out using vibratory or impact hammers over 85 days. High-pressure external water jetting may be used to loosen the soil before vibratory or impact hammering. Two-inch pile sleeves made of high-density polyethylene would be slipped onto the outside of each 16-inch pile to minimize long-term pile degradation (*i.e.,* no pile driving is needed). Each sleeve would be bolted in place to the steel pile above the waterline. Additionally, 8-ft (2.4 m) link chains (one for each replaced piling) would be replaced to connect the pier to the piling for extra support. High-pressure water jetting or dead-pull removal methods are not likely to result in harassment and, therefore, we do not discuss these action components further.

The Navy estimates that 171 days are needed to remove and install a total of 384 piles. A floating barge secured directly to the pier would remove and install between two and four piles per day. The sequence of pile removal and installation involves removing three to four piles, then installing three to four new piles. The barge would then move to the next section and repeat the process.

The estimated time to remove each timber pile with a vibratory hammer is up to 5 minutes. Installation is expected to take up to 5 minutes per plastic pile using vibratory pile driving, while impact installation may require up to 600 strikes per plastic pile (see table 1). A bubble curtain or similar attenuation method is not proposed (see Proposed Mitigation section below for rationale).

NBSD Chollas Creek Quay Wall Repair Project

For this project, the Navy plans to repair Quay Wall Segment B at NBSD along Chollas Creek. This area experienced a catastrophic failure in 2019 due to its age (82 years), which led to undermined sheet piles and the deterioration of utility lines. The project includes demolishing the existing quay wall and associated piles, then building a new quay wall. Additionally, piles would be installed to support a small craft floating dock in the same area as the old location (within Chollas Creek) for berth-side repairs, maintenance, and vessel storage. Repairs would span approximately 1,410 ft (430 m) along the quay wall in about 30 ft (10 m) of water depth. Vibratory extraction would be used to remove the 14-inch steel H piles, 18-inch square concrete fender piles, 18-inch octagonal concrete fender piles, and 24-inch steel sheet piles. Dead pulling would be used to remove the 13-inch round plastic fender piles. Piles would only be removed if they interfere with the installation of new piles. Vibratory pile driving, impact pile driving, or high-pressure water jetting would be used to install the 24-inch sheet piles, 18-inch square concrete fender piles, 18-inch octagonal concrete guide piles, and the 13-inch round plastic fender piles. For reasons described for the NBPL project above, dead pull and high-pressure water jetting are not expected to have the potential to result in harassment and are not discussed further.

The Navy estimates 190 days of in-water work, conducted only during daylight hours, are necessary for this project. Specifically, the Navy estimates 69 days to remove 544 piles and 121 days to install 936 piles. The sequence of pile removal/installation for this project is less certain but likely involves removing all piles, then installing all new piles. However, the contractor may opt to remove and install all piles of a similar nature (*e.g.,* square and octagonal piles) before moving on to another pile type (*e.g.,* wall sheet piles).

Anywhere from 2 to 12 piles may be removed per day, during daylight hours only, with 4 to 10 piles installed per day. Vibratory pile removal is estimated to take approximately 20 minutes per pile for all pile types; vibratory pile installation is estimated to take anywhere from 1 to 20 minutes per pile, depending on the pile type, whereas impact pile installation is estimated to take 600 strikes per pile (see table 1).

TABLE 1—NBPL AND NBSD PILE REMOVAL AND INSTALLATION METHOD, PILE SIZE/TYPE, LOCATION, NUMBER, AND DURATION

Method	Pile size/type	Pile location	Piles/day	Number of piles	Number of days
NBPL DEPERMING PIER					
Pile Removal [1]					
Vibratory Extraction	16-inch (41 cm) round timber	Deperming Pier Edge	4	72	21
		Deperming Pier Corners	2	51	26
		ERG Pier Dolphin Clusters	2	38	20
		ERG Pier	2	28	17
		Pier 5002	2	3	2
Total			2–4	192	[2] 86
Pile Installation [1]					
Vibratory Hammer/Impact Hammer	16-inch (41 cm) round fiberglass-reinforced plastic.	Deperming Pier Edge	3	72	24
		Deperming Pier Corners	2	51	26
		ERG Pier Dolphin Clusters	2	38	19
		ERG Pier	2	28	14
		Pier 5002	2	3	2
Totals			2–3	192	85
Total in-water pile extraction/installation days					171
NBSD CHOLLAS CREEK					
Pile Removal [3]					
Vibratory Extraction	13-inch round plastic [4]	Quay wall corner to channel	7	14	2
	18-inch square concrete	Quay wall	5	140	28

TABLE 1—NBPL AND NBSD PILE REMOVAL AND INSTALLATION METHOD, PILE SIZE/TYPE, LOCATION, NUMBER, AND DURATION—Continued

Method	Pile size/type	Pile location	Piles/day	Number of piles	Number of days
	14-inch steel H	Quay wall	12	100	9
	18-inch octagonal concrete	Small craft dock	2	2	1
	24-inch steel sheet [5]	Quay wall	10	288	29
Totals			2–12	544	69
Pile Installation [1]					
Vibratory/Impact Hammer	13-round plastic	Quay wall corner to channel	5	14	3
	18-inch square concrete	Quay wall	6	155	26
	18-inch octagonal concrete	Small craft dock	4	23	6
	27.5-inch steel sheet [6]	Quay wall	10	744	86
Total			4–10	936	121
Total in-water pile extraction/installation days					190

[1] Vibratory pile removal/installation and impact pile installation may occur with or without high-pressure water jetting occurring either simultaneously or separately.
[2] Contractor added buffer days for some locations.
[3] While other methods of pile extraction are possible, vibratory extraction is the most likely method that would be used to extract piles. No Level A harassment or Level B harassment (take analysis) is conducted on the other pile extraction methods (*i.e.,* dead pull, water jetting).
[4] These piles are anticipated to be dead pulled.
[5] These piles are anticipated to be either vibratory extracted, dead pulled, or clipped at the mud-line and removed. For this IHA, we are assuming vibratory extraction for the demolition of all existing sheet piles.
[6] Includes extra days as a buffer.

For both projects, only in-water vibratory pile removal and vibratory and impact pile installation are anticipated to result in marine mammal harassment due to elevated underwater noise. Any above-ground activities (*e.g.,* repositioning equipment) are expected to result in only in-air/in-ground construction noise below levels known to affect marine mammals, and thus won't be discussed further. The underwater sound generated by these in-water activities associated with the NBPL Deperming Pier Replacement Project may result in Level A harassment and/or Level B harassment of six marine mammal species, comprising six stocks. For the NBSD Chollas Creek Quay Wall Repair Project, underwater sound may result in Level B harassment of three marine mammal species.

With respect to the ambient or background underwater sound levels (SPL) for San Diego Bay, these levels are reported in the ''Compendium of Underwater and Airborne Sound Data during Pile Installation and In-Water Demolition Activities in San Diego Bay, California'' (NAVFAC SW, 2020). These sound levels were measured for the NBPL Fuel Pier Replacement Project at two locations. The median background underwater SPL in areas of the Bay subject to project construction noise at NBPL averaged approximately 129.6 dB (referenced to 1 micropascal (re 1 µPa)). As described in the Estimated Take section, pile removal and installation noise for the NBSD Project is likely to become indistinguishable from background noise as it diminishes to 126 dB re 1 µPa with distance from the source (NBSD IHA application, citing Dahl and Dall'Osto, 2019).

Proposed mitigation, monitoring, and reporting measures are described in detail later in this document (please see Proposed Mitigation and Proposed Monitoring and Reporting).

Description of Marine Mammals in the Area of Specified Activities

Sections 3 and 4 of the application summarize available information regarding the status and trends, distribution and habitat preferences, and behavior and life history of the potentially affected species. NMFS fully considered all of this information, and we refer the reader to these descriptions in the application instead of reprinting the information. Additional information on population trends and threats may be found in NMFS' Stock Assessment Reports (SARs; *https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessments*), and more general information about these species (*e.g.,* physical and behavioral descriptions) may be found on NMFS' website (*https://www.fisheries.noaa.gov/find-species*). Furthermore, information may be found in the ''U.S. Navy's Dive Distribution and Group Size Parameters for Marine Species Occurring in the U.S. Navy's Atlantic and Hawaii-California Training and Testing Study Areas'' (Navy, 2024), available online at *https://www.nepa.navy.mil/Portals/20/Documents/Pacific%20Fleet/HSTTEIS/HCTT/DraftEIS/TechnicalReports/AFTTHCTTDiveProfile_TR12243A.pdf.*

Table 2 lists all the species or stocks for which take is expected and proposed to be authorized for these activities and summarizes information related to the population or stock, including regulatory status under the MMPA and Endangered Species Act (ESA), as well as the potential biological removal (PBR), where known. The MMPA defines PBR as the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population (as described in NMFS' SARs). While no serious injury or mortality is anticipated or proposed to be authorized for either project, the PBR and annual mortality and serious injury (M/SI) from anthropogenic sources are included here as gross indicators of the status of the species or stocks and other threats.

Marine mammal abundance estimates presented in this document represent the total number of individuals that make up a given stock or the total number estimated within a particular study or survey area. NMFS' stock abundance estimates for most species represent the total estimate of individuals within the geographical area, if known, that comprises that stock. For some species, this area may extend beyond U.S. waters. All managed stocks in this region are assessed in NMFS' U.S. Pacific SARs (Carretta *et al.,* 2025). All values presented in table 2 are the most recent available at the time of publication (including from the draft 2024 SARs) and are available online at: *https://www.fisheries.noaa.gov/*

national/marine-mammal-protection/marine-mammal-stock-assessments.

TABLE 2—SPECIES, STOCKS, AND THE STATUS OF MARINE MAMMALS WITH ESTIMATED TAKE FROM THE SPECIFIED NBPL AND NBSD ACTIVITIES

Common name [1]	Scientific name	Stock	ESA/ MMPA status; strategic (Y/N) [2]	Stock abundance (CV, N_{min}, most recent abundance survey) [3]	PBR	Annual M/S [4]
Order Artiodactyla—Infraorder Cetacea—Mysticeti (baleen whales)						
Family Eschrichtiidae:						
Gray whale [5]	*Eschrichtius robustus*	Eastern North Pacific	-,-,N	25,960 (0.05, 25,849, 2016)	801	131
Odontoceti (toothed whales, dolphins, and porpoises)						
Family Delphinidae:						
Common dolphin (short-beaked) [5].	*Delphinus delphis*	CA/OR/WA	-,-,N	1,056,308 (0.21, 888,971, 2018).	8,889	≥30.5
Common dolphin (long-beaked) [5].	*Delphinus delphis bairdii*	CA	-,-,N	83,379 (0.216, 69,636, 2018)	668	≥29.7
Common bottlenose dolphin [5 6].	*Tursiops truncatus truncatus*	CA coastal	-,-,N	453 (0.6, 346, 2011)	2.7	≥2.0
Order Carnivora—Pinnipedia						
Family Otariidae (eared seals and sea lions):						
California sea lion [5 6]	*Zalophus californianus*	U.S.	-,-,N	257,606 (N/A, 233,515, 2014)	14,011	>321
Family Phocidae (earless seals):						
Harbor seal [5 6]	*Phoca vitulina*	California	-,-,N	30,968 (N/A, 27,348, 2012)	1,641	43

[1] Information on the classification of marine mammal species can be found on the web page for The Society for Marine Mammalogy's Committee on Taxonomy (*https://marinemammalscience.org/science-and-publications/list-marine-mammal-species-subspecies/*).

[2] Endangered Species Act (ESA) status: Endangered (E), Threatened (T); MMPA status: Depleted (D). A dash (-) indicates that the species is not listed under the ESA or designated as depleted under the MMPA. Under the MMPA, a strategic stock is one for which the level of direct human-caused mortality exceeds PBR or is determined to be declining and likely to be listed under the ESA within the foreseeable future. Any species or stock listed under the ESA is automatically designated as depleted and as a strategic stock under the MMPA.

[3] NMFS marine mammal stock assessment reports online at *https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessment-reports*. CV is the coefficient of variation; N_{min} is the minimum estimate of stock abundance. In some cases, a CV is not applicable. N/A indicates data are unknown. UND (undetermined) PBR indicates data are available to calculate a PBR level, but a determination has been made that calculating a PBR level using those data is inappropriate (see the SAR for details).

[4] These values, found in NMFS' SARs, represent annual levels of human-caused mortality plus serious injury from all sources combined (*e.g.,* commercial fisheries, ship strikes). Annual M/SI is often not precisely determined and is sometimes reported as a minimum value or a range.

[5] Species occurs in the NBPL Project area; see the *Marine Mammal Species at NBPL* section and table 8 for further information.

[6] Species occurs in the NBSD Project area; see the *Marine Mammal Species at NBSD* section and table 8 for further information.

As indicated above, table 2 lists all six species that temporally and spatially co-occur during all or a portion of the in-water work associated with the proposed activities at NBPL to the degree that incidental take could potentially occur. Thus, the Navy has requested, and NMFS proposes to authorize, the incidental take of these six species. Table 2 also lists the three species that temporally and spatially co-occur during all or a portion of the in-water work associated with the proposed activities at NBSD to the degree that incidental take could potentially occur. Thus, for the NBSD Project, the Navy has requested, and NMFS proposes to authorize, the incidental take of California sea lions, the California coastal stock of the bottlenose dolphins, and harbor seals.

NMFS has previously authorized the incidental take of Risso's dolphins (*Grampus griseus*), northern elephant seals (*Mirounga angustirostris*), and Pacific white-sided dolphins (*Lagenorhynchus obliquidens*) in past IHAs spanning over a decade for Navy projects in San Diego Bay (see the NBPL Fuel Pier Replacement projects: 78 FR 44539, July 24, 2013 (Year 1 Project); 79 FR 65378, November 4, 2014; (Year 2 Project); 80 FR 62032, October 15, 2015 (Year 3 Project); 81 FR 66628, September 28, 2016 (Year 4 Project); 82 FR 45811, and October 2, 2017 (Year 5 Project); 85 FR 33129, June 1, 2020 (NBPL Floating Dry Dock Project); 86 FR 7993, February 3, 2021 (NBPL Pier 6 Replacement Project), and 86 FR 48986, September 1, 2021 (NBPL Fuel Pier Inboard Pile Removal Project) for examples). However, based on monitoring reports for these projects, sightings of these species were rare or occurred only during an El Niño monitoring year and are not considered representative of typical species occurrences (see 88 FR 6703, February 1, 2024). Therefore, because the temporal and/or spatial occurrence of Risso's dolphins, northern elephant seals, and Pacific white-sided dolphins during in-water activities for both projects is such that incidental take is not expected to occur, the Navy did not request, and NMFS is not proposing to authorize, the incidental take of these three species, and these species are not discussed further (for either the NBPL or NBSD projects).

The most frequently observed marine mammal in San Diego Bay is the California sea lion, which is considered abundant and often rests on buoys and other man-made structures found throughout the North to North Central Bay. Other species known to occur in San Diego Bay include the California coastal stock of the common bottlenose dolphin, which is seen year-round in the North Bay but sightings are sporadic and highly variable, and the harbor seal, which is relatively uncommon in the North Bay. Gray whales, which are occasionally sighted near the mouth of San Diego Bay during their winter migration, are considered rare/seasonal. Lastly, common dolphins (both short-beaked and long-beaked are occasional visitors to San Diego Bay. Recently, the Committee on Taxonomy (*https://marinemammalscience.org/science-and-publications/list-marine-mammal-*

species-subspecies/) determined that both the short-beaked and long-beaked common dolphin belong to the same species, and we adopt this taxonomy. However, the SARs still describe the two as separate stocks, and that stock information is presented in table 2.

Sightings of common dolphins (both short-beaked and long-beaked) and gray whales are rare occurrences in San Diego Bay, especially in South-Central San Diego Bay, where Chollas Creek is located. Based on the lack of sightings as documented in the NBSD Pier 6 Replacement Project's final report (NAVFAC SW, 2024) during 172 monitoring days, the Navy is not requesting, and NMFS is not proposing to authorize, the incidental take for these three species, and they are not discussed further beyond the explanation provided here.

Finally, there are no known biologically important areas (BIAs) for marine mammals near the project sites that would be relevant to the Navy's proposed activities.

Marine Mammal Hearing

Hearing is the most vital sensory modality for marine mammals underwater, and exposure to anthropogenic sound can have deleterious effects. To appropriately assess the potential effects of sound exposure, it is necessary to understand the frequency ranges that marine mammals can hear. Not all marine mammal species have equal hearing capabilities or hear over the same frequency range (*e.g.,* Richardson *et al.,* 1995; Wartzok and Ketten, 1999; Au and Hastings, 2008). To reflect this, Southall *et al.* (2007; 2019) recommended that marine mammals be divided into hearing groups based on directly measured (behavioral or auditory evoked potential techniques) or estimated hearing ranges (behavioral response data, anatomical modeling, *etc.*). Subsequently, NMFS (2018, 2024) described generalized hearing ranges for these marine mammal hearing groups. Generalized hearing ranges were chosen based on the approximately 65-decibel (dB) threshold from the normalized composite audiograms, with the exception of lower limits for low-frequency cetaceans, where the lower bound was deemed to be biologically implausible, and the lower bound from Southall *et al.* (2007) was retained. In October 2024, NMFS published its 2024 Updated Technical Guidance, which includes updated thresholds and weighting functions to inform auditory injury estimates and replaces the 2018 Technical Guidance referenced above. This 2024 Updated Technical Guidance represents the best available science. Marine mammal hearing groups and their associated hearing ranges are provided in table 3. Of the species potentially present in both proposed action areas, gray whales are considered low-frequency (LF) cetaceans; bottlenose dolphins and short- and long-beaked common dolphins are considered high-frequency (HF) cetaceans; California sea lions are otariid pinnipeds; and harbor seals are phocid pinnipeds.

TABLE 3—MARINE MAMMAL HEARING GROUPS

[NMFS, 2024]

Hearing group	Generalized hearing range *
Low-frequency (LF) cetaceans (baleen whales)	7 Hz to 36 kHz.
High-frequency (HF) cetaceans (dolphins, toothed whales, beaked whales, bottlenose whales)	150 Hz to 160 kHz.
Very High-frequency (VHF) cetaceans (true porpoises, *Kogia,* river dolphins, Cephalorhynchid, *Lagenorhynchus cruciger* & *L. australis*).	200 Hz to 165 kHz.
Phocid pinnipeds (PW) (underwater) (true seals)	40 Hz to 90 kHz.
Otariid pinnipeds (OW) (underwater) (sea lions and fur seals)	60 Hz to 68 kHz.

* Represents the generalized hearing range for the entire group as a composite (*i.e.,* all species within the group), where individual species' hearing ranges may not be as broad. Generalized hearing range chosen based on approximately 65 dB threshold from composite audiogram, previous analysis in NMFS (2018), and/or data from Southall *et al.* (2007) and Southall *et al.* (2019). Additionally, animals can detect very loud sounds above and below the ''generalized'' hearing range.

Potential Effects of Specified Activities on Marine Mammals and Their Habitat

This section includes a discussion of how components of the specified activities for both the NBPL and NBSD projects may affect marine mammals and their habitat. The Estimated Take of Marine Mammals section later in this document includes a quantitative analysis of the number of individuals that are expected to be taken by both the NBPL and NBSD activities. The Negligible Impact Analysis and Determination section considers the content of this section, as well as the Estimated Take of Marine Mammals section and the Proposed Mitigation section, to draw conclusions regarding the likely impacts of both of the proposed project activities on the reproductive success or survivorship of individuals and whether those impacts are reasonably expected to, or reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.

Acoustic effects on marine mammals during the specified activities for both projects are expected to result from vibratory removal/driving and impact pile driving. While marine mammals in some cases have exhibited little to no obviously detectable response to certain common or routine industrialized activities (Cornick *et al.,* 2011; Horley and Larson, 2023) such as those that occur in San Diego Bay, it is possible that some animals may, at times, be exposed to received levels of sound above the auditory injury (AUD INJ; discussed later) and/or Level B harassment thresholds during the proposed projects. This potential exposure, in combination with the nature of planned activities (*e.g.,* vibratory pile removal/driving and impact pile driving), means that take by Level A harassment and/or Level B harassment could occur over the total estimated period of activities. Therefore, NMFS, in response to the Navy's NBPL Deperming Pier Replacement Project IHA application, proposes to authorize take by Level A harassment and/or Level B harassment from the proposed construction activities. Moreover, in response to the Navy's NBSD Chollas Creek Quay Wall Repair Project IHA application, NMFS proposes to authorize take by Level B harassment only from the proposed construction activities.

NMFS has summarized a brief technical description of the physics of sound and relevant measurement metrics (*i.e.,* RMS, Peak, and SEL) (NMFS, 2024), available online at *https://www.fisheries.noaa.gov/national/marine-mammal-protection/*

marine-mammal-acoustic-technical-guidance. We refer readers to this document for definitions of the measurement terms and metrics used herein.

There are a variety of types and degrees of effects on marine mammals, prey species, and habitats that could result from the projects. Since both projects would use the same pile-driving and removal methods, below is a brief description of the sound sources the projects would generate, the general impacts of these activities, and an analysis of the anticipated impacts on marine mammals from the projects, with consideration of the proposed mitigation measures.

Description of Sound Sources for the Specified NBPL and NBSD Activities

Construction Activities

Impact hammers typically operate by repeatedly dropping and/or pushing a heavy piston onto a pile to drive the pile into the substrate. Sound generated by impact hammers is impulsive, characterized by rapid rise times and high peak levels, a potentially injurious combination (Hastings and Popper, 2005). Vibratory hammers install piles by vibrating them and allowing the hammer's weight to drive them into the substrate. Vibratory hammers typically produce less sound (*i.e.,* lower levels) than impact hammers. Peak SPLs may be 180 dB or greater, but are generally 10 to 20 dB lower than SPLs generated during impact pile driving of the same-sized pile (Oestman *et al.,* 2009; California Department of Transportation (CALTRANS), 2015; 2020). Sounds produced by vibratory hammers are non-impulsive; compared to sounds produced by impact hammers, the rise time is slower, reducing the probability and severity of injury, and the sound energy is distributed over a greater amount of time (Nedwell and Edwards, 2002; Carlson *et al.,* 2005).

Potential Effects of Underwater Sound on Marine Mammals

The introduction of anthropogenic noise into the aquatic environment from vibratory pile removal and vibratory and impact pile installation is the primary means by which marine mammals may be harassed from the Navy's specified activities at both NBPL and NBSD. Anthropogenic sounds span a broad range of frequencies and sound levels and can have highly variable impacts on marine life, from none or minor to potentially severe responses, depending on received levels, duration of exposure, behavioral context, and other factors. Broadly, underwater sound from active acoustic sources, such as those in these projects, can potentially result in one or more of the following: temporary or permanent hearing impairment, non-auditory physical or physiological effects, behavioral disturbance, stress, and masking (Richardson *et al.,* 1995; Gordon *et al.,* 2003; Nowacek *et al.,* 2007; Southall *et al.,* 2007; Götz *et al.,* 2009).

We describe the more severe effects of certain non-auditory physical or physiological effects only briefly, as we do not expect that the use of impact/vibratory hammers is reasonably likely to result in such effects (see below for further discussion). For non-auditory physical effects, for the NBPL Project, abundant California sea lions are known to haul out at docks associated with Pier 122 (~363 ft (110 m) to the north) and Pier 40 (~192 ft (58 m) to the south). They are also known to haul out at barges associated with the Everingham Brothers' Bait Barge Company that are from 541 ft to 1,003 ft (164 m to 304 m) east of the NBPL Project area. For the NBSD Project, the species is known to haul out near the NBSD security fence and navigation channel marker buoys. However, California sea lions exhibit a high tolerance to human activity (Holcomb *et al.,* 2009) and opportunistically use almost any available structure as a haul out (NAVFAC SW and POSD, 2013). As for the NBSD Project, the relatively uncommon harbor seals also haul out on rocks, buoys, and other structures. As stated above, the nearest pinniped haul outs are a pair of active Navy docks to the north and the south of the Deperming Pier, with a pair of bait barges to the east. Harbor seals are even more uncommon with respect to the NBSD Project. Ultimately, we expect that any visual and/or other non-acoustic stressors would be limited and that any impacts on marine mammals would be acoustic in nature for both projects.

Potential physiological effects from sound sources, particularly impulsive sound, can range from behavioral disturbance or tactile perception to physical discomfort, slight injury to the internal organs and the auditory system, or mortality (Yelverton *et al.,* 1973). Non-auditory physiological effects or injuries that theoretically might occur in marine mammals exposed to high level underwater sound or as a secondary effect of extreme behavioral reactions (*e.g.,* change in dive profile as a result of an avoidance reaction) caused by exposure to sound include neurological effects, bubble formation, resonance effects, and other types of organ or tissue damage (Cox *et al.,* 2006; Southall *et al.,* 2007; Zimmer and Tyack, 2007; Tal *et al.,* 2015). However, the Project activities considered here do not involve the use of devices such as explosives or mid-frequency tactical sonar that are associated with these types of effects.

In general, animals exposed to natural or anthropogenic sound may experience physical and psychological effects, ranging in magnitude from none to severe (Southall *et al.,* 2007, 2019). Exposure to anthropogenic noise can result in auditory threshold shifts and behavioral responses (*e.g.,* avoidance, temporary cessation of foraging and vocalizing, changes in dive behavior). It can also lead to non-observable physiological responses, such as increased stress hormone levels. Additional noise in a marine mammal's habitat can mask acoustic cues used in daily functions, such as communication and predator and prey detection.

The degree of effect of an acoustic exposure on marine mammals is dependent on several factors, including, but not limited to, sound type (*e.g.,* impulsive vs. non-impulsive), signal characteristics, the species, age, and sex class (*e.g.,* adult male vs. mom with calf), duration of exposure, the distance between the noise source and the animal, received levels, behavioral state at time of exposure, and previous history with exposure (Wartzok *et al.,* 2004; Southall *et al.,* 2007). In general, sudden, high-intensity sounds can cause hearing loss, as can longer exposures to lower-intensity sounds. Moreover, any temporary or permanent loss of hearing, if it occurs at all, would occur almost exclusively for noise within an animal's hearing range. We describe below the specific manifestations of acoustic effects that may occur from the specified activities.

Richardson *et al.* (1995) described zones of increasing effect intensity that might be expected to occur with distance from a source, assuming that the signal is within an animal's hearing range. First (at the greatest distance) is the area within which the acoustic signal would be audible (potentially perceived) to the animal but not strong enough to elicit any overt behavioral or physiological response. The next zone (closer to the receiving animal) corresponds to the area where the signal is audible to the animal and sufficiently intense to elicit behavioral or physiological responsiveness. The third is a zone within which, for high-intensity signals, the received level is sufficient to cause discomfort or tissue damage to auditory or other systems. Overlaying these zones to some extent is the area within which masking (*i.e.,*

when a sound interferes with or masks an animal's ability to detect a signal of interest above the absolute hearing threshold) may occur; the masking zone may vary widely in size.

Below, we provide additional detail regarding the potential impacts on marine mammals and their habitat from noise in general, starting with hearing impairment, as well as from the specific activities the Navy plans to conduct at both project sites, to the extent available.

Hearing Threshold Shifts

NMFS defines a noise-induced threshold shift (TS) as a change, usually an increase, in the audibility threshold at a specified frequency or portion of an individual's hearing range above a previously established reference level (NMFS, 2018, 2024). The amount of threshold shift is customarily expressed in dB. A TS can be permanent or temporary. As described in NMFS (2018, 2024), there are numerous factors to consider when examining the consequence of TS, including, but not limited to, the signal temporal pattern (*e.g.,* impulsive or non-impulsive), the likelihood an individual would be exposed for a long enough duration or to a high enough level to induce a TS, the magnitude of the TS, the time to recovery (seconds to minutes or hours to days), the frequency range of the exposure (*i.e.,* spectral content), the hearing frequency range of the exposed species relative to the signal's frequency spectrum (*i.e.,* how the animal uses sound within the frequency band of the signal; *e.g.,* Kastelein *et al.,* 2014), and the overlap between the animal and the source (*e.g.,* spatial, temporal, and spectral).

Temporary Threshold Shift

A temporary threshold shift (TTS) is a temporary, reversible increase in the threshold of audibility at a specified frequency or portion of an individual's hearing range above a previously established reference level (NMFS, 2024), and is not considered an AUD INJ. Based on data from marine mammal TTS measurements (see Southall *et al.,* 2007, 2019), a TTS of 6 dB is considered the minimum threshold shift clearly larger than any day-to-day or session-to-session variation in a subject's normal hearing ability (Finneran *et al.,* 2000, 2002; Schlundt *et al.,* 2000). As described in Finneran (2015), marine mammal studies have shown that the amount of TTS increases with the 24-hour cumulative sound exposure level (SEL24) in an accelerating fashion: at low exposures with lower SEL24, the amount of TTS is typically small, and the growth curves have shallow slopes. At higher SEL_{24} exposures, the growth curves become steeper and approach a linear relationship with the sound exposure level (SEL).

Depending on the degree (elevation of threshold in dB), duration (*i.e.,* recovery time), and frequency range of TTS, and the context in which it is experienced, TTS can have effects on marine mammals ranging from discountable to more impactful (similar to those discussed in auditory masking, below). For example, a marine mammal may readily compensate for a brief, relatively small amount of TTS in a non-critical frequency range that occurs while the animal is traveling through the open ocean, where ambient noise is lower and competing sounds are fewer. Alternatively, a larger amount and longer duration of TTS sustained during times when communication is critical for successful mother/calf interactions could have more severe impacts. We note that reduced hearing sensitivity, as a simple function of aging, has been observed in marine mammals, as well as in humans and other taxa (Southall *et al.,* 2007), suggesting that strategies exist to cope with this condition to some degree, though likely not without cost.

Many studies have examined noise-induced hearing loss in marine mammals (see Finneran (2015) and Southall *et al.* (2019) for summaries). TTS is the mildest form of hearing impairment that can occur during exposure to sound (Kryter, 2013). While experiencing TTS, the hearing threshold rises, so a sound must be louder to be heard. In terrestrial and marine mammals, TTS can last from minutes to hours (in cases of strong TTS) (Finneran, 2015). In many cases, hearing sensitivity recovers rapidly after exposure to the sound ends. For cetaceans, published data on the onset of TTS are limited to captive bottlenose dolphin (*Tursiops truncatus*), beluga whale (*Delphinapterus leucas*), harbor porpoise (*Phocoena phocoena*), and Yangtze finless porpoise (*Neophocoena asiaeorientalis*) (Southall *et al.,* 2019). For pinnipeds in water, measurements of TTS are limited to harbor seals, northern elephant seals, bearded seals (*Erignathus barbatus*), and California sea lions (Kastak *et al.,* 1999, 2007; Kastelein *et al.,* 2019b, 2019c, 2021, 2022a, 2022b; Reichmuth *et al.,* 2019; Sills *et al.,* 2020). TTS was not observed in spotted (*Phoca largha*) and ringed (*Pusa hispida*) seals exposed to single airgun impulse sounds at levels matching previous predictions of TTS onset (Reichmuth *et al.,* 2016). These studies examine hearing thresholds in marine mammals before and after exposure to intense or long-duration sound. The difference between the pre-exposure and post-exposure thresholds can be used to determine the amount of threshold shift at various post-exposure times.

The amount and onset of TTS depend on the exposure frequency. Sounds below the region of best sensitivity for a species or hearing group are less hazardous than those near the region of best sensitivity (Finneran and Schlundt, 2013). At low frequencies, onset-TTS exposure levels are higher compared to those in the region of best sensitivity (*i.e.,* a low frequency noise would need to be louder to cause TTS onset when TTS exposure level is higher), as shown for harbor porpoises and harbor seals (Kastelein *et al.,* 2019a, 2019c). Note that in general, harbor seals and harbor porpoises have a lower TTS onset than other measured pinniped or cetacean species (Finneran, 2015). In addition, TTS can accumulate across multiple exposures, but the resulting TTS would be lower than that from a single, continuous exposure with the same SEL (Mooney *et al.,* 2009; Finneran *et al.,* 2010; Kastelein *et al.,* 2014, 2015). This means that TTS predictions based on the total, SEL_{24}, will overestimate the amount of TTS from intermittent exposures, such as sonars and impulsive sources. Nachtigall *et al.* (2018) describe measurements of hearing sensitivity of multiple odontocete species (bottlenose dolphin, harbor porpoise, beluga, and false killer whale (*Pseudorca crassidens*)) when a warning sound preceded a relatively loud sound. These captive animals were shown to reduce hearing sensitivity when warned of an impending intense sound. Based on these experimental observations of captive animals, the authors suggest that wild animals may dampen their hearing during prolonged exposures or if conditioned to anticipate intense sounds. Another study showed that echolocating animals (including odontocetes) might have anatomical specializations that enable conditioned hearing reduction and filtering of low-frequency ambient noise, including increased stiffness and control of middle ear structures, as well as placement of inner ear structures (Ketten *et al.,* 2021). Data available on noise-induced hearing loss for mysticetes are currently lacking (NMFS, 2024). Additionally, the existing marine mammal TTS data come from a limited number of individuals within these species.

Relationships between TTS and AUD INJ thresholds have not been studied in marine mammals, and there are no measured PTS data for cetaceans, but

such relationships are assumed to be similar to those in humans and other terrestrial mammals. AUD INJ typically occurs at exposure levels at least several dB above that inducing mild TTS (*e.g.,* a 40-dB threshold shift approximates AUD INJ onset (Kryter *et al.,* 1966; Miller, 1974), while a 6-dB threshold shift approximates TTS onset (Southall *et al.,* 2007, 2019). Based on data from terrestrial mammals, a precautionary assumption is that the AUD INJ thresholds for impulsive sounds (such as impact pile driving pulses as received close to the source) are at least 6 dB higher than the TTS threshold on a peak-pressure basis, and AUD INJ cumulative sound exposure level thresholds are 15 to 20 dB higher than TTS cumulative sound exposure level thresholds (Southall *et al.,* 2007, 2019). Given the higher level of sound or longer exposure duration necessary to cause AUD INJ as compared with TTS, it is considerably less likely that AUD INJ could occur.

Auditory Injury

NMFS (2024) defines AUD INJ as damage to the inner ear that can result in tissue destruction, such as loss of cochlear neuron synapses or auditory neuropathy (Houser 2021; Finneran 2024). AUD INJ may or may not result in a permanent threshold shift (PTS). PTS is subsequently defined as a permanent, irreversible increase in the threshold of audibility at a specified frequency or portion of an individual's hearing range above a previously established reference level (NMFS, 2024). PTS generally affects only a limited frequency range, and animals with PTS have some level of hearing loss at the relevant frequencies; typically, animals with PTS or other AUD INJ are not functionally deaf (Au and Hastings, 2008; Finneran, 2016). Available data from humans and other terrestrial mammals indicate that a 40-dB threshold shift approximates the onset of PTS (see Ward *et al.,* 1958, 1959; Ward, 1960; Kryter *et al.,* 1966; Miller, 1974; Ahroon *et al.,* 1996; Henderson *et al.,* 2008). However, a variety of terrestrial and marine mammal studies (see Ward *et al.,* 1958; Ward *et al.,* 1959; Ward, 1960; Miller *et al.,* 1963; Kryter *et al.,* 1966; Finneran *et al.,* 2007; Kastelein *et al.,* 2013) indicate that threshold shifts of up to 40 to 50 dB (measured a few minutes after exposure) may be induced without resulting in PTS. PTS levels for marine mammals are estimates; with the exception of a single study unintentionally inducing PTS in a harbor seal (*Phoca vitulina*) (Kastak *et al.,* 2008), no empirical data measure PTS in marine mammals largely due to the fact that, for various ethical reasons, experiments involving anthropogenic noise exposure at levels inducing AUD INJ are not typically pursued or authorized (NMFS, 2024). NMFS has set the PTS onset as a threshold shift of 40 dB.

However, after sound exposure ceases or between successive sound exposures, the potential for recovery from hearing loss exists. Thus, because a threshold shift is measured a few minutes after noise exposure does not mean that those initial shifts are persistent (*i.e.,* no recovery). When initial threshold shifts fully recover back to baseline hearing levels, these are considered TTS. PTS indicates there is no full recovery back to baseline hearing levels; however, it does not mean there is no recovery. Rather, PTS indicates incomplete recovery of hearing. Recovery depends on the initial threshold shift amount, the frequency at which the shift occurred, the temporal pattern of exposure (*e.g.,* exposure duration; continuous vs. intermittent exposure), and the physiological mechanisms underlying the shift (*e.g.,* mechanical vs. metabolic). Since recovery is complicated, our current AUD INJ onset criteria do not account for the potential for recovery.

Behavioral Effects

Exposure to noise can also behaviorally disturb marine mammals to a level that rises to the definition of harassment under the MMPA. Generally speaking, NMFS considers a behavioral disturbance that rises to the level of harassment under the MMPA a non-minor response. In other words, not every response qualifies as a behavioral disturbance, and for responses that do, those of higher level or longer duration have the potential to affect foraging, reproduction, or survival. Behavioral disturbance may include subtle changes (*e.g.,* minor or brief avoidance of an area or changes in vocalizations), more conspicuous changes in similar behavioral activities, and more sustained and/or potentially severe reactions, such as displacement from or abandonment of high-quality habitat. Behavioral responses may include changing durations of surfacing and dives, changing direction and/or speed; reducing/increasing vocal activities; changing/cessation of certain behavioral activities (such as socializing or feeding); eliciting a visible startle response or aggressive behavior (such as tail/fin slapping or jaw clapping); and avoidance of areas where sound sources are located. In addition, pinnipeds may increase their haul-out time, possibly to avoid in-water disturbance (Thorson and Reyff, 2006).

Behavioral responses to sound are highly variable and context-specific, and any reactions depend on numerous intrinsic and extrinsic factors (*e.g.,* species, state of maturity, experience, current activity, reproductive state, auditory sensitivity, time of day), as well as the interplay between factors (*e.g.,* Richardson *et al.,* 1995; Wartzok *et al.,* 2004; Southall *et al.,* 2007, 2019; Weilgart, 2007; Archer *et al.,* 2010). Behavioral reactions can vary not only among individuals but also within an individual, depending on previous experience with a sound source, context, and numerous other factors (Ellison *et al.,* 2012), and can vary depending on characteristics associated with the sound source (*e.g.,* whether it is moving or stationary, number of sources, distance from the source). In general, pinnipeds seem more tolerant of, or at least habituate more quickly to, potentially disturbing underwater sound than do cetaceans, and generally seem to be less responsive to exposure to industrial sound than most cetaceans. Please see Appendices B and C of Southall *et al.* (2007) and Gomez *et al.* (2016) for reviews of studies involving marine mammal behavioral responses to sound.

Habituation can occur when an animal's response to a stimulus wanes with repeated exposure, usually in the absence of unpleasant associated events (Wartzok *et al.,* 2004). Animals are most likely to habituate to predictable, unvarying sounds. It is important to note that habituation is appropriately considered as a ''progressive reduction in response to stimuli that are perceived as neither aversive nor beneficial,'' rather than as, more generally, moderation in response to human disturbance (Bejder *et al.,* 2009). The opposite process is sensitization, in which an unpleasant experience leads to subsequent responses, often in the form of avoidance, at lower levels of exposure.

As noted above, behavioral state may affect the type of response. For example, resting animals may show greater behavioral change in response to disturbing sound levels than highly motivated animals that are highly motivated to remain in an area for feeding (Richardson *et al.,* 1995; Wartzok *et al.,* 2004; National Research Council (NRC), 2005). Controlled experiments with captive marine mammals have shown pronounced behavioral reactions, including avoidance of loud sound sources (Ridgway *et al.,* 1997; Finneran *et al.,* 2003). Observed responses of wild

marine mammals to loud pulsed sound sources (*e.g.,* seismic airguns) have been varied but often consist of avoidance behavior or other behavioral changes (Richardson *et al.,* 1995; Morton and Symonds, 2002; Nowacek *et al.,* 2007).

Available studies show wide variation in response to underwater sound; therefore, it is difficult to predict specifically how any given sound in a particular instance might affect marine mammals perceiving the signal (*e.g.,* Erbe et al., 2019). If a marine mammal briefly reacts to an underwater sound by changing its behavior or moving a small distance, the resulting change is unlikely to be significant to the individual, let alone the stock or population. If a sound source displaces marine mammals from an important feeding or breeding area for a prolonged period, impacts on individuals and populations could be significant (*e.g.,* Lusseau and Bejder, 2007; Weilgart, 2007; NRC, 2005). However, there are broad categories of potential response, which we describe in greater detail here, that include alteration of dive behavior, alteration of foraging behavior, effects on breathing, interference with or alteration of vocalization, avoidance, and flight.

Avoidance and Displacement

Changes in dive behavior can vary widely and may consist of increased or decreased dive times and surface intervals as well as changes in the rates of ascent and descent during a dive (*e.g.,* Frankel and Clark, 2000; Costa *et al.,* 2003; Ng and Leung, 2003; Nowacek *et al.,* 2004; Goldbogen *et al.,* 2013a, 2013b; Blair *et al.,* 2016). Variations in dive behavior may reflect interruptions in biologically significant activities (*e.g.,* foraging) or they may be of little biological significance. The impact of an alteration in dive behavior resulting from acoustic exposure depends on what the animal is doing at the time of exposure and on the type and magnitude of the response.

Disruption of feeding behavior can be difficult to correlate with anthropogenic sound exposure, so it is usually inferred by observed displacement from known foraging areas, the appearance of secondary indicators (*e.g.,* bubble nets or sediment plumes), or changes in dive behavior. As for other types of behavioral response, the frequency, duration, and temporal pattern of signal presentation, as well as differences in species sensitivity, are likely contributing factors to differences in response in any given circumstance (*e.g.,* Croll *et al.,* 2001; Nowacek *et al.,* 2004; Madsen *et al.,* 2006; Yazvenko *et al.,* 2007). A determination of whether foraging disruptions incur fitness consequences would require information on, or estimates of, the energetic requirements of the affected individuals, the relationship between prey availability, foraging effort, and success, and the animal's life history stage.

Respiration rates vary naturally with different behaviors, and alterations in breathing rate, as a function of acoustic exposure, can be expected to co-occur with other behavioral reactions, such as a flight response or an alteration in diving. However, respiration rates in and of themselves may be representative of annoyance or an acute stress response. Various studies have shown that respiration rates may either be unaffected or could increase, depending on the species and signal characteristics, again highlighting the importance of understanding species differences in the tolerance of underwater noise when determining the potential for impacts resulting from anthropogenic sound exposure (*e.g.,* Kastelein *et al.,* 2001; 2005; 2006; Gailey *et al.,* 2007). For example, harbor porpoise respiration rates increased in response to pile driving sounds at and above a received broadband SPL of 136 dB (zero-peak SPL: 151 dB re 1 µPa; SEL of a single strike (SEL_{ss}): 127 dB re 1 μPa^2-s) (Kastelein *et al.,* 2013).

Avoidance is the displacement of an individual from an area or migration path due to the presence of a sound or other stressors, and is one of the most obvious manifestations of disturbance in marine mammals (Richardson *et al.,* 1995). Avoidance may be short-term, with animals returning to the area once the noise has ceased (*e.g.,* Bowles *et al.,* 1994; Goold, 1996; Stone *et al.,* 2000; Morton and Symonds, 2002; Gailey *et al.,* 2007). Longer-term displacement is possible, however, which may lead to changes in the abundance or distribution patterns of the affected species in the affected region if habituation to the sound does not occur (*e.g.,* Blackwell *et al.,* 2004; Bejder *et al.,* 2006; Teilmann *et al.,* 2006).

A flight response is a dramatic change in normal movement, with directed, rapid movement away from the perceived location of a sound source. The flight response differs from other avoidance responses in its intensity (*e.g.,* directed movement and travel rate). Relatively little information exists on the flight responses of marine mammals to anthropogenic signals, although observations of flight responses to the presence of predators have been made (Connor and Heithaus, 1996; Bowers *et al.,* 2018). The result of a flight response could range from brief, temporary exertion and displacement from the area where the signal provokes flight to, in extreme cases, marine mammal strandings (England *et al.,* 2001). However, it should be noted that response to a perceived predator does not necessarily invoke flight (Ford and Reeves, 2008), and whether individuals are solitary or in groups may influence the response.

Behavioral disturbance can also affect marine mammals in more subtle ways. Increased vigilance may incur costs from the diversion of attention (*i.e.,* when a response requires heightened vigilance, it may come at the expense of reduced attention to other critical behaviors, such as foraging or resting). These effects have generally not been demonstrated in marine mammals, but studies of fishes and terrestrial animals have shown that increased vigilance may substantially reduce feeding rates (*e.g.,* Beauchamp and Livoreil, 1997; Fritz *et al.,* 2002; Purser and Radford, 2011). In addition, chronic disturbance can cause population declines through reductions in fitness (*e.g.,* declines in body condition) and subsequent reductions in reproductive success, survival, or both (*e.g.,* Harrington and Veitch, 1992; Daan *et al.,* 1996; Bradshaw *et al.,* 1998). However, Ridgway *et al.* (2006) reported that increased vigilance in bottlenose dolphins exposed to sound over a 5-day period did not result in sleep deprivation or stress.

Many animals perform vital functions, such as feeding, resting, traveling, and socializing, on a diel cycle (24-hour cycle). Disruption of such functions resulting from reactions to stressors, such as sound exposure, is more likely to be significant if it lasts more than one diel cycle or recurs on subsequent days (Southall *et al.,* 2007). Consequently, a behavioral response lasting less than one day and not recurring on subsequent days is not considered particularly severe unless it could directly affect reproduction or survival (Southall *et al.,* 2007). Note that there is a difference between multi-day substantive (*i.e.,* meaningful) behavioral reactions and multi-day anthropogenic activities. For example, just because an activity lasts multiple days does not necessarily mean that individual animals are exposed to activity-related stressors for multiple days, or, further, exposed in a manner that results in sustained, multi-day, substantive behavioral responses.

Physiological Stress Responses

An animal's perception of a threat may be sufficient to trigger stress responses that include some

combination of behavioral, autonomic nervous system, neuroendocrine, and immune responses (*e.g.,* Selye, 1950; Moberg, 2000). In many cases, an animal's first and sometimes most economical response (in terms of energetic costs) is behavioral avoidance of the potential stressor. Autonomic nervous system responses to stress typically involve changes in heart rate, blood pressure, and gastrointestinal activity. These responses have a relatively short duration and may or may not have a significant long-term effect on an animal's fitness.

Neuroendocrine stress responses often involve the hypothalamus-pituitary-adrenal system. Virtually all neuroendocrine functions that are affected by stress—including immune competence, reproduction, metabolism, and behavior—are regulated by pituitary hormones. Stress-induced changes in pituitary hormone secretion have been implicated in reproductive failure, altered metabolism, reduced immune competence, and behavioral disturbances (*e.g.,* Moberg, 1987; Blecha, 2000). Increases in glucocorticoid levels are also associated with stress (Romano *et al.,* 2004).

The primary distinction between stress (which is adaptive and does not normally place an animal at risk) and ''distress'' is the cost of the response. During a stress response, an animal uses its glycogen stores, which can be quickly replenished once the stress is alleviated. In such circumstances, the cost of the stress response would not pose serious fitness consequences. However, when an animal does not have sufficient energy reserves to satisfy the energetic costs of a stress response, energy resources must be diverted from other functions. This state of distress will last until the animal replenishes its energy reserves to a sufficient level to restore normal function.

Relationships between these physiological mechanisms, animal behavior, and the costs of stress responses are well-studied through controlled experiments and for both laboratory and free-ranging animals (*e.g.,* Holberton *et al.,* 1996; Hood *et al.,* 1998; Jessop *et al.,* 2003; Krausman *et al.,* 2004; Lankford *et al.,* 2005; Ayres *et al.,* 2012; Yang *et al.,* 2022). Stress responses to exposure to anthropogenic sounds or other stressors, and their effects on marine mammals, have also been reviewed (Fair and Becker, 2000; Romano *et al.,* 2002b) and, more rarely, studied in wild populations (*e.g.,* Romano *et al.,* 2002a). For example, Rolland *et al.* (2012) found that noise reduction from reduced ship traffic in the Bay of Fundy was associated with decreased stress in North Atlantic right whales. In addition, Lemos *et al.* (2022) observed a correlation between higher levels of fecal glucocorticoid metabolite concentrations (indicative of a stress response) and vessel traffic in gray whales. Yang *et al.* (2022) studied behavioral and physiological responses in captive bottlenose dolphins exposed to playbacks of ''pile-driving-like'' impulsive sounds, finding significant changes in cortisol and other physiological indicators, but only minor behavioral changes. These and other studies lead to a reasonable expectation that some marine mammals will experience physiological stress responses upon exposure to acoustic stressors, and that some of these responses may be classified as ''distress.'' In addition, any animal experiencing TTS would likely also experience stress responses (NRC, 2005); however, distress is unlikely to result from these projects based on observations of marine mammals during previous, similar construction projects in San Diego Bay.

Vocalizations and Auditory Masking

Since many marine mammals rely on sound to find prey, moderate social interactions, and facilitate mating (Tyack, 2008), noise from anthropogenic sound sources can interfere with these functions, but only if the noise spectrum overlaps with the hearing sensitivity of the receiving marine mammal (Southall *et al.,* 2007; Clark *et al.,* 2009; Hatch *et al.,* 2012). Chronic exposure to excessive, though not high-intensity, noise could cause masking at specific frequencies for marine mammals that rely on sound for vital biological functions (Clark *et al.,* 2009). Acoustic masking is when other noises, such as from human sources, interfere with an animal's ability to detect, recognize, or discriminate between acoustic signals of interest (*e.g.,* those used for intraspecific communication and social interactions, prey detection, predator avoidance, navigation) (Richardson *et al.,* 1995; Erbe *et al.,* 2016).

The frequency range of the potentially masking sound is important in determining any potential behavioral impacts. For example, low-frequency signals may have less effect on high-frequency echolocation sounds produced by odontocetes but are more likely to affect the detection of mysticete communication calls and other potentially important natural sounds such as those produced by surf and some prey species. The masking of communication signals by anthropogenic noise may be considered as a reduction in the communication space of animals (*e.g.,* Clark *et al.,* 2009), and may result in energetic or other costs as animals change their vocalization behavior (*e.g.,* Miller *et al.,* 2000; Foote *et al.,* 2004; Parks *et al.,* 2007; Di Iorio and Clark, 2010; Holt *et al.,* 2009). Masking can be reduced in situations where the signal and noise come from different directions (Richardson *et al.,* 1995), through amplitude modulation of the signal, or through other compensatory behaviors, including modifications of the acoustic properties of the signal or the signaling behavior (Hotchkin and Parks, 2013). Masking can be tested directly in captive species (*e.g.,* Erbe, 2008), but in wild populations it must be either modeled or inferred from evidence of masking compensation. Few studies have addressed real-world masking sounds likely to be experienced by marine mammals in the wild (*e.g.,* Branstetter *et al.,* 2013).

Masking occurs in the frequency band that the animals use, and is more likely to occur in the presence of broadband, relatively continuous noise sources such as vibratory pile removal or installation. The energy distribution of pile-driving sound spans a broad frequency spectrum and is expected to fall within the audible range of marine mammals present in the project areas. Since noises generated from the proposed construction activities are mostly concentrated at low frequencies (<2 kHz), these activities likely have less effect on mid-frequency echolocation sounds produced by odontocetes (toothed whales). However, lower-frequency noises are more likely to affect the detection of communication calls and other potentially important natural sounds, such as surf and prey noise. Low-frequency noise may also affect communication signals when they occur near the noise band, thereby reducing the communication space of animals (*e.g.,* Clark *et al.,* 2009) and increasing stress levels (*e.g.,* Holt *et al.,* 2009). Unlike TS, masking, which can occur over large temporal and spatial scales, can potentially affect the species at population, community, or even ecosystem levels, in addition to individual levels. Masking affects both senders and receivers of signals, and at higher levels and for longer durations could have long-term chronic effects on marine mammal species and populations. However, the noise generated by the Navy's proposed activities would occur only intermittently, across an estimated 171 and 190 days, respectively, at both proposed activity locations (NBPL and NBSD) during the authorization periods,

in a relatively small area focused around the proposed construction sites. Thus, while the Navy's proposed activities may mask some acoustic signals relevant to the daily behavior of marine mammals, the short-term duration and limited areas affected make it very unlikely that the fitness of individual marine mammals would be affected.

The ability of a noise source to mask biologically important sounds depends on the characteristics of both the noise source and the signal of interest (*e.g.,* signal-to-noise ratio, temporal variability, direction), in relation to each other and to an animal's hearing abilities (*e.g.,* sensitivity, frequency range, critical ratios, frequency discrimination, directional discrimination, age, or TTS hearing loss), and existing ambient noise and propagation conditions (Hotchkin and Parks, 2013).

Marine mammals vocalize for different purposes and across multiple modes, such as whistling, echolocation click production, calling, and singing. Changes in vocalization behavior in response to anthropogenic noise can occur across any of these modes and may result from a need to compete with increased background noise, or may reflect increased vigilance or a startle response. For example, in the presence of potentially masking signals, humpback whales (*Megaptera novaeangliae*) and killer whales (*Orcinus orca*) have been observed to increase the length of their songs (Miller *et al.,* 2000; Fristrup *et al.,* 2003) or vocalizations (Foote *et al.,* 2004), respectively, while North Atlantic right whales (*Eubalaena glacialis*) have been observed to shift the frequency content of their calls upward while reducing the rate of calling in areas of increased anthropogenic noise (Parks *et al.,* 2007). Fin whales (*Balaenoptera physalus physalus*) have also been documented to lower the bandwidth, peak frequency, and center frequency of their vocalizations in the presence of increased background noise from large vessels (Castellote *et al.,* 2012). Other alterations to communication signals have also been observed. For example, gray whales, in response to playback experiments that exposed them to vessel noise, have been observed to increase their vocalization rate and produce louder signals during periods of increased outboard engine noise (Dahlheim and Castellote, 2016). Alternatively, in some cases, animals may cease sound production during the production of aversive signals (Bowles *et al.,* 1994; Wisniewska *et al.,* 2018).

Under certain circumstances, marine mammals that experience significant masking could also be impaired in maximizing their performance fitness for survival and reproduction. Therefore, when the coincident (masking) sound is human-made, it may be considered harassment if it disrupts or alters critical behaviors. It is important to distinguish TTS and PTS, which persist after the sound exposure, from masking, which occurs during the sound exposure. Because masking (without resulting in TS) is not associated with abnormal physiological function, it is not considered a physiological effect but rather a potential behavioral effect (though not necessarily one associated with harassment). Therefore, under certain circumstances, marine mammals whose acoustic sensors or environment are severely masked could also be impaired in maximizing their performance fitness for survival and reproduction.

Airborne Acoustic Effects

Pinnipeds occurring near either project site could be exposed to airborne sounds associated with construction activities, depending on their distance from these activities, which could cause behavioral harassment. Airborne noise would primarily be an issue for pinnipeds that are swimming or hauled out near either project site, within the range of noise levels elevated above the airborne acoustic harassment criteria. Although pinnipeds are known to haul out regularly on man-made objects, we believe that incidents of take resulting solely from airborne sound are unlikely due to the proximity between the proposed project areas and the known haul out sites (*e.g.,* on docks associated with Pier 122 and Pier 40 for the NBPL project, and on the security fencing and barges associated with the Everingham Brothers' Bait Barge Company for the NBSD project) in San Diego Bay. Cetaceans are not expected to be exposed to airborne sounds that would result in harassment as defined under the MMPA.

We recognize that pinnipeds in the water may be exposed to airborne sound that could result in behavioral harassment when they lift their heads above the water or when they haul out. Most likely, airborne sound would cause behavioral responses similar to those discussed above in relation to underwater sound. For instance, anthropogenic sound could cause hauled-out pinnipeds to exhibit changes in their normal behavior, such as a reduction in vocalizations, or to flush from haulouts, temporarily abandon the area, and/or move further from the source. However, these animals previously would have been ''taken'' because of exposure to underwater sound above the behavioral harassment thresholds, which are, in all cases, larger than those associated with airborne sound. Thus, the behavioral harassment of these animals is already accounted for in these estimates of potential take. Therefore, we do not believe that authorization of additional incidental take resulting from airborne sound for pinnipeds is warranted for either project, and airborne sound is not discussed further here.

Potential Effects on Marine Mammal Habitat

The Navy's proposed activities for both projects could have localized, temporary impacts on marine mammal habitat, including prey, due to increased in-water noise levels. Increased noise levels may affect the acoustic habitat and adversely affect marine mammal prey in the vicinity of the project areas (see discussion below). Elevated levels of underwater noise would ensonify the project areas where both fishes and mammals occur and could affect foraging success. Additionally, marine mammals may avoid the area during the proposed construction activities; however, any displacement due to noise is expected to be temporary and not to result in long-term effects on individuals or populations.

The total area likely impacted by the Navy's proposed activities at NBPL and NBSD is relatively small compared to the available habitat within and outside of San Diego Bay. Avoidance by potential prey (*i.e.,* fish) of the immediate areas due to increased noise is possible. The duration of fish and marine mammal avoidance of this area after construction stops is unknown, but a rapid return to normal recruitment, distribution, and behavior is anticipated. Any behavioral avoidance by fish or marine mammals of either disturbed area would still leave significantly large areas of fish and marine mammal foraging habitat in the nearby vicinity.

The proposed projects would occur within the same footprint as existing marine infrastructure. The nearshore and intertidal habitats where the proposed projects would occur are in industrialized areas with relatively high marine vessel traffic. Temporary, intermittent, and short-term habitat alteration may result from increased noise levels during the proposed construction activities. Effects on marine mammal habitat would be limited to temporary displacement from pile removal and installation noise, and effects on prey species would be similarly limited in time and space.

Water Quality

Temporary and localized reduction in water quality would occur as a result of in-water construction activities. Most of this effect would occur during the removal and installation of piles, when bottom sediments are disturbed, and may temporarily increase suspended sediment in the project area. During pile extraction, sediment attached to the pile moves vertically through the water column causing a sediment plume. However, since currents are so strong in the area, following the completion of sediment-disturbing activities, suspended sediment in the water column should dissipate and quickly return to background levels across all construction scenarios.

Turbidity in the water column can reduce dissolved oxygen levels and irritate the gills of prey fish in the proposed project areas. Studies of the effects of turbid water on fish (marine mammal prey) suggest that concentrations of suspended sediment can reach thousands of milligrams per liter before an acute toxic reaction is expected (Burton, 1993). However, turbidity plumes associated with the projects would be temporary and localized, and fish in the proposed project areas would be able to move away from and avoid the areas where plumes may occur.

Overall, the water quality in the immediate area that is likely impacted by the proposed construction activities for both projects is relatively small compared to the available marine mammal habitat within and surrounding San Diego Bay. Therefore, it is expected that water quality impacts on prey fish species due to turbidity, and therefore on marine mammals, would be minimal and temporary.

Potential Effects on Prey

Sound may affect marine mammals by altering the abundance, behavior, or distribution of prey species (*e.g.,* crustaceans, cephalopods, fishes, zooplankton). Marine mammal prey varies by species, season, and location, and for some, it is not well documented. Studies regarding the effects of noise on known marine mammal prey are described here.

Fishes use the soundscape and components of sound in their environment to perform important functions such as foraging, predator avoidance, mating, and spawning (*e.g.,* Zelick *et al.,* 1999; Fay, 2009). Depending on their hearing anatomy and peripheral sensory structures, which vary among species, fishes hear sounds using pressure- and particle-motion sensitivity and detect the motion of surrounding water (Fay *et al.,* 2008). The potential effects of noise on fishes depends on the overlapping frequency range, distance from the sound source, water depth of exposure, and species-specific hearing sensitivity, anatomy, and physiology. Key impacts on fishes may include behavioral responses, hearing damage, barotrauma (pressure-related injuries), and mortality.

Fish react to especially strong and/or intermittent low-frequency sounds, and behavioral responses such as flight or avoidance are the most likely effects. Short-duration, sharp sounds can cause overt or subtle changes in fish behavior and local distribution. The reaction of fish to noise depends on their physiological state, past exposures, motivation (*e.g.,* feeding, spawning, migration), and other environmental factors. Hastings and Popper (2005) identified several studies that suggest fish may relocate to avoid certain areas of sound energy. Additional studies have documented effects of pile driving on fishes (*e.g.,* Scholik and Yan, 2001, 2002; Popper and Hastings, 2009). Several studies have demonstrated that impulse sounds might affect the distribution and behavior of some fishes, potentially impacting foraging opportunities or increasing energetic costs (*e.g.,* Fewtrell and McCauley, 2012; Pearson *et al.,* 1992; Skalski *et al.,* 1992; Santulli *et al.,* 1999; Paxton *et al.,* 2017). However, some studies have shown no or slight reaction to impulse sounds (*e.g.,* Peña *et al.,* 2013; Wardle *et al.,* 2001; Jorgenson and Gyselman, 2009; Cott *et al.,* 2012). More commonly, though, the impacts of noise on fishes are temporary.

SPLs of sufficient strength have been known to cause injury to fishes and fish mortality (summarized in Popper *et al.,* 2014). However, in most fish species, hair cells in the ear continuously regenerate, and loss of auditory function is likely restored when damaged cells are replaced with new cells. Halvorsen *et al.* (2012b) showed that a TTS of 4–6 dB was recoverable within 24 hours in one species. Impacts would be most severe when the individual fish is near the source, and the exposure duration is long. Injury caused by barotrauma can range from slight to severe and can cause death, and is most likely for fish with swim bladders. Barotrauma injuries have been documented during controlled exposure to impact pile driving (Halvorsen *et al.,* 2012a; Casper *et al.,* 2013, 2017).

Fish populations in the proposed project area that serve as prey for marine mammals could be temporarily affected by noise from pile removal and installation. The frequency range in which fishes generally perceive underwater sounds is 50 to 2,000 Hz, with peak sensitivities below 800 Hz (Popper and Hastings, 2009). Fish behavior or distribution may change, especially in response to strong and/or intermittent sounds that could harm fish. High underwater SPLs have been documented to alter behavior, cause hearing loss, and injure or kill individual fish by causing serious internal injury (Hastings and Popper, 2005).

Zooplankton is a food source for several marine mammal species, as well as a food source for fish that are then preyed upon by marine mammals. Population effects on zooplankton could indirectly affect marine mammals. Data are limited on the effects of underwater sound on zooplankton species, particularly sound from construction (Erbe *et al.,* 2019). Popper and Hastings (2009) reviewed information on the effects of human-generated sound and concluded that no substantive data are available on whether sound levels from pile driving, seismic activity, or other human-made sources would have physiological effects on invertebrates. Any such effects would be limited to the area very near (1 to 5 m) the sound source and would result in no population effects because of the relatively small area affected at any one time and the reproductive strategy of most zooplankton species (short generation, high fecundity, and very high natural mortality). No adverse impact on zooplankton populations is expected from the specified activities, due in part to their large reproductive capacity and naturally high levels of predation and mortality. Any mortalities or impacts that might occur would be negligible.

The greatest potential impact on marine mammal prey during construction would occur during impact pile driving. Vibratory pile removal/installation may elicit behavioral responses in fishes, such as temporary avoidance of the area, but is unlikely to cause injuries to fishes or have persistent effects on local fish populations. In-water construction activities would only occur during daylight hours, allowing fish to forage and transit the project area in the evening. Construction would also have minimal permanent and temporary impacts on benthic invertebrate species, a marine mammal prey source. Additionally, the proposed project areas are low-quality habitats, as both areas are already highly developed and experience high levels of anthropogenic

noise from regular naval operations and other vessel traffic.

Potential Effects on Foraging Habitat

The proposed projects are not expected to result in any habitat-related effects that could cause significant or long-term negative consequences for individual marine mammals or their populations, since removal and installation of in-water piles would be temporary and intermittent. The areas affected by these projects are relatively small compared to the available habitat just outside the project areas, and neither project would affect any areas of particular importance. Any behavioral avoidance by fish of the disturbed areas would still leave significantly large areas of fish and marine mammal foraging habitat in the nearby vicinity. As described in the preceding, the potential for the Navy's construction at NBPL or NBSD to affect the availability of prey to marine mammals or to meaningfully impact the quality of physical or acoustic habitat is considered to be insignificant. Therefore, the impacts of the projects are not likely to adversely affect marine mammal foraging habitat in the proposed project areas.

In summary, given the relatively small areas being affected, as well as the temporary and mostly transitory nature of the proposed construction activities, any adverse effects from the Navy's NBPL or NBSD activities on prey habitat or prey populations are expected to be minor and temporary. The most likely impact on fishes at the project sites would be temporary avoidance of the area. Any behavioral avoidance by fish of the disturbed areas would still leave significantly large areas of fish and marine mammal foraging habitat in the nearby vicinity. Thus, we preliminarily conclude that the impacts of the specified activities at both the NBPL and NBSD are not likely to have more than short-term adverse effects on any prey habitat or populations of prey species. Further, any impacts on marine mammal habitat are not expected to result in significant or long-term consequences for individual marine mammals or to contribute to adverse impacts on their populations.

Estimated Take of Marine Mammals

This section provides an estimate of the number of incidental takes proposed for authorization under both IHAs, which will inform NMFS' consideration of ''small numbers,'' the negligible impact determinations, and impacts on subsistence uses.

Harassment is the only type of take expected to result from these activities. Except for certain activities not pertinent here, section 3(18) of the MMPA defines ''harassment'' as any act of pursuit, torment, or annoyance, which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by disrupting behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).

Authorized takes would predominantly be by Level B harassment for both the NBPL and NBSD Projects, as using acoustic sources (*i.e.,* vibratory and impact pile driving) can potentially disrupt behavioral patterns for individual marine mammals. There is also some potential for AUD INJ (Level A harassment) to result for six species of marine mammals incidental to the NBPL Project. As for the NBSD Project, due to the location within South-Central San Diego Bay in Chollas Creek, AUD INJ is not anticipated to occur for any of the three species for which harassment is proposed for authorization due to the low noise energy marine mammals may be exposed (resulting in very small distances to the Level A harassment threshold as described below). The proposed mitigation and monitoring measures for both projects are expected to minimize the amount and severity of the taking to the extent practicable.

As previously described, no serious injury or mortality is anticipated or proposed to be authorized for either proposed activity. Below, we describe how the proposed take numbers are estimated.

For acoustic impacts, generally speaking, we estimate take by considering (1) acoustic criteria above which NMFS believes the best available science indicates that there is some reasonable potential for marine mammals to be behaviorally harassed or incur some degree of AUD INJ; (2) the area or volume of water that would be ensonified above these levels in a day; (3) the density or occurrence of marine mammals within these ensonified areas; and, (4) the number of days of activities. While these factors can contribute to a basic calculation to provide an initial prediction of potential takes, additional information that can qualitatively inform take estimates is also sometimes available (*e.g.,* previous monitoring results or average group size). Below, we describe the factors considered here in more detail and present the proposed take estimates.

Acoustic Criteria

NMFS recommends the use of acoustic criteria that identify the received level of underwater sound above which exposed marine mammals would reasonably expect to be behaviorally harassed (equated to Level B harassment) or incur AUD INJ of some degree (equated to Level A harassment). Below, we describe the thresholds used by the Navy and NMFS for this analysis.

Level B Harassment

Though significantly driven by the received level, the onset of behavioral disturbance from anthropogenic noise exposure is also informed to varying degrees by other factors. These factors are related to the source or exposure context (*e.g.,* frequency, predictability, duty cycle, duration of the exposure, signal-to-noise ratio, distance to the source), the environment (*e.g.,* bathymetry, other noises in the area, predators in the area), and the receiving animals (hearing, motivation, experience, demography, life stage, depth) and can be difficult to predict (*e.g.,* Southall *et al.,* 2007; Ellison *et al.,* 2012). Based on available science and the practical need to use a threshold based on a predictable, measurable metric for most activities, NMFS typically uses a generalized acoustic threshold based on the received level to estimate the onset of behavioral harassment. NMFS generally predicts that marine mammals are likely to be behaviorally harassed in a manner considered to be Level B harassment when exposed to underwater anthropogenic noise above root-mean-squared sound pressure levels (RMS SPL) of 120 dB re 1 µPa for continuous (*e.g.,* vibratory pile driving, drilling) and above RMS SPL 160 dB re 1 µPa for non-explosive impulsive (*e.g.,* seismic airguns) or intermittent (*e.g.,* scientific sonar) sources. Level B harassment take estimates based on these behavioral harassment thresholds potentially include TTS, as, in most cases, TTS likely occurs at distances from the source less than those at which behavioral harassment may occur. TTS of sufficient degree can manifest as behavioral harassment and reduced hearing sensitivity, and the potential reduction in opportunities to detect important signals (conspecific communication, predators, prey) may result in behavior patterns that would not otherwise occur.

The Navy's proposed activities for projects at NBPL and NBSD include continuous (vibratory pile driving) and impulsive (impact pile driving) sources. As previously discussed, the Navy has

measured and reported background noise in San Diego Bay (NAVFAC SW, 2020) above 120 dB re 1 µPa. Therefore, the RMS SPL thresholds of 129.6 dB and 160 dB re 1 µPa are applicable to the NBPL Project, and the thresholds of 126 dB and 160 dB re 1 µPa are applicable to the NBSD Project.

Level A Harassment

NMFS' Updated Technical Guidance for Assessing the Effects of Anthropogenic Sound on Marine Mammal Hearing (Version 3.0) (NMFS, 2024) identifies dual criteria to assess AUD INJ (Level A harassment) to five different underwater marine mammal groups (based on hearing sensitivity) as a result of exposure to noise from two different types of sources (impulsive or non-impulsive). It includes updated thresholds and updated weighting functions for each hearing group, provided in table 4 below. The references, analysis, and methodology used to develop the criteria are described in NMFS' 2024 Updated Technical Guidance, available at: *https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-acoustic-technical-guidance-other-acoustic-tools.*

TABLE 4—THRESHOLDS IDENTIFYING THE ONSET OF AUDITORY INJURY

Hearing group	AUD INJ onset acoustic thresholds * (received level)	
	Impulsive	Non-impulsive
Low-Frequency (LF) Cetaceans	*Cell 1:* $L_{pk,flat}$: 222 dB; $L_{E,LF,24h}$: 183 dB	*Cell 2:* $L_{E,LF,24h}$: 197 dB.
High-Frequency (HF) Cetaceans	*Cell 3:* $L_{pk,flat}$: 230 dB; $L_{E,HF,24h}$: 193 dB	*Cell 4:* $L_{E,HF,24h}$: 201 dB.
Very High-Frequency (VHF) Cetaceans	*Cell 5:* $L_{pk,flat}$: 202 dB; $L_{E,VHF,24h}$: 159 dB	*Cell 6:* $L_{E,VHF,24h}$: 181 dB.
Phocid Pinnipeds (PW) (Underwater)	*Cell 7:* $L_{pk,flat}$: 223 dB; $L_{E,PW,24h}$: 183 dB	*Cell 8:* $L_{E,PW,24h}$: 195 dB.
Otariid Pinnipeds (OW) (Underwater)	*Cell 9:* $L_{pk,flat}$: 230 dB; $L_{E,OW,24h}$: 185 dB	*Cell 10:* $L_{E,OW,24h}$: 199 dB.

* Dual metric criteria for impulsive sounds: Use whichever criterion results in the larger isopleth for calculating AUD INJ onset. If a non-impulsive sound has the potential of exceeding the peak sound pressure level criteria associated with impulsive sounds, the PK SPL criteria are recommended for consideration for non-impulsive sources.

Note: Peak sound pressure level ($L_{p,0\text{-}pk}$) has a reference value of 1 µPa, and weighted cumulative sound exposure level ($L_{E,p}$) has a reference value of 1 µPa^{2}s. In this table, criteria are abbreviated to better reflect International Organization for Standardization (ISO) standards (ISO, 2017). The subscript ''flat'' is being included to indicate that peak sound pressures are flat weighted or unweighted within the generalized hearing range of marine mammals underwater (*i.e.,* 7 Hz to 165 kHz). The subscript associated with cumulative sound exposure level criteria indicates the designated marine mammal auditory weighting function (LF, HF, and VHF cetaceans, and PW and OW pinnipeds) and that the recommended accumulation period is 24 hours. The weighted cumulative sound exposure level criteria could be exceeded in a multitude of ways (*i.e.,* varying exposure levels and durations, duty cycle). When possible, action proponents should indicate the conditions under which these criteria would be exceeded.

Ensonified Area

Here, we describe the operational and environmental parameters of the activity used to estimate the area ensonified above the acoustic thresholds, including source levels and the transmission loss coefficient.

The sound field in the project areas is the existing background noise plus additional construction noise from the proposed project. Marine mammals are expected to be affected via sound generated by the primary components of the project (*i.e.,* vibratory pile removal, vibratory pile driving, and impact pile driving). The source levels assumed for both removal and installation activities are based on reviews of measurements of piles of the same or similar types and dimensions available in the scientific literature and from similar coastal construction projects. The source level for the piles and activities (*i.e.,* installation or removal) at both NBPL and NBSD is presented in table 5.

TABLE 5—PROXY SOUND SOURCE LEVELS FOR PILE SIZES AND DRIVING METHODS

Method	Pile size/type	Peak SPL (dB re 1µPa) [1]	RMS SPL (dB re 1µPa) [1]	SEL (dB re 1µPa) [1]	Source
NBPL DEPERMING PIER REPLACEMENT PROJECT					
Pile Removal Activities					
Vibratory Extraction	16-inch round timber		162		Naval Submarine Base New London Monitoring Report (NAVFAC Mid-Atlantic, 2022); NMFS interim proxy level (2024).
Pile Installation Activities					
Vibratory Pile Driving	16-inch round plastic		162		Naval Submarine Base New London Monitoring Report (NAVFAC Mid-Atlantic, 2022); NMFS interim proxy level (2024).
Impact Hammer		196	182	170	
NBSD CHOLLAS CREEK QUAY WALL REPAIR PROJECT					
Pile Removal Activities					
Vibratory Extraction	14-inch steel H		150		California Department of Transportation (Caltrans, 2020); Chevron Long Wharf (Richmond, CA).
	24-inch steel sheet		160		Caltrans (2020); Berth 23 (Port of Oakland).
	18-inch square concrete		155		NAVFAC SW (2024); NBSD Pier 6 Pier Replacement.[2]

TABLE 5—PROXY SOUND SOURCE LEVELS FOR PILE SIZES AND DRIVING METHODS—Continued

Method	Pile size/type	Peak SPL (dB re 1μPa) [1]	RMS SPL (dB re 1μPa) [1]	SEL (dB re 1μPa) [1]	Source
	18-inch octagonal concrete ...	.....	155	.....	NAVFAC SW (2024); NBSD Pier 6 Pier Replacement.[2]
Pile Installation Activities					
Vibratory Pile Driving	13-inch round plastic	.....	159	.....	NAVFAC SW (2024); NBSD Pier 6 Pier Replacement.[3]
	18-inch octagonal concrete ...	.....	155	.....	NAVFAC SW (2024); NBSD Pier 6 Replacement.[2]
	27.5-inch steel sheet	.....	160	.....	Caltrans (2020); Berth 23 (Port of Oakland).
Impact Hammer	18-inch octagonal concrete ...	185	170	160	NMFS Interim Proxy Level based on Caltrans (2020).[2]
	18-inch square concrete	185	170	160	NMFS Interim Proxy Level based on Caltrans (2020).

[1] As measured, or calculated, at 10 m (33 ft).
[2] 20-inch square concrete piles used as a proxy; based on the maximum value between 56–61 m of 149.5 dB (rounded to 150 dB) @61 m, and back-calculated to the source (10 m).
[3] 12-inch round plastic piles used as a proxy; based on an RMS average of 159.4 dB and back-calculated to the source (10 m). Data show that the 12-inch plastic proxy source level is louder than the 20-inch concrete pile proxy source due to reverberation from the lighter plastic pile.

Transmission loss (TL) is the decrease in acoustic intensity as an acoustic pressure wave propagates out from a source. TL parameters vary with frequency, temperature, sea conditions, current, source and receiver depth, water depth, water chemistry, bottom composition, and topography. The general formula for underwater TL is:

$TL = B * Log_{10} (R_1/R_2)$,

where:

TL = transmission loss in dB
B = transmission loss coefficient; for practical spreading equals 15
R_1 = the distance of the modeled SPL from the driven pile, and
R_2 = the distance from the driven pile of the initial measurement.

This formula neglects loss due to scattering and absorption, which is assumed to be zero here. The degree to which underwater sound propagates away from a sound source depends on various factors, most notably the water bathymetry and the presence or absence of reflective or absorptive conditions, including in-water structures and sediments. Spherical spreading occurs in a perfectly unobstructed (free-field) environment not limited by depth or water surface, resulting in a 6 dB reduction in sound level for each doubling of distance from the source (20*log[range]). Cylindrical spreading occurs in an environment in which sound propagation is bounded by the water surface and sea bottom, resulting in a reduction of 3 dB in sound level for each doubling of distance from the source (10*log[range]). A practical spreading value of 15 is often used in shallow-water coastal conditions, such as those found in the NBPL and NBSD projects. In these environments, sound waves repeatedly reflect off the surface and bottom, reflecting an expected propagation environment between spherical and cylindrical spreading-loss conditions. Therefore, the default coefficient of 15 is used to calculate distances to the Level A harassment and Level B harassment thresholds.

Assuming practicable spreading and other assumptions regarding the source characteristics and operational logistics (*e.g.,* source level, number of strikes per pile, number of piles per day), the Navy calculated distances to the Level A harassment and Level B harassment thresholds and associated ensonified areas. Because an ensonified area associated with Level A harassment is more technically challenging to predict given the accounting for a cumulative energy component that changes over time, to assist applicants in assessing the potential for Level A harassment without the need for complex modeling, NMFS developed an optional User Spreadsheet tool to accompany the 2024 Updated Technical Guidance (see *https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-acoustic-technical-guidance-other-acoustic-tools*). This relatively simple tool can be used to calculate a Level A harassment isopleth distance for use in conjunction with marine mammal density or occurrence data to predict the amount of take that may occur incidental to an activity. We note that, because of some of the assumptions in the methods underlying this spreadsheet tool, we anticipate that the resulting isopleths would typically be overestimates, which may lead to an overestimate of potential exposures from Level A harassment. However, this optional tool offers a practical alternative for estimating isopleth distances when more sophisticated modeling methods are unavailable or are impractical. For stationary sources such as impact or vibratory pile driving and removal, the optional User Spreadsheet tool predicts the distance at which, if a marine mammal remained at that distance for the duration of the activity within 24 hours, it would be expected to incur AUD INJ. Inputs used in the optional User Spreadsheet tool are contained within table 6.

TABLE 6—USER SPREADSHEET INPUT PARAMETERS USED FOR CALCULATING LEVEL A HARASSMENT ISOPLETHS

Equipment type	Vibratory pile removal						Vibratory pile installation				Impact pile installation		
	16″ round timber[1]	13″ round plastic[2 3]	18″ square concrete[2]	18″ octagonal concrete[2]	14″ steel H[2]	24″ steel sheet[2 4]	16″ round plastic[1]	13″ round plastic[2 5]	18″ octagonal concrete (small float)[2 5]	27.5″ steel sheet[2]	16″ round plastic[1]	18″ square concrete[2 5]	18″ octagonal concrete[2 5]
Spreadsheet Tab Used.	A.1) Vibratory pile driving.						A.1) Vibratory pile driving.				E.1) Impact pile driving.		
Source Level (dB re: 1 μPa.	162 RMS	Dead pull	155 RMS	155 RMS	150 RMS	160 RMS	162 RMS	159 RMS	155 RMS	160 RMS	196 Peak .... 182 RMS .... 170 SEL	185 Peak .... 170 RMS .... 160 SEL	185 Peak 170 RMS 160 SEL.
Weighting Factor Adjustment (kH).	2.5						2.5				2		
Activity Duration within 24 Hours.	5 min/pile .... * ..... 4 piles = ... 20 min	.....	20 min/ ..... pile * ..... 5 piles = ... 100 min	20 min/ ..... pile * ..... 2 piles = ... 40 min	20 min/ ..... pile * ..... 12 piles = ... 240 min	20 min/ ..... pile * ..... 10 piles = ... 200 min	5 min/ ..... pile * ..... 4 piles = ... 20 min	1 min/ ..... pile * ..... 5 piles = ... 5 min	20 min/ ..... pile * ..... 4 piles = ... 80 min	20 min/ ..... pile * ..... 10 piles = ... 200 min			
Strikes per Second.	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	0.01	0.01	
Number of strikes per pile.	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	600	600	
Number of piles per day.	4	7	5	2	12	10	3	5	4	10	3	6	4
Propagation (xLogR).	15						15				15		
Distance of SPL Measurement.	10						10				10		
Acoustic threshold (dB RMS).	129.6 dB	.....	126 dB				129.6 dB	126 dB			160 dB.		

[1] NBPL Deperming Pier Replacement Project. See table 6–4 in the application.
[2] NBSD Chollas Creek Quay Wall Repair Project. See table 1–4 in the application.
[3] These piles are anticipated to be dead pulled.
[4] These piles are anticipated to be either vibratory extracted, dead pulled, or clipped at the mud-line and removed. For this IHA, we are assuming vibratory extraction for the demolition of all existing sheet piles.
[5] Vibratory and/or impact pile driving are the most likely methods that would be used to install piles. High-pressure water jetting may be used either separately from or in conjunction with impact pile installation.

Using the practical spreading model and source assumptions identified in table 6, the Navy calculated, and NMFS has carried forward into this analysis, the distances to the Level A harassment and Level B harassment thresholds for marine mammals for both the NBPL and the NBSD projects (table 7).

TABLE 7—CALCULATED DISTANCES TO THE LEVEL A HARASSMENT AND LEVEL B HARASSMENT THRESHOLDS BY MARINE MAMMAL HEARING GROUP AND ACTIVITY

Site, activity, pile size/type	Level A harassment zone (m)	All marine mammals Level B harassment zone (m)			
		LFC Gray whales	HFC bottlenose, common dolphins	OW CSL	PW Harbor seals
NBPL DEPERMING PIER					
Pile Removal Activities					
Vibratory Extraction 16″ round timber	5.2	2.0	2.2	6.7	1,445
Pile Installation Activities					
Vibratory Hammer 16″ round plastic	5.2	2.0	6.7	2.2	1,455
Impact Hammer 16″ round plastic	242.5	30.9	80.3	215.4	293
NBSD CHOLLAS CREEK [1]					
Pile Removal Activities					
Vibratory Extraction 14″ steel H	.....	1.6	1.9	5.5	398
Vibratory Extraction 18″ octagonal concrete	.....	1.1	1.2	3.6	858
Vibratory Extraction 18″ square concrete	.....	2.0	2.2	6.6	858
Vibratory Extraction 24-steel sheet	.....	6.8	7.6	22.7	1,848
Pile Installation Activities					
Vibratory Driving 13″ round plastic	.....	0.5	0.6	1.8	1,685
Vibratory Driving 18″ octagonal concrete (small float)	.....	1.1	1.2	3.6	858
Vibratory Driving 27.5″ steel sheet	.....	6.8	7.6	22.7	1,848
Impact Driving 18″ octagonal concrete	.....	6.7	17.3	46.4	46
Impact Driving 18″ square concrete	.....	8.7	22.7	60.8	46

Abbreviations: LCF = Low-Frequency Cetacean; HFC = High-Frequency Cetacean; OW = Otariid; PW = Phocid; CSL = California sea lions.

Marine Mammal Occurrence

In this section, we provide information on the anticipated occurrence of marine mammals present in the project areas during the proposed NBPL and NBSD Projects. This occurrence information then informs the take calculations in the following section (see *Take Estimation* and table 9).

For all species, the best available scientific information was considered to estimate occurrence. First, the Navy considered density data contained within the U.S. Navy Marine Species Density Database for the Hawaii-Southern California Training and Testing Study Area technical report (U.S. Navy, 2024), which includes San Diego Bay. However, the Navy determined that a density-based approach would overestimate take as evidenced in previous monitoring reports (NAVFAC SW 2016, 2017a, 2017b, 2018a, 2018b).

To more accurately inform take estimates, the Navy reviewed IHA applications and monitoring reports for previous projects at both NBPL and NBSD to develop more site-specific occurrence estimates for each species. Except for California sea lions, the average number of observations of marine mammals during the NBPL Fuel Pier Replacement Project monitoring periods, years 2–5 (2015–2018), was used by the Navy to estimate the expected average number of individuals observed daily for the current NBPL Project (NAVFAC SW 2016, 2017a, 2017b, 2018a, 2018b). The Navy also used observations presented in the final monitoring report for the NBSD Pier 6 Replacement Project (NAVFAC SW, 2024) to estimate the expected average number of individuals observed daily for the current NBSD Project. Except for California sea lions, the average daily occurrence per species over the NBPL Fuel Pier's 4 years was deemed to provide a reasonably representative daily occurrence estimate. As for California sea lions, due to the close proximity of the NBPL Project to the Everingham Brothers' Bait Barge, which sea lions regularly use as a haul-out location, the Navy used the highest number of individuals observed per day (from the NBPL Fuel Pier monitoring period year 2, 2015) to estimate the expected number of individuals observed per day for the current NBPL Project (*i.e.,* 25.09 sea lions expected to be observed daily).

TABLE 8—ESTIMATED OCCURRENCE OF MARINE MAMMAL SPECIES

Species/location	Relative occurrence in north and south-central San Diego Bay	Expected number of individuals observed/day
Naval Base Point Loma		
California sea lion	Abundant	25.09
Harbor seal	Relatively Uncommon	0.56
Bottlenose dolphin	Sporadic	1.29
Short-beaked common dolphin	Occasional	0.10
Long-beaked common dolphin	Occasional	.....
gray whale	Rare/Seasonal	0.02
Naval Base San Diego		
California sea lion	Abundant	1.38
Harbor seal	Relatively Uncommon	0.01
Bottlenose dolphin	Sporadic	0.5

Take Estimation

In this section, we describe how the project scope, ensonified area, and species occurrence information provided above are used to produce a quantitative estimate of the take that could occur and is proposed for authorization. We first describe the take estimation process for the NBPL Project, then for the NBSD Project.

NBPL Deperming Pier Replacement Project

To calculate the estimated take that may occur incidental to the NBPL Project, the Navy used the following methods, and we have carried them forward in this analysis. In summary, the Navy calculated estimated exposures at each pier for each activity using the following equation:

# of individuals/day × days per pier and activity × ensonified area

The number of individuals per day used in the calculations is found in table 8. The number of days used in the calculations is as follows:

Vibratory pile extraction: Deperming Pier 47 days, ERG Pier 37 days, and Pier 5002 2 days;

Vibratory pile driving: Deperming Pier 50 days, ERG Pier 33 days, and Pier 5002 2 days; and

Impact pile driving: Deperming Pier 50 days, ERG Pier 33 days, and Pier 5002 2 days. The Navy then summed the exposure estimates across the three piers to obtain a total exposure estimate for each species.

Please see section 6.9 and Appendix B of the NBPL IHA application for a detailed description of exposure estimates and take calculations, and tables of all of the calculations for each species, at each pier, and for each pile method (vibratory pile extraction, vibratory pile driving, and impact pile driving).

Because take by both behavioral harassment and AUD INJ could occur incidentally to impact pile driving, the Navy allocated the total exposures for this activity by Level A harassment and Level B harassment at each of the three piers. To do so, the Navy identified the Level A harassment area percentage relative to the Level B harassment area at each pier for impact pile driving using the following equation:

Level A harassment ensonified area (km²)/Level B harassment ensonified area (km²) = Level A harassment ensonified area percentage

Using impact pile driving for California sea lions at the Deperming Pier as an example, the Level A harassment ensonified area (0.025390 km²) divided by the Level B harassment ensonified area (0.201349 km²) equals 10.61 percent.

The Navy then multiplied each species' total impact pile driving exposure estimates at each pier by the Level A harassment ensonified area percentage:

Impact pile driving exposure estimate at each pier × Level A harassment ensonified area percentage = Level A take at each pier

Again, using impact pile driving on California sea lions at the Deperming Pier as an example, the exposure estimate for the species (1,254.50 individuals) multiplied by the Level A harassment ensonified area percentage (10.61 percent) equals 158.19 Level A takes.

The Navy then summed the results from all three piers to obtain the total requested amount of Level A harassment take. Using the example above, 159.18 + 106.46 + 5.04 equals 270 California sea lion Level A harassment takes.

To calculate Level B harassment for each species at each pier, the Navy conducted a similar process, accounting for the ensonified area already considered in the Level A harassment calculations. The Navy used the following formula to estimate the Level B harassment ensonified area percentage:

Level B harassment ensonified area (km²) − Level A harassment ensonified area (km²)/Level B harassment ensonified area (km²) = Level B harassment ensonified area percentage

Again, using impact pile driving on California sea lions at the Deperming Pier as an example, the Level B harassment ensonified area (0.201349 km²) minus the Level A harassment ensonified area (0.025390 km²) divided by the Level B harassment ensonified area (0.201349 km²) equals 87.39 percent.

The Navy then multiplied the total species' impact pile driving exposure estimates by the Level B harassment ensonified area percentage for each species at each pier to obtain the requested amount of takes by Level B harassment using the following formula:

Exposure estimate per pier × Level B harassment ensonified area percentage = Level B take per pier

Again, using impact pile driving on California sea lions at the Deperming Pier as an example, the exposure estimate for the species (1,254.50) multiplied by the Level B harassment ensonified area (87.39 percent) equals 1,096 takes of Level B harassment.

The Navy then summed the takes by Level B harassment per species at each of the three piers. (see table 9).

Of note, for the NBPL Project, the Navy combined sighting information/species occurrence for the short- and long-beaked common dolphins, as both

species are difficult to differentiate in the wild. For the take estimates, we have authorized a single amount of take for both species combined. We also note a minor discrepancy in the calculations for the combined short- and long-beaked common dolphins, specifically for impact pile driving at the ERG Pier. We calculated 0.08 Level A harassment exposures for the species, whereas the application shows 1.00 Level A harassment exposure; and we calculated 3.22 Level B harassment exposures, whereas the application shows 2.30 Level B harassment exposures. This error, when carried through and using standard rounding at the end (*i.e.,* where a number of five or greater is rounded up), resulted in the Navy calculating 2 takes by Level A harassment and 18 takes by Level B harassment for the combined short- and long-beaked common dolphins, whereas we calculated 0 takes by Level A harassment and 18 takes by Level B harassment for the combined species. NMFS confirmed with the Navy that our calculations are correct (K. LeRoy, pers. comm., January 16, 2026); therefore, they are applied in this proposed IHA. See table 9 below for the estimated takes by Level A harassment and Level B harassment proposed to be authorized for the NBPL Project.

NBSD Chollas Creek Quay Wall Repair Project

To calculate the estimated takes by Level B harassment that may occur incidental to the NBSD Project, the Navy used the following formula, and we have carried forward this analysis:

$N \times D$ = *Estimated takes by Level B Exposure*

Where:

N = the average number of individuals observed/day, and

D = the total days of pile extraction/installation (190 days).

See table 9 for the number of takes by Level B harassment proposed to be authorized.

As described above, the Navy did not request, and NMFS does not propose, to authorize take by Level A harassment for any of the three species that may occur in the NBSD Chollas Creek area—California sea lions, bottlenose dolphins, and harbor seals.

Based on the best available science, NMFS generally finds the Navy's estimates of the types and amounts of take for each species and each project to be a reasonable representation of the amount of take that could occur from the project. NMFS has identified the minor discrepancy in the NBPL Project take estimation section for short- and long-beaked common dolphins discussed above and has carried forward our calculations. Table 9 below summarizes the number of takes by Level A harassment and/or Level B harassment, and the total proposed take per stock as a percentage of stock abundance for both projects.

TABLE 9—PROPOSED AUTHORIZED TAKE BY LEVEL A HARASSMENT AND LEVEL B HARASSMENT AND AS A PERCENTAGE OF STOCK ABUNDANCE FOR THE NBPL PROJECT AND NBSD PROJECT

Common name	Stock	Stock abundance [1]	Avg. number of indiv./day		NBPL IHA proposed take			Percent of stock	NBSD IHA proposed take			Percent of stock
			NBPL	NBSD	Level A	Level B	Total proposed take		Level A	Level B	Total proposed take	
CA sea lion	CA breeding stock	257,606	25.09	1.38	270	4,291	4,561	[1] 1.77	0	262	262	0.10
Bottlenose dolphin	CA coastal stock	453	1.29	0.5	3	221	224	[1 2] 49.39	0	95	95	20.97
Harbor seal	CA stock	30,968	0.56	0.01	30	96	106	[1] 0.41	0	2	2	0.00
Short-beaked common dolphin.	CA/OR/WA stock	1,056,308	0.10		0	18	18	0.00				
Long-beaked common dolphin.	CA stock	83,379										
Gray whale	Eastern N Pacific	25,960	0.02		0	4	4	0.02				

[1] The values presented here are based on if all takes were to a different individual. This is not likely the case, however, for California sea lions, harbor seals, and bottlenose dolphins due to their presumed persistence at a location (*i.e.,* repeated takes of the same individual may occur across multiple days).

[2] The percentage of the stock for the California coastal stock of bottlenose dolphins presented here is a simplistic calculation that considers each take is of a unique individual, which is not likely the case. Please see the Small Numbers section for more rationale.

Proposed Mitigation

To issue an IHA under section 101(a)(5)(D) of the MMPA, NMFS must set forth the permissible methods of taking pursuant to the activity, and other means of effecting the least practicable impact on the species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of the species or stock for taking for certain subsistence uses (latter not applicable for this action). NMFS regulations require applicants for incidental take authorizations (ITA) to include information about the availability and feasibility (economic and technological) of equipment, methods, and the manner of conducting the activity or other means of effecting the least practicable adverse impact upon the affected species or stocks, and their habitat (50 CFR 216.104(a)(11)).

In evaluating how mitigation may or may not be appropriate to ensure the least practicable adverse impact on species or stocks and their habitat, as well as subsistence uses where applicable, NMFS considers two primary factors:

(1) How and to what degree the successful implementation of the measure(s) is expected to reduce impacts on marine mammal species or stocks and their habitat. This considers the nature of the potential adverse impact being mitigated (its likelihood, scope, and range). It further considers the likelihood that the measure would be effective if implemented (probability of accomplishing the mitigating result if implemented as planned), the likelihood of effective implementation (probability of implementation as planned); and

(2) The practicability of the measures for applicant implementation, which may consider such things as cost and impact on operations.

The number and/or intensity of takes would be minimized by incorporating the mitigation measures proposed by the Navy in its adequate and complete applications for both the NBPL Project and the NBSD Project. The Navy has agreed that all of the mitigation measures are practicable. As required by the MMPA, we concurred that these measures are sufficient to achieve the least practicable adverse impact on the affected marine mammal species or stocks and their habitat. NMFS describes these below and has included them as proposed mitigation requirements in each of the proposed IHAs.

Establishment of Shutdown Zones

The Navy proposed, and NMFS would require, the establishment of shutdown zones with radial distances, as identified in table 10, for all construction activities. The purpose of a shutdown is generally to define an area within which shutdown of the activity would occur upon sighting of a marine mammal (or in anticipation of an animal entering the defined area) to minimize potential instances of AUD INJ and more severe behavioral disturbances by delaying the start of an activity if marine mammals are near the activity. Additionally, the Navy would be required to shut down in the event that an unauthorized species is present to avoid taking that unauthorized species. Shutdown zones would be cleared before activities begin, and would vary by activity type and marine mammal hearing group.

The placement of up to three PSOs during all pile-driving activities for both projects (as described in the Proposed Monitoring and Reporting section) would ensure that the entire shutdown zone is visible. Should environmental conditions deteriorate to the point that the entire shutdown zone is not visible (*e.g.,* fog, heavy rain), pile driving would be delayed until the PSO is confident that marine mammals within the shutdown zone can be detected. Limiting construction activities to daylight hours only for both projects would also increase the detectability of marine mammals in the area.

If a marine mammal is observed entering or within the shutdown zones indicated in table 10, pile-driving activity must be delayed or halted, unless in the case of human safety concerns or pile refusal/instability.

If pile driving is delayed or halted due to the presence of a marine mammal, the activity may not begin or resume until either the animal has voluntarily exited and been visually confirmed beyond the shutdown zone, or 15 minutes have passed without re-detection of the animal.

During all in-water pile-driving activities for both projects, the Navy would implement a minimum 20 m (66 ft) shutdown zone for activities where the calculated Level A harassment distances were less than 20 m (66 ft). For activities where the calculated Level A harassment distance was greater than 20 m (66 ft), these distances were rounded up to the nearest 10 m (33 ft) (*e.g.,* a calculated Level A harassment distance of 46 m would correspond to a 50 m shutdown zone). The Navy must also avoid direct physical interaction with marine mammals during construction activity through the implementation of a 10 m shutdown zone for activities other than pile driving. Adherence to these shutdown zones would minimize the potential number and intensity of Level A harassment during impact pile driving for the NBPL and NBSD Projects. See table 10 below for shutdown zones and Level B harassment zones.

TABLE 10—SHUTDOWN ZONES AND LEVEL B HARASSMENT ZONES FOR THE NBPL DEPERMING PIER REPLACEMENT PROJECT AND NBSD CHOLLAS CREEK QUAY WALL PROJECT

Site, activity, pile size/type	Shutdown zone (m) [1]				All marine mammals Level B harassment zone (m)
	LFC Gray whales	HFC bottlenose, common dolphins	OW CSL	PW Harbor seals	
NBPL DEPERMING PIER IHA					
Pile Removal Activities					
Vibratory Extraction 16″ round timber	20	20	20	20	1,450
Pile Installation Activities					
Vibratory Hammer 16″ round plastic	20	20	20	20	1,450
Impact Hammer 16″ round plastic	250	40	90	220	300

TABLE 10—SHUTDOWN ZONES AND LEVEL B HARASSMENT ZONES FOR THE NBPL DEPERMING PIER REPLACEMENT PROJECT AND NBSD CHOLLAS CREEK QUAY WALL PROJECT—Continued

Site, activity, pile size/type	Shutdown zone (m) [1]				All marine mammals Level B harassment zone (m)
	LFC Gray whales	HFC bottlenose, common dolphins	OW CSL	PW Harbor seals	
NBSD CHOLLAS CREEK IHA					
Pile Removal Activities					
Vibratory Extraction 14″ steel H	.....	20	20	20	400
Vibratory Extraction 18″ octagonal concrete	.....	20	20	20	860
Vibratory Extraction 18″ square concrete	.....	20	20	20	860
Vibratory Extraction 24-steel sheet	.....	20	20	30	1,850
Pile Installation Activities					
Vibratory Driving 13″ round plastic	.....	20	20	20	1,690
Vibratory Driving 18″ octagonal concrete (small float)	.....	20	20	20	860
Vibratory Driving 27.5″ steel sheet	.....	20	20	30	1,850
Impact Driving 18″ octagonal concrete	.....	20	20	50	50
Impact Driving 18″ square concrete	.....	20	30	70	50

[1] The shutdown zone must be clear of marine mammals 30 minutes prior to commencing pile removal or installation. If a marine mammal is observed entering or within the shutdown zone during pile removal or installation, pile driving must cease until the animal has cleared the zone or not been re-sighted within 15 minutes. NMFS recognizes that pile driving may not cease in the case of safety concerns or pile refusal/instability.

Abbreviations: LFC = Low-Frequency Cetacean; HFC = High-Frequency Cetacean; OW = Otariid; PW = Phocid; CSL = California sea lions.

Pre- and Post-Activity Marine Mammal Monitoring

Monitoring would take place from 30 minutes prior to initiation of pile driving activity (*i.e.,* pre-start clearance monitoring) through 30 minutes post-completion of pile driving activity. In addition, monitoring for 30 minutes would take place whenever a break in the specified activity (*i.e.,* impact pile driving, vibratory pile driving) of 30 minutes or longer occurs. Pre-start clearance monitoring would be conducted during periods of sufficient visibility for the lead PSO to determine that the shutdown zones indicated in table 10 are clear of marine mammals. Pile driving may commence following 30 minutes of observation when the determination is made that the shutdown zones are clear of marine mammals. If a marine mammal is observed entering or within the shutdown zones, pile driving activity must be delayed or halted. If pile driving is delayed or halted due to the presence of a marine mammal, the activity may not commence or resume until either the animal has voluntarily exited and been visually confirmed beyond the shutdown zone, or 15 minutes have passed without re-detection of the animal. Finally, if a shutdown and/or clearance procedure would result in an imminent safety concern, as determined by the Navy, the in-water activity would be allowed to continue until the safety concern has been addressed, and the animal would be continuously monitored. The Navy Point of Contact would be consulted before resuming any activities.

Soft-Start

The Navy would use soft-start techniques when impact pile driving. Soft-start procedures are used to provide additional protection to marine mammals by issuing a warning and/or giving them a chance to leave the area before the hammer operates at full capacity. Soft-start requires contractors to provide an initial set of three strikes at reduced energy, followed by a 30-second waiting period, then two subsequent reduced-energy strike sets. A soft-start would be implemented at the start of each day's impact pile driving, and at any time following cessation of impact pile driving for a period of 30 minutes or longer.

Bubble Curtain

The Navy has not proposed to use a bubble curtain to attenuate in-water construction noise during any of the proposed pile driving activities presented herein for either project. The Navy asserted that due to strong tidal fluctuations and associated currents in San Diego Bay, bubble curtains would not be effective in this environment (Navy pers. comm., September 3, 2025). NMFS agrees that the use of a bubble curtain would not appreciably decrease noise levels such that impacts on marine mammals would be reduced.

In summary, based on our evaluation of the Navy's proposed mitigation measures for both the NBPL and NBSD projects, NMFS has preliminarily determined that the proposed mitigation measures provide the means of effecting the least practicable impact on the affected species or stocks and their habitat, with particular focus on rookeries, mating grounds, and similar areas of significance.

Proposed Monitoring and Reporting

To issue an IHA for an activity, section 101(a)(5)(D) of the MMPA states that NMFS must set forth requirements pertaining to the monitoring and reporting of such taking. The MMPA implementing regulations at 50 CFR 216.104(a)(13) indicate that requests for authorizations must include the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and of the level of taking or impacts on populations of marine mammals that are expected to be present while conducting the activities. Effective reporting is critical to both compliance and ensuring the most value is obtained from the required monitoring.

Monitoring and reporting requirements prescribed by NMFS should help improve the understanding of one or more of the following:

- Occurrence of marine mammal species or stocks in the area in which take is anticipated (*e.g.,* presence, abundance, distribution, density);
- Nature, scope, or context of likely marine mammal exposure to potential

stressors/impacts (individual or cumulative, acute or chronic), through better understanding of: (1) action or environment (*e.g.,* source characterization, propagation, ambient noise); (2) affected species (*e.g.,* life history, dive patterns); (3) co-occurrence of marine mammal species with the activity; or (4) biological or behavioral context of exposure (*e.g.,* age, calving or feeding areas);

- Individual marine mammal responses (behavioral or physiological) to acoustic stressors (acute, chronic, or cumulative), other stressors, or cumulative impacts from multiple stressors;
- How anticipated responses to stressors impact either: (1) long-term fitness and survival of individual marine mammals; or (2) populations, species, or stocks;
- Effects on marine mammal habitat (*e.g.,* marine mammal prey species, acoustic habitat, or other important physical components of marine mammal habitat); and
- Mitigation and monitoring effectiveness.

The Navy would abide by all monitoring and reporting measures contained within the IHA, if issued, and their Protected Species Monitoring Plans (see NMFS' website at *https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-construction-activities*). NMFS describes these below as requirements and has included them in the proposed IHA.

Visual Monitoring

All PSOs must be NMFS-approved and have no other assigned tasks during monitoring periods. At least one PSO would have prior experience performing the duties of a PSO during construction activity pursuant to a NMFS-issued ITA. The Navy would have between one and three PSOs actively monitoring on-site at all times during pile-driving activities. Where a team of three or more PSOs is required, a lead observer or monitoring coordinator would be designated. The lead observer would be required to have prior experience working as a marine mammal observer during construction. Additional PSOs may be employed during periods of low or obstructed visibility to ensure the entirety of the shutdown zone is monitored.

Reporting

The Navy would be required to submit a draft report(s) on all construction activities and marine mammal monitoring results to NMFS within 90 days of the completion of monitoring, or 60 days prior to the requested issuance of any subsequent IHAs or similar activity at the same location, whichever comes first. The information required to be collected and reported to NMFS is included in the draft IHA available at *https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-construction-activities.* In summary, the report would include, but not be limited to, information regarding activities that occurred, marine mammal sighting data, and whether mitigative actions were taken or could not be taken. The Navy would also be required to submit reports on any observed injured or dead marine mammals. If the death or injury was clearly caused by the specified activity, the Navy would immediately cease the specified activities until NMFS is able to review the circumstances of the incident and determine what, if any, additional measures are appropriate to ensure compliance with the terms of the IHA. The Navy would not resume its activities until notified by NMFS.

Specific proposed mitigation, monitoring, and reporting requirements can be found in the draft IHAs found at *https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-construction-activities.*

Negligible Impact Analysis and Determination

NMFS defines negligible impact as an effect of the specified activity that cannot reasonably be expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival (50 CFR 216.103). A negligible impact finding is based on the absence of likely adverse effects on annual recruitment or survival rates (*i.e.,* population-level effects). An estimate of the number of takes alone is insufficient to support an impact determination. In addition to considering estimates of the number of marine mammals that might be ''taken'' through harassment, NMFS considers other factors, such as the likely nature of any impacts or responses (*e.g.,* intensity, duration), the context of any impacts or responses (*e.g.,* critical reproductive time or location, foraging impacts affecting energetics), effects on habitat, and the likely effectiveness of the mitigation. We also assess the number, intensity, and context of estimated takes by evaluating them against population status. Consistent with the 1989 preamble to NMFS' implementing regulations (54 FR 40338, September 29, 1989), impacts from other past and ongoing anthropogenic activities are incorporated into this analysis via their effects on the baseline (*e.g.,* as reflected in the regulatory status of the species, population size and growth rate where known, ongoing sources of human-caused mortality, or ambient noise levels).

To avoid repetition, the discussion of our analysis applies to all species listed in table 9 and to both projects, given that the anticipated effects of the NBPL and NBSD Project activities on these different marine mammal stocks are expected to be similar. There is little information on the nature or severity of the impacts, or on the size, status, or structure of any of these species or stocks, that would lead to a different analysis for this activity.

Pile driving and removal associated with the project, as outlined previously, have the potential to disturb or displace marine mammals. Specifically, the specified activities may result in take in the form of Level A harassment (NBPL Project only) and/or Level B harassment from underwater sounds generated from pile driving and removal. Potential takes could occur if individuals of these species are present in zones ensonified above the thresholds for Level A harassment and/or Level B harassment identified above when these activities are underway.

Given the nature of the proposed activities, NMFS does not anticipate serious injury or mortality due to the Navy's proposed projects, even in the absence of required mitigation. The Level A harassment zones identified in table 7 are based upon an animal exposed to vibratory pile driving/removal and/or impact pile driving for periods ranging from 20 to 240 minutes of vibratory pile removal/installation, and impact pile driving of 3 to 6 piles per day. Exposures of this length are, however, unlikely for vibratory driving/removal scenarios, given marine mammal movement throughout the area. Even during impact driving scenarios, an animal exposed to the accumulated sound energy would likely only experience a small degree of AUD INJ at the lower frequencies where pile driving energy is concentrated. Moreover, an individual may recover from hearing loss after exposure to the sound has ceased. The level of recovery is based on the initial threshold shift amount, the frequency at which the shift occurred, and the duration of exposure. While not able to be quantified, as described in the Effects to Marine Mammal and Their Habitat section, some recovery is expected to occur.

As stated in the Proposed Mitigation section, the Navy would implement shutdown zones that equal or exceed

many of the Level A harassment isopleths shown in table 7. Take by Level A harassment is proposed for three of the six marine mammal species during construction activities associated with the project at the NBPL; no take by Level A harassment for species that occur at the NBSD site is anticipated or proposed for authorization. The proposed take by Level A harassment for species at the NBPL site is precautionary to account for the potential that an animal could enter and remain within the area between a Level A harassment zone and the shutdown zone for long enough to be taken by Level A harassment. Additionally, in some cases, this precaution would account for the possibility that an animal could enter a shutdown zone without detection, given the various obstructions along the shoreline, and remain in the Level A harassment zone for a duration long enough to be taken by Level A harassment before being observed and a shutdown occurring. That said, any take by Level A harassment is expected to arise from, at most, a small degree of AUD INJ because animals would need to be exposed to higher levels and/or longer duration than are expected to occur here to incur any more than a small degree of AUD INJ. Given the proximity to the shore, exposure over extended time periods is unlikely to occur before the animal is observed by PSOs, and before the proposed mitigation measures are implemented. Additionally, as noted previously, some subset of individuals who are behaviorally harassed during the activities could also simultaneously incur some small degree of TTS for a short duration. However, because of the anticipated small degree of possible overlap of sound exposure, duration, and hearing frequency with species occurrence, any AUD INJ or TTS potentially incurred here is not expected to adversely affect an animal's individual fitness, let alone annual rates of recruitment or survival. No AUD INJ for the NBSD Chollas Creek project is expected or proposed to be authorized.

For all species and stocks, take is expected to occur within a limited, confined area (adjacent to the project sites) of the species' range. The intensity and duration of take by Level A harassment and/or Level B harassment would be minimized through the proposed mitigation measures described herein. Furthermore, the amount of take proposed for authorization is small compared to the relative stock's abundance, even assuming that every take for any particular species could wholly occur to individuals of an individual stock.

Behavioral responses of marine mammals to pile driving and removal at the project sites, if any, are expected to be mild, short-term, and temporary. Given that the removal of 192 piles would occur over 86 days and the installation of 192 piles would occur over 85 days for the NBPL Project, and the removal of 544 piles would occur over 69 days and the installation of 936 piles would occur over 121 days for the NBSD Project, respectively (all of which may not necessarily be consecutive), any harassment is expected be to temporary and intermittent. Marine mammals within the Level B harassment zones may not show any visual cues that they are disturbed by activities, or they may become alert, avoid the area, leave the area, or display other mild responses that are not observable, such as changes in vocalization patterns. Additionally, many of the species present in the region would be present only temporarily, based on seasonal patterns or during active transit between other habitats. Most likely, during pile driving, individuals would be expected to move away from the sound source and be temporarily displaced from the areas of pile driving. However, this reaction has been observed primarily associated with impact pile driving. While vibratory pile driving associated with the proposed projects may produce sound at distances of many kilometers from the project sites, thus overlapping with some likely less-disturbed habitat, the project sites are located in a busy bay, and the majority of sound fields produced by the specified activities are close to the bay. Animals disturbed by project sounds would be expected to avoid the area and use nearby higher-quality habitats. Pinnipeds in the area would be able to haul out on nearby man-made structures to avoid the activities, and no in-air harassment is anticipated from the construction.

The potential for harassment is minimized by implementing the proposed mitigation measures. During all impact driving, the implementation of soft-start procedures and the monitoring of established shutdown zones by trained and qualified PSOs shall be required, significantly reducing the risk of injury. Given sufficient notice through soft start (for impact driving), marine mammals are expected to move away from an irritating sound source before it becomes potentially injurious.

Any impact on marine mammal prey that would occur during the Navy's proposed activities would have, at most, short-term effects on the foraging of individual marine mammals, and likely no effect on the populations of marine mammals as a whole. Indirect effects on marine mammal prey during construction are expected to be minor, and these effects are unlikely to cause substantial individual-level impacts on marine mammals, with no expected impact on annual recruitment or survival rates.

In addition, it is unlikely that minor noise effects in a small, localized area of habitat would have any effect on the reproduction or survival of any individual, much less the stocks' annual rates of recruitment or survival. Taken together, we believe that these factors, along with the available body of evidence from similar activities, demonstrate that the potential effects of the specified activities would be only minor and short-term for individuals. Overall, the specified activities for the NBPL and NBSD are not expected to impact rates of recruitment or survival; therefore, these effects would not be expected to result in population-level impacts.

In summary and as described above, the following factors primarily support our preliminary determinations that the impacts resulting from the two separate specified activities are not expected to adversely affect any of the species or stocks through effects on annual rates of recruitment or survival:

- No mortality or serious injury is anticipated or proposed for authorization, and no Level A harassment (AUD INJ) is anticipated or proposed for authorization incidental to the NBSD Chollas Creek Quay Wall Repair Project;
- Any Level A harassment (AUD INJ) is anticipated to be slight AUD INJ (*i.e.,* of a few decibels) within the lower frequencies associated with pile driving and not encompassing a species' full hearing range;
- The anticipated incidents of Level B harassment would consist of, at worst, temporary modifications in behavior that would not result in fitness impacts on individuals;
- The area affected by the specified activity is very small relative to the overall habitat ranges of all species, does not include any rookeries, does not include ESA-designated critical habitat, and does include any BIAs;
- Effects on species that serve as prey for marine mammals from the activities are expected to be short-term and, therefore, any associated impacts on marine mammal feeding are not expected to result in significant or long-term consequences for individuals, or to accrue adverse impacts on their populations;

• The project area is located in a highly industrialized and commercial bay; therefore, species are likely acclimated to anthropogenic activities and behavioral reactions are expected to be minor (if at all); and

• The proposed mitigation measures, such as soft-starts, and shutdowns, are expected to reduce the effects of the specified activity to the least practicable adverse impact level.

Based on the analysis contained herein of the likely effects of the specified activities on marine mammals and their habitat, and taking into consideration the implementation of the proposed monitoring and mitigation measures, NMFS preliminarily finds for both of the two separate proposed IHAs that the total marine mammal take from the proposed activities would have a negligible impact on all affected marine mammal species or stocks.

Small Numbers

As noted previously, only take of small numbers of marine mammals may be authorized under section 101(a)(5)(A) and (D) of the MMPA for specified activities other than military readiness activities. The MMPA does not define small numbers, so, in practice, when estimated numbers are available, NMFS compares the number of individuals taken to the most appropriate abundance estimate for the relevant species or stock in determining whether an authorization is limited to small numbers of marine mammals. When the predicted number of individuals to be taken is fewer than one-third of the species or stock abundance, the take is considered to be of small numbers (see 86 FR 5322, January 19, 2021). Additionally, other qualitative factors may be considered in the analysis, such as the temporal or spatial scale of the activities.

For the NBPL Project, with the exception of the California coastal stock of bottlenose dolphin (see below), the maximum proposed number of instances of takes by Level A harassment and Level B harassment, relative to the best available population abundance, is less than one-third for five of the species impacted. For the NBSD Project, the maximum proposed number of instances of takes by Level B harassment is less than one-third for the three species impacted (see table 9).

For the NBPL Project, the total number of takes proposed to be authorized for the California coastal stock of bottlenose dolphins (n = 224) is 49.39 percent of the total stock abundance estimate (453), assuming each take is to a different individual (*i.e.,* no repeated takes to the same individual). However, it is likely that a relatively small subset of California coastal bottlenose dolphins would be incidentally harassed repeatedly by NBPL Project activities, and therefore, the number of individuals taken is less than 49.39 percent of the population. California coastal bottlenose dolphins range from San Francisco Bay to San Diego (and south into Mexico), and the specified activity would be stationary within an enclosed water body that is not recognized as an area of any special significance for coastal bottlenose dolphins (and is, therefore, not an area of dolphin aggregation, as evident in Navy observational records and monitoring reports (*e.g.,* see NAVFAC SW, 2014; NAVFAC SW, 20015)). We, therefore, believe that the estimated number of takes likely represents repeated exposures of a much smaller number of bottlenose dolphins and that, based on the limited region of exposure in comparison with the known distribution of the coastal bottlenose dolphin, these estimated incidents of take represent small numbers of bottlenose dolphins.

Based on the analysis contained herein of the proposed activities (including the proposed mitigation and monitoring measures) and the anticipated take of marine mammals, NMFS preliminarily finds for both of the two separate proposed IHAs that small numbers of marine mammals would be taken relative to the population size of the affected species or stocks.

Unmitigable Adverse Impact Analysis and Determination

There are no relevant subsistence uses of the affected marine mammal stocks or species implicated by this action. Therefore, NMFS has determined that the total taking of affected species or stocks for both the NBPL and NBSD Projects would not have an unmitigable adverse impact on the availability of such species or stocks for subsistence purposes.

Endangered Species Act

Section 7(a)(2) of the ESA of 1973 (16 U.S.C. 1531 *et seq.*) requires that each Federal agency ensure that any action it authorizes, funds, or carries out is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of designated critical habitat. To ensure ESA compliance in issuing an ITA, NMFS consults internally whenever we propose to authorize take of ESA-listed species.

No incidental take of ESA-listed species is proposed for authorization or expected to result from this activity. Therefore, NMFS has determined that formal consultation under section 7 of the ESA is not required for this action.

Proposed Authorizations

As a result of these preliminary determinations, NMFS proposes to issue two IHAs to the Navy: one IHA authorizing harassment incidental to the Deperming Pier Replacement Project at Naval Base Point Loma, and one IHA authorizing harassment incidental to the Chollas Creek Quay Wall Repair Project at Naval Base San Diego, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated. Drafts of both proposed IHAs can be found at: *https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-construction-activities.*

Request for Public Comments

We request comment on our analyses, the proposed authorizations, and any other aspect of this notice. We also request comments on the potential renewal of each of these proposed IHAs as described in the paragraph below. Please include with your comments any supporting data or literature citations to help inform decisions on the request for these IHAs or a subsequent IHA renewal.

On a case-by-case basis, NMFS may issue a one-time, 1-year renewal IHA following notice to the public providing an additional 15 days for public comments when (1) up to another year of identical or nearly identical activities as described in the Description of Proposed Activity section of this notice is planned or (2) the activities as described in the Description of Proposed Activity section of this notice would not be completed by the time the IHA expires and a renewal would allow for completion of the activities beyond that described in the *Dates and Duration* section of this notice, provided all of the following conditions are met:

• A request for renewal is received no later than 60 days prior to the needed renewal IHA effective date (recognizing that the renewal IHA expiration date cannot extend beyond 1 year from expiration of the initial IHA).

• The request for renewal must include the following:

1. An explanation that the activities to be conducted under the requested renewal IHA are identical to the activities analyzed under the initial IHA, are a subset of the activities, or include changes so minor (*e.g.,*

reduction in pile size) that the changes do not affect the previous analyses, mitigation and monitoring requirements, or take estimates (with the exception of reducing the type or amount of take).

2. A preliminary monitoring report showing the results of the required monitoring to date and an explanation showing that the monitoring results do not indicate impacts of a scale or nature not previously analyzed or authorized.

• Upon review of the request for renewal, the status of the affected species or stocks, and any other pertinent information, NMFS determines that there are no more than minor changes in the activities, the mitigation and monitoring measures will remain the same and appropriate, and the findings in the initial IHA remain valid.

Dated: January 30, 2026.

Kimberly Damon-Randall,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2026–02173 Filed 2–2–26; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XF509]

Gulf Fishery Management Council; Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The Gulf Fishery Management Council (Gulf Council) will hold a half day virtual meeting of its Ecosystem Technical Committee (ETC).

DATES: The meeting will take place Tuesday, March 3, 2026, from 1 p.m. to 4 p.m., EST.

ADDRESSES: This will be a virtual (webinar) meeting only. Registration information will be available on the Council's website by visiting *www.gulfcouncil.org* and clicking on the ETC meeting on the calendar.

Council address: Gulf Council, 4107 W Spruce Street, Suite 200, Tampa, FL 33607; telephone: (813) 348–1630.

FOR FURTHER INFORMATION CONTACT: Dr. Verena Wang, Ecosystem Analyst, Gulf Council; *verena.wang@gulfcouncil.org,* telephone: (813) 348–1630.

SUPPLEMENTARY INFORMATION:

Tuesday, March 3, 2026, 1 p.m.–4 p.m., EST

The meeting will begin with Introductions of Members, Adoption of Agenda, and Scope of Work. The Committee will review and discuss Ecosystem and climate readiness project updates, including Inflation Reduction Act projects and the Gulf Ecosystem Status Report. The Committee will discuss the draft Gulf Fishery Ecosystem Plan (FEP), including a presentation, draft document, and background materials.

Lastly, the committee will receive Public Comment and discuss any Other Business items.

—*Meeting Adjourns*

The meeting will also be broadcast via webinar. You may register for the webinar by visiting *www.gulfcouncil.org* and clicking on the Technical Committee meeting on the calendar. The Agenda is subject to change, and the latest version along with other meeting materials will be posted on *www.gulfcouncil.org* as they become available.

Although other non-emergency issues not on the agenda may come before the Technical Committee for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal action during this meeting. Actions of the Technical Committee will be restricted to those issues specifically identified in the agenda 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 Council's intent to take-action to address the emergency.

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

Dated: January 30, 2026.

Becky J. Curtis,

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

[FR Doc. 2026–02195 Filed 2–2–26; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XF510]

Gulf Fishery Management Council; Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The Gulf Fishery Management Council (Gulf Council) will hold a 3 day in-person meeting of its Standing and Special Shrimp Scientific and Statistical Committees (SSCs).

DATES: The meeting will be in-person Tuesday, February 24–Thursday, February 26, 2026. Daily schedule as follows: Tuesday and Wednesday from 8:30 a.m.–5 p.m., EST daily and Thursday from 8:30 a.m.–2 p.m.

ADDRESSES: The meeting will be held at Gulf Council office in Tampa, FL. Virtual connection information will be available on the Council's website at *www.gulfcouncil.org* and clicking on the ''meeting tab''.

Council address: Gulf Fishery Management Council, 4107 W Spruce Street, Suite 200, Tampa, FL 33607; telephone: (813) 348–1630.

FOR FURTHER INFORMATION CONTACT: Mr. Ryan Rindone, Lead Fishery Biologist, Gulf Fishery Management Council; *ryan.rindone@gulfcouncil.org,* telephone: (813) 348–1630.

SUPPLEMENTARY INFORMATION:

Tuesday, February 24, 2026; 8:30 a.m.–5 p.m. EST

The meeting will begin with Introductions and Adoption of Agenda, review and approval of Meeting Minutes from the January 2026 SSC webinar and Scope of Work.

The Standing and Shrimp SSCs will then review Southeast Data Assessment and Review (SEDAR) 87 stock assessments of Gulf Penaeid Shrimp and Shrimp Bycatch Methodology Working Group Recommendations for Finfish Species, including presentations, background materials and SSC discussions.

Public comments will be heard at the end of the day, if any.

Wednesday, February 25, 2026; 8:30 a.m.–5 p.m., EST

The Standing SSC will reassemble to review Management Strategy Evaluations (MSE) of Marine Recreation Information Program-Fishing Effort Survey (MRIP–FES) Recalibrations, Greater Amberjack Interim Analysis and Catch Advice, and Southeast Fishery Science Center (SEFSC) Stakeholder Participatory Workshops, including presentations, background materials and SSC discussions.

The SSC will also receive presentations on research about Gray Triggerfish discard mortality and in-season management of a recreational fishery, including background materials and SSC discussions.

Public comments will be heard at the end of the day, if any.

Thursday, February 26, 2026; 8:30 a.m.–2 p.m., EST

The Standing SSC will discuss Social and Economic Effects of Mid-year IFQ Quota Modifications, including a presentation and SSC discussion. The SSC will also review a check-in on SEDAR 100: Gulf Gray Triggerfish Stock Assessment and hold a discussion on the progress on MRIP Pilot Studies, including presentations and SSC Discussion.

Public comments, if any, will be heard at the end of the day followed by the review of any Other Business items.

—*Meeting Adjourns*

The meeting will also be broadcast via webinar. You may register to listen in only by visiting *www.gulfcouncil.org* and clicking on the SSC meeting on the calendar.

The Agenda is subject to change, and the latest version along with other meeting materials will be posted on *www.gulfcouncil.org* as they become available.

Although other non-emergency issues not on the agenda may come before the Scientific and Statistical Committees for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal action during this meeting. Actions of the Scientific and Statistical Committee will be restricted to those issues specifically identified in the agenda 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 Council's intent to take-action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aid should be directed to Kathy Pereira, (813) 348–1630, at least 5 days prior to the meeting date.

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

Dated: January 30, 2026.

Becky J. Curtis,

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

[FR Doc. 2026–02196 Filed 2–2–26; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Public Meeting of the National Sea Grant Advisory Board

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

ACTION: Notice of public meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the National Sea Grant Advisory Board (Board), a Federal Advisory Committee. Board members will discuss and provide advice on the National Sea Grant College Program (Sea Grant) in the areas of program evaluation, strategic planning, education and extension, science and technology programs, and other matters as described in the agenda found on the Sea Grant website. For more information on this Federal Advisory Committee please visit the Federal Advisory Committee database: *https://www.facadatabase.gov/FACA/FACAPublicPage.*

DATES: The announced meeting is scheduled for Tuesday February 24, 2026 from 3:00 p.m.–6:00 p.m. (EST), Wednesday February 25, 2026 from 3:00 p.m.–6:00 p.m. (EST) and Thursday February 26, 2026 from 3:00 p.m.–6:00 p.m. (EST).

ADDRESSES: The meeting will be held virtually. Registration is not required. For more information about the virtual meeting see below in the ''For Further Information Contact'' section.

FOR FURTHER INFORMATION CONTACT: For any questions concerning the meeting, please contact Ms. Susan Holmes, National Sea Grant College Program. Email: *oar.sg-feedback@noaa.gov,* Phone Number (301) 734–1077.

SUPPLEMENTARY INFORMATION:

Status: The meeting will be open to public participation with a public comment period on Tuesday, February 24, 2026 at 3:10 p.m. (EST). The Board expects that public statements presented at its meetings will not be repetitive of previously submitted verbal or written statements. In general, each individual or group making a verbal presentation will be limited to a total time of three (3) minutes. Written comments should be received by Ms. Susan Holmes by Tuesday, February 17, 2026 to provide sufficient time for Board review. Written comments received after the deadline will be distributed to the Board, but may not be reviewed prior to the meeting date.

Special Accommodations: The Board meeting is virtually accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Ms. Susan Holmes by Tuesday, February 17, 2026.

The Board, which consists of a balanced representation from academia, industry, state government and citizens groups, was established in 1976 by Section 209 of the Sea Grant Improvement Act (Public Law 94–461, 33 U.S.C. 1128). The Board advises the Secretary of Commerce and the Director of the National Sea Grant College Program with respect to operations under the Act, and such other matters as the Secretary refers to them for review and advice.

Matters To Be Considered: Board members will discuss and vote on the selection of new subcommittee membership, discuss the State of Sea Grant interim report to Congress, discuss updates from Sea Grant Network Groups, and other topics that need Board feedback: *https://seagrant.noaa.gov/About/Advisory-Board.*

Nikola Garber,

Deputy Director, National Sea Grant College Program Office of Oceanic and Atmospheric Research, National Oceanic and Atmospheric Administration.

[FR Doc. 2026–02103 Filed 2–2–26; 8:45 am]

BILLING CODE 3510–KA–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XF499]

North Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of web conference.

SUMMARY: The North Pacific Fishery Management Council's (Council) Legislative Committee will meet March 2, 2026.

DATES: The Council's Legislative Committee will begin at 9 a.m. to 12 p.m. on Monday, March 2, 2026, Alaska Time.

ADDRESSES: The meeting will be held via web conference. Join online through the link at *https://meetings.npfmc.org/Meeting/Details/3125.*

Council address: North Pacific Fishery Management Council, 1007 W

3rd Ave., Suite 400, Anchorage, AK 99501–2252; telephone: (907) 271–2809. Instructions for attending the meeting via web conference are given under **FOR FURTHER INFORMATION CONTACT**, below.

FOR FURTHER INFORMATION CONTACT: Diana Evans, Council staff; email: *devans@npfmc.org;* telephone: (907) 271–2809. For technical support please contact our Council administrative staff, email: *support@npfmc.org.*

SUPPLEMENTARY INFORMATION:

Agenda

Monday, March 2, 2026

Legislative Committee Agenda

The Legislative Committee agenda will include a review of recently introduced Federal legislation regarding fisheries management, and an evaluation of potential impacts of legislation on the Council's ability to perform the functions specified in its grant, fulfill its responsibilities under the Magnuson-Stevens Act, or affect the Council's ability to conserve and manage marine resources and resource users. The agenda is subject to change, and the latest version will be posted at *https://meetings.npfmc.org/Meeting/Details/3125* prior to the meeting, along with meeting materials.

Connection Information

You can attend the meeting online using a computer, tablet, or smart phone; or by phone only. Connection information will be posted online at: *https://meetings.npfmc.org/Meeting/Details/3125.* For technical support please contact our administrative staff, email: *support@npfmc.org.*

Public Comment

Public comment letters will be accepted and should be submitted electronically through the links at *https://meetings.npfmc.org/Meeting/Details/3125.* The written comment period closes at 5 p.m. Alaska Time on Sunday, March 1, 2026.

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

Dated: January 30, 2026.

Becky J. Curtis,

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

[FR Doc. 2026–02193 Filed 2–2–26; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XF500]

Western Pacific Fishery Management Council; Public Meetings

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

ACTION: Notice of public meetings.

SUMMARY: The Western Pacific Fishery Management Council (Council) will hold its Social Science Planning Committee (SSPC) meeting to discuss and make recommendations on fishery management issues in the Western Pacific Region.

DATES: The SSPC meeting will be held on February 12, 2026, from 12 p.m. to 5 p.m., HST. See **SUPPLEMENTARY INFORMATION** for the agenda.

ADDRESSES: The SSPC meeting will be held as a hybrid meeting for members and the public, with a remote participation option available via Webex. In-person attendance will be hosted at the Council office, 1164 Bishop Street, Suite 1400, Honolulu, HI 96813.

Instructions for connecting to the web conference and providing oral public comments will be posted on the Council website at *www.wpcouncil.org.* For assistance with the web conference connection, contact the Council office at (808) 522–8220.

FOR FURTHER INFORMATION CONTACT: Kitty M. Simonds, Executive Director, Western Pacific Fishery Management Council; telephone: (808) 522–8220.

SUPPLEMENTARY INFORMATION: A public comment period will be provided in the agenda. The order in which agenda items are addressed may change. The meeting will run as late as necessary to complete scheduled business.

Agenda for the SSPC Meeting

Thursday, February 12, 2026, 12 p.m. to 5 p.m., HST

1. Welcome and Introductions
2. Approval of Agenda
3. Social, Economic, Ecological, and Management Process Review Working Group Report
4. SSPC Role Working Group Report
5. Annual Stock Assessment and Fishery Evaluation Report Human Dimensions Module Changes
6. Review of Magnuson-Stevens Fishery Conservation and Management Act Research Priorities
7. Project Updates
8. Other Business
9. Public Comment
10. Discussion and Recommendations

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Kitty M. Simonds, (808) 522–8220 (voice) or (808) 522–8226 (fax), at least 5 days prior to the meeting date.

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

Dated: January 30, 2026.

Becky J. Curtis,

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

[FR Doc. 2026–02194 Filed 2–2–26; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RTID 0648–XF476

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to National Oceanic and Atmospheric Administration Office of Marine and Aviation Operations Research Vessel Relocation at Naval Station Newport, Rhode Island

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

ACTION: Notice; issuance of incidental harassment authorization.

SUMMARY: In accordance with regulations implementing the Marine Mammal Protection Act (MMPA) as amended, notification is hereby given that NMFS has issued an incidental harassment authorization (IHA) to NOAA Office of Marine and Aviation Operations (OMAO) for authorization to take marine mammals incidental to the research vessel relocation project at Naval Station (NAVSTA) Newport, Rhode Island.

DATES: This authorization is effective from February 1, 2026 through January 31, 2027.

ADDRESSES: Electronic copies of the application and supporting documents, as well as a list of the references cited in this document, may be obtained online at: *https://www.fisheries.noaa.gov/action/incidental-take-authorization-noaa-office-marine-and-aviation-operations-research-vessel-0.* In case of problems accessing these

documents, please call the contact listed below.

FOR FURTHER INFORMATION CONTACT: Craig Cockrell, Office of Protected Resources, NMFS, (301) 427–8401.

SUPPLEMENTARY INFORMATION:

MMPA Background and Determinations

The MMPA prohibits the ''take'' of marine mammals, with certain exceptions. Among the exceptions is section 101(a)(5)(D) of the MMPA (16 U.S.C. 1361 *et seq.*) which directs the Secretary of Commerce (as delegated to NMFS) to allow, upon request, the incidental, but not intentional, taking by harassment of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and the public has an opportunity to comment on the proposed IHA.

Specifically, NMFS will issue an IHA if it finds that the taking will have a negligible impact on the species or stock(s) and will not have an unmitigable adverse impact on the availability of the species or stock(s) for taking for subsistence uses (where relevant). Further, NMFS must prescribe the permissible methods of taking and other ''means of effecting the least [practicable] adverse impact'' on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stocks for taking for certain subsistence uses (referred to here as ''mitigation''). NMFS must also prescribe requirements pertaining to the monitoring and reporting of such takings. The definitions of key terms, such as ''take,'' ''harassment,'' and ''negligible impact,'' can be found in the MMPA and the NMFS' implementing regulations (see 16 U.S.C. 1362; 50 CFR 216.103).

On December 19, 2025, a notice of NMFS' proposal to issue an IHA to OMAO for take of marine mammals incidental to the research vessel relocation project at NAVSTA Newport, Rhode Island was published in the **Federal Register** (90 FR 59507). In that notice, NMFS indicated the estimated numbers, type, and methods of incidental take proposed for each species or stock, as well as the mitigation, monitoring, and reporting measures that would be required should the IHA be issued. The **Federal Register** notice also included analysis to support NMFS' preliminary conclusions and determinations that the IHA, if issued, would satisfy the requirements of section 101(a)(5)(D) of the MMPA for issuance of the IHA. The **Federal Register** notice included web links to a draft IHA for review, as well as other supporting documents.

No comments were received during the public comment period. There are no changes to the specified activity, the species taken, the proposed numbers, type, or methods of take, or the mitigation, monitoring, or reporting measures in the proposed IHA notice. No new information that would change any of the preliminary analyses, conclusions, or determinations in the proposed IHA notice has become available since that notice was published, and therefore, the preliminary analyses, conclusions, and determinations included in the proposed IHA are considered final.

National Environmental Policy Act

To comply with the National Environmental Policy Act of 1969 (NEPA; 42 U.S.C. 4321 *et seq.*) and NAO 216–6A, NMFS must review our proposed action (*i.e.,* the issuance of an IHA) with respect to potential impacts on the human environment.

This action is consistent with categories of activities identified in Categorical Exclusion B4 (IHAs with no anticipated serious injury or mortality) of the Companion Manual for NOAA Administrative Order 216–6A, which do not individually or cumulatively have the potential for significant impacts on the quality of the human environment and for which we have not identified any extraordinary circumstances that would preclude this categorical exclusion. Accordingly, NMFS has determined that the issuance of the IHA qualifies to be categorically excluded from further NEPA review.

Endangered Species Act

Section 7(a)(2) of the Endangered Species Act of 1973 (ESA; 16 U.S.C. 1531 *et seq.*) requires that each Federal agency ensures that any action it authorizes, funds, or carries out is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of designated critical habitat. To ensure ESA compliance for the issuance of IHAs, NMFS consults internally whenever we propose to authorize take for endangered or threatened species.

No incidental take of ESA-listed species is authorized or expected to result from this activity. Therefore, NMFS has determined that formal consultation under section 7 of the ESA is not required for this action.

Authorization

Accordingly, consistent with the requirements of section 101(a)(5)(D) of the MMPA, NMFS has issued an IHA to OMAO for authorization to take marine mammals incidental to the research vessel relocation project at NAVSTA Newport, Rhode Island.

Dated: January 30, 2026.

Kimberly Damon-Randall,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2026–02168 Filed 1–30–26; 4:15 pm]

BILLING CODE 3510–22–P

U.S. INTERNATIONAL DEVELOPMENT FINANCE CORPORATION

[DFC–020]

Submission for OMB Review; Comments Request

AGENCY: U.S. International Development Finance Corporation (DFC).

ACTION: Notice of information collection; request for comment.

SUMMARY: Under the provisions of the Paperwork Reduction Act, agencies are required to publish a Notice in the **Federal Register** notifying the public that the agency is creating a new information collection for OMB review and approval and requests public review and comment on the submission. Comments are being solicited on the need for the information; the accuracy of the burden estimate; the quality, practical utility, and clarity of the information to be collected; and ways to minimize reporting the burden, including automated collected techniques and uses of other forms of technology.

DATES: Comments must be received by April 6, 2026.

ADDRESSES: Comments and requests for copies of the subject information collection may be sent by any of the following methods:

- *Mail:* Deborah Papadopoulos, Agency Submitting Officer, U.S. International Development Finance Corporation, 1100 New York Avenue NW, Washington, DC 20527.
- *Email: fedreg@dfc.gov.*

Instructions: All submissions received must include the agency name and agency form number or OMB form number for this information collection. Electronic submissions must include the agency form number in the subject line to ensure proper routing. Please note that all written comments received in response to this notice will be considered public records.

FOR FURTHER INFORMATION CONTACT: Agency Submitting Officer: Deborah Papadopoulos, (202) 357–3979.

SUPPLEMENTARY INFORMATION: This notice informs the public that DFC will submit to OMB a request for approval of the following information collection.

Summary Form Under Review

Title of Collection: Request for SAM Assistance.

Type of Review: New information collection.

Agency Form Number: DFC–020.

OMB Form Number: Not assigned, new information collection. 3015–XXXX.

Frequency: Once per investor per project.

Affected Public: Business or other for-profit; not-for-profit institutions; individuals.

Total Estimated Number of Annual Number of Respondents: 100.

Estimated Time per Respondent: 1.0 hours.

Total Estimated Number of Annual Burden Hours: 100 hours.

Abstract: DFC will use the Request for SAM Assistance form to help potential investors obtain an active *SAM.gov* registration so that they can conduct business with DFC. The collection is limited to information necessary for assistance with registration.

Lisa Wischkaemper,

Administrative Counsel, Office of the General Counsel.

[FR Doc. 2026–02134 Filed 2–2–26; 8:45 am]

BILLING CODE P

U.S. INTERNATIONAL DEVELOPMENT FINANCE CORPORATION

[DFC–012]

Submission for OMB Review; Comments Request

AGENCY: U.S. International Development Finance Corporation (DFC).

ACTION: Notice of information collection; request for comment.

SUMMARY: Under the provisions of the Paperwork Reduction Act, agencies are required to publish a Notice in the **Federal Register** notifying the public that the agency is renewing an existing information collection for OMB review and approval and requests public review and comment on the submission. Comments are being solicited on the need for the information; the accuracy of the burden estimate; the quality, practical utility, and clarity of the information to be collected; and ways to minimize reporting the burden, including automated collected techniques and uses of other forms of technology.

DATES: Comments must be received by April 6, 2026.

ADDRESSES: Comments and requests for copies of the subject information collection may be sent by any of the following methods:

- *Mail:* Deborah Papadopoulos, Agency Submitting Officer, U.S. International Development Finance Corporation, 1100 New York Avenue NW, Washington, DC 20527.
- *Email: fedreg@dfc.gov.*

Instructions: All submissions received must include the agency name and agency form number or OMB form number for this information collection. Electronic submissions must include the agency form number in the subject line to ensure proper routing. Please note that all written comments received in response to this notice will be considered public records.

FOR FURTHER INFORMATION CONTACT: Agency Submitting Officer: Deborah Papadopoulos, (202) 357–3979.

SUPPLEMENTARY INFORMATION: This notice informs the public that DFC will submit to OMB a request for approval of the following information collection.

Summary Form Under Review

Title of Collection: Economic Questionnaire.

Type of Review: Extension without change of a currently approved information collection.

Agency Form Number: DFC–012.

OMB Form Number: 3015–0001.

Frequency: Per request of investor.

Affected Public: Business or other for-profit institutions.

Total Estimated Number of Annual Number of Respondents: 20.

Estimated Time per Respondent: 0.5 hours.

Total Estimated Number of Annual Burden Hours: 10 hours.

Abstract: The DFC Economic Questionnaire is provided to DFC investors to complete information for planned revenues and exports of goods. The resulting answers determine the sector of analysis to assess risk to the U.S. economy of DFC support for a project.

Lisa Wischkaemper,

Administrative Counsel, Office of the General Counsel.

[FR Doc. 2026–02133 Filed 2–2–26; 8:45 am]

BILLING CODE 3210–02–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2025–SCC–0910]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Trends in International Mathematics and Science Study (TIMSS 2027) Main Study International Questionnaire

AGENCY: National Center for Education Statistics (NCES), Institute of Education Sciences (IES), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act (PRA) of 1995, the Department is proposing a revision of a currently approved information collection request (ICR).

DATES: Interested persons are invited to submit comments on or before March 5, 2026.

ADDRESSES: Written comments and recommendations for proposed information collection requests should be submitted within 30 days of publication of this notice. Click on this link *www.reginfo.gov/public/do/PRAMain* to access the site. Find this information collection request (ICR) by selecting ''Department of Education'' under ''Currently Under Review,'' then check the ''Only Show ICR for Public Comment'' checkbox. *Reginfo.gov* provides two links to view documents related to this information collection request. Information collection forms and instructions may be found by clicking on the ''View Information Collection (IC) List'' link. Supporting statements and other supporting documentation may be found by clicking on the ''View Supporting Statement and Other Documents'' link.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Matt Soldner, 202–453–7441.

SUPPLEMENTARY INFORMATION: The Department is especially interested in public comment addressing the following issues: (1) is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in

response to this notice will be considered public records.

Title of Collection: Trends in International Mathematics and Science Study (TIMSS 2027) Main Study International Questionnaire.

OMB Control Number: 1850–0695.

Type of Review: A revision of a currently approved ICR.

Respondents/Affected Public: Individuals; State, Local, and Tribal Governments.

Total Estimated Number of Annual Responses: 19,236.

Total Estimated Number of Annual Burden Hours: 8,047.

Abstract: The Trends in International Mathematics and Science Study (TIMSS), conducted by the National Center for Education Statistics (NCES), within the U.S. Department of Education (ED), is an international assessment of fourth and eighth grade students' achievement in mathematics and science. Since its inception in 1995, TIMSS has continued to assess students every 4 years. The next TIMSS assessment, TIMSS 2027, will be the ninth iteration of the study. The United States will participate in TIMSS 2027 to continue to monitor the progress of its students compared to that of other nations and to provide data on factors that may influence student achievement.

TIMSS is led by the International Association for the Evaluation of Educational Achievement (IEA), an international collective of research organizations and government agencies that create the frameworks used to develop the assessment, the survey instruments, and the study timeline. IEA decides and agrees upon a common set of standards, procedures, and timelines for collecting and reporting data, all of which must be followed by all participating countries. As a result, TIMSS can provide a reliable and comparable measure of student skills in participating countries. In the U.S., NCES conducts this study in collaboration with the IEA and contractors to ensure proper implementation of the study and adoption of practices in adherence to the IEA's standards. Participation in TIMSS is consistent with NCES's mandate of acquiring and disseminating data on educational activities and student achievement in the United States compared with foreign nations [The Educational Sciences Reform Act of 2002 (ESRA 2002, 20 U.S.C. 9543)].

Because TIMSS is a collaborative effort among many parties, the United States must adhere to the international schedule set forth by the IEA, including the availability of final field test and main study plans as well as draft and final questionnaires. Recruitment activities for the main study are expected to begin in May 2026, with the data collection activities currently scheduled to begin in March 2027.

This package solicits 30 days of public comment and requests OMB approval for the final international version of the main study questionnaires. Adaptation activities to fit the questionnaire text into the U.S. education context are currently underway. The U.S. questionnaires for the main study will be submitted via non-substantive change request in January 2027.

Ross Santy,

Chief Data Officer, Office of Planning, Evaluation and Policy Development.

[FR Doc. 2026–02127 Filed 2–2–26; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Applications for New Awards; Office of Indian Education Formula Grants to Local Educational Agencies and Tribes

AGENCY: Office of Elementary and Secondary Education, Department of Education.

ACTION: Notice.

SUMMARY: The Department of Education (Department) is issuing a notice inviting applications for new awards for fiscal year (FY) 2026 for Office of Indian Education (OIE) Formula Grants to Local Educational Agencies (LEAs) and Tribes (Formula Grants).

DATES:

Electronic Application System for Indian Education (EASIE) transmittal deadlines:

Part I Open: February 2, 2026.

Part I Closes: March 6, 2026, 11:59 p.m., Eastern Time.

Part II Open: March 30, 2026.

Part II Closes: May 11, 2026, 11:59 p.m., Eastern Time.

FOR FURTHER INFORMATION CONTACT: Donna Bussell, U.S. Department of Education, 400 Maryland Avenue SW, Washington, DC 20202–6335. Telephone: (202) 987–0204. Email: *donna.bussell@ed.gov.*

For technical questions, contact the Partner Support Center (PSC). Telephone: 877–457–3336. Email: *OIE.EASIE@ed.gov.*

If you are deaf, hard of hearing, or have a speech disability and wish to access telecommunications relay services, please dial 7–1–1.

SUPPLEMENTARY INFORMATION:

Full Text of Announcement

Note: To be eligible for a Formula Grant, all applicants must submit all required documentation described under *Content and Form of Application Submission* in section IV of this notice before the EASIE Part I and Part II transmittal deadlines.

I. Funding Opportunity Description

Purpose of Program: The Formula Grants program provides support to LEAs and Indian Tribes in developing elementary school and secondary school programs for all Indian students. Program funding must be used to support comprehensive programs that are designed to meet cultural, language, and academic needs of Indian students and ensure they meet State academic standards. LEAs must develop projects with the participation and written approval of an Indian Parent Committee (IPC) and develop meaningful consultation and ongoing collaboration with nearby Indian Tribes.

Assistance Listing Number (ALN): 84.060A.

OMB Control Number: 1810–002.

Table 1 outlines the required assurances for each proposed project. These assurances must be developed through open consultation and active participation with stakeholders, include written approval from the Indian Parent Committee, undergo review by the State Education Agency. Additionally, Table 1 identifies the Local Education Agencies (LEAs) that are required to meaningful collaborate with Tribes and those who also must consult with Tribes.

TABLE 1—STAKEHOLDER ENGAGEMENT REQUIREMENTS

Elementary and Secondary Education Act (ESEA) requirement	Stakeholders involved	Applicable eligible entity
Proposed projects must be developed by the LEA in open consultation including public hearings (ESEA section 6114(c)(3)).	• Parents of Indian children; • Teachers of Indian children; • Tribal representatives within 50 miles of schools with enrolled Tribal children; • Indian organizations; and • Indian students from secondary schools (if appropriate) • Must provide stakeholders a full opportunity to understand the program and offer recommendations.	All Applicants.
Proposed projects must be developed with the participation and have written approval of a committee (ESEA section 6114(c)(4)).	Indian Parent Committee Approval • Parents and family members of Indian children (must be majority of the committee); • Tribal representatives within 50 miles of schools with enrolled children from the Indian Tribe; • Teachers in the schools; and • Indian students from secondary schools (if appropriate)	LEA applicants only.
Proposed projects must be developed with the review of the State Education Agency (SEA) Review, (ESEA section 6119).	• Before submitting an application to the Department, LEA applicants shall submit a copy the application to the SEA for review; • SEA may comment on application; and • If the SEA comments, the SEA shall provide LEAs with an opportunity to respond;	LEA applicants only.

Integration of Services Authorized: As authorized under ESEA section 6116, the Secretary will, upon receipt of an acceptable plan for the integration of education and related services, and in cooperation with Federal agencies, authorize the entity receiving the funds under this program to consolidate all Federal funds that are to be used exclusively for Indian students. Instructions for submitting an integration of education and related services plan are described under *Application and Submission Information* in section IV of this notice.

Definitions: The following definitions apply to this application period. The definition of ''Indian'' is from ESEA section 6151(3). The definition of ''Indian Community-Based Organization'' is from ESEA section 6112(d)(3).

Indian means an individual who is:

(1) a member of an Indian Tribe or band, as membership is defined by the Tribe or band, including—

(a) any Tribe or band terminated since 1940; and

(b) any tribe or band recognized by the State in which the tribe or band resides;

(2) a descendant, in the first or second degree, of an individual described in subparagraph (a);

(3) considered by the Secretary of the Interior to be an Indian for any purpose;

(4) an Eskimo, Aleut, or other Alaska Native; or

(5) a member of an organized Indian group that received a grant under the Indian Education Act of 1988 as in effect the day preceding the date of enactment of the Improving America's Schools Act of 1994.

Indian Community-Based Organization (ICBO) means any organization that—

(1) is composed primarily of Indian parents, family members, and community members, Tribal government education officials, and Tribal members, from a specific community;

(2) assists in the social, cultural, and educational development of Indians in such community;

(3) meets the unique cultural, language, and academic needs of Indian students; and

(4) demonstrates organizational and administrative capacity to manage the grant.

Statutory Hiring Preference: All formula grants are subject to the Indian Self-Determination and Education Assistance Act (ISDEAA), section 7(b) of ISDEAA (25 U.S.C. 5307(b)) requires any contract, subcontract, or grant for the benefit of Indians, shall to the greatest extent feasible—

(1) give preferences and opportunities for training and employment in connection with the administration of such contracts or grants to Indians; and

(2) give preference in the award of subcontracts in connection with the administration of such contracts or grants to Indian Organizations and to Indian-owned economic enterprises as defined in section 3 of the Indian Financing Act of 1974 (25 U.S.C. 1452(e)).

For purposes of this requirement, ''Indian'' is defined under 25 U.S.C. 1452(b).

Program Authority: 20 U.S.C. 7421, *et seq.*

Note: Projects will be awarded and must be operated in a manner consistent with the nondiscrimination requirements contained in Federal civil rights laws.

Applicable Regulations: (a) The Education Department General Administrative Regulations in 34 CFR parts 75, 77, 81, 82, 84, 97, 98, and 99. (b) The Office of Management and Budget Guidelines to Agencies on Governmentwide Debarment and Suspension (Non-procurement) in 2 CFR part 180, as adopted and amended as regulations of the Department in 2 CFR part 3485. (c) The Guidance for Federal Financial Assistance in 2 CFR part 200, as adopted and amended as regulations of the Department in 2 CFR part 3474.

II. Award Information

Type of Award: Formula grants.

Estimated Available Funds: The Administration requested $110,381,000 for the Formula Grants program for FY 2026. The actual level of funding, if any, depends on final congressional action. However, we are inviting applications to allow enough time to complete the grant process if Congress appropriates funds for this program.

Estimated Range of Awards: $4,000 to $2,400,000.

Estimated Average Size of Awards: $85,000.

Estimated Number of Awards: 1,250.

Note: The Department is not bound by any estimates in this notice.

Project Period: 12 months.

III. Eligibility Information

1. Eligible Applicants: Entities eligible under this program include certain LEAs (including charter schools authorized as LEAs under State law), BIE-funded schools, Tribes and Tribal organizations, ICBOs, and consortia of two or more eligible entities, as prescribed by ESEA sections 6112–6113. See Table 2 for detailed eligibility requirements by entity type. Applicants can confirm their eligibility in Part I of the EASIE application.

TABLE 2—ELIGIBLE APPLICANTS

ESEA requirement	Eligible entity	Requirements for consideration of entity
ESEA section 6112(a)(1)	Local Educational Agencies (LEAs).	• Must develop application with participation and written approval of an Indian Parent Committee (IPC). • Charter schools authorized as LEAs under State law are eligible. • For an LEA that selects a schoolwide application, identify how the use of such funds in a schoolwide program will produce benefits to Indian students that would not be achieved if the funds were not used in a schoolwide program (ESEA section 6115(c)(3));
ESEA section 6112(a)(2)	Indian Tribes	• May apply in lieu of an LEA, if the LEA does not establish an IPC. • Must represent more than 50 percent of the eligible Indian children who are served by the LEA. • Not required to maintain an IPC. (ESEA section 6114 (c)(4)). • Not required to describe process used to meaningfully collaborate with Indian Tribes. (ESEA section 6114 (b)(7)). • Not subject to Maintenance of Effort (MOE) requirements. • Not subject to SEA review requirements. • Must provide assurance that the Indian Tribe will use grant funds to provide services to all Indian students in the LEA.
ESEA section 6112(a)(3)	Indian Organizations (IOs)	• May apply in lieu of an LEA, if the LEA does not establish an Indian Parent Committee (IPC). • Must represent more than 50 percent of the eligible Indian children who are served by the LEA. • Not required to maintain an IPC. • Not required to describe process used to meaningfully collaborate with Indian Tribes. • Not subject to Maintenance of Effort (MOE) requirements. • Not subject to SEA review requirements. • Must provide assurance that the Indian Organization will use grant funds to provide services to all Indian students in the LEA.
ESEA section 6112(a)(4)	Consortia of two or more LEAs, Indian Tribes, Indian Organizations, or Indian Community-Based Organizations.	• Provide an assurance that the eligible Indian children served by the LEA will receive the services of the programs funded; and • Consortia is subject to all the requirements, assurances, and obligations applicable to LEAs. • Participating Indian Tribes and Indian Organizations are not subject to SEA review requirements.
ESEA section 6112(a)(5)	Indian Community-Based Organizations (ICBOs).	• Cannot apply if an LEA, Indian Tribe, or a consortia of LEAs or Indian Tribes apply on behalf of the particular community. • Provide an assurance that the eligible Indian children served by the ICBO will receive the services of the programs funded; and • Not required to maintain an IPC. • Not required to describe process used to meaningfully collaborate with Indian Tribes. • Not subject Maintenance of Effort (MOE) requirements.
ESEA section 6113(d)	Bureau of Indian Education (BIE) Schools.	• Must be a BIE operated school; or • Must be a Tribally controlled school under the Indian Self-Determination Act or the Tribally Controlled Schools Act of 1988 (Pub. L. 100–297).

2. a. *Cost Sharing or Matching:* This program does not require cost sharing or matching.

b. *Supplement Not Supplant:* ESEA section 6114(c)(1) requires an LEA to use these grant funds only to supplement the funds that, in the absence of these Federal funds, such agency would make available for services described in this application, and not to supplant such funds.

c. *Indirect Cost Rate Information:* This program uses a restricted indirect cost rate. For more information regarding restricted indirect costs, or to obtain a negotiated restricted indirect cost rate, please see: *https://www.ed.gov/about/ed-offices/ofo/ocfos-financial-improvement-post-audit-operations.*

d. *Administrative Cost Limitation:* Under ESEA section 6115(d), no more than five percent of funds awarded for a grant under this program may be used for administrative purposes. Note that, since fiscal year 2020, Congress has included language in appropriations acts to specify that the statutory 5 percent limit does not include indirect costs. In the event such language is not included in the FY 2026 appropriations act, the Department will work with successful applicants to make budget adjustments to align with administrative cost restrictions, if necessary.

IV. Application and Submission Information

1. *How to Request an Application Package:* You can obtain an entity-specific link for EASIE by contacting PSC listed under **FOR FURTHER INFORMATION CONTACT.**

Upon request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**, individuals with disabilities can obtain this document and a copy of the application package in an accessible format. The Department will provide the requestor with an accessible format that may include Rich Text Format (RTF) or text format (txt), a thumb drive, an MP3 file, braille, large print, audiotape, compact disc, or other accessible format.

2. *Content and Form of Application Submission:* Application requirements such as agreements, forms, and technical assistance resources are located on the EASIE Communities of Practice website at *https://easie.communities.ed.gov/.*

Note: The Department will provide support to applicants with accessing, navigating, and entering data and submitting their responses into *https://www.connect.gov/.* Prior to the opening of EASIE Part I, this documentation will be announced and posted on the EASIE Communities of Practice website at: *https://easie.communities.ed.gov/.*

Applicants will be provided an entity-specific link (also known as a token) to access EASIE via *https://www.connect.gov/.* Only individuals that are registered as the current Point of Contact (POC), Project Director (PD), or Authorized Official Representative (AOR) will receive the entity-specific link to access the application for EASIE Parts I and II.

Supplementary Documentation: EASIE requires submission of the following supplementary documentation in electronic Portable Document Format (PDF):

(1) Applicants that are applying as Indian Tribes, IOs, or ICBOs must submit the ''Applying in Lieu of the LEA'' agreement form with their application to verify their eligibility no later than the EASIE Part I close date. The evidence of eligibility forms are available on the EASIE Communities of Practice website (*https://easie.communities.ed.gov/*) as downloadable documents.

(2) Consortia applicants, specifically the lead applicant, must submit a consortium agreement no later than the EASIE Part I close date.

(3) LEA applicants, including LEA consortia applicants, must submit an Indian Parent Committee Approval form no later than the EASIE Part II close date.

3. *Submission Dates and Times:*

EASIE transmittal deadlines:

Part I Opens: February 2, 2026.

Part I Closes: March 6, 2026, 11:59 p.m., Eastern Time.

Part II Opens: March 30, 2026.

Part II Closes: May 11, 2026, 11:59 p.m., Eastern Time.

For information about how to submit your application, please refer to *Other Submission Requirements* in section IV of this notice. Individuals with disabilities who need accommodation or auxiliary aid in connection with the application process should contact the person listed under **FOR FURTHER INFORMATION CONTACT**. If the Department provides accommodation or auxiliary aid to an individual with a disability in connection with the application process, the individual's application remains subject to all other requirements and limitations in this notice.

4. *Intergovernmental Review:* This program is not subject to Executive Order 12372 and the regulations in 34 CFR part 79.

5. *Unique Entity Identification (UEI) Number, Taxpayer Identification Number, and System for Award Management:* To do business with the Department, you must—

a. Have a Unique Entity Identification (UEI) number and a Taxpayer Identification Number (TIN);

b. Register both your UEI number and TIN with the System for Award Management (SAM), the Government's primary registrant database;

c. Provide your UEI number and TIN on your SAM application; and

d. Maintain an active SAM registration with current information while your application is under review by the Department and, if you are awarded a grant, during the project period.

You can obtain a UEI number from *SAM.gov* at the following website: *https://sam.gov/.* A UEI number can be created within one to two business days.

If you are a corporate entity, agency, institution, or organization, you can obtain a TIN from the Internal Revenue Service. If you are an individual, you can obtain a TIN from the Internal Revenue Service or the Social Security Administration. If you need a new TIN, please allow two to five weeks for your TIN to become active.

The SAM registration process can take approximately seven business days but may take upwards of several weeks. Applicants should allow sufficient time to obtain and register your UEI number and TIN.

If you are currently registered with SAM, you may not need to make any changes. However, please make certain that the TIN associated with your UEI number is correct. Also note that you will need to update your registration annually. This may take three or more business days.

Information about SAM is available at *https://sam.gov/.* To further assist you with obtaining and registering your UEI number and TIN in SAM or updating your existing SAM account, we have prepared a *SAM.gov* Tip Sheet, which you can find here: *https://sam.gov/content/duns-uei.*

Other Submission Requirements:

Electronic Submission of Applications

EASIE is an electronic application within *Connect.gov* that users access via an entity-specific link or ''token'' is divided into two parts: EASIE Part I (Indian Student Count) and EASIE Part II (Project Design and Budget). All applicants must document eligible Indian students during the count period and ensure that all individual data collected shall be protected and only aggregate data shall be reported to the Department. See Table 3 and Table 4 for more information about the type of information that is required in EASIE Part I and EASIE Part II, respectively.

TABLE 3—EASIE PART I: STUDENT COUNT AND ELIGIBILITY

ESEA requirement	Requirement element	Requirement description
ESEA section 6117(b)	Indian Student Eligibility Certification Form (ED 506).	• Name of the Indian Tribe to which the child claims membership; or • Name of the parent or grandparent of the child from whom the child claims eligibility, if the child is not a member of the Indian Tribe. • Notation that the Indian Tribe claimed is federally recognized. • Name and address of the parent or legal guardian. • Signature of parent or legal guardian to verify the accuracy of the information.
ESEA section 6117(d)	Types of Proof	• If enrollment numbers are not available, eligibility may be established by proof other than an enrollment number from the Tribe. • Duplicate forms are prohibited, once an Indian child is determined eligible, the form shall follow the Indian child and each LEA shall maintain a record of determination.
ESEA section 6117(f)	BIE Schools	• BIE schools may use their most current Indian Student Equalization Program (ISEP) count; or • A count that complies with the requirements of the ED 506 Form.
ESEA section 6117(g)	Timing of the Indian Student Count (ISC)	• Establish 31 consecutive days ''ISC count period'' which the applicant will count Indian children before the close of Part I. • Determine that each counted Indian child was enrolled at least one day during such ISC count period.

In EASIE Part II, all applicants will be prompted to select the type of program being submitted: regular formula grant project, a schoolwide program, or integration of services. Applicants must design a comprehensive program as outlined in Table 4 below:

TABLE 4—EASIE PART II: PROJECT DESIGN AND BUDGET

ESEA requirement	Requirement element	Requirement description
ESEA section 6114	Comprehensive Program Required.	• Describe how the program will offer activities to meet culturally related academic needs of Indian students. • Align with State, Tribal, and Local plans funded under the ESEA. • Include project objectives and outcomes for activities based on State academic standards. • Explain how funds will be used to supplement and coordinate with other federal, state, and local programs. • Demonstrate how funds will be used for authorized services and activities. • Describe the professional development that will be provided to ensure that all teachers and other school professionals are prepared to work with Indian children and are properly trained. • Describe how the LEA will periodically assess the program of all Indian children, including Indian children who do not participate in the project. Further, how the LEA will provide the results of each assessment to the IPC and Indian Tribes consistent with the Family Educational Rights and Privacy Act (FERPA). • Describe the process to meaningfully collaborate with Indian Tribes in a timely, active, and ongoing manner in developing the comprehensive program and the actions taken as a result of the collaboration.
ESEA section 6115(b)	Authorized Services and Activities.	• Activities that support Native American Language programs and restoration programs may be taught by traditional leaders. • Culturally related activities that support the project design. • Early childhood and family programs that emphasize school readiness. • Enrichment programs that focus on problem solving and cognitive skill development. • Promotion of parental involvement in school activities. • Career preparation activities such as tech-prep education, mentoring, and apprenticeship. • Prevention of violence, suicide, and substance abuse. • Acquisition of equipment, only if the acquisition is essential to achieve the purpose of meeting the unique cultural, language, and educational needs of Indian students. • Activities that promote the incorporation of culturally responsive teaching and learning. • Family literacy services. • Incorporate appropriately qualified tribal elders and seniors. • Dropout prevention strategies. • Strategies to meet the education needs of at-risk Indian students in correctional facilities, including transferring from such facilities.
ESEA section 6115(c)	Schoolwide Programs	• LEA may use funds to support a schoolwide program if the IPC approves; is consistent with the purpose of the Indian Education formula program; and the LEA identifies in the application how the use of funds will produce benefits to Indian children that would not be achieved if not used in a schoolwide program.
ESEA section 6115(e)	Long-distance Travel Prohibited.	• Funds may not be used for long-distance travel expenses for training activities that are available locally or regionally.
General Education Provisions Act (GEPA) 20 U.S.C. § 1228a.	Equal Access to Overcome Barriers.	• Project will ensure access to and participation in activities that address the unique cultural, language, and educational needs of Indian students, teachers, and other program beneficiaries as defined in the Elementary and Secondary Education Act (ESEA) as amended.

Registration for Formula Grant EASIE: All applicants interested in submitting a Formula Grant application must register for EASIE. Prior to the opening of EASIE Part I, PSC will send a broadcast to prior year grantees and new prospective applicants that have contacted PSC and registered for EASIE. All recipients who receive PSC's broadcast will be asked to complete their intent to apply for the upcoming application period in the EASIE Portal. All applicants will be provided the opportunity to confirm if any updates to their registration information are necessary, or if they would like to decline registration. Entities that do not have an active registration or are new applicants should contact the PSC listed under **FOR FURTHER INFORMATION CONTACT** to register any time before the EASIE Part I application transmittal deadline. Registration does not serve as the entity's grant application. For assistance registering, contact the PSC listed under **FOR FURTHER INFORMATION CONTACT**.

Certification for Formula Grant EASIE: The *Authorized Official Representative (AOR)* must certify EASIE Parts I and II by the respective deadlines. Each applicant should identify at least three system users, one for each of the following: Project Director, AOR, and another party (such as a Budget Director) designated to answer questions in the event the project director is unavailable. The certification process ensures that the information in the application is true, reliable, and valid. An applicant that provides a false statement in the application is subject to penalties under the False Claims Act, 18 U.S.C. 1001.

V. Grant Administration Information

1. *Risk Assessment and Specific Conditions:* Consistent with 2 CFR 200.206, before awarding grants under this program the Department conducts a review of the risks posed by applicants. Under 2 CFR 200.208, the Secretary may impose specific conditions and, under 2 CFR 3474.10, in appropriate circumstances, high-risk conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 2 CFR part 200, subpart D; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of a grant in the *Applicable Regulations* section of this notice and include these and other specific conditions in the Grant Award Notification (GAN). The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Reporting:* (a) If you apply for a grant under this program, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) You must submit a final annual performance report (APR) using EASIE, including financial information, as directed by the Secretary, within 120

days after the close of the grant year. Grantees will be able to access the APR via EASIE prior to the system being open to users. Grantees will receive an email from the PSC identifying the date that the APR will be available to grantees and the deadline for its transmission.

4. *Performance Measures:* For the purposes of Department reporting under 34 CFR 75.110, the Secretary has established the following key performance measures for assessing the effectiveness and efficiency of the Formula Grants program: (1) the percentage of AIAN students in grades four and eight who score at or above the basic level in reading on the National Assessment of Educational Progress (NAEP); (2) the percentage of AIAN students in grades four and eight who score at or above the basic level in mathematics on the NAEP; (3) the percentage of Indian students in grades three through eight meeting State achievement standards by scoring at or above the proficient level in reading and mathematics on State assessments; (4) the difference between the percentage of AIAN students in grades three through eight at or above the proficient level in reading and mathematics on State assessments and the percentage of all students scoring at those levels; and (5) the percentage of Indian students who graduate from high school as measured by the 4 year adjusted cohort graduation rate. The Department will report data for these measures from administrative data sources; grantees do not need to report data for these measures.

5. *Integrity and Performance System:* If you receive an award under this grant program that over the course of the project period may exceed the simplified acquisition threshold (currently $250,000), under 2 CFR 200.206(a)(2) we must make a judgment about your integrity, business ethics, and record of performance under Federal awards—that is, the risk posed by you as an applicant—before we make an award. In doing so, we must consider any information about you that is in the integrity and performance system (currently referred to as the Federal Awardee Performance and Integrity Information System (FAPIIS)), accessible through *https://sam.gov/*. You may review and comment on any information about yourself that a Federal agency previously entered and that is currently in FAPIIS.

Please note that if the total value of your currently active grants, cooperative agreements, and procurement contracts from the Federal Government exceeds $10,000,000, the requirements in 2 CFR part 200, Appendix XII, require you to report certain integrity information to FAPIIS semiannually. Please review the requirements in 2 CFR part 200, Appendix XII, if this grant plus all the other Federal funds you receive exceed $10,000,000.

VI. Other Information

Accessible Format: On request to the PSC listed under **FOR FURTHER INFORMATION CONTACT**, individuals with disabilities can obtain this document and a copy of the application package in an accessible format. The Department will provide the requestor with an accessible format that may include Rich Text Format (RTF) or text format (txt), a thumb drive, an MP3 file, braille, large print, audiotape, compact disc, or other accessible format.

Electronic Access to This Document: The official version of this document is published in the **Federal Register**. You may access the official edition of the **Federal Register** and the Code of Federal Regulations at *www.govinfo.gov*. At this site, you can view this document, as well as other Department documents published in the **Federal Register**, in text or PDF. To use PDF, you must have Adobe Acrobat Reader, which is available free at the site.

You may also access Department documents published in the **Federal Register** by using the article search feature at: *www.federalregister.gov*.

Kirsten Baesler,

Assistant Secretary, Office of Elementary and Secondary Education.

[FR Doc. 2026–02178 Filed 2–2–26; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Application Deadline for Fiscal Year 2026 New Awards; Small, Rural School Achievement Program

AGENCY: Office of Elementary and Secondary Education, Department of Education.

ACTION: Notice.

SUMMARY: Under the Small, Rural School Achievement (SRSA) program, the U.S. Department of Education (Department) awards grants on a formula basis to eligible local educational agencies (LEAs) to address the unique needs of rural school districts. In this notice, we establish the deadline and describe the application process for the fiscal year (FY) 2026 SRSA grant.

All LEAs eligible for FY 2026 SRSA funds must apply electronically via the process described in this notice by the deadline listed below.

DATES:

Applications Available: April 13, 2026.

Deadline for Transmittal of Applications: May 18, 2026.

Application Technical Assistance: The Department will announce via email application technical assistance opportunities for applicants when the application becomes available.

FOR FURTHER INFORMATION CONTACT: Victoria Hammer, Rural Education Achievement Program (REAP), U.S. Department of Education, 400 Maryland Avenue SW, Washington, DC 20202. Telephone: (202) 401–0039. Email: *reap@ed.gov*.

If you are deaf, hard of hearing, or have a speech disability and wish to access telecommunications relay services, please dial 7–1–1.

SUPPLEMENTARY INFORMATION:

Assistance Listing Number: 84.358A.

OMB Control Number: 1810–0646.

I. Award Information

Type of Award: Formula grant.

Available Funds: The President's FY 2026 budget proposed consolidating SRSA into a new, Simplified Funding Program. We are inviting applications to allow enough time to complete the grant process if Congress appropriates funds for this program.

Estimated Range of Awards: $100–$80,000.

Note: The amount of an LEA's award depends on the number and makeup of eligible LEAs that complete the SRSA application, and the amount Congress appropriates for the program. Some eligible LEAs may receive an SRSA allocation of $0 due to the statutory funding formula and, in that case, will not be invited to submit an application.

Estimated Number of Awards: 4,300.

II. Eligibility Information

Eligibility: For FY 2026, an LEA (including a public charter school that meets the definition of LEA in section 8101(30) of the ESEA) is eligible for an award under the SRSA program if it meets both of the criteria below:

(a) The total number of students in average daily attendance at all of the schools served by the LEA is fewer than 600, or each county in which a school served by the LEA is located has a total population density of fewer than 10 persons per square mile; and

(b) All of the schools served by the LEA are designated with a school locale code of 41, 42, or 43 by the Department's National Center for Education Statistics (NCES), or the Secretary has determined, based on a demonstration by the LEA and

concurrence of the State educational agency, that the LEA is located in an area defined as rural by a governmental agency of the State.

The Department provides an eligibility spreadsheet listing each LEA eligible to apply for FY 2026 SRSA funds. The spreadsheet will be available on the Department's website at: *https://www.ed.gov/grants-and-programs/formula-grants/rural-and-insular-areas/small-rural-school-achievement-program#srsa-eligibility.*

If an LEA on the Department's spreadsheet of LEAs eligible to apply for an FY 2026 SRSA award will close prior to the 2026–2027 school year, that LEA is not eligible to receive an FY 2026 SRSA award and should not apply.

Note: The ''Choice of Participation'' provision under section 5225 of the ESEA gives an LEA eligible for both SRSA and the Rural and Low-Income School (RLIS) program, which is authorized under title V, part B, subpart 2 of the ESEA, the option to participate in either the SRSA program or the RLIS program. 20 U.S.C. 7351d. An LEA eligible for both SRSA and RLIS is henceforth referred to as a ''dual-eligible LEA.'' The Department will consider a dual-eligible LEA's SRSA application as the LEA's indication that it chooses to receive SRSA funds instead of RLIS funds.

III. Application Information

Eligible LEAs Required to Submit an Application

Each LEA interested in and eligible to receive an SRSA award must submit an SRSA application regardless of whether the LEA received an award or submitted an application in a previous year. For example, if a rural community has two distinct LEAs—one composed of its elementary school(s) and one composed of its high school(s)—each distinct LEA must submit its own SRSA application. This requirement applies to all eligible LEAs, including each dual-eligible LEA that chooses to participate in the SRSA program instead of the RLIS program and each SRSA-eligible LEA that is a member of an educational service agency (ESA) that does not receive SRSA funds on the LEA's behalf. In the case of an SRSA-eligible LEA that is a member of an SRSA-eligible ESA, the LEA and ESA must coordinate directly with each other to determine which entity will submit an SRSA application on the LEA's behalf, as both entities may not apply for or receive SRSA funds for the LEA.

Notice of UEI Requirement

As required by 2 CFR part 25, Appendix A, entities receiving funds from the Federal government, including SRSA-eligible LEAs that apply for an SRSA award, must maintain current entity information in the System for Award Management (SAM). SAM is the Federal government's primary registrant database and is managed by the General Services Administration, not the Department. The UEI, a 12-character alphanumeric code, is the primary means of entity identification for Federal awards. An LEA without a UEI may not receive an SRSA award until it has obtained and registered a UEI.

Electronic Submission of Applications Using Connect.gov

The Department will send an email with a unique application link to each LEA that is eligible and estimated to receive a positive allocation (*i.e.,* an estimated amount greater than $0.00) for an FY 2026 SRSA grant award. The email will include detailed instructions for completing the electronic application. The application is estimated to take 30 minutes to complete.

An eligible LEA must submit an electronic application via *Connect.gov* to be assured of receiving an FY 2026 SRSA grant award. The Department may consider applications submitted after the deadline to the extent practicable and contingent upon the availability of funding.

Application Deadline Date Extension in Case of Technical Issues

If you are unable to submit an application by the due date, because of technical issues, contact the Department by emailing *reap@ed.gov* within five business days of the application deadline and provide an explanation of the technical problem you experienced. The late application will be accepted as having met the deadline if the Department can confirm that a technical issue occurred with the *Connect.gov* system that affected your ability to submit the application by the deadline. As noted above, if you submit the application after the deadline and the late submission is not due to a technical issue about which you have notified the Department, the Department may consider your application to the extent practicable and contingent upon the availability of funding.

V. Accessibility Information and Program Authority

Accessible Format: Upon request to the REAP Group Leader (using the email or phone number provided in the **FOR FURTHER INFORMATION CONTACT** section above), individuals with disabilities can obtain this document and a copy of the application package in an accessible format. The Department will provide the requestor with an accessible format that may include Rich Text Format (RTF) or text format (txt), a thumb drive, an MP3 file, braille, large print, audiotape, compact disc, or other accessible format.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. You may access the official edition of the **Federal Register** and the Code of Federal Regulations at *https://www.govinfo.gov/.* At this site you can view this document, as well as all other Department documents published in the **Federal Register**, in text or Portable Document Format (PDF). To use PDF, you must have Adobe Acrobat Reader, which is available free at the site.

Program Authority: Sections 5211–5212 of the ESEA, 20 U.S.C. 7345–7345a.

Kirsten Baesler,

Assistant Secretary, Office of Elementary and Secondary Education.

[FR Doc. 2026–02186 Filed 2–2–26; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG26–142–000.

Applicants: Atlas Solar IV, LLC.

Description: Atlas Solar IV, LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.

Filed Date: 1/29/26.

Accession Number: 20260129–5397.

Comment Date: 5 p.m. ET 2/19/26.

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

Docket Numbers: ER10–1827–014; ER18–2264–015; ER19–2462–013.

Applicants: Macquarie Energy LLC, Macquarie Energy Trading LLC, Cleco Power LLC.

Description: Notice of Non-Material Change in Status of Cleco Power LLC, et al.

Filed Date: 1/27/26.

Accession Number: 20260127–5308.

Comment Date: 5 p.m. ET 2/17/26.

Docket Numbers: ER11–2692–000.

Applicants: ASC Energy Services, Inc.

Description: Notice of Cancellation of Market Based Rate Tariff of ASC Energy Services, Inc.

Filed Date: 1/28/26.

Accession Number: 20260128–5331.
Comment Date: 5 p.m. ET 2/18/26.

Docket Numbers: ER12–2510–014; ER15–2014–011; ER22–1566–006; ER12–2512–014; ER19–481–007; ER18–2252–006; ER15–2022–010; ER17–1847–001; ER15–2026–010; ER23–2941–001; ER15–2013–017; ER23–2943–001.

Applicants: Talen Keystone LLC, Talen Energy Marketing, LLC, Talen Conemaugh LLC, Susquehanna Nuclear, LLC, Moxie Freedom LLC, Montour, LLC, MC Project Company LLC, LMBE Project Company LLC, H.A. Wagner LLC, Guernsey Power Station LLC, Brunner Island, LLC, Brandon Shores LLC.

Description: Notice of Change in Status of Brandon Shores LLC, et al.

Filed Date: 1/28/26.

Accession Number: 20260128–5327.

Comment Date: 5 p.m. ET 2/18/26.

Docket Numbers: ER13–738–014; ER11–3097–018; ER10–1186–017; ER12–421–008; ER11–2731–008; ER23–1279–003; ER10–3169–016.

Applicants: Michigan Power Limited Partnership, DTE Energy Services, Inc., Heritage Stoney Corners Wind Farm I, LLC, Heritage Garden Wind Farm I, LLC, DTE Energy Supply, LLC, DTE Energy Trading, Inc., DTE Electric Company.

Description: Supplement to 10/30/2025, Notice of Change in Status of DTE Electric Company, et al.

Filed Date: 1/29/26.

Accession Number: 20260129–5194.

Comment Date: 5 p.m. ET 2/19/26.

Docket Numbers: ER19–1575–015; ER10–2488–032; ER13–1586–027; ER14–2871–026; ER15–463–025; ER15–621–025; ER15–622–025; ER16–72–021; ER16–182–021; ER16–902–018; ER17–47–018; ER17–48–019; ER18–47–018; ER18–2240–014; ER18–2241–014 ER19–1660–014; ER19–1662–014; ER20–71–014; ER20–72–014; ER20–75–014; ER20–76–016; ER20–77–014; ER20–79–014; ER21–1368–010; ER21–2782–011; ER22–149–012; ER22–2419–008; ER22–2420–008; ER23–562–008; ER23–1048–008; ER23–2001–008; ER24–916–004; ER24–917–005; ER24–2257–005; ER24–2258–005; ER25–1966–001; ER17–47–019; ER22–1439–012; ER22–1440–012; ER22–1441–012; ER22–1442–010; ER21–1369–011; ER21–1371–011; ER21–1373–012; ER21–1376–012.

Applicants: Sanborn Solar 1A, LLC, Edwards Solar 1A, LLC, Edwards Sanborn Storage II, LLC, Edwards Sanborn Storage I, LLC, EdSan 1B Group 3, LLC, EdSan 1B Group 2, LLC, EdSan 1B Group 1 Sanborn, LLC, EdSan 1B Group 1 Edwards, LLC, Desert Breeze Solar, LLC, Lockhart CL ESS II, LLC, Lockhart CL ESS I, LLC, Placerita ESS, LLC, Beaumont ESS, LLC, Sagebrush ESS II, LLC, Lockhart ESS, LLC, TGP Energy Management II, LLC, Lockhart Solar PV II, LLC, Lockhart Solar PV, LLC, Sagebrush Line, LLC, Sagebrush ESS, LLC, Valley Center ESS, LLC, Voyager Wind IV Expansion, LLC, Painted Hills Wind Holdings, LLC, Oasis Plains Wind, LLC, Oasis Alta, LLC, Coachella Wind Holdings, LLC, Coachella Hills Wind, LLC, Mojave 16/17/18 LLC, Mojave 3/4/5 LLC, Garnet Wind, LLC, Yavi Energy, LLC, Voyager Wind II, LLC, Terra-Gen Mojave Windfarms, LLC, DifWind Farms LTD VI, Voyager Wind I, LLC, Cameron Ridge II, LLC, San Gorgonio Westwinds II—Windustries, LLC, Ridgetop Energy, LLC, Pacific Crest Power, LLC, San Gorgonio Westwinds II, LLC, Cameron Ridge, LLC, TGP Energy Management, LLC, Oasis Power Partners, LLC, Alta Oak Realty, LLC.

Description: Notice of Non-Material Change in Status of Alta Oak Realty, LLC, et al.

Filed Date: 1/27/26.

Accession Number: 20260127–5310.

Comment Date: 5 p.m. ET 2/17/26.

Docket Numbers: ER23–303–002.

Applicants: Danske Commodities US LLC.

Description: Compliance filing: Notice of Change in Status and Revision to Update Category Status to be effective 1/30/2026.

Filed Date: 1/29/26.

Accession Number: 20260129–5287.

Comment Date: 5 p.m. ET 2/19/26.

Docket Numbers: ER24–1382–002.

Applicants: Horus Louisiana 1, LLC.

Description: Notice of Change in Status of Horus Louisiana 1, LLC.

Filed Date: 1/28/26.

Accession Number: 20260128–5325.

Comment Date: 5 p.m. ET 2/18/26.

Docket Numbers: ER25–2883–002.

Applicants: Redfield PV I, LLC.

Description: Notice of Non-Material Change in Status of Redfield PV I, LLC.

Filed Date: 1/28/26.

Accession Number: 20260128–5323.

Comment Date: 5 p.m. ET 2/18/26.

Docket Numbers: ER25–3039–001.

Applicants: AL Solar G, LLC.

Description: Compliance filing: AL Solar G Notice of Change in Status and Revised MBR Tairff to be effective 3/30/2026.

Filed Date: 1/28/26.

Accession Number: 20260128–5298.

Comment Date: 5 p.m. ET 2/18/26.

Docket Numbers: ER26–40–001.

Applicants: IN Solar 1, LLC.

Description: Compliance filing: IN Solar 1 Change in Status Revised MBR Tariff to be effective 3/30/2026.

Filed Date: 1/29/26.

Accession Number: 20260129–5000.

Comment Date: 5 p.m. ET 2/19/26.

Docket Numbers: ER26–102–001.

Applicants: Upper Missouri G. & T. Electric Cooperative, Inc., Southwest Power Pool, Inc.

Description: Tariff Amendment: Upper Missouri G. & T. Electric Cooperative, Inc. submits tariff filing per 35.17(b): Deficiency Response—Upper Missouri G&T Cooperative, Inc. Formula Rate to be effective 1/1/2026.

Filed Date: 1/29/26.

Accession Number: 20260129–5329.

Comment Date: 5 p.m. ET 2/19/26.

Docket Numbers: ER26–541–001.

Applicants: PVS 2, LLC.

Description: Tariff Amendment: Deficiency Response to be effective 1/1/2026.

Filed Date: 1/28/26.

Accession Number: 20260128–5294.

Comment Date: 5 p.m. ET 2/9/26.

Docket Numbers: ER26–542–001.

Applicants: Green River Energy Center, LLC.

Description: Tariff Amendment: Deficiency Response to be effective 1/1/2026.

Filed Date: 1/28/26.

Accession Number: 20260128–5289.

Comment Date: 5 p.m. ET 2/9/26.

Docket Numbers: ER26–544–000.

Applicants: Cartwright Solar I LLC.

Description: Supplement to 11/18/2025, Cartwright Solar I LLC tariff.

Filed Date: 1/28/26.

Accession Number: 20260128–5330.

Comment Date: 5 p.m. ET 2/18/26.

Docket Numbers: ER26–550–000.

Applicants: Duke Energy Carolinas, LLC.

Description: Refund Report: DEC-Kings Mountain Refund Report to be effective N/A.

Filed Date: 1/29/26.

Accession Number: 20260129–5268.

Comment Date: 5 p.m. ET 2/19/26.

Docket Numbers: ER26–1148–001.

Applicants: Southwest Power Pool, Inc.

Description: Tariff Amendment: Western Area Power Administration—Lower Colorado submits tariff filing per 35.17(b): Amended WAPA-Rocky Mountain Region RTOW Formula Rate Filing to be effective 4/1/2026.

Filed Date: 1/29/26.

Accession Number: 20260129–5375.

Comment Date: 5 p.m. ET 2/19/26.

Docket Numbers: ER26–1154–000.

Applicants: Southwest Power Pool, Inc.

Description: 205(d) Rate Filing: Submission of Balancing Authority Agreements to be effective 4/1/2026.

Filed Date: 1/28/26.

Accession Number: 20260128–5276.
Comment Date: 5 p.m. ET 2/18/26.

Docket Numbers: ER26–1155–000.
Applicants: Tri-State Generation and Transmission Association, Inc.
Description: 205(d) Rate Filing: Amendment to Confirmation Agreement to be effective 4/1/2026.
Filed Date: 1/28/26.
Accession Number: 20260128–5280.
Comment Date: 5 p.m. ET 2/18/26.

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 29, 2026.

Carlos D. Clay,

Deputy Secretary.

[FR Doc. 2026–02135 Filed 2–2–26; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #2

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG26–143–000.
Applicants: Atlas BESS IV, LLC.
Description: Atlas BESS IV, LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.
Filed Date: 1/29/26.
Accession Number: 20260129–5410.
Comment Date: 5 p.m. ET 2/19/26.

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

Docket Numbers: ER25–3172–001.
Applicants: Genesee Solar Energy, LLC.
Description: Compliance filing: Genesee Solar Energy Change in Status to be effective 1/30/2026.
Filed Date: 1/29/26.
Accession Number: 20260129–5443.
Comment Date: 5 p.m. ET 2/19/26.

Docket Numbers: ER26–1156–000.
Applicants: AEP Texas Inc.
Description: 205(d) Rate Filing: AEPTX-Val Vista Grid System Upgrade Agreement to be effective 1/6/2026.
Filed Date: 1/29/26.
Accession Number: 20260129–5165.
Comment Date: 5 p.m. ET 2/19/26.

Docket Numbers: ER26–1157–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: 205(d) Rate Filing: 2026–01–29_SA 4666 ITCTransmission-Tuscola II Energy Storage GIA (S1059) to be effective 1/20/2026.
Filed Date: 1/29/26.
Accession Number: 20260129–5192.
Comment Date: 5 p.m. ET 2/19/26.

Docket Numbers: ER26–1158–000.
Applicants: The Connecticut Light and Power Company.
Description: 205(d) Rate Filing: INDUS Realty, LLC—Viability Assessment Study Agreement to be effective 1/30/2026.
Filed Date: 1/29/26.
Accession Number: 20260129–5231.
Comment Date: 5 p.m. ET 2/19/26.

Docket Numbers: ER26–1159–000.
Applicants: 26SB 8me LLC.
Description: 205(d) Rate Filing: 26SB 8me LLC MBR Tariff to be effective 4/1/2026.
Filed Date: 1/29/26.
Accession Number: 20260129–5273.
Comment Date: 5 p.m. ET 2/19/26.

Docket Numbers: ER26–1160–000.
Applicants: Michigan Electric Transmission Company, LLC.
Description: Tariff Amendment: Notice of Cancellation to be effective 1/31/2026.
Filed Date: 1/29/26.
Accession Number: 20260129–5309.
Comment Date: 5 p.m. ET 2/19/26.

Docket Numbers: ER26–1161–000.
Applicants: Power Authority of the State of New York, New York Independent System Operator, Inc.
Description: 205(d) Rate Filing: New York Independent System Operator, Inc. submits tariff filing per 35.13(a)(2)(iii: NYISO–NYPA Joint 205: Amended LGIA Gateway Solar Energy Center SA2739 (CEII) to be effective 1/14/2026.
Filed Date: 1/29/26.
Accession Number: 20260129–5369.
Comment Date: 5 p.m. ET 2/19/26.

Docket Numbers: ER26–1162–000.
Applicants: AEP Texas Inc.
Description: 205(d) Rate Filing: AEPTX-Oxy Renewable Energy Generation Interconnection Agreement to be effective 12/31/2025.
Filed Date: 1/29/26.
Accession Number: 20260129–5376.
Comment Date: 5 p.m. ET 2/19/26.

Docket Numbers: ER26–1163–000.
Applicants: Alabama Power Company, Georgia Power Company, Mississippi Power Company.
Description: 205(d) Rate Filing: Alabama Power Company submits tariff filing per 35.13(a)(2)(iii: Cooperative Energy NITSA Amendment Filing (removing Columbia South DP) to be effective 1/1/2026.
Filed Date: 1/29/26.
Accession Number: 20260129–5383.
Comment Date: 5 p.m. ET 2/19/26.

Docket Numbers: ER26–1164–000.
Applicants: Bolt Energy Marketing, LLC.
Description: 205(d) Rate Filing: Market-Based Rate Tariff Revisions to be effective 1/30/2026.
Filed Date: 1/29/26.
Accession Number: 20260129–5409.
Comment Date: 5 p.m. ET 2/19/26.

Docket Numbers: ER26–1165–000.
Applicants: Columbia Energy LLC.
Description: 205(d) Rate Filing: Market-Based Rate Tariff Revisions to be effective 1/30/2026.
Filed Date: 1/29/26.
Accession Number: 20260129–5412.
Comment Date: 5 p.m. ET 2/19/26.

Docket Numbers: ER26–1166–000.
Applicants: Public Service Company of Colorado.
Description: 205(d) Rate Filing: 2025–01–29 Resubmission of PSCo LGIP to be effective 1/6/2026.
Filed Date: 1/29/26.
Accession Number: 20260129–5414.
Comment Date: 5 p.m. ET 2/19/26.

Docket Numbers: ER26–1167–000.
Applicants: LS Power Marketing, LLC.
Description: 205(d) Rate Filing: Market-Based Rate Tariff Revisions to be effective 1/30/2026.
Filed Date: 1/29/26.
Accession Number: 20260129–5415.
Comment Date: 5 p.m. ET 2/19/26.

Docket Numbers: ER26–1168–000.
Applicants: REV Energy Marketing, LLC.
Description: 205(d) Rate Filing: Market-Based Rate Tariff Revisions to be effective 1/30/2026.
Filed Date: 1/29/26.
Accession Number: 20260129–5419.
Comment Date: 5 p.m. ET 2/19/26.

Docket Numbers: ER26–1169–000.
Applicants: Basin Electric Power Cooperative, Southwest Power Pool, Inc.

Description: 205(d) Rate Filing: Basin Electric Power Cooperative submits tariff filing per 35.13(a)(2)(iii: Basin Electric Power Cooperative Formula Rate Filing (Stegall DC Tie) to be effective 4/1/2026.
Filed Date: 1/29/26.
Accession Number: 20260129–5421.
Comment Date: 5 p.m. ET 2/19/26.
Docket Numbers: ER26–1170–000.
Applicants: Midcontinent Independent System Operator, Inc., Union Electric Company.
Description: 205(d) Rate Filing: Union Electric Company submits tariff filing per 35.13(a)(2)(iii: 2026–01–29_SA 2037 Ameren-CEC 6th Rev WDS Agreement to be effective 6/1/2026.
Filed Date: 1/29/26.
Accession Number: 20260129–5447.
Comment Date: 5 p.m. ET 2/19/26.

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

Docket Numbers: ES26–27–000.
Applicants: Consumers Energy Company.
Description: Application Under Section 204 of the Federal Power Act for Authorization to Issue Securities of Consumers Energy Company.
Filed Date: 1/28/26.
Accession Number: 20260128–5324.
Comment Date: 5 p.m. ET 2/18/26.

Take notice that the Commission received the following foreign utility company status filings:

Docket Numbers: FC26–2–000.
Applicants: Hexa India Companies.
Description: Hexa India Companies submit Notice of Self-Certification of Foreign Utility Company Status.
Filed Date: 1/29/26.
Accession Number: 20260129–5164.
Comment Date: 5 p.m. ET 2/19/26.
Docket Numbers: FC26–3–000.
Applicants: Hexa Japan Companies.
Description: Hexa Japan Companies submit Notice of Self-Certification of Foreign Utility Company Status.
Filed Date: 1/29/26.
Accession Number: 20260129–5170.
Comment Date: 5 p.m. ET 2/19/26.
Docket Numbers: FC26–4–000.
Applicants: Civitella Energy S.r.l.,Andromeda Energy S.r.l.
Description: Civitella Energy S.r.l. et al. submit Notice of Self-Certification of Foreign Utility Company Status.
Filed Date: 1/29/26.
Accession Number: 20260129–5176.
Comment Date: 5 p.m. ET 2/19/26.
Docket Numbers: FC26–5–000.
Applicants: Hexa Korea Companies.
Description: Hexa Korea Companies submit Notice of Self-Certification of Foreign Utility Company Status.
Filed Date: 1/29/26.
Accession Number: 20260129–5182.
Comment Date: 5 p.m. ET 2/19/26.
Docket Numbers: FC26–6–000.
Applicants: Hexa Philippines Companies.
Description: Hexa Philippines Companies submit Notice of Self-Certification of Foreign Utility Company Status.
Filed Date: 1/29/26.
Accession Number: 20260129–5183.
Comment Date: 5 p.m. ET 2/19/26.
Docket Numbers: FC26–7–000.
Applicants: Berde Rooftop Inc.
Description: Berde Rooftop Inc. submits Notice of Self-Certification of Foreign Utility Company Status.
Filed Date: 1/29/26.
Accession Number: 20260129–5188.
Comment Date: 5 p.m. ET 2/19/26.

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 29, 2026.

Carlos D. Clay,

Deputy Secretary.

[FR Doc. 2026–02136 Filed 2–2–26; 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: RP26–415–000.
Applicants: Northern Border Pipeline Company.
Description: 4(d) Rate Filing: Scout Energy Permanent Release to Ridge Oil to be effective 10/1/2025.
Filed Date: 1/28/26.
Accession Number: 20260128–5205.
Comment Date: 5 p.m. ET 2/9/26.
Docket Numbers: RP26–416–000.
Applicants: Equitrans, L.P.
Description: 4(d) Rate Filing: Negotiated Rate Agreements—1/27/2026 to be effective 1/27/2026.
Filed Date: 1/28/26.
Accession Number: 20260128–5305.
Comment Date: 5 p.m. ET 2/9/26.
Docket Numbers: RP26–417–000.
Applicants: Equitrans, L.P.
Description: 4(d) Rate Filing: Amended Negotiated Rate Agreement—2/1/2026 to be effective 2/1/2026.
Filed Date: 1/29/26.
Accession Number: 20260129–5062.
Comment Date: 5 p.m. ET 2/10/26.
Docket Numbers: RP26–418–000.
Applicants: Equitrans, L.P.
Description: 4(d) Rate Filing: Remove Expired Negotiated Rate Agreements—3/1/2026 to be effective 3/1/2026.
Filed Date: 1/29/26.
Accession Number: 20260129–5074.
Comment Date: 5 p.m. ET 2/10/26.
Docket Numbers: RP26–419–000.
Applicants: Iroquois Gas Transmission System, L.P.
Description: 4(d) Rate Filing: 1.29.26 Negotiated Rates—Mercuria Energy America, LLC R–7540–02 to be effective 2/1/2026.
Filed Date: 1/29/26.
Accession Number: 20260129–5121.
Comment Date: 5 p.m. ET 2/10/26.
Docket Numbers: RP26–420–000.
Applicants: Iroquois Gas Transmission System, L.P.
Description: 4(d) Rate Filing: 1.29.26 Negotiated Rates—Trafigura Trading LLC H–8150–89 to be effective 1/29/2026.
Filed Date: 1/29/26.
Accession Number: 20260129–5140.
Comment Date: 5 p.m. ET 2/10/26.
Docket Numbers: RP26–421–000.
Applicants: Iroquois Gas Transmission System, L.P.
Description: 4(d) Rate Filing: 1.29.26 Negotiated Rates—Mercuria Energy America, LLC H–7540–89 to be effective 1/29/2026.
Filed Date: 1/29/26.
Accession Number: 20260129–5161.
Comment Date: 5 p.m. ET 2/10/26.
Docket Numbers: RP26–422–000.
Applicants: Iroquois Gas Transmission System, L.P.

Description: 4(d) Rate Filing: 1.29.26 Negotiated Rates—Freepoint Commodities LLC R–7250–51 to be effective 2/1/2026.
Filed Date: 1/29/26.
Accession Number: 20260129–5169.
Comment Date: 5 p.m. ET 2/10/26.
Docket Numbers: RP26–423–000.
Applicants: Iroquois Gas Transmission System, L.P.
Description: 4(d) Rate Filing: 1.29.26 Negotiated Rates—Freepoint Commodities LLC R–7250–52 to be effective 2/1/2026.
Filed Date: 1/29/26.
Accession Number: 20260129–5177.
Comment Date: 5 p.m. ET 2/10/26.
Docket Numbers: RP26–424–000.
Applicants: Pine Needle LNG Company, LLC.
Description: 4(d) Rate Filing: Negotiated Rate—Washington Gas—Termination to be effective 3/1/2026.
Filed Date: 1/29/26.
Accession Number: 20260129–5239.
Comment Date: 5 p.m. ET 2/10/26.
Docket Numbers: RP26–425–000.
Applicants: Sierrita Gas Pipeline LLC.
Description: 4(d) Rate Filing: 2026 Jan Quarterly FL&U Filing to be effective 3/1/2026.
Filed Date: 1/29/26.
Accession Number: 20260129–5244.
Comment Date: 5 p.m. ET 2/10/26.
Docket Numbers: RP26–426–000.
Applicants: Maritimes & Northeast Pipeline, L.L.C.
Description: 4(d) Rate Filing: Negotiated Rates—Northern to NRG Bus Mktg 3382 to be effective 2/1/2026.
Filed Date: 1/29/26.
Accession Number: 20260129–5293.
Comment Date: 5 p.m. ET 2/10/26.
Docket Numbers: RP26–427–000.
Applicants: El Paso Natural Gas Company, L.L.C.
Description: 4(d) Rate Filing: Negotiated Rate Agreement Update (Shell Mar 2026) to be effective 3/1/2026.
Filed Date: 1/29/26.
Accession Number: 20260129–5311.
Comment Date: 5 p.m. ET 2/10/26.

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: PR26–18–001.
Applicants: The East Ohio Gas Company.
Description: Amendment Filing: Amendment to Revised Statement of Operating Conditions to be effective 11/1/2025.
Filed Date: 1/28/26.
Accession Number: 20260128–5149.
Comment Date: 5 p.m. ET 2/11/26.
284.123(g) Protest: 5 p.m. ET 2/11/26.

Any person desiring to protest in any the above proceedings must file in accordance with Rule 211 of the Commission's Regulations (18 CFR 385.211) on or before 5:00 p.m. Eastern time on the specified comment date.

The filings are accessible in the Commission's eLibrary system (*https://elibrary.ferc.gov/idmws/search/fercgensearch.asp*) by querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

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 29, 2026.

Carlos D. Clay,

Deputy Secretary.

[FR Doc. 2026–02137 Filed 2–2–26; 8:45 am]

BILLING CODE 6717–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–1081; FR ID 328283]

Information Collection Being Submitted for Review and Approval to Office of Management and Budget

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal Agencies to take this opportunity to comment on the following information collection. Pursuant to the Small Business Paperwork Relief Act of 2002, the FCC seeks specific comment on how it might further reduce the information collection burden for small business concerns with fewer than 25 employees.

The Commission may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (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 comments and recommendations for the proposed information collection should be submitted on or before March 5, 2026.

ADDRESSES: Comments should be sent 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. Your comment must be submitted into *www.reginfo.gov* per the above instructions for it to be considered. In addition to submitting in *www.reginfo.gov* also send a copy of your comment on the proposed information collection to Nicole Ongele, FCC, via email to *PRA@fcc.gov* and to *Nicole.Ongele@fcc.gov.* Include in the comments the OMB control number as shown in the **SUPPLEMENTARY INFORMATION** below.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection, contact Nicole Ongele at (202) 418–2991. To view a copy of this information collection request (ICR) submitted to OMB: (1) go to the web page *http://www.reginfo.gov/public/do/PRAMain,* (2) look for the section of the web page called ''Currently Under Review,'' (3) click on the downward-pointing arrow in the ''Select Agency'' box below the ''Currently Under Review'' heading, (4) select ''Federal Communications Commission'' from the list of agencies presented in the ''Select Agency'' box, (5) click the ''Submit'' button to the right of the ''Select Agency'' box, (6) when the list of FCC ICRs currently under review appears, look for the Title of this ICR and then click on the ICR Reference Number. A copy of the FCC submission to OMB will be displayed.

SUPPLEMENTARY INFORMATION: As part of its continuing effort to reduce paperwork burdens, as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the FCC invited the general public and other Federal Agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: (a) 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; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology. Pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4), the FCC seeks specific comment on how it might further reduce the information collection burden for small business concerns with fewer than 25 employees.

OMB Control Number: 3060–1081.

Title: Sections 1.2002, 54.201, 54.202, 54.205, Telecommunications Carriers Eligible for Universal Service Support.

Form Number: N/A.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents and Responses: 24 respondents; 28 responses.

Estimated Time per Response: 1–40 hours.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority is contained in sections 201(b), 214(e)(6), and 303(r) of the Communications Act of 1934, as amended, *47 U.S.C. 201(b), 214(e)(6), 303(r).*

Frequency of Response: One-time reporting requirement.

Total Annual Burden: 808 hours.

Total Annual Cost: No cost.

Needs and Uses: Section 254(e) of the Communications Act of 1934, as amended (Act) provides that ''only an ETC designated under section 214(e) shall be eligible to receive specific Federal universal service support.''

Section 214(e)(2) of the Act gives state commissions the primary responsibility for performing ETC designations.

Section 214(e)(6) vests the Commission with authority to designate as an ETC ''a common carrier providing telephone exchange service and exchange access that is not subject to the jurisdiction of a State commission.''

Section 214(e)(4) provides that state commissions, in a case of a common carrier designated under paragraph (2) of this section, or the Commission, in a case of a common carrier designated under paragraph (6) of this section, ''shall permit'' an ETC to relinquish its designation ''in any area served by more than one'' ETC so long as ''the remaining [ETCs] ensure that all customers served by the relinquishing carrier will continue to be served,'' and the relinquishing carrier provides ''sufficient notice to permit the purchase or construction of adequate facilities by any remaining eligible telecommunications carrier.'' The ETC must provide advance notice to the state commission or the Commission.

The Commission's rules for ETC designation require the collection of information specified below, except where the Commission has waived information collection requirements when enforcing them would not serve the public interest.

On October 20, 2023, the Commission adopted the *Connect America Fund et al.,* WC Docket No. 10–90 et al. WT Docket No. 10–208, Notice of Proposed Rulemaking and Report and Order, FCC 23–87 (Oct. 20, 2023) (*Administrative Order*). In the *Administrative Order,* the Commission modified, in relevant part, section 205 of the Commission's rules, to require an ETC that intends to relinquish its ETC designation to provide: (1) advance notice to the state commission and to the Commission of such intention to relinquish, and (2) notice to the Commission of the state authority's decision to permit or deny such relinquishment, within 10 days of its decision. These filings must be submitted regardless of whether the ETC is currently receiving federal support. The Commission identified its statutory authority to impose these requirements through section 254 of the Act and as reasonably ancillary thereto.

The Commission notes that information collections associated with the Lifeline-only ETC designations and relinquishments are reflected in OMB Control No. 3060–0819.

This information collection addresses the burdens associated with these requirements.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2026–02100 Filed 2–2–26; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–1270; FR ID 328112]

Information Collection Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number.

DATES: Written PRA comments should be submitted on or before April 6, 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 Nicole Ongele, FCC, via email *PRA@fcc.gov* and to *nicole.ongele@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Nicole Ongele, (202) 418–2991.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–1270.

Title: Protecting National Security Through FCC Programs.

Form Number: FCC Form 5640.

Type of Review: Extension of a currently-approved collection.

Respondents: Business or other for profit entities.

Number of Respondents and Responses: 3,500 respondents; 6,584 responses.

Estimated Time per Response: 0.5–12 hours.

Frequency of Response: Annual, semiannual, and recordkeeping requirements.

Obligation to Respond: Mandatory and required to obtain or retain benefits. Statutory authority for this information

collection is contained in *47 U.S.C. 1603–1604.*

Total Annual Burden: 20,236 hours.

Total Annual Cost: $472,500.

Needs and Uses: The Communications Act of 1934, as amended, requires the ''preservation and advancement of universal service.'' *47 U.S.C. 254(b).* The information collection requirements reported under this collection are the result of the Commission's actions to promote the Act's universal service goals.

On November 22, 2019, the Commission adopted the *Protecting Against National Security Threats to the Communications Supply Chain Through FCC Programs,* WC Docket No. 18–89, Report and Order, Order, and Further Notice of Proposed Rulemaking, 34 FCC Rcd 11423 (2019) (*Report and Order*). The *Report and Order* prohibits future use of Universal Service Fund (USF) monies to purchase, maintain, improve, modify, obtain, or otherwise support any equipment or services produced or provided by a company that poses a national security threat to the integrity of communications networks or the communications supply chain.

On March 12, 2020, the President signed into law the Secure and Trusted Communications Networks Act of 2019 (Secure Networks Act), *Public Law 116–124,* 133 Stat. 158 (2020) (codified as amended at *47 U.S.C. 1601–1609*), which, among other measures, directs the FCC to establish the Secure and Trusted Communications Networks Reimbursement Program (Reimbursement Program). This program is intended to provide funding to providers of advanced communications service for the removal, replacement and disposal of certain communications equipment and services that poses an unacceptable national security risk (*i.e.,* covered equipment and services) from their networks. The Commission has designated two entities—Huawei Technologies Company (Huawei) and ZTE Corporation (ZTE), along with their affiliates, subsidiaries, and parents—as covered companies posing such a national security threat. *See Protecting Against National Security Threats to the Communications Supply Chain Through FCC Programs—Huawei Designation,* PS Docket No. 19–351, Memorandum Opinion and Order, 35 FCC Rcd 14435 (2020); *Protecting Against National Security Threats to the Communications Supply Chain Through FCC Programs—ZTE Designation,* PS Docket No. 19–352, Memorandum Opinion and Order, DA 20–1399 (PSHSB rel. Nov. 24, 2020).

On December 10, 2020, the Commission adopted the Second Report and Order implementing the Secure Networks Act, which contained new information collection requirements. *See Protecting Against National Security Threats to the Communications Supply Chain Through FCC Programs,* WC Docket No. 18–89, Second Report and Order, 35 FCC Rcd 14284 (2020) (*Second Report and Order*). These requirements allow the Commission to receive, review and make eligibility determinations and funding decisions on applications to participate in the Reimbursement Program that are filed by certain providers of advanced communications service. These information collection requirements also assist the Commission in processing funding disbursement requests and in monitoring and furthering compliance with applicable program requirements to protect against waste, fraud, and abuse. Participation in the Reimbursement Program is voluntary, but compliance with the information collection requirements is required to obtain Reimbursement Program support.

On August 3, 2021, the Wireline Competition Bureau (Bureau) released a Public Notice adopting procedures for filing and processing applications submitted for the Reimbursement Program. These procedures largely tracked the procedural rules previously adopted by the Commission in the *Second Report and Order,* but also adopted a new requirement that Reimbursement Program participants notify the Commission of changes in ownership, to ensure accurate information is on file for participants and to help protect the Reimbursement Program against waste, fraud, and abuse.

In 2023, the Bureau updated the submission requirements for FCC Form 5640 by deleting an existing question and adding a new one asking program participants to describe in detail how they have spent Reimbursement Program funds, which allowed the Bureau to satisfy its statutory obligations to collect information about how Reimbursement Program funds have been spent, including detailed accounting of the covered communications equipment and services permanently removed and disposed of, and the replacement equipment or services purchased, rented, leased, or otherwise obtained using Reimbursement Program funds. The Bureau determined that FCC Form 5640 required this revision in order to elicit the information necessary for the Bureau to better satisfy its statutory obligations.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2026–02099 Filed 2–2–26; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Patient Safety Organizations: Voluntary Relinquishment for the Vizient™ PSO

AGENCY: Agency for Healthcare Research and Quality (AHRQ), Department of Health and Human Services (HHS).

ACTION: Notice of delisting.

SUMMARY: The Patient Safety and Quality Improvement Final Rule (Patient Safety Rule) authorizes AHRQ, on behalf of the Secretary of HHS, to list as a patient safety organization (PSO) an entity that attests that it meets the statutory and regulatory requirements for listing. A PSO can be ''delisted'' by the Secretary if it is found to no longer meet the requirements of the Patient Safety and Quality Improvement Act of 2005 (Patient Safety Act) and Patient Safety Rule, such as when a PSO chooses to voluntarily relinquish its status as a PSO for any reason or when a PSO's listing expires. AHRQ accepted a notification of proposed voluntary relinquishment from the Vizient™ PSO, PSO number P0007, of its status as a PSO and has delisted the PSO accordingly.

DATES: The delisting was effective at 12:00 Midnight ET (2400) on January 7, 2026.

ADDRESSES: The directories for both listed and delisted PSOs are ongoing and reviewed weekly by AHRQ. Both directories can be accessed electronically at the following HHS website: *https://www.pso.ahrq.gov/listed.*

FOR FURTHER INFORMATION CONTACT: Cathryn Bach, Center for Quality Improvement and Patient Safety, AHRQ, 5600 Fishers Lane, MS 07N66B, Rockville, MD 20857; Telephone (toll free): (866) 403–3697; Telephone (local): (301) 427–1111; TTY (toll free): (866) 438–7231; TTY (local): (301) 427–1130; Email: *pso@ahrq.hhs.gov.*

SUPPLEMENTARY INFORMATION:

Background

The Patient Safety Act, 42 U.S.C. 299b–21 to 299b–26, and the related Patient Safety Rule, 42 CFR part 3,

published in the **Federal Register** on November 21, 2008 (73 FR 70732–70814), establish a framework by which individuals and entities that meet the definition of provider in the Patient Safety Rule may voluntarily report information to PSOs listed by AHRQ, on a privileged and confidential basis, for the aggregation and analysis of patient safety work product.

The Patient Safety Act authorizes the listing of PSOs, which are entities or component organizations whose mission and primary activity are to conduct activities to improve patient safety and the quality of health care delivery.

HHS issued the Patient Safety Rule to implement the Patient Safety Act. AHRQ administers the provisions of the Patient Safety Act and Patient Safety Rule relating to the listing and operation of PSOs. The Patient Safety Rule authorizes AHRQ to list as a PSO an entity that attests that it meets the statutory and regulatory requirements for listing. A PSO can be ''delisted'' if it is found to no longer meet the requirements of the Patient Safety Act and Patient Safety Rule, when a PSO chooses to voluntarily relinquish its status as a PSO for any reason, or when a PSO's listing expires. Section 3.108(d) of the Patient Safety Rule requires AHRQ to provide public notice when it removes an organization from the list of PSOs.

AHRQ has accepted a notification of proposed voluntary relinquishment from the Vizient™ PSO to voluntarily relinquish its status as a PSO. Accordingly, the Vizient™ PSO, PSO number P0007, was delisted effective at 12:00 Midnight ET (2400) on January 7, 2026.

Vizient™ PSO has patient safety work product (PSWP) in its possession. The PSO will meet the requirements of section 3.108(c)(2)(i) of the Patient Safety Rule regarding notification to providers that have reported to the PSO and of section 3.108(c)(2)(ii) regarding disposition of PSWP consistent with section 3.108(b)(3). According to section 3.108(b)(3) of the Patient Safety Rule, the PSO has 90 days from the effective date of delisting and revocation to complete the disposition of PSWP that is currently in the PSO's possession.

More information on PSOs can be obtained through AHRQ's PSO website at *http://www.pso.ahrq.gov.*

Roger D. Klein,

Director.

[FR Doc. 2026–02129 Filed 2–2–26; 8:45 am]

BILLING CODE 4160–90–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–26–1163]

Agency Forms Undergoing Paperwork Reduction Act Review

In accordance with the Paperwork Reduction Act of 1995, the Centers for Disease Control and Prevention (CDC) has submitted the information collection request titled ''CDC Fellowship Programs Assessment'' to the Office of Management and Budget (OMB) for review and approval. CDC previously published a ''Proposed Data Collection Submitted for Public Comment and Recommendations'' notice on October 2, 2025 to obtain comments from the public and affected agencies. CDC received three comments related to the previous notice. This notice serves to allow an additional 30 days for public and affected agency comments.

CDC will accept all comments for this proposed information collection project. The Office of Management and Budget is particularly interested in comments that:

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

(b) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

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

(d) Minimize the burden of the collection of information on those who are to respond, including, through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses; and

(e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639–7570. 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. Direct written comments and/or suggestions regarding the items contained in this notice to the Attention: CDC Desk Officer, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503 or by fax to (202) 395–5806. Provide written comments within 30 days of notice publication.

Proposed Project

CDC Fellowship Programs Assessments (OMB Control No. 0920–1163, Exp. 2/28/2026)—Revision—National Center for State, Tribal, Local, and Territorial Public Health Infrastructure and Workforce (NCSTLTPHIW), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

CDC's mission is to protect America from health, safety, and security threats, both foreign and in the U.S. To ensure a competent, sustainable, and empowered public health workforce prepared to meet these challenges, CDC plays a key role in developing, implementing, and managing a number of fellowship programs. A fellowship is defined as a training or work experience lasting at least one month and consisting of primarily experiential (*i.e.,* on-the-job) learning, in which the trainee has a designated mentor or supervisor. CDC fellowships are intended to develop public health professionals, enhance the public health workforce, and strengthen collaborations with partners in public health and healthcare organizations, academia, and other stakeholders in governmental and non-governmental organizations. Assessing fellowship activities is essential to ensure that these programs are optimized and that the public health workforce is equipped to promote and protect the public's health.

CDC requests a three-year Revision of a Generic Clearance to collect data about its fellowship programs. Data collections will allow for ongoing, collaborative, and actionable communications between CDC fellowship programs and interest holders (*e.g.,* fellows, supervisors/mentors, alumni). Intended use of the resulting information is to:

- guide planning, implementation, and continuous quality improvement of fellowship activities and services;
- improve efficiencies in the delivery of fellowship activities and services; and
- determine to what extent fellowship activities and services are achieving established goals.

Collection and use of information about CDC fellowship activities will help ensure effective, efficient, and satisfying experiences among fellowship program participants and interest holders.

CDC estimates that annually, a subset of CDC's various fellowship programs will conduct one query each with one of the three respondent groups: (1) fellowship applicants or fellows; (2) mentors, supervisors, or employers; and (3) alumni. These collections might include short surveys, interviews, and focus groups. CDC will submit a project-specific information collection request (''GENIC'') to OMB for each activity to be conducted under this Generic Clearance. Each GENIC submission will include the information collection instrument(s) associated with the project and a completed ''GENIC Request Template'' which describes the project's data collection methods, respondent population(s), and the intended uses of the information to be collected.

In this Revision, CDC is revising the estimated number of responses and the estimated burden hours. Lower than anticipated usage for the active approval period and organizational changes at CDC support the request to reduce these estimates. Over the last approval period average response times were typically lower for modules targeting alumni respondents. In this Revision, average burden per response for alumni has accordingly been reduced from 30 minutes per response to 20 minutes per response.

In addition, CDC is standardizing the title of the Generic Clearance as ''CDC Fellowship Programs Assessment.'' This title is used on the GENIC Request Template associated with the generic and has been used on previous Supporting Statement documents. The title Data Collection for CDC Fellowship Programs has also been associated with OMB Control No. 0920–1163. For clarity, CDC will amend all documentation and consistently use the title ''CDC Fellowship Programs Assessment.'' No other changes are requested. OMB approval is requested for three years. The total estimated annualized number of responses is reduced from 3,091 to 1,225, and the total estimated annualized burden hours are reduced from 1,546 to 550. There are no costs to respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
Applicants or fellows	Fellowship Data Collection Instrument	750	1	30/60
Mentors, supervisors, or employers	Fellowship Data Collection Instrument	100	1	30/60
Alumni	Fellowship Data Collection Instrument	375	1	20/60

Jeffrey M. Zirger,

Lead, Information Collection Review Office, Office of Public Health Ethics and Regulations, Office of Science, Centers for Disease Control and Prevention.

[FR Doc. 2026–02182 Filed 2–2–26; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifiers: CMS–10142 and CMS–10779]

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 March 5, 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:* Revision with change of a currently approved collection; *Title of Information Collection:* Bid Pricing Tool (BPT) for Medicare Advantage (MA) Plans and Prescription Drug Plans (PDP); *Use:* Medicare Advantage organizations (MAO) and Prescription Drug Plans (PDP) are required to submit an actuarial pricing ''bid'' for each plan offered to Medicare beneficiaries for approval by CMS. The MAOs and PDPs use the Bid Pricing Tool (BPT) software to develop their actuarial pricing bid. The competitive bidding process defined by the ''The Medicare Prescription Drug, Improvement, and Modernization Act'' (MMA) applies to both the MA and Part D programs. It is an annual process that encompasses the release of the MA rate book in April, the bid's that plans submit to CMS in June, and the release of the Part D and RPPO benchmarks, which typically occurs in August. *Form Number:* CMS–10142 (OMB control number: 0938–0944); *Frequency:* Annually; *Affected Public:* Private Sector, Business or other for profits, and Not for profits institutions; *Number of Respondents:* 460; *Total Annual Responses:* 11,700; *Total Annual Hours:* 406,000. (For questions regarding this collection contact Rachel Shevland at 410–786–3026 or *Rachel.shevland@cms.hhs.gov*.)

2. *Type of Information Collection Request:* Reinstatement without change of a previously approved information collection; *Title of Information Collection:* Complaints Submission Process under the No Surprises Act; *Use:* Enacted on December 27, 2020, the No Surprises Act, which was enacted as part of the Consolidated Appropriations Act (CAA), amended the Employee Retirement Income Security Act of 1974 (ERISA), the Public Health Service Act (PHS Act), and the Internal Revenue Code of 1986 (Code). The No Surprise Act implements provisions that protect individuals from surprise medical bills for emergency services, air ambulance services furnished by nonparticipating providers, and non-emergency services furnished by nonparticipating providers at participating facilities in certain circumstances. Additionally, the No Surprises Act sets forth a complaints processes with respect to potential violations of balance billing requirements set forth in the No Surprises Act.

The No Surprises Act directs the Departments to establish a process to receive complaints regarding violations of the application of QPA requirements by group health plans and health insurance issuers offering group or individual health coverage. The No Surprises Act also directs HHS to establish a process to receive consumer complaints regarding violations by health care providers, facilities, and providers of air ambulance services regarding balance billing requirements and to respond to such complaints within 60 days.

CMS will request information from non-federal governmental plans and issuers, health care providers, facilities, providers of air ambulance services, and individuals to review and process a complaint for potential violations of balance billing requirements. *Form Number:* CMS–10779 (OMB control number 0938–1406); *Frequency:* Annually; *Affected Public:* Private sector and Business or other for-profits; *Number of Respondents:* 39,000; *Number of Responses:* 39,000; *Total Annual Hours:* 19,500. (For questions regarding this collection, contact: Patrick Edwards at *patrick.edwards@cms.hhs.gov*.)

William N. Parham, III,

Director, Division of Information Collections and Regulatory Impacts, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2026–02190 Filed 2–2–26; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–10398 #45]

Medicaid and Children's Health Insurance Program (CHIP) Generic Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: On May 28, 2010, the Office of Management and Budget (OMB) issued Paperwork Reduction Act (PRA) guidance related to the ''generic'' clearance process. Generally, this is an expedited process by which agencies may obtain OMB's approval of collection of information requests that are ''usually voluntary, low-burden, and uncontroversial collections,'' do not raise any substantive or policy issues, and do not require policy or methodological review. The process requires the submission of an overarching plan that defines the scope of the individual collections that would fall under its umbrella. On October 23, 2011, OMB approved our initial request to use the generic clearance process under control number 0938–1148 (CMS–10398). It was last approved on April 26, 2021, via the standard PRA process which included the publication of 60- and 30-day **Federal Register** notices. The scope of the April 2021 umbrella accounts for Medicaid and CHIP State plan amendments, waivers, demonstrations, and reporting. This **Federal Register** notice seeks public comment on one or more of our collection of information requests that we believe are generic and fall within the scope of the umbrella. Interested persons are invited to submit 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.

DATES: Comments must be received by February 17, 2026.

ADDRESSES: When commenting, please reference the applicable form number (CMS–10398 #45) and the OMB control number (0938–1148). To be assured consideration, comments and recommendations must be submitted in any one of the following ways:

1. *Electronically.* You may send your comments electronically to *http://www.regulations.gov.* Follow the instructions for ''Comment or Submission'' or ''More Search Options'' to find the information collection document(s) that are accepting comments.

2. *By regular mail.* You may mail written comments to the following address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: CMS–10398 #__/OMB control number: 0938–1148, Room C4–26–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

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/PRAListing.*

FOR FURTHER INFORMATION CONTACT: William N. Parham at (410) 786–4669.

SUPPLEMENTARY INFORMATION: Following is a summary of the use and burden associated with the subject information collection(s). More detailed information can be found in the collection's supporting statement and associated materials (see **ADDRESSES**).

Generic Information Collections

1. Title of Information Collection: Certified Community Behavioral Health Clinic (CCBHC) 2024 State Proposal Demonstration Application; *Type of Information Collection Request:* Revision of an active collection of information request; *Use:* The State Proposal Demonstration Application is required to be completed by existing CCBHC grantee states and submitted to the Centers for Medicare & Medicaid Services (CMS) and the Substance Abuse and Mental Health Services Administration (SAMHSA) to determine state readiness and eligibility to the CCBHC demonstration and every two years thereafter. The awarding of Planning Grants to states was the first phase of a two-phase process. Phase II will consist of participation in the demonstration.

The information collection includes two components: (1) the CCBHC State Proposal Demonstration Application; (2) an application to add additional CCBHCs to existing state demonstration programs, providing updates to the information previously submitted in the state's original state application; and (3) Guidance for States Reporting Changes to their Demonstration Programs. The three component collections include many of the same types of information, however the State Proposal Demonstration Application has limited use to facilitate state eligibility and Federal selection to participate in the CCBHC demonstration. The application to add CCBHCs is ongoing and can be used by states annually once a clinic meets state certification and can later be added to the program at the start of a state's annual demonstration year. The guidance for states making changes to their Demonstration programs is also ongoing and used for states to inform (and in some cases seek approval from) SAMHSA for certain types of changes to the state's Demonstration.

In January 2026, the application was updated to adhere to Administration executive orders, add requirements for applicants to complete sample cost reports, plans to implement any criteria that are not rated ''ready to implement,'' and describe their rebasing methodology. Minor updates were also made to the Compliance Checklist and Guidance on Addition of CCBHCs to Existing State Demonstration Programs. CMS and SAMHSA also developed Guidance for State Reporting of Changes to the Demonstration Programs.

Form Number: CMS–10398 #45 (OMB control number: 0938–1148); *Frequency:* Annual, one time, and on occasion; *Affected Public:* State, Local, or Tribal Governments; *Number of Respondents:* 43; *Total Annual Responses:* 43; *Total Annual Hours: 1,958.* (For policy questions regarding this collection contact: Beverly Boston at 410–786–4186.)

William N. Parham, III,

Director, Division of Information Collections and Regulatory Impacts, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2026–02187 Filed 2–2–26; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–10948]

Agency Information Collection Activities: Proposed Collection; 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 60 days for public comment on the proposed action. 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.

DATES: Comments must be received by April 6, 2026.

ADDRESSES: When commenting, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be submitted in any one of the following ways:

1. Electronically. You may send your comments electronically to *http://www.regulations.gov.* Follow the instructions for ''Comment or Submission'' or ''More Search Options'' to find the information collection document(s) that are accepting comments.

2. By *regular mail.* You may mail written comments to the following address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: Document Identifier: ____/ OMB Control Number: ____, Room C4–26–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

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 N. Parham at (410) 786–4669.

SUPPLEMENTARY INFORMATION:

Contents

This notice sets out a summary of the use and burden associated with the following information collections. More detailed information can be found in each collection's supporting statement and associated materials (see **ADDRESSES**).

Under the 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 requires federal agencies to publish a 60-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.

Information Collections

1. *Type of Information Collection Request:* New collection (Request for a new OMB control number); *Title of Information Collection:* Generic Clearance for the Collection of Medicare Current Beneficiary Survey (MCBS) Respondent ''Pulse'' Feedback; *Use:* This new request will allow the Centers for Medicare & Medicaid Services to efficiently utilize the MCBS to establish a new tool, the MCBS Pulse. This tool will establish a proactive, data-driven process that allows CMS to accomplish three goals: (1) Enhance operational efficiency by enabling decision-makers to obtain time-sensitive data points not available from other sources to inform program planning and development; (2) Add early design phase questionnaire testing capabilities by collecting rapid turnaround feedback on nascent questionnaire concepts; (3) Rapidly gather directional feedback from beneficiaries on emerging concerns for exploratory purposes and early-stage issue identification. Each MCBS Pulse survey will be brief and constrained in content, containing no more than five questions, that reflect an intentional prioritization of topics of greatest need to CMS stakeholders as well as a limitation of respondent burden and cost. Each individual MCBS Pulse survey will be incorporated into an existing MCBS round of data collection where it will be fielded for up to two weeks. The MCBS design includes three rounds per year, each lasting approximately 16 weeks. Given that each Pulse survey is exceptionally brief and fielded for only up to two weeks, CMS can conduct multiple Pulse surveys per round based on operational needs. *Form Number:* CMS–10948 (OMB control number: 0938-New); *Frequency:* Occasionally; *Affected Public:* Individuals or Households; *Number of Respondents:* 31,117; *Total Annual Responses:* 31,117; *Total Annual Hours:* 1,026. (For policy questions regarding this collection contact William Long at 410–786–7927.)

William N. Parham, III,

Director, Division of Information Collections and Regulatory Impacts, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2026–02191 Filed 2–2–26; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[Assistance Listing Number: 93.576]

Announcement of the Intent To Award an Unsolicited Cooperative Agreement to Global Refuge in Baltimore, Maryland

AGENCY: Refugee Program Bureau, Office of Refugee Resettlement (ORR), Administration for Children and Families (ACF), Department of Health and Human Services.

ACTION: Notice of Issuance of an Unsolicited Cooperative Agreement.

SUMMARY: The ACF, ORR, Refugee Program Bureau announces the intent to award a cooperative agreement in the amount of up to $2,027,470 to Global Refuge in Baltimore, Maryland, to sustain the Immigrant and Refugee Information System (IRIS) platform to support ORR's Program of Initial Settlement. The funding will provide essential infrastructure for case placement, compliance reporting, and system integration across the program of initial resettlement.

DATES: The proposed period of performance is January 1, 2026, to September 29, 2026.

FOR FURTHER INFORMATION CONTACT: Miro Marinovich, Office of Refugee Resettlement, Administration for Children and Families, 330 C Street SW, Washington, DC 20201. Telephone: (202) 729–3638; Email: *miro.marinovich@acf.hhs.gov.*

SUPPLEMENTARY INFORMATION: Global Refuge submitted an unsolicited proposal to ORR requesting support to maintain the IRIS platform through Fiscal Year 2026. IRIS is a national case management and reporting system used by seven resettlement agencies and hundreds of local offices. The system assists refugees in resettling in the United States by providing essential infrastructure for case placement; assurance tracking; compliance reporting; and interoperability with the START system used by the Department of State Bureau of Populations, Refugees, and Migration (PRM), ORR's Refugee Arrivals Data System database, and the International Organization for Migration's MiMosa system.

PRM funding for IRIS concluded in 2025. Global Refuge's qualifications are unique because it designed, built, and currently maintains IRIS. Without successor funding, system operations would be at risk, creating potential nationwide disruptions to refugee case processing, data continuity, and required federal reporting. Global Refuge states that maintaining IRIS in its current form is necessary to ensure uninterrupted resettlement operations during this transition period.

The proposal requests up to $2,027,470 in core funding to support system hosting, maintenance, essential personnel, security compliance, and continued interoperability with federal partners.

IRIS currently supports federal partners and consequently the refugees they serve by providing standardized data exports, assurance tracking, Reception and Placement report generation, and audit-ready compliance reporting. National and local resettlement agencies rely on the platform for case management, service tracking, and secure handling of personally identifiable information. Global Refuge notes that its capacity to sustain these activities is not possible without continued federal support.

ORR reviewed the proposal and considered the mission-critical role IRIS plays in supporting nationwide resettlement operations, the essential reporting and data integration functions it provides, and the operational risks associated with disruption. Continued support would allow ORR to maintain stable processing and reporting functions while evaluating longer-term data management needs for refugee programs.

Statutory Authority: The statutory authority for funding this application is section 412(c)(1) of the Immigration and Nationality Act (INA), 8 U.S.C. 1522(c)(1). The cooperative agreement benefits refugees by assisting resettlement agencies and their affiliates in complying with sections 412(b)(1), (7) and (8) of the INA, 8 U.S.C. 1522(b)(1), (7) and (8).

Elizabeth Leo,

Policy Branch Chief, Office of Grants Policy, Office of Administration.

[FR Doc. 2026–02180 Filed 2–2–26; 8:45 am]

BILLING CODE 4184–89–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Request for Public Comment on the Updated Criteria for Determining Maternity Care Health Professional Target Areas

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services (HHS).

ACTION: Request for public comment on the updated criteria for determining maternity care health professional target areas.

SUMMARY: The Public Health Service (PHS) Act directs HHS, through HRSA, to identify maternity care target areas (MCTAs; geographic areas within health professional shortage areas (HPSAs) that have a shortage of maternity care health professionals) for the purpose of assigning National Health Service Corps participants who are maternity care health professionals to HPSAs with a shortage of such professionals. On September 27, 2021, HRSA published a **Federal Register** notice (FRN) soliciting feedback on proposed criteria to be used to identify MCTAs. On May 19, 2022, HRSA published an FRN that summarized and responded to the comments received during the 60-day comment period and presented the final criteria which are used to identify and score MCTAs. One of the criteria selected was the Social Vulnerability Index (SVI). SVI was used to assign points based on the relative level of social vulnerability within an area. Areas with SVI values at or above the 75th percentile received 2 points. Areas with SVI values between the 50th and 75th percentiles received 1 point. Areas with SVI values below the 50th percentile received 0 points. HRSA is now proposing to change the criteria and point scales for MCTAs by removing the criterion for SVI and reallocating its two points as follows: one point to population-to-full-time-equivalent maternity care health professional ratio and one point to score for travel distance/time to nearest source of accessible care outside of the MCTA.

DATES: Submit comments no later than March 5, 2026.

ADDRESSES: Electronic comments should be submitted to the Shortage Designation Branch by email at *sdb@hrsa.gov.*

FOR FURTHER INFORMATION CONTACT: Matthew Patterson, Senior Advisor, Division of Policy and Shortage Designation, Bureau of Health Workforce, HRSA, 5600 Fishers Lane, phone number: (301) 594–5110, Mail Stop 15SWH03, Rockville, Maryland 20857, or *sdb@hrsa.gov.*

SUPPLEMENTARY INFORMATION: Section 332 of the PHS Act (42 U.S.C. 254e), provides that the Secretary of HHS designate HPSAs based on criteria established by regulation. HPSAs are defined in statute to include (1) urban and rural geographic areas which the Secretary determines have shortages of health professionals, (2) population groups with such shortages, and (3) public or private medical facilities or other public facilities with such shortages. The required regulations setting forth the criteria for designating HPSAs are codified at 42 CFR part 5.

Section 332(k)(1) of the PHS Act provides that the Secretary, acting through the HRSA Administrator, shall identify shortages of maternity care health services ''within health professional shortage areas.'' Section 332(k)(1) further requires HRSA to identify MCTAs and distribute maternity care health professionals within HPSAs using the MCTAs so identified.

In a September 27, 2021, FRN (86 FR 53324), HRSA requested feedback on six proposed criteria to identify MCTAs: (1) ratio of females ages 15–44 to full time equivalent maternity care health professional; (2) percentage of females 15–44 with income at or below 200 percent of the federal poverty level (FPL); (3) travel time and distance to the nearest provider location with access to comprehensive maternity care services; (4) fertility rate; (5) SVI; and (6) four maternal health indicators (pre-pregnancy obesity, pre-pregnancy diabetes, pre-pregnancy hypertension, and prenatal care initiation in the first trimester). HRSA finalized the MCTA criteria on May 19, 2022 (87 FR 30501).

Change to the MCTA Scoring and Criteria

HRSA is changing the criteria and point scales for MCTAs by removing the SVI criterion, which had a point value of 0–2. Congress established MCTAs to ensure shortage areas identified as in need of maternity care health services had access to care. The SVI is used to help public health officials and local planners better prepare for and respond to emergency events, not to necessarily determine access to care. In recognition of the congressional intent, HRSA will reallocate one SVI point to the population to full time equivalent maternity care health professional ratio and the other SVI point to score for travel distance/time to nearest source of accessible care outside of the MCTA. Reallocating a point to the population-to-provider ratio strengthens the weight of areas with provider shortages, which is a key aspect of shortage designation, and reallocating a point to the travel time/distance strengthens the weight of geographic barriers, which directly impacts access to care especially in rural communities.

HRSA considered the impact of this change on existing MCTAs. As of September 2025, there were over 7,600 designated MCTAs—19 percent received 2 points towards the SVI criterion, 41 percent received 1 point, 33 percent received 0 points, and 6 percent did not have SVI criterion scores. Based on internal analysis of the proposed changes, by removing SVI and redistributing the points, MCTA scores will increase overall by 6.6 percent. In total, 200 of the more than 7,600 MCTAs may be subject to a decrease in MCTA score. These largely include MCTAs designated for Medicaid eligible population, low-income migrant seasonal worker population, low-income migrant farmworker population, and other population primary care HPSAs.

Primarily, HRSA uses MCTA's to distribute awards to eligible maternity care health professionals through the National Health Service Corps Loan Repayment Programs. HRSA awards these providers using either the primary care HPSA or the MCTA score of their site, whichever is higher. Although a decrease in MCTA score could potentially result in some maternity care professionals applying with lower MCTA scores, the impact may be mitigated since these providers can apply using either the primary care HPSA or the MCTA score of their site, whichever is higher.

The impact analysis is detailed in the chart below.

HPSA subtypes with a MCTA	N	Current average MCTA score	New average MCTA score	Change in average MCTA score	% Change in average MCTA score
HRSA-funded Health Center	1,359	18.1	19.3	+ 1.2	+ 6.6

HPSA subtypes with a MCTA	N	Current average MCTA score	New average MCTA score	Change in average MCTA score	% Change in average MCTA score
Health Center Look-Alike	168	15.9	17.3	+ 1.3	+ 8.4
HPSA geographic	919	12.8	14.1	+ 1.3	+ 10.5
HPSA geographic high needs	324	17.8	18.0	+ 0.2	+ 0.9
HPSA population	2,239	14.6	15.4	+ 0.8	+ 5.4
Indian, tribal, and urban Indian	919	15.3	16.2	+ 0.8	+ 5.5
Rural health clinic	1,749	16.0	17.3	+ 1.3	+ 8.2
Total	7,677	15.6	16.6	+ 1.0	+ 6.6

Note: Data is rounded to the first decimal point. Differences in the ''Change in Average MCTA Score'' and ''% Change in Average MCTA Score'' columns are due to rounding.

HRSA requests public comments on the agency's decision to eliminate the SVI criterion and to reallocate the corresponding two-point value by assigning one point to the population-to-full-time-equivalent maternity care health professional ratio and one point to the travel distance/time to the nearest source of accessible care outside of the MCTA.

Updated Approach for Determining MCTAs

An MCTA score will be generated for each primary care HPSA using the HPSA's service area. The following five scoring criteria will be included in a composite scale that will be used to identify MCTAs with the greatest shortage of maternity care health professionals: (1) ratio of females ages 15–44 to full time equivalent maternity care health professional ratio; (2) percentage of females 15–44 with income at or below 200 percent of the FPL; (3) travel time and distance to the nearest provider trained and licensed to provide the necessary care; (4) fertility rate; and (5) maternal health index which contains the following six indicators: pre-pregnancy obesity, pre-pregnancy diabetes, pre-pregnancy hypertension, prenatal care initiation in the first trimester, cigarette smoking, and the behavioral health factor. Each of these five criteria will be assigned a relative weight based on the significance of that criterion relative to all the others.

The weighted scores will be summed to develop a composite MCTA score ranging from zero to 25, with 25 indicating the greatest need for maternity care health professionals in the MCTA. Accordingly, the higher the composite score, the higher the degree of need for maternity care health services.

Score for Population-to-Full-Time-Equivalent Maternity Care Health Professional Ratio

The population-to-provider ratio will measure the number of women of childbearing age in the service area compared to the number of maternity care health professionals in the service area. Women of childbearing age will be defined as women between the ages of 15–44 years old and maternity care health professionals will be defined as Obstetricians-Gynecologists (OB–GYN) and Certified Nurse Midwives (CNMs). A population-to-provider ratio of 1,500:1 will be used as a minimum requirement for a population to be considered reasonably served by OB–GYNs and CNMs.

Population-to-provider ratio point values will be distributed as follows:

Population-to-provider ratio	Points
Ratio ≥6,000:1, or No CNMs or OB–GYNs and Population (Pop) ≥500	6
6,000:1 > Ratio ≥5,000:1, or No CNMs or OB–GYNs and Pop ≥400	5
5,000:1 > Ratio ≥3,000:1, or No CNMs or OB–GYNs and Pop ≥300	4
3,000:1 > Ratio ≥2,000:1, or No CNMs or OB–GYNs and Pop ≥200	3
2,000:1 > Ratio ≥1,500:1, or No CNMs or OB–GYNs and Pop ≥100	2
Ratio <1,500:1, or No CNMs or OB–GYNs and Pop <100	0

HRSA invites public comment on the revised methodology for the scoring distribution.

Score for Percentage of Population With Income at or Below 200 Percent of the Federal Poverty Level

The percentage of women of childbearing age living in the service area at or below 200 percent of the FPL will be used to score MCTAs, based on poverty data from the U.S. Census Bureau.

Population with income at or below 200 percent of the FPL point values will be distributed as follows:

Population with income at or below 200% FPL ratio	Points
Percentage of population with income at or below 200% FPL ≥50%	5
50% > Percentage of population with income at or below 200% FPL ≥45%	4
45% > Percentage of population with income at or below 200% FPL ≥40%	3
40% > Percentage of population with income at or below 200% FPL ≥35%	2
35% > Percentage of population with income at or below 200% FPL ≥30%	1
Percentage of population with income at or below 200% FPL <30%	0

This scoring methodology was finalized in the May 19, 2022, FRN (87 FR 30501), and HRSA is not proposing any changes.

Score for Travel Distance/Time to Nearest Source of Accessible Care Outside of the MCTA

The nearest source of accessible care is defined as the nearest provider trained and licensed to provide the necessary care, as determined by the Esri StreetMap Premium road network. Travel time and distance is defined as the average time to travel by road miles or the actual distance in road miles to the nearest source of care.

Travel time and distance to the nearest source of accessible care point values will be distributed as follows:

Travel time and distance	Points
Time ≥90 min or Distance ≥90 miles	6
90 min > Time ≥75 min or 90 miles >Distance ≥75 miles	5
75 min > Time ≥60 min or 75 miles >Distance ≥60 miles	4
60 min > Time ≥45 min or 60 miles >Distance ≥45 miles	3
45 min > Time ≥30 min or 45 miles >Distance ≥30 miles	2
Time < 30 min and Distance <30 miles	0

HRSA invites public comment on the revised methodology for scoring distribution.

Score for Fertility Rate

Fertility rate has been included to reflect the increased need for maternity care services among populations that experience a higher rate of births. Women of childbearing age will be derived from the American Community Survey and births will be derived from the National Vital Statistics System.

Fertility Rate point values will be distributed as follows:

Fertility rate	Points
Fertility Rate ≥90th Percentile	2
90th Percentile > Fertility Rate ≥50th Percentile	1
Fertility Rate <50th Percentile	0

This scoring methodology was finalized in the May 19, 2022, FRN (87 FR 30501), and HRSA is not proposing any changes.

Score for Maternal Health Indicators

Maternal health indicators are defined as factors associated with poor maternal health outcomes using data from the National Vital Statistics System and the Shortage Designation Management System. Scores will consider pre-pregnancy obesity, pre-pregnancy diabetes, pre-pregnancy hypertension, cigarette smoking before or during pregnancy, whether prenatal care began in the first trimester, and access to behavioral health services. Only women of childbearing age will be considered for these indicators. HRSA will use the National Vital Statistics System Natality file as the data source to determine the sub-score for pre-pregnancy obesity, pre-pregnancy diabetes, pre-pregnancy hypertension, cigarette smoking before or during pregnancy, and whether prenatal care began in the first trimester. The Shortage Designation Management System Mental HPSA file will be the data source to determine the sub-score for the behavioral health access factor.

Maternal Health Indicator criteria point values will be distributed as follows:

- *Pre-Pregnancy Obesity*

Pre-pregnancy obesity is defined as having a body mass index of 30 or higher. One point will be awarded if the prevalence of pre-pregnancy obesity in the area is greater than or equal to the 50th percentile among all counties in the United States. If the prevalence of pre-pregnancy obesity in the area is less than the 50th percentile among all counties, zero points will be awarded.

Pre-pregnancy obesity	Points
Prevalence of pre-pregnancy obesity ≥50th percentile	1
Prevalence of pre-pregnancy obesity <50th percentile	0

This scoring methodology was finalized in the May 19, 2022, FRN (87 FR 30501), and HRSA is not proposing any changes.

- *Pre-Pregnancy Diabetes*

One point will be awarded if the prevalence of pre-pregnancy diabetes in the area is greater than or equal to the 50th percentile among all counties in the United States. If the prevalence of pre-pregnancy diabetes in the area is less than the 50th percentile among all counties, zero points will be awarded.

Pre-pregnancy diabetes	Points
Prevalence of pre-pregnancy diabetes ≥50th percentile	1
Prevalence of pre-pregnancy diabetes <50th percentile	0

This scoring methodology was finalized in the May 19, 2022, FRN (87 FR 30501), and HRSA is not proposing any changes.

- *Pre-Pregnancy Hypertension*

One point will be awarded if the prevalence of pre-pregnancy hypertension among women in the area is greater than or equal to the 50th percentile among all counties in the United States. If the prevalence of pre-pregnancy hypertension among women in the area is less than the 50th percentile among all counties, zero points will be awarded.

Pre-pregnancy hypertension	Points
Prevalence of pre-pregnancy hypertension ≥50th percentile	1
Prevalence of pre-pregnancy hypertension <50th percentile	0

This scoring methodology was finalized in the May 19, 2022, FRN (87 FR 30501), and HRSA is not proposing any changes.

- *Cigarette Smoking*

One point will be awarded if the prevalence of cigarette smoking before or during pregnancy among women in the area is greater than or equal to the 50th percentile among all counties in the United States. Before pregnancy will be defined as smoking one or more cigarettes daily for the 3 months prior to pregnancy. During pregnancy will be defined as smoking one or more cigarettes during any trimester of pregnancy. If the prevalence of cigarette smoking before or during pregnancy among women in the area is less than the 50th percentile among all counties, zero points will be awarded.

Cigarette smoking	Points
Prevalence of Cigarette Smoking Before or During Pregnancy ≥50th percentile	1
Prevalence of Cigarette Smoking Before or During Pregnancy <50th percentile	0

This scoring methodology was finalized in the May 19, 2022, FRN (87 FR 30501), and HRSA is not proposing any changes.

- *Prenatal Care Initiation in the 1st Trimester*

One point will be awarded if the prevalence of women who did not initiate prenatal care in the first trimester of their pregnancy is greater than or equal to the 50th percentile among all counties in the United States. Zero points will be awarded if the prevalence of women who did not initiate prenatal care in the first trimester of their pregnancy is less than the 50th percentile among all counties.

Prenatal care in first trimester	Points
Prevalence of No Prenatal Care in First Trimester ≥50th percentile	1
Prevalence of No Prenatal Care in First Trimester <50th percentile	0

This scoring methodology was finalized in the May 19, 2022, FRN (87 FR 30501), and HRSA is not proposing any changes.

- *Behavioral Health Factor*

One point will be awarded if a portion or all of the MCTA service area is designated as a mental health HPSA meeting the following population-to-provider median ratio thresholds based on its mental health provider type. Zero points will be awarded if a portion or all of the MCTA service area is not designated as a mental health HPSA or if the mental health designation does not meet the population to provider ratio threshold.

Behavioral health factor	Points
Portion or all of MCTA service area is designated as a mental health HPSA meeting the following population-to-provider ratio thresholds based on its mental health provider type	1
• *Psychiatrist ONLY:* Psychiatrist population-to-provider ratio ≥45,000:1	
Core Mental Health: Core mental health population-to-provider ratio ≥18,000:1	
• *Psychiatrist and Core Mental Health:* Psychiatrist population-to-provider ratio ≥35,000:1 and core mental health population-to-provider ratio ≥6,000:1	
• *No Psychiatrists or Core Mental Health Providers:* ≥7,500: 0	
Portion or all of MCTA service area is designated as a mental health HPSA and does not meet the population-to-provider ratio thresholds above, OR is not designated as a mental health HPSA	0

This scoring methodology was finalized in the May 19, 2022, FRN (87 FR 30501), and HRSA is not proposing any changes.

Paperwork Reduction Act

The criteria used to identify MCTAs under section 332(k) of the PHS Act, as described in this announcement, will not involve data collection activities that fall under the purview of the Paperwork Reduction Act of 1995. If the methods for determining MCTAs fall under the purview of the Paperwork Reduction Act, HRSA will seek the Office of Management and Budget

clearance for proposed data collection activities.

Ann M. Sheehy,

Acting Principal Deputy Administrator.

[FR Doc. 2026–02130 Filed 2–2–26; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Topics in Health Services.

Date: February 18, 2026.

Time: 2:00 p.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Shiv A. Prasad, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, National Institutes of Health, NIAID, Rockville, MD 20892, *shiv.prasad@nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Alcohol and Neurotoxicology.

Date: February 24, 2026.

Time: 12:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Eileen Marie Moore, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 594–8928, *eileen.moore@nih.gov*.

Name of Committee: Center for Scientific Review, Special Emphasis Panel; PAR Panel: Review of Support for Research Excellence, (SuRE) (R16) and SuRE-First Independent Research (SuRE-First) (R16) applications.

Date: March 4, 2026.

Time: 10:00 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Shinako Takada, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, 301–827–5997, *shinako.takada@nih.gov*.

Name of Committee: Risk, Prevention and Health Behavior Integrated Review Group; Interdisciplinary Clinical Care in Specialty Care Settings Study Section.

Date: March 5–6, 2026.

Time: 9:30 a.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Abu Saleh Mohammad Abdullah, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 827–4043, *abuabdullah.abdullah@nih.gov*.

Name of Committee: Biological Chemistry and Macromolecular Biophysics Integrated Review Group; Maximizing Investigators' Research Award—E Study Section.

Date: March 10–11, 2026.

Time: 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Vandana Kumari, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 496–3290, *vandana.kumari@nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Aging, Neurodegeneration, and Neurotoxicology.

Date: March 11–12, 2026.

Time: 9:30 a.m. to 6:30 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Rahat Rani Khan, Ph.D., Scientific Review Officer, Office of Grants Management and Scientific Review, National Center for Advancing, Translational Sciences, 6701 Democracy Blvd., Rm. 1078, Bethesda, MD 20892, (301) 594–7319, *Khanr2@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: January 29, 2026.

Bruce A. George,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2026–02199 Filed 2–2–26; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Office of the Director, Notice of Charter Renewal

In accordance with Title 41 of the U.S. Code of Federal Regulations, Section 102–3.65(a), notice is hereby given that the charter for the National Center for Advancing Translational Sciences Council (NCATSC or Council) is being renewed for an additional two-year period on February 7, 2026. It is determined that the Council is in the public interest in connection with the performance of duties imposed on the National Institutes of Health by law, and that these duties can best be performed through the advice and counsel of this group.

The Public Interest Determination follows:

Annual budget and expected costs. The estimated annual costs to operate the Council include the following:

i. Federal personnel (based on full-time equivalent (FTE) usage basis) and other Federal internal costs. The estimated annual person years of staff support required is 1.0, at an estimated annual cost of $255,456. The estimate for other Federal internal costs is $4,242.

ii. Proposed payments to members and number of members. The estimated payments for three non-Federal members is $2,400; the estimated prorated salary of three Federal members is $2,244.

iii. Reimbursable costs. The estimate for reimbursable costs, including members' travel expenses, is $18,221.

Total dollar value of grants expected to be recommended during the fiscal year.

In fiscal year 2025, the Council reviewed 3,525 grant applications in the amount of $6,798,714,682. In addition, the Council reviewed 26 contract proposals in the amount of $94,834,948.

Criteria for selecting members. The Council will consist of not more than 18 members appointed by the Secretary (appointed members) and the following nonvoting ex officio members: the Secretary; the Director, NIH; the Director, NCATS; a representative from the Centers for Medicare and Medicaid

Services; a representative from the Food and Drug Administration; and any additional officers or employees of the Department of Health and Human Services as the Secretary determines necessary for the Council to effectively carry out its functions. Two-thirds of the appointed members will be selected from among the leading representatives of the health and scientific disciplines (including not less than two individuals who are leaders in the fields of public health and the behavioral or social sciences) relevant to the activities of the NCATS. One-third of the appointed members will be appointed by the Secretary from the general public and will include leaders in the fields of public policy, law, health policy, economics, and management.

List of all other Federal advisory committees of the agency. The National Institutes of Health has the following eight discretionary committees subject to renewal under 41 CFR 102–3.55(a), which address a broad spectrum of scientific activities:

- Advisory Committee to the Director, National Institutes of Health
- Clinical Center Research Hospital Board
- Fogarty International Center Advisory Board
- National Cancer Institute Clinical Trials and Translational Research Advisory Committee
- National Toxicology Program Board of Scientific Counselors
- National Toxicology Program Special Emphasis Panel
- Sickle Cell Disease Advisory Committee

Justification. The NCATSC is needed to review applications for grants and cooperative agreements for research and training and recommend approval of applications for projects which show promise of making valuable contributions to human knowledge. The NCATSC reviews any grant, contract, or cooperative agreement proposed to be made or entered into by the Center; may collect, by correspondence or by personal investigation, information as to studies which are being carried on in the United States or any other country as to the diseases, disorders, or other aspects of human health with respect to which the Center was established and, with the approval of the Director of NCATS, make available such information through appropriate publications for the benefit of public and private health entities, health professions personnel and scientists, and for the information of the general public. In fiscal year 2025 the Council reviewed 3,525 grant applications in the amount of $6,798,714,682. In addition, the Council reviewed 26 contract proposals in the amount of $94,834,948.

Inquiries may be directed to Patricia Brandt Hansberger, Acting Director, Office of Federal Advisory Committee Policy, Office of the Director, National Institutes of Health, 6701 Democracy Boulevard, Suite 1000, Bethesda, Maryland 20892 (Mail code 4875), Telephone (301) 496–2123, or *patricia.hansberger@nih.gov*.

Dated: January 30, 2026.

David W. Freeman,

Supervisory Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2026–02205 Filed 2–2–26; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Proposed Collection; 60-Day Comment Request; NCI Genomic Data Commons (GDC) Data Submission Request Form (National Cancer Institute)

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: In compliance with the requirement of the Paperwork Reduction Act of 1995 to provide an opportunity for public comment on proposed data collection projects, the National Cancer Institute (NCI) will publish periodic summaries of proposed projects to be submitted to the Office of Management and Budget (OMB) for review and approval.

DATES: Comments regarding this information collection are best assured of having their full effect if received by April 6, 2026.

FOR FURTHER INFORMATION CONTACT: To obtain a copy of the data collection plans and instruments, submit comments in writing, or request more information on the proposed project, contact Melissa Park, PRA Liaison, Office of Management Policy and Compliance, National Cancer Institute, 9609 Medical Center Drive, Room 2E196, Bethesda, MD 20892 or call non-toll-free number (240) 276–5717 or email your request, including your address to: *melissa.park@nih.gov.* Formal requests for additional plans and instruments must be requested in writing.

SUPPLEMENTARY INFORMATION: Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 requires: written comments and/or suggestions from the public and affected agencies are invited to address one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and (4) Ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Proposed Collection Title: NCI Genomic Data Commons (GDC) Data Submission Request Form, 0925–0752, Expiration Date 04/30/2026, EXTENSION. National Cancer Institute (NCI), National Institutes of Health (NIH).

Need and Use of Information Collection: The purpose of the NCI Genomic Data Commons (GDC) Data Submission Request Form is to continue to provide a vehicle for investigators to request the submission of their cancer genomic data into the GDC in support of data sharing. The purpose is also to provide a mechanism for the GDC Data Submission Review Committee to review and assess the data submission request for applicability to the GDC mission. The scope of the form involves obtaining information from investigators that: (1) would like to submit data about their study into the GDC, (2) are affiliated with studies that adhere to GDC data submission conditions. The benefits of the collection are that it provides the needed information for investigators to understand the types of studies and data that the GDC supports and that it provides a standard mechanism for the GDC to assess incoming data submission requests. The only change requested in this Extension is a reduction in the number of respondents from 200 to 100, resulting in a reduction in the total annual burden hours from 50 to 25. There are no other substantive changes to this submission other than the cost-of-living changes to the federal and labor costs.

OMB approval is requested for 3 years. There are no costs to respondents other than their time. The total estimated annualized burden hours are 25 hours.

ESTIMATED ANNUALIZED BURDEN HOURS

Category of respondent	Number of respondents	Number of responses per respondent	Average time per response (in hours)	Total annual burden hours
Individuals	100	1	15/60	25
Totals		100		25

Dated: January 30, 2026.

Melissa M. Park,

Project Clearance Liaison, National Cancer Institute, National Institutes of Health.

[FR Doc. 2026–02198 Filed 2–2–26; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–6271–N–07]

Final Determination: Adoption of Energy Efficiency Standards for New Construction of HUD- and USDA-Financed Housing; Additional Extension of HUD Compliance Dates

AGENCY: Department of Housing and Urban Development (HUD).

ACTION: Notice; extension of compliance dates.

SUMMARY: On April 26, 2024, HUD and the U.S. Department of Agriculture published the ''Final Determination: Adoption of Energy Efficiency Standards for New Construction of HUD- and USDA-Financed Housing'' Notice (Final Determination) in the **Federal Register**. The Final Determination provides compliance dates for HUD programs covered by the Final Determination. On March 10, 2025, HUD published a Notice of Extension of Compliance Dates in the **Federal Register** for covered projects in the following HUD programs: Federal Housing Administration-Insured (FHA-Insured) Multifamily, FHA-Insured Single Family, Public Housing Capital Fund, and Competitive Grants (Choice Neighborhoods, Section 202, Section 811) and Section 8 Project Based Vouchers (PBV). That notice was followed by a notice of an additional extension that was published in the **Federal Register** on November 10, 2025. This notice provides an additional extension of the compliance dates for these programs as specified below beyond the dates set forth in the November 10, 2025, notice.

DATES: Applicable February 3, 2026.

FOR FURTHER INFORMATION CONTACT: Bryan Horne, Deputy Assistant Secretary, Office of Community Planning and Development, Department of Housing and Urban Development, 451 7th Street SW, Room 7272, Washington, DC 20410, telephone number 202–402–4270 (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:

I. Background

On April 26, 2024, HUD and the U.S. Department of Agriculture published the Final Determination (89 FR 33112), which adopted the 2021 edition of the International Energy Conservation Code (IECC) and the 2019 edition of ANSI/ASHRAE/IES Standard 90.1: Energy Standard for Buildings, Except Low-Rise Residential Buildings (ASHRAE 90.1) as the minimum energy standards for new construction of buildings in programs covered by section 109 of the Cranston-Gonzalez National Affordable Housing Act of 1990 (42 U.S.C. 12709), as amended by the Energy Independence and Security Act of 2007 (EISA) (Pub. L. 110–140).

In Section VI of the Final Determination, the Departments provided Table 32, which lists compliance dates for the updated energy efficiency standards, also available with further guidance for HUD programs at *https://www.hudexchange.info/programs/minimum-energy-standards/.*

On March 10, 2025, HUD published ''Final Determination: Adoption of Energy Efficiency Standards for New Construction of HUD- and USDA-Financed Housing; Extension of HUD Compliance Dates'' (90 FR 11622), which extended the compliance dates for the following HUD programs: Federal Housing Administration-Insured (FHA-Insured) Multifamily, FHA-Insured Single Family, Public Housing Capital Fund, and Competitive Grants (Choice Neighborhoods, Section 202, Section 811), and Section 8 Project Based Vouchers. As explained in the March 10 extension notice, HUD did not extend the compliance dates for HOME and Housing Trust Fund because those dates had already passed.

On July 7, 2025, HUD and USDA published ''Adoption of Energy Efficiency Standards for New Construction of HUD- and USDA-Financed Housing; Notice for Comment'' (90 FR 29882), in which the agencies announced that they intend to review the analysis contained in the Final Determination and requested additional public comment to inform such review. The agencies received nearly 100 public comments in response to the notice. Subsequent to that notice, HUD published an additional extension of the compliance dates on November 10, 2025 (90 FR 50750).

II. Additional Delay of Compliance Dates

HUD is providing an additional delay of the HUD compliance dates that have not yet passed. The compliance dates for the following HUD programs are extended until December 31, 2026: Federal Housing Administration-Insured (FHA-Insured) Multifamily, FHA-Insured Single Family, Public Housing Capital Fund, and Section 8 Project Based Vouchers. The deadline for the Competitive Grants (Choice Neighborhoods, Section 202, Section 811) is extended until the publication of the respective program NOFOs for FY2026.

The additional delay provided by this notice will provide time for the agencies to fully consider the public comments received in response to the July 7 Notice for Comment. In this regard, the Department notes the request from a national building industry advocacy organization for an additional extension of the compliance dates. The additional delay for Section 8 Project Based Vouchers will allow time for HUD to solicit comment and develop and publish further guidance on compliance for Section 8 PBV.

As with the March 10 and November 10 extensions, HUD is not by this notice amending the compliance date for the HOME Investment Partnerships Program (HOME) and the Housing Trust Fund (HTF) Program, which has already passed. As stated on HUD Exchange, if HOME and HTF projects receive layered

funding with other HUD funds covered by this notice as listed in the table below, the later compliance date applies. HUD confirms that HOME and HTF projects with funding from a program covered by this compliance date extension do not have to comply with the Final Determination until the new extended date. See *https://www.hudexchange.info/programs/minimum-energy-standards/* for more information. Program participants who may have difficulty meeting compliance dates that have already passed should contact HUD.

The updated compliance dates are as follows:

Program	Initiation event	Compliance date
HOME and HTF (If HOME/HTF funding is layered with other HUD funds, the later program compliance date applies).	Participating Jurisdiction (PJ) or HTF Grantee Funding Commitment.	November 28, 2024.
Federal Housing Administration-Insured (FHA-Insured) Multifamily.	Pre-application Submitted to HUD	December 31, 2026.
FHA-Insured Single Family	Building Permit Application	December 31, 2026.
Public Housing Capital Fund	HUD approvals of development proposals for new Capital Fund or mixed financed projects.	December 31, 2026.
Project Based Vouchers	To be determined in further guidance	December 31, 2026.
Competitive Grants (Choice Neighborhoods, Section 202, Section 811).	Notice of Funding Opportunity (NOFO) Publication.	Upon publication of FY2026 NOFO for each respective program.
All programs, persistent poverty rural areas	Based on program-specific event, above	December 31, 2026.
Rental Assistance Demonstration (RAD)	N/A	Already effective by **Federal Register** Notice and program notice.

III. Findings and Certifications

Environmental Impact

This notice provides updated compliance deadlines for the Final Determination. A Finding of No Significant Impact (FONSI) was prepared for the preliminary determination that preceded the Final Determination and remained applicable to the Final Determination. That FONSI is also applicable to this notice. Accordingly, under 24 CFR 50.19(c)(4) this notice is categorically excluded from environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321).

Scott Turner,

Secretary.

[FR Doc. 2026–02184 Filed 2–2–26; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–6495–N–02]

Notice of Certain Operating Cost Adjustment Factors for 2026

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice; request for comments.

SUMMARY: This notice establishes operating cost adjustment factors (OCAFs) for project-based assistance contracts issued under Section 8 of the United States Housing Act of 1937 and renewed under the Multifamily Assisted Housing Reform and Affordability Act of 1997 (MAHRA) for eligible multifamily housing projects having an anniversary date on or after February 11, 2026. OCAFs are annual factors used to adjust Section 8 rents renewed under section 515 or section 524 of MAHRA. Additionally, OCAFs are part of an allowable method of rent adjustment for project-based voucher contracts pursuant to the provision at Section 8(o)(13)(I) of the United States Housing Act of 1937 that was implemented June 6, 2024. This notice also solicits comments on the methodology and data sources used to determine the OCAFs.

DATES:

Applicability date: February 11, 2026.

Comment due date: Comments are requested on or before April 6, 2026. Late-filed comments will be considered to the extent practicable.

ADDRESSES: Interested persons are invited to submit comments responsive to this notice. 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. Commenters are encouraged to identify the number of the specific question or questions to which they are responding. 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.

HUD strongly encourages commenters to submit their feedback and recommendations electronically. Electronic submission of comments allows the commenter maximum time to prepare and submit a response, ensures timely receipt by HUD, and enables HUD to make comments immediately available to the public. Comments submitted electronically through the *http://www.regulations.gov* website can be viewed by other commenters and interested members of the public. Commenters should follow the instructions provided on that site to submit comments electronically.

FOR FURTHER INFORMATION CONTACT: Jennifer Lavorel, Director, Office of Asset Management and Portfolio Oversight Program Administration Office, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410; telephone number 202–402–2515 (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:

I. Background

Section 514(e)(2) and section 524(c)(1) of the Multifamily Assisted Housing Reform and Affordability Act of 1997 (MAHRA) (42 U.S.C. 1437f note), as amended, require HUD to establish guidelines for the development of operating cost adjustment factors (OCAFs) for rent adjustments. Similar language is found in sections 524(a)(4)(C)(i), 524(b)(1)(A), and 524(b)(3)(A) of MAHRA, all of which prescribe the use of the OCAF in the calculation of renewal rents. MAHRA gives HUD broad discretion in setting OCAFs. For example, sections 524(a)(4)(C)(i), 524(b)(1)(A), 524(b)(3)(A), and 524(c)(1) refer simply to ''an operating cost adjustment factor established by the Secretary.'' HUD uses a single methodology for establishing OCAFs for each of these applications of OCAFs, although the methodology has evolved over time. The sole limitation to this grant of authority is a specific requirement in each of the foregoing provisions that application of an OCAF ''shall not result in a negative adjustment.''

In addition to their use under MAHRA, Section 8(o)(13)(I)(i) of the United States Housing Act of 1937 allows the use of OCAFs for project-based voucher contracts as implemented on June 6, 2024 in *Housing Opportunity Through Modernization Act of 2016—Housing Choice Voucher (HCV) and Project-Based Voucher Implementation; Additional Streamlining Changes* (89 FR 38224 (May 7, 2024)).

OCAFs vary among States and territories. Contract rents are adjusted by applying the OCAF for the State or territory in which the subject project is located to that portion of the rent attributable to operating expenses exclusive of debt service.

The OCAFs provided in this notice are applicable to eligible projects having a contract anniversary date on or after February 11, 2026.

II. OCAF Determination

OCAFs are composite factors calculated as the sum of weighted changes across nine operating cost categories: electricity, employee benefits, employee wages, fuel oil, goods/supplies/equipment, insurance, natural gas, property taxes, and water/sewer/trash. The weights used in the OCAF calculations for each of the nine cost component groupings are set using current percentages attributable to each of the nine expense categories. HUD calculates weights using three years of audited Annual Financial Statements from projects covered by OCAFs. HUD has found these expenditure percentages to be stable over time; using three years of data helps smooth short-term fluctuations. The nine cost component weights, and, thus, the OCAFs, are calculated at the State level, which is the lowest level of geographical aggregation with enough projects to permit statistical analysis. These data are not available for the Western Pacific Islands, so data for Hawaii are used as the best available indicator of OCAFs for these areas.

HUD relies on current and reliable price data available for each cost category drawing primarily from federal statistical agencies and audited financial statements. State-level data for electricity, fuel oil, and natural gas from Department of Energy surveys are relatively current and continue to be used. Data on changes in employee benefits, employee wages, goods/supplies/equipment, property taxes, and water/sewer/trash costs are available only at the national level. HUD uses State and HUD Region data for insurance, continuing the practice adopted for FY 2025 OCAFs.

The data sources used for the selected nine cost indicators are as follows:

- *Electricity:* Energy Information Agency (EIA), May 2025 ''Electric Power Monthly'' report, Table 5.6.B. HUD compares the January 2025 to May 2025 estimate to the January 2024 to May 2024 estimate. *https://www.eia.gov/electricity/monthly/epm_table_grapher.php?t=epmt_5_06_b.*
- *Employee benefits:* Bureau of Labor Statistics (BLS) Employment Cost Index (ECI), Private Industry Benefits, All Workers (Series ID CIU2030000000000I), at the national level. HUD compares the second quarter of 2025 to the second quarter of 2024. *https://data.bls.gov/timeseries/CIU2030000000000I.*
- *Employee wages:* BLS ECI, Private Industry Wages and Salaries, All Workers (Series ID CIU2020000000000I), at the national level. HUD compares the second quarter of 2025 to the second quarter of 2024. *https://data.bls.gov/timeseries/CIU2020000000000I.*
- *Fuel Oil:* EIA U.S. Weekly Heating Oil and Propane Prices report. Average weekly residential heating oil prices in cents per gallon excluding taxes for the period from October 7, 2024, through the week of May 12, 2025, are compared to the average from October 2, 2023, through the week of March 25, 2024.[1] For the States with insufficient fuel oil consumption to have separate estimates, HUD uses the relevant regional Petroleum Administration for Defense Districts (PADD) change between these two periods; if there is no regional PADD estimate, HUD uses the U.S. change between these two periods. *https://www.eia.gov/dnav/pet/pet_pri_wfr_a_EPD2F_PRS_dpgal_w.htm.*
- *Goods/Supplies/Equipment:* BLS Consumer Price Index, All Items Less Food, Energy and Shelter (Series ID CUUR0000SA0L12E) at the national level. HUD compares the July 2025 estimate to the estimate for July 2024. *https://data.bls.gov/timeseries/CUUR0000SA0L12E.*
- *Insurance:* Audited Financial Statements (AFS), multifamily data for property insurance at the State-level or, for those States with fewer than 100 multifamily properties, at the HUD regional level.[2] HUD compares the average annual property insurance expenditures in 2024 to the expenditures in 2023.
- *Natural Gas:* Energy Information *Administration* (EIA), Natural Gas, Residential Energy Price, monthly prices in dollars per 1,000 cubic feet at the state level. HUD compares the average of monthly prices from June 2024 to May 2025 to the average of prices from June 2023 to May 2024. Due to EIA data quality standards, several states were missing data for one or two months in 2024 and 2025; in these cases, data for these missing months were estimated using data from the surrounding months in that year and the relationship between that same month and the surrounding months in 2021. *www.eia.gov/dnav/ng/ng_pri_sum_a_EPG0_PRS_DMcf_a.htm.*
- *Property Taxes:* Census Quarterly Summary of State and Local Government Tax Revenue—Table 1 *https://www.census.gov/econ/currentdata/dbsearch?bprogramCode=QTAX&startYear=2023&endYear=2025&categories=QTAXCAT1&dataType=TOTAL&geoLevel=US&adjusted=0&notAdjusted=1&errorData=0.* HUD calculates the total tax receipts for April 2024–March 2025, divides by occupied housing units to find the average annual tax per unit and compares this figure to

[1] Data for April and May were available at the time the OCAFs were calculated this year but not in the prior year. Given that there is a minimal difference (approximately –0.016 at most for any given state) with oil generally contributing less than 1 percent to state OCAFs, the additional data has been used. When available, additional data will be used in future calculations as well.

[2] The financial statements comprise approximately 17,000 residential properties, including those in the Section 8 (including RAD conversions), Section 202, and Section 811 programs of HUD's Office of Multifamily Housing. There are 17 states with fewer than 100 properties that receive a regional average.

the prior year. The number of occupied housing units is taken from U.S. Census Bureau's Current Population Survey/Housing Vacancy Survey (CPS/HVS) housing inventory estimates, Table 8: *https://www.census.gov/housing/hvs/data/histtab8.xlsx.*

- *Water/Sewer/Trash:* Consumer Price Index, All Urban Consumers, Water and Sewer and Trash Collection Services (Series ID CUUR0000SEHG) at the national level. HUD compares the estimate for July 2025 to the estimate for July 2024.

The sum of the nine cost component percentage weights equals 100 percent of operating costs for purposes of OCAF calculations. To calculate the OCAFs, State-level cost component weights developed from AFS data are multiplied by the selected inflation factors. For example, if wages in Virginia represent 50 percent of total operating cost expenses and increased by 4 percent from 2024 to 2025, the wage increase component of the Virginia OCAF for 2025 would be 2.0 percent (50% * 4%). This 2.0 percent would then be added to the increases for the other eight expense categories to calculate the 2026 OCAF for Virginia. Because OCAFs are derived from multiple indices and data sources, they should be understood as composite adjustment factors rather than a single published index. For states where the calculated OCAF is less than zero, the OCAF is floored at zero. The OCAFs for 2026 are included as an Appendix to this notice.

III. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the methodology and data sources used to determine the OCAF as described in Section II. HUD will not revise the FY26 OCAFs in response to public comments but will take public input into consideration when developing the FY27 OCAFs. Any proposed changes to HUD's OCAF methodology will be published for public comment not later than the date of publication of the FY27 OCAF Notice.

HUD encourages interested parties to submit comments in response to these questions:

1. What alternative methodologies and data sources (*e.g.,* Consumer Price Index) should HUD consider when calculating the annual operating cost adjustment factor?

2. What factors most impact annual operating costs for affordable housing multifamily rental properties, and should the cost categories included in the OCAF be adjusted to reflect those costs?

3. How have OCAF-adjusted rent levels at HUD-assisted properties compared with the rent levels of recent movers with similar income levels or of recent movers into comparable units?

4. Should HUD consider adjusting the weighting of cost categories more or less frequently to smooth out variation or reflect emerging trends?

5. What data sources or approaches could HUD use to better capture regional or local variations in operating costs, particularly in states with diverse housing markets?

6. How should HUD balance timeliness and stability in its data sources (*e.g.,* shorter vs. longer measurement periods) to avoid volatility while still reflecting current conditions?

7. Should HUD explore predictive or forward-looking models (such as inflation forecasts or rolling averages) to anticipate operating cost changes rather than relying solely on past-year comparisons?

8. Should HUD explore selecting a subset of the nine cost components to determine OCAF to focus on the factors that primarily drive cost in each state?

9. How might HUD evaluate the long-term impact of OCAF adjustments on property sustainability and affordability, and what measures could be used to monitor these outcomes?

IV. Findings and Certifications Environmental Impact

This notice sets forth rate determinations and related external administrative requirements and procedures that do not constitute a development decision affecting the physical condition of specific project areas or building sites. Accordingly, under 24 CFR 50.19(c)(6), this notice is categorically excluded from environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321).

V. Paperwork Reduction Act

This notice does not impact the information collection requirements already submitted to the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). In accordance with the Paperwork Reduction Act, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a currently valid OMB control number.

VI. Assistance Listing Number

The Assistance Listing number for this program is 14.195.

Frank Casisidy,

Assistant Secretary for Housing—Federal Housing Commissioner.

APPENDIX

Operating Cost Adjustment Factors for 2026

Alabama	5.9
Alaska	5
Arizona	4.4
Arkansas	6
California	4.9
Colorado	4.5
Connecticut	4.3
Delaware	4.4
District of Columbia	5.1
Florida	8.2
Georgia	5.4
Hawaii	4.6
Idaho	4.6
Illinois	5.1
Indiana	5
Iowa	4.6
Kansas	5.2
Kentucky	5.1
Louisiana	9.8
Maine	3.3
Maryland	4.8
Massachusetts	4.8
Michigan	4.4
Minnesota	4.9
Mississippi	6.4
Missouri	5.1
Montana	4
Nebraska	4.9
Nevada	3.8
New Hampshire	3.6
New Jersey	4.9
New Mexico	6.3
New York	4.7
North Carolina	4.6
North Dakota	4.5
Ohio	4.9
Oklahoma	6.4
Oregon	4.8
Pacific Islands	4.6
Pennsylvania	4.7
Puerto Rico	6.1
Rhode Island	3.8
South Carolina	6.2
South Dakota	4.4
Tennessee	4.9
Texas	6.4
Utah	4.1
Vermont	4.6
Virgin Islands	12.3
Virginia	4.9
Washington	5.2
West Virginia	5.8
Wisconsin	4.4
Wyoming	4.4
United States	5.1

[FR Doc. 2026–02201 Filed 2–2–26; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[A2407–014–004–065516; #O2509–014–004–125222]

Call for Nominations and Comments for the 2026 Coastal Plain Oil and Gas Lease Sale

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of call for nominations.

SUMMARY: The Bureau of Land Management (BLM) Alaska State Office is issuing a call for nominations and comments on all available unleased tracts for the upcoming Coastal Plain 2026 Oil and Gas Lease Sale. This is a standard step in the leasing process as the BLM prepares to hold the first lease sale under direction in the One Big Beautiful Bill Act. This action also advances priorities in the Executive Order 14153, ''Unleashing Alaska's Extraordinary Resource Potential,'' and Secretary's Order 3422 of the same name.

DATES: BLM Alaska must receive all nominations and comments on these tracts for consideration on or before March 5, 2026.

ADDRESSES: Nominations and/or comments should be mailed or emailed to: State Director, Bureau of Land Management, Alaska State Office, 222 West 7th Avenue, #13, Anchorage, AK 99513–7504 Email: *BLM_AKSO_AK932_AKLeasesales@blm.gov.*

FOR FURTHER INFORMATION CONTACT: Wayne Svejnoha, BLM Alaska Energy and Minerals Branch Chief, Alaska State Office, 222 West 7th Avenue, #13, Anchorage, AK 99513; telephone 907–271–4407; email: *wsvejnoh@blm.gov.*

Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION: Pursuant to 43 CFR 3131.2, the BLM is issuing this call for nominations and comments for the upcoming Coastal Plain oil and gas lease sale on all available tracts in the areas designated for oil and gas leasing in the Coastal Plain Oil and Gas Leasing Program Record of Decision signed by the Secretary of the Interior on October 23, 2025. This effort implements direction from section 50104 of Public Law 119–21, the One Big Beautiful Bill Act, which the President signed into law on July 4, 2025. This action also advances priorities in Executive Order 14153, ''Unleashing Alaska's Extraordinary Resource Potential,'' and the associated Secretary's Order 3422 of the same name.

To identify tracts to nominate for leasing, or to provide comments, please follow instructions found on the BLM Alaska website at: *https://www.blm.gov/programs/energy-and-minerals/oil-and-gas/leasing/regional-lease-sales/alaska.*

The BLM also requests comments on tracts that should receive ''special concern and analysis'' (43 CFR 3131.2).

Before including your address, phone number, email address, or other personal identifying information in your nominations and/or comments, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

(Authority: 43 CFR 3131.2)

Kevin J. Pendergast,

State Director, Alaska.

[FR Doc. 2026–02181 Filed 2–2–26; 8:45 am]

BILLING CODE 4331–10–P

INTERNATIONAL TRADE COMMISSION

Notice of Receipt of Complaint; Solicitation of Comments Relating to the Public Interest

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has received a complaint entitled *Certain NAND and DRAM Memory Chips, DN 3881;* the Commission is soliciting comments on any public interest issues raised by the complaint or complainant's filing pursuant to the Commission's Rules of Practice and Procedure.

FOR FURTHER INFORMATION CONTACT: Lisa R. Barton, Secretary to the Commission, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–2000. The public version of the complaint can be accessed on the Commission's Electronic Document Information System (EDIS) at *https://edis.usitc.gov.* For help accessing EDIS, please email *EDIS3Help@usitc.gov.*

General information concerning the Commission may also be obtained by accessing its internet server at United States International Trade Commission (USITC) at *https://www.usitc.gov* . The public record for this investigation may be viewed on the Commission's Electronic Document Information System (EDIS) at *https://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission has received a complaint and a submission pursuant to § 210.8(b) of the Commission's Rules of Practice and Procedure filed on behalf of MonolithIC 3D Inc. on January 29, 2026. The complaint alleges violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain NAND and DRAM memory chips. The complaint names as a respondents: KIOXIA Holdings Corporation of Japan; KIOXIA Corporation of Japan; KIOXIA America, Inc. of San Jose, CA; KIOXIA Engineering Corporation of Japan; KIOXIA Iwate Corporation of Japan; KIOXIA Systems Co., Ltd. of Japan; KIOXIA Semiconductor Taiwan Corporation of Taiwan; SK hynix Inc. of South Korea; SK hynix America Inc. of San Jose, CA; and SK hynix Memory Solutions America Inc. of San Jose, CA. The complainant requests that the Commission issue a limited exclusion order, cease and desist orders, and impose a bond upon respondents' alleged infringing articles during the 60-day Presidential review period pursuant to 19 U.S.C. 1337(j).

Proposed respondents, other interested parties, members of the public, and interested government agencies are invited to file comments on any public interest issues raised by the complaint or § 210.8(b) filing. Comments should address whether issuance of the relief specifically requested by the complainant in this investigation would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) explain how the articles potentially subject to the requested remedial orders are used in the United States;

(ii) identify any public health, safety, or welfare concerns in the United States relating to the requested remedial orders;

(iii) identify like or directly competitive articles that complainant, its licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded;

(iv) indicate whether complainant, complainant's licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to the requested exclusion order and/or a cease and desist order within a commercially reasonable time; and

(v) explain how the requested remedial orders would impact United States consumers.

Written submissions on the public interest must be filed no later than by close of business, eight calendar days after the date of publication of this notice in the **Federal Register**. There will be further opportunities for comment on the public interest after the issuance of any final initial determination in this investigation. Any written submissions on other issues must also be filed by no later than the close of business, eight calendar days after publication of this notice in the **Federal Register**. Complainant may file replies to any written submissions no later than three calendar days after the date on which any initial submissions were due, notwithstanding § 201.14(a) of the Commission's Rules of Practice and Procedure. No other submissions will be accepted, unless requested by the Commission. Any submissions and replies filed in response to this Notice are limited to five (5) pages in length, inclusive of attachments.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above. Submissions should refer to the docket number (''Docket No. 3881'') in a prominent place on the cover page and/or the first page. (*See* Handbook for Electronic Filing Procedures, Electronic Filing Procedures [1]). Please note the Secretary's Office will accept only electronic filings during this time. Filings must be made through the Commission's Electronic Document Information System (EDIS, *https://edis.usitc.gov.*) No in-person paper-based filings or paper copies of any electronic filings will be accepted until further notice. Persons with questions regarding filing should contact the Secretary at *EDIS3Help@usitc.gov.*

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this Investigation may be disclosed to and used: (i) by the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel,[2] solely for cybersecurity purposes. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.[3]

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and of §§ 201.10 and 210.8(c) of the Commission's Rules of Practice and Procedure (19 CFR 201.10, 210.8(c)).

By order of the Commission.

Issued: January 29, 2026.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2026–02107 Filed 2–2–26; 8:45 am]

BILLING CODE 7020–02–P

[1] Handbook for Electronic Filing Procedures: *https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf.*

[2] All contract personnel will sign appropriate nondisclosure agreements.

[3] Electronic Document Information System (EDIS): *https://edis.usitc.gov.*

DEPARTMENT OF JUSTICE

Antitrust Division

United States v. Columbus McKinnon Corp., 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 District of Columbia in *United States of America* v. *Columbus McKinnon Corp., et al.,* Civil Action No. 1:26–cv–00266. On January 29, 2026, the United States filed a Complaint alleging that Columbus McKinnon's proposed acquisition of Kito Crosby Limited would violate Section 7 of the Clayton Act, 15 U.S.C. 18. The proposed Final Judgment, filed at the same time as the Complaint, requires Columbus McKinnon to divest its power chain hoists and chains businesses.

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 District of Columbia. 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 Soyoung Choe, Acting Chief, Defense, Industrials, and Aerospace Section, Antitrust Division, Department of Justice, 450 Fifth Street NW, Suite 8700, Washington, DC 20530 (email address: *ATR.Public-Comments-Tunney-Act-MB@usdoj.gov*).

Suzanne Morris,

Deputy Director Civil Enforcement Operations, Antitrust Division.

United States District Court for the District of Columbia

United States of America, Plaintiff, v. *Columbus Mckinnon Corporation, KKR North America Fund XI L.P., and Kito Crosby Limited,* Defendants.
No. 1:26–cv–00266–TJK
Judge: Timothy J. Kelly

Complaint

Columbus McKinnon Corporation (''CMCO'') and Kito Crosby Limited (''Kito Crosby'') are two of the leading manufacturers of electric chain hoists and overhead lifting chain in the United States. CMCO's proposed acquisition of Kito Crosby from KKR North America Fund XI L.P. (''KKR'') may substantially lessen competition in the markets for the development, manufacture, distribution, and sale of electric chain hoists and overhead lifting chain in the United States in violation of Section 7 of the Clayton Act, 15 U.S.C. 18. The

proposed transaction should therefore be enjoined.

I. Nature of the Action

1. Pursuant to a stock purchase agreement dated February 10, 2025, CMCO proposes to acquire all of the outstanding voting securities of Kito Crosby in exchange for approximately $2.7 billion. As part of the transaction, CMCO and Clayton, Dubilier & Rice Fund XII, L.P. (''CDR'') entered into an investment agreement dated February 10, 2025, in which CDR proposes to purchase approximately 40 percent of the voting securities of CMCO for approximately $800 million on the condition that CMCO subsequently close its acquisition of Kito Crosby.

2. Electric chain hoists use a motor-driven chain system to safely lift and move heavy loads with ease and precision. They are often integrated with overhead cranes to streamline operations in warehouses, factories, and production facilities across nearly every industry in the United States.

3. Overhead lifting chain is welded chain made from alloy steel that is manufactured and tested in accordance with standards published by the American Society of Testing & Materials (''ASTM''). Due to their superior strength and durability, alloy steel chains that meet or exceed ASTM's specifications are the only chains recommended by the Occupational Safety and Health Administration (''OSHA''), the National Association of Chain Manufacturers (''NACM''), and the American Society of Mechanical Engineers (''ASME'') for use in lifting loads into positions in which dropping the load would cause bodily injury or property damage.

4. The proposed acquisition would eliminate competition between CMCO and Kito Crosby. As a result, the proposed acquisition may substantially lessen competition in the United States for the development, manufacture, distribution, and sale of electric chain hoists and overhead lifting chain in violation of Section 7 of the Clayton Act, 15 U.S.C. 18.

II. The Defendants

5. CMCO is incorporated in New York and headquartered in Charlotte, North Carolina. CMCO produces a wide range of material handling equipment and is a market leader in the United States for hoists, material handling digital power control systems, and precision conveyers. The company has a strong market position in certain chains, forged fittings, and linear actuator products. In 2024, CMCO had revenues of approximately $1 billion.

6. Kito Crosby Limited is a private limited company registered in the United Kingdom and headquartered in Arlington, Texas. Kito Crosby is a global leader in the lifting and securement hardware industry with key products including hoists, cranes, and lifting hardware. In 2024, Kito Crosby had revenues of approximately $1.1 billion. Kito Crosby is owned by KKR North America Fund XI L.P., a Cayman Islands exempted limited partnership with its principal place of business in New York, New York.

III. Jurisdiction and Venue

7. The United States brings this action under Section 15 of the Clayton Act, 15 U.S.C. 25, as amended, to prevent and restrain Defendants from violating Section 7 of the Clayton Act, 15 U.S.C. 18.

8. Defendants develop, manufacture, distribute, and sell electric chain hoists and overhead lifting chain in the flow of interstate commerce. Defendants' activities in the development, manufacture, distribution, and sale of these products substantially affect interstate commerce. This Court has subject matter jurisdiction over this action pursuant to Section 15 of the Clayton Act, 15 U.S.C. 25, and 28 U.S.C. 1331, 1337(a), and 1345.

9. Defendants have consented to venue and personal jurisdiction in this judicial district. Venue is therefore proper in this district under Section 12 of the Clayton Act, 15 U.S.C. 22 and 28 U.S.C. 1391(b) and (c).

IV. Background

10. The material handling industry is responsible for the movement, protection, storage, and control of materials and products through the process of their manufacture, distribution, consumption, and disposal. Rigging and lifting equipment are key to material handling as they facilitate the safe and efficient movement of heavy loads in a wide range of applications across the American economy. Rigging and lifting equipment is pervasive in the industrial and manufacturing, oil and gas, metals and mining, utilities, construction, and automotive industries.

11. Rigging and lifting equipment includes a variety of hardware, such as chains and shackles, which attach to a load and enable it to be raised and lowered with mechanical force by lifting equipment, such as cranes and hoists. Operating rigging and lifting equipment to move loads that weigh hundreds or thousands of pounds poses significant risk of serious injuries or fatalities. Manufacturers of rigging and lifting equipment, including CMCO and Kito Crosby, compete to provide safe and reliable products to their customers. To that end, they invest heavily in manufacturing with quality materials, safety testing, training end users, and ensuring durability of products in the field.

V. Relevant Markets

12. Electric chain hoists and overhead lifting chain each constitute a line of commerce as that term is used in Section 7 of the Clayton Act, and each is a relevant product market in which competitive effects can be assessed. The geographic market for each relevant product market is comprised of sales to customers within the United States.

13. Each of these relevant markets satisfies the well-accepted ''hypothetical monopolist'' test, which asks whether a hypothetical monopolist of all products sold in a market likely would impose at least a small but significant and non-transitory increase in price or other worsening terms (''SSNIPT''). Customers could not turn to alternative products to avoid such a price increase, nor would they so significantly reduce their purchases that the SSNIPT would be unprofitable for the hypothetical monopolist.

a. Electric Chain Hoists

14. Electric chain hoists use a chain driven by an electric motor to lift, lower, and position heavy materials. Electric chain hoists are designed to be durable and can be used independently or integrated into a small overhead crane. Industries across the economy—including automotive, aerospace, energy, construction, and logistics—rely on electric chain hoists daily to increase efficiency and reduce strain on operators.

15. Electric chain hoists vary in capacity, voltages, chain length, and speed. Electric chain hoists are ideal for lifting lighter loads (generally less than three tons) and are easy for operators to use. Although electric chain hoists vary in price depending on their features, the majority of electric chain hoists sold in the United States are priced from approximately $2,000 to $6,000.

16. While there are other types of hoists that are designed to perform the same basic lifting, lowering, and positioning functions as electric chain hoists, none of the alternatives offer the same value proposition as electric chain hoists, and therefore are not close substitutes. These other types of hoists are intended for different applications and offer different benefits and drawbacks depending on the environment in which they will be

used, how much weight will be lifted, and lift frequency. Accordingly, these other types of hoists are not effective substitutes for electric chain hoists.

b. Overhead Lifting Chain

17. Chains vary greatly in strength, durability, and reliability depending on how they are manufactured, metals they are made from, and size. To ensure safe and proper usage, ASTM recommends certain specifications for chain used in different applications. The specifications for chain recommended for use in overhead lifting are defined by ASTM as ''Grade 80'' and ''Grade 100.'' Overhead lifting chain is exclusively made from forged alloy steel while lower grade chain is made from carbon steel or stainless steel.

18. Chain manufacturers market chain as Grade 80 or Grade 100 and emboss links with the grade for identification purposes. Chains that meet or exceed these specifications are collectively referred to as ''overhead lifting chain.'' Since lower grades of chain are not recommended for overhead lifting by OSHA or ASME due to their inferior strength, there are effectively no substitutes for overhead lifting chain.

VI. Anticompetitive Effects

19. In the United States, CMCO and Kito Crosby are the two largest suppliers of electric chain hoists and two of the three largest suppliers of overhead lifting chain. CMCO's proposed acquisition of Kito Crosby would eliminate the competition between them and its future benefits to customers.

20. The transaction is likely to substantially lessen competition in the market for electric chain hoists in the United States. CMCO and Kito Crosby are the two largest suppliers of electric chain hoists with a combined market share of over 70 percent. The market for electric chain hoists is already highly concentrated and, as evidenced by the parties' combined share, would be significantly more concentrated after the proposed acquisition.

21. CMCO and Kito Crosby compete directly against one another to provide electric chain hoists to customers. CMCO and Kito Crosby offer more product features and local customer support than other market participants. Defendants have lowered prices and improved customer service as a result of competition from the other.

22. The transaction is also likely to substantially lessen competition in the market for overhead lifting chain in the United States. CMCO and Kito Crosby are two of the three largest suppliers of overhead lifting chain in the United States and have a combined market share of more than 60 percent. The market for overhead lifting chain is already highly concentrated and would become significantly more concentrated after the proposed acquisition.

23. CMCO and Kito Crosby compete head-to-head to supply overhead lifting chain to customers. This competition has resulted in lower prices, investments in new production capabilities, and better terms of sale.

24. After the acquisition of Kito Crosby, CMCO likely would have the incentive and ability to profitably increases prices for and reduce the quality of its electric chain hoists and overhead lifting chain. The proposed acquisition, therefore, may substantially lessen competition for the development, manufacture, distribution, and sale of electric chain hoists and overhead lifting chain in the United States in violation of Section 7 of the Clayton Act.

VII. Absence of Countervailing Factors

25. Entry or repositioning of new competitors into the markets for the development, manufacture, distribution, and sale of electric chain hoists or overhead lifting chain is unlikely to be sufficient or timely enough to prevent the loss of competition that will result from CMCO acquiring Kito Crosby.

26. Not only does entering each of the electric chain hoist or overhead lifting chain markets require significant time and investment to set up production facilities and test new products, brand reputation is also very important to competing successfully for customers in the lifting and rigging industries. Electric chain hoists and overhead lifting chain must operate reliably every time to avoid exposing workers to significant risk. Customers often rely on personal experience and brand recognition as a proxy for quality in selecting a supplier since it can be difficult for customers to evaluate the quality of a particular electric chain hoist or overhead lifting chain.

27. Potential entrants into the production of electric chain hoists and overhead lifting chain also struggle to compete with established suppliers due to the scale advantages that larger suppliers benefit from given their increased production volumes. The fact that new entrants have higher average costs than incumbents deters entry into the markets for the development, manufacture, distribution, and sale of electric chain hoists and overhead lifting chain.

28. As a result of these high barriers, entry into the markets for the development, manufacture, distribution, and sale of electric chain hoists and overhead lifting chain would not be timely, likely, or sufficient to defeat the substantial lessening of competition that would likely result from CMCO's acquisition of Kito Crosby.

VIII. Violations Alleged

29. CMCO's acquisition of Kito Crosby may substantially lessen competition in the development, manufacture, distribution, and sale of electric chain hoists and overhead lifting chain in violation of Section 7 of the Clayton Act, 15 U.S.C. 18.

30. Unless enjoined, the proposed acquisition likely would have the following anticompetitive effects relating to electric chain hoists and overhead lifting chain, among others:

(a) actual and potential competition between CMCO and Kito Crosby would be eliminated;

(c) competition likely would be substantially lessened; and

(d) prices would likely increase, service would likely decrease, quality would likely be reduced, and innovation would likely slow.

IX. Request for Relief

31. The United States requests that this Court:

(a) adjudge and decree that CMCO's acquisition of Kito Crosby would be unlawful and violate Section 7 of the Clayton Act, 15 U.S.C. 18;

(b) preliminarily and permanently enjoin and restrain Defendants and all persons acting on their behalf from consummating the proposed acquisition of Kito Crosby by CMCO, or from entering into or carrying out any other contract, agreement, plan, or understanding, the effect of which would be to combine CMCO and Kito Crosby;

(c) award the United States its costs for this action; and

(d) award the United States such other and further relief as the Court deems just and proper.

Dated: January 29, 2026

Respectfully submitted,

For Plaintiff United States of America
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* LEAD ATTORNEY TO BE NOTICED

United States District Court for the District of Columbia

United States of America, Plaintiff, v. *Columbus McKinnon Corporation, KKR North America Fund XI L.P., and Kito Crosby Limited,* Defendants.

No. 1:26–cv–00266–TJK Judge Timothy J. Kelly

Proposed Final Judgment

Whereas, Plaintiff, United States of America, filed its Complaint on January 29, 2026;

And whereas, the United States and Defendants, Columbus McKinnon Corporation, KKR North America Fund XI L.P., and Kito Crosby Limited, 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, Defendants agree to make a divestiture to remedy the loss of competition alleged in the Complaint;

And whereas, Defendants represent that the divestiture and other relief required by this Final Judgment can and will be made and that Defendants 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 Defendants under Section 7 of the Clayton Act (15 U.S.C. 18).

II. Definitions

As used in this Final Judgment:

A. ''CMCO'' means Defendant Columbus McKinnon Corporation, a New York corporation with its headquarters in Charlotte, North Carolina, its successors and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships, and joint ventures, and their directors, officers, managers, agents, and employees.

B. ''KKR'' means Defendant KKR North America Fund XI L.P., a Cayman Islands exempted limited partnership with its principal place of business in New York, New York, its successors and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships, and joint ventures, and their directors, officers, managers, agents, and employees.

C. ''Kito Crosby'' means Defendant Kito Crosby Limited, a private limited company registered in the United Kingdom with its headquarters in Arlington, Texas, its successors and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships, and joint ventures, and their directors, officers, managers, agents, and employees.

D. ''Pacific'' means Pacific Avenue Capital Partners, LLC, a Delaware limited liability company with its headquarters in Manhattan Beach, California, its successors and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships, and joint ventures, and their directors, officers, managers, agents, and employees.

E. ''Acquirer'' means Pacific or another entity approved by the United States in its sole discretion to which Defendants divest the Divestiture Assets.

F. ''Divestiture Business'' means the business of the development, manufacture, distribution, and sale of Power Chain Hoists and chains by CMCO in the United States.

G. ''Divestiture Assets'' means all of Defendant CMCO's rights, titles, and interests in and to all property and assets, tangible and intangible, wherever located, relating to or used in connection with the Divestiture Business, including:

1. the real property and facility located at 22364 Jeb Stuart Highway, Damascus, Virginia (the ''Damascus Facility'');

2. the real property and facility located at 560 Rush Street, Lexington, Tennessee (the ''Lexington Facility'');

3. the lease dated June 30, 2016 between Defendant CMCO and Pod #2 at Rock Lititz LP for Training Pod #2, located at Suite 40, 201 Rock Lititz Blvd., Lititz, Pennsylvania;

4. the lease dated July 31, 2025 between Defendant CMCO and Kilo Delta, LLC for 26478 Hillman Highway, Abingdon, Virginia;

5. the lease dated January 1, 2026 between Defendant CMCO and Ellen Costello for 22798 Jeb Stuart Highway, Damascus, Virginia;

6. the Transitional Columbus McKinnon Trademark License;

7. all other real property, including fee simple interests, real property leasehold interests and renewal rights thereto, improvements to real property, and options to purchase any adjoining or other property, together with all buildings, facilities, and other structures;

8. all tangible personal property, including fixed assets, machinery and manufacturing equipment, tools, vehicles, inventory, materials, office equipment and furniture, computer hardware, and supplies (including tangible personal property located at the Wadesboro Facility);

9. all contracts, contractual rights, and customer relationships, and all other agreements, commitments, and understandings, including supply agreements, teaming agreements, joint development agreements, and leases, and all outstanding offers or solicitations to enter into a similar arrangement;

10. all licenses, permits, certifications, approvals, consents, registrations, waivers, and authorizations, including those issued or granted by any governmental organization, and all pending applications or renewals;

11. all records and data, including (a) customer lists, accounts, sales, and credit records, (b) production, repair, maintenance, and performance records, (c) manuals and technical information Defendants provide to their own employees, customers, suppliers, agents, or licensees, (d) records and research data concerning historic and current research and development activities, including designs of experiments and the results of successful and unsuccessful designs and experiments, and (e) drawings, blueprints, and designs;

12. all intellectual property owned, licensed, or sublicensed, either as licensor or licensee, including (a) patents, patent applications, and inventions and discoveries that may be patentable, (b) registered and unregistered copyrights and copyright applications, and (c) registered and unregistered trademarks, trade dress, service marks, trade names, and trademark applications; and

13. all other intangible property, including (a) commercial names and d/b/a names, (b) technical information, (c) computer software and related documentation, know-how, trade secrets, design protocols, specifications for materials, specifications for parts, specifications for devices, safety procedures (*e.g.,* for the handling of materials and substances), quality assurance and control procedures, (d) design tools and simulation capabilities, and (e) rights in internet websites and internet domain names.

Provided, however, that the assets specified in Paragraphs II.G.1–13 above do not include (1) the interests in the Wadesboro Facility; or (2) any intellectual property associated with the brand names ''Columbus McKinnon,'' ''CMCO,'' or ''CM'' other than what is provided in the Transitional Columbus McKinnon Trademark License.

H. ''Divestiture Date'' means the date on which the Divestiture Assets are divested to Acquirer pursuant to this Final Judgment.

I. ''Electric Chain Hoists'' means motorized lifting devices, powered by electricity, that lift, lower, and position heavy loads using a chain.

J. ''Including'' means including, but not limited to.

K. ''Overhead Lifting Chain'' means high-strength, alloy steel chain specifically engineered for lifting, suspending, or maneuvering heavy loads.

L. ''Power Chain Hoists'' means motorized lifting devices, irrespective of the source of power, that lift, lower, and position heavy loads using a chain.

M. ''Relevant Personnel'' means all full-time, part-time, or contract employees of CMCO, wherever located, whose job responsibilities relate in any way to the Divestiture Assets, at any time between February 10, 2025, and the Divestiture Date, including employees of CMCO whose job responsibilities relate to the international sale of Power Chain Hoists and chains manufactured in the United States. The United States, in its sole discretion, will resolve any disagreement relating to which employees are Relevant Personnel.

N. ''Transaction'' means the proposed acquisition of Kito Crosby by CMCO.

O. ''Transitional Columbus McKinnon Trademark License'' means a non-exclusive, non-transferrable, sublicensable, fully paid-up, royalty-free, worldwide license to use the ''CM'' marks in connection with the Divestiture Business for a period of eight years following the Divestiture Date.

P. ''Wadesboro Facility'' means Defendant CMCO's facility located at 2020 Country Club Road, Wadesboro, NC 28170.

III. Applicability

A. This Final Judgment applies to KKR, Kito Crosby, and CMCO, as defined above, and all other persons in active concert or participation with any Defendant who receive actual notice of this Final Judgment.

B. If, prior to complying with Section IV and Section V of this Final Judgment, Defendants sell or otherwise dispose of all or substantially all of their assets or of business units that include the Divestiture Assets, Defendants must require any purchaser to be bound by the provisions of this Final Judgment. Defendants need not obtain such an agreement from Acquirer.

IV. Divestiture

A. Defendants are ordered and directed, within 45 calendar days after the Court's entry of the Asset Preservation and Hold Separate Stipulation and Order in this matter, to divest the Divestiture Assets in a manner consistent with this Final Judgment to Pacific or another Acquirer acceptable to the United States, in its sole discretion. The United States, in its sole discretion, may agree to one or more extensions of this time period not to exceed 90 calendar days in total and will notify the Court of any extensions.

B. For all contracts, agreements, customer relationships, and supplier relationships (or portions of such contracts, agreements, customer relationships, and supplier relationships) included in the Divestiture Assets, Defendant CMCO must assign or otherwise transfer all contracts, agreements, customer relationships, and supplier relationships to Acquirer within the deadlines set forth in Paragraph IV.A.; *provided, however,* that for any contract or agreement that requires the consent of another party to assign or otherwise transfer, Defendant CMCO must use best efforts to accomplish the assignment or transfer. Defendants must not interfere with any negotiations between Acquirer and a contracting party.

C. Defendants must use best efforts to divest the Divestiture Assets as expeditiously as possible. Defendants must take no action that would jeopardize the completion of the divestiture ordered by the Court, including any action to impede the permitting, operation, or divestiture of the Divestiture Assets.

D. Unless the United States otherwise consents in writing, divestiture pursuant to this Final Judgment must include the entire Divestiture Assets and must be accomplished in such a way as to satisfy the United States, in its sole discretion, that the Divestiture Assets can and will be used by Acquirer as part of a viable, ongoing business of the development, manufacture, distribution, and sale of Electric Chain Hoists and Overhead Lifting Chain and that the divestiture to Acquirer will remedy the competitive harm alleged in the Complaint.

E. The divestiture must be made to an Acquirer that, in the United States' sole judgment, has the intent and capability, including the necessary managerial, operational, technical, and financial capability, to compete effectively in the development, manufacture, distribution, and sale of Electric Chain Hoists and Overhead Lifting Chain.

F. The divestiture must be accomplished in a manner that satisfies the United States, in its sole discretion, that none of the terms of any agreement between Acquirer and Defendants give Defendants the ability unreasonably to raise Acquirer's costs, to lower Acquirer's efficiency, or otherwise interfere in the ability of Acquirer to compete effectively in the development, manufacture, distribution, and sale of Electric Chain Hoists and Overhead Lifting Chain.

G. In the event Defendants are attempting to divest the Divestiture Assets to an Acquirer other than Pacific, Defendants promptly must make known, by usual and customary means, the availability of the Divestiture Assets. Defendants must inform any person making an inquiry relating to a possible purchase of the Divestiture Assets that the Divestiture Assets are being divested in accordance with this Final Judgment and must provide that person with a copy of this Final Judgment. Defendants must offer to furnish to all prospective Acquirers, subject to customary confidentiality assurances, all information and documents relating to the Divestiture Assets that are customarily provided in a due diligence process; *provided, however,* that Defendants need not provide information or documents subject to the attorney-client privilege or work-product doctrine. Defendants must make all information and documents available to the United States at the same time that the information and documents are made available to any other person.

H. Defendant CMCO must provide prospective Acquirers with (1) access to make inspections of the Divestiture Assets; (2) access to all environmental, zoning, and other permitting documents and information relating to the Divestiture Assets; and (3) access to all financial, operational, or other documents and information relating to the Divestiture Assets that would customarily be provided as part of a due diligence process. Defendant CMCO also must disclose all encumbrances on any part of the Divestiture Assets, including on intangible property.

I. Defendant CMCO must cooperate with and assist Acquirer in identifying and, at the option of Acquirer, hiring all Relevant Personnel, including:

1. Within 10 business days following the entry of the Asset Preservation and Hold Separate Stipulation and Order in this matter, Defendant CMCO must identify all Relevant Personnel to Acquirer and the United States, including by providing organization charts covering all Relevant Personnel.

2. Within 10 business days following receipt of a request by Acquirer or the United States, Defendant CMCO must provide to Acquirer and the United States additional information relating to Relevant Personnel, including name, job title, reporting relationships, working location, and responsibilities. Defendant CMCO must also provide to Acquirer and the United States information relating to current and accrued compensation and benefits of Relevant Personnel, including most recent bonuses paid, aggregate annual compensation, current target or guaranteed bonus, if any, any retention agreement or incentives, and any other payments due, compensation or benefits accrued, or promises made to the Relevant Personnel. If Defendant CMCO is barred by any applicable law from providing any of this information, Defendant CMCO must provide, within 10 business days following receipt of the request, the requested information to the full extent permitted by law and also must provide a written explanation of Defendant CMCO's inability to provide the remaining information, including specifically identifying the provisions of the applicable laws.

3. At the request of Acquirer, Defendant CMCO must promptly make Relevant Personnel available for private interviews with Acquirer during normal business hours at a mutually agreeable location.

4. Defendants must not interfere with any effort by Acquirer to employ any Relevant Personnel. Interference includes offering to increase the compensation or improve the benefits of Relevant Personnel unless (a) the offer is part of a company-wide increase in compensation or improvement in benefits that was announced prior to February 10, 2025 or (b) the offer is approved by the United States in its sole discretion. Defendants' obligations under this Paragraph IV.I.4. will expire 180 calendar days after the Divestiture Date.

5. For Relevant Personnel who elect employment with Acquirer within 180 calendar days of the Divestiture Date, Defendants must waive all non-compete and non-disclosure agreements; vest and pay to the Relevant Personnel (or to Acquirer for payment to the employee) on a prorated basis any bonuses, incentives, other salary, benefits, or other compensation fully or partially accrued at the time of the transfer of the employee to Acquirer; vest any unvested pension and other equity rights; and provide all other benefits that those Relevant Personnel otherwise would have been provided had the Relevant Personnel continued employment with Defendant CMCO, including any retention bonuses or payments. Defendants may maintain reasonable restrictions on disclosure by Relevant Personnel of Defendants' proprietary non-public information that is unrelated to the Divestiture Assets and not otherwise required to be disclosed by this Final Judgment.

J. For a period of 24 months from the Divestiture Date, Defendants CMCO and Kito Crosby may not solicit to re-hire Relevant Personnel who were hired by Acquirer within 180 days of the Divestiture Date unless (a) an individual is terminated or laid off by Acquirer or (b) Acquirer agrees in writing that Defendants may solicit to re-hire that individual. Nothing in this Paragraph IV.J prohibits Defendants from advertising employment openings using general solicitations or advertisements and re-hiring Relevant Personnel who apply for an employment opening through a general solicitation or advertisement.

K. Defendant CMCO must warrant to Acquirer that (1) the Divestiture Assets will be operational and without material defect on the date of their transfer to the Acquirer; (2) there are no material defects in the environmental, zoning, or other permits relating to the operation of the Divestiture Assets; and (3) Defendant CMCO has disclosed all encumbrances on any part of the Divestiture Assets, including on intangible property. Following the sale of the Divestiture Assets, Defendants must not undertake, directly or indirectly, challenges to the environmental, zoning, or other permits relating to the operation of the Divestiture Assets.

L. Defendant CMCO must use best efforts to assist Acquirer to obtain all necessary licenses, registrations, and permits to operate the Divestiture Business. Until Acquirer obtains the necessary licenses, registrations, and permits, Defendant CMCO must provide Acquirer with the benefit of Defendant CMCO's licenses, registrations, and permits to the full extent permissible by law.

M. At the option of Acquirer, and subject to approval by the United States in its sole discretion, on or before the Divestiture Date, Defendant CMCO must enter into a supply contract or contracts for hooks, motors, drives, gears, hardware, and components related to the Divestiture Assets sufficient to meet Acquirer's needs, as determined by Acquirer, for a period of up to 24 months, on terms and conditions reasonably related to market conditions for the supply of hooks, motors, drives, gears, hardware, and components related to the Divestiture Assets. At the option of the Acquirer, subject to approval by the United States in its sole discretion, Defendant CMCO must enter into one or more extensions of any such contracts for a total of up to an additional 12 months, on terms and conditions reasonably related to market conditions for the supply of hooks, motors, drives, gears, hardware, and components related to the Divestiture Assets. Any amendment to or modification of any provision of any such supply contract or supply contract extension is subject to approval by the United States, in its sole discretion. If Acquirer seeks an extension of the term of any supply contract, Defendant CMCO must notify the United States in writing at least 60 calendar days prior to the date the supply contract expires. Acquirer may terminate a supply contract (including an extension of a supply contract), or any portion of a supply contract (including a portion of an extension of a supply contract), without cost or penalty upon 30 calendar days' written notice.

N. At the option of Acquirer, and subject to approval by the United States in its sole discretion, on or before the Divestiture Date, Defendant CMCO must enter into a contract to provide transition services for back office, human resources, accounting, employee health and safety, supply chain logistics, and information technology services and support for a period of up to 12 months on terms and conditions reasonably related to market conditions for the provision of the transition services. At the option of the Acquirer, subject to approval by the United States in its sole discretion, Defendant CMCO must enter into one or more extensions of any such contracts for a total of up to an additional 90 calendar days, on terms and conditions reasonably related to market conditions for the provision of the transition services. Any amendment to or modification of any transition services contract or extension to a transition services contract is subject to approval by the United States, in its sole discretion. If Acquirer seeks an extension of the term of any contract for transition services, Defendant CMCO must notify the United States in writing at least five calendar days prior to the date the contract expires. Acquirer may terminate a contract (including an extension) for transition services, or any portion of a contract (including an extension) for transition services, without cost or penalty at any time upon 30 calendar days' written notice. The employees of Defendant CMCO tasked with providing transition

services to Acquirer must not share any competitively sensitive information of Acquirer with any other employee of Defendants.

O. At the option of Acquirer, subject to approval by the United States in its sole discretion, on or before the Divestiture Date, Defendant CMCO must enter into a contract or contracts for the operation of the portion of the Divestiture Assets located at the Wadesboro Facility, sufficient to meet Acquirer's needs, as determined by Acquirer, for a period of up to 12 months, on terms and conditions reasonably related to market conditions for such asset operation. At the option of Acquirer, subject to approval by the United States in its sole discretion, Defendant CMCO must enter into one or more extensions of any such contracts for a total of up to an additional 12 months, on terms and conditions reasonably related to market conditions for such asset operation. Any amendment to or modification of any provision of any such contract or extension must first be approved by the United States, in its sole discretion. If Acquirer seeks an extension of the term of any such contract, Defendant CMCO must notify the United States in writing at least 30 days prior to the date the contract expires. Acquirer may terminate such a contract (including an extension), or any portion of such a contract (including an extension), without cost or penalty upon 30 calendar days' written notice. The employees of Defendant CMCO tasked with operation of the Divestiture Assets located at the Wadesboro Facility must not share any competitively sensitive information of Acquirer with any employee of Defendants other than those tasked with providing services at the Wadesboro Facility.

P. If any term of an agreement between Defendants and Acquirer, including an agreement to effectuate the divestiture required by this Final Judgment, varies from a term of this Final Judgment, to the extent that Defendants cannot fully comply with both, this Final Judgment determines Defendants' obligations.

V. Appointment of Divestiture Trustee

A. If Defendants have not divested all of the Divestiture Assets within the period specified in Paragraph IV.A., Defendants must immediately notify the United States of that fact in writing. Upon application of the United States, which Defendants may not oppose, the Court will appoint a divestiture trustee selected by the United States and approved by the Court to effect the divestiture of the Divestiture Assets.

B. After the appointment of a divestiture trustee by the Court, only the divestiture trustee will have the right to sell those Divestiture Assets that the divestiture trustee has been appointed to sell. The divestiture trustee will have the power and authority to accomplish the divestiture to an Acquirer acceptable to the United States, in its sole discretion, at a price and on terms obtainable through reasonable effort by the divestiture trustee, subject to the provisions of Sections IV, V, and VI of this Final Judgment, and will have other powers as the Court deems appropriate. The divestiture trustee must sell the Divestiture Assets as quickly as possible.

C. Defendants may not object to a sale by the divestiture trustee on any ground other than malfeasance by the divestiture trustee. Objections by Defendants must be conveyed in writing to the United States and the divestiture trustee within 10 calendar days after the divestiture trustee has provided the notice of proposed divestiture required by Section VI.

D. The divestiture trustee will serve at the cost and expense of Defendants 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.

E. The divestiture trustee may hire at the cost and expense of Defendants any agents or consultants, including investment bankers, attorneys, and accountants, that are reasonably necessary in the divestiture trustee's judgment to assist with the divestiture trustee's duties. These agents or consultants will be accountable solely to the divestiture trustee and will serve on terms and conditions, including confidentiality requirements and conflict-of-interest certifications, approved by the United States in its sole discretion.

F. The compensation of the divestiture trustee and agents or consultants hired by the divestiture trustee must be reasonable in light of the value of the Divestiture Assets and based on a fee arrangement that provides the divestiture trustee with incentives based on the price and terms of the divestiture and the speed with which it is accomplished. If the divestiture trustee and Defendants are unable to reach agreement on the divestiture trustee's compensation or other terms and conditions of engagement within 14 calendar days of the appointment of the divestiture trustee by the Court, the United States, in its sole discretion, may take appropriate action, including by making a recommendation to the Court. Within three business days of hiring an agent or consultant, the divestiture trustee must provide written notice of the hiring and rate of compensation to Defendants and the United States.

G. The divestiture trustee must account for all monies derived from the sale of the Divestiture Assets by the divestiture trustee and all costs and expenses incurred. Within 30 calendar days of the Divestiture Date, the divestiture trustee must submit that accounting to the Court for approval. After approval by the Court of the divestiture trustee's accounting, including fees for unpaid services and those of agents or consultants hired by the divestiture trustee, all remaining money must be paid to Defendants, and the trust will then be terminated.

H. Defendants must use best efforts to assist the divestiture trustee to accomplish the required divestiture. Subject to reasonable protection for trade secrets, other confidential research, development, or commercial information, or any applicable privileges, Defendants must provide the divestiture trustee and agents or consultants retained by the divestiture trustee with full and complete access to all personnel, books, records, and facilities of the Divestiture Assets. Defendants also must provide or develop financial and other information relevant to the Divestiture Assets that the divestiture trustee may reasonably request. Defendants must not take any action to interfere with or to impede the divestiture trustee's accomplishment of the divestiture.

I. The divestiture trustee must maintain complete records of all efforts made to sell the Divestiture Assets, including by filing monthly reports with the United States setting forth the divestiture trustee's efforts to accomplish the divestiture ordered by this Final Judgment. The reports must include the name, address, and telephone number of each person who, during the preceding month, made an offer to acquire, expressed an interest in acquiring, entered into negotiations to acquire, or was contacted or made an inquiry about acquiring any interest in the Divestiture Assets and must describe in detail each contact.

J. If the divestiture trustee has not accomplished the divestiture ordered by this Final Judgment within 180 calendar days of appointment, the divestiture trustee must promptly provide the United States with a report setting forth: (1) the divestiture trustee's efforts to accomplish the required divestiture; (2) the reasons, in the divestiture trustee's

judgment, why the required divestiture have not been accomplished; and (3) the divestiture trustee's recommendations for completing the divestiture. Following receipt of that report, the United States may make additional recommendations to the Court. The Court thereafter may enter such orders as it deems appropriate to carry out the purpose of this Final Judgment, which may include extending the trust and the term of the divestiture trustee's appointment by a period requested by the United States.

K. The divestiture trustee will serve until divestiture of all Divestiture Assets is completed or for a term otherwise ordered by the Court.

L. If the United States determines that the divestiture trustee is not acting diligently or in a reasonably cost-effective manner, the United States may recommend that the Court appoint a substitute divestiture trustee.

VI. Notice of Proposed Divestiture

A. Within two business days following execution of a definitive agreement with an Acquirer other than Pacific to divest the Divestiture Assets, Defendants or the divestiture trustee, whichever is then responsible for effecting the divestiture, must notify the United States of the proposed divestiture. If the divestiture trustee is responsible for completing the divestiture, the divestiture trustee also must notify Defendants. The notice must set forth the details of the proposed divestiture and list the name, address, and telephone number of each person not previously identified who offered or expressed an interest in or desire to acquire any ownership interest in the Divestiture Assets.

B. After receipt by the United States of the notice required by Paragraph VI.A., the United States may make one or more requests to Defendants or the divestiture trustee for additional information concerning the proposed divestiture, the proposed Acquirer, and other prospective Acquirers. Defendants and the divestiture trustee must furnish any additional information requested within 15 calendar days of the receipt of each request unless the United States provides written agreement to a different period.

C. Within 45 calendar days after receipt of the notice required by Paragraph VI.A. or within 20 calendar days after the United States has been provided the additional information requested pursuant to Paragraph VI.B., whichever is later, the United States will provide written notice to Defendants and any divestiture trustee that states whether the United States, in its sole discretion, objects to the proposed Acquirer or any other aspect of the proposed divestiture. Without written notice that the United States does not object, a divestiture may not be consummated. If the United States provides written notice that it does not object, the divestiture may be consummated, subject only to Defendants' limited right to object to the sale under Paragraph V.C. of this Final Judgment. Upon objection by Defendants pursuant to Paragraph V.C., a divestiture by the divestiture trustee may not be consummated unless approved by the Court.

VII. Financing

Defendants may not finance all or any part of Acquirer's purchase of all or part of the Divestiture Assets.

VIII. Asset Preservation and Hold Separate Obligations

Defendants must take all steps necessary to comply with the Asset Preservation and Hold Separate Stipulation and Order entered by the Court.

IX. Affidavits

A. Within 20 calendar days of entry of the Asset Preservation and Hold Separate Stipulation and Order, and every 30 calendar days thereafter until the divestiture required by this Final Judgment has been completed, each Defendant must deliver to the United States an affidavit, signed by Defendant CMCO's Chief Financial Officer and General Counsel and Defendant Kito Crosby's Chief Financial Officer and Chief Legal and Compliance Officer, describing in reasonable detail the fact and manner of that Defendant's compliance with this Final Judgment. The United States, in its sole discretion, may approve different signatories for the affidavits.

B. In the event Defendants are attempting to divest the Divestiture Assets to an Acquirer other than Pacific, each affidavit required by Paragraph IX.A. must include: (1) the name, address, and telephone number of each person who, during the preceding 30 calendar days, made an offer to acquire, expressed an interest in acquiring, entered into negotiations to acquire, or was contacted or made an inquiry about acquiring, an interest in the Divestiture Assets and describe in detail each contact with such persons during that period; (2) a description of the efforts Defendants have taken to solicit buyers for and complete the sale of the Divestiture Assets and to provide required information to prospective Acquirers; and (3) a description of any limitations placed by Defendants on information provided to prospective Acquirers. Objection by the United States to information provided by Defendants to prospective Acquirers must be made within 14 calendar days of receipt of the affidavit, except that the United States may object at any time if the information set forth in the affidavit is not true or complete.

C. Defendants must keep all records of any efforts made to divest the Divestiture Assets until one year after the Divestiture Date.

D. Within 20 calendar days of entry of the Asset Preservation and Hold Separate Stipulation and Order, Defendants must deliver to the United States an affidavit signed by Defendant CMCO's Chief Financial Officer and General Counsel and Defendant Kito Crosby's Chief Financial Officer and Chief Legal and Compliance Officer that describes in reasonable detail all actions that Defendants have taken and all steps that Defendants have implemented on an ongoing basis to comply with Section VIII of this Final Judgment. The United States, in its sole discretion, may approve different signatories for the affidavits.

E. If a Defendant makes any changes to actions and steps described in affidavits provided pursuant to Paragraph IX.D., the Defendant must, within 15 calendar days after any change is implemented, deliver to the United States an affidavit describing those changes.

F. Defendants must keep all records of any efforts made to comply with Section VIII until one year after the Divestiture Date.

X. Compliance Inspection

A. For the purposes of determining or securing compliance with this Final Judgment or of related orders such as the Asset Preservation and Hold Separate Stipulation and Order or of determining whether this Final Judgment should be modified or vacated, upon the written request of an authorized representative of the Assistant Attorney General for the Antitrust Division and reasonable notice to Defendants, Defendants 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 Defendants' business hours to inspect and copy, or at the option of the United States, to require Defendants to provide electronic copies of all books, ledgers, accounts, records, data, and documents, wherever located, in the possession, custody, or control of Defendants relating to any

matters contained in this Final Judgment; and

2. to interview, either informally or on the record, Defendants' officers, employees, or agents, wherever located, 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 Defendants.

B. Upon the written request of an authorized representative of the Assistant Attorney General for the Antitrust Division, Defendants must submit written reports or respond to written interrogatories, under oath if requested, relating to any matters contained in this Final Judgment.

XI. No Reacquisition

Defendants may not reacquire any part of or any interest in the Divestiture Assets during the term of this Final Judgment without prior written authorization of the United States.

XII. Public Disclosure

A. No information or documents obtained pursuant to any provision in this Final Judgment may be divulged by the United States 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, for the purpose of evaluating a proposed Acquirer or securing compliance with this Final Judgment, or as otherwise required by law.

B. 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 United States 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. Defendants 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).

C. If at the time that Defendants furnish information or documents to the United States pursuant to any provision of this Final Judgment, Defendants represent and identify 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 Defendants mark 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 Defendants 10 calendar days' notice before divulging the material in any legal proceeding (other than a grand jury proceeding).

XIII. 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.

XIV. Enforcement of Final Judgment

A. If at any time during the five-year period following entry of this Final Judgment, the United States determines in its sole discretion that the Final Judgment has failed to fully redress the violations alleged in the Complaint, then the United States may re-open this proceeding to seek additional relief, including divestiture of additional assets. Such additional relief may be ordered by this Court upon a finding by a preponderance of the evidence that there is a reasonable probability that the proposed Final Judgment did not fully redress the violations alleged in the Complaint.

B. 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. 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 Defendants waive any argument that a different standard of proof should apply.

C. 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. Defendants may be held in contempt of, and 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.

D. In an enforcement proceeding in which the Court finds that Defendants have 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 a Defendant, whether litigated or resolved before litigation, that Defendant must 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 during the investigation of the potential violation.

E. For a period of four years following the expiration of this Final Judgment, if the United States has evidence that a Defendant violated this Final Judgment before it expired, the United States may file an action against that 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 the Defendant complies with the terms of this Final Judgment; and (4) fees or expenses as called for by this Section XIV.

XV. Expiration of Final Judgment

Unless the Court grants an extension, this Final Judgment will expire 10 years from the date of its entry, except that after five years from the date of its entry, this Final Judgment may be terminated upon notice by the United States to the Court and Defendants that the divestiture has been completed and continuation of this Final Judgment is no longer necessary or in the public interest.

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 District of Columbia

United States of America, Plaintiff, v. *Columbus McKinnon Corporation, KKR North America Fund XI L.P., and Kito Crosby Limited*, Defendants.

No. 1:26–cv–00266–TJK

Judge Timothy J. Kelly

I. 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 filed in this civil antitrust proceeding.

I. Nature and Purpose of the Proceeding

On February 10, 2025, Columbus McKinnon Corporation (''CMCO'') agreed to acquire all of the outstanding voting securities of Kito Crosby Limited (''Kito Crosby'') for approximately $2.7 billion. The United States filed a civil antitrust Complaint on January 29, 2026, seeking to enjoin the proposed acquisition. The Complaint alleges that the likely effect of this acquisition would be to substantially lessen competition for electric chain hoists and overhead lifting chain in the United States in violation of Section 7 of the Clayton Act, 15 U.S.C.§ 18.

At the same time the Complaint was filed, the United States filed a proposed Final Judgment and an Asset Preservation and Hold Separate Stipulation and Order (''Stipulation and Order''), which are designed to remedy the loss of competition alleged in the Complaint.

Under the proposed Final Judgment, which is explained more fully below, Defendant CMCO is required to divest its power chain hoist and chains businesses in the United States.

Under the terms of the Stipulation and Order, Defendants must take certain steps to operate, preserve, and maintain the full economic viability, marketability, and competitiveness of the assets that must be divested. In addition, management, sales, and operations of the assets that must be divested must be held entirely separate, distinct and apart from Defendants' other operations. The purpose of these terms in the Stipulation and Order is to ensure that competition is maintained during the pendency of the required divestiture.

The United States and Defendants have stipulated that the proposed Final Judgment may be entered after compliance with the APPA. Entry of the proposed Final Judgment will terminate this action, except that the Court will retain jurisdiction to construe, modify, or enforce the provisions of the proposed Final Judgment and to punish violations thereof.

II. Description of Events Giving Rise to the Alleged Violation

A. The Defendants and the Proposed Transaction

CMCO is incorporated in New York and headquartered in Charlotte, North Carolina. CMCO produces a wide range of material handling equipment and is a market leader in the United States for hoists, material handling digital power control systems, and precision conveyers. The company has a strong market position in certain chains, forged fittings, and linear actuator products. In 2024, CMCO had revenues of approximately $1 billion.

Kito Crosby Limited is a private limited company registered in the United Kingdom and headquartered in Arlington, Texas. Kito Crosby is a global leader in the lifting and securement hardware industry with key products including hoists, cranes, and lifting hardware. In 2024, Kito Crosby had revenues of approximately $1.1 billion. Kito Crosby is owned by KKR North America Fund XI L.P., a Cayman Islands exempted limited partnership with its principal place of business in New York, New York.

Pursuant to a Stock Purchase Agreement dated February 10, 2025, CMCO agreed to acquire all of the outstanding voting securities of Kito Crosby for approximately $2.7 billion.

B. The Competitive Effects of the Transaction

The Complaint alleges that the transaction will result in anticompetitive effects in the markets for the development, manufacture, distribution, and sale of electric chain hoists and overhead lifting chain in the United States.

1. Electric Chain Hoists

Electric chain hoists use a chain driven by an electric motor to lift, lower, and position heavy materials. Electric chain hoists are designed to be durable and can be used independently or integrated into a small overhead crane. Industries across the economy—including automotive, aerospace, energy, construction, and logistics—rely on electric chain hoists daily to increase efficiency and reduce strain on operators.

Electric chain hoists vary in capacity, voltages, chain length, and speed. Electric chain hoists are ideal for lifting lighter loads (generally less than three tons) and are easy for operators to use. Although electric chain hoists vary in price depending on their features, the majority of electric chain hoists sold in the United States are priced from approximately $2,000 to $6,000.

While there are other types of hoists that are designed to perform the same basic lifting, lowering, and positioning functions as electric chain hoists, none of the alternatives offer the same value proposition as electric chain hoists, and therefore are not close substitutes. These other types of hoists are intended for different applications and offer different benefits and drawbacks depending on the environment in which it will be used, how much weight will be lifted, and lift frequency. Accordingly, these other types of hoists are not effective substitutes for electric chain hoists.

2. Overhead Lifting Chain

Chains vary greatly in strength, durability, and reliability depending on how they are manufactured, the metals they are made from, and their size. To ensure safe and proper usage, the American Society of Testing & Materials (''ASTM'') recommends certain specifications for chain used in different applications. The specifications for chain recommended for use in overhead lifting are defined by ASTM as ''Grade 80'' and ''Grade 100.'' Overhead lifting chain is exclusively made from forged alloy steel while lower grade chain is made from carbon steel or stainless steel.

Chain manufacturers market chain as Grade 80 or Grade 100 and emboss the links that make up the chain with the grade for identification purposes. Chains that meet or exceed these specifications are collectively referred to as ''overhead lifting chain.'' Since lower grades of chain are not recommended for overhead lifting by OSHA or ASME due to their inferior strength, there are effectively no substitutes for overhead lifting chain.

3. Competitive Effects

The transaction is likely to substantially lessen competition in the markets for the development, manufacture, distribution, and sale of electric chain hoists and overhead lifting chain in the United States. CMCO and Kito Crosby are the two largest suppliers of electric chain hoists in the United States with a combined market share of over 70 percent. The market for

electric chain hoists is already highly concentrated and, as evidenced by the parties' combined share, would be significantly more concentrated after the proposed acquisition. CMCO and Kito Crosby compete directly against one another to provide electric chain hoists to customers. CMCO and Kito Crosby offer more product features and local customer support than other market participants. Defendants have lowered prices and improved customer service as a result of competition from the other.

CMCO and Kito Crosby are also two of the three largest suppliers of overhead lifting chain in the United States and have a combined market share of more than 60 percent. The market for overhead lifting chain is already highly concentrated and would become significantly more concentrated after the proposed acquisition. CMCO and Kito Crosby compete head-to-head to supply overhead lifting chain to customers. This competition has resulted in lower prices, investments in new production capabilities, and better terms of sale.

After the acquisition of Kito Crosby, CMCO likely would have the incentive and ability to profitably increase prices for and reduce the quality of its electric chain hoists and overhead lifting chain. The proposed acquisition, therefore, likely would substantially lessen competition for the development, manufacture, distribution, and sale of electric chain hoists and overhead lifting chain in the United States in violation of Section 7 of the Clayton Act.

4. Difficulty of Entry

Entry or repositioning of new competitors into the market for the development, manufacture, distribution, and sale of electric chain hoists or overhead lifting chain is unlikely to be sufficient or timely enough to prevent the loss of competition that will result from CMCO acquiring Kito Crosby.

Not only does entering each of the electric chain hoist or overhead lifting chain markets require significant time and investment to set up production facilities and test new products, brand reputation is also very important to competing successfully for customers in the lifting and rigging industries. Electric chain hoists and overhead lifting chain must operate reliably every time to avoid exposing workers to significant risk. Customers often rely on personal experience and brand recognition as a proxy for quality in selecting a supplier since it can be difficult for customers to evaluate the quality of a particular electric chain hoist or overhead lifting chain.

Potential entrants into the production of electric chain hoists and overhead lifting chain also struggle to compete with established suppliers due to the scale advantages that larger suppliers benefit from given their increased production volumes. The fact that new entrants have higher average costs than incumbents deters entry into the markets for the development, manufacture, distribution, and sale of electric chain hoists and overhead lifting chain.

As a result of these high barriers, entry into the markets for the development, manufacture, distribution, and sale of electric chain hoists and overhead lifting chain would not be timely, likely, or sufficient to defeat the substantial lessening of competition that would likely result from CMCO's acquisition of Kito Crosby.

III. Explanation of the Proposed Final Judgment

The relief required by the proposed Final Judgment will remedy the loss of competition alleged in the Complaint by establishing an independent and economically viable competitor in the markets for the development, manufacture, distribution, and sale of electric chain hoists and overhead lifting chain. Paragraph IV.A of the proposed Final Judgment requires Defendants, within 45 days after the entry of the Stipulation and Order by the Court, to divest Defendant CMCO's Power Chain Hoist and chains businesses in the United States to Pacific Avenue Capital Partners or an alternative acquirer acceptable to the United States, in its sole discretion. The assets must be divested in such a way as to satisfy the United States, in its sole discretion, that the assets can and will be operated by the acquirer as a viable, ongoing business that can compete effectively in the markets for the development, manufacture, distribution, and sale of electric chain hoists and overhead lifting chain. Defendants must take all reasonable steps necessary to accomplish the divestiture quickly and must cooperate with the acquirer.

Defendants are required to divest the Divestiture Assets, which consist of all Defendant CMCO's rights, titles, and interests in and to all property and assets related to the Divestiture Business. The Divestiture Business, defined in Paragraph II.F, includes the business of the development, manufacture, distribution, and sale of Power Chain Hoists and chains by CMCO in the United States. As defined in Paragraph II.L, Power Chain Hoists includes all motorized lifting devices, irrespective of the source of power, that lift, lower, and position heavy loads using a chain.

Paragraph II.G of the proposed Final Judgment identifies categories of Divestiture Assets, including (1) real property interests at specified locations used in the Divestiture Business in Damascus, Virginia; Lexington, Tennessee; Lititz, Pennsylvania; and Abingdon, Virginia; (2) a transitional Columbus McKinnon trademark license; (3) all other real property related to the Divestiture Business; (4) all personal property, including fixed assets, machinery and manufacturing equipment, tools, vehicles, inventory, materials, office equipment and furniture, computer hardware, and supplies (including tangible personal property located CMCO's manufacturing facility in Wadesboro, North Carolina); (5) all contracts, contractual rights, and customer relationships, and all other agreements, commitments, and understandings, including supply agreements; (6) all licenses, permits, certifications, approvals, consents, registrations, waivers, and authorizations; (7) all records and data; (8) all intellectual property owned, licensed, or sublicensed, either as licensor or licensee; and (9) all other intangible property. These Divestiture Assets are broadly defined to ensure a complete divestiture of all assets needed for the Divested Businesses. Any exceptions to the divestiture obligations are specified in the proposed Final Judgment.

The Divestiture Assets do not include certain specified assets, as defined in Paragraph II.G, including (1) the interests in CMCO's manufacturing facility in Wadesboro, North Carolina; or (2) any intellectual property associated with the brand names ''Columbus McKinnon,'' ''CMCO,'' or ''CM'' other than what is provided in the transitional Columbus McKinnon trademark license, as defined in Paragraph II.O.

The proposed Final Judgment contains provisions intended to facilitate the acquirer's efforts to hire certain employees. Specifically, Paragraph IV.I of the proposed Final Judgment requires Defendant CMCO to identify to the acquirer and the United States all Relevant Personnel, including by providing organization charts and information relating to these employees and to make them available for interviews. It also provides that Defendants must not interfere with any negotiations by the acquirer to hire these employees. In addition, for employees who elect employment with

the acquirer, Defendants must waive all non-compete and non-disclosure agreements, vest all unvested pension and other equity rights, provide any pay pro rata, provide all compensation and benefits that those employees have fully or partially accrued, and provide all other benefits that the employees would generally be provided had those employees continued employment with Defendant CMCO, including but not limited to any retention bonuses or payments. Paragraph IV.J provides that Defendants CMCO and Kito Crosby may not solicit to re-hire any of those employees who were hired by the acquirer, unless an employee is terminated or laid off by the acquirer or the acquirer agrees in writing that Defendants may solicit to hire that individual. The non-solicitation period runs for 24 months from the date of the divestiture.

Paragraph IV.B of the proposed Final Judgment will facilitate the transfer to the acquirer of customers, suppliers, and other contractual relationships that are included within the Divestiture Assets. Defendant CMCO must transfer all contracts, agreements, and relationships to the acquirer and must make best efforts to assign or otherwise transfer contracts or agreements that require the consent of another party to assign or otherwise transfer.

Paragraph IV.M of the proposed Final Judgment requires Defendant CMCO, at the acquirer's option, to enter into a supply contract for hooks, motors, drives, gears, hardware, and components related to the Divestiture Assets sufficient to meet acquirer's needs for a period of up to 24 months. The acquirer may terminate the supply contract, or any portion of it, without cost or penalty at any time upon 30 calendar days' notice. Upon the acquirer's request, the United States, in its sole discretion, may approve one or more extensions of the supply contract for up to an additional 12 months. Any amendment to or modification of any provisions of a supply contract is subject to approval by the United States, in its sole discretion. This provision will help to ensure that the acquirer will not face disruption to its supply of hooks, motors, drives, gears, hardware, and components related to the Divestiture Assets during an important transitional period.

The proposed Final Judgment requires Defendant CMCO to provide certain transition services to maintain the viability and competitiveness of the Divestiture Assets during the transition to the acquirer. Paragraph IV.N of the proposed Final Judgment requires Defendant CMCO, at the option of the acquirer, to enter into a transition services agreement for back office, human resources, accounting, employee health and safety, supply chain logistics, and information technology services and support for a period of up to 12 months. The acquirer may terminate the transition services agreement, or any portion of it, without cost or penalty at any time upon 30 calendar days' notice. The paragraph further provides that the United States, in its sole discretion, may approve one or more extensions of the transition services agreement for a total of up to an additional 90 calendar days. Any amendment to or modification of any transition services contract is subject to approval by the United States, in its sole discretion. Paragraph IV.N also provides that employees of Defendant CMCO tasked with supporting this agreement must not share any competitively sensitive information of the acquirer with any other employee of Defendants.

Paragraph IV.O of the proposed Final Judgment provides that Defendant CMCO must enter into a contract or contracts for the operation of the portion of the Divestiture Assets located at CMCO's facility in Wadesboro, North Carolina for a period of up to 12 months. At the option of the acquirer, the United States, in its sole discretion, may approve one or more extensions of the contract for up to an additional 12 months. Any amendment to or modification of any such contract or extension is subject to approval by the United States, in its sole discretion. The acquirer may terminate the contract, or any portion of it, without cost or penalty at any time upon 30 calendar days' notice. Paragraph IV.O also provides that employees of Defendant CMCO tasked with supporting this agreement must not share any competitively sensitive information of the acquirer with any employee of Defendants other than those also tasked with providing services supporting this agreement.

If Defendants do not accomplish the divestiture within the period prescribed in Paragraph IV.A of the proposed Final Judgment, Section V of the proposed Final Judgment provides that the Court will appoint a divestiture trustee selected by the United States to effect the divestiture. If a divestiture trustee is appointed, the proposed Final Judgment provides that Defendants must pay all costs and expenses of the trustee. The divestiture trustee's commission must be structured so as to provide an incentive for the trustee based on the price obtained and the speed with which the divestiture is accomplished. After the divestiture trustee's appointment becomes effective, the trustee must provide monthly reports to the United States setting forth his or her efforts to accomplish the divestiture. If the divestiture has not been accomplished within 180 calendar days of the divestiture trustee's appointment, the United States may make recommendations to the Court, which will enter such orders as appropriate, in order to carry out the purpose of the Final Judgment, including by extending the trust or the term of the divestiture trustee's appointment.

The proposed Final Judgment also contains provisions designed to promote compliance with and make enforcement of the Final Judgment as effective as possible. Paragraph XIV.A of the proposed Final Judgment provides that, if at any time during the five-year period following entry of the Final Judgment, the United States determines at its sole discretion that the Final Judgment has failed to fully redress the violations alleged in the Complaint, then the United States may re-open the proceeding to seek additional relief, including divestiture of additional assets.

Paragraph XIV.B 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 Paragraph XIV.B, Defendants have 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 Defendants have 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 that the Final Judgment addresses.

Paragraph XIV.C provides additional clarification regarding the interpretation of the provisions of the proposed Final Judgment. The proposed Final Judgment is intended to restore the competition the United States alleged in the Complaint. Defendants agree that they will abide by the proposed Final Judgment and that they 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 this procompetitive purpose.

Paragraph XIV.D provides that if the Court finds in an enforcement proceeding that a Defendant 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 XIV.D provides that, in any successful effort by the United States to enforce the Final Judgment against a Defendant, whether litigated or resolved before litigation, the Defendant 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 XIV.E states that the United States may file an action against a Defendant 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 XV of the proposed Final Judgment provides that the Final Judgment will expire ten years from the date of its entry, except that after five years from the date of its entry, the Final Judgment may be terminated upon notice by the United States to the Court and Defendants that the divestiture has been completed and 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 Defendants.

V. Procedures Available for Modification of the Proposed Final Judgment

The United States and Defendants 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 response 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: Soyoung Choe Acting Chief, Defense, Industrials, and Aerospace Section, Antitrust Division, United States Department of Justice, 450 Fifth St. NW, Suite 8700, Washington, DC 20530, *ATR.Public-Comments-Tunney-Act-MB@usdoj.gov*.

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 Defendants. The United States could have continued the litigation and sought preliminary and permanent injunctions against Columbus McKinnon's acquisition of Kito Crosby. The United States is satisfied, however, that the relief required by the proposed Final Judgment will remedy the anticompetitive effects alleged in the Complaint, preserving competition for electric chain hoists and overhead lifting chain in the United States. Thus, the proposed Final Judgment achieves all or substantially all of the relief the United States would have obtained through litigation but 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'').

As the U.S. Court of Appeals for the District of Columbia 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. 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). 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''). 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 L 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 29, 2026.

Respectfully submitted,

FOR PLAINTIFF
UNITED STATES OF AMERICA:
Gabriella Neizmik (DC Bar # 1044309)
ANNA CROSS
Miranda Isaacs, U.S. Department of Justice, Antitrust Division, Defense, Industrials, and Aerospace, Section, 450 Fifth Street NW, Suite 8700, Washington, DC 20530, Tel.: 202–598–8774, Email: *gabriella.neizmik@usdoj.gov*.

[FR Doc. 2026–02185 Filed 2–2–26; 8:45 am]

BILLING CODE 4410–11–P

DEPARTMENT OF LABOR

Employment and Training Administration

Agency Information Collection Activities; Comment Request; Workforce Information Grants to States

ACTION: Notice.

SUMMARY: The Department of Labor's (DOL) Employment and Training Administration (ETA) is soliciting comments concerning a proposed revision for the authority to conduct the information collection request (ICR) titled, ''Workforce Information Grants to States (WIGS).'' This comment request is part of continuing Departmental efforts to reduce paperwork and respondent burden in accordance with the Paperwork Reduction Act of 1995 (PRA).

DATES: Consideration will be given to all written comments received by April 6, 2026.

ADDRESSES: A copy of this ICR with applicable supporting documentation, including a description of the likely respondents, proposed frequency of response, and estimated total burden, may be obtained free by contacting Donald Haughton by email at *haughton.donald.w@dol.gov.*

Submit written comments about, or requests for a copy of, this ICR by mail or courier to the U.S. Department of Labor, Employment and Training Administration, Workforce Information Grants to States, 200 Constitution Ave NW, Suite C–4510, Washington DC 20010; or by email to *haughton.donald.w@dol.gov.*

FOR FURTHER INFORMATION CONTACT: Donald Haughton by email at *haughton.donald.w@dol.gov.*

SUPPLEMENTARY INFORMATION: DOL, as part of continuing efforts to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies an opportunity to comment on proposed and/or continuing collections of information before submitting them to the Office of Management and Budget (OMB) for final approval. This program helps to ensure requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements can be properly assessed.

This ICR is necessary to comply with the reporting requirements of the Workforce Innovation and Opportunity Act (WIOA) Section 308 (29 U.S.C. 491–2), and 20 Code of Federal Regulations (CFR) Parts 651 and 652. P.L. 113–128 sections 101 and 308 authorizes this information collection. The data and workforce information services provided through WIGS support the development of data-driven policy, inform training and employment program design and investment decision-making, support consultations with strategic partners, and leverage limited labor market information-workforce information (LMI–WI) program grant resources. State workforce agencies use WIGS to develop and disseminate essential state and local LMI–WI for job seekers, employers, educators, economic developers, and others. The WIGS requires each state to deliver a 508-compliant Annual Performance Report to ETA. The collection of this report by ETA requires OMB approval through the PRA.

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 it is approved by OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6.

Interested parties are encouraged to provide comments to the contact shown in the **ADDRESSES** section. Comments must be written to receive consideration, and they will be summarized and included in the request for OMB approval of the final ICR. In order to help ensure appropriate consideration, comments should mention OMB Control number 1205–0417.

Submitted comments will also be a matter of public record for this ICR and posted on the internet, without redaction. DOL encourages commenters not to include personally identifiable information, confidential business data, or other sensitive statements/information in any comments.

DOL is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;
- Evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, (*e.g.,* permitting electronic submission of responses).

Agency: DOL–ETA.

Type of Review: Revision.

Title of Collection: Workforce Information Grant to States (WIGS).

Form: States are required to submit the WIGS Plan and Annual Performance Report.

OMB Control Number: 1205–0417.

Affected Public: State Workforce Agencies.

Estimated Number of Respondents: 54.

Frequency: Annually.

Total Estimated Annual Responses: 54.

Estimated Average Time per Response: 80 hours.

Estimated Total Annual Burden Hours: 4,320 hours.

Total Estimated Annual Other Cost Burden: $0.00.

Authority: 44 U.S.C. 3506(c)(2)(A).

Henry Maklakiewicz,

Assistant Secretary for Employment and Training, Labor.

[FR Doc. 2026–02143 Filed 2–2–26; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Agency Information Collection Activities; Comment Request; CW–1 Application for Temporary Employment Certification

ACTION: Notice; request for comments.

SUMMARY: The Employment and Training Administration (ETA) is soliciting comments concerning a proposed revision for the authority to conduct the information collection request (ICR) for the CW–1 Application for Temporary Employment Certification; and related information collection and retention requirements (OMB Control Number 1205–0534), which covers Form ETA–9141C, *Application for Prevailing Wage Determination;* Form ETA–9141C, *General Instructions;* Form ETA–9142C, *CW–1 Application for Temporary Employment Certification;* Form ETA–9142C, *Appendix A;* Form ETA–9142C, *Appendix B;* Form ETA–9142C, *Appendix C;* Form ETA–9142C, *Final Determination;* and Form ETA–9142C, *General Instructions.* This action seeks to revise the information collection. This comment request is part of continuing Departmental efforts to reduce paperwork and respondent burden in accordance with the Paperwork Reduction Act of 1995 (PRA).

DATES: Consideration will be given to all written comments received by April 6, 2026.

ADDRESSES: A copy of this ICR with applicable supporting documentation, including a description of the likely respondents, proposed frequency of response, and estimated total burden, may be obtained for free by contacting Brian Pasternak, Administrator, Office of Foreign Labor Certification, by email at *ETA.OFLC.Forms@dol.gov.*

Instructions: Submit written comments about, or requests for a copy

of, this ICR by email at *ETA.OFLC.Forms@dol.gov.* To ensure proper consideration, include the OMB control number 1205–0534.

FOR FURTHER INFORMATION CONTACT: Brian Pasternak, Administrator, Office of Foreign Labor Certification, by email at *ETA.OFLC.Forms@dol.gov.*

SUPPLEMENTARY INFORMATION: DOL collects information through Form ETA–9142C, and appendices, and Form ETA–9141C, to carry out the responsibilities created for DOL under the Northern Mariana Islands U.S. Workforce Act of 2018. The Workforce Act provides that a petition to employ a nonimmigrant worker under the CW–1 visa classification may not be approved by the U.S. Department of Homeland Security unless the employer has received a temporary labor certification from DOL confirming the following: (1) There are not sufficient U.S. workers in the Commonwealth of the Northern Mariana Islands (CNMI) who are able, willing, qualified, and available at the time and place needed to perform the services or labor involved in the petition; and (2) the employment of a nonimmigrant worker who is the subject of a petition will not adversely affect the wages and working conditions of similarly employed U.S. workers.

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 it is approved by the OMB under the PRA and displays a currently valid OMB control number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The current ICR expires on April 30, 2026. DOL seeks to extend the validity of Form ETA–9141C, *Application for Prevailing Wage Determination;* Form ETA–9141C, *General Instructions;* Form ETA–9142C, *CW–1 Application for Temporary Employment Certification;* Form ETA–9142C, *Appendix A;* Form ETA–9142C, *Appendix B;* Form ETA–9142C, *Appendix C;* Form ETA–9142C *Final Determination;* and to revise the Form ETA–9142C, *General Instructions,* to make non-substantive changes.

Interested parties are encouraged to provide comments regarding this ICR to the contact shown in the **ADDRESSES** section. Comments must be written to receive consideration, and they will be summarized and included in the request for OMB approval of the final ICR. To help ensure appropriate consideration, comments should mention OMB control number 1205–0534.

Submitted comments will also be a matter of public record for this ICR and posted on the internet, without redaction. DOL encourages commenters not to include personally identifiable information, confidential business data, or other sensitive statements/information in any comments.

DOL is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology (*e.g.,* permitting electronic submission of responses).

Agency: DOL–ETA.

Type of Review: Revision.

Title of Collection: CW–1 Application for Temporary Employment Certification.

Forms: Form ETA–9141C, *Application for Prevailing Wage Determination;* Form ETA–9141C, *General Instructions;* Form ETA–9142C, *CW–1 Application for Temporary Employment Certification;* Form ETA–9142C, *Appendix A;* Form ETA–9142C, *Appendix B;* Form ETA–9142C, *Appendix C;* Form ETA–9142C, *Final Determination;* and Form ETA–9142C, *General Instructions.*

OMB Control Number: 1205–0534.

Affected Public: Private Sector (businesses or other for profits); Not-for-profit Institutions; Government, State, Local and Tribal Governments.

Total Estimated Number of Respondents: 2,314.

Total Estimated Number of Responses: 154,950.

Total Estimated Annual Time Burden: 74,910.80 hours.

Total Estimated Annual Other Costs Burden: $0.

Authority: 44 U.S.C. 3507(a)(1)(D).

Henry Maklakiewicz,

Assistant Secretary for Employment and Training, Labor.

[FR Doc. 2026–02152 Filed 2–2–26; 8:45 am]

BILLING CODE 4510–FP–P

DEPARTMENT OF LABOR

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Program To Prevent Smoking in Hazardous Areas

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting this Mine Safety & Health Administration (MSHA)-sponsored information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that the agency receives on or before March 5, 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: Nicole Bouchet by telephone at 202–693–0213, or by email at *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: Regulations 30 CFR 75.1702 prohibits persons from smoking or carrying smoking materials underground or in places where there is a fire or explosion hazard. Section 75.1702–1 requires a mine operator to submit a smoking prevention plan to MSHA for approval. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on September 25, 2025 (90 FR 46263).

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–MSHA.

Title of Collection: Program to Prevent Smoking in Hazardous Areas.

OMB Control Number: 1219–0041.

Affected Public: Private Sector—Businesses or other for-profits.

Total Estimated Number of Respondents: 24.

Total Estimated Number of Responses: 25.

Total Estimated Annual Time Burden: 13 hours.

Total Estimated Annual Other Costs Burden: $0.

(Authority: 44 U.S.C. 3507(a)(1)(D))

Nicole Bouchet,

Senior Paperwork Reduction Act Analyst.

[FR Doc. 2026–02159 Filed 2–2–26; 8:45 am]

BILLING CODE 4510–43–P

DEPARTMENT OF LABOR

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Standard on Process Safety Management of Highly Hazardous Chemicals

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting this Occupational Safety & Health Administration (OSHA)-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 March 5, 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: Nicole Bouchet by telephone at 202–693–0213, or by email at *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: The Standard on Process Safety Management of Highly Hazardous Chemicals ensures that employers collect the information necessary to control and reduce injuries and fatalities in workplaces that have the potential for highly hazardous chemical catastrophes. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on June 24 2025 (90 FR 26830).

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–OSHA.

Title of Collection: Standard on Process Safety Management of Highly Hazardous Chemicals.

OMB Control Number: 1218–0200.

Affected Public: Private Sector—Businesses or other for-profits.

Total Estimated Number of Respondents: 8,970.

Total Estimated Number of Responses: 1,026,883.

Total Estimated Annual Time Burden: 2,269,066 hours.

Total Estimated Annual Other Costs Burden: $0.

(Authority: 44 U.S.C. 3507(a)(1)(D))

Nicole Bouchet,

Senior Paperwork Reduction Act Analyst.

[FR Doc. 2026–02148 Filed 2–2–26; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Income and Eligibility Verification System Confidentiality

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting this Employment and Training Administration (ETA)-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 March 5, 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 Income and Eligibility Verification System (IEVS) is required by Title III of

the Social Security Act, the Federal Unemployment Tax Act, and related statutes. It addresses the confidentiality and disclosure of state unemployment compensation information as well as the state income and eligibility verification provisions of the Deficit Reduction Act. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on August 15, 2025 (90 FR 25376).

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–ETA.

Title of Collection: Income and Eligibility Verification System Confidentiality.

OMB Control Number: 1205–0238.

Affected Public: State, Local and Tribal Government.

Total Estimated Number of Respondents: 53.

Total Estimated Number of Responses: 374,233.

Total Estimated Annual Time Burden: 9,951 hours.

Total Estimated Annual Other Costs Burden: $0.

(Authority: 44 U.S.C. 3507(a)(1)(D))

Michael Howell,

Senior Paperwork Reduction Act Analyst.

[FR Doc. 2026–02145 Filed 2–2–26; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Worker Profiling and Reemployment Services Activity and Worker Profiling and Reemployment Services Outcomes

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting this Employment and Training Administration (ETA)-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 March 5, 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 Secretary has interpreted applicable sections of Federal law to require States to identify claimants who are most likely to exhaust their Unemployment Insurance benefits and to provide reemployment services to expedite their return to suitable work. The ETA 9048 report provides information on the basic quarterly activities of the WPRS program, reemployment activities for UI claimants who are likely to exhaust their benefits. The report tracks WPRS claimants from the time they are profiled through the delivery of services. The ETA 9049 report provides information about reemployment outcomes for participants in the WPRS program. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on June 19, 2025 (90 FR 25377).

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–ETA.

Title of Collection: Worker Profiling and Reemployment Services Activity and Worker Profiling and Reemployment Services Outcomes.

OMB Control Number: 1205–0353.

Affected Public: State, Local and Tribal Government.

Total Estimated Number of Respondents: 5.

Total Estimated Number of Responses: 205,383.

Total Estimated Annual Time Burden: 273,037 hours.

Total Estimated Annual Other Costs Burden: $0.

(Authority: 44 U.S.C. 3507(a)(1)(D))

Michael Howell,

Senior Paperwork Reduction Act Analyst.

[FR Doc. 2026–02149 Filed 2–2–26; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Interstate Arrangement for Combining Employment and Wages

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting this Employment and Training Administration (ETA)-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 March 5, 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: This report provides data necessary to measure the scope and effect of the program for combining employment and wages covered under different States' laws of a single State and to monitor States' payment and wage transfer performance. States are required to provide this information under Section 3304(a)(9)(B), of the Internal Revenue Code of 1986. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on June 2, 2025 (90 FR 2381).

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–ETA.

Title of Collection: Interstate Arrangement for Combining Employment and Wages.

OMB Control Number: 1205–0029.

Affected Public: State, Local and Tribal Government.

Total Estimated Number of Respondents: 53.

Total Estimated Number of Responses: 212.

Total Estimated Annual Time Burden: 848 hours.

Total Estimated Annual Other Costs Burden: $0.

(Authority: 44 U.S.C. 3507(a)(1)(D))

Michael Howell,

Senior Paperwork Reduction Act Analyst.

[FR Doc. 2026–02150 Filed 2–2–26; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Agency Information Collection Activities; Submission for OMB Review; National Compensation Survey

ACTION: Notice of availability; request for comments.

SUMMARY: The Bureau of Labor Statistics (BLS) is submitting this 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 March 5, 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.

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.

FOR FURTHER INFORMATION CONTACT: Nora Kincaid, BLS clearance officer, at 202–691–7628 (this is not a toll free number), or by email at *BLS_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: The National Compensation Survey (NCS) is a nation-wide survey of private industry establishments and state and local governments that provides comprehensive measures of (1) employer costs for employee compensation, including wages and salaries, and benefits, (2) compensation trends, and (3) the incidence of employer-sponsored benefits among workers. The NCS also collects data and produces estimates on the provisions of selected employer-sponsored benefit plans. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on July 16, 2025 (90 FRN 32029).

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.

Agency: DOL–BLS.

Title of Collection: National Compensation Survey.

OMB Control Number: 1220–0164.

Affected Public: Business or other for-profit; not-for-profit institutions; State, Local and Tribal Governments.

Total Estimated Number of Respondents: 17,194.

Total Estimated Number of Responses: 54,340.

Total Estimated Annual Time Burden: 38,398 hours.

Total Estimated Annual Other Costs Burden: $0.

(Authority: 44 U.S.C. 3507(a)(1)(D))

Signed on January 26, 2026.

Eric Molina,

Chief, Division of Management Systems, Branch of Policy Analysis.

[FR Doc. 2026–02155 Filed 2–2–26; 8:45 am]

BILLING CODE 4510–24–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2016–0022]

Bay Area Compliance Laboratories: Application for Expansion of Recognition

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice.

SUMMARY: In this notice, OSHA announces the application of Bay Area Compliance Laboratories for expansion of the scope of recognition as a Nationally Recognized Testing Laboratory (NRTL) and presents the agency's preliminary finding to grant the application.

DATES: Submit comments, information, and documents in response to this notice, or requests for an extension of time to make a submission, on or before February 18, 2026.

ADDRESSES: Comments may be submitted as follows:

Electronically: You may submit comments, including attachments, electronically at *http://www.regulations.gov,* the Federal eRulemaking Portal. Follow the online instructions for submitting comments.

Instructions: All submissions must include the agency's name and the docket number for this rulemaking (Docket No. OSHA–2016–0022). All comments, including any personal information you provide, are placed in the public docket without change and may be made available online at *https://www.regulations.gov.* Therefore, OSHA cautions commenters about submitting information they do not want made available to the public, or submitting materials that contain personal information (either about themselves or others), such as Social Security numbers and birthdates.

Submission of comments: You may submit comments and attachments, identified by Docket No. OSHA–2016–0022, electronically at *www.regulations.gov,* which is the Federal e-Rulemaking Portal. Follow the online instructions for making electronic submissions. The Federal e-Rulemaking Portal at *www.regulations.gov* is the only way to submit comments on this Notice.

Docket: To read or download comments or other material in the docket, go to *http://www.regulations.gov.* Documents in the docket (including this **Federal Register** notice) are listed in the *http://www.regulations.gov* index; however, some information (*e.g.,* copyrighted material) is not publicly available to read or download through the website. All submissions, including copyrighted material, are available for inspection through the OSHA Docket Office. Contact the OSHA Docket Office at (202) 693–2350 (TTY (877) 889–5627) for assistance in locating docket submissions.

Extension of comment period: Submit requests for an extension of the comment period on or before February 18, 2026 to the Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW, Room N–3653, Washington, DC 20210, or by fax to (202) 693–1644.

FOR FURTHER INFORMATION CONTACT: Information regarding this notice is available from the following sources:

Press inquiries: Contact Mr. Frank Meilinger, Director, OSHA Office of Communications, phone: (202) 693–1999 or email: *meilinger.francis2@dol.gov.*

General and technical information: Contact Mr. Kevin Robinson, Director, Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, phone: (202) 693–1911 or email: *robinson.kevin@dol.gov.*

SUPPLEMENTARY INFORMATION:

I. Notice of the Application for Expansion

OSHA is providing notice that Bay Area Compliance Laboratories (BACL), is applying for expansion of the current recognition as a NRTL. BACL requests the addition of three test standards to the NRTL scope of recognition.

OSHA's recognition of a NRTL signifies that the organization meets the requirements specified in 29 CFR 1910.7. Recognition is an acknowledgment that the organization can perform independent safety testing and certification of the specific products covered within the scope of recognition. Each NRTL's scope of recognition includes: (1) the type of products the NRTL may test, with each type specified by the applicable test standard; and (2) the recognized site(s) that has/have the technical capability to perform the product-testing and product-certification activities for test standards within the NRTL's scope. Recognition is not a delegation or grant of government authority; however, recognition enables employers to use products approved by the NRTL to meet OSHA standards that require product testing and certification.

The agency processes applications by a NRTL for initial recognition and for an expansion or renewal of this recognition, following requirements in Appendix A to 29 CFR 1910.7. This appendix requires that the agency publish two notices in the **Federal Register** in processing an application. In the first notice, OSHA announces the application and provides a preliminary finding. In the second notice, the agency provides a final decision on the application. These notices set forth the NRTL's scope of recognition or modifications of that scope. OSHA maintains an informational web page for each NRTL, including BACL, which details the NRTL's scope of recognition. These pages are available from the OSHA website at *http://www.osha.gov/dts/otpca/nrtl/index.html.*

II. General Background on the Application

BACL submitted an application to OSHA for expansion of the NRTL scope of recognition on June 9, 2025 (OSHA–2016–0022–0017), requesting the addition of three standards to the NRTL scope of recognition. OSHA staff performed a detailed analysis of the application packet and reviewed other pertinent information. OSHA did not perform an on-site review in response to this application. OSHA staff has preliminarily determined that OSHA should grant the application for test standard expansion.

Table 1, below, lists the appropriate test standards found in BACL's application for expansion for testing and certification of products under the NRTL Program.

TABLE 1—PROPOSED APPROPRIATE TEST STANDARDS FOR INCLUSION IN BACL'S NRTL SCOPE OF RECOGNITION

Test standard	Test standard title
UL 61010–2–010	Electrical Equipment for Measurement, Control and Laboratory Use—Part 2–010: Particular Requirements for Laboratory Equipment for the Heating of Materials.
UL 61010–2–81	Standard for Safety Requirements for Electrical Equipment for Measurement, Control, and Laboratory Use—Part 2–081: Particular Requirements for Automatic and Semi-Automatic Laboratory Equipment for Analysis and Other Purposes.
UL 61010–2–101	Safety Requirements for Electrical Equipment for Measurement, Control and Laboratory Use—Part 2–101: Particular Requirements for In Vitro Diagnostic (IVD) Medical Equipment.

III. Preliminary Findings on the Application

BACL submitted an acceptable application for expansion of the scope of recognition. OSHA's review of the application files and pertinent documentation indicates that BACL has met the requirements prescribed by 29 CFR 1910.7 for expanding the recognition to include the addition of the three test standards for NRTL testing and certification listed in Table 1. This preliminary finding does not constitute an interim or temporary approval of BACL's application.

OSHA seeks comment on this preliminary determination.

IV. Public Participation

OSHA welcomes public comment as to whether BACL meets the requirements of 29 CFR 1910.7 for expansion of recognition as a NRTL. Comments should consist of pertinent written documents and exhibits.

Commenters needing more time to comment must submit a request in writing, stating the reasons for the request by the due date for comments. OSHA will limit any extension to 10 days unless the requester justifies a longer time period. OSHA may deny a request for an extension if it is not adequately justified.

To review copies of the exhibits identified in this notice, as well as comments submitted to the docket, contact the Docket Office, Occupational Safety and Health Administration, U.S. Department of Labor. These materials also are generally available online at *https://www.regulations.gov* under Docket No. OSHA–2016–0022 (for further information, see the ''*Docket*'' heading in the section of this notice titled **ADDRESSES**).

OSHA staff will review all comments to the docket submitted in a timely manner. After addressing the issues raised by these comments, staff will make a recommendation to the Assistant Secretary of Labor for Occupational Safety and Health on whether to grant BACL's application for expansion of the scope of recognition. The Assistant Secretary will make the final decision on granting the application. In making this decision, the Assistant Secretary may undertake other proceedings prescribed in Appendix A to 29 CFR 1910.7.

OSHA will publish a public notice of the final decision in the **Federal Register**.

V. Authority and Signature

Amanda Laihow, Principal Deputy Assistant Secretary of Labor for Occupational Safety and Health, 200 Constitution Avenue NW, Washington, DC 20210, authorized the preparation of this notice. Accordingly, the agency is issuing this notice pursuant to 29 U.S.C. 657(g)(2), Secretary of Labor's Order No. 7–2025 (90 FR 27878; June 30, 2025), and 29 CFR 1910.7.

Signed at Washington, DC, on January 27, 2026.

Amanda Laihow,

Principal Deputy Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2026–02158 Filed 2–2–26; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2023–0013]

Element Materials Technology Portland—Evergreen Inc.: Grant of Expansion of Recognition

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice.

SUMMARY: In this notice, OSHA announces the final decision to expand the scope of recognition for Element Materials Technology Portland—Evergreen Inc., as a Nationally Recognized Testing Laboratory (NRTL).

DATES: The expansion of the scope of recognition becomes effective on February 3, 2026.

FOR FURTHER INFORMATION CONTACT: Information regarding this notice is available from the following sources:

Press inquiries: Contact Mr. Frank Meilinger, Director, OSHA Office of Communications, U.S. Department of Labor; telephone: (202) 693–1999; email: *meilinger.francis2@dol.gov.*

General and technical information: Contact Mr. Kevin Robinson, Director, Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, U.S. Department of Labor; telephone: (202) 693–1911; email: *robinson.kevin@dol.gov.* OSHA's web page includes information about the NRTL Program (see *http://www.osha.gov/dts/otpca/nrtl/index.html*).

SUPPLEMENTARY INFORMATION:

I. Notice of the Final Decision

OSHA hereby gives notice of the expansion of the scope of recognition of Element Materials Technology Portland—Evergreen Inc. (EMT), as a NRTL. EMT's expansion covers the addition of ten testing standards and one testing site to the NRTL scope of recognition.

OSHA recognition of a NRTL signifies that the organization meets the requirements specified in 29 CFR 1910.7. Recognition is an acknowledgment that the organization can perform independent safety testing and certification of the specific products covered within the scope of recognition. Each NRTL's scope of recognition includes: (1) the type of products the NRTL may test, with each type specified by the applicable test standard; and (2) the recognized site(s) that has/have the technical capability to perform the product-testing and product-certification activities for test standards within the NRTL's scope. Recognition is not a delegation or grant of government authority; however, recognition enables employers to use products approved by the NRTL to meet OSHA standards that require product testing and certification.

The agency processes applications by a NRTL for initial recognition and for an expansion or renewal of this recognition, following requirements in Appendix A to 29 CFR 1910.7. This appendix requires that the agency publish two notices in the **Federal Register** in processing an application. In the first notice, OSHA announces the application and provides a preliminary finding. In the second notice, the agency provides a final decision on the

application. These notices set forth the NRTL's scope of recognition or modifications of that scope. OSHA maintains an informational web page for each NRTL, including EMT, which details the NRTL's scope of recognition. These pages are available from the OSHA website at *http://www.osha.gov/dts/otpca/nrtl/index.html.*

EMT submitted an application to OSHA for expansion of the NRTL scope of recognition. The application, dated November 7, 2024 (OSHA–2023–0013–0005), requested the expansion of the NRTL scope of recognition to include one additional test site located at: Pendle Place, Pimbo Industrial Estate, Skelmersdale, WN8 9PN, United Kingdom and seven additional test standards. That application was updated on February 5, 2025 (OSHA–2023–0013–0006) to add two standards to the original submission and again on March 11, 2025 (OSHA–2023–0023–0007) to add one additional standard to the original submission. In total, the expansion applications requested the addition of ten standards and one site to the NRTL scope of recognition. OSHA staff performed an on-site assessment of EMT's testing facilities at Element Materials Technology Skelmersdale on March 6–7, 2025, in which assessors found some nonconformances with the requirements of 29 CFR 1910.7. EMT has addressed these issues sufficiently, and OSHA staff preliminarily determined that OSHA should grant the applications.

OSHA published a **Federal Register** notice on November 18, 2025 (90 FR 51795) announcing EMT's applications, preliminarily determining that OSHA should grant the applications and soliciting public comment. The agency requested comments by December 3, 2025, however no comments were received in response to this notice. OSHA is now proceeding with this expansion of EMT's NRTL scope of recognition.

To obtain or review copies of all public documents pertaining to the EMT expansion applications, go to *www.regulations/gov* or contact the Docket Office at (202) 693–2350 (TTY (877) 889–5627. Docket No. OSHA–2023–0013 contains all materials in the record concerning EMT's recognition.

II. Final Decision and Order

OSHA staff examined EMT's expansion applications, conducted a detailed on-site assessment, and examined other pertinent information. Based on review of this evidence, OSHA finds that EMT meets the requirements of 29 CFR 1910.7 for expansion of recognition, subject to the specified limitations and conditions. OSHA, therefore, is proceeding with this final notice to grant expansion of EMT's scope of recognition. OSHA limits the expansion of EMT's recognition to include the additional testing site in Skelmersdale, United Kingdom and ten additional test standards. OSHA's recognition of the site limits EMT to performing product testing and certifications only to the test standards for which the site has the proper capability and programs, and for test standards in EMT's scope of recognition. This limitation is consistent with the recognition that OSHA grants to other NRTLs that operate multiple sites. Additionally, OSHA grants EMT expansion of the NRTL scope of recognition to include the additional test standards listed below in Table 1 below.

TABLE 1 APPROPRIATE TEST STANDARDS FOR INCLUSION IN EMT'S NRTL SCOPE OF RECOGNITION

Test standard	Test standard title
NFPA 496	Purged and Pressurized Enclosures for Electrical Equipment.
UL 508A	Industrial Control Panels.
UL 913	Intrinsically Safe Apparatus and Associated Apparatus for Use in Class I, II, and III, Division I, Hazardous (Classified) Locations.
UL 1203	Explosion-Proof and Dust-Ignition-Proof Electrical Equipment for Use in Hazardous (Classified) Locations.
UL 121201	Nonincendive Electrical Equipment for Use in Class I and II, Division 2 and Class III, Divisions 1 and 2 Hazardous (Classified) Locations.
UL 60079–0	Explosive Atmospheres—Part 0: Equipment—General Requirements.
UL 60079–7	Explosive Atmospheres—Part 7: Equipment Protection by Increased Safety ''e''.
UL 60079–11	Explosive Atmospheres—Part 11: Equipment Protection by Intrinsic Safety ''i''.
UL 60079–1	Explosive Atmospheres—Part 1: Equipment Protection by Flameproof Enclosures ''d''.
UL 60079–2	Explosive Atmospheres—Part 2: Protection by Pressurized Enclosures ''p''.

A. Conditions

Recognition is contingent on continued compliance with 29 CFR 1910.7, including but not limited to the following conditions of recognition:

1. EMT must inform OSHA as soon as possible, in writing, of any change of ownership, facilities, or key personnel, and of any major change in its operations as a NRTL, and provide details of the change(s);

2. EMT must meet all the terms of its recognition and comply with all OSHA policies pertaining to this recognition; and

3. EMT must continue to meet the requirements for recognition, including all previously published conditions on EMT's scope of recognition, in all areas for which it has recognition.

Pursuant to the authority in 29 CFR 1910.7, OSHA hereby expands the scope of recognition of EMT as a NRTL, subject to the limitations and conditions specified above.

III. Authority and Signature

Amanda Laihow, Principal Deputy Assistant Secretary of Labor for Occupational Safety and Health, 200 Constitution Avenue NW, Washington, DC 20210, authorized the preparation of this notice. Accordingly, the agency is issuing this notice pursuant to 29 U.S.C. 657(g)(2), Secretary of Labor's Order No. 7–2027 (90 FR 27878; June 30, 2025), and 29 CFR 1910.7.

Signed at Washington, DC, on January 27, 2026.

Amanda Laihow,

Principal Deputy Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2026–02154 Filed 2–2–26; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2019–0009]

DEKRA Certification Inc.: Application for Expansion of Recognition and Proposed Modification to the NRTL Program's List of Appropriate Test Standards

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice.

SUMMARY: In this notice, OSHA announces the application of DEKRA Certification Inc., for expansion of the recognition as a Nationally Recognized Testing Laboratory (NRTL) and presents the agency's preliminary finding to grant the application. Additionally,

OSHA proposes to add one test standard to the NRTL Program's List of Appropriate Test Standards.

DATES: Submit comments, information, and documents in response to this notice, or requests for an extension of time to make a submission, on or before February 18, 2026.

ADDRESSES: Comments may be submitted as follows:

Electronically: You may submit comments, including attachments, electronically at *http://www.regulations.gov,* the Federal eRulemaking Portal. Follow the online instructions for submitting comments.

Instructions: All submissions must include the agency's name and the docket number for this rulemaking (Docket No. OSHA–2019–0009). All comments, including any personal information you provide, are placed in the public docket without change and may be made available online at *https://www.regulations.gov.* Therefore, OSHA cautions commenters about submitting information they do not want made available to the public, or submitting materials that contain personal information (either about themselves or others), such as Social Security numbers and birthdates.

Submission of comments: You may submit comments and attachments, identified by Docket No. OSHA–2019–0009, electronically at *www.regulations.gov,* which is the Federal e-Rulemaking Portal. Follow the online instructions for making electronic submissions. The Federal e-Rulemaking Portal at *www.regulations.gov* is the only way to submit comments on this Notice.

Docket: To read or download comments or other material in the docket, go to *http://www.regulations.gov.* Documents in the docket (including this **Federal Register** notice) are listed in the *http://www.regulations.gov* index; however, some information (*e.g.,* copyrighted material) is not publicly available to read or download through the website. All submissions, including copyrighted material, are available for inspection through the OSHA Docket Office. Contact the OSHA Docket Office at (202) 693–2350 (TTY (877) 889–5627) for assistance in locating docket submissions.

Extension of comment period: Submit requests for an extension of the comment period on or before February 18, 2026 to the Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW, Room N–3653, Washington, DC 20210, or by fax to (202) 693–1644.

FOR FURTHER INFORMATION CONTACT: Information regarding this notice is available from the following sources:

Press inquiries: Contact Mr. Frank Meilinger, Director, OSHA Office of Communications, phone: (202) 693–1999 or email: *meilinger.francis2@dol.gov.*

General and technical information: Contact Mr. Kevin Robinson, Director, Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, phone: (202) 693–1911 or email: *robinson.kevin@dol.gov.*

SUPPLEMENTARY INFORMATION:

I. Notice of the Application for Expansion

OSHA is providing notice that DEKRA Certification Inc. (DEKRA), is applying for expansion of the current recognition as a NRTL. DEKRA requests the addition of nine test standards to the NRTL scope of recognition.

OSHA's recognition of a NRTL signifies that the organization meets the requirements specified in 29 CFR 1910.7. Recognition is an acknowledgment that the organization can perform independent safety testing and certification of the specific products covered within the scope of recognition. Each NRTL's scope of recognition includes: (1) the type of products the NRTL may test, with each type specified by the applicable test standard; and (2) the recognized site(s) that has/have the technical capability to perform the product-testing and product-certification activities for test standards within the NRTL's scope. Recognition is not a delegation or grant of government authority; however, recognition enables employers to use products approved by the NRTL to meet OSHA standards that require product testing and certification.

The agency processes applications by a NRTL for initial recognition and for an expansion or renewal of this recognition, following requirements in Appendix A to 29 CFR 1910.7. This appendix requires that the agency publish two notices in the **Federal Register** in processing an application. In the first notice, OSHA announces the application and provides a preliminary finding. In the second notice, the agency provides a final decision on the application. These notices set forth the NRTL's scope of recognition or modifications of that scope. OSHA maintains an informational web page for each NRTL, including DEKRA, which details the NRTL's scope of recognition. These pages are available from the OSHA website at *http://www.osha.gov/dts/otpca/nrtl/index.html.*

II. General Background on the Application

DEKRA submitted an application to OSHA for expansion of the NRTL scope of recognition on February 4, 2025 (OSHA–2019–0009–0022), requesting the addition of nine test standards. OSHA staff performed a detailed analysis of the application packet and reviewed other pertinent information. OSHA staff performed an on-site review of DEKRA's testing facility at DEKRA Dresden, Enderstrasse 92b, 02177 Dresden, Germany associated with this application on March 3–4, 2025, in which assessors found some nonconformances with the requirements of 29 CFR 1910.7. DEKRA has addressed these issues sufficiently, and OSHA staff has preliminarily determined that OSHA should grant the application.

Table 1, below, lists the appropriate test standards found in DEKRA's application for expansion for testing and certification of products under the NRTL Program.

TABLE 1—PROPOSED APPROPRIATE TEST STANDARDS FOR INCLUSION IN DEKRA'S NRTL SCOPE OF RECOGNITION

Test standard	Test standard title
UL 60335–2–29**	Household and Similar Electrical Appliances: Particular Requirements for Battery Chargers.
UL 62841–2–3	Electric Motor-Operated Hand-Held Tools, Transportable Tools and Lawn and Garden Machinery—Safety—Part 2–3: Particular Requirements for Hand-Held Grinders, Disc-Type Polishers and Disc-Type Sanders.
UL 62841–3–7	Electric Motor-Operated Hand-Held Tools, Transportable Tools, Transportable Tools and Lawn and Garden Machinery—Safety—Part 3–12: Particular Requirements for Transportable Threading Machines.
UL 62841–3–12	Electric Motor-Operated Hand-Held Tools, Transportable Tools and Lawn and Garden Machinery—Safety—Part 3–12: Particular Requirements for Transportable Threading Machines.
UL 62841–3–13	Electric Motor-Operated Hand-Held Tools, Transportable Tools and Lawn and Garden Machinery—Safety—Part 3–13: Particular Requirements for Transportable Drills.

TABLE 1—PROPOSED APPROPRIATE TEST STANDARDS FOR INCLUSION IN DEKRA'S NRTL SCOPE OF RECOGNITION—Continued

Test standard	Test standard title
UL 62841–3–14	Electric Motor-Operated Hand-Held Tools, Transportable Tools and Lawn and Garden Machinery—Safety—Part 3–14: Particular Requirements for Transportable Drain Cleaners.
UL 62841–4–3*	Electric Motor-Operated Hand-Held Tools, Transportable Tools and Lawn and Garden Machinery—Safety—Part 4–3: Particular Requirements for Pedestrian Controlled Walk-Behind Lawnmowers.
UL 62841–4–4	Electric Motor-Operated Hand-Held Tools, Transportable Tools and Lawn and Garden Machinery—Safety—Part 4–4: Particular Requirements for Lawn Trimmers, Lawn Edge Trimmers, Grass Trimmers, Brush Cutters and Brush Saws.
UL 1740**	Industrial Robots and Robotic Equipment.

*Represents the standard that OSHA proposes to add to the NRTL Program's List of Appropriate Test Standards.
**OSHA notes that the title to this standard in the table is taken from OSHA's List of Appropriate Test Standards (see *https://www.osha.gov/nationally-recognized-testing-laboratory-program/list-standards*). This title is not the same as the title currently used by the Standards Developing Organization that issued the test standard. OSHA intends to update theList of Appropriate Test Standards to reflect the currently used title in the near future.

III. Proposal To Add a New Test Standard to the NRTL Program's List of Appropriate Test Standards

Periodically, OSHA will propose to add new test standards to the NRTL list of appropriate test standards following an evaluation of the test standard document. To qualify as an appropriate test standard, the agency evaluates the document to (1) verify it represents a product category for which OSHA requires certification by a NRTL, (2) verify the document represents a product and not a component, and (3) verify the document defines safety test specifications (not installation or operational performance specifications). OSHA becomes aware of new test standards through various avenues. For example, OSHA may become aware of new test standards by: (1) monitoring notifications issued by certain Standards Development Organizations; (2) reviewing applications by NRTLs or applicants seeking recognition to include new test standards in their scopes of recognition; and (3) obtaining notification from manufacturers, manufacturing organizations, government agencies, or other parties. OSHA may determine to include a new test standard in the list, for example, if the test standard is for a particular type of product that another test standard also covers, or it covers a type of product that no standard previously covered.

In this notice, OSHA proposes to add one new test standard to the NRTL Program's list of appropriate test standards. Table 2, below, lists the test standard that is new to the NRTL Program. OSHA has preliminarily determined that this test standard is appropriate and proposes to include it in the NRTL Program's list of appropriate test standards. OSHA seeks public comment on this preliminary determination.

TABLE 2—STANDARD OSHA IS PROPOSING TO ADD TO THE NRTL PROGRAM'S LIST OF APPROPRIATE TEST STANDARDS

Test standard	Test standard title
UL 62841–4–3	Electric Motor-Operated Hand-Held Tools, Transportable Tools and Lawn and Garden Machinery—Safety—Part 4–3: Particular Requirements for Pedestrian Controlled Walk-Behind Lawnmowers.

IV. Preliminary Findings on the Application

DEKRA submitted an acceptable application for expansion of the scope of recognition. OSHA's review of the application file and pertinent documentation indicates that DEKRA has met the requirements prescribed by 29 CFR 1910.7 for expanding the recognition to include the addition of the nine test standards for NRTL testing and certification listed in Table 1. This preliminary finding does not constitute an interim or temporary approval of DEKRA's application.

OSHA seeks comment on this preliminary determination.

V. Public Participation

OSHA welcomes public comment as to whether DEKRA meets the requirements of 29 CFR 1910.7 for expansion of recognition as a NRTL and whether the test standard listed in Table 2 above is an appropriate test standard that should be included in the NRTL Program's List of Appropriate Test Standards. Comments should consist of pertinent written documents and exhibits.

Commenters needing more time to comment must submit a request in writing, stating the reasons for the request by the due date for comments. OSHA will limit any extension to 10 days unless the requester justifies a longer time period. OSHA may deny a request for an extension if it is not adequately justified.

To review copies of the exhibits identified in this notice, as well as comments submitted to the docket, contact the Docket Office, Occupational Safety and Health Administration, U.S. Department of Labor. These materials also are generally available online at *https://www.regulations.gov* under Docket No. OSHA–2019–0009 (for further information, see the ''*Docket*'' heading in the section of this notice titled **ADDRESSES**).

OSHA staff will review all comments to the docket submitted in a timely manner. After addressing the issues raised by these comments, staff will make a recommendation to the Assistant Secretary of Labor for Occupational Safety and Health on whether to grant DEKRA's application for expansion of the scope of recognition. The Assistant Secretary will make the final decision on granting the application. In making this decision, the Assistant Secretary may undertake other proceedings prescribed in Appendix A to 29 CFR 1910.7.

OSHA will publish a public notice of the final decision in the **Federal Register**.

VI. Authority and Signature

Amanda Laihow, Principal Deputy Assistant Secretary of Labor for Occupational Safety and Health, authorized the preparation of this notice. Accordingly, the agency is issuing this notice pursuant to 29 U.S.C. 657(g)(2), Secretary of Labor's Order No. 7–2025 (90 FR 27878, June 30, 2025), and 29 CFR 1910.7.

Signed at Washington, DC, on January 27, 2026.

Amanda Laihow,

Principal Deputy Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2026–02156 Filed 2–2–26; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2013–0012]

Modification to the List of Appropriate NRTL Program Test Standards and the Scope of Recognition of Several NRTLs

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice.

SUMMARY: In this notice, OSHA announces the final decision to: delete test standards from the Nationally Recognized Testing Laboratories (NRTL) Program's list of appropriate test standards; and modify the scope of recognition of several NRTLs.

DATES: The actions contained in this notice will become effective on February 3, 2026.

FOR FURTHER INFORMATION CONTACT: Information regarding this notice is available from the following sources:

Press inquiries: Contact Mr. Frank Meilinger, Director, OSHA Office of Communications, U.S. Department of Labor, telephone: (202) 693–1999; email: *meilinger.francis2@dol.gov.*

General and technical information: Contact Mr. Kevin Robinson, Director, Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, U.S. Department of Labor, telephone: (202) 693–1911 or email: *robinson.kevin@dol.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The NRTL Program recognizes organizations that provide product-safety testing and certification services to manufacturers. These organizations perform testing and certification for purposes of the program, to U.S. consensus-based product-safety test standards. The products covered by the NRTL Program consist of those items for which OSHA safety standards require ''certification'' by a NRTL. The requirements affect electrical products and 36 other types of products. OSHA does not develop or issue these test standards, but generally relies on standards development organizations (SDOs), which develop and maintain the standards using a method that provides for input and consideration of views of industry groups, experts, users, consumers, governmental authorities, and others having broad experience in the safety field involved.

A. Deletion and Replacement of Test Standards

The NRTL Program regulations require that appropriate test standards be maintained and current (29 CFR 1910.7(c)). A test standard withdrawn by an SDO is no longer considered an appropriate test standard (CPL 01–00–004, NRTL Program Policies, Procedures and Guidelines Directive (NRTL Program Directive), Ch. 2.IX.C.1). It is OSHA's policy to remove recognition of withdrawn test standards by issuing a notice in the **Federal Register** for all NRTLs recognized for the withdrawn test standards (Id.). However, SDOs frequently will designate a replacement standard for withdrawn standards. OSHA will recognize a NRTL for an appropriate replacement test standard if the NRTL has the requisite testing and evaluation capability for the replacement test standard (NRTL Program Directive, Ch. 2.IX.C.2).

One method that NRTLs may use to show such capability involves an analysis to determine whether any testing and evaluation requirements of existing test standards in a NRTL's scope are comparable (*i.e.,* are completely or substantially identical) to the requirements in the replacement test standard (NRTL Program Directive, Ch. 2.IX.C.3). If OSHA's analysis shows the replacement test standard does not require additional or different technical capability than an existing test standard(s), and the replacement test standard is comparable to the existing test standard(s), then OSHA can add the replacement test standard to affected NRTLs' scope of recognition. If OSHA's analysis shows the replacement test standard requires an additional or different technical capability, or the replacement test standard is not comparable to any existing test standards, each affected NRTL seeking to have OSHA add the replacement test standard to the NRTL's scope of recognition must provide information to OSHA that demonstrates technical capability (NRTL Program Directive, Ch. 2.IX.D).

B. Other Reasons for Removal of Test Standards From the NRTL List of Appropriate Test Standards

OSHA may choose to remove a test standard from the NRTL list of appropriate test standards based on a review by NRTL Program staff to determine if the test standards conform to the definition of an appropriate test standard in NRTL Program regulations and policy. There are several reasons for removing a test standard based on this review. First, a document that provides the methodology for a single test is a test method rather than an appropriate test standard (29 CFR 1910.7(c)). A test standard must specify the safety requirements for a specific type of product(s) (NRTL Program Directive, Ch. 2.VIII.C.1). A test method, however, is a specified technical procedure for performing a test. As such, a test method is not an appropriate test standard. While a NRTL may use a test method to determine if certain safety requirements are met, a test method is not itself a safety requirement for a specific product category.

Second, a document that focuses primarily on usage, installation, or maintenance requirements, and not safety requirements (*i.e.,* features, parts, capabilities, usage limitations, or installation requirements that would create a potential hazard in operating the equipment if not properly used), would also not be considered an appropriate test standard (NRTL Program Directive, Ch. 2.VIII.C.1). In some cases, however, a document may also provide safety test specifications in addition to usage, installation, and maintenance requirements. In such cases, the document would be retained as an appropriate test standard based on the safety test specifications.

Finally, a document may not be considered an appropriate test standard if the document covers products for which OSHA does not require testing and certification (NRTL Program Directive, Ch. 2.VIII.C.2). Similarly, a document that covers electrical product components would not be considered an appropriate test standard. These documents apply to types of components that have limitation(s) or condition(s) on their use, which are not appropriate for use as end-use products. These documents also specify that these types of components are for use only as part of an end-use product. NRTLs, however, evaluate such components only in the context of evaluating whether end-use products requiring NRTL approval are safe for use in the workplace. Accordingly, as a matter of policy, OSHA considers that documents covering such components are not appropriate test standards under the NRTL Program. OSHA notes, however, that it is not deleting from NRTLs' scope of recognition any test standards

covering end-use products that contain such components.

In addition, OSHA notes that, to conform to a test standard covering an end-use product, a NRTL must still determine that the components in the product comply with the components' specific test standards. In making this determination, NRTLs may (within the confines of the requirements of Annex B, Section 7.4 G and H of the NRTL Program Policies, Procedures, and Guidelines, OSHA Instruction CPL 01–00–004 (Oct. 1, 2019) (the NRTL Program Directive, available at *https://www.osha.gov/sites/default/files/enforcement/directives/CPL_01-00-004.pdf*)) test the components themselves or accept the testing of a qualified testing organization that a given component conforms to the particular test standard. OSHA reviews each NRTL's procedures to determine which approach the NRTL will use to address components and reviews the end-use product testing to verify that the NRTL appropriately addresses that product's components.

II. Summary of Proposed Actions

In a September 12, 2025 **Federal Register** notice (90 FR 44242, available at *www.regulations.gov* under Docket ID OSHA–2013–0012–0032), OSHA proposed to delete 16 test standards from the NRTL Program's List of Appropriate Test Standards because they were all withdrawn by the SDO that issued them. Moreover, a replacement test standard (UL 121201, Nonincendive Electrical Equipment for Use in Class I and II, Division 2 and Class III, Divisions 1 and 2 Hazardous (Classified) Locations) was designated for one of the test standards OSHA proposed to delete from the List of Appropriate Test Standards (ISA 12.12.01, Nonincendive Electrical Equipment for Use in Class I and II, Division 2 and Class III, Divisions 1 and 2 Hazardous (Classified) Locations). UL 121201 is already contained in the NRTL Program's List of Appropriate Test Standards. Therefore, OSHA did not propose to incorporate that replacement test standard into the List of Appropriate Test Standards.

OSHA additionally proposed to remove test standards from the scopes of recognition of several NRTLs and to add to the scope of recognition of one of these NRTLs, QPS Evaluation Services Inc. (QPS), a replacement test standard (UL 121201). OSHA had previously added UL 121201 into the scopes of recognition for several NRTLs and therefore did not propose to add UL 121201 into the scopes of recognition of these NRTLs. For more information on OSHA's prior actions in adding UL 121201 to the scopes of recognition of these NRTLs, please see the relevant **Federal Register** notices granting these NRTLs' applications for expansion of recognition: 86 FR 45765 (August 16, 2021), SGS North America, Inc.; 87 FR 12737 (March 7, 2022), UL LLC; 87 FR 51156 (August 19, 2022), Intertek Testing Services NA, Inc.; 87 FR 51154 (August 19, 2022), FM Approvals; and 87 FR 51155 (August 19, 2022), Eurofins Electrical and Electronic Testing NA, Inc. a/k/a MET Laboratories, Inc.; and 87 FR 51157 (August 19, 2022), CSA Group Testing & Certification Inc.

The September 12, 2025 **Federal Register** notice requested public comment on the proposal; however, no comments were received in response. Therefore, as will be explained below, OSHA is adopting, without modification, the proposed decision to delete several withdrawn test standards from the NRTL Program's List of Appropriate Test Standards and to modify the scope of recognition of several NRTLs.

III. Final Decision To Remove Test Standards From the NRTL Program's List of Appropriate Test Standards

In this notice, OSHA announces the final decision to delete several withdrawn test standards from the NRTL Program's List of Appropriate Test Standards. These final actions are detailed below in Table 1. Additionally, Table 1 lists the replacement test standard that OSHA has already incorporated into the NRTL Program's List of Appropriate Test Standards (for informational purposes only).

TABLE 1—TEST STANDARDS OSHA IS DELETING FROM NRTL PROGRAM'S LIST OF APPROPRIATE TEST STANDARDS

Deleted test standard	Test standard title	Reason for deletion	Replacement standard
ISA 12.12.01	Nonincendive Electrical Equipment for Use in Class I and II, Division 2 and Class III, Divisions 1 and 2 Hazardous (Classified) Locations.	Withdrawn	UL 121201 Nonincendive Electrical Equipment for Use in Class I and II, Division 2 and Class III, Divisions 1 and 2 Hazardous (Classified) Locations.
ISA 60079–0	Explosive Atmospheres—Part 0: Equipment—General Requirements	Withdrawn	None.
ISA 60079–1	Explosive Atmospheres—Part 1: Equipment Protection by Flameproof Enclosures ''d''.	Withdrawn	None.
ISA 60079–6	Explosive Atmospheres—Part 6: Equipment Protection by Oil Immersion ''o''	Withdrawn	None.
ISA 60079–7	Explosive Atmospheres—Part 7: Equipment Protection by Increased Safety ''e''	Withdrawn	None.
ISA 60079–11 ...	Explosive Atmospheres—Part 11: Equipment Protection by Intrinsic Safety ''i''	Withdrawn	None.
ISA 60079–15 ...	Explosive Atmospheres—Part 15: Equipment Protection by Type of Protection ''n''.	Withdrawn	None.
ISA 60079–25 ...	Standard for Explosive Atmospheres—Part 25: Intrinsically Safe Electrical Systems.	Withdrawn	None.
ISA 60079–28 ...	Explosive Atmospheres—Part 28: Protection of Equipment and Transmission Systems Using Optical Radiation.	Withdrawn	None.
ISA 60079–31 ...	Explosive Atmospheres—Part 31: Equipment Dust Ignition Protection by Enclosure ''t''.	Withdrawn	None.
ISA 61241–0	Electrical Apparatus for Use in Zone 20, Zone 21 and Zone 22 Hazardous (Classified) Locations—General Requirements.	Withdrawn	None.
ISA 61241–1	Electrical Apparatus for Use in Zone 21 and Zone 22 Hazardous (Classified) Locations—Protection by Enclosures ''tD''.	Withdrawn	None.
ISA 61241–2	Electrical Apparatus for Use in Zone 21 and Zone 22 Hazardous (Classified) Locations—Protection by Pressurization ''pD''.	Withdrawn	None.
ISA 61241–11 ...	Electrical Apparatus for Use in Zone 20, Zone 21 and Zone 22 Hazardous (Classified) Locations—Protection by Intrinsic Safety ''iD''.	Withdrawn	None.
ISA 61241–18 ...	Electrical Apparatus for Use in Zone 20, Zone 21 and Zone 22 Hazardous (Classified) Locations—Protection by Encapsulation ''mD''.	Withdrawn	None.
UL 244A	Solid-State Controls for Appliances	Withdrawn	None.

IV. Final Decision To Modify Affected NRTLs' Scope of Recognition

In this notice, OSHA announces the final decision to: remove test standards (those listed in Table 1, above) from the scopes of recognition of several NRTLs; and to add UL 121201 to the scope of recognition of QPS. The tables in this section (Table 2 through Table 9) list, for each affected NRTL, the test standard(s) that OSHA is removing from the scope of recognition of the NRTL and, for QPS, the addition of UL 121201 to its scope of recognition. Where relevant, Table 2 through Table 9 indicate, for informational purposes, where OSHA had previously added UL 121201 into the scopes of recognition of each affected NRTL.

TABLE 2—TEST STANDARDS OSHA IS REMOVING FROM THE SCOPE OF RECOGNITION OF CSA GROUP TESTING & CERTIFICATION INC.

Test standard removed	Reason for removal	Replacement test standard
ISA 12.12.01	Withdrawn	UL 121201 Nonincendive Electrical Equipment for Use in Class I and II, Division 2 and Class III, Divisions 1 and 2 Hazardous (Classified) Locations [1].
ISA 60079–11	Withdrawn	None.
ISA 60079–15	Withdrawn	None.
ISA 60079–28	Withdrawn	None.
ISA 60079–31	Withdrawn	None.
ISA 61241–0	Withdrawn	None.
ISA 61241–1	Withdrawn	None.
ISA 61241–2	Withdrawn	None.
ISA 61241–11	Withdrawn	None.
ISA 61241–18	Withdrawn	None.
UL 244A	Withdrawn	None.

[1] Informational only—replacement standard is already in the NRTL's scope.

TABLE 3—TEST STANDARDS OSHA IS REMOVING FROM/ADDING TO TO THE SCOPE RECOGNITION OF QPS EVALUATION SERVICES INC.

Test standard removed	Reason for removal	Replacement test standard
ISA 12.12.01	Withdrawn	UL 121201 Nonincendive Electrical Equipment for Use in Class I and II, Division 2 and Class III, Divisions 1 and 2 Hazardous (Classified) Locations.

TABLE 4—TEST STANDARDS OSHA IS REMOVING FROM THE SCOPE OF RECOGNITION OF EUROFINS ELECTRICAL AND ELECTRONIC TESTING NA, INC. A/K/A MET LABORATORIES, INC.

Test standard removed	Reason for removal	Replacement test standard
ISA 12.12.01	Withdrawn	UL 121201 Nonincendive Electrical Equipment for Use in Class I and II, Division 2 and Class III, Divisions 1 and 2 Hazardous (Classified) Locations [1].
UL 244A	Withdrawn	None

[1] Informational only—replacement standard is already in the NRTL's scope.

TABLE 5—TEST STANDARDS OSHA IS REMOVING FROM THE SCOPE OF RECOGNITION OF FM APPROVALS

Test standard removed	Reason for removal	Replacement test standard
ISA 12.12.01	Withdrawn	UL 121201 Nonincendive Electrical Equipment for Use in Class I and II, Division 2 and Class III, Divisions 1 and 2 Hazardous (Classified) Locations [1].
ISA 60079–0	Withdrawn	None.
ISA 60079–1	Withdrawn	None.
ISA 60079–6	Withdrawn	None.
ISA 60079–7	Withdrawn	None.
ISA 60079–11	Withdrawn	None.
ISA 60079–15	Withdrawn	None.
ISA 60079–25	Withdrawn	None.
ISA 60079–28	Withdrawn	None.
ISA 60079–31	Withdrawn	None.

[1] Informational only—replacement standard is already in the NRTL's scope.

TABLE 6—TEST STANDARDS OSHA IS REMOVING FROM THE SCOPE OF RECOGNITION OF INTERTEK TESTING SERVICES NA, INC.

Test standard removed	Reason for removal	Replacement test standard
ISA 12.12.01	Withdrawn	UL 121201 Nonincendive Electrical Equipment for Use in Class I and II, Division 2 and Class III, Divisions 1 and 2 Hazardous (Classified) Locations [1].
ISA 60079–0	Withdrawn	None.
ISA 60079–1	Withdrawn	None.
ISA 60079–6	Withdrawn	None.
ISA 60079–7	Withdrawn	None.
ISA 60079–11	Withdrawn	None.
ISA 60079–15	Withdrawn	None.
ISA 60079–25	Withdrawn	None.
ISA 60079–28	Withdrawn	None.
ISA 60079–31	Withdrawn	None.
ISA 61241–0	Withdrawn	None.
ISA 61241–1	Withdrawn	None.
ISA 61241–11	Withdrawn	None.
ISA 61241–18	Withdrawn	None.
UL 244A	Withdrawn	None.

[1] Informational only—replacement standard is already in the NRTL's scope.

TABLE 7—TEST STANDARDS OSHA IS REMOVING FROM THE SCOPE OF RECOGNITION OF SGS NORTH AMERICA, INC.

Test standard removed	Reason for removal	Replacement test standard
ISA 12.12.01	Withdrawn	UL 121201 Nonincendive Electrical Equipment for Use in Class I and II, Division 2 and Class III, Divisions 1 and 2 Hazardous (Classified) Locations [1].
ISA 60079–0	Withdrawn	None.
ISA 60079–1	Withdrawn	None.
ISA 60079–6	Withdrawn	None.
ISA 60079–7	Withdrawn	None.
ISA 60079–11	Withdrawn	None.
ISA 60079–15	Withdrawn	None.
ISA 60079–25	Withdrawn	None.
ISA 60079–28	Withdrawn	None.
ISA 60079–31	Withdrawn	None.
ISA 61241–0	Withdrawn	None.
ISA 61241–1	Withdrawn	None.
ISA 61241–11	Withdrawn	None.
ISA 61241–18	Withdrawn	None.
UL 244A	Withdrawn	None.

[1] Informational only—replacement standard is already in the NRTL's scope.

TABLE 8—TEST STANDARD OSHA IS REMOVING FROM THE SCOPE OF RECOGNITION OF TUV RHEINLAND OF NORTH AMERICA, INC.

Test standard removed	Reason for removal	Replacement test standard
UL 244A	Withdrawn	None.

TABLE 9—TEST STANDARDS OSHA IS REMOVING FROM THE SCOPE OF RECOGNITION OF UL LLC

Test standard removed	Reason for removal	Replacement test standard
ISA 12.12.01	Withdrawn	UL 121201 Nonincendive Electrical Equipment for Use in Class I and II, Division 2 and Class III, Divisions 1 and 2 Hazardous (Classified) Locations [1].
ISA 60079–0	Withdrawn	None.
ISA 60079–1	Withdrawn	None.
ISA 60079–6	Withdrawn	None.
ISA 60079–7	Withdrawn	None.
ISA 60079–11	Withdrawn	None.
ISA 60079–15	Withdrawn	None.
ISA 60079–28	Withdrawn	None.
ISA 60079–31	Withdrawn	None.
ISA 61241–0	Withdrawn	None.

TABLE 9—TEST STANDARDS OSHA IS REMOVING FROM THE SCOPE OF RECOGNITION OF UL LLC—Continued

Test standard removed	Reason for removal	Replacement test standard
ISA 61241–1	Withdrawn	None.
ISA 61241–2	Withdrawn	None.
ISA 61241–11	Withdrawn	None.
ISA 61241–18	Withdrawn	None.
ISA 60079–25	Withdrawn	None.
UL 244A	Withdrawn	None.

[1] Informational only—replacement standard is already in the NRTL's scope.

OSHA will place on its informational web pages the modifications to each NRTL's scope of recognition. These web pages detail the scope of recognition for each NRTL, including the test standards the NRTL may use to test and certify products under OSHA's NRTL Program. The agency will also add to the ''Standards No Longer Recognized'' web page those test standards that OSHA no longer recognizes or permits under the NRTL Program. Access to these web pages is available at *http://www.osha.gov/dts/otpca/nrtl/index.html.*

V. Authority and Signature

Amanda Laihow, Principal Deputy Assistant Secretary of Labor for Occupational Safety and Health, authorized the preparation of this notice. Accordingly, the agency is issuing this notice pursuant to 29 U.S.C. 657(g)(2), Secretary of Labor's Order No. 7–2025 (90 FR 27878, June 30, 2025), and 29 CFR 1910.7.

Signed at Washington, DC, on January 27, 2026.

Amanda Laihow,

Principal Deputy Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2026–02153 Filed 2–2–26; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2006–0042]

CSA Group Testing & Certification Inc.: Grant of Expansion of Recognition

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice.

SUMMARY: In this notice, OSHA announces the final decision to expand the scope of recognition for CSA Group & Testing Certification Inc. as a Nationally Recognized Testing Laboratory (NRTL).

DATES: The expansion of the scope of recognition becomes effective February 3, 2026.

FOR FURTHER INFORMATION CONTACT: Information regarding this notice is available from the following sources:

Press inquiries: Contact Mr. Frank Meilinger, Director, OSHA Office of Communications, phone: (202) 693–1999 or email: *meilinger.francis2@dol.gov.*

General and technical information: Contact Mr. Kevin Robinson, Director, Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, phone: (202) 693–1911 or email: *robinson.kevin@dol.gov.*

SUPPLEMENTARY INFORMATION:

I. Notice of Final Decision

OSHA is providing notice of the expansion of the scope of recognition of CSA Group Testing & Certification Inc. (CSA) as a NRTL. CSA's expansion covers the addition of eight test standards to the NRTL scope of recognition.

OSHA recognition of a NRTL signifies that the organization meets the requirements specified in 29 CFR 1910.7. Recognition is an acknowledgment that the organization can perform independent safety testing and certification of the specific products covered within the scope of recognition. Each NRTL's scope of recognition includes: (1) the type of products the NRTL may test, with each type specified by the applicable test standard; and (2) the recognized site(s) that has/have the technical capability to perform the product-testing and product-certification activities for test standards within the NRTL's scope. Recognition is not a delegation or grant of government authority; however, recognition enables employers to use products approved by the NRTL to meet OSHA standards that require product testing and certification.

The agency processes applications by a NRTL for initial recognition and for an expansion or renewal of this recognition, following requirements in Appendix A to 29 CFR 1910.7. This appendix requires that the agency publish two notices in the **Federal Register** in processing an application. In the first notice, OSHA announces the application and provides a preliminary finding. In the second notice, the agency provides a final decision on the application. These notices set forth the NRTL's scope of recognition or modifications of that scope. OSHA maintains an informational web page for each NRTL, including CSA, which details the NRTL's scope of recognition. These pages are available from the OSHA website at *http://www.osha.gov/dts/otpca/nrtl/index.html.*

CSA submitted an application to OSHA for expansion of the NRTL scope of recognition on June 30, 2022 (OSHA–2006–0042–0053), requested the addition of eight standards to the NRTL scope of recognition. OSHA staff performed a detailed analysis of the application packet and reviewed other pertinent information. OSHA did not perform an on-site review in response to this application. OSHA staff preliminarily determined that OSHA should grant the application for test standard expansion.

OSHA published the preliminary notice announcing CSA's expansion application in the **Federal Register** on August 22, 2025 (90 FR 41134). The agency requested comments by September 8, 2025, however no comments were received in response to this notice. OSHA is now proceeding with this expansion of CSA's NRTL scope of recognition.

To obtain or review copies of all public documents pertaining to the CSA expansion application, go to *www.regulations.gov* or contact the Docket Office at (202) 693–2350 (TTY (877) 889–5627. Docket No. OSHA–2006–0042 contains all materials in the record containing CSA's recognition.

II. Final Decision and Order

OSHA staff examined CSA's expansion application and examined other pertinent information. Based on a review of this evidence, OSHA finds that CSA meets the requirements of 29

CFR 1910.7 for expansion of recognition, subject to the specified limitations and conditions. OSHA, therefore, is proceeding with this final notice to grant expansion of CSA's scope of recognition. OSHA limits the expansion of CSA's recognition to testing and certification of products for demonstration of compliance to the test standards listed below in Table 1.

TABLE 1—APPROPRIATE TEST STANDARDS FOR INCLUSION IN CSA'S NRTL SCOPE OF RECOGNITION

Test standard	Test standard title
UL 62841–2–1	Electric Motor-Operated Hand-Held Tools, Transportable Tools and Lawn and Garden Machinery—Safety—Part 2–1: Particular Requirements for Hand-Held Drills and Impact Drills.
UL 62841–2–3	Electric Motor-Operated Hand-Held Tools, Transportable Tools and Lawn and Garden Machinery—Safety—Part 2–3: Particular Requirements for Hand-Held Grinders, Disc-Type Polishers and Disc-Type Sanders.
UL 62841–2–10	Electric Motor-Operated Hand-Held Tools, Transportable Tools and Lawn and Garden Machinery—Safety—Part 2–10: Particular Requirements for Hand-Held Mixers.
UL 62841–2–17	Electric Motor-Operated Hand-Held Tools, Transportable Tools and Lawn and Garden Machinery—Safety—Part 2–17: Particular Requirements for Hand-Held Routers.
UL 62841–3–13	Electric Motor-Operated Hand-Held Tools, Transportable Tools and Lawn and Garden Machinery—Safety—Part 3–13: Particular Requirements for Transportable Drills.
UL 62841–4–1	Electric Motor-Operated Hand-Held Tools, Transportable Tools and Lawn and Garden Machinery—Safety—Part 4–1: Particular Requirements for Chain Saws.
UL 62841–4–2	Electric Motor-Operated Hand-Held Tools, Transportable Tools and Lawn and Garden Machinery—Safety—Part 4–2: Particular Requirements for Hedge Trimmers.
UL 2580	Batteries for Use in Electric Vehicles.

A. Conditions

In addition to those conditions already required by 29 CFR 1910.7, CSA also must abide by the following conditions of the recognition:

1. CSA must inform OSHA as soon as possible, in writing, of any change in ownership, facilities, or key personnel, and of any major change in its operations as a NRTL, and provide details of the change(s);

2. CSA must meet all the terms of its recognition and comply with all OSHA policies pertaining to this recognition; and

3. CSA must continue to meet the requirements for recognition, including all previously published conditions on CSA's scope of recognition, in all areas for which it has recognition.

Pursuant to the authority in 29 CFR 1910.7, OSHA hereby expands the scope of recognition of CSA as a NRTL, subject to the limitations and conditions specified above.

III. Authority and Signature

Amanda Laihow, Principal Deputy Assistant Secretary of Labor for Occupational Safety and Health, authorized the preparation of this notice. Accordingly, the agency is issuing this notice pursuant to 29 U.S.C. 657(g)(2), Secretary of Labor's Order No. 7–2025 (90 FR 27878, June 30, 2025), and 29 CFR 1910.7.

Signed at Washington, DC, on January 27, 2026.

Amanda Laihow,

Principal Deputy Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2026–02157 Filed 2–2–26; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Office of Workers' Compensation Programs

[OMB Control No. 1240–0017]

Proposed Extension of Information Collection: Death Gratuity

AGENCY: Office of Workers' Compensation Programs, Division of Federal Employees' Compensation, (OWCP/DFEC) Labor.

ACTION: Request for public comments.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance request for comment to provide the general public and Federal agencies with an opportunity to comment on proposed collections of information in accordance with the Paperwork Reduction Act of 1995. This request helps to ensure that: requested data can be provided in the desired format; reporting burden (time and financial resources) is minimized; collection instruments are clearly understood; and the impact of collection requirements on respondents can be properly assessed. Currently, the Office of Workers' Compensation Programs, Division of Federal Employees' Compensation, (OWCP/DFEC) is soliciting comments on the information collection for the Death Gratuity, Form CA–40, Designation of a Recipient of the Federal Employees' Compensation Act Death Gratuity Payment under 5 U.S.C. 8102a; CA–41, Claim for Survivor Benefits under the Federal Employees' Compensation Act Section 8102a Death Gratuity; and CA–42, Official Notice of Employees' Death for Purposes of FECA Section 8102a Death Gratuity.

DATES: All comments must be received on or before April 6, 2026.

ADDRESSES: You may submit comment as follows. Please note that late, untimely filed comments will not be considered. Electronic Submissions: Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments for WCPO–2026–0001. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket, with no changes. Because your comment will be made public, you are 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 your or anyone else's Social Security number or confidential business information.
- If your comment includes confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission.

Written/Paper Submissions: Submit written/paper submissions in the following way:

- *Mail/Hand Delivery:* Mail or visit DOL–OWCP/DFEC, Office of Workers' Compensation Programs, Division of Federal Employees' Compensation, U.S. Department of Labor, 200 Constitution Ave. NW, Room S–3323, Washington, DC 20210.
- OWCP/DFEC will post your comment as well as any attachments, except for information submitted and marked as confidential, in the docket at *https://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Anjanette Suggs, Office of Workers'

Compensation Programs (OWCP), at *suggs.anjanette@dol.gov* (email); (202) 354–9660.

SUPPLEMENTARY INFORMATION:

I. Background

The National Defense Authorization Act for Fiscal Year. 2008, Public Law (Pub. L.) 110–181, was enacted on January 28, 2008. Section 1105 of Public Law 110–181 amended the Federal Employees' Compensation Act (FECA) creating a new section, 5 U.S.C. 8102a effective upon enactment. This section establishes a FECA death gratuity benefit of up to $100,000 for eligible beneficiaries of federal employees and Non-Appropriated Fund Instrumentality (NAFI) employees who die from injuries incurred in connection with service with an Armed Force in a contingency operation. 5 U.S.C.§ 8102a also permits agencies to authorize retroactive payment of the death gratuity for employees who died on or after October 7, 2001, in service with an Armed Force in the theater of operations of Operation Enduring Freedom and Operation Iraqi Freedom. 5 U.S.C. 8102a also allows federal employees to vary the order of precedence of beneficiaries or to name alternate beneficiaries. 20 CFR 10.909 and 10.911 provide that Forms CA–40, CA–41, and CA–42 are the forms to be used to designate beneficiaries and initiate the payment process for death gratuity benefits. Effective December 2011, employing agencies are required to notify a spouse if a federal employee has designated all or a portion of the death gratuity to someone other than that spouse. See 5 U.S.C. 8145 and 8149 and Section 1121 of Public Law 112–81.

See: *https://www.dol.gov/owcp/dfec/regs/statutes/feca.htm.*

Form CA–40 is an optional form that requests the information necessary from the employee to accomplish this variance and to name alternate beneficiaries only if the employee wishes to do so. Form CA–41 provides the means for those named beneficiaries and possible recipients to file claims for those benefits and requests information from such claimants so that OWCP may determine their eligibility for payment. Further, the statute and regulations require agencies to notify OWCP immediately upon the death of a covered employee. Form CA–42 provides the means to accomplish this notification and requests information necessary to administer any claim for benefits resulting from such a death.

II. Desired Focus of Comments

OWCP/DFEC is soliciting comments concerning the proposed information collection related to the Request for Employment Information. OWCP/DFEC is particularly interested in comments that:

- Evaluate whether the collection of information is necessary for the proper performance of the functions of the Agency, including whether the information has practical utility;
- Evaluate the accuracy of OWCP/DFEC's estimate of the burden related to the information collection, including the validity of the methodology and assumptions used in the estimate;
- Suggest methods to enhance the quality, utility, and clarity of the information to be collected; and
- *Minimize the burden of the information collection 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.*

Documents related to this information collection request are available at *https://regulations.gov* and at DOL–OWCP/DFEC located at 200 Constitution Ave. NW, Room S–3323, Washington, DC 20210. Questions about the information collection requirements may be directed to the person listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

III. Current Actions

This information collection request concerns the Death Gratuity, Forms CA–40, CA–41, and CA–42. OWCP/DFEC has updated the data with respect to the number of respondents, responses, burden hours, and burden costs supporting this information collection request from the previous information collection request.

Type of Review: Extension, without change, of a currently approved collection.

Agency: Office of Workers' Compensation Programs, Division of Federal Employees' Compensation, OWCP/DFEC.

OMB Number: 1240–0017.

Affected Public: Individuals or Households.

Number of Respondents: 7.

Frequency: On Occasion.

Number of Responses: 7.

Annual Burden Hours: 1.75.

Annual Respondent or Recordkeeper Cost: $56.00.

OWCP/DFEC 1240–0017: OWCP/DFEC Death Gratuity.

Comments submitted in response to this notice will be summarized in the request for Office of Management and Budget approval of the proposed information collection request; they will become a matter of public record and will be available at *https://www.reginfo.gov.*

Anjanette Suggs,

Certifying Officer.

[FR Doc. 2026–02144 Filed 2–2–26; 8:45 am]

BILLING CODE 4510–CH–P

DEPARTMENT OF LABOR

Office of the Workers' Compensation Programs

[OMB Control No. 1240–0013]

Proposed Extension of a Currently Approved Information Collection: Claim for Compensation by Dependents Information Reports

AGENCY: Office of Workers' Compensation Programs, Division of Federal Employees' Compensation, (OWCP/DFEC) Labor.

ACTION: Request for public comments.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance request for comment to provide the general public and Federal agencies with an opportunity to comment on proposed collections of information in accordance with the Paperwork Reduction Act of 1995. This request helps to ensure that: requested data can be provided in the desired format; reporting burden (time and financial resources) is minimized; collection instruments are clearly understood; and the impact of collection requirements on respondents can be properly assessed. Currently, the Office of Workers' Compensation Programs, Division of Federal Employees' Compensation, (OWCP/DFEC) is soliciting comments on the information collection for the Claim for Compensation by Dependents Information Reports, Form CA–5 and CA–5b, Form CA–1031, Form CA–1074, and the Form Letter ''Compensation Due at Death''.

DATES: All comments must be received on or before April 6, 2026.

ADDRESSES: You may submit comment as follows. Please note that late, untimely filed comments will not be considered.

Electronic Submissions: Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments for WCPO–2026–0034. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to

the docket, with no changes. Because your comment will be made public, you are 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 your or anyone else's Social Security number or confidential business information.

• If your comment includes confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission.

Written/Paper Submissions: Submit written/paper submissions in the following way:

• *Mail/Hand Delivery:* Mail or visit DOL–OWCP/DFEC, Office of Workers' Compensation Programs, Division of Federal Employees' Compensation, U.S. Department of Labor, 200 Constitution Ave. NW, Room S–3323, Washington, DC 20210.

• OWCP/DFEC will post your comment as well as any attachments, except for information submitted and marked as confidential, in the docket at *https://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Anjanette Suggs, Office of Workers' Compensation Programs (OWCP) at *suggs.anjanette@dol.gov* @dol.gov (email); (202) 354–9660 (phone).

SUPPLEMENTARY INFORMATION:

I. Background

The Office of Workers' Compensation Programs (OWCP) is the federal agency responsible for determining entitlement to benefits under the Federal Employees' Compensation Act. These forms are reviewed to verify dependents/survivors. Benefit payments are then initiated, continued, adjusted, or terminated accordingly. Without the information requested by the forms, determinations regarding entitlement to benefits could not be made, and OWCP could not ensure that compensation was paid to the correct individuals at the correct rate. Failure to verify dependent information could result in significant overpayment, which would be very difficult to recover.

The forms included in this package are used to request information for entitlement to claim benefits under the Federal Employees' Compensation Act from federal employees/their dependents/survivors; to prove continued eligibility for benefits; to show entitlement to remaining compensation payments of a deceased employee; and to show dependency. The following Codes of Federal Regulations for this OMB apply to Claims for Compensation under the Federal Employees' Compensation Act, as amended: 20 CFR 10.7, 10.105, 10.410, 10.413, 10.417, 10.535, 10.537. See 5 U.S.C. 8110, 8124, 8145, and 8149.

See: https://www.ecfr.gov/current/title-20/part-10.

See: https://www.dol.gov/owcp/dfec/regs/statutes/feca.htm.

II. Desired Focus of Comments

OWCP/DFEC is soliciting comments concerning the proposed information collection related to the Request for Employment Information. OWCP/DFEC is particularly interested in comments that:

• Evaluate whether the collection of information is necessary for the proper performance of the functions of the Agency, including whether the information has practical utility;

• Evaluate the accuracy of OWCP/DFEC's estimate of the burden related to the information collection, including the validity of the methodology and assumptions used in the estimate;

• Suggest methods to enhance the quality, utility, and clarity of the information to be collected; and

• Minimize the burden of the information collection 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.

Documents related to this information collection request are available at *https://regulations.gov* and at DOL–OWCP/DFEC located at 200 Constitution Ave. NW, Room S–3323, Washington, DC 20210. Questions about the information collection requirements may be directed to the person listed in the **FOR FURTHER INFORMATION** section of this notice.

III. Current Actions

This information collection request concerns the Claim for Compensation by Dependents Information Reports, Form CA–5 and CA–5b, Form CA–1031, Form CA–1074, and the Form Letter ''Compensation Due at Death''. OWCP/DFEC has updated the data with respect to the number of respondents, responses, burden hours, and burden costs supporting this information collection request from the previous information collection request.

Type of Review: Extension, without change of a currently approved information collection.

Agency: Office of Workers' Compensation Programs, Division of Federal Employees' Compensation, OWCP/DFEC.

OMB Number: 1240–0013.

Affected Public: Business or other for profits.

Number of Respondents: 1241.

Frequency: On Occasion.

Number of Responses: 1,241.

Annual Burden Hours: 1,063.

Annual Respondent or Recordkeeper Cost: $730.00.

OWCP/DFEC *1240–0013: OWCP/DFEC Claim for Compensation by a Dependent Information Reports.*

Comments submitted in response to this notice will be summarized in the request for Office of Management and Budget approval of the proposed information collection request; they will become a matter of public record and will be available at *https://www.reginfo.gov.*

Anjanette Suggs,

Certifying Officer.

[FR Doc. 2026–02151 Filed 2–2–26; 8:45 am]

BILLING CODE 4510–CH–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: (25–045)]

Privacy Act of 1974; System of Records

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of a modified system of records; correction.

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, the National Aeronautics and Space Administration is providing public notice of a modification to an existing system of records entitled NASA Core Financial Management Records (CFMR). Records in this system are used to process reimbursement payments to employees for travel, purchase of books or other miscellaneous items; and to process payments and collections in which an individual is reimbursing the Agency. The system of records is more fully described in the **SUPPLEMENTARY INFORMATION** section of this notice.

DATES: Submit comments within 30 calendar days from the date of this publication. The proposed modification to this system will take effect at the end of that period if no significant adverse comments are received.

ADDRESSES: Submit comments to Stayce Hoult, Privacy Act Officer, Office of the Chief Information Officer, Mary W. Jackson, NASA Headquarters, Washington, DC 20546–0001, 757–864–3292, or *NASA-PAOfficer@nasa.gov.*

FOR FURTHER INFORMATION CONTACT: NASA Privacy Act Officer, Stayce

Hoult, 256–544–7705, or *NASA-PAOfficer@nasa.gov.*

SUPPLEMENTARY INFORMATION: In the **Federal Register** of December 5, 2025, in FR Doc. 2025–21971, on page 56184, in the second column, correct paragraph 2 in the ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES section to read:

To external entities (*e.g.,* organizers of symposiums, conferences and workshops), which have provided funds to NASA employees, to process payments and/or collections for activities undertaken in the performance of their duties (*e.g.,* attending conferences, travel, training, or other assignment for NASA).

On page 56185, in the third column, correct the citations in the HISTORY section to read:

- (90 FR 56183, pp. 56183–56185) Published: 12/05/2025.
- (88 FR 30171, pp. 30171–30173) Published: 05/10/2023.

Stayce D. Hoult,

NASA Chief Privacy Officer.

[FR Doc. 2026–02105 Filed 2–2–26; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL CREDIT UNION ADMINISTRATION

Proposed Collection; Request for Comments

AGENCY: National Credit Union Administration (NCUA).

ACTION: Notice of submission to the Office of Management and Budget.

SUMMARY: As required by the Paperwork Reduction Act of 1995, The National Credit Union Administration (NCUA) is submitting a new, proposed information collection to the Office of Management and Budget (OMB).

DATES: Written comments should be received on or before March 5, 2026 to be assured 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.

FOR FURTHER INFORMATION CONTACT: Copies of the submission may be obtained by contacting Dacia Rogers at (703) 518–6547, emailing *PRAComments@ncua.gov,* or viewing the entire information collection request at *www.reginfo.gov.*

SUPPLEMENTARY INFORMATION:

OMB Number: 3133–New.

Title: Travel Management.

Type of Review: New collection.

Abstract: NCUA uses a Travel Management Center (TMC) to help streamline the planning, coordination, and execution of travel-related activities for NCUA employees, State Examiners, and invitational guests. Key components include itinerary planning, booking accommodations and transportation, expense tracking, and forms for NCUA employees, State Examiners, and invitational guests to use to procure travel arrangements for official travel.

Affected Public: State or Local Governments: Private Sector: Not-for-profit institutions.

Estimated Number of Respondents: 515.

Estimated Number of Responses per Respondent: varies.

Estimated Total Annual Responses: 530.

Estimated Hours per Response: varies.

Estimated Total Annual Burden Hours: 132.5.

Request for Comments: Comments submitted in response to this notice will be summarized and included in the request for Office of Management and Budget approval. All comments will become a matter of public record. The public is invited to submit comments concerning: (a) whether the collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of the information on the respondents, including the use of automated collection techniques or other forms of information technology.

By the National Credit Union Administration Board.

Melane Conyers-Ausbrooks,

Secretary of the Board.

[FR Doc. 2026–02161 Filed 2–2–26; 8:45 am]

BILLING CODE 7535–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–155 and 72–042; NRC–2026–0496]

Holtec Decommissioning International, LLC, Holtec Palisades, LLC, and Holtec Big Rock Point, LLC; Big Rock Point; Consideration of Approval of Transfer of License and Conforming Amendment

AGENCY: Nuclear Regulatory Commission.

ACTION: Application for direct transfer of license; opportunity to comment, request a hearing, and petition for leave to intervene.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) received and is considering approval of an application filed on September 5, 2025, by Holtec Decommissioning International, LLC (HDI), on behalf of itself, Holtec Palisades, LLC, and Holtec Big Rock Point, LLC (collectively, the Applicants), regarding the proposed transfer of ownership of Facility Operating License (FOL) No. DPR–6 for the Big Rock Point (BRP) site and the Big Rock Point license. Holtec Palisades, LLC is the licensed owner of BRP; HDI is the licensed operator of BRP. The application seeks NRC approval of the direct transfer of ownership of BRP from Holtec Palisades, LLC to Holtec Big Rock Point, LLC; HDI will remain the licensed operator of BRP. The NRC is also considering amending the FOL for administrative purposes to reflect the proposed transfer.

DATES: Submit comments by March 5, 2026. A request for a hearing or petition for leave to intervene must be filed by February 23, 2026.

ADDRESSES: You may submit comments by any of the following methods; however, the NRC encourages electronic comment submission through the Federal rulemaking website:

- *Federal rulemaking website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2026–0496. Address questions about Docket IDs in *Regulations.gov* to Bridget Curran; telephone: 301–415–1003; email: *Bridget.Curran@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Email comments to: Hearing.Docket@nrc.gov.* If you do not receive an automatic email reply confirming receipt, then contact us at 301–415–1677.
- *Fax comments to:* Secretary, U.S. Nuclear Regulatory Commission at 301–415–1101.

• *Mail comments to:* Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Rulemakings and Adjudications Staff.

• *Hand deliver comments to:* 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 a.m. and 4:15 p.m. eastern time (ET) Federal workdays; telephone: 301–415–1677.

For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Marlayna Doell, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone: 301–415–3178; email: *Marlayna.Doell@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2026–0496 when contacting the NRC about the availability of information for this action. You may obtain publicly available information related to this action by any of the following methods:

• *Federal Rulemaking website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2026–0496.

• *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''Begin ADAMS Public Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, at 301–415–4737, or by email to *PDR.Resource@nrc.gov.* The license transfer application dated September 5, 2025, is available in ADAMS under Accession No. ML25248A301.

• *NRC's PDR:* The PDR, where you may examine and order copies of publicly available documents, is open by appointment. To make an appointment to visit the PDR, please send an email to *PDR.Resource@nrc.gov* or call 1–800–397–4209 or 301–415–4737, between 8 a.m. and 4 p.m. eastern time (ET), Monday through Friday, except Federal holidays.

B. Submitting Comments

The NRC encourages electronic comment submission through the Federal rulemaking website (*https://www.regulations.gov*). Please include Docket ID NRC–2026–0496 in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at *https://www.regulations.gov* as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Introduction

A. Background

BRP is located in Charlevoix County, Michigan, approximately 11 miles west of Petoskey, on the northern shore of Michigan's Lower Peninsula. The BRP nuclear plant was a boiling water reactor rated at 75 MW electric and began commercial operation in March 1963. The plant was permanently shut down on August 29, 1997, and subsequently all spent nuclear fuel was transferred to the independent spent fuel storage installation (ISFSI). In 2007, decommissioning and dismantlement of the facilities was completed. In accordance with an approved license termination plan, all property, was released from the license, except an onsite parcel of land of approximately 30 acres within which the ISFSI is located and an additional non-impacted parcel of approximately 75 acres adjacent to the ISFSI.

B. Transfer Request

The NRC is considering the issuance of an order under section 50.80 of title 10 of the *Code of Federal Regulations* (10 CFR) approving the direct transfer of ownership of FOL No. DPR–6 for BRP from Holtec Palisades, LLC to Holtec Big Rock Point, LLC. The application states that this proposed transfer of ownership would support the renewed power operations of the Palisades Nuclear Plant, which is also owned by Holtec Palisades, LLC, and would align ownership and operational responsibility of BRP with Holtec's other decommissioned plants. The proposed transfer would also involve the issuance of a conforming license amendment.

According to the application, Holtec Big Rock Point, LLC, would become the licensed owner or BRP, the beneficiary of the BRP decommissioning trust fund, and the party to the Standard Contract for Disposal of Spent Nuclear Fuel generated by BRP. No physical changes to BRP are being proposed in the transfer application.

The NRC's regulations in 10 CFR 50.80 state that no license for a production or utilization facility, or any right thereunder, shall be transferred, directly or indirectly, through transfer of control of the license, unless the Commission gives its consent in writing. The Commission will approve an application for the transfer of a license if the Commission determines that the proposed transferee is qualified to hold the license, and that the transfer is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission.

Before issuing the proposed conforming license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended, and the Commission's regulations.

As provided in 10 CFR 2.1315, unless otherwise determined by the Commission with regard to a specific application, the Commission has determined that any amendment to the license of a utilization facility, or to the license of an ISFSI, which does no more than conform the license to reflect the transfer action involves no significant hazards consideration and no genuine issue as to whether the health and safety of the public will be significantly affected. No contrary determination has been made with respect to this specific license amendment application. Considering the generic determination reflected in 10 CFR 2.1315, no public comments with respect to significant hazards considerations are being solicited, notwithstanding the general comment procedures contained in 10 CFR 50.91.

III. Opportunity To Comment

Within 30 days from the date of publication of this notice, persons may submit written comments regarding the license transfer application, as provided for in 10 CFR 2.1305. The Commission will consider and, if appropriate, respond to these comments, but such comments will not otherwise constitute part of the decisional record. Comments should be submitted as described in the **ADDRESSES** section of this document.

IV. Opportunity To Request a Hearing and Petition for Leave To Intervene

Within 20 days after the date of publication of this notice, any person (petitioner) whose interest may be affected by this action may file a request for a hearing and petition for leave to intervene (petition) with respect to the action. Petitions shall be filed in accordance with the Commission's ''Agency Rules of Practice and Procedure'' in 10 CFR part 2. Interested persons should consult 10 CFR 2.309. If a petition is filed, the presiding officer will rule on the petition and, if appropriate, a notice of a hearing will be issued.

Petitions must be filed no later than 20 days from the date of publication of this notice in accordance with the filing instructions in the ''Electronic Submissions (E-Filing)'' section of this document. Petitions and motions for leave to file new or amended contentions that are filed after the deadline will not be entertained absent a determination by the presiding officer that the filing demonstrates good cause by satisfying the three factors in 10 CFR 2.309(c)(1)(i) through (iii).

A State, local governmental body, Federally recognized Indian Tribe, or designated agency thereof, may submit a petition to the Commission to participate as a party under 10 CFR 2.309(h) no later than 20 days from the date of publication of this notice. Alternatively, a State, local governmental body, Federally recognized Indian Tribe, or designated agency thereof may participate as a non-party under 10 CFR 2.315(c).

For information about filing a petition and about participation by a person not a party under 10 CFR 2.315, see ADAMS Accession No. ML20340A053 (*https://adamswebsearch2.nrc.gov/webSearch2/main.jsp?AccessionNumber=ML20340A053*) and on the NRC's public website at https://www.nrc.gov/about-nrc/regulatory/adjudicatory/hearing.html#participate.

V. Electronic Submissions (E-Filing)

All documents filed in NRC adjudicatory proceedings, including documents filed by an interested State, local governmental body, Federally recognized Indian Tribe, or designated agency thereof that requests to participate under 10 CFR 2.315(c), must be filed in accordance with 10 CFR 2.302. The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases, to mail copies on electronic storage media, unless an exemption permitting an alternative filing method, as further discussed, is granted. Detailed guidance on electronic submissions in adjudicatory proceedings is located in the ''Electronic Information Exchange System Adjudicatory User's Guide'' (ADAMS Accession No. ML23150A083) and on the NRC's public website at *https://www.nrc.gov/site-help/e-submittals.html.*

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at *Hearing.Docket@nrc.gov,* or by telephone at 301–415–1677, to (1) request a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign submissions and access the E-Filing system for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a petition or other adjudicatory document (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public website at *https://www.nrc.gov/site-help/e-submittals/getting-started.html.* After a digital ID certificate is obtained and a docket created, the participant must submit adjudicatory documents in Portable Document Format. Guidance on submissions is available on the NRC's public website at *https://www.nrc.gov/site-help/electronic-sub-ref-mat.html.* A filing is considered complete at the time the document is submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. ET on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email confirming receipt of the document. The E-Filing system also distributes an email that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the document on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before adjudicatory documents are filed to obtain access to the documents via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC's Electronic Filing Help Desk through the ''Contact Us'' link located on the NRC's public website at *https://www.nrc.gov/site-help/e-submittals.html,* by email to *MSHD.Resource@nrc.gov,* or by a toll-free call at 1–866–672–7640. The NRC Electronic Filing Help Desk is available between 9 a.m. and 6 p.m., ET, Monday through Friday, except Federal holidays.

Participants who believe that they have good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing stating why there is good cause for not filing electronically and requesting authorization to continue to submit documents in paper format. Such filings must be submitted in accordance with 10 CFR 2.302(b)–(d). Participants filing adjudicatory documents in this manner are responsible for serving their documents on all other participants. Participants granted an exemption under 10 CFR 2.302(g)(2) must still meet the electronic formatting requirement in 10 CFR 2.302(g)(1), unless the participant also seeks and is granted an exemption from 10 CFR 2.302(g)(1).

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket, which is publicly available at *https://adams.nrc.gov/ehd,* unless excluded pursuant to an order of the presiding officer. If you do not have an NRC-issued digital ID certificate as previously described, click ''cancel'' when the link requests certificates and you will be automatically directed to the NRC's electronic hearing docket where you will be able to access any publicly available documents in a particular hearing docket. Participants are requested not to include personal privacy information such as social security numbers, home addresses, or personal phone numbers in their filings unless an NRC regulation or other law requires submission of such information. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants should not include copyrighted materials in their submission.

The Commission will issue a notice or order granting or denying a hearing request or intervention petition, designating the issues for any hearing that will be held and designating the

Presiding Officer. A notice granting a hearing will be published in the **Federal Register** and served on the parties to the hearing.

For further details with respect to this application, see the application dated September 5, 2025 (ADAMS Accession No. ML25248A301).

Dated: January 30, 2026.

For the Nuclear Regulatory Commission.

Michelle Sutherland,

Acting Chief, Reactor Decommissioning Branch, Division of Decommissioning, Uranium Recovery, and Waste Programs, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 2026–02132 Filed 2–2–26; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

January 2026 Pay Schedules

AGENCY: Office of Personnel Management

ACTION: Notice.

SUMMARY: The President adjusted the rates of basic pay for certain Federal civilian employees effective in January 2026 by Executive order. The Executive order authorizes a 1.0 percent across-the-board increase for statutory pay systems and provides that locality pay percentages will remain at 2025 levels. This notice serves as documentation for the public record.

FOR FURTHER INFORMATION CONTACT: Lisa Dismond; Pay, Leave, and Workforce Flexibilities; Workforce Policy and Innovation; Office of Personnel Management; (202) 606–2858 or *paypolicy@opm.gov.*

SUPPLEMENTARY INFORMATION: On December 18, 2025, the President signed Executive Order (E.O.) 14368 (90 FR 60521), which implemented pay adjustments for certain Federal civilian employees in January 2026. E.O. 14368 provides an across-the-board increase of 1.0 percent for the statutory pay systems. This is consistent with the President's alternative pay plan issued under 5 U.S.C. 5303(b) and 5304a on August 28, 2025. The pay rates in E.O. 14132 have been superseded.

The publication of this notice satisfies the requirement in Section 5(b) of E.O. 14368 that the Office of Personnel Management (OPM) publish appropriate notice of the 2026 locality payments in the **Federal Register**.

Schedule 1 of E.O. 14368 provides the rates for the 2026 General Schedule (GS) and reflects a 1.0 percent increase from 2025. Executive Order 14368 also includes the percentage amounts of the 2026 locality payments. (See Section 5 and Schedule 9 of Executive Order 14368.)

General Schedule employees receive locality payments under 5 U.S.C. 5304. Locality payments apply in the United States (as defined in 5 U.S.C. 5921(4)) and its territories and possessions. In 2026, locality payments ranging from 17.06 percent to 46.34 percent apply to GS employees in the 58 locality pay areas. The 2026 locality pay area definitions [1] can be found on OPM's website.

The 2026 locality pay percentages became effective the first day of the first pay period beginning on or after January 1, 2026 (January 11, 2026). An employee's locality rate of pay is computed by increasing his or her scheduled annual rate of pay (as defined in 5 CFR 531.602) by the applicable locality pay percentage. (See 5 CFR 531.604 and 531.609.)

Executive Order 14368 establishes the new Executive Schedule (EX), which incorporates a 1.0 percent increase required under 5 U.S.C. 5318 (rounded to the nearest $100). By law, Executive Schedule officials are not authorized to receive locality payments.

Executive Order 14368 establishes the 2026 range of rates of basic pay for members of the Senior Executive Service (SES) under 5 U.S.C. 5382. The minimum rate of basic pay for the SES is $151,661 in 2026. The maximum rate of the SES rate range is $228,000 (level II of the Executive Schedule) for SES members who are covered by a certified SES performance appraisal system and $209,600 (level III of the Executive Schedule) for SES members who are not covered by a certified SES performance appraisal system.

The minimum rate of basic pay for the senior-level (SL) and scientific and professional (ST) rate range was increased by 1.0 percent ($151,661 in 2026), which is the amount of the across-the-board GS increase. The applicable maximum rate of the SL/ST rate range is $228,000 (level II of the Executive Schedule) for SL or ST employees who are covered by a certified SL/ST performance appraisal system and $209,600 (level III of the Executive Schedule) for SL or ST employees who are not covered by a certified SL/ST performance appraisal system. Agencies with certified performance appraisal systems for SES members and employees in SL and ST positions must also apply a higher aggregate limitation on pay—up to the Vice President's salary ($292,300 in 2026.)

The Continuing Appropriations, Agriculture, Legislative Branch, Military Construction and Veterans Affairs, and Extensions Act, 2026 (Pub. L. 119–37, November 12, 2025), contains a provision that continues the freeze on the payable pay rates for the Vice President and certain senior political appointees at the rates of pay and applicable limitations on payable rates of pay through January 30, 2026. Future Congressional action will determine whether the pay freeze continues beyond that date. OPM guidance on the continued pay freeze for certain senior political officials can be found in CPM 2025–21.[2]

Executive Order 14368 provides that the rates of basic pay for administrative law judges (ALJs) under 5 U.S.C. 5372 are increased by 1.0 percent (rounded to the nearest $100) in 2026. The rate of basic pay for AL–1 is $197,200 (equivalent to the rate for level IV of the Executive Schedule). The rate of basic pay for AL–2 is $192,400. The rates of basic pay for AL–3/A through 3/F range from $131,700 to $182,400.

The rates of basic pay for members of Contract Appeals Boards are calculated as a percentage of the rate for level IV of the Executive Schedule. (See 5 U.S.C. 5372a.) Therefore, these rates of basic pay are increased by 1.0 percent in 2026.

On December 9, 2025, OPM issued a memorandum [3] on behalf of the President's Pay Agent (the Secretary of Labor and the Directors of the Office of Management of Budget and OPM) that continues GS locality payments for ALJs and certain other non-GS employee categories in 2026. By law, EX officials, SES members, employees in SL/ST positions, and employees in certain other equivalent pay systems are not authorized to receive locality payments. (Note: An exception applies to certain grandfathered SES, SL, and ST employees stationed in a nonforeign area on January 2, 2010 (see CPM 2009–27) [4]).

[1] Office of Personnel Management. ''2026 Locality Pay Area Definitions.'' Locality Pay Area Definitions.'' *https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/2026/locality-pay-area-definitions.*

[2] Office of Personnel Management. ''Updated Guidance-Pay Freeze for Certain Senior Political Officials.'' *https://www.opm.gov/chcoc/latest-memos/updated-guidance-pay-freeze-for-certain-senior-political-officials.pdf*

[3] Office of Personnel Management. ''Continuation of Locality Payments for Non-General Schedule Employees.'' *https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/2025/continuation-of-locality-payments-for-non-general-schedule-employees.pdf.*

[4] Office of Personnel Management. ''Nonforeign Area Retirement Equity Assurance Act.'' *https://*

Continued

On December 18, 2025, OPM issued a memorandum (CPM 2025–18) [5] on the 2026 pay adjustments. The memorandum transmitted Executive Order 14368 and provided the 2026 salary tables, locality pay areas and percentages, and information on general pay administration matters and other related guidance. The 2026 ''Salaries & Wages'' posted on OPM's website [6] are the official rates of pay for affected employees and are hereby incorporated as part of this notice.

The Director of OPM, Scott Kupor, reviewed and approved this document and has authorized the undersigned to electronically sign and submit this document to the Office of the Federal Register for publication.

Office of Personnel Management.

Jerson Matias,

Federal Register Liaison.

[FR Doc. 2026–02189 Filed 2–2–26; 8:45 am]

BILLING CODE 6325–39–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–104757; File No. 600–39]

Paxos Securities Settlement Company, LLC; Notice of Designation of a Longer Period for Commission Action on Proceedings To Determine Whether To Grant or Deny an Application for Registration as a Clearing Agency Under Section 17A of the Securities Exchange Act of 1934

January 30, 2026.

On July 14, 2025, Paxos Securities Settlement Company, LLC (''PSSC'') filed with the Securities and Exchange Commission (''Commission'') an application on Form CA–1 (''Application'') under Section 17A of the Securities Exchange Act of 1934 (''Exchange Act'') seeking to register as a clearing agency.[1] Notice of the Application was published for comment in the **Federal Register** on August 6, 2025 (''Notice''),[2] and the Commission received a comment in response to the Application.[3] On November 4, 2025, the Commission issued an order instituting proceedings to determine whether to grant or deny the Application (''OIP'').[4]

Section 19(a)(1)(B) of the Exchange Act provides that proceedings instituted to determine whether to deny an application for registration as a clearing agency shall be concluded within 180 days of the date of a publication of notice of the filing of the application for registration.[5] At the conclusion of such proceedings, the Commission, by order, shall grant or deny such registration.[6] The Commission may extend the time for conclusion of such proceedings for up to 90 days if it finds good cause for such extension and publishes its reasons for so finding.[7] The Notice was published for comment in the **Federal Register** on August 6, 2025.[8] The 180th day after publication of the Notice is February 2, 2026. The Commission is extending the time for granting or denying PSSC's Application for registration as a clearing agency for an additional 90 days.

The Commission finds good cause for extending the period for granting or denying PSSC's Application because the extension will provide additional time for the Commission to assess whether the Application satisfies the requirements of Section 17A of the Exchange Act and the rules and regulations thereunder for clearing agencies. In the OIP, the Commission sought comment regarding the Application's consistency with Section 17A(b)(3) of the Exchange Act. In addition, as described in the OIP, PSSC would provide services using a private, permissioned settlement service that supports a distributed ledger, which is designed to conduct delivery versus payment settlement on a bilateral basis, and would become a participant in the Depository Trust Company (''DTC'') so that PSSC can make its services available to other DTC participants.[9] This novel structure affects the way in which PSSC conducts risk management and risk surveillance, and the rules pursuant to which PSSC would manage the default of its participants. Therefore, the Commission believes there is good cause to extend the time for conclusion of the proceedings for 90 days.

Accordingly, pursuant to Section 19(a)(1)(B) of the Exchange Act,[10] the Commission designates May 3, 2026, as the date by which the Commission shall either grant or deny PSSC's Application.

By the Commission.

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026–02197 Filed 2–2–26; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–104741; File No. SR–ICC–2025–014]

Self-Regulatory Organizations; ICE Clear Credit LLC; Notice of Designation of Longer Period for Commission Action on Proposed Rule Change Relating to the ICC Collateral Risk Management Framework

January 29, 2026.

On December 29, 2025, ICE Clear Credit LLC (''ICC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change SR–ICC–2025–014, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Exchange Act'') [1] and Rule 19b–4 [2] thereunder, to revise the ICC Collateral Risk Management Framework (the ''Proposed Rule Change'').[3] The Proposed Rule Change was published for public comment in the **Federal Register** on January 13, 2026.[4] The Commission has not received comments on the Proposed Rule Change.

Section 19(b)(2) of the Exchange Act [5] provides that, within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding, or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day after publication of the Notice is February 27, 2026. The Commission is extending this 45-day time period.

www.opm.gov/chcoc/transmittals/2009/nonforeign-area-retirement-equity-assurance-act_508_0.pdf.

[5] Office of Personnel Management. ''January 2026 Pay Adjustments.'' *https://www.opm.gov.chcoc/latest-memos/january-2026-pay-adjustments.pdf.*

[6] Office of Personnel Management. ''Salaries & Wages.'' *http://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/.*

[1] 15 U.S.C. 78q–1. Non-confidential aspects of the Application, including any exhibits thereto cited in this order, are available on the Commission's website at: *https://www.sec.gov/rules-regulations/other-commission-orders-notices-information/pssc-form-ca-1.*

[2] Release No. 34–103624 (Aug. 1, 2025), 90 FR 37940 (Aug. 6, 2025).

[3] The public comment file for the Application is available on the Commission's website at: *https://www.sec.gov/rules-regulations/2025/08/600-39.*

[4] Release No. 34–104174 (Nov. 4, 2025), 90 FR 51416 (Nov. 17, 2025).

[5] 15 U.S.C. 78s(a)(1)(B).

[6] *Id.*

[7] *Id.*

[8] *See supra* note 2.

[9] 90 FR at 51416 & nn.7–8.

[10] 15 U.S.C. 78s(a)(1)(B).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Notice of Filing *infra* note 4, at 90 FR 1368.

[4] *See* Securities Exchange Act Release No. 104559 (Jan. 8, 2026), 91 FR 1368 (Jan. 13, 2026) (File No. SR–ICC–2025–014) (''Notice'').

[5] 15 U.S.C. 78s(b)(2).

In order to provide the Commission with sufficient time to consider the Proposed Rule Change, the Commission finds that it is appropriate to designate a longer period within which to take action on the Proposed Rule Change.

Accordingly, the Commission, pursuant to Section 19(b)(2) of the Exchange Act,[6] designates April 13, 2026, as the date by which the Commission shall either approve, disapprove, or institute proceedings to determine whether to disapprove the Proposed Rule Change.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[7]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026–02118 Filed 2–2–26; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–104735; File No. SR–FICC–2026–002]

Self-Regulatory Organizations; Fixed Income Clearing Corporation; Notice of Filing of Proposed Rule Change To Enhance the Correlation Calculation for Bond Haircut Models and Make Other Changes

January 29, 2026.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 27, 2026, Fixed Income Clearing Corporation (''FICC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the clearing agency. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change[3] consists of amendments to the Methodology Document—GSD Initial Market Risk Margin Model (''QRM Methodology Document'')[4] in order to enhance the correlation calculation for bond haircut models. In addition, FICC is proposing a technical change to the QRM Methodology Document.

FICC is requesting confidential treatment of the QRM Methodology Document and has filed it separately with the Secretary of the Commission.[5]

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the clearing agency 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 clearing agency has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this proposed rule change is to amend the QRM Methodology Document in order to enhance the correlation calculation for bond haircut models. FICC is also proposing to make a technical change to the QRM Methodology Document.

Background

FICC, through GSD, serves as a central counterparty and provider of clearance and settlement services for transactions in U.S. government securities, as well as repurchase and reverse repurchase transactions involving U.S. government securities. GSD also clears and settles certain transactions on securities issued or guaranteed by U.S. government agencies and government sponsored enterprises. As part of its market risk management strategy, FICC manages its credit exposure to Members by determining the appropriate Required Fund Deposit to the Clearing Fund and monitoring its sufficiency, as provided for in the GSD Rules.[6] The Required Fund Deposit serves as each Member's margin.

The objective of a Member's Required Fund Deposit is to mitigate potential losses to FICC associated with liquidating a Member's portfolio in the event FICC ceases to act for that Member (hereinafter referred to as a ''default'').[7] The aggregate amount of all Members' Required Fund Deposits constitutes the Clearing Fund. FICC would access the Clearing Fund should a defaulting Member's own Required Fund Deposit be insufficient to satisfy losses to FICC caused by the liquidation of that Member's portfolio.

At GSD, each Member is also responsible for the margin obligations arising from the activity of the Member's indirect participant customers submitted to FICC via the sponsored membership service (''Sponsored Service'') and/or the Agent Clearing Service. FICC's Sponsored Service permits Members that are approved to be Sponsoring Members, to sponsor certain institutional firms, referred to as ''Sponsored Members,'' into GSD membership.[8] FICC establishes and maintains a ''Sponsoring Member Omnibus Account'' on its books in which it records the transactions of the Sponsoring Member's Sponsored Members (''Sponsored Member Trades'').[9] Similarly, FICC's Agent Clearing Service permits Members that are approved to be Agent Clearing Members to submit activities of certain institutional firms, referred to as ''Executing Firm Customers,'' into FICC for clearing and settlement.[10] FICC establishes and maintains an ''Agent Clearing Member Omnibus Account'' on its books in which it records the transactions of the Agent Clearing

[6] *Id.*

[7] 17 CFR 200.30–3(a)(31).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Capitalized terms used herein and not defined shall have the meaning assigned to such terms in the FICC Government Securities Division (''GSD'') Rulebook (''GSD Rules''), *available at www.dtcc.com/legal/rules-and-procedures.*

[4] The QRM Methodology Document was filed as a confidential exhibit in the rule filing and advance notice for GSD sensitivity VaR. *See* Securities Exchange Act Release Nos. 83362 (June 1, 2018), 83 FR 26514 (June 7, 2018) (SR–FICC–2018–001) and 83223 (May 11, 2018), 83 FR 23020 (May 17, 2018) (SR–FICC–2018–801). The QRM Methodology Document has been subsequently amended. *See* Securities Exchange Act Release Nos. 85944 (May 24, 2019), 84 FR 25315 (May 31, 2019) (SR–FICC–2019–001), 90182 (Oct. 14, 2020), 85 FR 66630 (Oct. 20, 2020) (SR–FICC–2020–009), 93234 (Oct. 1, 2021), 86 FR 55891 (Oct. 7, 2021) (SR–FICC–2021–007), 95605 (Aug. 25, 2022), 87 FR 53522 (Aug. 31, 2022) (SR–FICC–2022–005), 97342 (Apr. 21, 2023), 88 FR 25721 (Apr. 27, 2023) (SR–FICC–2023–003), 99447 (Jan. 30, 2024), 89 FR 8260 (Feb. 6, 2024) (SR–FICC–2024–001), 101569 (Nov. 8, 2024), 89 FR 90109 (Nov. 14, 2024) (SR–FICC–2024–003), and 104116 (Sept. 29, 2025), 90 FR 47437 (Oct. 1, 2025) (SR–FICC–2025–018).

[5] 17 CFR 240.24b–2.

[6] *See* GSD Rule 4 (Clearing Fund and Loss Allocation), *supra* note 3. FICC's market risk management strategy is designed to comply with Rule 17ad–22(e)(4) under the Act, where these risks are referred to as ''credit risks.'' 17 CFR 240.17ad–22(e)(4).

[7] The GSD Rules identify when FICC may cease to act for a Member and the types of actions FICC may take. For example, FICC may suspend a firm's membership with FICC or prohibit or limit a Member's access to FICC's services in the event that Member defaults on a financial or other obligation to FICC. *See* GSD Rule 21 (Restrictions on Access to Services), *supra* note 3.

[8] *See* GSD Rule 3A (Sponsoring Members and Sponsored Members), *supra* note 3.

[9] *See* GSD Rule 1 (definition of ''Sponsored Member Trades''), *supra* note 3.

[10] *See* GSD Rule 8 (Agent Clearing Service), *supra* note 3.

Member's Executing Firm Customers (''Agent Clearing Transactions'').[11]

Both the Sponsoring Members and the Agent Clearing Members have the option of segregating Sponsored Member Trades of a Sponsored Member and Agent Clearing Transactions of an Executing Firm Customer, as applicable, in separate accounts (*i.e.,* Segregated Indirect Participants Accounts), each such Sponsored Member and Executing Firm Customer being referred to as a ''Segregated Indirect Participant.'' FICC manages its credit exposure to Segregated Indirect Participants by determining the appropriate Segregated Customer Margin Requirement and monitoring its sufficiency, as provided for in the GSD Rules.[12]

Pursuant to the GSD Rules, each Member's Required Fund Deposit amount (and Segregated Customer Margin Requirement amount, to the extent applicable) consists of a number of components, each of which is calculated to address specific risks faced by FICC, as identified within the GSD Rules.[13] At GSD, these components include the VaR Charge, Blackout Period Exposure Adjustment, Backtesting Charge, Excess Capital Premium, Holiday Charge, Intraday Supplemental Fund Deposit, Intraday Mark-to-Market Charge, Margin Liquidity Adjustment Charge, Portfolio Differential Charge, Volatility Event Charge, and special charge.[14] The VaR Charge generally comprises the largest portion of a Member's Required Fund Deposit and Segregated Customer Margin Requirement amounts.

The VaR Charge is based on the potential price volatility of unsettled positions using a sensitivity-based Value-at-Risk (''sensitivity VaR'') methodology and is designed to cover FICC's projected liquidation losses with respect to a defaulted Member's portfolio at a 99% confidence level. The sensitivity VaR methodology provides an estimate of the possible losses for a given portfolio based on: (1) confidence level, (2) a time horizon, and (3) historical market volatility. FICC uses historical simulation to estimate the impact of market volatilities on the Member's portfolio. A haircut method is applied to securities with insufficient requisite data used to employ the sensitivity VaR approach, *e.g.,* short-term bonds.

Enhancing the Correlation Calculation for Bond Haircut Models

The QRM Methodology Document provides the methodologies by which FICC calculates the VaR Charge, *i.e.,* sensitivity VaR methodology and haircut methodology. Specifically, the QRM Methodology Document provides model inputs, parameters, and assumptions, among other information, for these methodologies.

Pursuant to the QRM Methodology Document, all short-term bonds (*i.e.,* bonds with maturity of one-year or less) (including Treasury Inflation Protected Securities (''TIPS'')) and bonds with no vendor provided sensitivity analytics data are subject to a haircut calculation. The haircut charges are calculated by placing the bonds into relevant maturity buckets, using correlations to account for cross-bucket effects. The correlations are calculated based on fixed income indices provided by a designated vendor. However, because the designated vendor does not currently provide index data for Treasury 0–6 months, Treasury 6–12 months, and TIPS 0–12 months maturity buckets, the correlations involving any of these three maturity buckets are manually set by FICC to zero.[15] Setting the correlation to zero for Treasury 0–6 months, Treasury 6–12 months, and TIPS 0–12 months maturity buckets may result in understated haircut charges. This is particularly true for directional portfolios with securities in adjacent maturity buckets, for example, one bond with 5 months to maturity and another with 7 months to maturity, because historical evidence shows short-term maturity buckets are substantially intercorrelated. To strengthen FICC's assessment of market risk for portfolios with bond positions in maturity buckets where the designated vendor does not provide index data, FICC proposes to enhance the correlation calculation for bond haircut models by permitting the use of index data from an alternate vendor in such cases.

FICC is proposing modifications to the QRM Methodology Document in order to enhance the correlation calculation for bond haircut models. Specifically, in the subsection of the QRM Methodology Document that describes calculation of haircut of Treasury and agency bonds without sensitivity analytics data, FICC would delete existing language regarding correlation parameter alternatives and replace it with new language to make it clear that, for fixed income indices not provided by the designated vendor, FICC may use data from another vendor to calculate the correlation. In addition, FICC would delete existing language that describes the current practice of assuming zero correlation for certain maturity buckets of short-term bonds. Furthermore, FICC is also proposing a technical change that corrects a section reference.

Impact Study

FICC performed an impact study for the period beginning September 1, 2024 through August 31, 2025 (''Impact Study Period''), looking at Treasury 0–6 months, Treasury 6–12 months, and TIPS 0–12 months maturity buckets with a different correlation number than zero calculated based on index data provided by an alternate vendor. If the proposed rule change had been in place during the Impact Study Period compared to the existing GSD Rules, the average increase to the aggregate VaR Charges at GSD would be approximately $46 million (or 0.09%), with the largest increase of approximately $85 million (or 0.15%). The impact study indicated that, if the proposed rule change had been in place, the VaR model backtesting coverage would have remained unchanged at 99.85%.

Margin Proxy was not deployed during the Impact Study Period;[16] however, if the proposed rule change had been in place and Margin Proxy were deployed during the Impact Study Period, the average increase to the aggregate VaR Charges at GSD would be approximately $88 million (or 0.16%), with the largest increase of approximately $163 million (or 0.38%). The impact study indicated that, if the proposed rule change had been in place and Margin Proxy were deployed during the Impact Study Period, the VaR model backtesting coverage would have remained unchanged at 99.92%.

Impact to Members Over the Impact Study Period

If the proposed rule change had been in place during the Impact Study Period compared to the existing GSD Rules, on

[11] *See* GSD Rule 1 (definition of ''Agent Clearing Transactions''), *supra* note 3.

[12] *See* GSD Margin Component Schedule, *supra* note 3.

[13] *Supra* note 3.

[14] These margin components and the relevant defined terms are located in GSD Rule 1 (Definitions) and/or the GSD Margin Component Schedule, *supra* note 3.

[15] During the initial methodology development, the overall impact to the haircut charge due to correlations was expected to be limited. Consequently, when vendor index data is unavailable, correlations for Treasury 0–6 months, Treasury 6–12 months, and TIPS 0–12 months maturity buckets are set to zero. The decision to set such correlations to zero is intended to provide a clear and consistent framework for margin calculation, pending the availability of reliable index data from external vendors.

[16] FICC can deploy Margin Proxy as a back-up VaR Charge calculation in the event that FICC experiences a data disruption with its third-party vendor. *See* GSD Margin Component Schedule (definition of ''Margin Proxy''), *supra* note 3.

average, at the Member Margin Portfolio level, the proposed rule change would have increased the start of day (''SOD'') VaR Charge by approximately $0.22 million, or 0.09%, over the Impact Study Period. The largest average percentage increase in SOD VaR Charge for any Member Margin Portfolio would have been approximately 14.52%, or $0.38 million. The largest average dollar increase in SOD VaR Charge for any Member Margin Portfolio would have been approximately $5.91 million, or 0.79%.

If the proposed rule change had been in place and Margin Proxy were deployed during the Impact Study Period, on average, at the Member Margin Portfolio level, the proposed rule change would have increased the SOD VaR Charge by approximately $0.42 million, or 0.16% over the Impact Study Period. The largest average percentage increase in SOD VaR Charge for any Member Margin Portfolio would have been approximately 23.18%, or $0.59 million. The largest average dollar increase in SOD VaR Charge for any Member Margin Portfolio would have been approximately $17.35 million, or 0.34%.

2. Statutory Basis

FICC believes this proposal is consistent with the requirements of the Act, and the rules and regulations thereunder applicable to a registered clearing agency. Specifically, FICC believes that the proposed rule change is consistent with Section 17A(b)(3)(F) of the Act [17] and Rules 17ad–22(e)(4)(i) and (e)(6)(i) promulgated thereunder [18] for the reasons described below.

Section 17A(b)(3)(F) of the Act requires that the rules of a clearing agency be designed to, among other things, assure the safeguarding of securities and funds which are in the custody or control of the clearing agency.[19] FICC believes the proposed change to enhance the correlation calculation for bond haircut models is designed to assure the safeguarding of securities and funds which are in its custody or control because it is designed to mitigate FICC's risk exposure from bond positions held in Members' portfolios. Specifically, the proposed enhancement would allow FICC to collect financial resources to mitigate credit risk exposure resulting from bonds held in Members' portfolios.

The Clearing Fund/Segregated Customer Margin is a key tool that FICC uses to mitigate potential losses to FICC associated with liquidating a Member's portfolio in the event of Member default. Therefore, the proposed change to enhance the correlation calculation for bond haircut models would enable FICC to better address credit risk exposure resulting from bonds held in Members' portfolios such that, in the event of a Member default, FICC's operations would not be disrupted, and non-defaulting Members would not be exposed to losses they cannot anticipate or control. In this way, the proposed change to enhance the correlation calculation for bond haircut models would assure the safeguarding of securities and funds which are in the custody or control of FICC, consistent with Section 17A(b)(3)(F) of the Act.[20]

FICC believes the proposed change to make a technical change to the QRM Methodology Document would enhance the accuracy of the QRM Methodology Document for FICC. The QRM Methodology Document is used by FICC risk management personnel for the calculation of margin requirements. Having an accurate QRM Methodology Document will help facilitate the accurate and smooth functioning of the margining process at FICC. The proposed technical change would promote such accuracy. This would in turn enable FICC risk management to assess an appropriate level of margin for Members. As such, FICC believes that the proposed technical change to the QRM Methodology Document would assure the safeguarding of securities and funds which are in the custody or control of FICC, consistent with Section 17A(b)(3)(F) of the Act.[21]

The proposed change to enhance the correlation calculation for bond haircut models has also been designed to be consistent with Rules 17ad–22(e)(4)(i) and (e)(6)(i) under the Act.[22] Rule 17ad–22(e)(4)(i) under the Act requires a covered clearing agency to establish, implement, maintain, and enforce written policies and procedures reasonably designed to effectively identify, measure, monitor, and manage its credit exposures to participants and those exposures arising from its payment, clearing, and settlement processes by maintaining sufficient financial resources to cover its credit exposure to each participant fully with a high degree of confidence.[23] As described above, the proposed change to permit the use of index data from an alternate vendor when the designated vendor does not provide such data would enhance the correlation calculation for bond haircut models, which in turn would help address the identification, measurement, monitoring and management of credit exposures that may arise from bonds held in Members' portfolios. By enhancing the correlation calculation for bond haircut models, the proposed change would enable FICC to have rule provisions that are reasonably designed to effectively identify, measure, monitor, and manage its credit exposures to Members and those exposures arising from its payment, clearing, and settlement processes, which FICC believes is consistent with Rule 17ad–22(e)(4)(i). Moreover, the proposed change would enable FICC to better identify, measure, monitor, and, through the collection of Members' Required Fund Deposits and Segregated Customer Margin Requirements, manage its credit exposures to Members by maintaining sufficient resources to cover those credit exposures fully with a high degree of confidence. The proposed correlation calculation change for bond haircut models as described above would help improve FICC's ability to determine the appropriate bond haircut charges, thus ensuring Members' portfolio risks are adequately identified, measured and monitored. It would help ensure that the margin FICC collects from Members is sufficient to mitigate the credit exposure presented by the Members. As a result, FICC believes that the proposal would enhance FICC's ability to effectively identify, measure, and monitor its credit exposures and would enhance its ability to maintain sufficient financial resources to cover its credit exposure to each participant fully with a high degree of confidence, consistent with the requirements of Rule 17ad–22(e)(4)(i) under the Act.[24]

Rule 17ad–22(e)(6)(i) under the Act requires, among other things, a covered clearing agency to establish, implement, maintain, and enforce written policies and procedures reasonably designed to cover its credit exposures to its participants by establishing a risk-based margin system that, at a minimum, considers, and produces margin levels commensurate with, the risks and particular attributes of each relevant product, portfolio, and market.[25] FICC believes that the proposed change to enhance the correlation calculation for bond haircut models is consistent with the requirements of Rule 17ad–22(e)(6)(i) cited above. The Required Fund Deposits and Segregated Customer Margin Requirements are comprised of

[17] 15 U.S.C. 78q–1(b)(3)(F).

[18] 17 CFR 240.17ad–22(e)(4)(i) and (e)(6)(i).

[19] 15 U.S.C. 78q–1(b)(3)(F).

[20] *Id.*

[21] *Id.*

[22] 17 CFR 240.17ad–22(e)(4)(i) and (e)(6)(i).

[23] 17 CFR 240.17ad–22(e)(4)(i).

[24] *Id.*

[25] 17 CFR 240.17ad–22(e)(6)(i).

risk-based components (as margin) that are calculated and assessed daily to limit FICC's credit exposures to Members. FICC is proposing a change that is designed to make the bond haircut models more effective in measuring and addressing credit risk. The proposed change to the correlation calculation for bond haircut models would help to ensure margin levels are commensurate with the risk exposure that arises from bonds held in Members' portfolios. It would also help ensure the margin that FICC collects from Members is sufficient to mitigate the credit exposure presented by the Members. Overall, this proposed change would allow FICC to more effectively address the risks presented by Members. In this way, the proposed change to the correlation calculation for bond haircut models would enhance the ability of FICC to produce margin levels commensurate with the risks and particular attributes of each relevant product, portfolio, and market. As such, FICC believes that this proposed change is consistent with the requirements of Rule 17ad–22(e)(6)(i) under the Act.[26]

(B) Clearing Agency's Statement on Burden on Competition

FICC believes the proposed change to enhance the correlation calculation for bond haircut models could impose a burden on competition. As a result of this proposed change, participants may experience increases in their Required Fund Deposits and/or Segregated Customer Margin Requirements. Such increases could burden participants that have lower operating margins or higher costs of capital than other participants. It is not clear whether the burden on competition would necessarily be significant because it would depend on whether the affected participants were similarly situated in terms of business type and size; however, regardless of whether the burden on competition is significant, FICC believes that any burden on competition would be necessary and appropriate in furtherance of the purposes of the Act.

Specifically, as described in this filing and further below, FICC believes that the above-described burden on competition that may be created by this proposed change would be necessary in furtherance of the purposes of the Act because the rules of a clearing agency must be designed to assure the safeguarding of securities and funds that are in FICC's custody or control, consistent with Section 17A(b)(3)(F) of the Act.[27] FICC believes that the proposed change to the correlation calculation for bond haircut models as described above would enable FICC to further improve margin resilience with respect to bonds held in Members' portfolios such that, in the event of a Member default, FICC's operations would not be disrupted and non-defaulting Members would not be exposed to losses they cannot anticipate or control. As such, this proposed change is designed to assure the safeguarding of securities and funds which are in the custody or control of FICC, consistent with Section 17A(b)(3)(F) of the Act.

FICC also believes the proposed change to the correlation calculation for bond haircut models is necessary to support FICC's compliance with Rules 17ad–22(e)(4)(i) and (e)(6)(i) under the Act,[28] which require FICC to establish, implement, maintain, and enforce written policies and procedures reasonably designed to (x) effectively identify, measure, monitor, and manage its credit exposures to participants and those arising from its payment, clearing, and settlement processes and (y) cover its credit exposures to its participants by establishing a risk-based margin system that, at a minimum, considers, and produces margin levels commensurate with, the risks and particular attributes of each relevant product, portfolio, and market.

As described above, FICC believes that the proposed change to the correlation calculation for bond haircut models would allow FICC to better mitigate risk exposure resulting from bonds held in Members' portfolios. Accordingly, FICC believes that this proposed change would allow FICC to effectively identify, measure, monitor, and manage its credit exposures to participants and better limit FICC's credit exposures to participants and cover its credit exposures to its participants by producing margin levels commensurate with the risks and particular attributes of each relevant product, portfolio, and market, consistent with the requirements of Rules 17ad–22(e)(4)(i) and (e)(6)(i) under the Act.[29]

FICC also believes that the above-described burden on competition that could be created by the proposed change to the correlation calculation for bond haircut models would be appropriate in furtherance of the purposes of the Act because such change has been appropriately designed to assure the safeguarding of securities and funds which are in the custody or control of FICC, as described in detail above. The proposed change to the correlation calculation for bond haircut models is specifically designed to cover risk exposures from bonds held in Members' portfolios. Any increase in Required Fund Deposit and/or Segregated Customer Margin Requirement as a result of such proposed change for a particular participant would be in direct relation to the specific risks presented by such participant's portfolio, and each participant's Required Fund Deposit and/or Segregated Customer Margin Requirement would continue to be calculated with the same parameters and at the same confidence level. Therefore, participants with portfolios that present similar risks, regardless of the type of participant, would have similar impacts on their Required Fund Deposit and/or Segregated Customer Margin Requirement amounts. In addition, the proposed change to the correlation calculation for bond haircut models would improve the risk-based margining methodology that FICC employs to set margin requirements and better limit FICC's credit exposures to its participants. Therefore, because the proposed change is designed to provide FICC with a more appropriate and complete measure of the risks presented by participants' portfolios, FICC believes this proposed change is appropriately designed to meet its risk management goals and its regulatory obligations.

Accordingly, FICC does not believe that the proposed change to the correlation calculation for bond haircut models would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.[30]

FICC does not believe the proposed technical change to the QRM Methodology Document would have any impact on competition. This proposed change would enhance the QRM Methodology Document by providing additional accuracy. The proposed technical change would not advantage or disadvantage any particular Member of FICC or unfairly inhibit access to FICC's services. FICC therefore does not believe the proposed technical change would have any impact, or impose any burden, on competition.

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

FICC has not received or solicited any written comments relating to this

[26] *Id.*

[27] 15 U.S.C. 78q–1(b)(3)(F).

[28] 17 CFR 240.17ad–22(e)(4)(i) and (e)(6)(i).

[29] *Id.*

[30] 15 U.S.C. 78q–1(b)(3)(I).

proposal. If any written comments are received, they will be publicly filed as an Exhibit 2 to this filing, as required by Form 19b–4 and the General Instructions thereto.

Persons submitting comments are cautioned that, according to Section IV (Solicitation of Comments) of the Exhibit 1A in the General Instructions to Form 19b–4, the Commission does not edit personal identifying information from comment submissions. Commenters should submit only information that they wish to make available publicly, including their name, email address, and any other identifying information.

All prospective commenters should follow the Commission's instructions on how to submit comments, *available at www.sec.gov/rules-regulations/how-submit-comment.* General questions regarding the rule filing process or logistical questions regarding this filing should be directed to the Main Office of the Commission's Division of Trading and Markets at *tradingandmarkets@sec.gov* or 202–551–5777.

FICC reserves the right not to respond to any comments received.

III. Date of Effectiveness of the Proposed Rule Change, and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve or disapprove such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules-regulations/self-regulatory-organization-rulemaking*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–FICC–2026–002 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549.

All submissions should refer to File Number SR–FICC–2026–002. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*https://www.sec.gov/rules-regulations/self-regulatory-organization-rulemaking*). Copies of the filing will be available for inspection and copying at the principal office of FICC and on DTCC's website (*www.dtcc.com/legal/sec-rule-filings*). 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–FICC–2026–002 and should be submitted on or before February 24, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[31]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026–02112 Filed 2–2–26; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–104742; File No. 4–533]

Joint Industry Plan; Notice of Filing and Immediate Effectiveness of Amendment to the National Market System Plan for the Selection and Reservation of Securities Symbols To Add Texas Stock Exchange LLC as a Party Thereto

January 29, 2026.

Pursuant to Section 11A(a)(3) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 608 thereunder,[2] notice is hereby given that on January 23, 2026, Texas Stock Exchange LLC (''TXSE'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') an amendment to the National Market System Plan for the Selection and Reservation of Securities Symbols (''Symbology Plan'' or ''Plan'').[3] The amendment proposes to add TXSE as a party to the Symbology Plan. The Commission is publishing this notice to solicit comments on the proposed amendment from interested persons.

I. Description and Purpose of the Amendment

The current parties to the Symbology Plan are 24X National Exchange LLC, BOX Exchange, LLC, Nasdaq BX, Inc., Cboe BZX Exchange, Inc., Cboe EDGA Exchange, Inc., Cboe EDGX Exchange, Inc., Cboe Exchange, Inc., NYSE Texas, Inc, Financial Industry Regulatory Authority, Inc., Investors Exchange, LLC, Long-Term Stock Exchange, Inc., MEMX LLC, Miami International Securities Exchange, LLC, MIAX PEARL, LLC, Nasdaq ISE, LLC, The Nasdaq Stock Market LLC, New York Stock Exchange LLC, NYSE American LLC, NYSE National, Inc., NYSE Arca, Inc., and Nasdaq PHLX LLC. The proposed amendment to the Symbology Plan would add TXSE as a party to the Symbology Plan. A self-regulatory organization (''SRO'') may become a party to the Symbology Plan if it satisfies the requirements of Section I(c) of the Plan. Specifically, an SRO may become a party to the Symbology Plan if: (i) it maintains a market for the listing or trading of Plan Securities[4] in accordance with rules approved by the Commission; (ii) it signs a current copy of the Plan; and (iii) becomes a party to any contract required pursuant to Section III of the Plan with the Processor (as such term is defined in the Plan).[5]

The Exchange has submitted a signed copy of the Symbology Plan to the Commission in accordance with the requirement set forth in the Symbology Plan regarding new parties to the plan. Additionally, the Exchange has represented that it maintains a market for the listing or trading of Plan Securities. Finally, the Exchange has represented that it has become a party to any contract with the Processor.

II. Effectiveness of the Proposed Symbology Plan Amendment

The foregoing proposed Symbology Plan amendment has become effective

[31] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78k–1(a)(3).

[2] 17 CFR 242.608.

[3] The Commission approved the Symbology Plan on November 6, 2008. *See* Securities Exchange Act Release No. 58904, 73 FR 67218 (November 13, 2008) (File No. 4–533).

[4] ''Plan Securities'' are defined in the Symbology Plan as securities that: (i) are NMS securities as currently defined in Rule 600(a)(46) under the Act; and (ii) any other equity securities quoted, traded and/or trade reported through an SRO facility.

[5] Sections I(c) and V(a) of the Plan.

pursuant to Rule 608(b)(3)(iii)[6] because it involves solely technical or ministerial matters. At any time within sixty days of the filing of the amendment, the Commission may summarily abrogate the amendment and require that it be refiled pursuant to paragraph (a)(1) of Rule 608,[7] if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors or the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanisms of, a national market system or otherwise in furtherance of the purposes of the Act.

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the Amendment is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number 4–533 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 4–533. 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 also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to File Number 4–533, and should be submitted on or before February 24, 2026.

[6] 17 CFR 242.608(b)(3)(iii).

[7] 17 CFR 242.608(a)(1).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[8]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026–02119 Filed 2–2–26; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–104737; File No. SR–CboeBZX–2025–149]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Designation of a Longer Period for Commission Action on a Proposed Rule Change To Amend Exchange Rule 11.23(d)(2)(B) (Extending the Quote-Only Period for Initial Public Offering ("IPO") Auctions)

January 29, 2026.

On December 17, 2025, Cboe BZX Exchange, Inc. ("Exchange" or "BZX") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend Exchange Rule 11.23(d)(2)(B) (Extending the Quote-Only Period for IPO Auctions) to (1) delineate between BZX-listed corporate securities and exchange-traded product ("ETP") IPO Securities; and (2) expand the circumstances under which the Exchange may extend the Quote-Only Period for IPO Auctions in an ETP IPO Security. The proposed rule change was published for comment in the **Federal Register** on December 31, 2025.[3]

Section 19(b)(2) of the Act[4] provides that within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day after publication of the notice for this proposed rule change is February 14, 2026. The Commission is extending this 45-day time period.

The Commission finds it appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposed rule change and the issues raised therein. Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,[5] designates March 31, 2026, as the date by which the Commission shall either approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change (File No. SR–CboeBZX–2025–149).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[6]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026–02114 Filed 2–2–26; 8:45 am]

BILLING CODE 8011–01–P

[8] 17 CFR 200.30–3(a)(85).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 104501 (Dec. 23, 2025), 90 FR 61492. The Commission has received no comments regarding the proposed rule change.

[4] 15 U.S.C. 78s(b)(2).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–104736; File No. SR–BX–2026–005]

Self-Regulatory Organizations; Nasdaq BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Repeal the Restated Certificate of Incorporation and Adopt a Certificate of Formation and Company Agreement

January 29, 2026.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 21, 2026, Nasdaq BX, Inc. ("BX" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to repeal the Restated Certificate of Incorporation of the Exchange ("Certificate of Incorporation") and adopt the Certificate of Formation ("Certificate of Formation") and the Limited Liability Company Agreement of Nasdaq Texas,

[5] *Id.*

[6] 17 CFR 200.30–3(a)(31).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

LLC (''LLC Agreement'') as well as amend the Bylaws of the Exchange (''Bylaws'') to reflect (1) the proposed conversion of the Exchange to a Texas limited liability company (''LLC'') and proposed name change to ''Nasdaq Texas, LLC;'' (2) a change in address of the registered office for the Exchange; (3) certain changes to the Bylaws due to the proposed conversion of the Exchange to a Texas LLC that are substantive but not material; and (4) certain non-substantive conforming changes.

The text of the proposed rule change is available on the Exchange's website at *https://listingcenter.nasdaq.com/rulebook/bx/rulefilings,* 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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to convert the Exchange from a corporation organized under the laws of the state of Delaware to a limited liability company organized under the laws of the state of Texas. Specifically, the Exchange proposes to repeal the Restated Certificate of Incorporation of Nasdaq BX, Inc. (''Certificate of Incorporation''), adopt the Certificate of Formation (''Certificate of Formation'') and the Limited Liability Company Agreement of Nasdaq Texas, LLC (''LLC Agreement''), as well as amend the Bylaws of the Exchange (''Bylaws'') to reflect (1) the proposed conversion of the Exchange to a Texas limited liability company (''LLC'') and proposed name change to ''Nasdaq Texas, LLC''; (2) a change in address of the registered office for the Exchange; (3) certain changes to the Bylaws due to the proposed conversion of the Exchange to a Texas LLC that are substantive but not material; and (4) certain non-substantive conforming changes.

The Exchange is proposing to convert to an LLC to more closely conform its organizational structure to that of other Nasdaq, Inc. entities.[3] To effect such change, the Exchange proposes to repeal the Certificate of Incorporation and file the Certificate of Formation with the Texas Secretary of State, together with a Certificate and Plan of Conversion. By virtue of the conversion, the Exchange will convert from a corporation organized under the laws of the state of Delaware to an LLC organized under the laws of the state of Texas and all rights, privileges, powers, property and liabilities shall vest in the LLC at the time of conversion.

All changes described herein would become operative upon the filing of the Certificate Conversion with the Delaware Secretary of State and the filing of the Certificate of Formation, Certificate of Conversion and Plan of Conversion with the Texas Secretary of State.

The Exchange is not proposing to affect the duties of the Exchange's role as a ''national securities exchange'' registered under Section 6 of the Act.[4] The Exchange's proposed formation documents, including the Certificate of Formation, Limited Liability Agreement and Bylaws, are consistent in form and scope with the governing documents of other Nasdaq, Inc. entities.[5] The proposed changes will not substantively impact the Exchange's existing rules or its current obligations and requirements under its governing documents or the Act. The Exchange is not proposing any changes to its rules or various fee schedules other than the technical amendments to implement the conversion to a Texas corporation and the name change, as set forth below.

To effect the changes, the Exchange proposes the following amendments, as reflected in Exhibit 5.

Certificate of Formation

In order to convert from a Delaware corporation to a Texas LLC, a Certificate of Conversion will be filed with the Secretary of State of the State of Delaware in addition to a Certificate of Conversion and a Certificate of Formation which will be filed with the Secretary of State of the State of Texas. The conversion certificates are necessary to effect the conversion of the Exchange from a Delaware corporation to a Texas LLC pursuant to the Texas Business Organizations Code (''BOC'') and the Delaware Limited Liability Company Act however, all current rights, privileges, powers, property and liabilities of the Exchange shall carry over to the new limited liability company.

Further, the BOC requires that a Certificate of Formation be filed to accomplish the formation of the LLC. Unlike a Certificate of Incorporation which may contain actual governing provisions, a Certificate of Formation typically only sets forth limited pieces of information. As such, only the information in Articles First, Second, Third and Fifth of the Exchange Certificate of Incorporation are reflected in the Certificate of Formation, with certain changes.

More specifically, current Article First states the name of the Exchange. As required by Form 205,[6] the name set forth in Article 1 of the Certificate of Formation reflects the new name ''Nasdaq Texas, LLC'' rather than ''Nasdaq BX, Inc.'' The LLC is referred to as a ''limited liability company'' in this provision rather than a ''corporation.''

Current Article Second provides the name and address of the Exchange's registered agent and the registered office address in Delaware. As required by Form 205,[7] Article 2 of the Certificate of Formation will set forth the change in the address of the Exchange's registered office address from Delaware to Texas. The registered agent will remain unchanged,[8] and the new Texas address will be located at 1999 Bryan Street, Suite 900, Dallas, TX 75201.

As required by Form 205,[9] Article 3 will list the names of the Exchange's initial managers. The managers set forth in Article 3 are the same as the directors that are currently serving on the Board and they have the same term, so there would be no change to the Board.

As required by Form 205,[10] Article 4 will specify that the purpose for which the Exchange is formed ''is for the transaction of any and all lawful

[3] *See* Nasdaq Stock Market LLC governing documents, available at *https://listingcenter.nasdaq.com/rulebook/nasdaq/rules*; *see also* Nasdaq PHLX, LLC governing documents available at *https://listingcenter.nasdaq.com/rulebook/phlx/rules* and Nasdaq ISE, LLC governing documents available at *https://listingcenter.nasdaq.com/rulebook/bx/rules.*

[4] 15 U.S.C. 78f.

[5] *See supra* note 4.

[6] *See* Form 205 of the Secretary of State of the State of Texas, Article 1, Entity Name and Type.

[7] *See* Form 205 of the Secretary of State of the State of Texas, Article 2, Registered Agent and Registered Office.

[8] The Certificate of Formation reflects the registered agent's name as CT Corporation System, but the agent is the same entity as The Corporation Trust Company, which is reflected in Article Second of the Certificate of Incorporation.

[9] *See* Form 205 of the Secretary of State of the State of Texas, Article 3, Governing Authority.

[10] *See* Form 201 of the Secretary of State of the State of Texas, Article 4, Purpose.

business for which a limited liability company may be organized under the BOC.'' The purpose enumerated in current Article Third, includes: ''(i) supporting the operation, regulation, and surveillance of the national securities exchange operated by the Corporation, (ii) preventing fraudulent and manipulative acts and practices, promoting just and equitable principles of trade, fostering cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, removing impediments to and perfecting the mechanisms of a free and open market and a national market system, and, in general, protecting investors and the public interest, (iii) supporting the various elements of the national market system pursuant to Section 11A of the Securities Exchange Act of 1934 (the ''Exchange Act'') and the rules thereunder, (iv) fulfilling the Corporation's self-regulatory responsibilities as set forth in the Exchange Act, and (v) supporting such other initiatives as the Board may deem appropriate.'' [11]

The Exchange's initial mailing address, as required by Form 205,[12] Article 5, will be the same as the registered office address provided in Article 2.

As required by Form 205,[13] Article 6, the name and address of the Organizer will be Erika Moore, 1100 New York Avenue NW, 3rd Floor, Washington, DC 20005.

The governing provisions of a Texas LLC must be set forth in the company agreement of such Texas LLC. Therefore, the remaining provisions of the repealed Restated Certificate of Incorporation will be reflected in the LLC Agreement and Bylaws, as together, these documents are considered the company agreement of the Exchange for purposes of the BOC (the ''Company Agreement'').[14]

Exchange Bylaws

Following the conversion of the Exchange, it is proposed that the Exchange adopt the Company Agreement. As noted above, the Company Agreement will consist of an LLC Agreement and the Bylaws. Currently, the Bylaws are based on Delaware corporate requirements; however, once the Exchange converts to an LLC, the Bylaws will be structured to align with the requirements of a Texas LLC and are attached as Exhibit A to the LLC Agreement. The proposed Bylaws are substantially similar to the structure of the bylaws of Nasdaq ISE, LLC (''ISE Bylaws''), with certain modifications to reflect that the Exchange is a Texas LLC, whereas ISE is a Delaware LLC, as further explained below.[15] As a result, there are significant differences between the current and the proposed Bylaws.

For example, the Exchange intends to add language to the Preamble of the proposed Bylaws that pairs the Bylaws with the proposed LLC Agreement which will reflect that the two documents work together to form the Company Agreement. The Exchange also proposes to add the term ''Executive Representative,'' which is defined in proposed Article I(k) and used in proposed Article II, Section 1(b), to clarify the procedures and individuals involved with annual elections of Member Representatives, and to conform the proposed Bylaws to the ISE Bylaws.

Additionally, the Exchange proposes to amend the Bylaws to reflect provisions that are not applicable to a manager-managed LLC. First, the Exchange proposes to amend current Section 4.5 regarding the basis for removing or disqualifying a Director [16] to more closely align with Section 9(i) of the proposed LLC Agreement. The Exchange also proposes to add a requirement to Article II, Section 3 that the sole member of the LLC (''Sole LLC Member'') shall select a Director. The proposed change also will effectively eliminate stockholders, and responsibilities formerly held by the sole stockholder of the Exchange would shift to the Sole LLC Member. This proposed change also conforms to how limited liability companies typically operate, and the language conforms to the ISE Bylaws. Second, the Exchange will remove Article III (Meeting of Stockholders), Article IX (Capital Stock) Article X Section 10.1 (Corporate Seal) of the current Bylaws in its entirety because the proposed conversion to an LLC will effectively eliminate the Exchange's stockholders and the Exchange will no longer have capital stock and will no longer need to hold annual or special stockholder meetings. Rather, the Exchange will continue as a manager-managed entity. Third, the Exchange will remove certain provisions of current Bylaws Section 4.4 related to the annual election of directors by stockholder vote, current Bylaws Section 4.10 related to annual meetings and current Bylaws Section 4.15(b) related to the approval of a conflict transaction by the stockholders because the Exchange will no longer have stockholders or annual stockholder meetings following its conversion to an LLC. Rather, Article II and Article III, Section 1 of the proposed LLC Agreement will provide for the election/selection of directors, and proposed Article III, Section 7 will address how conflicts of interest are handled. The language in those provisions conform to the LLC Agreement of Nasdaq ISE, LLC (''ISE LLC Agreement'').

The Exchange proposes removing certain portions of the current Bylaws to align with the ISE Bylaws. First, the Exchange is proposing to remove the conflict of interest provision in current Section 4.15(b) of the Bylaws which states that no contract or transaction is void solely because an interested party is present at the meeting or votes. Similarly, the Exchange proposes removing current Bylaws Section 10.2 (Fiscal Year) because the ISE Bylaws do not specifically define the fiscal year. Additionally, the Exchange proposed to move current Section 4.12 (Committees) to Section 9(g) of the proposed LLC Agreement. The Exchange is also proposing to remove the Arbitration and Mediation Committee provisions in current Bylaws Section 4.14(e) because no other Nasdaq-operated exchange, including ISE, currently has an Arbitration and Mediation Committee, and this committee is no longer part of the typical governance structure for the Nasdaq-operated exchanges. Additionally, the Exchange proposes moving the indemnification clauses in current Section 8.1 of the Bylaws to the proposed LLC Agreement with the exception of certain provisions, including: (i) disallowing advancement of expenses under certain circumstances; (ii) extension of indemnification rights to heirs, successors, executors, and administrators; (iii) reservation of indemnification for the time prior to repeal, in the event the indemnification

[11] As noted below, language substantially similar to this is included in Section 7 of the LLC Agreement.

[12] *See* Form 201 of the Secretary of State of the State of Texas, Article 5, Initial Mailing Address.

[13] *See* Form 201 of the Secretary of State of the State of Texas, Article 6, Organizer.

[14] The BOC requires a company agreement for an entity to be duly formed (*see* BUS ORG § 101.631). Additionally, a limited liability company agreement is defined in Section 101.001 as an agreement that governs the affairs or the conduct of the limited liability company. Both the Exchange Bylaws and the Exchange LLC Agreement together constitute the limited liability company agreement for purposes of the BOC.

[15] Similar to BX, Nasdaq ISE, LLC is a national securities exchange that has Nasdaq, Inc as its ultimate parent entity.

[16] Pursuant to the Bylaws ''Director'' shall mean the Persons (as defined in the LLC Agreement) elected or appointed to the Board of Directors from time to time in accordance with the LLC Agreement and the Bylaws, in their capacity as managers of the Company.

provision is repealed; (iv) right to recover advancement of expenses if not paid in full within 60 days of a claim. These proposed changes to the Bylaws are intended to conform with the ISE Bylaws, which do not contain such specific or inclusive indemnification rights. The Exchange also proposes removing the provision regarding indemnification insurance, or current Bylaws Section 8.2 to conform with the ISE Bylaws, which also do not contain this specific provision.

As noted above, the Exchange's proposed updated Bylaws are in substantially the same form as the ISE Bylaws, with certain modifications to reflect the conversion to a Texas LLC. Generally, the Exchange proposes to replace all references to ISE with Nasdaq Texas and all references to Delaware law with references to the corresponding Texas law in addition to the following amendments described below.

The proposed Preamble language mirrors the language used in the ISE Bylaws. The Exchange proposes non-substantive changes to Article I (Definitions) to clarify certain defined terms and to align the terms to be consistent with the terms used in the LLC Agreement. Also, while ISE and BX both have Review Councils, ISE does not have a Listing Hearing Review Council. Therefore, the Exchange proposes to modify the definitions to add an Exchange Listing Hearing Review Council member to the definitions of ''Industry member,'' ''Member Representative Member'' and ''Public member.'' The Exchange also proposes to amend the name of the Company Member or Sole LLC Member, as defined in Article 1(e) to mean Nasdaq, Inc. rather than International Securities Exchange Holdings, Inc. to align with the corporate structure of the Exchange.

Article II (Annual Election of Member Representative Directors and Other Actions By Exchange Members), Article III (Board of Directors) and Article IV (Officers, Agents, and Employees), as proposed are substantively identical to the ISE Bylaws. However, the Exchange is proposing to make a substantive but non-material change to Article III, Sections 6, 7 and 8 to add a reference to the Exchange Listing and Hearing Review Council.

As discussed above, while ISE and BX both have Review Councils, ISE does not currently have a Listing and Hearing Review Council. Therefore, the Exchange has added Article V (Exchange Listing and Hearing Review Council) to describe the Listing and Hearing Review Council, which is substantively identical to the current description in the BX bylaws.

Article VI (Exchange Review Council) as proposed, is substantially similar to the current ISE requirements and substantially identical to the current BX bylaws. However, the rule references in Section 9 are modified to conform to the Exchange rules.

As proposed, Article VII (Miscellaneous Provisions), Article VIII (Amendments; Emergency Bylaws) and Article IX (Exchange Authorities) are substantively identical to the ISE Bylaws.

Exchange Limited Liability Company Agreement

Similar to the Bylaws, the LLC Agreement proposed by the Exchange is based on, and substantially similar to, the current ISE LLC Agreement with certain modifications as discussed below. Because the LLC Agreement and the Bylaws act together to form the Company Agreement, certain governing provisions in the current Bylaws will appear in the LLC Agreement instead. For example, the provisions related to books and records, which appear as Section 10.5 in the current Bylaws, will be discussed in Section 16 of the proposed LLC Agreement.

Generally, the proposed LLC Agreement will contain non-substantive and non-material differences from the ISE LLC Agreement such as (1) replacing any reference to ISE with Nasdaq Texas, (2) removing all references to Delaware state law and replacing them with references to Texas state law, where applicable, (3) describing the Exchange as a newly formed company rather than a company continuing from a merger, where applicable and (4) capitalizing all terms that are capitalized within the proposed Bylaws.

The preamble of the ISE LLC Agreement discusses the entity's original corporate structure and the subsequent merger and conversion into a Delaware LLC. The proposed preamble of the Exchange's LLC Agreement differs from the ISE LLC Agreement because the Exchange's LLC Agreement describe the formation of BX as a Delaware corporation and its conversion into a Texas LLC.

The name of the Exchange in Section 1 will reflect the newly formed Nasdaq Texas, LLC. The Exchange is not changing the principal business office in Section 2 which shall be located at 151 W 42nd Street, New York, NY 10036. While the registered agent is unchanged, Sections 3 and 4 of the LLC Agreement will reflect the new registered office and new registered agent address, respectively.

The Exchange is not proposing to include references to a merger and merger documents as discussed in Section 6 (currently titled Certificates). Instead, the Exchange is proposing to rename the section ''Duration'' and only include the discussion addressing circumstances that could affect the length of the Exchange's existence. Additionally, to align with the BOC, the Exchange is proposing to incorporate winding up and revocation within this section as additional reasons that may affect the Exchange's existence.

Unlike the ISE Bylaws, only the Sole LLC Member is required to adopt the proposed Bylaws. Therefore, the Exchange is not proposing to include references to the Exchange and the Board from Section 9(c) (Management) of the ISE LLC Agreement. However, the Exchange is proposing to add clarifying language to Section 9(c) of the LLC Agreement to explain that the Company Agreement consists of the Bylaws and LLC Agreement.

Proposed Schedule A attached to the LLC Agreement, which provides definitions not otherwise defined within the Company Agreement, will have the following non-material differences from the current Schedule A of the ISE LLC Agreement: (1) include the word ''exhibit'' to the list of documents that define the term Agreement; (2) for the definition of ''bankruptcy,'' and ''company,'' remove references to Delaware law and replace it with references to Texas law; (3) remove the term ''certificate of formation'' and replace it with the term and definition for Certificate of Conversion; (4) remove the term ''Certificate of Merger'' and replace it with the term ''Certificate of Incorporation; (5) replace Nasdaq ISE with the name Nasdaq Texas; (6) remove reference to ''ISE Member'' and replace the definition with the term ''Nasdaq Texas Member;'' (7) replace International Securities Exchange Holdings, Inc. with Nasdaq, Inc. within the definition of ''Sole LLC Member.''

Schedule B of the ISE LLC Agreement includes the name, mailing address of the Sole LLC Member and its total interest in ISE. The Exchange is proposing to include a similar Schedule B to the proposed LLC Agreement to reflect Nasdaq, Inc. as the Sole LLC Member with a mailing address of 151 West 42nd Street, New York, NY 10036 with 100 percentage interest in the Exchange.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with

Section 6(b) of the Act,[17] in general, and furthers the objectives of Section 6(b)(1) [18] in particular, in that it enables the Exchange to be so organized as to have the capacity to be able to carry out the purposes of the Act and to comply, and to enforce compliance by its exchange members and persons associated with its exchange members, with the provisions of the Act, the rules and regulations thereunder, and the rules of the Exchange. The Exchange also believes that the proposed rule change is consistent with Section 6(b)(5) of the Act,[19] in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. In addition, the proposed changes are consistent with Section 6(b)(3) of the Act,[20] which requires the rules of the Exchange to provide a fair representation and requirements as to the selection of the directors of the Exchange.

In addition to converting to a Texas entity as discussed above, the Exchange is also proposing to convert its corporate structure from a corporation to an LLC. As such, pursuant to the BOC, the Exchange is required to have a Certificate of Formation in lieu of a Certificate of Incorporation. The differences in the certificates are intended to reflect the conversion of the Exchange facilitate the Exchange's compliance with Texas law, which enables the Exchange to be so organized as to have the capacity to be able to carry out the purposes of the Act and to comply, and to enforce compliance by its exchange members and persons associated with its exchange members, with the provisions of the Act, the rules and regulations thereunder, and the rules of the Exchange. The proposed changes will not substantively impact the Exchange's existing rules and all rights, privileges, powers, property and liabilities shall vest in the LLC at the time of conversion. The Exchange is not proposing to affect the duties of the Exchange's role as a ''national securities exchange'' registered under Section 6 of the Act.[21] Moreover, the Commission has allowed for another national securities exchange to be registered in Texas.[22]

The Company Agreement, which includes Schedules A and B, is modeled primarily after the ISE governing documents because ISE's corporate structure is substantially similar to the Exchange's proposed structure as an LLC. The proposed differences between the ISE documents and the Company Agreement are non-substantive and non-material changes that do not change or implicate the Exchange's governance as an ''exchange'' within the meaning of the Act. The proposed name changes in the Company Agreement and the Certificate of Formation aligns certain provisions with the BOC and facilitates compliance with Texas law, update addresses, and effect non-substantive and non-material changes removes impediments to and perfects the mechanism of a free and open market by removing confusion that may result from corporate governance provisions that are either unclear or inconsistent with the governing law. The Exchange also believes that the proposed the Company Agreement provides a fair representation and requirements as to the directors and removes impediments to and perfects the mechanism of a free and open market by ensuring that persons subject to the Exchange's jurisdiction, regulators, and the investing public can more easily navigate and understand the governing documents. The Company Agreement along with the Certificate of Formation would accurately reflect that, by virtue of the conversion, the Exchange will convert from a corporation organized under the laws of the state of Delaware to an LLC organized under the laws of the state of Texas.

The addition of the Exchange Listing and Hearing Review Council to Article V of the Bylaws maintains consistency with the current BX compliance requirements. Similarly, the proposed additions to Article III Sections 6,7 and 8 of the Bylaws to add a reference to the Exchange Listing and Hearing Review Council are not material and ensure consistency with the LLC Agreement and existing obligations and requirements for the Exchange Board, as specified elsewhere in the proposed Bylaws, its other governing documents and its rules. Adding the references will remove impediments to and perfect the mechanism of a free and open market and a national market system by ensuring that investors and market participants can more easily navigate, understand and comply with the Bylaws in addition to further enabling the Exchange to be so organized as to have the capacity to be able to carry out the purposes of the Act and to comply, and to enforce compliance by its exchange members and persons associated with its exchange members, with the provisions of the Act, the rules and regulations thereunder, and the rules of the Exchange.

Not including references to a merger and merger documents as discussed in Section 6 of the LLC Agreement, will accurately reflect the history of the formation of the Exchange. Similarly, removal of references to the Exchange and the Board throughout the LLC Agreement will accurately reflect the requirements for adopting the Bylaws. Moreover, these proposed changes to the LLC Agreement will reduce potential investor and market participant confusion and therefore remove impediments to and perfect the mechanism of a free and open market and a national market system. Additionally, these proposed amendments would facilitate the Exchange's compliance with Texas law, which would further enable the Exchange to be so organized as to have the capacity to be able to carry out the purposes of the Act and to comply, and to enforce compliance by its exchange members and persons associated with its exchange members, with the provisions of the Act, the rules and regulations thereunder, and the rules of the Exchange.

The Exchange is not proposing to affect the corporate governance of the Exchange as an ''national securities exchange'' registered under Section 6 of the Act and its existing governance requirements, including as to membership of the Board, will not change and will remain consistent with Section 6(b)(3) of the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is not intended to address competitive issues but rather is concerned solely with repealing the Exchange Certificate of Incorporation, adopting the Exchange Certificate of Formation and updating the Exchange to reflect the corporate organizational changes and name change.

[17] 15 U.S.C. 78f(b).

[18] 15 U.S.C. 78f(b)(1).

[19] 15 U.S.C. 78f(b)(5).

[20] 15 U.S.C. 78f(b)(3).

[21] 15 U.S.C. 78f.

[22] *See* Securities Exchange Act Release No. 34–102507 (Feb. 28, 2025) 90 FR 11445 (March 6, 2025) (SR–NYSECHX–2025–01).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Pursuant to Section 19(b)(3)(A) of the Act [23] and Rule 19b–4(f)(6) [24] thereunder, the Exchange has designated this proposal as one that effects a change that: (i) does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) by its terms, does not become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest.[25]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii) [26] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange requests that the Commission waive the 30-day operative delay. The Exchange states that granting the operative delay will allow it to expedite its corporate governance restructuring, which in turn would permit the immediate submission and implementation of additional proposals such as establishing new listing rules and fees and changing the Exchange's name throughout the current rulebook. The Exchange believes that waiving the operative delay will ensure that it maintains its obligations as a national securities exchange registered under Section 6 of the Act and Texas law, while also helping to mitigate potential confusion among investors and market participants regarding the Exchange's corporate governance framework. The proposed rule change facilitates the Exchange's corporate governance restructuring objectives and raises no novel regulatory issues. Therefore, the Commission believes that it is consistent with the protection of investors and the public interest for the Exchange to implement this proposal prior to 30-days from the date of filing. Accordingly, the Commission hereby waives the 30-day operative delay and designates the proposed rule change operative upon filing.[27]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include file number SR–BX–2026–005 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–BX–2026–005. 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–BX–2026–005 and should be submitted on or before February 24, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[28]

Sherry R. Haywood,

Assistant Secretary.

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[23] 15 U.S.C. 78s(b)(3)(A).

[24] 17 CFR 240.19b–4(f)(6).

[25] In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[26] 17 CFR 240.19b–4(f)(6)(iii).

[27] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[28] 17 CFR 200.30–3(a)(12), (59).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–104745; File No. SR–MEMX–2026–02]

Self-Regulatory Organizations; MEMX LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Exchange's Fee Schedule To Adopt a New Methodology for Assessment and Collection of the Options Regulatory Fee (ORF)

January 29, 2026.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 28, 2026, MEMX LLC (''MEMX'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing with the Commission a proposed rule change to amend the Exchange's fee schedule related to the Options Regulatory Fee (''ORF'') to adopt a new methodology for assessment and collection of ORF for transactions that occur on the Exchange (''On-Exchange ORF''). The text of the proposed rule change is provided in Exhibit 5.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its current assessment and collection of a regulatory fee to assess On-Exchange ORF only for options transactions that occur on the Exchange that would clear in the customer [3] range at The Options Clearing Corporation (''OCC''). The Exchange would no longer assess a regulatory fee for options transactions that occur on other exchanges. This proposal only proposes to amend the method of assessment and collection of the fee. A future rule filing would be filed to set the applicable On-Exchange ORF rate in advance of assessing and collecting it under the proposed method. The following provides more detail regarding the proposal.

Background

Today, ORF is assessed by MEMX to each Member for all options transactions, cleared or ultimately cleared by the Member in the ''customer'' range, regardless of the exchange on which the transaction occurs. The ORF is collected by OCC on behalf of the Exchange from either: (1) a Member that was the ultimate clearing firm [4] for the transaction; or (2) a non-Member that was the ultimate clearing firm where a Member was the executing clearing firm [5] for the transaction. The Exchange uses reports from OCC to determine the identity of the executing clearing firm and ultimate clearing firm. Pursuant to a separately filed rule change, the current ORF rate of $0.0015 will sunset as of June 30, 2026.[6]

To illustrate how the ORF is assessed and collected, the Exchange provides the following set of examples.

1. For all transactions executed on the Exchange, if the ultimate clearing firm is a Member of the Exchange, the ORF is assessed to and collected from that Member. If the ultimate clearing firm is not a Member of the Exchange, the ORF is collected from that non-Member clearing firm but assessed to the executing clearing firm.

2. If the transaction is executed on an away exchange, the ORF is only assessed and collected if either the executing clearing firm or ultimate clearing firm are Members of the Exchange. If the ultimate clearing firm is a Member of the Exchange, the ORF is assessed to and collected from that ultimate clearing firm. If the ultimate clearing firm is not a Member of the Exchange, the ORF is assessed to the executing clearing firm (again, only if that executing clearing firm is a Member of the Exchange), and collected from the ultimate clearing firm. Thus, to reiterate, if neither the executing clearing firm nor the ultimate clearing firm are members of the Exchange, no ORF is assessed or collected.

Finally, the Exchange does not assess the ORF on outbound linkage trades. ''Linkage trades'' are tagged in the Exchange's system, so the Exchange can distinguish them from other trades.

ORF Revenue and Monitoring of ORF

Today, revenue generated from ORF, when combined with all of the Exchange's other regulatory fees and fines, is designed to recover a material portion of the regulatory costs to the Exchange of the supervision and regulation of Member customer options business including performing routine surveillances, investigations, examinations, financial monitoring, and policy, rulemaking, interpretive, and enforcement activities. Regulatory costs include direct regulatory expenses and certain indirect expenses for work allocated in support of the regulatory function. The direct expenses include in-house and third-party service provider costs to support the day-to- day regulatory work such as surveillances, investigations and examinations. The indirect expenses include support to the regulatory function from such areas as human resources, legal, compliance, information technology, facilities and accounting as well as shared costs necessary to operate the Exchange to carry out its regulatory function, such as hardware, data center costs, and connectivity. Today, these indirect expenses are estimated to be approximately 20% of the Exchange's total regulatory costs for 2026. Thus, direct expenses are estimated to be approximately 80% of total regulatory costs for 2026.[7] In addition, based on the Exchange's analysis of its regulatory work associated with options regulation, and considering other regulatory revenue, it is the Exchange's practice that revenue generated from ORF not exceed 75% of total annual regulatory costs.

Proposal for On-Exchange ORF

MEMX appreciates the evolving changes in the market and regulatory environment and has been evaluating its current methodologies and practices for the assessment and collection of ORF while considering industry and Commission feedback. As a result of this review, the Exchange is proposing the On-Exchange ORF, which assesses a regulatory fee to only Exchange transactions that would clear in the Customer range at OCC (as is the case today).[8] The following scenarios reflect how the On-Exchange ORF will be assessed and collected:

1. If a Member is the executing clearing firm on a transaction that occurred on the Exchange, the fee would be assessed to and collected from that Member by OCC on behalf of the Exchange.

2. If a Member is the executing clearing firm and the transaction is ''given up'' to a clearing give-up (the ''clearing firm''), the On-Exchange ORF is assessed to the executing clearing

[3] Currently, the ORF is assessed by MEMX Options and collected via OCC on executions for the account of Public Customers, including Professionals, and Broker-Dealers including Foreign Broker-Dealers. These market participants clear in the ''C'' range at OCC. ORF will continue to be assessed to executions for the account of these market participants under the proposed methodology. On the Exchange, a ''Public Customer'' means a person that is not a broker or dealer in securities and includes both Priority Customers and Professionals. A ''Priority Customer'' means a person or entity that is a Public Customer and is not a Professional. A ''Professional'' is any person or entity that (a) is not a broker or dealer in securities, and (b) places more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s). Executions for the account of an OCC clearing member firm proprietary account, joint back office account clearing in the Firm range, or account of a market maker clearing in the Market Maker range are not charged an ORF, nor would they be charged an ORF under the current proposal.

[4] The Exchange takes into account any CMTA transfers when determining the ultimate clearing firm for a transaction. CMTA or Clearing Member Trade Assignment is a form of ''give up'' whereby the position will be assigned to a specific clearing firm at the OCC.

[5] Throughout this filing, ''executing clearing firm'' means the clearing firm through which the entering broker indicated that the transaction would be cleared at the time it entered the original order which executed, and that clearing firm could be a designated ''give up'', if applicable. The executing clearing firm may be the ultimate clearing firm if no CMTA transfer occurs. If a CMTA transfer occurs, however, the ultimate clearing firm would be the clearing firm that the position was transferred to for clearing via CMTA.

[6] *See* Securities Exchange Act Release No. 104608 (January 14, 2026) 91 FR 2393 (January 20, 2026) (SR–MEMX–2025–36). Further, in order to avoid confusion, the Exchange is proposing to delete the language on the Fee Schedule that states that the ORF will automatically sunset on June 30, 2026, and replace it with a header above the current ORF that states ''Effective through June 30, 2026''. The Exchange is proposing to describe the On Exchange ORF methodology below this section, with the header ''Effective as of July 1, 2026''.

[7] These expectations are estimated and may be subject to change.

[8] *See supra* note 4.

firm, (the On-Exchange ORF remains the obligation of the executing clearing firm under the proposal), but the On-Exchange ORF will be collected from the clearing firm, regardless of whether that clearing firm is a Member of the Exchange.

The Exchange expects to provide Members sufficient information in connection with their invoice in order to reconcile charges associated with ORF. In addition, the proposed method for collecting On-Exchange ORF will only consider CMTAs reported to the Exchange and not those reported directly to OCC. As described above, today's ORF is the responsibility of the executing clearing firm and collected from the CMTA ultimate clearing firm (which may be a non-Member) as an administrative convenience. The Exchange understands that a CMTA may be added at order entry, via post-trade edit on the Exchange, or post-trade at OCC. CMTA transfers that occur at OCC do not necessarily contain reliable information regarding the Exchange on which the original transaction occurred.[9] Without specific information as to where the original transaction occurred, the Exchange would not be able to accurately account for CMTA transfers that occur at OCC. Therefore, the Exchange will only account for CMTAs that occur on the Exchange (which may be a non-Member) and exclude CMTAs occurring at OCC.[10]

With this proposal, the Exchange intends to collect ORF under its current methodology for assessment and collection of ORF until at least June 30, 2026. The Exchange is prepared to implement On-Exchange ORF effective July 1, 2026 if by April 1, 2026 all U.S. options exchanges charging an ORF have filed to modify their current methodologies of assessment of the fee to limit the fee to transactions occurring on their respective exchange.[11] However, if all other options exchanges have not filed to adopt a similar methodology by April 1, the Exchange will delay implementation commensurate with the additional time required for other options exchanges to adopt a similar method for collection and assessment of ORF. The Exchange will at that time file a separate rule filing with the amount of the On-Exchange ORF in advance of assessing and collecting the fee under the proposed method. As is the case today, the Exchange will notify Members via Regulatory Circular of the applicable On-Exchange ORF rate at least 30 calendar days prior to the effective date of the change. The Exchange believes a fee to recover a material portion of costs for regulatory programs associated with monitoring activities is reasonable; however, the Exchange would consider alternative approaches for assessment and collection of the fee in order to achieve consistency across the industry.

The Exchange will continue to monitor the amount of revenue collected from On-Exchange ORF to ensure that it, in combination with its other regulatory fees and fines, does not exceed the Exchange's total regulatory costs. Further, the Exchange expects to continue its current practice that revenue generated from On-Exchange ORF not exceed 75% of total annual regulatory costs. And as is the Exchange's practice today, revenue generated by On-Exchange ORF will not be used for non-regulatory purposes.

The Exchange will continue to monitor its regulatory costs and revenues at a minimum on a semi-annual basis. If the Exchange determines regulatory revenues exceed or are insufficient to cover a material portion of its regulatory costs in a given year, the Exchange will adjust the On-Exchange ORF by submitting a fee change filing to the Commission. The Exchange will notify Members of adjustments to the On-Exchange ORF via an Exchange Notice in advance of any change.

2. Statutory Basis

The Exchange believes that its proposal to amend its Fee Schedule is consistent with Section 6(b) of the Act[12] in general, and furthers the objectives of Section 6(b)(4) of the Act[13] in particular, in that it is an equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities. The Exchange also believes the proposal furthers the objectives of Section 6(b)(5) of the Act[14] in that it is designed to promote just and equitable principles of trade, 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 and is not designed to permit unfair discrimination between customers, issuers, brokers and dealers.

The Exchange believes that the proposed change to assess and collect an On-Exchange ORF is reasonable, equitable and not unfairly discriminatory for various reasons. First, On-Exchange ORF is reasonable, equitable and not unfairly discriminatory in that it is charged to all Exchange transactions that clear in the Customer range at the OCC. Similar to ORF today, the Exchange believes On-Exchange ORF ensures fairness by assessing a specific fee to those Members that require more Exchange regulatory services based on the amount of customer options business they conduct. Over recent years, options trading volume has increased with a growing percentage of the volume applicable to customer transactions. Customers trading on the Exchange (through a Member) benefit from the protections of a robust regulatory program including the maintenance of fair and orderly markets and protections against fraud and other manipulation. The Exchange believes it is equitable and not unfairly discriminatory to assess a regulatory fee to transactions that clear in the Customer range to cover regulatory costs, but not to transactions clearing in the Firm or Market Maker range because Clearing Members and Market Makers (who clear in the Firm and Market Maker range), as those market participants are generally subject to other Exchange fees, fines and obligations. For example, Clearing Members and Market Makers[15] are required to pay Exchange application fees, permit fees and connectivity fees, amongst others. In addition, all fines issued by the Exchange for regulatory infractions are assessed only to Members and would be applied to regulatory revenues. As with today's ORF, the Exchange expects that Members from whom On-Exchange ORF is collected will pass through the fee to their customers (as the Exchange understands occurs today). In addition, Market Makers in particular are subject to various quoting and other obligations to ensure that they provide stable and liquid markets, which benefit all market participants including customers. Excluding Market Maker transactions from On-Exchange Exchange ORF will allow Market Makers to better manage their costs more effectively thus enabling them to better allocate resources toward technology, risk

[9] Under the current methodology for assessing ORF, the Exchange on which the transaction occurred is irrelevant.

[10] Adjustments that were made the same day as the trade on MEMX will be taken into account.

[11] The Exchange estimates it will take approximately three months to implement the system changes associated with On-Exchange ORF.

[12] 15 U.S.C. 78f(b).

[13] 15 U.S.C. 78f(b)(4).

[14] 15 U.S.C. 78f(b)(5).

[15] Market Maker means a Member registered with the Exchange for the purpose of making markets in options contracts traded on the Exchange and that is vested with the rights and responsibilities specified in Chapter 22 of the Exchange Rules. *See* Exchange Rule 16.1.

management, and capacity to ensure continued liquidity provision.

In addition to the overall increase in Customer-range volume generally, regulating customer trading activity is more labor intensive and requires greater expenditure of human and technical resources than regulating non-customer trading activity, which tends to be more automated and less labor-intensive. For example, there are costs associated with main office and branch office examinations (*e.g.,* staff and travel expenses), as well as investigations into customer complaints and terminations of registered persons. As a result, the costs associated with administering the customer component of the Exchange's overall regulatory program are materially higher than the costs associated with administering the non-customer component (*e.g.,* Clearing Member proprietary transactions) of its regulatory program.[16] While the Exchange notes that it has broad regulatory responsibilities with respect to its Members' activities, irrespective of where their transactions take place, the Exchange believes it is reasonable to assess the proposed fee to only those transactions occurring on the Exchange. The proposed change more narrowly tailors the fee to products and transactions with a direct connection to the Exchange. With this proposal, transactions that would clear in the Customer range occurring on other exchanges would no longer be subject to an ORF assessed by the Exchange.

The Exchange believes it is equitable and not unduly discriminatory to modify the method of collecting the fee such that On-Exchange ORF will not consider CMTAs reported directly to OCC as is done in today's method of ORF. CMTA transfers are considered today under the current collection methodology for ORF as a convenience to industry members in administering a pass through of the fee to their customers. Limiting the On-Exchange ORF to transactions on the Exchange poses a limitation in the use of CMTA for this purpose. The Exchange understands that a CMTA may be added at order entry, via post-trade edit on the Exchange, or post-trade at OCC. CMTA transfers that occur at OCC do not necessarily contain reliable information regarding the Exchange on which the original transaction occurred.[17] Without specific information as to where the original transaction occurred, the Exchange would not be able to accurately account for CMTA transfers that occur at OCC.

The Exchange further believes that the proposed change to the method for assessment and collection of the fee is reasonable because it would help ensure that revenue collected from the On-Exchange ORF, in combination with other regulatory fees and fines, would help offset, but not exceed, the Exchange's total regulatory costs.

As discussed, On-Exchange ORF is similarly designed to the current ORF, in that revenues generated from the fee would be less than or equal to 75% of the Exchange's regulatory costs, which is consistent with the practice across the options industry today and the view of the Commission that regulatory fees be used for regulatory purposes and not to support the Exchange's business side.

As noted above, the Exchange will also continue to monitor on at least a semi-annual basis the amount of revenue collected from the On-Exchange ORF, even as amended, to ensure that it, in combination with its other regulatory fees and fines, does not exceed the Exchange's total regulatory costs. If the Exchange determines regulatory revenues would exceed its regulatory costs in a given year, the Exchange will reduce the On-Exchange ORF by submitting a fee change filing to the Commission.

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. This proposal will not create an unnecessary or inappropriate intra-market burden on competition because On-Exchange ORF applies to all customer activity on the Exchange, thereby raising regulatory revenue to offset regulatory expenses. It also supplements the regulatory revenue derived from non-customer activity. The Exchange notes, however, the proposed change is not designed to address any competitive issues. Indeed, this proposal does not create an unnecessary or inappropriate inter-market burden on competition because it is a regulatory fee that supports regulation in furtherance of the Act. The Exchange is obligated to ensure that the amount of regulatory revenue collected from the On-Exchange ORF, in combination with its other regulatory fees and fines, does not exceed regulatory costs. In addition, the Exchange will not implement the On-Exchange ORF until all other options exchanges are prepared to adopt a similar model to avoid overlapping ORFs.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act[18] and Rule 19b–4(f)(2)[19] thereunder.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include file number SR–MEMX–2026–02 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to file number SR–MEMX–2026–02. This file number should be included on the subject line if email is used. To help the Commission process and review your

[16] If the Exchange changes its method of funding regulation or if circumstances otherwise change in the future, the Exchange may decide to modify On-Exchange ORF or assess a separate regulatory fee on Member proprietary transactions if the Exchange deems advisable.

[17] Under the current methodology for assessing ORF, the Exchange on which the transaction occurred is irrelevant.

[18] 15 U.S.C. 78s(b)(3)(A)(ii).

[19] 17 CFR 240.19b–4(f)(2).

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–MEMX–2026–02 and should be submitted on or before February 24, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[20]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026–02121 Filed 2–2–26; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–104739; File No. SR–BX–2026–006]

Self-Regulatory Organizations; Nasdaq BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Its Rules To Reflect a Legal Name Change

January 29, 2026.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 21, 2026, Nasdaq BX, Inc. (''BX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its rules to reflect a legal name change. The text of the proposed rule change is available on the Exchange's website at *https://listingcenter.nasdaq.com/rulebook/bx/rulefilings,* 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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange intends to convert from a corporation organized under the laws of the state of Delaware to a limited liability company (''LLC'') organized under the laws of the state of Texas.[3] In conjunction with the conversion, the Exchange is changing its legal name to Nasdaq Texas, LLC.[4] The purpose of this filing is to reflect in the Exchange's Rulebook a non-substantive change to the Exchange's current name to reflect the new legal name. Specifically, current references to ''Nasdaq BX'' and ''BX'' (with the exception of the Options Rules) will be changed to ''Nasdaq Texas.'' Current references to ''Nasdaq BX, Inc.'' will be changed to ''Nasdaq Texas, LLC.'' Also, current references to ''BX Options'' or ''BX'' within the Options Rules will be changed to ''NTX Options'' or ''NTX.'' No other changes are being proposed in this filing.

In addition to the aforementioned amendments, the Exchange proposes to re-number and arrange General 1, Section 1, Definitions, to alphabetize the definitions based on the name changes. The Exchange also proposes to modify Options 1, Section 1, Definitions, at (a)(8) to state, ''The term ''Nasdaq Texas Options'' or ''NTX'' shall refer to the NTX Options Market, an options trading facility of the Exchange under Section 3(a)(2) of the Exchange Act.'' [5] The Exchange also proposes to renumber and rearrange Options 1, Section 1(a) to alphabetize the definitions based on the name changes. The Exchange is not proposing to make any name changes within Equity 3 because the Exchange has submitted a separate filing which will delete the current provisions in Equity 3 and mark the section as reserved.[6]

The Exchange represents that these changes are concerned solely with the administration of the Exchange and do not affect the meaning, administration, or enforcement of any rules of the Exchange or the rights, obligations, or privileges of Exchange members or their associated persons in any way. Accordingly, this filing is being submitted under Rule 19b–4(f)(3). In lieu of providing a copy of the marked changes, the Exchange represents that it will make the necessary non-substantive revisions to the Rulebook and post an updated version on the Exchange's website pursuant to Rule 19b–4(m)(2). The Exchange notes that any name with a trademark (TM) or service mark (SM) attached to the name will not be amended.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[7] in general, and furthers the objectives of Section 6(b)(5) of the Act,[8] in particular, in that it is designed to promote just and equitable principles of trade, 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 by avoiding confusion with the name. The Exchange proposes to amend its rules to reflect the conversion of the Exchange to a Texas entity and to reflect a legal name change by changing the name throughout the Rulebook from ''Nasdaq BX'' and ''BX'' to ''Nasdaq Texas.'' The proposed changes will not substantively impact the Exchange's existing rules or its current obligations and requirements under its governing documents or the Act, including Section 6(b)(3) of the Act.[9] The Exchange is not proposing any changes to its rules or various fee schedules other than the technical amendments to implement the conversion to a Texas corporation and the name change. Additionally, no changes to the ownership or structure of the Exchange have taken place as a result of this proposal.

[20] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* SR–BX–2026–005 filed on January 21, 2026, available at *https://listingcenter.nasdaq.com/rulebook/BX/rulefilings.*

[4] *Id.*

[5] Currently, Options 1, Section 1(a)(8) states, the term ''BX Options'' means the BX Options Market, an options trading facility of the Exchange under Section 3(a)(2) of the Exchange Act.

[6] *See* BX–2026–004 filed on January 16, 2026, available at *https://listingcenter.nasdaq.com/assets/rulebook/bx/filings/SR-BX-2026-004.pdf.*

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

[9] 15 U.S.C. 78f(b)(3).

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 not necessary or appropriate in furtherance of the purposes of the Act. The name change will reflect the conversion to a Texas LLC and the new name that will be used in the current governing documents of the Exchange.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Pursuant to Section 19(b)(3)(A) of the Act[10] and Rule 19b–4(f)(3) thereunder,[11] the Exchange has designated this proposal as one that is concerned solely with the administration of the self-regulatory organization, and therefore has become effective.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include file number SR–BX–2026–006 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–BX–2026–006. 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–BX–2026–006 and should be submitted on or before February 24, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026–02116 Filed 2–2–26; 8:45 am]

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[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f)(3).

[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–104744; File No. SR–CboeBZX–2026–005]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing of a Proposed Rule Change To Amend Exchange Rule 14.12

January 29, 2026.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 29, 2026, Cboe BZX Exchange, Inc. (the ''Exchange'' or ''BZX'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe BZX Exchange, Inc. (''BZX'' or the ''Exchange'') is filing with the Securities and Exchange Commission (''Commission'' or ''SEC'') a proposal to amend Exchange Rule 14.12 (Failure to Meet Listing Standards) to authorize the Listing Qualifications Department to grant Companies an additional 180-day compliance period for deficiencies related to the beneficial holders continued listings standard (as provided in Rule 14.11) that require submission of a Plan of Compliance under Rule 14.12(f). 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

The Exchange is submitting a proposal to amend Exchange Rule 14.12 (Failure to Meet Listing Standards) to authorize the Listing Qualifications Department[3] (''Staff'') to grant Companies[4] an additional 180-day compliance period for deficiencies related to the beneficial holder continued listing standard (as provided under Rule 14.11)[5] that require submission of a Plan of Compliance under Rule 14.12(f).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Exchange Rule 14.12(b)(7) (defining ''Listing Qualifications Department'').

[4] *See* Exchange Rule 14.1(a)(3) (defining ''Company'').

[5] The ''beneficial holders'' continued listing requirement refers to the record and/or beneficial holders requirement. *See* Exchange Rules 14.11(b)(9)(B)(i)(a), 14.11(c)(9)(B)(i)(a), 14.11(e)(4)(I)(i), 14.11(e)(5)(E)(ii)(a), 14.11(e)(6)(E)(ii)(a), 14.11(e)(7)(E)(ii)(a), 14.11(e)(8)(D)(ii)(a), 14.11(e)(9)(D)(ii)(a)(1), 14.11(e)(10)(E)(ii)(d)(1), 14.11(f)(2)(D)(ii)(a), 14.11(f)(4)(C)(ii)(a), 14.11(i)(4)(B)(iii)(a), 14.11(k)(4)(B)(ii)(a), 14.11(l)(4)(B)(i)(c), 14.11(m)(4)(B)(iv)(a), and 14.11(n)(4)(B)(i)(c).

Current Rule Framework

Exchange Rule 14.12 generally governs the procedures for the independent review, suspension, and delisting of Companies that fail to satisfy one or more standards for initial or continued listing on the Exchange, and thus are ''deficient'' with respect to Exchange listing standards.[6] When Staff determines that a Company does not meet a listing standard set forth in Chapter XIV, it will immediately notify the Company of the deficiency.[7]

Unless the Company is currently under review by an Adjudicatory Body for a Staff Delisting Determination, Staff may accept and review a plan to regain compliance (a ''Company Compliance Plan'') when a Company is deficient with the beneficial holder continued listing requirement or other applicable requirement.[8]

Existing Exchange Rule 14.12(f)(2)(B)(i) provides that upon review of a Company Compliance Plan, the Exchange may grant an extension of time to regain compliance not greater than 180 calendar days from the date of Staff's initial notification. If Staff grants an extension, it informs the Company in writing of the basis for granting the extension and the terms of the extension.

Proposed Amendment

The Exchange proposes to adopt new Exchange Rule 14.12(f)(2)(B)(ii) to permit the Staff to grant an additional cure period of 180 calendar days, not to exceed a total of 360 calendar days from the date of the Exchange's initial notification for deficiencies related to the beneficial holders continued listing requirement (as provided in Rule 14.11). A Company currently under review by an Adjudicatory Body for a Staff Delisting Determination will not be eligible for this additional extension. If Staff grants an extension, it will inform the Company in writing of the basis for granting the extension and the terms of the extension.

The proposed rule change applies to all exchange-traded products (''ETPs'') eligible to list pursuant to Exchange Rule 14.11, regardless of product type or investment strategy. Any issuer that demonstrates quantifiable progress toward compliance with the beneficial holder requirement during the initial 180-day compliance period may be granted the additional time at Staff's discretion. This approach ensures that all issuers are treated equitably and that compliance timeframes can be appropriately tailored based on objective evidence of progress toward compliance.

The proposed additional 180-day extension would not be automatic but rather would be granted at Staff's discretion based on quantifiable evidence that the ETP is making progress toward compliance. Staff would evaluate whether the product is demonstrating a clear trend of beneficial holder growth during the initial 180-day compliance period. Given that the beneficial holder requirement is a quantifiable standard (50 beneficial holders), Staff can readily assess whether a product is nearing compliance by reviewing periodic beneficial holder counts and determining whether the product has shown measurable improvement. Staff may consider whether the beneficial holder count has increased by a meaningful percentage during the initial compliance period, whether the rate of holder accumulation is accelerating, or whether the product has achieved a threshold number of holders indicating that compliance is likely within the extended period. This discretionary approach ensures that the additional 180 days is granted only to products demonstrating genuine progress toward compliance, rather than providing an automatic extension that could allow non-viable products to remain listed indefinitely.

While the proposed rule applies uniformly to all products, the Exchange has observed that certain product structures, particularly ''Outcome Strategy ETPs'' as defined below, may face unique challenges in achieving beneficial holder requirements within the standard 180-day timeframe due to their structural characteristics and investor usage patterns.

Outcome Strategy ETPs are multiple ETPs listed by an issuer that are each designed to provide (i) a pre-defined set of returns; (ii) over a specified outcome period; (iii) based on the performance of the same underlying instruments; and (iv) each employ the same outcome strategy for achieving the pre-defined set of returns. For example, consider a tranche of funds that seeks to achieve its investment objective through a laddered portfolio of twelve ETFs. The term ''laddered portfolio'' refers to the fund's investment in multiple underlying ETFs that have outcome period expiration dates which occur on a rolling, or staggered, basis. Each tranche represents a different vintage or starting point within the same overall strategy, creating a continuous spectrum of investment opportunities for investors seeking to enter the strategy at different times.

The threat of delisting to a single tranche of the series fundamentally impairs the fund manager's ability to distribute and maintain the entire series. Unlike standalone ETPs, where one product's delisting does not affect other products, Outcome Strategy ETPs are marketed, distributed, and understood by investors as complete series. An incomplete series creates a competitive disadvantage that extends beyond the non-compliant tranche itself, as financial advisors and institutional investors who allocate to these strategies rely on the availability of a full ladder of expiration dates to implement their investment strategies effectively. An incomplete series may cause these market participants to abandon the entire product suite in favor of competitors offering complete series, resulting in asset outflows and holder reductions across all tranches, including those in full compliance with listing standards.

Many investors in Outcome Strategy ETFs roll assets into the next ''front-month'' or near-dated tranche as their current holdings approach expiration. This rolling behavior is fundamental to how these products are designed to be used. Accordingly, near-term tranches tend to accumulate assets and beneficial holders while back-dated tranches (those further from expiration) tend to see less interest, fewer assets, and fewer beneficial holders. This creates a predictable pattern where back-dated tranches may temporarily fall below the beneficial holder threshold during their early life but would naturally cure as they become front-month tranches and attract rolling assets from maturing positions. The 180-day timeframe may be insufficient for a newly-launched or back-dated tranche to progress through this natural maturation cycle and benefit from the rolling behavior that drives holder accumulation.

The proposed amendment aligns the Exchange's rules with competitive practices. While NYSE Arca Rule 5.5–E(m) does not explicitly set forth the parameters of its staff review of a compliance plan, NYSE Arca's internal policies provide staff with discretion in determining how to handle failures to meet continued listing standards.[9] Specifically, NYSE Arca's 2025 Listed ETP Compliance Guidance Letter states that staff will conduct its own review and make a determination on how to proceed with non-compliance with continued listing standards. This

[6] *See* Exchange Rule 14.12(a).

[7] *See* Exchange Rule 14.12(c).

[8] *See* Exchange Rule 14.12(f)(2)(A).

[9] *See* Section 2C at 2025_NYSE_Arca_Listed_ETP_Compliance_Guidance_Letter.pdf.

discretionary framework provides NYSE Arca with flexibility in granting compliance periods. The proposed rule change codifies an explicit maximum compliance period in the Exchange's rules, providing regulatory certainty while ensuring competitive parity with NYSE Arca's approach.

The Exchange believes that the proposed additional 180-day compliance period is not a relaxation of listing standards, but rather an appropriate accommodation that aligns compliance timeframes with demonstrated progress toward compliance. The extended period maintains meaningful compliance pressure while preventing unnecessary delistings of products that are demonstrably moving toward curing their deficiencies. All other aspects of the Compliance Plan, including the minimum beneficial holder requirement itself and all other continued listing standards, remain unchanged.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[10] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [11] 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) [12] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes the proposed rule change removes impediments to and perfects the mechanism of a free and open market and a national market system and protects investors and the public interest by providing Staff with appropriate discretion to grant an additional 180-day compliance period (for a total of 360 days from initial notification) when an issuer demonstrates quantifiable progress toward curing a beneficial holder deficiency. The proposed amendment recognizes that a uniform 180-day compliance period may be insufficient in certain circumstances where issuers are making genuine progress toward compliance but require additional time to achieve the listing standard due to product-specific characteristics, market conditions, or other factors affecting beneficial holder accumulation.

The proposed rule change is consistent with the protection of investors and the public interest because it maintains robust listing standards while providing appropriate flexibility to prevent premature delistings of products that are demonstrably moving toward compliance. The additional 180-day compliance period is not automatic but rather is granted at Staff's discretion based on quantifiable evidence that the issuer is making progress toward compliance with the beneficial holder requirement. Staff will evaluate whether the issuer is demonstrating a clear trend of beneficial holder growth during the initial 180-day compliance period. Given that the beneficial holder requirement is a quantifiable standard (50 beneficial holders), Staff can readily assess whether an issuer is nearing compliance by reviewing periodic beneficial holder counts and determining whether the issuer has shown measurable improvement. Staff may consider whether the beneficial holder count has increased by a meaningful percentage during the initial compliance period, whether the rate of holder accumulation is accelerating, or whether the issuer has achieved a threshold number of holders indicating that compliance is likely within the extended period. This discretionary approach ensures that the additional 180 days is granted only to issuers demonstrating genuine progress toward compliance, rather than providing an automatic extension that could allow non-viable products to remain listed indefinitely.

The proposed rule change protects investors by preventing premature delistings that would disrupt the investment strategies of existing holders when issuers are on a clear path to curing deficiencies. Premature delisting forces investors to liquidate positions when the issuer is making demonstrable progress toward compliance, potentially resulting in tax consequences, transaction costs, and the inability to maintain their intended exposure. The extended compliance period, granted based on objective evidence of progress, reduces the likelihood of such disruptions while maintaining meaningful compliance pressure through Staff's ongoing review of beneficial holder trends.

The Exchange believes the proposed rule change promotes just and equitable principles of trade by providing Staff with appropriate flexibility to tailor compliance timeframes to individual circumstances based on objective, quantifiable evidence of progress toward compliance, rather than imposing rigid timeframes that may result in unnecessary delistings. The proposed discretionary framework ensures that compliance timeframes are appropriately calibrated based on demonstrated progress rather than applying uniform deadlines that may not account for varying circumstances affecting beneficial holder accumulation.

While the Exchange has observed that issuers of Outcome Strategy ETPs have been particularly burdened by the existing 180-day compliance timeframe, the proposed rule change is not limited to any specific product type. Outcome Strategy ETPs function as integrated series where individual tranches are interdependent components of a unified investment strategy. These products experience predictable beneficial holder accumulation patterns based on proximity to outcome period expiration, as many investors roll assets into ''front-month'' or near-dated tranches as their current holdings approach expiration. This creates a pattern where back-dated tranches may temporarily fall below the beneficial holder threshold during their early life but would naturally cure as they become front-month tranches and attract rolling assets from maturing positions.

However, the proposed rule change applies uniformly to all issuers demonstrating quantifiable progress toward compliance, regardless of product type or investment strategy. Any issuer that demonstrates a clear trend of beneficial holder growth during the initial 180-day compliance period may be granted the additional time at Staff's discretion. This approach ensures that all issuers are treated equitably and that compliance timeframes can be appropriately tailored based on objective evidence of progress toward compliance, while recognizing that certain product structures may face unique challenges in achieving beneficial holder requirements within the standard timeframe.

The proposed rule change also protects investors in products with integrated series structures by preventing cascading non-compliance effects. For products such as Outcome

[10] 15 U.S.C. 78f(b).

[11] 15 U.S.C. 78f(b)(5).

[12] *Id.*

Strategy ETPs that are marketed, distributed, and understood by investors as complete series, the delisting of a single tranche can render the entire series incomplete compared to competing offerings, causing financial advisors and institutional investors to redirect assets to competitors with full product suites. This can trigger holder attrition across all tranches, including those in full compliance with listing standards, potentially creating a cycle of serial non-compliance. The extended compliance period, when granted based on demonstrated progress, provides issuers with sufficient time to implement comprehensive remediation strategies that stabilize integrated product series, protecting the interests of holders across all tranches and preventing unnecessary market disruption. However, this investor protection benefit extends beyond Outcome Strategy ETPs to any product where premature delisting based on temporary beneficial holder deficiencies could harm investors when the issuer is making measurable progress toward compliance.

The proposed rule change removes impediments to and perfects the mechanism of a free and open market by promoting competitive equity among listing venues. The Exchange is aware that NYSE Arca's internal policies provide staff with discretion in determining how to handle failures to meet continued listing standards, and that NYSE Arca's 2025 Listed ETP Compliance Guidance Letter states that staff will conduct its own review and make a determination on how to proceed with non-compliance with continued listing standards. This discretionary framework provides NYSE Arca with flexibility in granting compliance periods. The proposed rule change codifies an explicit maximum compliance period in the Exchange's rules, providing regulatory certainty and transparency while ensuring that issuers listing on the Exchange are not disadvantaged relative to issuers on competing venues. This promotes fair competition among exchanges and prevents regulatory arbitrage that could disadvantage the Exchange and its listed issuers.

The proposed rule change does not relax or weaken listing standards. The minimum beneficial holder requirement itself remains unchanged at 50 beneficial holders, and all other continued listing standards continue to apply without modification. The proposed amendment merely provides Staff with discretion to grant an extended timeframe for issuers to cure beneficial holder deficiencies when Staff determines, based on quantifiable evidence, that the issuer is making progress toward compliance and that additional time is appropriate. Companies currently under review by an Adjudicatory Body for a Staff Delisting Determination remain ineligible for the additional extension, ensuring that the extended compliance period is available only during the initial compliance review process and not as a means to indefinitely delay delisting proceedings.

The Exchange believes the proposed rule change fosters cooperation and coordination with persons engaged in facilitating transactions in securities by providing issuers with a compliance framework that recognizes varying circumstances affecting beneficial holder accumulation while maintaining objective standards for granting extensions. The extended compliance period, granted based on demonstrated progress, allows issuers to pursue substantive remediation efforts or to allow sufficient time for natural product lifecycles or market conditions to support beneficial holder growth, while ensuring through Staff's discretionary review that only issuers making genuine progress receive additional time.

For these reasons, the Exchange believes the proposed rule change is consistent with the requirements of Section 6(b)(5) of the Act and the protection of investors and the public interest.

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 does not believe the proposed rule change will impose any burden on intramarket competition because it will apply uniformly to all issuers that are deficient with the beneficial holder continued listing requirement. The proposed additional 180-day compliance period (for a total of 360 days from initial notification) is available to any issuer that demonstrates quantifiable progress toward compliance with the beneficial holder requirement during the initial 180-day compliance period, regardless of the type of ETP or investment strategy employed. The rule does not favor any particular issuer, product type, or market participant, but rather provides Staff with discretion to grant additional time based on measurable compliance progress.

The Exchange does not believe the proposed rule change will impose any burden on intramarket competition because it will apply uniformly to all issuers that are deficient with the beneficial holder continued listing requirement. The proposed additional 180-day compliance period (for a total of 360 days from initial notification) is available to any issuer that demonstrates quantifiable progress toward compliance with the beneficial holder requirement during the initial 180-day compliance period, regardless of the type of ETP or investment strategy employed. The rule does not favor any particular issuer, product type, or market participant, but rather provides Staff with discretion to grant additional time based on measurable compliance progress. The discretionary nature of the additional compliance period ensures that it does not create competitive advantages for any particular issuer or product type. Staff will grant the extension only when the issuer demonstrates a clear trend of beneficial holder growth during the initial compliance period, ensuring that only issuers making genuine efforts to cure deficiencies receive additional time. This maintains competitive pressure on all issuers to achieve and maintain compliance with listing standards while providing appropriate flexibility to account for circumstances where additional time is warranted based on demonstrated progress.

The Exchange does not believe the proposed rule change will impose any burden on intermarket competition. To the contrary, the proposed rule change promotes intermarket competition by aligning the Exchange's compliance procedures with competitive practices at other listing venues. As noted in the Purpose section, NYSE Arca's internal policies provide staff with discretion in determining how to handle failures to meet continued listing standards, and NYSE Arca's 2025 Listed ETP Compliance Guidance Letter states that staff will conduct its own review and make a determination on how to proceed with non-compliance with continued listing standards. This discretionary framework provides NYSE Arca with flexibility in granting compliance periods that may functionally provide extended timeframes for issuers to cure deficiencies.

The proposed rule change codifies an explicit maximum compliance period in the Exchange's rules, providing regulatory certainty and transparency while ensuring that issuers listing on the Exchange are not disadvantaged relative to issuers on competing venues. Without this amendment, issuers and particularly those of Outcome Strategy

ETPs or other products with unique structural characteristics, might favor listing on other exchanges that provide greater flexibility in compliance timeframes, which could disadvantage the Exchange and reduce competition among listing venues. The proposed rule change levels the competitive playing field and ensures that listing venue selection is based on factors other than disparities in compliance procedures.

The Exchange believes the proposed rule change may enhance intermarket competition by enabling the Exchange to attract and retain listings of ETPs that might otherwise list on competing venues with more flexible compliance frameworks. This increased competition among listing venues benefits investors by providing greater choice in where and how to access investment products. Other exchanges remain free to adopt similar accommodations or to maintain their existing compliance procedures, ensuring that competition among exchanges continues to drive improvements in listing standards and procedures.

For these reasons, the Exchange does not believe the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

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.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include file number SR–CboeBZX–2026–005 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-CboeBZX–2026–005. 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–CboeBZX–2026–005 and should be submitted on or before February 24, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026–02120 Filed 2–2–26; 8:45 am]

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[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–104748; File No. S7–2026–03]

Notice of an Application of the Fixed Income Clearing Corporation and Chicago Mercantile Exchange Inc. for an Exemption Pursuant to Section 36 of the Securities Exchange Act of 1934 in Connection With the Cross-Margining of U.S. Treasury Securities and Related Futures

January 30, 2026.

On December 11, 2025, the Securities and Exchange Commission (''Commission'') received an application from the Fixed Income Clearing Corporation (''FICC''), a clearing agency registered with the Commission, and the Chicago Mercantile Exchange Inc. (''CME'')[1] to obtain an exemption pursuant to Section 36[2] of the Securities Exchange Act of 1934 (''Exchange Act''),[3] in accordance with the procedures set forth in Exchange Act Rule 0–12.[4] Specifically, FICC and CME are requesting exemptive relief, on behalf of certain of their joint clearing members that are dually-registered as broker-dealers and futures commission merchants, from Section 15(c)(3) of the Exchange Act[5] and Rule 15c3–3[6] thereunder in connection with a program to cross-margin customer positions in U.S. Treasury securities positions cleared by FICC and related futures cleared by CME in a futures account from the period of novation through settlement of a trade. The Commission is publishing this notice to provide interested persons with an opportunity to comment.

I. Background

On December 13, 2023, the Commission adopted rules under the Exchange Act to amend the standards applicable to certain clearing agencies to enhance risk management practices for central counterparties in the U.S. Treasury market and facilitate additional clearing of U.S. Treasury securities.[7] As described in the Treasury Clearing Adopting Release, several commenters discussed facilitating cross-margining of indirect participants' (*i.e.,* customers' or end users') transactions in U.S. Treasury securities with those in U.S. Treasury futures as a method to lower costs of trading and thereby incentivize additional clearing.[8] In

[1] The CME is a derivatives clearing organization (''DCO'') registered with the Commodity Futures Trading Commission (''CFTC'').

[2] 15 U.S.C. 78mm. Section 36(a)(1) of the Exchange Act gives the Commission the authority to exempt any person, security or transaction or any class or classes of persons, securities or transactions, conditionally or unconditionally, from any Exchange Act provision by rule, regulation or order, to the extent that the exemption is necessary or appropriate in the public interest and consistent with the protection of investors.

[3] 15 U.S.C. 78a *et seq.*

[4] 17 CFR 240.0–12. Exchange Act Rule 0–12 sets forth procedures for filing applications for orders for exemptive relief pursuant to Section 36. The application will not appear in the **Federal Register** (''Application''). The Application is available on the Commission's internet website at *www.sec.gov.* Defined terms in this notice are the same as used in the Application, unless we note otherwise.

[5] 15 U.S.C. 78o(c)(3).

[6] 17 CFR 240.15c3–3.

[7] *See Standards for Covered Clearing Agencies for U.S. Treasury Securities and Application of the Broker-Dealer Customer Protection Rule With Respect to U.S. Treasury Securities,* Exchange Act Release No. 99149 (Dec. 13, 2023), 89 FR 2714 (Jan. 16, 2024) (''Treasury Clearing Adopting Release'').

[8] *See* Treasury Clearing Adopting Release, 89 FR at 2750.

response to these comments, the Commission agreed that cross-margining can be beneficial to market participants.[9]

FICC and CME currently have in place a proprietary cross-margining arrangement that allows a broker-dealer that is: (1) registered under Section 15(b) of the Exchange Act [10] and also registered as a futures commission merchant pursuant to Section 4f(a)(1) of the Commodity Exchange Act [11] (''CEA'') (a ''BD–FCM''), and (2) a joint clearing member of both FICC and CME, acting for itself or for certain non-customer affiliates, to have initial margin requirements for certain FICC-cleared eligible securities positions and certain CME-cleared eligible futures positions calculated in a way that recognizes the risk offsets across those positions. Customers who clear positions at FICC and CME through a joint clearing member are not eligible to have their positions cross-margined under the current cross-margining arrangement. FICC and CME have requested that the Commission permit FICC and CME to extend this existing cross-margining arrangement to customer positions.[12]

To implement a customer cross-margin program, FICC and CME, on behalf of their joint BD–FCM members, filed the Application for exemptive relief from Section 15(c)(3) of the Exchange Act and Rule 15c3–3 [13] thereunder under Section 36 of the Exchange Act. Rule 15c3–3 under the Exchange Act,[14] the broker-dealer customer protection rule, requires broker-dealers that hold customer cash and securities to treat these assets in a manner that facilitates their prompt return to the customers if the broker-dealer fails financially. The goal of Rule 15c3–3 is to place a broker-dealer in a position where it is able to wind down in an orderly self-liquidation without the need of financial assistance provided by the Securities Investor Protection Corporation (''SIPC'') through a formal proceeding under the Securities Investor Protection Act of 1970 (''SIPA''), or through proceedings under subchapter III of Chapter 7 of the U.S. Bankruptcy Code (*i.e.,* the stockbroker liquidation provisions).[15]

II. Summary of the Application and Proposed Conditions

FICC and CME request that, pursuant to Section 36 of the Exchange Act, the Commission provide exemptive relief to a firm that is a BD–FCM and a joint clearing member of FICC and CME (''Eligible BD–FCMs'') from Section 15(c)(3) of the Exchange Act and Rule 15c3–3 thereunder to permit Eligible BD–FCMs to hold certain securities and customer assets used to margin, secure, or guarantee such positions in a ''futures account'' as defined in CFTC Regulation 1.3 and subject to CEA Section 4d(a) and (b) and related CFTC regulations thereunder.[16] As described in the Application, the requested relief would not apply to any transactions that are not novated to FICC and any cash and securities that have been received upon final settlement of any such transactions.[17]

In its Application, FICC and CME state that they currently have in place a cross-margining arrangement that allows a joint clearing member to have the initial margin requirements for certain FICC-cleared Treasury securities and certain CME-cleared Treasury and interest rate futures contracts (together, ''Eligible Positions'') calculated in a way that recognizes the risk offsets across these positions (''Proprietary XM Arrangement'').[18] The Application requests that customers of a firm that is an Eligible BD–FCM (''Eligible Customers'') be permitted to elect to cross-margin for Eligible Positions cleared by the Eligible BD–FCM at FICC and at CME respectively. As described in the Application, the participating Eligible Customer (an ''XM Customer'') would be able to designate Eligible Positions that are securities (''XM Securities Positions'') and associated margin to be carried in a futures account that also contains Eligible Positions that are futures (together with XM Securities Positions, the ''XM Customer Positions'') and associated margin on the books and records of an Eligible BD–FCM and generally subject to the requirements and protections of the CEA and the CFTC regulations, rather than in a securities account subject to the Exchange Act and the rules thereunder.[19] The XM Customer Positions and associated margin would also, in the event of an Eligible BD–FCM's insolvency proceeding under SIPA, be subject to subchapter IV of Chapter 7 of the U.S. Bankruptcy Code (*i.e.,* the commodity broker liquidation provisions) and the CFTC's Part 190 regulations thereunder rather than SIPA or subchapter III of Chapter 7 of the U.S. Bankruptcy Code.[20]

In the Application, FICC and CME describe the features of the ''Proposed Customer XM Framework,'' [21] including eligible positions, eligible participants, margin calculation and collection, account structure at the clearinghouse and clearing member level, and default management process.[22] Further, FICC and CME describe the treatment of XM Customer Positions and associated margin of an Eligible BD–FCM under the CEA and CFTC regulations, and the treatment of the XM Customer Positions

[9] *Id.* at 2751. Other organizations also have recommended that the Commission permit clearinghouse/DCO level cross-margining for customers for certain U.S. Treasury securities transactions cleared at a clearing agency and related futures cleared at a DCO, and that the cross-margining occur in a futures account. *See CFTC Global Markets Advisory Committee Advances Key Recommendations,* CFTC Release No. 8860–24 (Feb. 8, 2024); *see also* Treasury Market Practices Group, Consultative White Paper: *Non-Centrally Cleared Bilateral Repo and Indirect Clearing in the U.S. Treasury Market: Focus on Margining Practices* (Feb. 26, 2025).

[10] 15 U.S.C. 78o(b).

[11] 7 U.S.C. 6f(a)(1).

[12] In connection with the Application, FICC also has submitted a proposed rule change to the Commission needed to implement the customer cross-margin program with CME. *See* FICC, *Notice of Filing of Proposed Rule Change to Amend and Restate the Second Amended and Restated Cross-Margining Agreement Between FICC and CME and Amend Related GSD Rules,* Exchange Act Release No. 104485 (Dec. 22, 2025), 90 FR 60791 (Dec. 29, 2025) [File No. SR–FICC–2025–025]. CME and FICC have also submitted a petition for an exemptive order from the CFTC in connection with the proposal. *See* CFTC, *Proposal to Provide Exemptive Relief to Facilitate Cross-Margining of Customer Positions Cleared at Chicago Mercantile Exchange, Inc. and Fixed Income Clearing Corporation,* 90 FR 58525 (Dec. 17, 2025).

[13] 17 CFR 240.15c3–3.

[14] Section 15(c)(3)(A) of the Exchange Act provides, in pertinent part, that no broker-dealer shall make use of the mails or any means or instrumentality of interstate commerce to effect any transaction in, or to induce or attempt to induce the purchase or sale of, any security (with exceptions for certain securities) in contravention of such rules and regulations as the Commission shall prescribe as necessary or appropriate in the public interest or for the protection of investors to provide safeguards with respect to the financial responsibility and related practices of broker-dealers including, but not limited to, the acceptance of custody and use of customers' securities and the carrying and use of customers' deposits or credit balances. 15 U.S.C. 78o(c)(3)(A).

[15] *See* 15 U.S.C. 78aaa *et. seq.; see also Daily Computation of Customer and Broker-Dealer Reserve Requirements under the Broker-Dealer Customer Protection Rule,* Exchange Act Release No. 102022 (Dec. 20, 2024), 90 FR 2790, 2791 (Jan. 13, 2025).

[16] *See* Application, at p.1.

[17] *See e.g.,* notes 1 and 16 in the Application.

[18] This arrangement was originally approved by the Commission and CFTC in 2003 and amended in 2023. *See* note 3 and accompanying text in the Application; *see also* section II. of the Application.

[19] *See* section I. of the Application.

[20] *See* section IV.c. of the Application. This bankruptcy treatment would be achieved through the execution of a required non-conforming subordination agreement between the XM Customer and the Eligible BD–FCM. *See* proposed conditions below and section VI. of the Application (discussing the proposed conditions).

[21] *See* section III. of the Application.

[22] *See* section III. of the Application.

and associated margin in the event of an Eligible BD–FCM's insolvency.[23]

FICC and CME also describe the reasons that they believe support the Commission finding that the requested exemptive relief is consistent with Section 36 of the Exchange Act.[24] These reasons described in detail in the Application include: (1) aligning initial margin requirements more closely with the risk profile of the portfolio; (2) incentivizing XM Customers to post initial margin for XM Securities Positions, rather than rely on their clearing member to do so; (3) incentivizing Eligible Customers to use the same Eligible BD–FCMs for securities and futures clearing and therefore facilitate the development of done-away clearing; and (4) ensure robust protection of customer assets for participating XM Customers.[25]

Finally, in the Application, FICC and CME also propose certain conditions in support of their request for exemptive relief from Section 15(c)(3) of the Exchange Act and Rule 15c3–3 thereunder for the ''Proposed Customer XM Framework.'' [26] Specifically, in the Application, FICC and CME propose that:

- All money, securities, or property received by an Eligible BD–FCM to margin, guarantee, or secure XM Customer Positions or accruing as a result of such trades or contracts, and held subject to the terms of a Commission order shall be carried in a futures account for or on behalf of the XM Customers and shall be deemed to have been received by the Eligible BD–FCM and be accounted for and treated and dealt with as belonging to the XM Customers of the Eligible BD–FCM consistent with CEA Section 4d(a)(2).
- Each Eligible BD–FCM shall enter into a non-conforming subordination agreement with each XM Customer prior to the XM Customer's participation in cross-margining under the Proposed Customer XM Framework, pursuant to which the XM Customer shall specifically agree and acknowledge that (i) its XM Securities Positions and associated FICC-held margin will not receive customer treatment under the Exchange Act or SIPA or be treated as ''customer property'' as defined in 11 U.S.C. 741 in a liquidation of the Eligible BD–FCM; (ii) its XM Securities Positions and associated FICC-held margin will be subject to any applicable protections under Subchapter IV of Chapter 7 of Title 11 of the United States Code and rules and regulations thereunder; and (iii) claims to ''customer property'' as defined in SIPA or 11 U.S.C. 741 against the Eligible BD–FCM with respect to its XM Securities Positions and associated FICC-held margin will be subordinated to the claims of all other customers, as the term ''customer'' is defined in 11 U.S.C. 741 or SIPA.[27]
- Cross-margining shall be applied to XM Customer Positions only if both the Eligible Customer and its Eligible BD–FCM agree to participate.
- Positions of an Eligible Customer shall be eligible for cross-margining if such positions are otherwise Eligible Positions under the Proprietary XM Arrangement, as the same may be amended from time to time.
- Each of FICC and CME shall calculate initial margin requirements for XM Customer Positions on a gross basis (*i.e.,* customer-by-customer) using the same margin reduction methodology as used in the Proprietary XM Arrangement.
- FICC and CME shall amend their rulebooks as may be necessary to effect the Proposed Customer XM Framework and the terms of any Commission order.
- Each Eligible BD–FCM shall require each of its XM Customers to deposit, at a minimum, the aggregate amount of initial margin required by each clearinghouse in respect of the XM Customer's XM Customer Positions.
- Each Eligible BD–FCM must be in compliance with applicable laws and regulations relating to risk management, capital, and liquidity, and must be in compliance with applicable FICC and CME rules and CFTC requirements (including segregation and related books and records provisions) for the futures accounts in connection with the Proposed Customer XM Framework.
- Before receiving any money, securities, or property of an Eligible Customer to margin, guarantee, or secure XM Customer Positions in connection with the Proposed Customer XM Framework, the Eligible BD–FCM must furnish to the Eligible Customer a disclosure document containing (i) a statement indicating that such money, securities, or property will be held in an futures account, and that the Eligible Customer has elected to seek protections under Subchapter IV of Chapter 7 of Title 11 of the United States Code and the rules and regulations thereunder with respect to such property; and (ii) a statement that the broker-dealer segregation requirements of Section 15(c)(3) of the Exchange Act and the rules thereunder, and any customer protections under SIPA and the stockbroker liquidation provisions, will not apply to such money, securities, or property of the Eligible Customer.[28]

III. Request for Comment

We request and encourage any interested person to submit comments regarding the Application, including whether the Commission should grant the request. In particular, we solicit comment on the following questions:

1. Do commenters agree with FICC's and CME's reasons described in the Application [29] in support of the Commission finding that the exemptive relief is consistent with Section 36 of the Exchange Act? If so, why or why not.

2. Are there other or alternative conditions not outlined in the Application that the Commission should consider? If so, please describe those conditions.

3. Does the proposed language required in the non-conforming subordination agreement [30] achieve the objectives of: (1) removing customers participating in cross-margining under the Proposed Customer XM Framework from the definition of ''customer'' under Rule 15c3–3, SIPA, and the stockbroker liquidation provisions with respect to securities or cash held in CFTC futures accounts; (2) not undermining the protections afforded to customers participating in cross-margining under the Proposed Customer XM Framework under the rules of the CFTC, the CEA, and commodity broker liquidation provisions; and (3) not requiring customers participating in cross-margining under the Proposed Customer XM Framework to subordinate their claims, in the event that their customer claims are not fully satisfied by the distribution of assets held in their CFTC futures accounts, to assets that may be included in the debtor's general estate? Is there alternative language that would be better to achieve these objectives?

4. Should the Commission consider requiring FICC or CME to provide Eligible BD–FCMs and their Eligible Customers with the ability to select a securities account as an alternative to a CFTC futures account as a condition to granting exemptive relief?

5. Should there be any limitations on the type of customers that may participate in cross-margining under the

[23] *See* section IV. of the Application.

[24] *See* section V. of the Application.

[25] *See* section V. of the Application.

[26] *See* section VI. of the Application; *see also* section III. of the Application for a description of the features of the Proposed Customer Framework.

[27] *See* section VI. of the Application.

[28] *See* section VI. of the Application.

[29] *See, e.g.,* section V. of the Application; *see also* supra note 25 and accompanying text in this Notice.

[30] *See* note 27 and accompanying text in this Notice.

Proposed Customer XM Framework as a condition to granting exemptive relief? If so, what type of limitation(s)? If not, why not?

6. Would the exemption requested in the Application have a competitive impact—either positive or negative—on broker-dealers and their customers in the context of clearing for U.S. Treasury securities? What would be the potential benefits and costs of the exemption? Would the exemption and conditions impact investor protection? If so, what would those impacts be?

7. Should the Commission consider broadening the exemptive relief requested by FICC and CME to be available to any clearing agency and DCO and their joint clearing members with a cross-margining program that meets the conditions of an exemptive order? Why or why not?

8. If the exemptive relief was broadened, how would the conditions proposed by FICC and CME in the Application be modified?

Comments should be received on or before March 5, 2026. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/other.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number S7–2026–03 on the subject line.

Paper Comments

- Send paper comments to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

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For further information, you may contact Michael A. Macchiaroli, Associate Director; Raymond A. Lombardo, Assistant Director; Sheila Dombal Swartz, Senior Special Counsel; or Nina Kostyukovsky, Special Counsel at (202) 551–5500, Office of Broker-Dealer Finances, Division of Trading and Markets, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–7010.

By the Commission.

Sherry R. Haywood,

Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–104740; File No. SR–DTC–2025–019]

Self-Regulatory Organizations; The Depository Trust Company; Order Approving Proposed Rule Change To Modify the DTC Settlement Service Guide and DTC Rules as They Relate to the DTC Net Debit Cap

January 29, 2026.

I. Introduction

On December 18, 2025, the Depository Trust Company (''DTC'') filed with the Securities and Exchange Commission (''Commission'') proposed rule change SR–DTC–2025–019, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder.[2] The Proposed Rule Change would modify the DTC Settlement Service Guide (''Settlement Guide'') and the Rules, By-Laws and Organization Certificate of DTC (''Rules'') [3] regarding how DTC sets its maximum debit caps for Participants, Unaffiliated Participants, and Affiliated Families, as well as other corresponding changes. The Proposed Rule Change was published for comment in the **Federal Register** on December 30, 2025.[4] The Commission has received no comments on the changes proposed.

For the reasons discussed below, the Commission is approving the Proposed Rule Change.

II. Background

DTC serves as a central securities depository [5] and operates a securities settlement system. DTC's activities include holding securities in physical or dematerialized form, maintaining securities accounts for Participants, providing central safekeeping and asset services, transfers and pledges of securities, and the settlement of transactions by book entry (free of payment or DVP).[6] DTC's liquidity risk management strategy is designed to facilitate its maintenance of sufficient liquid resources to complete settlement each Business Day.[7] To that end, DTC uses certain risk management controls, including its Collateral Monitor and Net Debit Cap, to protect its settlement system in the event of a Participant default, by ensuring that at any time the settlement obligation of any Participant will be fully collateralized and that the amount to be settled cannot exceed DTC's liquidity resources.[8]

Collateral Monitor. The Collateral Monitor is a calculation by which DTC measures the sufficiency of the Collateral in a Participant's account to cover its net settlement obligation.[9] The Collateral Monitor prevents the completion of transactions that would cause a Participant's Net Debit Balance to exceed the value of Collateral in its account.[10] The settlement obligation of each Participant must be fully collateralized, based on the Collateral Monitor. This is designed so that if a Participant fails to pay for its settlement obligation, DTC will have sufficient

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Each capitalized term not otherwise defined herein has its meaning as set forth in the Rules, By-Laws and Organization Certificate of DTC (''Rules''), *available at www.dtcc.com/-/media/Files/Downloads/legal/rules/dtc_rules.pdf,* or the DTC Settlement Service Guide (''Settlement Guide''), *available at www.dtcc.com/-/media/Files/Downloads/legal/service-guides/Settlement.pdf.*

[4] *See* Securities Exchange Act Release No. 104484 (Dec. 22, 2025). 90 FR 61205 (Dec. 30, 2025) (File No. SR–DTC–2025–019) (''Notice of Filing'')

[5] A ''central securities depository'' means a securities depository who: (1) acts as a custodian of securities in connection with a system for the central handling of securities whereby all securities of a particular class or series of any issuer deposited within the system are treated as fungible and may be transferred, loaned, or pledged by bookkeeping entry without physical delivery of securities certificates; or, (2) otherwise permits or facilitates the settlement of securities transactions or the hypothecation or lending of securities without physical delivery of securities certificates. *See* 17 CFR 240.17ad–22(a) (referencing the definition of ''securities depository'' described in Section 3(a)(23)(A) of the Act,15 U.S.C. 78c(a)(23)(A)).

[6] ''Delivery Versus Payment'' means a Delivery against a settlement debit to the Account of the Receiver *See* Rule 1, *supra* note 3 (definitionof ''Delivery Versus Payment''). *See also* The Depository Trust Company, Disclosure Framework for Covered Clearing Agencies and Financial Market Infrastructures (Mar. 2023) (''Disclosure Framework''), at 18, *available at https://www.dtcc.com/-/media/Files/Downloads/legal/policy-and-compliance/DTC_Disclosure_Framework.pdf.*

[7] *See* Disclosure Framework, *supra* note 6, at 61; Notice of Filing, *supra* note 4, at 61205.

[8] *See* Disclosure Framework, *supra* note 6,. at 12.

[9] Notice of Filing, *supra* note 4, at 61205. A Participant's collateral refers to the sum of (i) the Actual Participants Fund Deposit of the Participant, (ii) the Actual Preferred Stock Investment of a Participant, (iii) all Net Additions of the Participant and (iv) any SPP wired by the Participant to the Corporation. *See* Rule 1, *supra* note 3 (definition of ''Collateral'').

[10] *See* Notice of Filing, *supra* note 4, at 61205–61206

Collateral to obtain funding for settlement.[11]

At the opening of each business day, a Participant's Collateral Monitor is set to zero and built up over the day to secure any settlement obligation that may arise. A Participant's actual Participant's Fund Deposit is credited to the Collateral Monitor, and updated with credits or debits through the day.[12] At all times the Collateral Monitor reflects the amount by which the collateral in your account exceeds the net debit in your settlement account.[13] Each transaction involves a collateral flow and a cash flow component, one as credit and the other as debit.[14] The net value of the collateral and cash components updates the Collateral Monitor. Completing a transaction Delivery versus Payment generally increases the Collateral Monitor of the Deliverer of the security, and decreases that of the Receiver of said security, based on the difference between the collateral and settlement value.[15] DTC verifies that a transaction places neither party's Collateral Monitor in the negative during processing, and if a transaction were to result in a negative Collateral Monitor, meaning it is undercollateralized, DTC would then recycle that transaction until there is enough collateral to complete.[16]

Net Debit Cap. The Net Debit Cap is an amount calculated daily, which acts to ensure that a Participant's net debit balance stays within DTC's liquidity resources, and that DTC can complete settlement even if a Participant defaults.[17] Specifically, the Net Debit Cap limits the settlement net debit a Participant could incur during a processing day irrespective of available collateral, and it is currently capped to a maximum amount of $2.15 billion per Participant, or $2.85 billion per Affiliated Family.[18]

Any transaction that would cause a Participant or an Affiliated Family to exceed its Net Debit Cap will not be processed but will instead remain pending until the Net Debit Balance is reduced sufficient to permit processing.[19] A Net Debit Balance is reduced by another transaction which creates credits in your account.[20] Most credits are generated when a Participant either delivers securities versus payment, pledges securities for value, receives principal, dividend or interest allocations, or wires Settlement Progress Payments (''SPP's'') to DTC's account at the Federal Reserve Bank of New York.[21]

DTC Liquidity Resources. Rule 17ad–22(e)(7)(ii) under the Act requires DTC, as a covered clearing agency, to hold qualifying liquid resources sufficient to meet the minimum liquidity resource requirements in each relevant currency for which the covered clearing agency has payment obligations owed to clearing members.[22] DTC states that it currently maintains two resources that are considered as a ''qualifying liquid resource'' under Rule 17ad–22(a) [23] under the Act: (i) required Participants Fund Deposits (''Participants Fund'') [24], which applies across all Participants and equals $1.15 BN, and (ii) a committed line of credit (''LOC'') [25] of $1.9 BN.[26] Taken together, the Participants Fund and LOC provide DTC with $3.05 BN in total qualifying liquid resources.[27]

The Commission recently determined not to object to an Advance Notice filed by DTC proposing to raise prefunded liquidity resources through the periodic issuance and private placement of senior notes (''Debt Issuance'').[28] DTC proposed to issue up to an aggregate amount of $3 billion in senior notes, DTC has represented that these resources are solely to be used to help complete settlement in the event of a default, therefore the proceeds of the Debt Issuance are to supplement and diversify the existing qualifying liquid resources.[29]

III. Description of the Proposed Rule Change

First, DTC proposes updating its Settlement Guide and its Rules to amend the Net Debit Cap from the current fixed amounts of $2.15 billion per Individual Participant and $2.85 billion per Affiliated Family, respectively, to a flexible amount not to exceed the available qualifying liquid resources at DTC.[30] As stated above in Section II, DTC's Qualifying Liquid Resources are comprised of a $1.15 billion Participants Fund, a $1.9 billion LOC, and, going forward, proceeds from any issuance of senior notes under the Debt Issuance program in an aggregate amount not to exceed $3 billion. DTC states that Participants have sought a reassessment of the Net Debit Cap for both Individual Participants and Affiliated Families.[31] DTC states that a greater maximum Net Debit Cap would provide for transaction processing efficiencies that would lower the likelihood of transactions pending under a cap limit or of a Participant needing to make SPPs to reduce its

[11] *Id* at 61206.

[12] *See* Disclosure Framework, *supra* note 6, at 54.

[13] *See* Settlement Guide, *supra* note 3, at 69–70.

[14] The collateral value of a security is the market price minus a haircut amount determined by DTC. *See* Disclosure Framework, *supra* note 6, at 52–53.

[15] *See* Settlement Guide, *supra* note 3, at 69–70. *See also* Rule 1, *supra* note 3 (definitions of ''Deliverer'' and ''Receiver'').

[16] *See* Settlement Guide, *supra* note 3, at 70.

[17] *Id* at 71.

[18] *See* Notice of Filing, *supra* note 4, at 61206. Each Participant's settlement account may have a net credit or net debit position throughout the day as transactions are processed. At day's end, Participants will either owe a net debit, be owed a net credit, or be balanced. *See* Disclosure Framework, *supra* note 5, at 63. Based on a Participant's net debit history, these caps adjust automatically relative to their highest intraday net debit peaks. *See* Settlement Guide, *supra* note 3, at 71.

[19] *See* Notice of Filing, *supra* note 4, at 61206.

[20] *Id.*

[21] *See* Settlement Guide, *supra* note 3, at 71.

[22] 17 CFR 240.17ad–22(e)(7)(ii). A ''qualifying liquid resource'' means the following, in each relevant currency: (i) Cash held either at the central bank of issue or at creditworthy commercial banks; (ii) Assets that are readily available and convertible into cash through prearranged funding arrangements, such as (A) Committed arrangements without material adverse change provisions including (1) lines of credit, (2) foreign exchange swaps, and (3) repurchase agreements, or (B) Other prearranged funding arrangements determined to be highly reliable even in extreme but plausible market conditions by the board of directors of the covered clearing agency following a review conducted for this purpose not less than annually; and, (iii) Other assets that are readily available and eligible for pledging to (or conducting other appropriate forms of transactions with) a relevant central bank, if the covered clearing agency has access to routine credit at such central bank in a jurisdiction that permits said pledges or other transactions by the covered clearing agency. 17 CFR 240.17Ad–22(a)(14).

[23] 17 CFR 240.17ad–22(a)

[24] The Participants Fund is comprised of Participant deposits into the Core Fund and Liquidity Fund. The Core Fund consists of $450 million, split into the Base Fund ($7,500 deposit per Participant) and the Incremental Fund (based on the six highest intraday net debit peaks over a rolling 60 business day period). The Liquidity Fund allocates an additional $700 million among Participants with Affiliated Net Debit Caps exceeding $2.15 billion. *See* Settlement Guide, *supra* note 3, at 46–47.

[25] DTC annually renews a 364-day revolving line of credit with a group of commercial lenders. Borrowed amounts must be backed by adequate collateral, and lenders must meet their commitments by specific times on the borrowing day, given sufficient collateral and adherence to time frames. *See* Disclosure Framework, *supra* note 6, at 62.

[26] *See* Notice of Filing, *supra* note 4, at 61206.

[27] $1.7 billion of the total LOC is available for liquidity purposes. DTC sets the Net Debit Cap below the total amount of liquidity resources in case the defaulting Participant is a lender to the LOC, this is known as the LOC Assumption Buffer. DTC has previously explained that the $200 million buffer is an amount greater than the contribution of any lender to the DTC LOC. *See* Securities Exchange Act Release No. 99456 (Feb. 1, 2024), 89 FR 8466 at 8468, n. 28 (Feb. 7, 2024). *See also* Notice of Filing, *supra* note 4, at 61206.

[28] Securities Exchange Act Release No. 102318 (Jan. 31, 2025), 90 FR 9094 (Feb. 6, 2025) (SR–DTC–2023–801) (''Debt Issuance Notice''). *See also* Notice of Filing, *supra* note 4, at 61206.

[29] *See* Debt Issuance Notice, *supra* note 29, at 9095.

[30] *See* Notice of Filing, *supra* note 4, at 61206.

[31] *Id.*

intraday Net Debit Balance.[32] DTC further states that any additional liquidity provided by the Debt Issuance allows DTC the flexibility to increase the Net Debit Cap in line with the newly expanded pool of Qualifying Liquid Resources.[33]

To maintain alignment with Qualifying Liquid Resources, the Proposed Rule Change will edit the Net Debit Cap section of the Settlement Guide to reflect a new method for determining the Net Debit Cap. The Proposed Rule Change would eliminate the static Net Debit Caps, changing to a Net Debit Cap ''based on DTC's liquidity resources, related costs, and projected benefits to Participants,'' and always set lower than DTC's total available liquidity.[34] DTC also proposes to clarify in the Settlement Guide, with respect to Affiliated Families, that the Aggregated Affiliated Family Net Debit Cap will be shared among the Participants of the Affiliated Family according to either (1) the proportional liquidity usage of the Participants, or (2) as instructed by the Affiliated Family in writing.[35] DTC will also update the Calculation of Participant Net Debit Caps section of the Settlement Guide to remove reference to the current fixed $2.15 billion Net Debit Cap, and to state that notice of any reduction of the Net Debit Cap in the future will be no fewer than ten days in advance of such decrease taking effect.[36] DTC will also update Rule 9(B) to reflect that a transaction will not process if it causes a Participant in an Affiliated Family to exceed the Aggregate Affiliated Family Net Debit Cap, regardless of whether the Participant is the Instructor or Contra Party.[37]

As part of the Proposed Rule Change, DTC filed an Impact Study on the effects the Proposed Rule Change would have had on Participant's liquidity needs conducted for the period June 2, 2024 through January 31, 2025.[38] Specifically, the Impact Study found that, out of 179 Participant families, 17 would likely see a reduction of their need for SPPs after a Net Debit Cap increase. Specifically, an increase in the Net Debit Cap by $0.75 to $1 billion would lead to a reduction of $3.62 to $4.43 billion in daily SPP's sent across the 17 families.[39]

Second, the Liquidity Fund component of the Participants Fund, set at $700 million, currently is funded solely by those Affiliated Families whose Net Debit Cap exceeds $2.15 billion.[40] As the Proposed Rule Change would increase the Net Debit Cap for an individual Participant beyond $2.15 billion, those Unaffiliated Participants whose Net Debit Cap exceeds $2.15 billion will be included along with Affiliated Families with Net Debit Caps exceeding $2.15 billion in the allocation of the Liquidity Fund.[41] To reflect this change, the description of the Liquidity Fund within the Settlement Guide will be updated accordingly.[42] The Impact Study showed that with this Proposed Rule Change, two Unaffiliated Participants would become subject to the Liquidity Fund.[43]

The Settlement Guide would also be updated to reflect the new calculation to determine Liquidity Fund allocation between Affiliated Families and Independent Participants. Whereas within an Affiliated Family, each Participant of the Family pays a percentage portion of the allocated total owed by the Affiliated Family as a whole, an Individual Participant pays the entire allocated portion of the Liquidity Fund.[44] Additionally, several edits to the Liquidity Fund section are proposed to update and clarify the language for readability and simplicity.[45]

To simplify the description of the components of the Participants Fund, the Proposed Rule Change will revise the Amounts subsection to the Participants Fund and Preferred Stock Investment section of the Settlement Guide.[46] Currently, this section outlines four separate aspects of the Participants Fund: the Core Fund, the Base Fund, the Incremental Fund, and the Liquidity Fund. However, in practice, the Base Fund and Incremental Fund are the two components of the Core Fund.[47] To clarify this, the Proposed Rule Change will remove the Base Fund and Incremental Fund from the description of the separate component amounts which create the Participants Fund.[48]

Finally, the Proposed Rule Change would also add new definitions to the Settlement Guide and the Rules and update the description of the Collateral Monitor within the Settlement Guide. The Settlement Guide's Important Terms section will be updated to include definitions for Affiliated Family and Unaffiliated Participant.[49] An Affiliated Family will mean ''each Participant that controls or is controlled by another Participant and each Participant that is under the common control of any person.'' Under this definition, ''control'' means the direct or indirect ownership of more than 50 percent of the voting securities or voting interests of any person.[50] An Unaffiliated Participant will be defined to mean a Participant that is not included in an Affiliated Family.[51] The Settlement Guide will be edited further to refer to the Collateral Monitor as a ''calculation'' rather than a ''process.''[52] Finally, the term Aggregate Affiliated Family Net Debit will be added to Rule 1 of the Rules and defined as, ''the amount by which the algebraic sum of all money debits and charges to the Accounts of an Affiliated Family exceeds the sum of all money credits thereto.''[53]

IV. Discussion and Commission Findings

Section 19(b)(2)(C) of the Act[54] directs the Commission to approve a proposed rule change of a self-regulatory organization if it finds that such proposed rule change is consistent with the requirements of the Act and rules and regulations thereunder applicable to such organization. After careful review of the Proposed Rule Change, the Commission finds that the Proposed Rule Change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to DTC. In particular, the Commission finds that the Proposed Rule Change is consistent with Section 17A(b)(3)(F) of the Act[55] and Rule 17Ad–22(e)(7)(i) thereunder.[56]

A. Consistency With Section 17A(b)(3)(F) of the Act

Section 17A(b)(3)(F) of the Act requires that the rules of a clearing agency, such as DTC, be designed to, among other things, promote the prompt and accurate clearance and settlement of securities transactions and remove impediments to and perfect the mechanism of a national system for the prompt and accurate clearance and

[32] *Id.*
[33] *Id.*
[34] *Id.*
[35] *Id.* at 61208.
[36] *Id.*
[37] *Id.*
[38] DTC has requested confidential treatment of Exhibit 3, the Impact Study, pursuant to 17 CFR 240.24b–2.
[39] *See* Notice of Filing, *supra* note 4, at 61207.
[40] *Id.*
[41] *Id.*
[42] *Id.*
[43] *Id.*
[44] *Id.*
[45] *Id.*
[46] *Id.*
[47] *Id.*
[48] *Id.*
[49] *Id.*
[50] *Id.*
[51] *Id.*
[52] *Id.*
[53] *Id.* at 61208.
[54] 15 U.S.C. 78s(b)(2)(C).
[55] 15 U.S.C. 78q–1(b)(3)(F).
[56] 17 CFR 240.17Ad–22(e)(7)(i).

settlement of securities transactions.[57] The Proposed Rule Change is consistent with Section 17A(b)(3)(F) of the Act for the reasons stated below.

As noted in Section II above, the Net Debit Cap is a risk management tool utilized by DTC. By limiting the settlement net debit any Participant can incur at any point during the processing day to an amount below DTC's liquidity resources, DTC uses the Net Debit Cap to protect the DTC settlement system in the event of a Participant default. This ensures that DTC maintains sufficient financial resources to complete settlement in the event of a failure to settle by the largest Participant or Affiliated Family of Participants. As noted in Section III above, DTC filed an Impact Study accompanying the Proposed Rule Change. The Commission has reviewed and analyzed the filing materials, including the Impact Study. An increase of the Net Debit Cap would not impact DTC's ability to meet its liquidity obligations because, as discussed in Part III, the proposed Net Debit Cap increase would continue to be supported by sufficient DTC qualifying liquid resources, as the floating amount will always be lower than DTC's total available liquidity.[58] Because the increase in Net Debit Cap should improve transaction processing while still ensuring that DTC has sufficient liquidity resources in the event of default, the Commission finds that the Proposed Rule Change should enhance DTC's ability to provide prompt and accurate clearance and settlement of securities transactions, consistent with Section 17A(b)(3)(F) of the Act.

The Proposed Rule Change is consistent with removing impediments to and perfecting the mechanism of a national system for the prompt and accurate clearance and settlement of securities transactions. As described above, DTC employs Debit Caps as a risk management tool to regulate the total settlement obligation that any Participant or Affiliated Family may incur. As DTC does not process transactions that would result in a Participant exceeding its Net Debit Cap, such transactions remain pending until the Participant's Net Debit Balance is sufficiently reduced to permit processing. By raising the Net Debit Cap, a greater number of transactions could be processed without requiring the Participant to first reduce its Net Debit Balance.[59]

The Commission has reviewed and analyzed the the Impact Study. The Impact Study demonstrates that an increase of the Net Debit Cap would elicit an immediate reduction in the number of SPPs required to complete transactions. A higher Net Debit Cap should reduce blockages from transactions pending due to a Participant reaching their Net Debit Cap and reduce the need to submit SPPs. Accordingly, the proposal is designed to remove impediments to and perfect the mechanism of a national system for the prompt and accurate clearance and settlement of securities transactions, consistent with Section 17A(b)(3)(F) of the Act.[60]

B. Consistency With Rule 17Ad–22(e)(7)(i)

Rule 17Ad–22(e)(7)(i) requires that, among other things, DTC establish, implement, maintain and enforce written policies and procedures reasonably designed to, as applicable, effectively measure, monitor, and manage the liquidity risk that arises in or is borne by the covered clearing agency, including measuring, monitoring, and managing its settlement and funding flows on an ongoing and timely basis, and its use of intraday liquidity by maintaining sufficient liquid resources at the minimum in all relevant currencies to effect same-day, and, where appropriate, intraday and multiday settlement of payment obligations with a high degree of confidence under a wide range of foreseeable stress scenarios, that includes, but is not limited to, the default of the participant family that would generate the largest aggregate payment obligation for DTC in extreme but plausible market conditions.[61]

As discussed in Part II, the Net Debit Cap restricts a Participant's net debit settlement obligation to an amount that can be satisfied with DTC's liquidity resources at any point during its processing day. As outlined in Part III, the proposed increase in the Net Debit Cap would be capped by DTC's available qualifying liquid resources when considering the Participants Fund, LOC, and Debt Issuance collectively, and it would not alter the current methods for monitoring settlement flows and net debit obligations. This should enable DTC to maintain sufficient liquid resources to meet its payment obligations under a wide range of foreseeable stress scenarios, including the default of the Individual Participant or Affiliated Family causing the largest aggregate payment obligation for DTC in extreme but plausible market conditions.

For the reasons above, the Commission finds that the Proposed Rule Change is consistent with Rule 17Ad–22(e)(7)(i) under the Act.[62]

V. Conclusion

On the basis of the foregoing, the Commission finds that the Proposed Rule Change is consistent with the requirements of the Act, and in particular, with the requirements of Section 17A of the Act[63] and the rules and regulations promulgated thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act[64] that proposed rule change SR–DTC–2025–019, be, and hereby is, APPROVED.[65]

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[66]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026–02117 Filed 2–2–26; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–104738; File No. SR–MIAX–2026–04]

Self-Regulatory Organizations; Miami International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Rule 307, Position Limits, and Rule 309, Exercise Limits, Regarding Position and Exercise Limits on Options Overlying Certain Crypto Assets

January 29, 2026.

Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 28, 2026, Miami International Securities Exchange, LLC (''MIAX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit

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[57] 15 U.S.C. 78q–1(b)(3)(F).

[58] *See* Notice of Filing, *supra* note 4, at 61207–08. *See also* Settlement Guide, *supra* note 3, at 71.

[59] *See* Settlement Guide, *supra* note 3, at 71.

[60] 15 U.S.C. 78q–1(b)(3)(F).

[61] 17 CFR 240.17Ad–22(e)(7)(i).

[62] *Id.*

[63] 15 U.S.C. 78q–1.

[64] 15 U.S.C. 78s(b)(2).

[65] In approving the Proposed Rule Change, the Commission considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[66] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Exchange Rule 307, Position Limits, and Exchange Rule 309, Exercise Limits in connection with the following options overlying Exchange-Traded Fund Shares: Fidelity Wise Origin Bitcoin Fund (''FBTC''), ARK 21Shares Bitcoin ETF (''ARKB''), VanEck Bitcoin ETF (''HODL''), Fidelity Ethereum Fund, iShares Ethereum Fund,[3] Bitwise Ethereum ETF, Grayscale Ethereum Trust, Grayscale Ethereum Mini Trust.

The text of the proposed rule change is available on the Exchange's website at *https://www.miaxglobal.com/markets/us-options/all-options-exchanges/rule-filings* and at MIAX's principal office.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Exchange Rule 307, Position Limits, and Exchange Rule 309, Exercise Limits,[4] in connection with the following options overlying Exchange-Traded Fund Shares: Fidelity Wise Origin Bitcoin Fund (''FBTC''), ARK 21Shares Bitcoin ETF (''ARKB''), VanEck Bitcoin ETF (''HODL''), Fidelity Ethereum Fund, iShares Ethereum Fund, Bitwise Ethereum ETF, Grayscale Ethereum Trust, Grayscale Ethereum Mini Trust (collectively ''the Crypto Assets''). This is a filing based on a similar proposal submitted by Nasdaq ISE, LLC (''ISE'') and noticed by the Securities and Exchange Commission (''Commission'').[5]

Background

In November 2024, the Exchange filed a proposal which was noticed for immediate effectiveness by the Commission to list and trade options on Fidelity Wise Origin Bitcoin Fund (''FBTC'') and ARK 21Shares Bitcoin ETF (''ARKB'').[6] On July 30, 2025, the Exchange filed to allow the Exchange to list and trade options on the VanEck Bitcoin ETF (''HODL'').[7] In April 2025, the Exchange filed a proposal which was noticed for immediate effectiveness by the Commission to list options on the Fidelity Ethereum Fund,[8] the iShares Ethereum Fund,[9] and the Grayscale Ethereum Trust, the Grayscale Ethereum Mini Trust, and the Bitwise Ethereum ETF.[10] These aforementioned notices permitted the Exchange to trade the Crypto Assets subject to a 25,000 contract position and exercise limit.

In August 2025, the Exchange filed a proposal which was noticed for immediate effectiveness by the Commission to amend the position and exercise limits for options on the iShares Bitcoin Trust ETF,[11] Grayscale Bitcoin Trust ETF (''GBTC''), Grayscale Bitcoin Mini Trust ETF (''BTC''), and the Bitwise Bitcoin ETF (''BITB'')[12] to eliminate the 25,000 contract position and exercise limits. On November 14, 2025, the Exchange's proposal to permit certain options on Exchange-Traded Fund Shares that meet certain generic requirements to be listed as a Commodity-Based Trust was deemed approved.[13] As amended, Exchange Rule 402(i)(6) specifies that the Exchange may list and trade options on a Commodity-Based Trust that meets the generic listing standards for Commodity-Based Trust Shares of the applicable primary listing market, except that the Commodity-Based Trust holds a single crypto asset. Further, a Commodity-Based Trust that meets the requirements of Exchange Rule 402(i)(6) must also satisfy the following requirements: (A) the total global supply

[3] In Exchange Rules 307 and 309, the Exchange refers to the iShares Ethereum Trust ETF as the iShares Ethereum Fund.

[4] The Exchange notes that all the rules of Chapter III of MIAX, including Rules 307 and 309, are incorporated by reference into the rulebooks of MIAX Emerald, LLC, MIAX Pearl, LLC and MIAX Sapphire, LLC.

[5] *See* Securities Exchange Act Release No. 104648 (January 7, 2026) (SR–ISE–2026–01) (Self-Regulatory Organizations; Nasdaq ISE, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Remove Restrictions on Certain Crypto Assets) (''ISE Filing'').

[6] *See* Securities Exchange Act Release No. 101717 (November 21, 2024), 89 FR 94828 (November 29, 2024) (SR–MIAX–2024–43) (Self-Regulatory Organizations; MIAX Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Exchange Rule 402, Criteria for Underlying Securities, Exchange Rule 307, Position Limits, and Exchange Rule 309, Exercise Limits To Allow the Exchange To List and Trade Options on the Fidelity Wise Origin Bitcoin Fund and the ARK 21Shares Bitcoin ETF).

[7] *See* Securities Exchange Act Release No. 103612 (July 30, 2025), 90 FR 37578 (August 5, 2025) (SR–MIAX–2025–36) (Self-Regulatory Organizations; Miami International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Exchange Rule 402, Criteria for Underlying Securities, Exchange Rule 307, Position Limits, and Exchange Rule 309, Exercise Limits To Allow the Exchange To List and Trade Options on the VanEck Bitcoin Trust).

[8] *See* Securities Exchange Act Release No. 102821 (April 9, 2025), 90 FR 16339 (April 17, 2025) (SR–MIAX–2025–20) (Self-Regulatory Organizations; Miami International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Exchange Rule 402, Criteria for Underlying Securities, Exchange Rule 307, Position Limits, and Exchange Rule 309, Exercise Limits To Allow the Exchange To List and Trade Options on the Fidelity Ethereum Fund).

[9] *See* Securities Exchange Act Release No. 102832 (April 10, 2025), 90 FR 16380 (April 17, 2025) (SR–MIAX–2025–19) (Self-Regulatory Organizations; Miami International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Exchange Rule 402, Criteria for Underlying Securities, Exchange Rule 307, Position Limits, and Exchange Rule 309, Exercise Limits To Allow the Exchange To List and Trade Options on the iShares Ethereum Trust).

[10] *See* Securities Exchange Act Release No. 102846 (April 11, 2025), 90 FR 16272 (April 17, 2025)(SR–MIAX–2025–21) (Self-Regulatory Organizations; Miami International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Amend Exchange Rule 402, Criteria for Underlying Securities, Exchange Rule 307, Position Limits, and Exchange Rule 309, Exercise Limits To Allow the Exchange to List and Trade Options on the Grayscale Ethereum Trust, the Grayscale Ethereum Mini Trust, and the Bitwise Ethereum ETF).

[11] *See* Securities Exchange Act Release No. 103644 (August 5, 2025), 90 FR 38521 (August 8, 2025) (SR–MIAX–2025–37) (Self-Regulatory Organizations; Miami International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Exchange Rule 307, Position Limits, and Exchange Rule 309, Exercise Limits To Allow the Exchange To Increase the Position and Exercise Limits for iShares Bitcoin Trust ETF).

[12] *See* Securities Exchange Act Release No. 103749 (August 14, 2025), 90 FR 41426 (August 25, 2025)(SR–MIAX–2025–38) (Self-Regulatory Organizations; Miami International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Change To Amend Exchange Rule 307, Position Limits, and Exchange Rule 309, Exercise Limits To Allow the Exchange To Increase the Position and Exercise Limits for Grayscale Bitcoin Trust ETF, Grayscale Bitcoin Mini Trust ETF, and the Bitwise Bitcoin ETF).

[13] *See* Securities Exchange Act Release Nos. 104210 (November 14, 2025), 90 FR 52727 (November 21, 2025) (SR–MIAX–2025–07) (Self-Regulatory Organizations; BOX Exchange LLC, Cboe Exchange, Inc., Cboe BYX Exchange, Inc., Cboe BZX Exchange, Inc., Cboe EDGX Exchange, Inc., Miami International Securities Exchange, LLC, MIAX PEARL, LLC, MIAX Sapphire, LLC, Nasdaq ISE, LLC, New York Stock Exchange LLC, NYSE American LLC, NYSE Arca, Inc., NYSE National, Inc., and NYSE Texas, Inc.; Notice of Deemed Approval of Various Proposed Rule Changes); *and* 104451 (December 4, 2025), 90 FR 60208 (December 23, 2025)(SR–MIAX–2025–49)(Self-Regulatory Organizations; Miami International Securities Exchange, LLC; Notice of Filing of a Proposed Rule Change To Amend Exchange Rule 402, Criteria for Underlying Securities, To Permit Options on Commodity-Based Trust Shares).

of the underlying crypto asset held by the Commodity-Based Trust has an average daily market value of at least $700 million over the last 12 months; and (B) the crypto asset held by the Commodity-Based Trust underlies a derivatives contract that trades on a market with which the Exchange has a comprehensive surveillance sharing agreement, whether directly or through common membership in the Intermarket Surveillance Group. Position and exercise limits for options on Commodity-Based Trusts that list and trade pursuant to Exchange Rule 402(i)(6) would be determined pursuant to Exchange Rules 307 and 309, respectively, as is the case for other options on other ETFs.

Proposal

The Crypto Assets all qualify for listing pursuant to Exchange Rule 402(i)(6). As such, similar to other options listed pursuant to Exchange Rule 402(i)(6), the Crypto Assets should be subject to the position limits set forth in Exchange Rule 307, and subject to the exercise limits set forth in Exchange Rule 309. To that end, the Exchange proposes to remove the 25,000 position and exercise limit restrictions for the Crypto Assets. With this proposal, Crypto Assets that qualify to be listed pursuant to Exchange Rule 402(i)(6) would be treated similar to all other options for purposes of position and exercise limits.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[14] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [15] 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) [16] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange's proposal to permit the Crypto Assets, which qualify for listing pursuant to Exchange Rule 402(i)(6), to be subject to the position limits set forth in Exchange Rule 307 and subject to the exercise limits set forth in Exchange Rule 309 similar to all other options is consistent with the Act as this treatment promotes just and equitable principles of trade.

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. In this regard and as indicated above, the Exchange notes that the rule change being proposed is very similar in nature to the ISE Filing.[17]

The Exchange's proposal does not burden intra-market competition because the Crypto Assets that qualify to be listed pursuant to Exchange Rule 402(i)(6) would be treated similar to all other options for purposes of position and exercise limits.

The Exchange does not believe that the proposed rule change will impose any burden on inter-market competition as the proposal is not competitive in nature. The Exchange expects that all option exchanges will adopt substantively similar proposals, such that the Exchange's proposal would benefit competition. For these reasons, the Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act [18] and Rule 19b–4(f)(6) thereunder.[19]

A proposed rule change filed under Rule 19b–4(f)(6) [20] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[21] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange states that waiver of the operative delay will allow the Exchange to treat options on Crypto Assets in the same manner as all other options that qualify for listing pursuant to Exchange Rule 402(i)(6). The Exchange also states that the proposal does not significantly affect the protection of investors or the public interest because options on Crypto Assets that qualify for listing pursuant to Exchange Rule 402(i)(6) are subject to the position and exercise limits set forth in Exchange Rules 307 and 309, respectively. Finally, the Exchange notes that another exchange filed a notice for immediate effectiveness, substantively similar in relevant part, with the Commission, which notice is effective.[22] For these reasons, and because the proposal does not raise new or novel regulatory issues, the Commission believes that waiver of the operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission hereby waives the 30-day operative delay and designates the proposal operative upon filing.[23]

At any time within 60 days of the filing of this proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of

[14] 15 U.S.C. 78f(b).

[15] 15 U.S.C. 78f(b)(5).

[16] *Id.*

[17] *See supra* note 5.

[18] 15 U.S.C. 78s(b)(3)(A)(iii).

[19] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[20] 17 CFR 240.19b–4(f)(6).

[21] 17 CFR 240.19b–4(f)(6)(iii).

[22] *See supra* note 5.

[23] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. 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–MIAX–2026–04 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–MIAX–2026–04. 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–MIAX–2026–04 and should be submitted on or before February 24, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[24]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026–02115 Filed 2–2–26; 8:45 am]

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[24] 17 CFR 200.30–3(a)(12), (59).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–104746; File No. SR–FINRA–2026–001]

[Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing of a Proposed Rule Change To Adopt FINRA Rule 3290 (Outside Activities Requirements)

DATES: January 29, 2026.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Exchange Act'' or ''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 22, 2026, the Financial Industry Regulatory Authority, Inc. (''FINRA'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by FINRA. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

FINRA is proposing to adopt FINRA Rule 3290 (Outside Activities Requirements) and to delete existing FINRA Rules 3270 (Outside Business Activities of Registered Persons) and 3280 (Private Securities Transactions of an Associated Person). The amended requirements focus on outside activities appropriately within members' purview that potentially present heightened risks for members and the public. In so doing, the amended requirements bolster members' review of these activities while reducing unnecessary burdens.

The text of the proposed rule change is available on FINRA's website at *http://www.finra.org* and at the principal office of FINRA.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, FINRA 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. FINRA has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Existing Rules

Proposed new FINRA Rule 3290 would replace existing Rules 3270 and 3280. Current Rule 3270 prohibits a registered person from being an employee, independent contractor, sole proprietor, officer, director or partner of another person, or being compensated, or have the reasonable expectation of compensation, by any other person as a result of any business activity outside the scope of the relationship with his or her member (''outside business activity'' or ''OBA''), unless he or she has provided prior written notice to the member.

Once notified pursuant to Rule 3270, the member must consider whether the proposed OBA will: (1) interfere with or otherwise compromise the registered person's responsibilities to the member or the member's customers or (2) be viewed by customers or the public as part of the member's business based upon, among other factors, the nature of the proposed activity and the manner in which it will be offered. Based on the member's review of such factors, the member must evaluate the advisability of imposing specific conditions or limitations on a registered person's OBA, including where circumstances warrant, prohibiting the activity.

The member also must assess whether a registered person's activity properly is characterized as an OBA or whether it should be treated as a ''private securities transaction'' (''PST'') subject to the requirements of current Rule 3280. A PST is a securities transaction outside the regular course or scope of an associated person's employment with a member.

Rule 3280 provides that, prior to participating in any PST, an associated person (which includes both registered and non-registered persons) must provide written notice to the member with which he or she is associated, describing in detail the proposed transaction and the associated person's proposed role, and indicating whether the associated person has received or may receive selling compensation in connection with the transaction. If the PST does not involve selling compensation, the member must provide prompt written acknowledgement of the notice and may, at its discretion, require the associated person to adhere to specified conditions in connection with the

associated person's participation in the transaction. If the PST involves selling compensation, the member must inform the associated person in writing whether it approves or disapproves the associated person's participation in the transaction. If the member approves the associated person's participation in the PST for selling compensation, the member must record the transaction on its books and records and supervise the associated person's participation as if the transaction were executed on behalf of the member.

Moreover, through a series of *Notices to Members* issued in the 1990s, FINRA applied these PST obligations to outside investment adviser (''IA'') activities.[3] These *Notices to Members* state that an associated person's outside IA activities constitute ''participation in'' PSTs if he or she did more than simply recommend the securities transactions (*i.e.,* an IA's effecting or placing an order would constitute ''participation in'' a PST under these *Notices to Members*).

Overview of Proposed Amendments

FINRA is proposing Rule 3290 to address the non-securities business activities and securities transactions that are outside the scope of individuals' association with a member. The proposed amendments would focus the rule on investment-related activities to reduce unnecessary burdens while maintaining the core investor protections of existing Rules 3270 and 3280.

Proposed Rule 3290 would replace the two current rules—Rules 3270 and 3280—with one rule and is intended to enhance efficiency without compromising protections for investors and members relating to outside activities. Importantly, many of the requirements and treatment under Rules 3270 and 3280 would remain the same or be substantially similar under proposed Rule 3290. For instance, consistent with Rules 3270 and 3280, proposed Rule 3290 would maintain:

- the dichotomy of covering registered persons' investment-related outside non-securities activities and associated persons' outside securities transactions;
- the requirement that persons provide prior written notice of investment-related outside activities and outside securities transactions to members;
- the requirement that a member, upon receiving a notice, assess, among other things, whether the activity will interfere with or otherwise compromise the person's responsibilities to the member or the member's customers or be viewed by the member's customers or the public as part of the member's business based upon, among other factors, the nature of the proposed activity and the manner in which it will be offered;
- the requirement that members provide prior written approval or disapproval only for outside securities transactions for selling compensation;
- the recordkeeping requirements for investment-related outside non-securities activities under Rule 3270.01;
- the supervision and recordkeeping obligations under Rule 3280(c)(2) when a member approves an associated person's participation in a PST for selling compensation; and
- the definition of ''selling compensation'' in Rule 3280(e)(2).

Proposed Rule 3290 also would codify FINRA staff's positions on the application of the rule with respect to acting as a portfolio manager or investment committee member for certain entities; activity pursuant to a contractional relationship between a member and an unaffiliated entity; certain outside securities activity at banks and other financial institutions; and formal allocation agreements between members.

As compared to Rules 3270 and 3280, proposed Rule 3290 would enhance regulatory efficiency relating to outside activities requirements by:

- focusing on those outside investment-related activities appropriately within the members' purview that are a potential risk to members and the public—maintaining investor protection while decreasing burdens on members by eliminating the reporting and assessment of lower-risk activities;
- providing several exclusions from the rule's coverage for lower-risk activities, including activity conducted at an affiliate of a member, certain personal real estate activities and personal investments in non-securities;
- revising the approach to outside unaffiliated IA activity from requiring supervision and recordkeeping of this activity to requiring written notice and upfront assessment obligations for such activity; and
- providing the ability for FINRA staff to grant an exemption from the provisions of the rule subject to certain conditions.

Investment-Related Activities

Proposed Rule 3290 focuses on outside investment-related activities that may pose a greater risk to members and the public. This would both maintain investor protection and decrease burdens on members by eliminating the reporting and assessment of lower-risk non-investment related activities that create white noise (*e.g.,* refereeing sports games, driving for a car service, bartending on weekends). This focus would allow members to dedicate resources to activities presenting higher risk, particularly the risk that customers or the public would view the activities as part of the member's business and thus under its supervision (*e.g.,* selling fixed annuities, commodities or private placements away from the member).

Proposed Rule 3290(f)(3) defines ''investment-related activity'' as pertaining to financial assets, including securities, crypto assets, commodities, derivatives (such as futures and swaps), currency, banking, real estate or insurance. The term includes, but is not limited to, acting as or being associated with a broker-dealer (''BD''); issuer; insurance agent or company; investment company; IA; futures commission merchant; commodity trading advisor; commodity pool operator; municipal advisor; futures sponsor; bank; savings association; or credit union. The term also includes personal securities transactions (sometimes referred to as ''buying away''),[4] other than transactions in accounts that are made known to the member under, or otherwise delineated in, Rule 3210 (*e.g.,* securities held at other members, as well as transactions in certain securities, such as mutual funds, Section 529 plans and variable annuities).[5]

[3] *See Notice to Members* 94–44 (May 1994); *Notice to Members* 96–33 (May 1996).

[4] When an individual makes a personal securities investment away from the employing member, and the transaction is not otherwise covered by Rule 3210 (Accounts at Other Broker-Dealers and Financial Institutions), the securities transaction is considered ''buying away,'' which is subject to Rule 3280. *See, e.g., Jay Frederick Keeton,* 50 SEC. 1128, 1129–30 (1992) (finding a violation of Rule 3280's predecessor rule where respondent made undisclosed and unapproved purchases in three partnerships); *Dep't of Enforcement* v. *Friedman,* Complaint No. 2005000835801, 2010 FINRA Discip. LEXIS 10, at *19 (FINRA NAC July 26, 2010), *aff'd,* Exchange Act Release No. 64486, 2011 SEC LEXIS 1699 (May 13, 2011) (explaining that ''[Rule 3280] applies to both purchases and sales of securities''); *see also* NASD *Notice to Members* 75–34 (April 1975) (stating that the rule concerning private securities applies to all securities transactions by an associated person ''whether on behalf of themselves or on behalf of customers and others''). The most common ''buying away'' transactions are personal investments in private placements.

[5] FINRA Rule 3210 requires that an associated person must obtain the prior written consent of his or her employer when opening an account, as specified by the rule, at another member or other financial institution. The other member must, upon written request by the employer member, transmit duplicate copies of confirmation and statements, or the transactional data, with respect to an account subject to Rule 3210. The requirements of Rule 3210 do not apply to transactions in unit investment

Registered and Associated Persons' Prior Written Notice Obligations

Proposed Rule 3290 maintains existing requirements regarding prior written notice. As is required today, under proposed Rule 3290(a), *a registered person* who intends to participate in an *outside activity* and, under proposed Rule 3290(b), an *associated person* (including a registered person) who intends to participate in an *outside securities transaction,* must provide prior written notice to the member. The written notice must describe in detail the proposed activity or transaction, the person's proposed role therein and whether the person will receive selling compensation.[6] Under proposed Rule 3290(a), a registered person would be required to provide an updated prior written notice to the member if there is a material change to the outside activity. Similarly, under proposed Rule 3290(b)(2), an associated person would be required to provide an updated prior written notice to the member if there is a material change to an outside securities transaction.

As is true under the current rules, the proposed notice requirements differ depending on whether the notice is of an outside activity, an outside securities transaction not for selling compensation, or an outside securities transaction for selling compensation.[7] Under proposed Rule 3290(a), a single notice is used for an outside activity, while under proposed Rule 3290(b), a separate notice is required for each outside securities transaction unless an exception applies that allows the use of a single notice (*e.g.,* a series of related securities transactions not involving selling compensation).

Members' Responsibilities Upon Receiving Notice

Under proposed Rule 3290(c), upon receiving written notice of a registered person's outside activity or, under proposed Rule 3290(d), an associated person's outside securities transaction, the member must assess whether it:

- Is properly characterized:
  - A person submitting a notice of an activity may, mistakenly or intentionally, mischaracterize it (*i.e.,* submitting a notice of an outside activity when it is an outside securities transaction or an outside securities transaction for selling compensation).
  - Under this provision, a member must analyze whether the activity is properly characterized to determine its obligations, which vary depending on the proper designation of the proposed activity, as discussed below.
- Involves the customer of such associated or registered person.
- Will interfere with or otherwise compromise the person's responsibilities to the member or the member's customers.
- Will be viewed by the member's customers or the public as part of the member's business based upon, among other factors, the nature of the proposed activity and the manner in which it will be offered.

These assessment factors are consistent with the existing requirements under Rule 3270 for an OBA, with the addition that the member must consider whether the activity or transaction involves the customer of such associated or registered person. While Rule 3280 does not include these explicit assessment factors when considering a PST, FINRA understands that many members perform a similar analysis today.

A member's obligations after conducting an assessment would be the same under proposed Rule 3290 as they are under existing rules. As with the existing rules, the member would have differing obligations depending on the activity.

- For a registered person's outside activity, under proposed Rule 3290(c)(2), the member must consider imposing specific conditions or limitations on the outside activity, including where circumstances warrant, prohibiting the activity. However, there is no acknowledgement or approval obligation, and the member is not required to supervise the activity.[8]
- For an associated person's outside securities transaction not for selling compensation, under proposed Rule 3290(d)(2), the member must provide the associated person prompt written acknowledgement of such notice and may, at the member's discretion, require the associated person to adhere to specified conditions in connection with the associated person's participation in the transaction. However, there is no approval obligation, and the member is not required to supervise the activity.[9]
- For an associated person's outside securities transaction for selling compensation, under proposed Rule 3290(d), the member must make a reasonable determination of whether to approve, approve subject to specific conditions or limitations, or disapprove each proposed securities transaction and must notify the associated person in writing of such determination. If approved, the member must record the securities transaction for selling compensation on its books and records and supervise the person's participation in the transaction as if executed on behalf of the member.

Exclusions

Proposed Rule 3290 contains several exclusions from the rule's coverage, including exclusions that are consistent under current Rule 3280. First, proposed Rule 3290(g)(1) provides a new exclusion for an associated person's (including a registered person's) activity on behalf of a member or its affiliate. This includes IA activity at a member that is registered as both a BD and an IA (''dually registered firm''), and IA, insurance or banking activity conducted at an affiliate. Activity performed on behalf of a dually registered firm is not considered activity performed away from the member. The

trusts, municipal fund securities, Section 529 plans and variable contracts or redeemable securities of companies registered under the Investment Company Act of 1940 or to accounts that are limited to transactions in such securities, or to Monthly Investment Plan type accounts.

[6] This language comes from Rule 3280 and was favored for, among other reasons, consistency purposes over the language in Rule 3270—the notice must be ''in such form as specified by the member.'' The definition of ''selling compensation'' in proposed Rule 3290 comes from the current definition in Rule 3280.

[7] Under Rule 3270, a registered person may use a single notice for the proposed outside activity. Rule 3280 requires an associated person to provide prior written notice to the member for each proposed securities transaction, unless an exception applies. *See In re Klaus Langheinrich,* Exchange Act Release No. 34107, 1994 SEC LEXIS 3623, at *6 (May 25, 1994) (explaining that Rule 3280 ''requires that an associated person must give specific prior notice of each transaction if the associated person will receive selling compensation. A single notice will suffice only in the case of a series of related transactions in which no selling compensation has been or will be received'').

[8] The only requirement under proposed Rule 3290 for a member to engage in supervision regards approved outside securities transactions for selling compensation. However, nothing in the proposal would alter the well-settled principle that members must consider ''red flags'' indicating problematic activities. *See, e.g., Dep't of Enforcement* v. *Fox Fin. Mgmt. Corp.,* Complaint No. 2012030724101, 2017 FINRA Discip. LEXIS 3, at *17–18 (FINRA NAC Jan. 6, 2017) (stating that the ''supervisory duties imposed under NASD Rule 3010 include a responsibility to investigate and act upon 'red flags' that reveal irregularities or the potential for misconduct'' and finding that the firm failed to investigate and act upon red flags indicating that an outside business activity in fact involved private securities transactions); *Dep't of Enforcement* v. *Merrimac Corp. Securities, Inc.,* Complaint No. 2009017195204, 2015 FINRA Discip. LEXIS 4, at *9 (FINRA NAC Apr. 29, 2015) (affirming the imposition of sanctions for the firm's failure to adequately consider red flags of outside business activities and private securities transactions, for example, by neglecting ''to investigate after it learned of allegations on a website that one of the outside businesses was a Ponzi scheme and was suffering serious financial difficulties'').

[9] *See supra* note 8.

exclusion for activity conducted at an affiliate recognizes members' and their control persons' ability to implement meaningful controls across business lines.

Second, proposed Rule 3290 revises the member obligations imposed via a series of *Notices to Members* issued in the 1990s for IA activities performed by associated persons at an unaffiliated IA.[10] These obligations have caused significant confusion and practical challenges, including, for example, privacy challenges to a member seeking account information for clients of an unaffiliated IA through which a member's associated person may be acting in an IA capacity. In addition, IAs generally are directly regulated by either the SEC or the states, and subject to a fiduciary obligation to their clients.

Under proposed Rule 3290.03, an associated person's activity at an IA registered either with the SEC under Section 203 of the Investment Advisers Act or with a state securities commission (or any agency or office performing like functions) would be considered an outside activity and not an outside securities transaction. Therefore, the associated person would be required to provide prior written notice of such activity and the member would have upfront assessment obligations, but would not be required to supervise or record the activity.

Third, consistent with Rule 3280, proposed Rule 3290(g)(2) excludes outside securities transactions among immediate family members for which there is no selling compensation.

Fourth, consistent with Rule 3280, proposed Rule 3290(g)(3)(A) excludes outside securities transactions subject to Rule 3210 (*e.g.,* securities in an account held at another member) and transactions delineated in Rule 3210 (*e.g.,* mutual funds, Section 529 plans, variable annuities).

Fifth, proposed Rule 3290(g)(3)(B) provides an additional exclusion for personal investments in non-securities and proposed Rule 3290(g)(3)(C) provides a new exclusion for the purchase, sale, rental or lease of a main home and up to two secondary homes that are: (1) solely owned by the associated person or the associated person and immediate family; (2) owned by the associated person as a sole proprietorship; (3) owned by a corporation, LLC, partnership, limited partnership, or other entity that is solely owned by the associated person or the associated person and immediate family; or (4) owned by a trust with the associated person or the associated person and immediate family as the sole beneficiaries. These exclusions recognize the lower risks to customers and members associated with these activities and the inefficiency of members' having to expend significant resources reviewing them.

Clarifications

Proposed Rule 3290 codifies FINRA staff's positions on requirements in several areas. For instance, an issue that has arisen is whether and to what extent Rules 3270 and 3280 apply to portfolio managers and investment committee members for registered investment companies (*e.g.,* mutual funds, exchange traded funds, unit investment trusts, or registered closed-end funds), unregistered investment companies, business development companies, real estate investment trusts and entities that are recognized as tax exempt. The proposed rule clarifies that an associated person would need to provide prior written notice for such activity. However, if, after providing notice, the associated person engages in such activity, the member would not be required to supervise and maintain records for the activity, unless the associated person is selling such entities' shares for selling compensation and such activity is not otherwise excluded under the proposed rule.

Proposed Rule 3290.01 also clarifies that, if an individual is associated with more than one member and is engaged in an outside securities transaction for selling compensation, the members may develop a written allocation agreement regarding regulatory obligations. FINRA provided this guidance in *Notice to Members* 96–33.

Furthermore, proposed Rule 3290 clarifies the application of the proposed rule to certain non-affiliated activity including activity that qualifies under the Gramm-Leach-Bliley Act (''GLBA'')[11] or SEC Regulation R.[12] For non-affiliates, consistent with current requirements, under proposed Rule 3290.04, an associated person's activity that is pursuant to a contract between a member and another entity (*e.g.,* banking or insurance networking arrangement) would not be subject to proposed Rule 3290 if such activity is conducted on behalf of the member and it is within the scope of the associated person's relationship with the member.[13]

Similarly, under proposed Rule 3290.05, an associated person's securities activity on behalf of a non-affiliate entity that is not covered by a contract between the member and such entity but that qualifies under the GLBA or Regulation R's exceptions to broker or dealer registration requirements would be considered an outside activity and not an outside securities transaction. Thus, this activity would have a prior written notice and upfront assessment requirement but would not be subject to supervision and recordkeeping.

General Exemptive Authority

To address fact-specific scenarios, proposed Rule 3290 includes general exemptive authority allowing FINRA staff, pursuant to the FINRA Rule 9600 Series,[14] to conditionally or unconditionally grant an exemption from any provision of proposed Rule 3290 for good cause shown, after taking into account all relevant factors and provided that such exemption is consistent with the purposes of proposed Rule 3290, the protection of investors, and the public interest.[15] While the scope of proposed Rule 3290 applies to a wide range of outside investment-related activities, there may be situations where it ostensibly applies but the specific facts justify an exemption. Accordingly, FINRA believes it would be useful and appropriate to have the flexibility to provide relief from a particular provision of proposed Rule 3290 under specific factual circumstances.[16]

[10] *See supra* note 3.

[11] With GLBA, Congress eliminated banks' general exception from the definition of ''broker'' or ''dealer'' in the Exchange Act. In place of the general exception, GLBA amended Section 3(a)(4)(B) of the Exchange Act to provide 11 carve-outs to allow banks to engage in certain securities activities without being considered a ''broker'' under the securities laws. A bank would be considered a broker for any securities activities that fall outside of the exceptions and, accordingly, subject to regulation under the Exchange Act or be required to ''push out'' the activities to a broker-dealer.

[12] On September 24, 2007, the SEC and the Board of Governors of the Federal Reserve System jointly adopted final rules, known collectively as Regulation R, to clarify, and in certain cases expand upon, the statutory exceptions for banks' securities activities under the Exchange Act, as amended by GLBA. *See* Exchange Act Release No. 56501 (September 24, 2007); 72 FR 56514 (October 3, 2007); *see also* Exchange Act Release No. 47364 (February 14, 2003); 68 FR 8686 (February 24, 2003).

[13] As is currently required, such activity would be subject to broker-dealer supervision under FINRA Rule 3110.

[14] The Rule 9600 Series provides the procedures for members that seek exemptive relief as permitted under specified rules. *See* Rules 9610 through 9630.

[15] FINRA is also proposing to amend Rule 9610 to add proposed Rule 3290 to the list of rules under which a member may seek exemptive relief.

[16] FINRA notes that the proposed rule change would not impact members that are funding portals but would impact all other members including members that have elected to be treated as capital acquisition brokers (''CABs''), given that the CAB rule set incorporates the impacted FINRA rules by reference.

If the Commission approves the proposed rule change, FINRA will announce the effective date of the proposed rule change in a *Regulatory Notice.*

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,[17] which requires, among other things, that FINRA rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest.

The proposed rule is designed to maintain the important longstanding goal of protecting the investing public when a member's registered or associated persons engage in potentially problematic activities that are unknown to the member but could be perceived by the investing public as part of the member's business. The proposed rule change would clarify and streamline Rules 3270 and 3280 into proposed Rule 3290 and would maintain the core investor protections of the existing rules, addressing the non-securities business activities and securities transactions that are outside the regular scope of individuals' association with a member. But importantly, the proposed rule narrows the focus to investment-related activities to reduce unnecessary burdens on members by eliminating the reporting and assessment of low-risk activities. This focus would allow members to dedicate resources to activities presenting higher risk, particularly the risk that customers or the public would view the activities as part of the member's business.

FINRA believes that by enabling members to redirect supervisory and compliance resources away from low-risk activities that pose minimal investor protection concerns toward higher-risk investment-related activities, the proposed rule change serves the public interest by promoting more effective risk-based oversight and strengthening protection where it matters most. Accordingly, FINRA believes that the proposed rule would enhance the efficiency and effectiveness of outside activities requirements and thus investor protection.

B. Self-Regulatory Organization's Statement on Burden on Competition

FINRA does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. All members would be subject to the proposed amendments.

Economic Impact Assessment

FINRA has undertaken an economic impact assessment to analyze the regulatory need for the proposed rule change, its potential economic impacts, including anticipated costs, benefits, and distributional and competitive effects, relative to the current baseline, and the alternatives FINRA considered in assessing how best to meet FINRA's regulatory objectives.

Economic Baseline

The economic baseline is current Rules 3270 and 3280, in addition to related guidance and current practices. As discussed above, Rule 3270 applies to registered persons while Rule 3280 applies to associated persons, whether registered or not. All such individuals and members are subject to these rules, irrespective of the members' business model, client base and product type. These rules set the minimum standards for reporting outside activities to members, but members may apply stricter criteria and prohibit or limit particular activities.

The number of individuals subject to both rules (*i.e.,* the number of approved FINRA-registered persons) is 635,055, registered with 3,224 members. In addition, non-registered associated persons are subject to Rule 3280 but not Rule 3270. While FINRA does not know the exact number of non-registered associated persons, we estimate that there are about 500,000 such persons, composed of, among others, non-registered fingerprinted individuals (''NRFs'') and non-registered owners and officers.[18] Both registered and non-registered persons can be affiliated with more than one member firm.

In 2017, FINRA conducted a retrospective review of Rules 3270 and 3280 that included a survey of members.[19] Approximately 80 percent of the members that responded to the 2017 survey stated that they have received at least one written notice in the last five years pursuant to Rule 3270. Approximately 40 percent of the registered persons of those members provided written notices. Based on Form U4 information, nearly 50 percent of currently registered persons report one or more other businesses (outside their relationship with the member), covering almost 98 percent of members. Registered persons reported a broad range of non-investment-related activities.[20]

Rule 3280 requires associated persons to provide prior written notice before participating in any manner in PSTs. In the 2017 survey, approximately 40 percent of the responding members stated that they had received at least one written notice in the prior five years pursuant to Rule 3280. Approximately 19 percent of the associated persons with those members provided written notices.

Economic Impacts

Relative to the baseline of current requirements, the proposed rule change retains similar distinctions and obligations present in Rules 3270 and 3280, but reduces burdens in a number of ways and streamlines requirements. The proposed rule change limits the scope of non-securities related outside activities reportable by registered persons to those that are investment related. Activities that are not investment related are common and varied (*e.g.,* refereeing sports games, driving for a car service, bartending on weekends). Removing reporting requirements for such activities would relieve both registered persons and members from costs associated with this reporting and its review. Members may also benefit from focusing the freed compliance resources on those outside activities that are more likely to raise investor protection concerns. There is likely little risk that non-investment-related activities could be perceived by the investing public as part of the member's business.

The proposed rule change also provides several exclusions regarding activity on behalf of the member or its affiliates, as well as exclusions for personal investments in non-securities

[17] 15 U.S.C. 78*o*–3(b)(6).

[18] Figures as of March 31, 2025. The number of NRFs figure could be both over inclusive and under inclusive. For instance, the number of NRFs may overestimate the number of non-registered associated persons as FINRA rules do not require reporting the termination of an NRF's association with a member. Conversely, there may be other non-registered associated persons who are neither fingerprinted nor listed on Form BD who may not be captured in this figure (*e.g.,* certain individuals in compliance and legal departments, certain individuals who perform back-office functions).

[19] The anonymized survey was conducted as part of a retrospective review of both Rule 3270 and Rule 3280. The survey was sent to all member firms in October 2017, and 1,024 member firms responded. Among the firms that responded to the by-laws size question, about half were small firms and the rest were mid-size and large firms.

[20] Question 13 (''Other Business'') in Form U4 requires providing various details about outside activities, including whether it is an investment-related activity. While the question does not perfectly align with the activities reportable under Rule 3270, answers may be indicative of the prevalence and range of outside activities. However, the information provided is not structured, and it is difficult to assess the share of reported outside activity that is investment related. The proposed rule change does not impact reporting on Form U4.

and certain personal real estate activity. Moreover, the proposed rule change does not apply to an associated person's activity that is pursuant to a contract between a member and another entity if such activity is conducted on behalf of the member. In addition, the proposed rule change clarifies the applicability of the rule to an associated person's banking activity that is subject to GLBA or Regulation R. These changes in the proposed rule change reduce burdens while maintaining investor protections.

Under both the proposed rule change and currently for investment-related outside activities, registered persons must provide their firms with prior written notice of the proposed activity and members must review the proposed activity using specified criteria. The proposed rule change standardizes the assessment that members must conduct across all types of reportable activities, upon receiving notice, of registered persons' outside activities and associated persons' outside securities transactions, borrowing from the approach used in Rule 3270. The proposed rule change adds the consideration of whether the activity involves the customers of the registered or associated person.

Relative to the baseline of the current requirements, the proposed rule change provides clearer and more consistent standards for reviewing both outside activities and outside securities transactions, reducing regulatory uncertainty and the associated legal costs to determine when and how the rules apply. FINRA understands that many members already impose the proposed or equivalent requirements. To the extent that members are applying similar or higher standards today, there would be no material impact. For members with lower or less consistent standards, this change would lead to more consistent review and perhaps additional restrictions. For the associated persons in firms that currently follow lower or less consistent standards, there may be a cost imposed in terms of business opportunities delayed, limited or prohibited by the member to the extent that some previously permissible activity is no longer allowable. Investors that interact with these associated persons may face increased search costs for those goods or services as a result.

The proposed rule change reduces regulatory burdens regarding affiliated and unaffiliated IA activities.[21] Affiliated IA activities are excluded from the rule. For unaffiliated IA activities, registered persons would only need to provide prior written notice. In the case of unaffiliated IA activity, members would not need to approve, supervise or recordkeep the activity, but could impose conditions, limitations or prohibitions on the activity. One potential risk of this approach is that customers could be harmed if supervision by an affiliate or unaffiliated IA is less effective than supervision by the member.[22]

For associated persons employed by more than one member, the proposed rule change codifies previous guidance offering the option of formal allocation agreements for outside securities transactions for selling compensation between the members such that at least one of the members agrees to oversee the outside securities transactions. This provision allows for potential efficiency gains for members that may have been unaware of such previous guidance. Associated persons who are overseen by a single member through an allocation agreement may also benefit from lower burdens and simplified oversight. About 1.6 percent of all registered persons work for more than one member, impacting 72.8 percent of members.[23] If the registered person is associated with multiple unaffiliated members, it could facilitate agreements. The proportion of NRFs associated with more than one member is higher, at about two percent, although the proportion of impacted members is lower at 25 percent.[24]

Both members and IAs compete for individuals with similar skill sets. The current rules and the proposed rule change impose a regulatory burden for members that is not matched by equivalent requirements in the IA industry. Relative to the baseline of the current requirements, the focus on investment-related activities in the proposed rule change reduces, but does not eliminate, this regulatory burden. The competitive impacts of the proposed rule change on members and their associated persons depend on the business model of the member and the policies that the member adopts. To the extent that associated persons may seek employment with members based on their policies regarding outside activities, some members may face pressure to use a light touch in their assessment of outside activities and the associated determinations. The different treatment of outside activities for non-registered associated persons versus registered persons can create, on the margin, incentives for some non-registered associated persons to remain unregistered depending on the facts and circumstances. Under the proposed rule change, the exclusion of outside activities that are not investment related may reduce or eliminate that incentive to remain unregistered for some associated persons.

In summary, the proposed rule change could increase the efficiency and effectiveness of member compliance resources by clarifying the obligations of a member and associated persons, focusing attention on the activities more likely to lead to investor harm, and providing clearer and more consistent standards for the assessment that members must conduct, upon receiving notice, of registered persons' outside activities or associated persons' outside securities transactions. Such changes maintain investor protection, but may also have some effect on the investment-related opportunities offered to them. The reduction in legal and compliance costs may also have a positive competitive impact relative to segments of the securities industry that lack equivalent requirements for outside activities.

Alternatives Considered

In developing rule proposals, FINRA recognizes that their design and implementation may impose direct and indirect costs on different market participants, including members, associated persons, regulators, investors and the public. Among the alternatives considered:

- A principles-based approach in lieu of the prescriptive approach set forth in the proposed rule change, which would provide members with more flexibility in developing the systems and the protocols to assess OBAs and PSTs. However, FINRA believes that the approach presented here better balances the costs and benefits of governing outside investment-related activities while providing regulatory effectiveness, clarity and consistency.

[21] Less than three percent of registered representatives associated to less than 17 percent of members have unaffiliated investment advisory activity. Less than one percent of NRFs engages in unaffiliated IA activity. These figures are based on an analysis of Form U4, Form BD and NRF information, restricting the analysis of affiliates to broker-dealers and registered investment advisors. Thus, these numbers represent an upper bound to unaffiliated activity. *See supra* note 18 for caveats on estimates of the number of NRFs.

[22] Most non-BD affiliate activity is overseen by other regulators (*e.g.,* the SEC and states for IA activities, various federal banking regulators for bank activities, and state insurance commissions for insurance activities).

[23] Figures as of March 31, 2025. Registered persons that work for multiple members tend to hold operations professional (series 99) and financial and operations principal (series 27) registrations, particularly among those that are registered with more than five members.

[24] Figures as of March 31, 2025. These percentages might overestimate or underestimate the actual proportion. *See supra* note 18.

• Applying outside activities requirements to all associated persons (rather than using the existing bifurcated approach of applying PST requirements to associated persons and OBA requirements to registered persons) or adding a requirement for prior written approval for all outside activities. Either one of these changes would have further streamlined the application of the rule, but potentially would increase regulatory costs for associated persons and members, in particular smaller firms.

• A broader scope for the activities covered by the proposed rule change, to include outside financial services activities beyond investment-related activity, such as acting as an accountant, treasurer or comptroller. The current definition of ''investment-related activity'' focuses on outside activities that are most likely to lead to investor confusion, conflicts of interest for the registered person and potential investor harm.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

In March 2025, FINRA published *Regulatory Notice 25–05* (the ''*Notice*''), requesting comment on the proposed rule change (the ''*Notice* Proposal''). FINRA received 216 comments in response to the *Notice,* 72 of which were individualized letters and 144 of which were one of three form letters. A copy of the *Notice* is available on FINRA's website at *http://www.finra.org.* A list of the commenters in response to the *Notice* and copies of the comment letters received in response to the *Notice* are available on FINRA's website.[25]

Commenters had different views regarding several aspects of the *Notice* Proposal. A summary of the comments and FINRA's response is provided below.

Broad Support for Streamlining Rules

There was broad support from commenters for streamlining the existing rules (Rules 3270 and 3280) into a new consolidated rule that focuses on activities that pose the greatest risks to investors.[26] However, several commenters opposed the proposal's objective and advocated for maintaining the status quo, in which all outside business activities are reported and outside investment advisory activity involving selling compensation, including such activity with affiliates, are supervised by member firms.[27]

Scope of ''Investment-Related Activity''

While there was broad support for streamlining the existing rules, there was not agreement regarding the proper scope of activities that firms should be required to assess. Several commenters favored narrowing the scope of activity subject to the rule's notice and assessment requirement. Some of these commenters recommended focusing on securities-related activities, rather than on broader categories of financial assets including crypto, real estate, and insurance.[28] In contrast, other commenters favored broadening the scope to capture a wider range of activities.[29]

As an initial matter, FINRA notes that several commenters that requested FINRA narrow the definition of ''investment-related activity'' may have misunderstood the supervisory and recordkeeping requirements under the proposed rule and mistakenly believed such obligations would apply to non-securities activity.[30] They would not. As discussed above, the supervisory and recordkeeping requirements would only apply if an associated person engages in an approved outside securities transaction for selling compensation.

FINRA believes the scope of the definition of ''investment-related activity'' strikes the right balance regarding disclosure of activities that may pose a greater risk to the investing public and members and should be retained. Such scope would both maintain investor protection and decrease burdens on members by eliminating the reporting and assessment of low-risk activities that create white noise (*e.g.,* refereeing sports games, driving for a car service, bartending on weekends).

Limiting the definition to securities transactions would inappropriately exclude activities that present higher risks to customers and firms, particularly the risk that customers or the public would view the activities as part of the member's business. Specifically, when customers see their registered representative offering non-securities investment-related services (*e.g.,* selling non-security crypto assets, fixed annuities, or commodities away from the member), they may reasonably believe that these activities are part of the member's business, which increases risks of customer confusion and harm, and legal and reputational risk for the registered representative's firm.

By encompassing both securities and non-securities investment-related activity, the proposed definition of ''investment-related activity'' would allow members to dedicate compliance resources to reviewing their registered persons' activities in these higher-risk activities.

Conversely, broadening the definition to capture a wider range of activities would further increase burdens on members on low-risk activities that create white noise, including those activities where a customer or the public would not reasonably view the activities as part of the member's business.

Bifurcated Approach Regarding Registered and Associated Persons

Similar to the bifurcated approach in Rules 3270 and 3280, in which registered persons disclose a broader range of outside activities than associated persons, the proposed rule change provides for a bifurcated approach in which registered persons are required to provide their firms with prior written notice of outside investment-related activities and associated persons are required to provide their firms with prior written notice of proposed outside securities transactions. Several commenters suggested that FINRA limit the rule to only apply to outside activities of registered persons, including with respect to outside securities transactions, in contrast to the current application under Rule 3280.[31]

FINRA believes that maintaining a bifurcated approach for registered persons' investment-related activities and associated persons' outside securities transactions is appropriate. When an associated person—registered or not—engages in a securities transaction outside their member firm, it implicates regulatory interests in the associated person's and their firm's compliance with applicable securities laws and regulations. When an associated person engages in a securities transaction away from their firm without providing prior written notice of the proposed transaction, a member cannot assess the risk that the transaction will interfere with or otherwise compromise the associated

[25] *See* SR–FINRA–2026–001 (Form 19b–4, Exhibits 2b and 2c) for a list of abbreviations assigned to commenters (available on FINRA's website at *http://www.finra.org*).

[26] *See* letters from ASA, Eversheds, FSI, IRI, LPL, Monument, Robinhood, SIFMA and St. John's Law.

[27] *See* letters from Massachusetts and PIABA.

[28] *See* letters from Broadstone, GVC, LPL, Monument, Robinhood, WEG 1, Githens and IRI.

[29] *See* letters from Cornell Law, NASAA, Massachusetts and St. John's Law.

[30] *See* FINRA Statement to Correct Misinformation About FINRA's Outside Activities Proposal (May 5, 2025), *https://www.finra.org/media-center/newsreleases/2025/finra-statement-correct-misinformation-about-finras-outside.*

[31] *See* letters from ASA and SIFMA.

person's responsibilities to the member or the member's customers or will be viewed by the member's customers or the public as part of the member's business.

In addition, without this information, the firm would not be in a position to determine whether to, in the case of an outside securities transaction not for compensation, require the associated person to adhere to specified conditions in connection with the associated person's participation in the transaction, or, in the case of an outside securities transaction for selling compensation, approve the proposed transaction, approve the proposed transaction subject to specific conditions or limitations or disapprove the proposed transaction. This lack of visibility could result in significant legal and reputational risks for the member.

Members' Obligations Upon Receiving Notice

Under both proposed Rule 3290 and currently for investment-related outside activities, registered persons must provide their firms with prior written notice of the proposed activity and members must review the proposed activity using specified criteria. The *Notice* Proposal standardized the assessment that members must conduct, upon receiving notice, of registered persons' outside activities and associated persons' outside securities transactions, borrowing from the approach used in Rule 3270 with an addition—the consideration of whether the activity involves the member's customers.

Several comments raised concerns about the practical challenges of determining whether the activity involves the member's customers (as opposed to customers of the associated person or registered person).[32] FINRA agrees with these concerns and has amended this customer assessment in proposed Rule 3290 to apply only to the customer of such registered or associated person rather than to the member's customer. The member then would need to consider that information as one of the assessment factors upon receiving the written notice.

Exclusions Overview

The *Notice* Proposal contained several exclusions from the rule's coverage, including an associated person's (including a registered person's) non-BD activity on behalf of a member or its affiliate, outside securities transactions subject to Rule 3210 and transactions delineated in Rule 3210.03, personal investments in non-securities and certain real estate transactions. Commenters generally supported the proposed exclusions. However, some commenters asked for clarifications or expansions of certain exclusions. In addition, some commenters raised concerns with respect to personal investments in non-securities. Those comments are discussed below.

Affiliate Exclusion and Non-Affiliated Activity

The *Notice* Proposal excluded an associated person's (including a registered person's) non-BD activity on behalf of a member or its affiliate (*e.g.,* IA activity at a dually registered firm, and IA, insurance or banking activity conducted at an affiliate). ''Affiliate'' was defined as any entity that controls, is controlled by, or is under common control with the member. While commenters generally supported the affiliate exclusion, several commenters supported expanding it to cover certain contractual relationships with the member.[33]

In light of the feedback received, FINRA believes that the obligations under the proposed Rule 3290 should vary depending on the relationship between the member and another entity.

- For affiliates, the *Notice* Proposal excluded an associated person's (including a registered person's) non-BD activity on behalf of a member or its affiliate. FINRA continues to believe this exclusion recognizes members' ability to implement meaningful controls across business lines and that the definition is in line with members' abilities. However, FINRA has deleted the ''non-broker-dealer'' language in proposed Rule 3290 to make clear that all affiliate activity is excluded.
- For non-affiliates, an associated person's activity that is pursuant to a contract between a member and another entity (*e.g.,* banking or insurance networking arrangement) is not subject to the proposed rule change if such activity is conducted on behalf of the member as it is within the scope of the associated person's relationship with the member. Even though this activity has always been considered the activity of the member, FINRA has added supplementary material in proposed Rule 3290 to clarify the application of the proposed rule to this activity.
- An associated person's non-affiliate securities activity that is not covered by a contract between a member and another entity, discussed directly above, but that qualifies under GLBA [34] or SEC Regulation R's [35] exceptions to broker or dealer registration requirements is considered an outside activity and not an outside securities transaction. Thus, this activity would have a notice and assessment requirement but would not be subject to supervision and recordkeeping. FINRA has added supplementary material in proposed Rule 3290 to clarify the application of the proposed rule to this activity.

Personal Investments in Non-Securities Exclusion

The *Notice* Proposal contained an exclusion for an associated person's investments in non-securities. While two commenters provided support for the exclusion,[36] a number of commenters raised concerns with respect to personal investments in crypto assets, suggesting that an associated person's personal investment in crypto assets would require member approval.[37]

FINRA believes there is a misunderstanding of this exclusion. Under the *Notice* Proposal and the proposed rule change, an associated person's personal investments in non-securities are excluded. Therefore, personal transactions in non-security crypto assets, such as bitcoin, are excluded from coverage under proposed Rule 3290. As such, there would not be a prior written notice requirement or an approval requirement for these transactions. If a personal crypto asset transaction involves a security, there would be a prior written notice and an acknowledgment requirement. However, unless the transaction involves selling compensation, there would be no approval requirement.

Real Estate Exclusion

The *Notice* Proposal also contained an exclusion for the purchase, sale, rental or lease of a main home or dwelling unit or personal-use rental property, as defined for purposes of the Internal Revenue Code. Several commenters asked for clarification of this exclusion,[38] with FSI suggesting that FINRA revise the exclusion to cover ownership involving the associated person or the associated person and ''immediate family,'' as recently modernized in another FINRA rule.[39]

[32] *See* letters from ARM, Robinhood and SIFMA.

[33] *See* letters from ASA, IRI, LPL and SIFMA.

[34] *See supra* note 11.

[35] *See supra* note 12.

[36] *See* letters from Anonymous 2 and Sosa.

[37] *See* letters from Anonymous 3, Betz, Christoforo, Form Letter Type C, Forrester, Frazee, John 2, Messier, Pineyro, Ripperger, Ruffolo, Smith, Sosa, Sullivan and Sweeney.

[38] *See* letters from ARM, Eversheds, FSI, Robinhood, SIFMA and Tobin.

[39] FSI suggested referring to the definition of ''immediate family'' in Rule 3240(c), which defines

In response, FINRA has clarified the real estate exclusion to cover the purchase, sale, rental or lease of a main home and up to two secondary homes. For purposes of this provision, a secondary home would be a property that is used for residential purposes by the associated person for at least part of the year.

FINRA has also added clarifying language stating that the exclusion would apply if the property is: (1) solely owned by the associated person or the associated person and ''immediate family''; (2) owned by the associated person as a sole proprietorship; (3) owned by a corporation, LLC, partnership, limited partnership, or other entity that is solely owned by the associated person or the associated person and immediate family; or (4) owned by a trust with the associated person or the associated person and immediate family as the sole beneficiaries. The term ''immediate family'' would use the recently revised definition.

Member Supervision of Unaffiliated IA Activities

The *Notice* Proposal maintained the status quo regarding members' recordkeeping and supervisory responsibilities for outside unaffiliated IA activity. There was widespread opposition to the requirement for broker-dealers to supervise outside IA activities conducted through unaffiliated IAs.[40] Commenters stated that this requirement is outside FINRA's jurisdiction,[41] creates duplicative oversight,[42] disregards the practical barriers of acquiring the data necessary to supervise effectively,[43] raises privacy concerns,[44] unfairly creates litigation risk,[45] and imposes significant burdens on BDs without commensurate benefits to investor protection.[46]

In contrast, only four commenters supported maintaining BD supervision and recordkeeping of unaffiliated IA activities.[47] In general, these commenters were concerned that eliminating such supervision and recordkeeping would increase the risk of investor harm in connection with activity occurring at an unaffiliated IA or of such harm being undetected.

FINRA recognizes that IA activity is subject to another regulatory regime, which creates the potential for regulatory duplication or inconsistencies. The imposition of broker-dealer supervisory obligations raises practical challenges, particularly for members that do not have an affiliated IA and are unlikely to have specialized knowledge of IA business practices and regulations, yet are currently required to supervise their associated persons' outside IA activities. These issues also create confusion about which regulatory standards should apply—BD or IA requirements—which has the potential to undermine effective supervision.

FINRA acknowledges that the supervision requirement may increase members' litigation risk because lawyers representing clients of unaffiliated IAs may use FINRA's supervisory requirement as the basis for asserting claims against BDs for misconduct occurring at unaffiliated IAs. FINRA notes that members are free to impose supervisory obligations on their associated persons as a condition to participating in outside unaffiliated IA activity, whether or not required by rule.

FINRA also acknowledges the concerns that commenters articulated about the practical difficulties and costs of supervising outside IA activities. In addition to the questions about what supervision is required, members may lack access to information necessary to meaningfully supervise outside unaffiliated IA activities, creating an untenable situation where members bear regulatory responsibility and potential liability without adequate means to fulfill their regulatory obligations. Furthermore, privacy concerns create substantial obstacles for members in obtaining and safeguarding personal information of unaffiliated IA clients and potentially raise risks for members under various privacy laws and rules.

For these reasons, FINRA has eliminated the requirement for members to engage in supervision and recordkeeping of outside unaffiliated IA activities in proposed Rule 3290. Such activity would be considered outside activity under proposed Rule 3290 that would continue to have prior written notice and upfront assessment obligations, but not recordkeeping and supervision obligations. FINRA has added supplementary material in proposed Rule 3290 to clarify the application of the proposed rule to this activity.

General Exemptive Authority

FINRA received several comments that described various scenarios involving outside activities and requests for relief under the proposal.[48] Rather than address these very fact-specific scenarios in proposed Rule 3290, FINRA has added general exemptive authority allowing FINRA staff, pursuant to the Rule 9600 Series,[49] to conditionally or unconditionally grant an exemption from any provision of proposed Rule 3290 for good cause shown, after taking into account all relevant factors and provided that such exemption is consistent with the purposes of proposed Rule 3290, the protection of investors, and the public interest. While the scope of proposed Rule 3290 applies to a wide range of outside investment-related activities, there may be situations where it ostensibly applies but the specific facts justify an exemption. Accordingly, FINRA believes it would be useful and appropriate to have the flexibility to provide relief from a particular provision of proposed Rule 3290 under specific factual circumstances.[50]

Alignment with Form U4 Disclosures

Several commenters noted discrepancies between the proposed rule's notification requirements and the existing Form U4 disclosures, and urged FINRA to coordinate with the SEC and states to harmonize these requirements.[51] FINRA notes that Form U4 disclosures go beyond the scope of the proposed rule change but that FINRA would endeavor to work with the SEC and states to harmonize the requirements where appropriate.

it as parents, grandparents, mother-in-law or father-in-law, spouse or domestic partner, brother or sister, brother-in-law or sister-in-law, son-in law or daughter-in-law, children, grandchildren, cousin, aunt or uncle, or niece or nephew, and any other person who resides in the same household as the registered person and the registered person financially supports, directly or indirectly, to a material extent. The term includes step and adoptive relationships.

[40] *See* letters from 4J Wealth, ADISA, Anonymous 5, ARM, ASA, Becker, Form Letter Type A, Form Letter Type B, Githens, Integrated Solutions, IAA, IRI, LPL, PKS, Robinhood, SIFMA, Sigma, Solebury, Stavis, Tobin, WEG 1, WEG 2 and Woodworth.

[41] *See* letters from Becker, Form Letter Type B, IAA and Solebury.

[42] *See* letters from 4J Wealth, ARM, Anonymous 5, ASA, Becker, IRI, LPL, Robinhood, Stavis, Tobin, WEG 1, WEG 2 and Woodworth.

[43] *See* letters from IRI and John 1.

[44] *See* letters from 4J Wealth, ARM, Anonymous 5, Form Letter Type A, Form Letter Type B, Githens, IAA, KerberRose, LPL, PKS, Sigma, Solebury, Stavis, WEG 1, WEG 2 and Woodworth.

[45] *See* letters from Anonymous 5, Broadstone and Sigma.

[46] *See* letters from ADISA, Anonymous 5, Form Letter Type A, Becker, Robinhood, SIFMA, Sigma, Solebury, Stavis, WEG 1 and WEG 2.

[47] *See* letters from FSI, Massachusetts, NASAA and PIABA.

[48] *See* letters from Cutson and GVC.

[49] *See supra* note 14.

[50] *See supra* note 15.

[51] *See* letters from ARM, Eversheds, FSI, GVC, IRI, Robinhood and SIFMA.

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 (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve or disapprove such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–FINRA–2026–001 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–FINRA–2026–001. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the filing will be available for inspection and copying at the principal office of FINRA. 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–FINRA–2026–001 and should be submitted on or before February 24, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[52]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026–02122 Filed 2–2–26; 8:45 am]

BILLING CODE 8011–01–P

[52] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF STATE

[Public Notice: 12926]

Notice of Department of State Sanctions Action

ACTION: Notice.

SUMMARY: The U.S. Department of State is publishing the names of persons who have been added to the Department of the Treasury's List of Specially Designated Nationals and Blocked Persons (SDN List), administered by the Office of Foreign Assets Control (OFAC).

DATES: This action was issued on April 30, 2025. See **SUPPLEMENTARY INFORMATION** section for applicable dates.

FOR FURTHER INFORMATION CONTACT: Aaron P. Forsberg, Director, Office of Economic Sanctions Policy and Implementation, Bureau of Economic and Business Affairs, Department of State, Washington, DC 20520, tel.: (202) 647 7677, email: *ForsbergAP@state.gov.*

SUPPLEMENTARY INFORMATION:

Electronic Availability

The SDN List and additional information concerning sanctions programs are available on OFAC's website, *https://ofac.treasury.gov/sanctions-programs-and-country-information/iran-sanctions.*

Notice of Department of State Actions

On April 30, 2025, the Department of State, in consultation with other departments, as appropriate, determined that the property and interests in property subject to U.S. jurisdiction of the following persons are blocked under the relevant sanctions authority listed below.

Entities

1. SOLVENT ORGANICS FZE (Arabic: سولفينت أورغانيكس م م ح), Office No. LB192003, Jebel Ali Free Zone, Dubai, United Arab Emirates; Executive Order 13846 information: BLOCKING PROPERTY AND INTERESTS IN PROPERTY. Sec. 5(a)(iv); Organization Established Date 08 Sep 2022; License 23386411 (United Arab Emirates); Economic Register Number (CBLS) 12193196 (United Arab Emirates) [IRAN-EO13846]. Designated pursuant to section 3(a)(iii) of Executive Order 13846 "Reimposing Certain Sanctions With Respect to Iran" (E.O. 13846, for knowingly engaging in a significant transaction for the purchase, acquisition, sale, transport, or marketing of petrochemical products from Iran.
2. ALSEERAH TRADING L.L.C (Arabic: الشيرة للتجارة ش.ذ.م.م), Office No. 201-368, Deira Grand Market Dubai, Dubai, United Arab Emirates; Executive Order 13846 information: BLOCKING PROPERTY AND INTERESTS IN PROPERTY. Sec. 5(a)(iv); Organization Established Date 02 Nov 2023; License 1257024 (United Arab Emirates); Economic Register Number (CBLS) 12480544 (United Arab Emirates) [IRAN-EO13846]. Designated pursuant to section 3(a)(iii) of E.O. 13846 for knowingly engaging in a significant transaction for the purchase, acquisition, sale, transport, or marketing of petrochemical products from Iran.
3. HAROLD TRADING L.L.C (Arabic: هارولد لتجارة ش.ذ.م.م), Deira Naif, Dubai, United Arab Emirates; Executive Order 13846 information: BLOCKING PROPERTY AND INTERESTS IN PROPERTY. Sec. 5(a)(iv); Organization Established Date 20 Jul 2022; License 1082012 (United Arab Emirates); Economic Register Number (CBLS) 11913970 (United Arab Emirates) [IRAN-EO13846].

Designated pursuant to section 3(a)(iii) of E.O. 13846 for knowingly engaging in a significant transaction for the purchase, acquisition, sale, transport, or marketing of petrochemical products from Iran.

4. SHIVNANI ORGANICS FZE (Arabic: شيفاني أورجانيس م م ح), PO Box 17493, Jebel Ali, Dubai, United Arab Emirates; Executive Order 13846 information: BLOCKING PROPERTY AND INTERESTS IN PROPERTY. Sec. 5(a)(iv); Organization Established Date 18 Oct 2022; License 23404 (United Arab Emirates); Economic Register Number (CBLS) 11956855 (United Arab Emirates) [IRAN-EO13846].

   Designated pursuant to section 3(a)(iii) of E.O. 13846 for knowingly engaging in a significant transaction for the purchase, acquisition, sale, transport, or marketing of petrochemical products from Iran.

5. KIMPAS KIMYEVI MADDELER PAZARLAMA TICARET VE SANAYII ANONIM SIRKETI (Latin: KİMPAŞ KİMYEVİ MADDELER PAZARLAMA TİCARET VE SANAYİİ ANONİM ŞİRKETİ), D:205-206 Nidakule Atasehir, No:3 Barbaros Mahallesi Begonya Sokak, Atasehir, Istanbul 34746, Turkey; Executive Order 13846 information: BLOCKING PROPERTY AND INTERESTS IN PROPERTY. Sec. 5(a)(iv); Organization Established Date 1976; Registration Number 142495 (Turkey) [IRAN-EO13846].

   Designated pursuant to section 3(a)(iii) of E.O. 13846 for knowingly engaging in a significant transaction for the purchase, acquisition, sale, transport, or marketing of petrochemical products from Iran.

6. VROOM MARINE VENTURE FZE (Arabic: فروم مارين فينتشرم م ح) (a.k.a. Vroom Marine Ventures FZE), X2-49, SAIF Suite, al-Dhaid Road, SAIF Zone, Sharjah, United Arab Emirates; Executive Order 13846 information:

BLOCKING PROPERTY AND INTERESTS IN PROPERTY. Sec. 5(a)(iv); Organization Established Date 14 Oct 2021; Identification Number IMO 6314720; License 19641 (United Arab Emirates); Economic Register Number (CBLS) 11767972 (United Arab Emirates) [IRAN-EO13846].

Designated pursuant to section 3(a)(ii) of E.O. 13846, for knowingly engaging in a significant transaction for the purchase, acquisition, sale, transport, or marketing of petroleum or petroleum products from Iran.

7. KEYHAN SANJESH AZMA TECHNICAL QUANTITY AND QUALITY INTERNATIONAL INSPECTION CO. (Arabic: بازرسی فنی کمی و کیفی بین المللی کیهان سنجش آزما) (a.k.a. KEYHAN SANJESH AZMA; a.k.a. KEYHAN SANJESH AZMA TECHNICAL QUANTITY & QUALITY INT'L INSPECTION CO.; a.k.a. KEYHAN SANJESH AZMA TECHNICAL QUANTITY & QUALITY INTERNATIONAL INSPECTION CO.), Unit 3, No. 4, Arang Alley, Azodi St., Valiasr Sq., Tehran 1598753313, Iran; Additional Sanctions Information - Subject to Secondary Sanctions; Executive Order 13846 information: BLOCKING PROPERTY AND INTERESTS IN PROPERTY. Sec. 5(a)(iv); Organization Established Date 2018 [IRAN-EO13846].

Designated pursuant to section 3(a)(ii) of E.O. 13846, for knowingly engaging in a significant transaction for the purchase, acquisition, sale, transport, or marketing of petroleum or petroleum products from Iran.

Vessels

8. ELOISE (TRAD8) Crude Oil Tanker Gabon flag; Vessel Year of Build 2002; Vessel Registration Identification IMO 9233234; MMSI 626143000 (vessel) [IRAN–EO13846] (Linked To: VROOM MARINE VENTURE FZE).

Identified as property in which VROOM MARINE VENTURE FZE, an entity designated pursuant to E.O. 13846, has an interest.

9. OLIA (TRBO9) Crude Oil Tanker Unknown flag; Former Vessel Flag Gabon; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Year of Build 2003; Vessel Registration Identification IMO 9268112; MMSI 626450000 (vessel) [UKRAINE–EO13662] [IRAN–EO13846] [RUSSIA–EO14024] (Linked To: ARISTOS MARITIME INCORPORATED; Linked To: VROOM MARINE VENTURE FZE).

Identified as property in which VROOM MARINE VENTURE FZE, an entity designated pursuant to E.O. 13846, has an interest.

Hugo Y. Yon,

Principal Deputy Assistant Secretary, Bureau of Economic and Business Affairs, U.S. Department of State.

[FR Doc. 2026–02101 Filed 2–2–26; 8:45 am]

BILLING CODE 4710–07–P

DEPARTMENT OF STATE

[Public Notice: 12929]

Notice of Department of State Sanctions Action

ACTION: Notice.

SUMMARY: The U.S. Department of State is publishing the names of persons who have been added to the Department of the Treasury's List of Specially Designated Nationals and Blocked Persons (SDN List), administered by the Office of Foreign Assets Control (OFAC).

DATES: This action was issued on August 21, 2025. See **SUPPLEMENTARY INFORMATION** section for applicable dates.

FOR FURTHER INFORMATION CONTACT: Aaron P. Forsberg, Director, Office of Economic Sanctions Policy and Implementation, Bureau of Economic and Business Affairs, Department of State, Washington, DC 20520, tel.: (202) 647 7677, email: *ForsbergAP@state.gov.*

SUPPLEMENTARY INFORMATION:

Electronic Availability

The SDN List and additional information concerning sanctions programs are available on OFAC's website, *https://ofac.treasury.gov/sanctions-programs-and-country-information/iran-sanctions.*

Notice of Department of State Actions

On August 21, 2025, the Department of State, in consultation with other departments, as appropriate, determined that the property and interests in property subject to U.S. jurisdiction of the following persons are blocked under the relevant sanctions authority listed below.

Entities

BILLING CODE 4710–09–P

1. YANGSHAN SHENGANG INTERNATIONAL PETROLEUM STORAGE AND TRANSPORTATION CO., LTD (Chinese Simplified: 洋山中港国际石油储运有限公司) (a.k.a. YANGSHAN SHENGANG INTERNATIONAL OIL LOGISTICS CO., LTD.; a.k.a. YANGSHAN SHENGANG INTERNATIONAL OIL STORAGE CO. LTD.; a.k.a. YANGSHAN SHENGANG INTERNATIONAL PETROLEUM LOGISTICS CO., LTD.), 14th floor, Building DEF, No. 500 Zhangyang Road, Huarun Times Square, Pudong New District, Shanghai 200122, China; Executive Order 13846 information: BLOCKING PROPERTY AND INTERESTS IN PROPERTY. Sec. 5(a)(iv); Organization Established Date 10 Mar 2025; Unified Social Credit Code (USCC) 91330900771920331L (China) [IRAN-EO13846].

   Designated pursuant to section 3(a)(ii) of Executive Order 13846 "Reimposing Certain Sanctions With Respect to Iran" (E.O. 13846), for knowingly engaging in a significant transaction for the purchase, acquisition, sale, transport, or marketing of petroleum or petroleum products from Iran.

2. QINGDAO PORT HAIYE DONGJIAKOU OIL PRODUCTS CO., LTD (Chinese Simplified: 青岛港海业董家口油品有限公司), No.88, Gangrun Avenue, Dongjiakou Port Area, Jiaonan City, Qingdao, Shandong 266000, China; Executive Order 13846 information: BLOCKING PROPERTY AND INTERESTS IN PROPERTY. Sec. 5(a)(iv); Organization Established Date 23 May 2011; Unified Social Credit Code (USCC) 913702115720760002 (China) [IRAN-EO13846].

   Designated pursuant to section 3(a)(ii) of E.O. 13846 for knowingly engaging in a significant transaction for the purchase, acquisition, sale, transport, or marketing of petroleum or petroleum products from Iran.

Hugo Y. Yon,

Principal Deputy Assistant Secretary, Bureau of Economic and Business Affairs, U.S. Department of State.

[FR Doc. 2026–02102 Filed 2–2–26; 8:45 am]

BILLING CODE 4710–09–C

DEPARTMENT OF STATE

[Public Notice: 12939]

Notice of Public Meeting To Prepare for International Maritime Organization FAL 50 Session

The Department of State will conduct a public meeting at 1:00 p.m. EDT on Tuesday, March 17, 2026, via teleconference through Microsoft Teams. The primary purpose of the meeting is to prepare for the fiftieth session of the International Maritime Organization's (IMO) Facilitation Committee (FAL 50) to be held in London, United Kingdom, from Monday, March 23, 2026 to Friday, March 27, 2026.

The agenda items to be considered include:

—Adoption of the agenda;
—Decisions of other IMO bodies;
—Consideration and adoption of proposed amendments to the Convention;
—Amendments to the FAL Convention to introduce mandatory reporting of the API and BRI for maritime transport;
—Amendments to the FAL Convention to introduce mandatory cybersecurity measures to safeguard the maritime single windows;
—Application of single window concept;
—Review and revision of the IMO Compendium on Facilitation and Electronic Business, including additional e-business solutions;
—Development of a comprehensive strategy on maritime digitalization;
—Revision of the Guidelines on maritime cyber risk management (MSC.FAL.1/Circ.3/Rev.2) and identification of next steps to enhance maritime cybersecurity;
—Measures to address Maritime Autonomous Surface Ships (MASS) in the instruments under the purview of the Facilitation Committee;
—Development of amendments to the Revised guidelines for the prevention and suppression of the smuggling of drugs, psychotropic substances and precursor chemicals on ships engaged in international maritime traffic (resolutions FAL.9(34) and MSC.228(82));
—Development of amendments to the Revised guidelines on the prevention of access by stowaways and the allocation of responsibilities to seek the successful resolution of stowaway cases (resolutions FAL.13(42) and MSC.448(99));
—Unsafe mixed migration by sea;
—Consideration and analysis of reports and information on persons rescued at sea and stowaways;
—Technical cooperation activities related to facilitation of maritime traffic;
—Application of the Committee's procedures on organization and method of work;
—Work programme;
—Election of the Chair and Vice-Chair for 2027;
—Any other business;
—Consideration of the report to the Committee on its fiftieth session.

Please note: The IMO may, on short notice, adjust the FAL 50 agenda to accommodate any constraints associated with the meeting. Although no changes to the agenda are anticipated, if any are necessary, they will be provided to those who RSVP.

Those who plan to participate may contact the meeting coordinator, LCDR Amy Gayman at *Amy.E.Gayman@uscg.mil,* by phone at 571–608–8882, or in writing at 2703 Martin Luther King Jr. Ave. SE, Stop 7509, Washington, DC 20593–7509, not later than March 3, 2026. Members of the public needing reasonable accommodation should advise LCDR Amy Gayman no later than March 3, 2026. Requests made after that date will be considered but might not be possible to fulfill.

Additional information regarding this and other IMO public meetings may be found at: *https://www.dco.uscg.mil/IMO.*

(Authority: 22 U.S.C. 2656 and 5 U.S.C. 552)

Emily C. Miletello,

Coast Guard Liaison Officer, Office of Ocean and Polar Affairs, U.S. Department of State.

[FR Doc. 2026–02174 Filed 2–2–26; 8:45 am]

BILLING CODE 4710–05–P

SURFACE TRANSPORTATION BOARD

[Docket No. EP 670 (Sub-No. 1)]

Notice of Rail Energy Transportation Advisory Committee Meeting

AGENCY: Surface Transportation Board.

ACTION: Notice of Rail Energy Transportation Advisory Committee meeting.

SUMMARY: Notice is hereby given of a meeting of the Rail Energy Transportation Advisory Committee (RETAC), pursuant to the Federal Advisory Committee Act.

DATES: The meeting will be held on Wednesday, March 4, 2026, at 9:00 a.m. E.T.

ADDRESSES: The meeting will be held at the Surface Transportation Board headquarters at 395 E Street SW, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Elizabeth McGrath at (202) 748–4566 or *elizabeth.mcgrath@stb.gov.* If you require an accommodation under the Americans with Disabilities Act for this meeting, please call (202) 245–0245 by February 18, 2026.

SUPPLEMENTARY INFORMATION: RETAC was formed in 2007 to provide advice and guidance to the Surface Transportation Board (Board), and to serve as a forum for discussion of emerging issues related to the transportation of energy resources by rail. *Establishment of a Rail Energy Transp. Advisory Comm.,* EP 670 (STB served July 17, 2007). The purpose of this meeting is to facilitate discussions regarding issues including rail service, infrastructure planning and development, and effective coordination among suppliers, rail carriers, and users of energy resources. Potential agenda items for this meeting include a rail performance measures review, industry segment updates by RETAC members, and a roundtable discussion.

The meeting, which is open to the public, will be conducted in accordance with the Federal Advisory Committee Act, 5 U.S.C. Chapter 10; Federal Advisory Committee Management regulations, 41 CFR part 102–3; RETAC's charter; and Board procedures. Further communications about this meeting may be announced through the Board's website at *www.stb.gov.*

Written Comments: Members of the public may submit written comments to RETAC at any time. Comments should be addressed to RETAC, c/o Elizabeth McGrath, Surface Transportation Board, 395 E Street SW, Washington, DC 20423–0001 or *elizabeth.mcgrath@stb.gov.* Please submit any comments for review at the March 4, 2026 meeting by March 2, 2026, if possible.

Authority: 49 U.S.C. 1321, 11101, and 11121.

Decided: January 30, 2026.

By the Board, Anika S. Cooper, Chief Counsel, Office of Chief Counsel.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2026–02204 Filed 2–2–26; 8:45 am]

BILLING CODE 4915–01–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Procurement Thresholds for Implementation of the Trade Agreements Act of 1979

AGENCY: Office of the United States Trade Representative.

ACTION: Notice.

SUMMARY: The U.S. Trade Representative has determined the U.S. dollar procurement thresholds to implement certain U.S. trade agreement obligations for calendar years 2026 and 2027.

DATES: This notice is applicable on its date of publication for calendar years 2026 and 2027.

FOR FURTHER INFORMATION CONTACT: Kate Psillos, Deputy Assistant U.S. Trade Representative for WTO and Multilateral Affairs, at (202) 395–9581 or *Kathryn.W.Psillos@ustr.eop.gov.*

SUPPLEMENTARY INFORMATION: Executive Order 12260 requires the U.S. Trade Representative to set the U.S. dollar thresholds for application of Title III of the Trade Agreements Act of 1979, as amended (19 U.S.C. 2511 *et seq.*). These obligations apply to covered procurements valued at or above specified U.S. dollar thresholds. On January 2, 2026, the U.S. Trade Representative published a notice in the **Federal Register** updating the thresholds for: (1) the World Trade Organization (WTO) Agreement on Government Procurement; (2) the United States-Korea Free Trade Agreement; (3) the United States-Morocco Free Trade Agreement; (4) the United States-Panama Trade Promotion Agreement; and (5) the United States-Peru Trade Promotion Agreement (*See* Procurement Thresholds for Implementation of the Trade Agreements Act of 1979, 94 FR 188 (January 2, 2026)). Due to a lapse in appropriations, the Bureau of Labor Statistics (BLS) delayed the release of certain data required to calculate the thresholds for the following agreements: (1) The United States-Australia Free Trade Agreement; (2) The United States-Bahrain Free Trade Agreement; (3) The United States-Chile Free Trade Agreement; (4) The United States-Colombia Trade Promotion Agreement; (5) The Dominican Republic-Central American-United States Free Trade Agreement; (6) The United States-Mexico-Canada Agreement (USMCA); (7) The United States-Oman Free Trade Agreement; and (8) The United States-Singapore Free Trade Agreement. The necessary data has now been released, and the thresholds for these agreements are now being updated with this second **Federal Register** notice.

In conformity with the provisions of Executive Order 12260, and in order to carry out U.S. trade agreement obligations, the U.S. Trade Representative has determined the U.S. dollar procurement thresholds, effective on January 1, 2026, for calendar years 2026 and 2027 are as follows:

I. Chapter 15 of the United States-Australia Free Trade Agreement

A. *Central Government Entities listed in the U.S. Schedule to Annex 15–A, Section 1:*

(1) Procurement of goods and services—$105,767; and

(2) Procurement of construction services—$6,683,000.

B. *Sub-Central Government Entities listed in the U.S. Schedule to Annex 15–A, Section 2:*

(1) Procurement of goods and services—$474,000; and

(2) Procurement of construction services—$6,683,000.

C. *Other Entities listed in the U.S. Schedule to Annex 15–A, Section 3:*

(1) Procurement of goods and services for List A Entities—$528,833;

(2) Procurement of goods and services for List B Entities—$535,000; and

(3) Procurement of construction services—$6,683,000.

II. Chapter 9 of the United States-Bahrain Free Trade Agreement

A. *Central Government Entities listed in the U.S. Schedule to Annex 9–A–1:*

(1) Procurement of goods and services—$174,000; and

(2) Procurement of construction services—$13,749,689.

B. *Other Entities listed in the U.S. Schedule to Annex 9–A–2:*

(1) Procurement of goods and services for List B entities—$535,000; and

(2) Procurement of construction services—$16,923,484.

III. Chapter 9 of the United States–Chile Free Trade Agreement

A. *Central Government Entities listed in the U.S. Schedule to Annex 9.1, Section A:*

(1) Procurement of goods and services—$105,767; and

(2) Procurement of construction services—$6,683,000.

B. *Sub-Central Government Entities listed in the U.S. Schedule to Annex 9.1, Section B:*

(1) Procurement of goods and services—$474,000; and

(2) Procurement of construction services—$6,683,000.

C. *Other Entities listed in the U.S. Schedule to Annex 9.1, Section C:*

(1) Procurement of goods and services for List A Entities—$528,833;

(2) Procurement of goods and services for List B Entities—$535,000; and

(3) Procurement of construction services—$6,683,000.

IV. Chapter 9 of the United States-Colombia Trade Promotion Agreement

A. *Central Government Entities listed in the U.S. Schedule to Annex 9.1, Section A:*

(1) Procurement of goods and services—$105,767; and

(2) Procurement of construction services—$6,683,000.

B. *Sub-Central Government Entities listed in the U.S. Schedule to Annex 9.1, Section B:*

(1) Procurement of goods and services—$474,000; and

(2) Procurement of construction services—$6,683,000.

C. *Other Entities listed in the U.S. Schedule to Annex 9.1, Section C:*

(1) Procurement of goods and services for List B Entities—$535,000; and

(2) Procurement of construction services—$6,683,000.

V. Chapter 9 of the Dominican Republic-Central American-United States Free Trade Agreement

A. *Central Government Entities listed in the U.S. Schedule to Annex 9.1.2(b)(i), Section A:*

(1) Procurement of goods and services—$105,767; and

(2) Procurement of construction services—$6,683,000.

B. *Sub-Central Government Entities listed in the U.S. Schedule to Annex 9.1.2(b)(i), Section B:*

(1) Procurement of goods and services—$474,000; and

(2) Procurement of construction services—$6,683,000.

C. Other Entities listed in the U.S. Schedule to Annex 9.1.2(b)(i), Section C:

(1) Procurement of goods and services for List B Entities—$535,000; and

(2) Procurement of construction services—$6,683,000.

VI. Chapter 13 of the United States—Mexico—Canada Agreement (USMCA) *

** Procurement obligations are between the U.S. and Mexico only **

A. *Federal Government Entities listed in the U.S. Schedule to Annex 1001.1a–1:*

(1) Procurement of goods and services—$105,767; and

(2) Procurement of construction services—$13,749,689.

B. *Government Enterprises listed in the U.S. Schedule to Annex 1001.1a–2:*

(1) Procurement of goods and services—$528,833; and

(2) Procurement of construction services—$16,923,484.

VII. Chapter 9 of the United States–Oman Free Trade Agreement

A. *Central Level Government Entities listed in the U.S. Schedule to Annex 9, Section A:*

(1) Procurement of goods and services—$174,000; and

(2) Procurement of construction services—$13,749,688.

B. *Other Covered Entities listed in the U.S. Schedule to Annex 9, Section B:*

(1) Procurement of goods and services for List B Entities—$535,000; and

(2) Procurement of construction services—$16,923,484.

VIII. Chapter 13 of the United States-Singapore Free Trade Agreement

A. *Central Government Entities listed in the U.S. Schedule to Annex 13A, Schedule 1, Section A:*

(1) Procurement of goods and services—$105,767; and

(2) Procurement of construction services—$6,683,000.

B. *Sub-Central Government Entities listed in the U.S. Schedule to Annex 13A, Schedule 1, Section B:*

(1) Procurement of goods and services—$474,000; and

(2) Procurement of construction services—$6,683,000.

C. *Other Entities listed in the U.S. Schedule to Annex 13A, Schedule 1, Section C:*

(1) Procurement of goods and services—$535,000; and

(2) Procurement of construction services—$6,683,000.

Neil Beck,

Assistant U.S. Trade Representative for WTO and Multilateral Affairs, Office of the United States Trade Representative.

[FR Doc. 2026–02106 Filed 2–2–26; 8:45 am]

BILLING CODE 3390–F4–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA–2024–1395]

Notice of Availability of the Final Environmental Impact Statement and Record of Decision for SpaceX Starship-Super Heavy Vehicle at Launch Complex 39A at Kennedy Space Center in Merritt Island, Florida

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

ACTION: Notice of availability of the final EIS and record of decision (ROD).

SUMMARY: In accordance with the National Environmental Policy Act of 1969, as amended (NEPA) and FAA Order 1050.1F, *Environmental Impacts: Policies and Procedures,* the FAA is announcing the availability of the Final Environmental Impact Statement (EIS) and Record of Decision (ROD) for SpaceX Starship-Super Heavy vehicle at Launch Complex 39A (LC–39A) at Kennedy Space Center (KSC) in Merritt Island, Florida (Final EIS and ROD).

ADDRESSES: The Final EIS and ROD can be viewed on the project website at: *https://www.faa.gov/space/stakeholder_engagement/spacex_starship_ksc.*

SUPPLEMENTARY INFORMATION: The Final EIS analyzes the following information:

- Up to 44 Starship-Super Heavy launches per year;
- Up to 44 Super Heavy landings per year, to include landings at LC–39A, landing on a droneship in the Atlantic Ocean, or expending in the Atlantic Ocean;
- Up to 44 Starship landings per year, to include landings at LC–39A, landing on a droneship in the Atlantic Ocean, or soft-water or hard-water landing with expending or recovery in the Atlantic Ocean, Pacific Ocean, or Indian Ocean;
- Construction of launch, landing, and other associated infrastructure at and in proximity to LC–39A.

The FAA released the Draft EIS on the project website on August 4, 2025. A Notice of Availability of the Draft EIS was published in the **Federal Register** on August 8, 2025, marking the beginning of the official public comment period under the National Environmental Policy Act. The FAA held two in-person public meetings on August 26, 2025, at Kennedy Space Center, FL; two in-person public meetings on August 28, 2025, in Cape Canaveral, Florida; and one virtual meeting on Wednesday, September 3, 2025. The public comment period closed on September 29, 2025. All comments received on the Draft EIS were considered in preparation of the Final EIS.

Dated: January 29, 2026.

Stacey Molinich Zee,

Manager, Operations Support Branch.

[FR Doc. 2026–02108 Filed 2–2–26; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No.: FAA–2025–5799; Summary Notice No. 2026–04]

Petition for Exemption; Summary of Petition Received; Trident Adventures Inc. dba Trident Adventures

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

ACTION: Notice.

SUMMARY: This notice contains a summary of a petition seeking relief from specified requirements of Federal Aviation Regulations. The purpose of this notice is to improve the public's awareness of, and participation in, the FAA's exemption process. Neither publication of this notice nor the inclusion nor omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATES: Comments on this petition must identify the petition docket number and must be received on or before February 23, 2026.

ADDRESSES: Send comments identified by docket number FAA–2025–5799 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://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 20590–0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* Fax comments to Docket Operations at (202) 493–2251.

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 *http://www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *http://www.dot.gov/privacy.*

Docket: Background documents or comments received may be read at *http://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 20590–0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Kara White, Office of Rulemaking, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591, at 202–267–9677.

This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC.

Dan A. Ngo,

Manager, Part 11 Petitions Branch, Office of Rulemaking.

Petition for Exemption

Docket No.: FAA–2025–5799.

Petitioner: Trident Adventures, Inc. dba Trident Adventures.

Section(s) of 14 CFR Affected: §§ 91.108(b)(1) and 91.108(b)(2).

Description of Relief Sought: Trident Adventures is requesting relief from 91.108(b)(1) and 91.108(b)(2) to permit limited, intentional release of passenger seatbelts and relief from Supplement Restraint System requirements solely during a stabilized helicopter hover over open water for the purpose of conducting controlled helicopter water-entry operations, commonly referred to as ''Helo Cast'' operations.

[FR Doc. 2026–02162 Filed 2–2–26; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2025–0011]

Qualification of Drivers; Exemption Applications; Epilepsy and Seizure Disorders

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

ACTION: Notice of final disposition.

SUMMARY: FMCSA announces its decision to exempt 35 individuals from the requirement in the Federal Motor Carrier Safety Regulations (FMCSRs) that interstate commercial motor vehicle (CMV) drivers have ''no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause loss of consciousness or any loss of ability to control a CMV.'' The exemptions enable these individuals who have had one or more seizures and are taking anti-seizure medication to operate CMVs in interstate commerce.

DATES: The exemptions were applicable on June 9, 2025. The exemptions expire on June 9, 2027.

FOR FURTHER INFORMATION CONTACT: Ms. Christine Hydock, Chief, Medical Programs Division, FMCSA, DOT, 1200 New Jersey Avenue SE, Washington, DC 20590–0001; (202) 366–4001; *fmcsamedical@dot.gov.* Office hours are from 8:30 a.m. to 5 p.m. ET Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Dockets Operations, (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation

A. Viewing Comments

To view comments, go to *www.regulations.gov.* Insert the docket number, (FMCSA–2025–0011) in the keyword box and click ''Search.'' Next, choose the only notice listed, and click ''Browse Comments.'' If you do not have access to the internet, you may view the docket online by visiting Dockets Operations on the ground floor of the DOT, West Building, 1200 New Jersey Avenue SE, Washington, DC 20590–0001, between 9 a.m. and 5 p.m. 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.

B. Privacy Act

In accordance with 49 U.S.C. 31315(b)(6), DOT solicits comments from the public on the exemption requests. DOT posts these comments, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice DOT/ALL–14 FDMS (Federal Docket Management System), which can be reviewed under the ''Department Wide System of Records Notices'' link at *https://www.transportation.gov/individuals/privacy/privacy-act-system-records-notices.* The comments are posted without edit and are searchable by the name of the submitter.

II. Legal Basis

FMCSA has authority under 49 U.S.C. 31136(e) and 31315(b) to grant exemptions from the Federal Motor Carrier Safety Regulations (FMCSRs). FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public an opportunity to inspect the information relevant to the application, including the applicant's safety analysis. The Agency must provide an opportunity for public comment on the request.

The Agency reviews the application, safety analyses, and public comments submitted and determines whether granting the exemption would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved absent such exemption, pursuant to the standard set forth in 49 U.S.C. 31315(b)(1). The Agency must publish its decision in the **Federal Register** (49 CFR 381.315(b)). If granted, the notice will identify the regulatory provision from which the applicant will be exempt, the effective period, and all terms and conditions of the exemption (49 CFR 381.315(c)(1)). If the exemption is denied, the notice will explain the reason for the denial (49 CFR 381.315(c)(2)). The exemption may be renewed (49 CFR 381.300(b)).

III. Background

The physical qualification standard for drivers regarding seizures and loss of consciousness provides that a person is physically qualified to drive a CMV if that person has ''no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause the loss of consciousness or any loss of ability to control'' a CMV (49 CFR 391.41(b)(8)). To assist in applying this standard, FMCSA publishes guidance for medical examiners (MEs) in the form of medical advisory criteria in Appendix A to 49 CFR part 391.[1] In 2007, FMCSA published recommendations from a Medical Expert Panel (MEP) that FMCSA tasked to review the existing seizure disorder guidelines for MEs.[2] The MEP performed a comprehensive, systematic literature review, including evidence available at the time. The MEP issued recommended criteria to evaluate whether an individual with a history of epilepsy, a single unprovoked seizure, or a provoked seizure should be allowed to drive a CMV.

On January 15, 2013, FMCSA began granting exemptions, on a case-by-case basis, to individual drivers from the physical qualification standard regarding seizures and loss of consciousness in 49 CFR 391.41(b)(8)

[1] 49 CFR part 391, App.A.II.G, available at *https://www.ecfr.gov/current/title-49/subtitle-B/chapter-III/subchapter-B/part-391/appendix-Appendix%20A%20to%20Part%20391.*

[2] ''Expert Panel Recommendations, Seizure Disorders and Commercial Motor Vehicle Driver Safety,'' Medical Expert Panel (Oct. 15, 2007), available at *https://www.fmcsa.dot.gov/sites/fmcsa.dot.gov/files/2020-04/Seizure-Disorders-MEP-Recommendations-v2-prot%2010152007.pdf.*

(78 FR 3069). The Agency considers the medical advisory criteria, the 2007 MEP recommendations, and each individual's medical information and driving record in deciding whether to grant the exemption.

On May 5, 2025, FMCSA published a notice announcing receipt of applications from 35 individuals requesting an exemption from the epilepsy and seizure disorders prohibition in 49 CFR 391.41(b)(8) and requested comments from the public (90 FR 19082). The public comment period ended on June 4, 2025. One comment was received.

FMCSA has evaluated the eligibility of these applicants and determined that granting exemptions to these individuals would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved by complying with § 391.41(b)(8).

IV. Discussion of Comments

FMCSA received one comment in this proceeding supporting the issuance of seizure exemptions for applicants that meet the exemption criteria.

V. Basis for Exemption Determination

The Agency conducted an individualized assessment of each applicant's medical information, including the root cause of the respective seizure(s) and medical information about the applicant's seizure history, the length of time that has elapsed since the individual's last seizure, the stability of each individual's treatment regimen and the duration of time on or off of anti-seizure medication. In addition, the Agency reviewed the treating clinician's medical opinion related to the ability of the driver to safely operate a CMV with a seizure history and each certified driving record from their State Driver's Licensing Agency (SDLA). The information obtained from each applicant's driving record provides the Agency with details regarding any moving violations or reported crash data, which demonstrates whether the driver has a safe driving history and is an indicator of future driving performance. If the driving record revealed a crash, FMCSA requested and reviewed the related police reports and other relevant documents, such as the citation and conviction information. A summary of each applicant's seizure history was discussed in the May 5, 2025, **Federal Register** notice (90 FR 19082) and will not be repeated in this notice.

These 35 applicants have been seizure-free over a range of 3 to 34 years while taking anti-seizure medication and maintained a stable medication treatment regimen for the last 2 years. In each case, the applicant's treating physician verified his or her seizure history and supports the ability to drive commercially.

The Agency acknowledges the potential consequences of a driver experiencing a seizure while operating a CMV. However, the Agency believes the drivers granted this exemption have demonstrated that they are unlikely to have a seizure, and their medical condition does not pose a risk to public safety in the operation of a CMV.

Consequently, FMCSA finds further that in each case exempting these applicants from the epilepsy and seizure disorder prohibition in § 391.41(b)(8) would likely achieve a level of safety equivalent to the level of safety that would be achieved without the exemption, consistent with the applicable standard in 49 U.S.C. 31315(b)(1).

VI. Terms and Conditions

The terms and conditions of the exemption are provided to the applicants in the exemption document and include the following: each driver must (1) remain seizure-free, maintain a stable treatment, and report to FMCSA within 24 hours if they experience a seizure during the 2-year exemption period; (2) submit to FMCSA annual reports from their treating physicians attesting to the stability of treatment and that the driver has remained seizure-free; (3) undergo an annual medical examination by a certified medical examiner, as defined by § 390.5T; (4) provide a copy of the annual medical certification to the employer for retention in the driver's qualification file, or keep a copy in their driver's qualification file if they are self-employed; (5) report to FMCSA the date, location, and time of any crashes as defined in § 390.5T within 7 days of the crash; (6) report to FMCSA any citations and convictions for disqualifying offenses under 49 CFR parts 383 and 391 within 7 days of the citations and convictions; and (7) submit to FMCSA annual certified driving records from their SDLA. The driver must also have a copy of the exemption when driving, for presentation to a duly authorized Federal, State, or local enforcement official. In addition, the driver must meet all applicable commercial driver's license testing requirements.

VII. Preemption

During the period the exemption is in effect, no State shall enforce any law or regulation that conflicts with this exemption with respect to a person operating under the exemption.

VIII. Conclusion

Based upon its evaluation of the 35 exemption applications, FMCSA exempts the following drivers from the epilepsy and seizure disorder prohibition in § 391.41(b)(8), subject to the requirements cited above:

Shane Addy (PA)
Erik Bernal (WY)
Benjamin Billat (MN)
Linda Bradt (NY)
Stephen Carlson (MI)
Nicholas Casillan (CA)
Amanda Fisk (KS)
Richard Freys (OH)
Jacob Griffin (WI)
Joseph Gwinnett (NJ)
Carter Hunt (NC)
Ryan Jaacks (IA)
Scott Jensen (WI)
Theodore Kemak (NY)
Thomas Knight (GA)
Kurtis Kuhl (OH)
Rachel LaFraniere (TN)
Matthew John Lee (CT)
Zachery Lieske (WI)
Thomas Mercer (GA)
Elijah Morrisey (NC)
Sean O'Dwyer (NC)
Nikki Peyton (IN)
Joseph Platania (PA)
Nathan Porcher (TX)
Samuel Porter (IL)
Lorenzo Rivera (OH)
Robert Rush (CA)
Ethan Seabury-Kolod (LA)
Michael Shea (NJ)
Brittany Spicer (VA)
Robert Stagg (CA)
Jeremy Steele (DE)
Rodney Taylor (NC)
Alfonso Valdivieso (NY)

In accordance with 49 U.S.C. 31315(b), and FMCSA's policy of issuing medical exemptions for a 2-year period to correspond with the medical certificate, each exemption will be valid for 2 years from the effective date unless revoked earlier by FMCSA. The exemption will be revoked if the following occurs: (1) the person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained prior to being granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136, 49 U.S.C. chapter 313, or the FMCSRs.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2026–02140 Filed 2–2–26; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2016–0011; FMCSA–2018–0052; FMCSA–2018–0053; FMCSA–2020–0045; FMCSA–2020–0047; FMCSA–2023–0030; FMCSA–2023–0032]

Qualification of Drivers; Exemption Applications; Epilepsy and Seizure Disorders

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

ACTION: Notice of final disposition.

SUMMARY: FMCSA announces its decision to renew exemptions for 17 individuals from the requirement in the Federal Motor Carrier Safety Regulations (FMCSRs) that interstate commercial motor vehicle (CMV) drivers have ''no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause loss of consciousness or any loss of ability to control a CMV.'' The exemptions enable these individuals who have had one or more seizures and are taking anti-seizure medication to continue to operate CMVs in interstate commerce.

DATES: Each group of the renewed exemptions was applicable on the dates stated in the discussions below and will expire on the dates provided below.

FOR FURTHER INFORMATION CONTACT: Ms. Christine Hydock, Chief, Medical Programs Division, FMCSA, DOT, 1200 New Jersey Avenue SE, Washington, DC 20590–0001; (202) 366–4001; *fmcsamedical@dot.gov.* Office hours are from 8:30 a.m. to 5 p.m. ET Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Dockets Operations, (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation

A. Viewing Comments

To view comments, go to *www.regulations.gov.* Insert the docket number (FMCSA–2016–0011, FMCSA–2018–0052, FMCSA–2018–0053, FMCSA–2020–0045, FMCSA–2020–0047, FMCSA–2023–0030, or FMCSA–2023–0032) in the keyword box and click ''Search.'' Next, sort the results by ''Posted (Newer-Older),'' choose the first notice listed, and click ''Browse Comments.'' If you do not have access to the internet, you may view the docket online by visiting Dockets Operations on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC 20590–0001, between 9 a.m. and 5 p.m. 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.

B. Privacy Act

In accordance with 49 U.S.C. 31315(b)(6), DOT solicits comments from the public on the exemption request. DOT posts these comments, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice DOT/ALL–14 FDMS (Federal Docket Management System), which can be reviewed under the ''Department Wide System of Records Notices'' link at *https://www.transportation.gov/individuals/privacy/privacy-act-system-records-notices.* The comments are posted without edit and are searchable by the name of the submitter.

II. Legal Basis

FMCSA has authority under 49 U.S.C. 31136(e) and 31315(b) to grant exemptions from the Federal Motor Carrier Safety Regulations (FMCSRs). FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public an opportunity to inspect the information relevant to the application, including the applicant's safety analysis. The Agency must provide an opportunity for public comment on the request.

The Agency reviews the application, safety analyses, and public comments submitted and determines whether granting the exemption would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved absent such exemption, pursuant to the standard set forth in 49 U.S.C. 31315(b)(1). The Agency must publish its decision in the **Federal Register** (49 CFR 381.315(b)). If granted, the notice will identify the regulatory provision from which the applicant will be exempt, the effective period, and all terms and conditions of the exemption (49 CFR 381.315(c)(1)). If the exemption is denied, the notice will explain the reason for the denial (49 CFR 381.315(c)(2)). The exemption may be renewed (49 CFR 381.300(b)).

III. Background

The physical qualification standard for drivers regarding seizures and loss of consciousness provides that a person is physically qualified to drive a CMV if that person has ''no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause the loss of consciousness or any loss of ability to control'' a CMV (49 CFR 391.41(b)(8)). To assist in applying this standard, FMCSA publishes guidance for medical examiners (MEs) in the form of medical advisory criteria in Appendix A to 49 CFR part 391.[1] In 2007, FMCSA published recommendations from a Medical Expert Panel (MEP) that FMCSA tasked to review the existing seizure disorder guidelines for MEs.[2] The MEP performed a comprehensive, systematic literature review, including evidence available at the time. The MEP issued recommended criteria to evaluate whether an individual with a history of epilepsy, a single unprovoked seizure, or a provoked seizure should be allowed to drive a CMV.

On January 15, 2013, FMCSA began granting exemptions, on a case-by-case basis, to individual drivers from the physical qualification standard regarding seizures and loss of consciousness in 49 CFR 391.41(b)(8) (78 FR 3069). The Agency considers the medical advisory criteria, the 2007 MEP recommendations, any public comments received, and each individual's medical information and driving record in deciding whether to grant the exemption.

On July 24, 2025, FMCSA published a notice announcing its decision to renew exemptions for 17 individuals from the epilepsy and seizure disorders prohibition in 49 CFR 391.41(b)(8) to operate a CMV in interstate commerce and requested comments from the public (90 FR 34969). The public comment period ended on August 25, 2025, and no comments were received.

FMCSA has evaluated the eligibility of these applicants and determined that renewing these exemptions would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved by complying with § 391.41(b)(8).

IV. Discussion of Comments

FMCSA received no comments on these renewal applications.

V. Terms and Conditions

The terms and conditions of the exemption are provided to the applicants in the exemption document

[1] 49 CFR part 391, App.A.II.G, available at *https://www.ecfr.gov/current/title-49/subtitle-B/chapter-III/subchapter-B/part-391/appendix-Appendix%20A%20to%20Part%20391.*

[2] ''Expert Panel Recommendations, Seizure Disorders and Commercial Motor Vehicle Driver Safety,'' Medical Expert Panel (Oct. 15, 2007), available at *https://www.fmcsa.dot.gov/sites/fmcsa.dot.gov/files/2020-04/Seizure-Disorders-MEP-Recommendations-v2-prot%2010152007.pdf.*

and include the following: each driver must (1) remain seizure-free, maintain a stable treatment, and report to FMCSA within 24 hours if they experience a seizure during the 2-year exemption period; (2) submit to FMCSA annual reports from their treating physicians attesting to the stability of treatment and that the driver has remained seizure-free; (3) undergo an annual medical examination by a certified medical examiner, as defined by § 390.5T; (4) provide a copy of the annual medical certification to the employer for retention in the driver's qualification file, or keep a copy in their driver's qualification file if they are self-employed; (5) report to FMCSA the date, location, and time of any crashes as defined in § 390.5T within 7 days of the crash; (6) report to FMCSA any citations and convictions for disqualifying offenses under 49 CFR parts 383 and 391 within 7 days of the citations and convictions; and (7) submit to FMCSA annual certified driving records from their SDLA. The driver must also have a copy of the exemption when driving, for presentation to a duly authorized Federal, State, or local enforcement official. In addition, the driver must meet all applicable commercial driver's license testing requirements.

VI. Preemption

During the period the exemption is in effect, no State shall enforce any law or regulation that conflicts with this exemption with respect to a person operating under the exemption.

VII. Conclusion

Based on its evaluation of the 17 renewal exemption applications and supporting materials, and no comments received, FMCSA announces its decision to grant a 2-year exemption to each of the following drivers from the epilepsy and seizure disorders prohibition in § 391.41(b)(8).

As of May 15, 2025, and in accordance with 49 U.S.C. 31136(e) and 31315(b), the following 10 individuals have satisfied the renewal conditions for obtaining an exemption from the epilepsy and seizure disorders prohibition in the FMCSRs for interstate CMV drivers:

Ryan Babler (WI)
Steven Claphan (MI)
Wallace Ferguson (CO)
Larry Nicholson (NC)
Kristopher Pettitt (CA)
Scott Ready (WI)
John Shainline (PA)
Herbert Spike (CT)
Scott Stone (WY)
Floyd Williams (VA)

The drivers were included in docket number FMCSA–2016–0011, FMCSA–2018–0052, FMCSA–2018–0053, FMCSA–2020–0045, FMCSA–2020–0047, or FMCSA–2023–0030. Their exemptions were applicable as of May 15, 2025, and will expire on May 15, 2027.

As of May 24, 2025, and in accordance with 49 U.S.C. 31136(e) and 31315(b), the following seven individuals have satisfied the renewal conditions for obtaining an exemption from the epilepsy and seizure disorders prohibition in the FMCSRs for interstate CMV drivers:

Robert Bennett (NY)
David Brown (FL)
Jean Daza (NJ)
Jerrid Hielscher (SD)
Nicholas Liebe (WI)
Sheldon Martin (NY)
Robert Moseler (MI)

The drivers were included in docket number FMCSA–2023–0032. Their exemptions were applicable as of May 24, 2025, and will expire on May 24, 2027.

In accordance with 49 U.S.C. 31315(b), and FMCSA's policy of issuing medical exemptions for a 2-year period to correspond with the medical certificate, each exemption will be valid for 2 years from the effective date unless revoked earlier by FMCSA. The exemption will be revoked if the following occurs: (1) the person fails to comply with the terms and conditions of the exemption, as set forth in the initial renewal notice (*see* 90 FR 34969) and incorporated herein; (2) the exemption has resulted in a lower level of safety than was maintained prior to being granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315(b).

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2026–02146 Filed 2–2–26; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2011–0089; FMCSA–2015–0115; FMCSA–2018–0057; FMCSA–2019–0027; FMCSA–2022–0045; FMCSA–2023–0032; FMCSA–2023–0033]

Qualification of Drivers; Exemption Applications; Epilepsy and Seizure Disorders

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

ACTION: Notice of final disposition.

SUMMARY: FMCSA announces its decision to renew exemptions for 13 individuals from the requirement in the Federal Motor Carrier Safety Regulations (FMCSRs) that interstate commercial motor vehicle (CMV) drivers have ''no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause loss of consciousness or any loss of ability to control a CMV.'' The exemptions enable these individuals who have had one or more seizures and are taking anti-seizure medication to continue to operate CMVs in interstate commerce.

DATES: Each of the renewed exemptions was applicable on the dates stated in the discussions below and will expire on the dates provided below.

FOR FURTHER INFORMATION CONTACT: Ms. Christine Hydock, Chief, Medical Programs Division, FMCSA, DOT, 1200 New Jersey Avenue SE, Washington, DC 20590–0001; (202) 366–4001; *fmcsamedical@dot.gov.* Office hours are from 8:30 a.m. to 5 p.m. ET Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Dockets Operations, (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation

A. Viewing Comments

To view comments, go to *www.regulations.gov.* Insert the docket number (FMCSA–2011–0089, FMCSA–2015–0115, FMCSA–2018–0057, FMCSA–2019–0027, FMCSA–2022–0045, FMCSA–2023–0032, or FMCSA–2023–0033) in the keyword box and click ''Search.'' Next, sort the results by ''Posted (Newer-Older),'' choose the first notice listed, and click ''Browse Comments.'' If you do not have access to the internet, you may view the docket online by visiting Dockets Operations on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC 20590–0001, between 9 a.m. and 5 p.m. 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.

B. Privacy Act

In accordance with 49 U.S.C. 31315(b)(6), DOT solicits comments from the public on the exemption request. DOT posts these comments, including any personal information the commenter provides, to *www.regulations.gov,* as described in

the system of records notice DOT/ALL–14 FDMS (Federal Docket Management System), which can be reviewed under the ''Department Wide System of Records Notices'' link at *https://www.transportation.gov/individuals/privacy/privacy-act-system-records-notices.* The comments are posted without edit and are searchable by the name of the submitter.

II. Legal Basis

FMCSA has authority under 49 U.S.C. 31136(e) and 31315(b) to grant exemptions from the Federal Motor Carrier Safety Regulations (FMCSRs). FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public an opportunity to inspect the information relevant to the application, including the applicant's safety analysis. The Agency must provide an opportunity for public comment on the request.

The Agency reviews the application, safety analyses, and public comments submitted and determines whether granting the exemption would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved absent such exemption, pursuant to the standard set forth in 49 U.S.C. 31315(b)(1). The Agency must publish its decision in the **Federal Register** (49 CFR 381.315(b)). If granted, the notice will identify the regulatory provision from which the applicant will be exempt, the effective period, and all terms and conditions of the exemption (49 CFR 381.315(c)(1)). If the exemption is denied, the notice will explain the reason for the denial (49 CFR 381.315(c)(2)). The exemption may be renewed (49 CFR 381.300(b)).

III. Background

The physical qualification standard for drivers regarding seizures and loss of consciousness provides that a person is physically qualified to drive a CMV if that person has ''no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause the loss of consciousness or any loss of ability to control'' a CMV (49 CFR 391.41(b)(8)). To assist in applying this standard, FMCSA publishes guidance for medical examiners (MEs) in the form of medical advisory criteria in Appendix A to 49 CFR part 391.[1] In 2007, FMCSA published recommendations from a Medical Expert Panel (MEP) that FMCSA tasked to review the existing seizure disorder guidelines for MEs.[2] The MEP performed a comprehensive, systematic literature review, including evidence available at the time. The MEP issued recommended criteria to evaluate whether an individual with a history of epilepsy, a single unprovoked seizure, or a provoked seizure should be allowed to drive a CMV.

On January 15, 2013, FMCSA began granting exemptions, on a case-by-case basis, to individual drivers from the physical qualification standard regarding seizures and loss of consciousness in 49 CFR 391.41(b)(8) (78 FR 3069). The Agency considers the medical advisory criteria, the 2007 MEP recommendations, any public comments received, and each individual's medical information and driving record in deciding whether to grant the exemption.

On July 24, 2025, FMCSA published a notice announcing its decision to renew exemptions for 13 individuals from the epilepsy and seizure disorders prohibition in 49 CFR 391.41(b)(8) to operate a CMV in interstate commerce and requested comments from the public (90 FR 34965). The public comment period ended on August 25, 2025, and no comments were received.

FMCSA has evaluated the eligibility of these applicants and determined that renewing these exemptions would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved by complying with § 391.41(b)(8).

IV. Discussion of Comments

FMCSA received no comments in this proceeding.

V. Terms and Conditions

The terms and conditions of the exemption are provided to the applicants in the exemption document and include the following: each driver must (1) remain seizure-free, maintain a stable treatment, and report to FMCSA within 24 hours if they experience a seizure during the 2-year exemption period; (2) submit to FMCSA annual reports from their treating physicians attesting to the stability of treatment and that the driver has remained seizure-free; (3) undergo an annual medical examination by a certified medical examiner, as defined by § 390.5T; (4) provide a copy of the annual medical certification to the employer for retention in the driver's qualification file, or keep a copy in their driver's qualification file if they are self-employed; (5) report to FMCSA the date, location, and time of any crashes as defined in § 390.5T within 7 days of the crash; (6) report to FMCSA any citations and convictions for disqualifying offenses under 49 CFR parts 383 and 391 within 7 days of the citations and convictions; and (7) submit to FMCSA annual certified driving records from their SDLA. The driver must also have a copy of the exemption when driving, for presentation to a duly authorized Federal, State, or local enforcement official. In addition, the driver must meet all applicable commercial driver's license testing requirements.

VI. Preemption

During the period the exemption is in effect, no State shall enforce any law or regulation that conflicts with this exemption with respect to a person operating under the exemption.

VII. Conclusion

Based on its evaluation of the 13 renewal exemption applications and no comments received, FMCSA announces its decision to grant a 2-year exemption to each of the following drivers from the epilepsy and seizure disorders prohibition in § 391.41(b)(8).

As of June 10, 2025, and in accordance with 49 U.S.C. 31136(e) and 31315(b), the following eight individuals have satisfied the renewal conditions for obtaining an exemption from the epilepsy and seizure disorders prohibition in the FMCSRs for interstate CMV drivers:

Kevin Addington (PA)
John D. Archer (MO)
Daniel Gast (KS)
Steve Hunsaker (ID)
Bryan R. Jones (PA)
Brandon Kirby (CT)
Alexander Kumm (IL)
David Shively (WY)

The drivers were included in docket number FMCSA–2011–0089, FMCSA–2015–0115, FMCSA–2018–0057, FMCSA–2019–0027, FMCSA–2022–0045, or FMCSA–2023–0032. Their exemptions were applicable as of June 10, 2025, and will expire on June 10, 2027.

As of June 21, 2025, and in accordance with 49 U.S.C. 31136(e) and 31315(b), the following five individuals have satisfied the renewal conditions for obtaining an exemption from the epilepsy and seizure disorders prohibition in the FMCSRs for interstate CMV drivers:

Sean Duffy (NJ)
Daniel Lozier (OH)

[1] 49 CFR part 391, App.A.II.G, available at *https://www.ecfr.gov/current/title-49/subtitle-B/chapter-III/subchapter-B/part-391/appendix-Appendix%20A%20to%20Part%20391.*

[2] ''Expert Panel Recommendations, Seizure Disorders and Commercial Motor Vehicle Driver Safety,'' Medical Expert Panel (Oct. 15, 2007), available at *https://www.fmcsa.dot.gov/sites/fmcsa.dot.gov/files/2020-04/Seizure-Disorders-MEP-Recommendations-v2-prot%2010152007.pdf.*

Jeffrey Raddatz (IA)
Sergio Soto (AZ)
Jacob Woliver (CA)

The drivers were included in docket number FMCSA–2023–0033. Their exemptions were applicable as of June 21, 2025, and will expire on June 21, 2027.

In accordance with 49 U.S.C. 31315(b), and FMCSA's policy of issuing medical exemptions for a 2-year period to correspond with the medical certificate, each exemption will be valid for 2 years from the effective date unless revoked earlier by FMCSA. The exemption will be revoked if the following occurs: (1) the person fails to comply with the terms and conditions of the exemption, as set forth in the initial renewal notice (*see* 90 FR 34965) and incorporated herein; (2) the exemption has resulted in a lower level of safety than was maintained prior to being granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315(b).

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2026–02147 Filed 2–2–26; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2013–0109; FMCSA–2014–0380; FMCSA–2015–0323; FMCSA–2016–0008; FMCSA–2016–0313; FMCSA–2020–0050; FMCSA–2020–0053; FMCSA–2022–0047; FMCSA–2023–0030]

Qualification of Drivers; Exemption Applications; Epilepsy and Seizure Disorders

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

ACTION: Notice of final disposition.

SUMMARY: FMCSA announces its decision to renew exemptions for 17 individuals from the requirement in the Federal Motor Carrier Safety Regulations (FMCSRs) that interstate commercial motor vehicle (CMV) drivers have ''no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause loss of consciousness or any loss of ability to control a CMV.'' The exemptions enable these individuals who have had one or more seizures and are taking anti-seizure medication to continue to operate CMVs in interstate commerce.

DATES: Each of the renewed exemptions was applicable on the dates stated in the discussions below and will expire on the dates provided below.

FOR FURTHER INFORMATION CONTACT: Ms. Christine Hydock, Chief, Medical Programs Division, FMCSA, DOT, 1200 New Jersey Avenue SE, Washington, DC 20590–0001; (202) 366–4001; *fmcsamedical@dot.gov.* Office hours are from 8:30 a.m. to 5 p.m. ET Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Dockets Operations, (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation

A. Viewing Comments

To view comments, go to *www.regulations.gov.* Insert the docket number (FMCSA–2013–0109, FMCSA–2014–0380, FMCSA–2015–0323, FMCSA–2016–0008, FMCSA–2016–0313, FMCSA–2020–0050, FMCSA–2020–0053, FMCSA–2022–0047, or FMCSA–2023–0030) in the keyword box and click ''Search.'' Next, sort the results by ''Posted (Newer-Older),'' choose the first notice listed, and click ''Browse Comments.'' If you do not have access to the internet, you may view the docket online by visiting Dockets Operations on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC 20590–0001, between 9 a.m. and 5 p.m. 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.

B. Privacy Act

In accordance with 49 U.S.C. 31315(b)(6), DOT solicits comments from the public on the exemption request. DOT posts these comments, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice DOT/ALL–14 FDMS (Federal Docket Management System), which can be reviewed under the ''Department Wide System of Records Notices'' link at *https://www.transportation.gov/individuals/privacy/privacy-act-system-records-notices.* The comments are posted without edit and are searchable by the name of the submitter.

II. Legal Basis

FMCSA has authority under 49 U.S.C. 31136(e) and 31315(b) to grant exemptions from the Federal Motor Carrier Safety Regulations (FMCSRs). FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public an opportunity to inspect the information relevant to the application, including the applicant's safety analysis. The Agency must provide an opportunity for public comment on the request.

The Agency reviews the application, safety analyses, and public comments submitted and determines whether granting the exemption would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved absent such exemption, pursuant to the standard set forth in 49 U.S.C. 31315(b)(1). The Agency must publish its decision in the **Federal Register** (49 CFR 381.315(b)). If granted, the notice will identify the regulatory provision from which the applicant will be exempt, the effective period, and all terms and conditions of the exemption (49 CFR 381.315(c)(1)). If the exemption is denied, the notice will explain the reason for the denial (49 CFR 381.315(c)(2)). The exemption may be renewed (49 CFR 381.300(b)).

III. Background

The physical qualification standard for drivers regarding seizures and loss of consciousness provides that a person is physically qualified to drive a CMV if that person has ''no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause the loss of consciousness or any loss of ability to control'' a CMV (49 CFR 391.41(b)(8)). To assist in applying this standard, FMCSA publishes guidance for medical examiners (MEs) in the form of medical advisory criteria in Appendix A to 49 CFR part 391.[1] In 2007, FMCSA published recommendations from a Medical Expert Panel (MEP) that FMCSA tasked to review the existing seizure disorder guidelines for MEs.[2] The MEP performed a comprehensive, systematic literature review, including evidence available at the time. The MEP issued recommended criteria to evaluate whether an individual with a history of epilepsy, a single unprovoked seizure, or a provoked seizure should be allowed to drive a CMV.

On January 15, 2013, FMCSA began granting exemptions, on a case-by-case

[1] 49 CFR part 391, App.A.II.G, available at *https://www.ecfr.gov/current/title-49/subtitle-B/chapter-III/subchapter-B/part-391/appendix-Appendix%20A%20to%20Part%20391.*

[2] ''Expert Panel Recommendations, Seizure Disorders and Commercial Motor Vehicle Driver Safety,'' Medical Expert Panel (Oct. 15, 2007), available at *https://www.fmcsa.dot.gov/sites/fmcsa.dot.gov/files/2020-04/Seizure-Disorders-MEP-Recommendations-v2-prot%2010152007.pdf.*

basis, to individual drivers from the physical qualification standard regarding seizures and loss of consciousness in 49 CFR 391.41(b)(8) (78 FR 3069). The Agency considers the medical advisory criteria, the 2007 MEP recommendations, any public comments received, and each individual's medical information and driving record in deciding whether to grant the exemption.

On May 5, 2025, FMCSA published a notice announcing its decision to renew exemptions for 17 individuals from the epilepsy and seizure disorders prohibition in 49 CFR 391.41(b)(8) to operate a CMV in interstate commerce and requested comments from the public (90 FR 19080). The public comment period ended on June 4, 2025, and no comments were received.

FMCSA has evaluated the eligibility of these applicants and determined that renewing these exemptions would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved by complying with § 391.41(b)(8).

IV. Discussion of Comments

FMCSA received no comments on these renewal applications.

V. Terms and Conditions

The terms and conditions of the exemption are provided to the applicants in the exemption document and include the following: each driver must (1) remain seizure-free, maintain a stable treatment, and report to FMCSA within 24 hours if they experience a seizure during the 2-year exemption period; (2) submit to FMCSA annual reports from their treating physicians attesting to the stability of treatment and that the driver has remained seizure-free; (3) undergo an annual medical examination by a certified medical examiner, as defined by § 390.5T; (4) provide a copy of the annual medical certification to the employer for retention in the driver's qualification file, or keep a copy in their driver's qualification file if they are self-employed; (5) report to FMCSA the date, location, and time of any crashes as defined in § 390.5T within 7 days of the crash; (6) report to FMCSA any citations and convictions for disqualifying offenses under 49 CFR parts 383 and 391 within 7 days of the citations and convictions; and (7) submit to FMCSA annual certified driving records from their SDLA. The driver must also have a copy of the exemption when driving, for presentation to a duly authorized Federal, State, or local enforcement official. In addition, the driver must meet all applicable commercial driver's license testing requirements.

VI. Preemption

During the period the exemption is in effect, no State shall enforce any law or regulation that conflicts with this exemption with respect to a person operating under the exemption.

VII. Conclusion

Based on its evaluation of the 17 renewal exemption applications and no comments received, FMCSA announces its decision to grant a 2-year exemption to each of the following drivers from the epilepsy and seizure disorders prohibition in § 391.41(b)(8).

As of April 2, 2025, and in accordance with 49 U.S.C. 31136(e) and 31315(b), the following 15 individuals have satisfied the renewal conditions for obtaining an exemption from the epilepsy and seizure disorders prohibition in the FMCSRs for interstate CMV drivers:

Sayed Abbed (PA)
Jeffrey Ballweg (WI)
Kenneth Elder (KY)
Larry Kirby (MO)
Brian Klein (IN)
Edward Malicki (NY)
Jared Meyers (MS)
Ronnie Moody (NC)
Rick Morrison (NC)
Joshua Pattyn (OR)
Benjamin Reineke (OH)
Robert Schauer (IA)
Jeffrey Smith, Jr. (FL)
Eric Smits (WI)
Tara Van Horne (PA)

The drivers were included in docket number FMCSA–2013–0109, FMCSA–2014–0380, FMCSA–2015–0323, FMCSA–2016–0008, FMCSA–2020–0050, FMCSA–2020–0053, or FMCSA–2022–0047. Their exemptions were applicable as of April 2, 2025, and will expire on April 2, 2027.

As of April 26, 2025, and in accordance with 49 U.S.C. 31136(e) and 31315(b), Michael Littleton (CO) has satisfied the renewal conditions for obtaining an exemption from the epilepsy and seizure disorders prohibition in the FMCSRs for interstate CMV drivers. This driver was included in docket number FMCSA–2023–0030. The exemption was applicable as of April 26, 2025, and will expire on April 26, 2027.

As of April 30, 2025, and in accordance with 49 U.S.C. 31136(e) and 31315(b), Bradley Hollister (PA) has satisfied the renewal conditions for obtaining an exemption from the epilepsy and seizure disorders prohibition in the FMCSRs for interstate CMV drivers. This driver was included in docket number FMCSA–2016–0313. The exemption was applicable as of April 30, 2025, and will expire on April 30, 2027.

In accordance with 49 U.S.C. 31315(b), and FMCSA's policy of issuing medical exemptions for a 2-year period to correspond with the medical certificate, each exemption will be valid for 2 years from the effective date unless revoked earlier by FMCSA. The exemption will be revoked if the following occurs: (1) the person fails to comply with the terms and conditions of the exemption, as set forth in the initial renewal notice (*see* 90 FR 19080) and incorporated herein; (2) the exemption has resulted in a lower level of safety than was maintained prior to being granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315(b).

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2026–02160 Filed 2–2–26; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2016–0007; FMCSA–2020–0046; FMCSA–2020–0047; FMCSA–2022–0045; FMCSA–2022–0047; FMCSA–2023–0029]

Qualification of Drivers; Exemption Applications; Epilepsy and Seizure Disorders

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

ACTION: Notice of final disposition.

SUMMARY: FMCSA announces its decision to renew exemptions for six individuals from the requirement in the Federal Motor Carrier Safety Regulations (FMCSRs) that interstate commercial motor vehicle (CMV) drivers have ''no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause loss of consciousness or any loss of ability to control a CMV.'' The exemptions enable these individuals who have had one or more seizures and are taking anti-seizure medication to continue to operate CMVs in interstate commerce.

DATES: Each of the renewed exemptions was applicable on the dates stated in the discussions below and will expire on the dates provided below.

FOR FURTHER INFORMATION CONTACT: Ms. Christine Hydock, Chief, Medical Programs Division, FMCSA, DOT, 1200 New Jersey Avenue SE, Washington, DC 20590–0001; (202) 366–4001; *fmcsamedical@dot.gov.* Office hours are from 8:30 a.m. to 5 p.m. ET Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Dockets Operations, (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation

A. Viewing Comments

To view comments, go to *www.regulations.gov.* Insert the docket number (FMCSA–2016–0007, FMCSA–2020–0046, FMCSA–2020–0047, FMCSA–2022–0045, FMCSA–2022–0047, or FMCSA–2023–0029) in the keyword box and click ''Search.'' Next, sort the results by ''Posted (Newer-Older),'' choose the first notice listed, and click ''Browse Comments.'' If you do not have access to the internet, you may view the docket online by visiting Dockets Operations on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC 20590–0001, between 9 a.m. and 5 p.m. 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.

B. Privacy Act

In accordance with 49 U.S.C. 31315(b)(6), DOT solicits comments from the public on the exemption request. DOT posts these comments, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice DOT/ALL–14 FDMS (Federal Docket Management System), which can be reviewed under the ''Department Wide System of Records Notices'' link at *https://www.transportation.gov/individuals/privacy/privacy-act-system-records-notices.* The comments are posted without edit and are searchable by the name of the submitter.

II. Legal Basis

FMCSA has authority under 49 U.S.C. 31136(e) and 31315(b) to grant exemptions from the Federal Motor Carrier Safety Regulations (FMCSRs). FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public an opportunity to inspect the information relevant to the application, including the applicant's safety analysis. The Agency must provide an opportunity for public comment on the request.

The Agency reviews the application, safety analyses, and public comments submitted and determines whether granting the exemption would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved absent such exemption, pursuant to the standard set forth in 49 U.S.C. 31315(b)(1). The Agency must publish its decision in the **Federal Register** (49 CFR 381.315(b)). If granted, the notice will identify the regulatory provision from which the applicant will be exempt, the effective period, and all terms and conditions of the exemption (49 CFR 381.315(c)(1)). If the exemption is denied, the notice will explain the reason for the denial (49 CFR 381.315(c)(2)). The exemption may be renewed (49 CFR 381.300(b)).

III. Background

The physical qualification standard for drivers regarding seizures and loss of consciousness provides that a person is physically qualified to drive a CMV if that person has ''no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause the loss of consciousness or any loss of ability to control'' a CMV (49 CFR 391.41(b)(8)). To assist in applying this standard, FMCSA publishes guidance for medical examiners (MEs) in the form of medical advisory criteria in Appendix A to 49 CFR part 391.[1] In 2007, FMCSA published recommendations from a Medical Expert Panel (MEP) that FMCSA tasked to review the existing seizure disorder guidelines for MEs.[2] The MEP performed a comprehensive, systematic literature review, including evidence available at the time. The MEP issued recommended criteria to evaluate whether an individual with a history of epilepsy, a single unprovoked seizure, or a provoked seizure should be allowed to drive a CMV.

On January 15, 2013, FMCSA began granting exemptions, on a case-by-case basis, to individual drivers from the physical qualification standard regarding seizures and loss of consciousness in 49 CFR 391.41(b)(8) (78 FR 3069). The Agency considers the medical advisory criteria, the 2007 MEP recommendations, any public comments received, and each individual's medical information and driving record in deciding whether to grant the exemption.

On May 5, 2025, FMCSA published a notice announcing its decision to renew exemptions for six individuals from the epilepsy and seizure disorders prohibition in 49 CFR 391.41(b)(8) to operate a CMV in interstate commerce and requested comments from the public (90 FR 19073). The public comment period ended on June 4, 2025, and no comments were received.

FMCSA has evaluated the eligibility of these applicants and determined that renewing these exemptions would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved by complying with § 391.41(b)(8).

IV. Terms and Conditions

The terms and conditions of the exemption are provided to the applicants in the exemption document and include the following: each driver must (1) remain seizure-free, maintain a stable treatment, and report to FMCSA within 24 hours if they experience a seizure during the 2-year exemption period; (2) submit to FMCSA annual reports from their treating physicians attesting to the stability of treatment and that the driver has remained seizure-free; (3) undergo an annual medical examination by a certified medical examiner, as defined by § 390.5T; (4) provide a copy of the annual medical certification to the employer for retention in the driver's qualification file, or keep a copy in their driver's qualification file if they are self-employed; (5) report to FMCSA the date, location, and time of any crashes as defined in § 390.5T within 7 days of the crash; (6) report to FMCSA any citations and convictions for disqualifying offenses under 49 CFR parts 383 and 391 within 7 days of the citations and convictions; and (7) submit to FMCSA annual certified driving records from their SDLA. The driver must also have a copy of the exemption when driving, for presentation to a duly authorized Federal, State, or local enforcement official. In addition, the driver must meet all applicable commercial driver's license testing requirements.

V. Preemption

During the period the exemption is in effect, no State shall enforce any law or regulation that conflicts with this exemption with respect to a person operating under the exemption.

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[1] 49 CFR part 391, App.A.II.G, available at *https://www.ecfr.gov/current/title-49/subtitle-B/chapter-III/subchapter-B/part-391/appendix-Appendix%20A%20to%20Part%20391.*

[2] ''Expert Panel Recommendations, Seizure Disorders and Commercial Motor Vehicle Driver Safety,'' Medical Expert Panel (Oct. 15, 2007), available at *https://www.fmcsa.dot.gov/sites/fmcsa.dot.gov/files/2020-04/Seizure-Disorders-MEP-Recommendations-v2-prot%2010152007.pdf.*

VI. Discussion of Comments

FMCSA received no comments in this proceeding.

VII. Conclusion

Based on its evaluation of the six renewal exemption applications and no comments received, FMCSA announces its decision to grant a 2-year exemption to each of the following drivers from the epilepsy and seizure disorders prohibition in § 391.41(b)(8).

As of March 17, 2025, and in accordance with 49 U.S.C. 31136(e) and 31315(b), the following five individuals have satisfied the renewal conditions for obtaining an exemption from the epilepsy and seizure disorders prohibition in the FMCSRs for interstate CMV drivers:

Joel Clapper (MI)
Ryan Freedman (MI)
Todd Hines (OH)
Harold Seaton (KY)
Thomas Smutnik (PA)

The drivers were included in docket numbers FMCSA–2016–0007, FMCSA–2020–0046, FMCSA–2020–0047, FMCSA–2022–0045, or FMCSA–2022–0047. Their exemptions were applicable as of March 17, 2025, and will expire on March 17, 2027.

As of March 31, 2025, and in accordance with 49 U.S.C. 31136(e) and 31315(b), Spencer William (OH) has satisfied the renewal conditions for obtaining an exemption from the epilepsy and seizure disorders prohibition in the FMCSRs for interstate CMV drivers. This driver was included in docket number FMCSA–2023–0029. The exemption was applicable as of March 31, 2025, and will expire on March 31, 2027.

In accordance with 49 U.S.C. 31315(b), and FMCSA's policy of issuing medical exemptions for a 2-year period to correspond with the medical certificate, each exemption will be valid for 2 years from the effective date unless revoked earlier by FMCSA. The exemption will be revoked if the following occurs: (1) the person fails to comply with the terms and conditions of the exemption, as set forth in the initial renewal notice (*see* 90 FR 19073) and incorporated herein; (2) the exemption has resulted in a lower level of safety than was maintained prior to being granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315(b).

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2026–02142 Filed 2–2–26; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2025–0012]

Qualification of Drivers; Exemption Applications; Epilepsy and Seizure Disorders

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

ACTION: Notice of final disposition.

SUMMARY: FMCSA announces its decision to exempt 11 individuals from the requirement in the Federal Motor Carrier Safety Regulations (FMCSRs) that interstate commercial motor vehicle (CMV) drivers have ''no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause loss of consciousness or any loss of ability to control a CMV.'' The exemptions enable these individuals who have had one or more seizures and are taking anti-seizure medication to operate CMVs in interstate commerce.

DATES: The exemptions were applicable on August 30, 2025. The exemptions expire on August 30, 2027.

FOR FURTHER INFORMATION CONTACT: Ms. Christine Hydock, Chief, Medical Programs Division, FMCSA, DOT, 1200 New Jersey Avenue SE, Washington, DC 20590–0001; (202) 366–4001; *fmcsamedical@dot.gov.* Office hours are from 8:30 a.m. to 5 p.m. ET Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Dockets Operations, (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation

A. Viewing Comments

To view comments, go to *www.regulations.gov.* Insert the docket number, (FMCSA–2025–0012) in the keyword box and click ''Search.'' Next, choose the only notice listed, and click ''Browse Comments.'' If you do not have access to the internet, you may view the docket online by visiting Dockets Operations on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC 20590–0001, between 9 a.m. and 5 p.m. 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.

B. Privacy Act

In accordance with 49 U.S.C. 31315(b)(6), DOT solicits comments from the public on the exemption requests. DOT posts these comments, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice DOT/ALL–14 FDMS (Federal Docket Management System), which can be reviewed under the ''Department Wide System of Records Notices'' link at *https://www.transportation.gov/individuals/privacy/privacy-act-system-records-notices.* The comments are posted without edit and are searchable by the name of the submitter.

II. Legal Basis

FMCSA has authority under 49 U.S.C. 31136(e) and 31315(b) to grant exemptions from the Federal Motor Carrier Safety Regulations (FMCSRs). FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public an opportunity to inspect the information relevant to the application, including the applicant's safety analysis. The Agency must provide an opportunity for public comment on the request.

The Agency reviews the application, safety analyses, and public comments submitted and determines whether granting the exemption would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved absent such exemption, pursuant to the standard set forth in 49 U.S.C. 31315(b)(1). The Agency must publish its decision in the **Federal Register** (49 CFR 381.315(b)). If granted, the notice will identify the regulatory provision from which the applicant will be exempt, the effective period, and all terms and conditions of the exemption (49 CFR 381.315(c)(1)). If the exemption is denied, the notice will explain the reason for the denial (49 CFR 381.315(c)(2)). The exemption may be renewed (49 CFR 381.300(b)).

III. Background

The physical qualification standard for drivers regarding seizures and loss of consciousness provides that a person is physically qualified to drive a CMV if that person has ''no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause the loss of consciousness or any loss of ability to control'' a CMV (49 CFR 391.41(b)(8)). To assist in applying this standard, FMCSA publishes guidance for medical examiners (MEs) in the form of medical advisory criteria

in Appendix A to 49 CFR part 391.[1] In 2007, FMCSA published recommendations from a Medical Expert Panel (MEP) that FMCSA tasked to review the existing seizure disorder guidelines for MEs.[2] The MEP performed a comprehensive, systematic literature review, including evidence available at the time. The MEP issued recommended criteria to evaluate whether an individual with a history of epilepsy, a single unprovoked seizure, or a provoked seizure should be allowed to drive a CMV.

On January 15, 2013, FMCSA began granting exemptions, on a case-by-case basis, to individual drivers from the physical qualification standard regarding seizures and loss of consciousness in 49 CFR 391.41(b)(8) (78 FR 3069). The Agency considers the medical advisory criteria, the 2007 MEP recommendations, and each individual's medical information and driving record in deciding whether to grant the exemption.

On July 24, 2025, FMCSA published a notice announcing receipt of applications from 11 individuals requesting an exemption from the epilepsy and seizure disorders prohibition in 49 CFR 391.41(b)(8) and requested comments from the public (90 FR 34963). The public comment period ended on August 25, 2025, and no comments were received.

FMCSA has evaluated the eligibility of these applicants and determined that granting exemptions to these individuals would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved by complying with § 391.41(b)(8).

IV. Discussion of Comments

FMCSA received no comments on these exemption applications.

V. Basis for Exemption Determination

The Agency conducted an individualized assessment of each applicant's medical information, including the root cause of the respective seizure(s) and medical information about the applicant's seizure history, the length of time that has elapsed since the individual's last seizure, the stability of each individual's treatment regimen and the duration of time on or off of anti-seizure medication. In addition, the Agency reviewed the treating clinician's medical opinion related to the ability of the driver to safely operate a CMV with a seizure history and each applicant's certified driving record from their State Driver's Licensing Agency (SDLA). The information obtained from each applicant's driving record provides the Agency with details regarding any moving violations or reported crash data, which demonstrates whether the driver has a safe driving history and is an indicator of future driving performance. If the driving record revealed a crash, FMCSA requested and reviewed the related police reports and other relevant documents, such as the citation and conviction information. A summary of each applicant's seizure history was discussed in the July 24, 2025, Federal Register notice (90 FR 34963) and will not be repeated in this notice.

These 11 applicants have been seizure-free over a range of 8 to 33 years while taking anti-seizure medication and have maintained a stable medication treatment regimen for the last 2 years. In each case, the applicant's treating physician verified his or her seizure history and supports the ability to drive commercially.

The Agency acknowledges the potential consequences of a driver experiencing a seizure while operating a CMV. However, the Agency believes the drivers granted this exemption have demonstrated that they are unlikely to have a seizure and their medical condition does not pose a risk to public safety in the operation of a CMV.

Consequently, FMCSA finds further that in each case exempting these applicants from the epilepsy and seizure disorder prohibition in § 391.41(b)(8) would likely achieve a level of safety equivalent to the level of safety that would be achieved without the exemption, consistent with the applicable standard in 49 U.S.C. 31315(b)(1).

VI. Terms and Conditions

The terms and conditions of the exemption are provided to the applicants in the exemption document and include the following: each driver must (1) remain seizure-free, maintain a stable treatment, and report to FMCSA within 24 hours if they experience a seizure during the 2-year exemption period; (2) submit to FMCSA annual reports from their treating physicians attesting to the stability of treatment and that the driver has remained seizure-free; (3) undergo an annual medical examination by a certified medical examiner, as defined by § 390.5T; (4) provide a copy of the annual medical certification to the employer for retention in the driver's qualification file, or keep a copy in their driver's qualification file if they are self-employed; (5) report to FMCSA the date, location, and time of any crashes as defined in § 390.5T within 7 days of the crash; (6) report to FMCSA any citations and convictions for disqualifying offenses under 49 CFR parts 383 and 391 within 7 days of the citations and convictions; and (7) submit to FMCSA annual certified driving records from their SDLA. The driver must also have a copy of the exemption when driving, for presentation to a duly authorized Federal, State, or local enforcement official. In addition, the driver must meet all applicable commercial driver's license testing requirements.

VII. Preemption

During the period the exemption is in effect, no State shall enforce any law or regulation that conflicts with this exemption with respect to a person operating under the exemption.

VIII. Conclusion

Based upon its evaluation of the 11 exemption applications, FMCSA exempts the following drivers from the epilepsy and seizure disorder prohibition in § 391.41(b)(8), subject to the requirements cited above:

Terrence Abrams (NC)
Jacob Bing (OH)
Michael Brown (TX)
Daniel Chandler (NY)
Phillip Chavis (NC)
Darius Dale (PA)
Logan Fry (WA)
Kasey Key (TX)
Thomas Marx (WA)
John Murray (PA)
Jim Musty (NH)

In accordance with 49 U.S.C. 31315(b), and FMCSA's policy of issuing medical exemptions for a 2-year period to correspond with the medical certificate, each exemption will be valid for 2 years from the effective date unless revoked earlier by FMCSA. The exemption will be revoked if the following occurs: (1) the person fails to comply with the terms and conditions of the exemption, as set forth above; (2) the exemption has resulted in a lower level of safety than was maintained prior to being granted; or (3) continuation of the exemption would not be consistent with the goals and

[1] 49 CFR part 391, App. A.II.G, available at *https://www.ecfr.gov/current/title-49/subtitle-B/chapter-III/subchapter-B/part-391/appendix-Appendix%20A%20to%20Part%20391.*

[2] ''Expert Panel Recommendations, Seizure Disorders and Commercial Motor Vehicle Driver Safety,'' Medical Expert Panel (Oct. 15, 2007), available at *https://www.fmcsa.dot.gov/sites/fmcsa.dot.gov/files/2020-04/Seizure-Disorders-MEP-Recommendations-v2-prot%2010152007.pdf.*

objectives of 49 U.S.C. 31136, 49 U.S.C. chapter 313, or the FMCSRs.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2026–02141 Filed 2–2–26; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket No. PHMSA–2025–0015]

Pipeline Safety: Request for Special Permit; Kinder Morgan Liquid Terminals, LLC

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA); U.S. Department of Transportation (DOT).

ACTION: Notice.

SUMMARY: PHMSA is publishing this notice to solicit public comment on a request for a special permit received from Kinder Morgan Liquid Terminals, LLC (KMLT). The special permit request is seeking relief from compliance with certain requirements in the Federal pipeline safety regulations. At the conclusion of the 30-day comment period, PHMSA will review the comments received from this notice as part of its evaluation to grant or deny the special permit request.

DATES: Submit any comments regarding this special permit request by March 5, 2026.

ADDRESSES: Comments should reference the docket number for this specific special permit request and may be submitted in the following ways:

- *E-Gov Website: http://www.regulations.gov.* This site allows the public to enter comments on any **Federal Register** notice issued by any agency.
- *Fax:* 1–202–493–2251.
- *Mail:* Docket Management System: 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:* Docket Management System: U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays.

Instructions: You should identify the docket number for the special permit request you are commenting on at the beginning of your comments. If you submit your comments by mail, please submit two copies. To receive confirmation that PHMSA has received your comments, please include a self-addressed stamped postcard. Internet users may submit comments at *http://www.regulations.gov.*

Note: There is a privacy statement published on *http://www.regulations.gov.* Comments, including any personal information provided, are posted without changes or edits to *http://www.regulations.gov.*

Confidential Business Information: 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. Code 552), CBI is exempt from public disclosure. If your comments responsive to this notice 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 notice, it is important that you clearly designate the submitted comments as CBI. Pursuant to 49 Code of Federal Regulations (CFR) § 190.343, you may ask PHMSA to give confidential treatment to information you give to the agency by taking the following steps: (1) mark each page of the original document submission containing CBI as ''Confidential''; (2) send PHMSA, along with the original document, a second copy of the original document with the CBI deleted; and (3) explain why the information you are submitting is CBI. Unless you are notified otherwise, PHMSA will treat such marked submissions as confidential under FOIA, and they will not be placed in the public docket of this notice. Submissions containing CBI should be sent to Lee Cooper, DOT, PHMSA–PHP–80, 1200 New Jersey Avenue SE, Washington, DC 20590–0001. Any commentary PHMSA receives that is not specifically designated as CBI will be placed in the public docket for this matter.

FOR FURTHER INFORMATION CONTACT:

General: Mr. Lee Cooper by phone at 202–913–3171, or by email at *lee.cooper@dot.gov.*

Technical: Mr. Zaid Obeidi by phone at 202–366–5267, or by email at *zaid.obeidi@dot.gov.*

SUPPLEMENTARY INFORMATION: PHMSA received a special permit request from KMLT dated December 13, 2024, seeking a waiver from the Federal pipeline safety regulations in 49 CFR 195.563(a) and (d) and 195.565 requiring cathodic protection on three breakout tanks in Middlesex County, New Jersey. Under the requested special permit, KMLT would implement the use of vapor phase corrosion inhibitors to protect the tank bottom against bottom-side corrosion.

The special permit request, draft proposed special permit conditions, and draft environmental assessment for the above-described KMLT facility are available for review and public comment in Docket No. PHMSA–2025–0015. PHMSA invites interested persons to review and submit comments on the special permit request. Please submit comments on any potential safety, environmental, and other relevant considerations implicated by the special permit request. Comments may include relevant data.

Before issuing a decision on the special permit request, PHMSA will evaluate all comments received on or before the comment closing date. PHMSA will consider each relevant comment it receives in making its decision to grant or deny this special permit request.

Issued in Washington, DC, under authority delegated in 49 CFR 1.97.

Linda Daugherty,

Acting Associate Administrator for Pipeline Safety.

[FR Doc. 2026–02167 Filed 2–2–26; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket No. PHMSA–2025–0546]

Pipeline Safety: Request for Special Permit

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA); Department of Transportation (DOT).

ACTION: Notice.

SUMMARY: PHMSA is publishing this notice to solicit public comments on a request for a special permit for the North Slope Liquefied Natural Gas (LNG) Facility (Facility) submitted by Harvest Alaska LNG, LLC (Harvest). Harvest is seeking relief from compliance with certain requirements in the Federal pipeline safety regulations. PHMSA has proposed conditions to ensure the special permit is consistent with pipeline safety. At the conclusion of the 30-day comment period, PHMSA will review the comments received from this notice as part of its evaluation to grant or deny the special permit request.

DATES: Submit any comments regarding this special permit request by March 5, 2026.

ADDRESSES: Comments should reference the docket number for this special permit request and may be submitted in the following ways:

- *E-Gov Website: http://www.regulations.gov.* This site allows the public to enter comments on any **Federal Register** notice issued by any agency.
- *Fax:* 1–202–493–2251.
- *Mail:* Docket Management System: 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:* Docket Management System: U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays.

Instructions: You should identify the docket number for the special permit request you are commenting on at the beginning of your comments. If you submit your comments by mail, please submit two copies. To receive confirmation that PHMSA has received your comments, please include a self-addressed stamped postcard. Internet users may submit comments at *http://www.regulations.gov.*

Note: There is a privacy statement published on *http://www.regulations.gov.* Comments, including any personal information provided, are posted without changes or edits to *http://www.regulations.gov.*

Confidential Business Information: 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 United States Code § 552), CBI is exempt from public disclosure. If your comments responsive to this notice 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 notice, it is important that you clearly designate the submitted comments as CBI. Pursuant to 49 Code of Federal Regulations (CFR) § 190.343, you may ask PHMSA to give confidential treatment to information you give to the Agency by taking the following steps: (1) mark each page of the original document submission containing CBI as ''Confidential''; (2) send PHMSA, along with the original document, a second copy of the original document with the CBI deleted; and (3) explain why the information you are submitting is CBI. Unless you are notified otherwise, PHMSA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this notice. Submissions containing CBI should be sent to Lee Cooper, DOT, PHMSA–PHP–80, 1200 New Jersey Avenue SE, Washington, DC 20590–0001. Any commentary PHMSA receives that is not designated specifically as CBI will be placed in the public docket for this matter.

FOR FURTHER INFORMATION CONTACT:

General: Mr. Lee Cooper by phone at 202–913–3171 or by email at *lee.cooper@dot.gov.*

Technical: Ms. Chau Tran by phone at 713–249–2483 or by email at *chau.tran@dot.gov.*

SUPPLEMENTARY INFORMATION: PHMSA received a special permit request from Harvest on July 29, 2025, seeking to deviate from the Federal pipeline safety regulations in 49 CFR 193.2905 and 193.2907 for the Facility located in Alaska's North Slope Borough.

Due to Arctic-specific environmental and operational challenges associated with installing a fence along the boundary of the Facility, Harvest seeks to waive the requirements of 49 CFR 193.2905 and 193.2907, which require protective enclosures surrounding LNG facilities. The draft conditions were determined preliminarily to ensure that the special permit is consistent with pipeline safety for the Facility in Alaska's North Slope Borough.

The special permit request, draft proposed special permit with conditions, and draft environmental assessment (DEA) for the Facility are available for review and public comment in Docket No. PHMSA–2025–0546. PHMSA invites interested persons to review and submit comments in the docket on the special permit request, draft proposed special permit with attachments, and DEA. Please submit comments on any potential safety, environmental, and other relevant considerations implicated by the special permit request. Comments may include relevant data.

Before issuing a decision on the special permit request, PHMSA will evaluate all comments received on or before the closing date. PHMSA will consider each relevant comment it receives in making its decision to grant or deny this special permit request.

Issued in Washington, DC, under authority delegated in 49 CFR 1.97.

Linda Daugherty,

Acting Associate Administrator for Pipeline Safety.

[FR Doc. 2026–02163 Filed 2–2–26; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Agency Information Collection Activities: Information Collection Renewal; Comment Request; Assessment of Fees

AGENCY: Office of the Comptroller of the Currency (OCC), Treasury.

ACTION: Notice and request for comment.

SUMMARY: The OCC, as part of its continuing effort to reduce paperwork and respondent burden, invites comment on a continuing information collection, as required by the Paperwork Reduction Act of 1995 (PRA). In accordance with the requirements of the PRA, the OCC may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The OCC is soliciting comment concerning its information collection titled, ''Assessment of Fees.''

DATES: Comments must be received by April 6, 2026.

ADDRESSES: Commenters are encouraged to submit comments by email, if possible. You may submit comments by any of the following methods:

- *Email: prainfo@occ.treas.gov.*
- *Mail:* Chief Counsel's Office, Attention: Comment Processing, Office of the Comptroller of the Currency, Attention: 1557–0223, 400 7th Street SW, Suite 3E–218, Washington, DC 20219.
- *Hand Delivery/Courier:* 400 7th Street SW, Suite 3E–218, Washington, DC 20219.
- *Fax:* (571) 293–4835.

Instructions: You must include ''OCC'' as the agency name and ''1557–0223'' in your comment. In general, the OCC will publish comments on *www.reginfo.gov* without change, including any business or personal information provided, such as name and address information, email addresses, or phone numbers. Comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not include any

information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

Following the close of this notice's 60-day comment period, the OCC will publish a second notice with a 30-day comment period. You may review comments and other related materials that pertain to this information collection beginning on the date of publication of the second notice for this collection by the method set forth in the next bullet.

• *Viewing Comments Electronically:* Go to *www.reginfo.gov.* Hover over the ''Information Collection Review'' tab and click on ''Information Collection Review'' from the drop-down menu. From the ''Currently under Review'' drop-down menu, select ''Department of Treasury'' and then click ''submit.'' This information collection can be located by searching OMB control number ''1557–0223'' or ''Assessment of Fees.'' Upon finding the appropriate information collection, click on the related ''ICR Reference Number.'' On the next screen, select ''View Supporting Statement and Other Documents'' and then click on the link to any comment listed at the bottom of the screen.

• For assistance in navigating *www.reginfo.gov,* please contact the Regulatory Information Service Center at (202) 482–7340.

FOR FURTHER INFORMATION CONTACT: Shaquita Merritt, Clearance Officer, (202) 649–5490, Chief Counsel's Office, Office of the Comptroller of the Currency, 400 7th Street SW, Washington, DC 20219. If you are deaf, hard of hearing, or have a speech disability, please dial 7–1–1 to access telecommunications relay services.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501 *et seq.*), Federal agencies must obtain approval from the OMB for each collection of information that they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) to include agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of title 44 generally 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 OCC is publishing notice of the renewal of this collection.

Title: Assessment of Fees.

OMB Control No.: 1557–0223.

Type of Review: Regular.

Affected Public: Businesses or other for-profit.

Description: The OCC is requesting comment on its proposed extension, without change, of the information collection titled, ''Assessment of Fees.'' The OCC is authorized by the National Bank Act (for national banks and Federal branches and agencies) and the Home Owners' Loan Act (for Federal savings associations) to collect assessments, fees, and other charges as necessary or appropriate to carry out the responsibilities of the OCC. 12 U.S.C. 16, 481, 482 and 1467. The OCC requires independent credit card national banks and independent credit card Federal savings associations (collectively, independent credit card institutions) to pay an additional assessment based on receivables attributable to accounts owned by the national bank or Federal savings association. 12 CFR 8.2(c). Independent credit card institutions are national banks or Federal savings associations that engage primarily in credit card operations and are not affiliated with a full-service national bank or full-service Federal savings association. 12 CFR 8.2(c)(3)(vi) and (vii). Under 12 CFR 8.2(c)(2), the OCC also has the authority to assess an independent credit card institution that is affiliated with a full-service national bank or full-service Federal savings association if the OCC concludes that the affiliation is intended to evade the requirements of 12 CFR part 8. The OCC requires independent credit card institutions to report receivables attributable data to the OCC semiannually or at a time specified by the OCC. 12 CFR 8.2(c)(4). ''Receivables attributable'' are the total amount of outstanding balances due on credit card accounts owned by independent credit card institutions (the receivables attributable to those accounts) on the last day of an assessment period minus receivables retained on the national bank or Federal savings association's balance sheet as of that day. 12 CFR 8.2(c)(3)(viii). The OCC uses the information to calculate the assessment for each national bank and Federal savings association and adjust the assessment rate for independent credit card institutions over time.

Estimated Burden

Estimated Frequency of Response: Semiannually.

Estimated Number of Respondents: 5.

Estimated Total Annual Burden: 10 hours.

Comments submitted in response to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on:

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

(b) The accuracy of the OCC's estimate of the burden of the collection of information;

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

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

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

Christopher A. Crawford,

Acting Assistant Director, Office of the Comptroller of the Currency.

[FR Doc. 2026–02126 Filed 2–2–26; 8:45 am]

BILLING CODE 4810–33–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Agency Information Collection Activities: Revision of an Approved Information Collection; Submission for OMB Review; Company-Run Annual Stress Test Reporting Template and Documentation for Covered Institutions With Total Consolidated Assets of $250 Billion or More Under the Dodd-Frank Wall Street Reform and Consumer Protection Act

AGENCY: Office of the Comptroller of the Currency (OCC), Treasury.

ACTION: Notice and request for comment.

SUMMARY: The OCC, as part of its continuing effort to reduce paperwork and respondent burden, invites comment on a continuing information collection, as required by the Paperwork Reduction Act of 1995 (PRA). In accordance with the requirements of the PRA, the OCC may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The OCC is soliciting comment concerning a revision to its information collection titled, ''Company-Run Annual Stress Test Reporting Template and Documentation for Covered Institutions

with Total Consolidated Assets of $250 Billion or More under the Dodd-Frank Wall Street Reform and Consumer Protection Act.'' The OCC also is giving notice that it has sent the collection to OMB for review.

DATES: Comments must be received by March 5, 2026.

ADDRESSES: Commenters are encouraged to submit comments by email, if possible. You may submit comments by any of the following methods:

- *Email: prainfo@occ.treas.gov.*
- *Mail:* Chief Counsel's Office, Attention: Comment Processing, Office of the Comptroller of the Currency, Attention: 1557–0319, 400 7th Street SW, Suite 3E–218, Washington, DC 20219.
- *Hand Delivery/Courier:* 400 7th Street SW, Suite 3E–218, Washington, DC 20219.
- *Fax:* (571) 293–4835.

Instructions: You must include ''OCC'' as the agency name and ''1557–0319'' in your comment. In general, the OCC will publish comments on *www.reginfo.gov* without change, including any business or personal information provided, such as name and address information, email addresses, or phone numbers. Comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not include any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

Written comments and recommendations for the proposed information collection should also be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* You can find this information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

You may review comments and other related materials that pertain to this information collection following the close of the 30-day comment period for this notice by the method set forth in the next bullet.

- *Viewing Comments Electronically:* Go to *www.reginfo.gov.* Hover over the ''Information Collection Review'' tab and click on ''Information Collection Review'' from the drop-down menu. From the ''Currently under Review'' drop-down menu, select ''Department of Treasury'' and then click ''submit.'' This information collection can be located by searching OMB control number ''1557–0319'' or ''Company-Run Annual Stress Test Reporting Template and Documentation for Covered Institutions with Total Consolidated Assets of $250 Billion or More under the Dodd-Frank Wall Street Reform and Consumer Protection Act.'' Upon finding the appropriate information collection, click on the related ''ICR Reference Number.'' On the next screen, select ''View Supporting Statement and Other Documents'' and then click on the link to any comment listed at the bottom of the screen.
- For assistance in navigating *www.reginfo.gov,* please contact the Regulatory Information Service Center at (202) 482–7340.

FOR FURTHER INFORMATION CONTACT: Shaquita Merritt, Clearance Officer, (202) 649–5490, Chief Counsel's Office, Office of the Comptroller of the Currency, 400 7th Street SW, Washington, DC 20219. If you are deaf, hard of hearing, or have a speech disability, please dial 7–1–1 to access telecommunications relay services.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501 *et seq.*), Federal agencies must obtain approval from the OMB for each collection of information that they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) to include agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. The OCC asks the OMB to extend its approval of the collection in this notice.

Title: Company-Run Annual Stress Test Reporting Template and Documentation for Covered Institutions with Total Consolidated Assets of $250 Billion or More under the Dodd-Frank Wall Street Reform and Consumer Protection Act.

OMB Control No.: 1557–0319.

Type of Review: Revision.

Affected Public: Businesses or other for-profit.

Description: Section 165(i)(2) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) [1] requires certain financial companies, including national banks and Federal savings associations, to conduct periodic stress tests [2] and requires the primary financial regulatory agency [3] of those financial companies to issue regulations implementing the stress test requirements.[4] Under section 165(i)(2), a covered institution is required to submit to the Board of Governors of the Federal Reserve System (Board) and to its primary financial regulatory agency a report at such time, in such form, and containing such information as the primary financial regulatory agency may require.[5]

On October 9, 2012, the OCC published in the **Federal Register** a final rule implementing the section 165(i)(2) annual stress test requirement.[6] This rule describes the reports and information collections required to meet the reporting requirements under section 165(i)(2). These information collections will be treated as confidential to the extent permitted by law.[7]

In 2012, the OCC first implemented the reporting templates referenced in the final rule,[8] and the OCC proposed changes to these templates on November 28, 2025.[9] The OCC is now finalizing those proposed changes. The OCC uses the data collected to assess the reasonableness of the stress test results of covered institutions and to provide forward-looking information to the OCC regarding a covered institution's capital adequacy. The OCC also may use the results of the stress tests to determine whether additional analytical techniques and exercises could be appropriate to identify, measure, and monitor risks at the covered institution. The stress test results are expected to support ongoing improvement in a covered institution's stress testing practices with respect to its internal assessments of capital adequacy and overall capital planning.

The OCC recognizes that many covered institutions with total consolidated assets of $250 billion or more are required to submit reports using reporting form FR Y–14A.[10] To the extent practical, the OCC will keep its reporting requirements consistent with the Board's FR Y–14A in order to minimize burden on covered institutions.

The OCC's changes include only limited updates, and, in the interests of consistency with the FR Y–14A, do not include the proposed modifications to collect additional information of a covered institution's pre-provision net revenue. While the OCC is now finalizing some of the proposed changes to the instructions, the revised OCC reporting forms will substantially resemble the forms used by the OCC last year and the Board's reporting forms.

[1] Public Law 111–203, 124 Stat. 1376, July 2010.

[2] 12 U.S.C. 5365(i)(2)(A).

[3] 12 U.S.C. 5301(12).

[4] 12 U.S.C. 5365(i)(2)(C).

[5] 12 U.S.C. 5365(i)(2)(B).

[6] 77 FR 61238 (Oct. 9, 2012) (codified at 12 CFR part 46).

[7] 5 U.S.C. 552(b)(4).

[8] *See* 77 FR 49485 (Aug. 16, 2012) and 77 FR 66663 (Nov. 6, 2012).

[9] 90 FR 54886 (Nov. 28, 2025).

[10] *http://www.federalreserve.gov/reportforms.*

If the Board proposes additional changes to the FR Y–14A reporting forms after the publication of this notice, the OCC may make corresponding changes to the OCC reporting forms to minimize inconsistencies and reduce burden. The OCC's proposed new reporting forms and instructions are available on the OCC's website at *https://www.occ.treas.gov/publications-and-resources/forms/dodd-frank-act-stress-test/index-dodd-frank-act-stress-test.html.*

Estimated Burden

Estimated Frequency of Response: On occasion.

Estimated Number of Respondents: 4 annually and 5 biennially.

Estimated Total Annual Burden: 2,881.67 hours.

Comments: On November 28, 2025, the OCC published a 60-day notice for this information collection, (90 FR 54886). No comments were received.

Comments continue to be invited on:

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

(b) The accuracy of the OCC's estimate of the burden of the collection of information;

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

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

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

Christopher A. Crawford,

Acting Assistant Director, Office of the Comptroller of the Currency.

[FR Doc. 2026–02128 Filed 2–2–26; 8:45 am]

BILLING CODE 4810–33–P

DEPARTMENT OF THE TREASURY

Bureau of the Fiscal Service

Prompt Payment Interest Rate; Contract Disputes Act

AGENCY: Bureau of the Fiscal Service, Treasury.

ACTION: Notice of prompt payment interest rate; Contract Disputes Act.

SUMMARY: For the period beginning January 1, 2026, and ending on June 30, 2026, the prompt payment interest rate is 4⅛ per centum per annum.

DATES: Applicable January 1, 2026, to June 30, 2026.

ADDRESSES: Comments or inquiries may be mailed to: Alternative Payments Division, Bureau of the Fiscal Service, 801 9th Street NW, Washington, DC 20220. Comments or inquiries may also be emailed to *PromptPayment@fiscal.treasury.gov.*

FOR FURTHER INFORMATION CONTACT: Pavita Murthi, Alternative Payments Division, (202) 874–5303; or Ashlee Adams, Senior Counsel, Office of the Chief Counsel, (304) 480–8692.

SUPPLEMENTARY INFORMATION: An agency that has acquired property or service from a business concern and has failed to pay for the complete delivery of property or service by the required payment date shall pay the business concern an interest penalty. 31 U.S.C. 3902(a). The Contract Disputes Act of 1978, sec. 12, Public Law 95–563, 92 Stat. 2389, and the Prompt Payment Act, 31 U.S.C. 3902(a), provide for the calculation of interest due on claims at the rate established by the Secretary of the Treasury.

The Secretary of the Treasury has the authority to specify the rate by which the interest shall be computed for interest payments under section 12 of the Contract Disputes Act of 1978 and under the Prompt Payment Act. Under the Prompt Payment Act, if an interest penalty is owed to a business concern, the penalty shall be paid regardless of whether the business concern requested payment of such penalty. 31 U.S.C. 3902(c)(1). Agencies must pay the interest penalty calculated with the interest rate, which is in effect at the time the agency accrues the obligation to pay a late payment interest penalty. 31 U.S.C. 3902(a). ''The interest penalty shall be paid for the period beginning on the day after the required payment date and ending on the date on which payment is made.'' 31 U.S.C. 3902(b).

Therefore, notice is given that the Secretary of the Treasury has determined that the rate of interest applicable for the period beginning January 1, 2026, and ending on June 30, 2026, is 4⅛ per centum per annum.

Timothy E. Gribben,

Commissioner, Bureau of the Fiscal Service.

[FR Doc. 2026–02176 Filed 2–2–26; 8:45 am]

BILLING CODE 4810–AS–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Agency Information Collection Activities: Comment Request Burden Related to the Reporting of Abusive Tax Promotions or Preparers

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of information collection and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the IRS is inviting comments on the information collection request outlined in this notice.

DATES: Written comments should be received on or before April 6, 2026 to be assured of consideration.

ADDRESSES: Direct all written comments and recommendations to Andrés Garcia, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or by email at *pra.comments@irs.gov.* Please include, ''OMB Number: 1545–2219—Public Comment Request Notice'' in the subject line of the message.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this collection should be directed to Ronald J. Durbala, (202)–317–5746 or via email at *RJoseph.Durbala@irs.gov.*

SUPPLEMENTARY INFORMATION: The IRS, in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the IRS assess its impact and minimize the burden of its information collection requirements. Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record and be viewable on relevant websites. For this reason, please do not include in your comments information of a confidential nature, such as sensitive personal information.

Comments are invited on: (a) Whether the 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 collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (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; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Title: Reporting Abusive Tax Promotions or Preparers.

OMB Number: 1545–2219.

Form Number(s): Form 14242.

Abstract: Form 14242 is used to document the information necessary to report an abusive tax avoidance scheme. Respondents can be individuals, businesses and tax return preparers.

Current Actions: There are no changes being made to the forms at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, individuals, not-for-profit institutions, farms, and Federal, state, local or tribal governments.

Estimated Number of Respondents: 460.

Estimated Time per Respondent: 10 min.

Estimated Total Annual Burden Hours: 77.

Dated: January 29, 2026.

Ronald J. Durbala,

Tax Analyst.

[FR Doc. 2026–02171 Filed 2–2–26; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Agency Information Collection Activities; Comment Request Concerning the Burden Related Information Reporting on Required Returns in the Case of Real Estate Transaction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of information collection and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the IRS is inviting comments on the information collection request outlined in this notice.

DATES: Written comments should be received on or before April 6, 2026 to be assured of consideration.

ADDRESSES: Direct all written comments and recommendations to Andrés Garcia, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or by email at *pra.comments@irs.gov.* Please include, ''OMB Number: 1545–1592—Public Comment Request Notice'' in the subject line of the message.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this collection should be directed to Ronald J. Durbala, (202)–317–5746 or via email at *RJoseph.Durbala@irs.gov.*

SUPPLEMENTARY INFORMATION: The IRS, in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the IRS assess its impact and minimize the burden of its information collection requirements. Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record and be viewable on relevant websites. For this reason, please do not include in your comments information of a confidential nature, such as sensitive personal information.

Comments are invited on: (a) Whether the 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 collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (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; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Title: Information reporting requirements in section 6045(e).

OMB Number: 1545–1592.

Project Number(s): Rev. Proc. 2007–12.

Abstract: This revenue procedure sets forth the acceptable form of the written assurances (certification) that a real estate reporting person must obtain from the seller of a principal residence to except such sale or exchange from the information reporting requirements for real estate transactions under section 6045(e)(5) of the Internal Revenue Code.

Current Actions: There is no change to the burden previously approved by OMB.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, individuals.

Estimated Number of Respondents: 2,300,000.

Estimated Time per Respondent: 11 min.

Estimated Total Annual Burden Hours: 420,500.

Dated: January 29, 2026.

Ronald J. Durbala,

Tax Analyst.

[FR Doc. 2026–02172 Filed 2–2–26; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

[TREAS–DO–2026–0001]

Request for Information Related to the Financial Literacy and Education Commission (FLEC) Update to the U.S. National Strategy for Financial Literacy

AGENCY: Departmental Offices, Department of the Treasury.

ACTION: Request for information (RFI).

SUMMARY: The Department of the Treasury (Treasury) invites public input to inform the interagency Financial Literacy and Education Commission (FLEC)'s statutorily required annual review of the U.S. National Strategy for Financial Literacy (National Strategy), which was last updated in 2020. This request for information (RFI) offers the opportunity for interested individuals and organizations to provide feedback on the National Strategy to ensure that financial literacy programs and initiatives continue to be relevant, effective, and responsive.

DATES: Written comments and information are requested on or before April 6, 2026.

ADDRESSES: Please submit comments electronically through the Federal eRulemaking Portal: *https://www.regulations.gov,* under docket number TREAS–DO–2026–0001. In general, all comments will be available for inspection at *www.regulations.gov.* Comments, including attachments and other supporting materials, are part of the public record. Do not submit any information in your comments or supporting materials that you consider confidential or inappropriate for public disclosure.

FOR FURTHER INFORMATION CONTACT: Tanya McInnis, Deputy Director, Office of Consumer Policy, (202) 577–7860, *Tanya.McInnis2@treasury.gov;* Cheryl Cooper, Senior Advisor, Office of Consumer Policy, (202) 702–6793, *Cheryl.Cooper@treasury.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

A vibrant, competitive, and pro-growth financial sector is underpinned by broad-based financial literacy that

enables consumers to seek out the best and most effective financial products and services to meet their day-to-day needs and invest in their future. In today's complex and rapidly evolving economy, financial literacy is a foundational life skill, and financial education starting at an early age and continuing through adulthood provides a pathway to individual financial freedom and security.

The Financial Literacy and Education Commission (FLEC or Commission) was established by the Fair and Accurate Credit Transactions Act of 2003 to ''improve the financial literacy and education of persons in the United States through the development of a national strategy to promote financial literacy and education.'' [1] The FLEC is composed of the heads of 23 federal agencies and the White House Domestic Policy Council and is chaired by the Secretary of the Treasury. The FLEC provides a forum for its represented federal agencies and the White House Domestic Policy Council to coordinate their efforts to advance financial literacy and education. FLEC represented agencies develop consumer-friendly, trustworthy, and consistent educational materials and tools, and conduct outreach efforts to help consumers make informed and sound decisions that enhance their financial well-being.

The FLEC last published its National Strategy in 2020.[2] Each year, the FLEC is statutorily required to review the National Strategy and make such changes and recommendations as it deems necessary. The Commission is now planning to update the National Strategy to reflect emerging trends, current best practices, and new research findings. For this year's update, Treasury seeks information and recommendations from all interested individuals and organizations on how the National Strategy should be revised to address recent developments in today's complex and rapidly evolving economy. For example, the National Strategy could leverage the opportunity presented by Trump Accounts,[3] youth investment accounts established through the One Big Beautiful Bill Act, to promote financial literacy through real-world investing experience. The FLEC is also evaluating how the National Strategy can promote financial literacy that equips consumers with the tools to identify and avoid increasingly sophisticated fraud schemes, helping them protect their personal finances.

II. Request for Information

Treasury welcomes input on any matter that commenters believe is relevant to the FLEC's update to the National Strategy. Commenters are encouraged to address any or all of the following questions, and to provide any other comments relevant to this work.

National Strategy Priority Areas and Best Practices

The 2020 National Strategy prioritizes the following topic areas:

I. Basic Financial Capability
II. Military
III. Postsecondary Education
IV. Housing Counseling
V. Retirement Savings and Investor Education

1. Which priority areas would you keep, change, add, or remove in a revised National Strategy, and why?

A. How can financial education providers best use investment vehicles, like Trump Accounts, to teach children how to save, invest, and achieve financial security? How do you think that the FLEC should support these efforts? Are there specific approaches that should be considered for hard to reach populations?

B. Given the rise in scam and fraud incidences in the past five years, how do you think that the FLEC should approach this topic area?

C. Are there other developments in the past five years that the strategy should incorporate or address, and how?

The 2020 National Strategy includes the following best practices for financial education programs:

I. Know the Individuals and Families To Be Served
II. Provide Actionable, Relevant, and Timely Information
III. Improve Key Financial Skills
IV. Build on Motivation
V. Make It Easy To Make Good Decisions
VI. Follow Through
VII. Raise Standards for Financial Educators
VIII. Provide Ongoing Support
IX. Evaluate for Impact

2. Which best practices for financial education programs would you keep, change, add, or remove, and why?

A. What best practices would you recommend for youth financial education programs?

B. What best practices would you recommend to increase consumer awareness and consumers' ability to protect themselves against fraud and scams?

C. Since the National Strategy was last updated in 2020, what evidence-based best practices in financial education have been developed in the past five years that should be incorporated into the National Strategy?

Federal Government Role in Financial Literacy and Education

3. How can the federal government support consumers and financial education practitioners?

4. How should the FLEC best engage with financial education providers outside of the federal government to promote financial literacy and education? (For example, state and local government, schools and universities, and the private and nonprofit sectors.)

Research and Evaluation

5. What new research or research gaps should Treasury be aware of to inform the National Strategy? (For example, quantitative or qualitative research, local, state, national, and international examples of good practice, academic publications, etc.)

6. What best practices related to program evaluation do you think should be incorporated into the National Strategy?

7. What outcome measures should be used to evaluate financial literacy?

Other Input

8. Is there any other information or input that you would like to share with Treasury to inform its update of the National Strategy?

Rachel Miller,

Executive Secretary.

[FR Doc. 2026–02188 Filed 2–2–26; 8:45 am]

BILLING CODE 4810–AK–P

[1] 20 U.S.C. 9702.

[2] US-National-Strategy-Financial-Literacy-2020.pdf—Treasury Releases Report on National Financial Literacy Strategy | U.S. Department of the Treasury.

[3] Public Law 119–21; Sec. 70204.

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0198]

Agency Information Collection Activity: Application for Annual Clothing Allowance

AGENCY: Veterans Health Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: Veterans Health Administration (VHA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish a notice in the **Federal Register**

concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice.

DATES: Comments must be received on or before April 6, 2026.

ADDRESSES: Comments must be submitted through *www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT:

Program-specific information: Rebecca Mimnall, 202–695–9434, *vhacopra@va.gov.*

VA PRA information: Dorothy Glasgow, 202–461–1084, *VAPRA@va.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA of 1995, Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VHA invites comments on: (1) whether the proposed collection of information is necessary for the proper performance of VHA's functions, including whether the information will have practical utility; (2) the accuracy of VHA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Application for Annual Clothing Allowance (VA Form 10–8678).

OMB Control Number: 2900–0198. *https://www.reginfo.gov/public/do/PRASearch* (Once at this link, you can enter the OMB Control Number to find the historical versions of this Information Collection).

Type of Review: Revision of a currently approved collection.

Abstract: Authorization for this information collection is found in 38 U.S.C., Section 1162, Clothing Allowance, which provides authority for the Secretary to pay a clothing allowance to veterans who, because of a service-connected disability, wear or use a prosthetic or orthopedic appliance (including a wheelchair) which tends to wear out or tear clothing or uses medication that causes irreparable damage to the outer garments. Entitlement to this benefit is granted by 38 CFR 3.810, Clothing Allowance, upon application by the eligible individual. VA Form 10–8678 is used to collect the necessary information to determine if the veteran has established entitlement for a clothing allowance payment. The form has been redesigned for clarity and ease of use for the respondent. However, there is no change in the estimated burden to complete the form. Based upon program data for recent years, the estimated number of respondents has increased. There is an associated increase in the total annual burden hours for this information collection.

Affected Public: Individuals or Households.

Estimated Annual Burden: 2,000 hours.

Estimated Average Burden per Respondent: 10 minutes.

Frequency of Response: Once annually.

Estimated Number of Responses: 12,000.

Authority: 44 U.S.C. 3501 *et seq.*

Lanea Haynes,

Acting, VA PRA Clearance Officer, (Alt), Office of Information Technology, Data Governance Analytics, Department of Veterans Affairs.

[FR Doc. 2026–02202 Filed 2–2–26; 8:45 am]

BILLING CODE 8320–01–P

FEDERAL REGISTER

Vol. 91 Tuesday,
No. 22 February 3, 2026

Part II

Department of Homeland Security

8 CFR Part 214

Department of Labor

Employment and Training Administration

20 CFR Part 655

Exercise of Time-Limited Authority To Increase the Fiscal Year 2026 Numerical Limitation for the H–2B Temporary Nonagricultural Worker Program; Final Rule

DEPARTMENT OF HOMELAND SECURITY

8 CFR Part 214

[CIS No. 2854–26; DHS Docket No. USCIS–2026–0034]

RIN 1615–AD16

DEPARTMENT OF LABOR

Employment and Training Administration

20 CFR Part 655

[DOL Docket No. ETA–2026–0034]

RIN 1205–AC32

Exercise of Time-Limited Authority To Increase the Fiscal Year 2026 Numerical Limitation for the H–2B Temporary Nonagricultural Worker Program

AGENCY: U.S. Citizenship and Immigration Services (USCIS), Department of Homeland Security (DHS) and Employment and Training Administration and Wage and Hour Division, Department of Labor (DOL).

ACTION: Temporary rule.

SUMMARY: The Secretary of Homeland Security, in consultation with the Secretary of Labor, is exercising time-limited Fiscal Year (FY) 2026 authority to issue up to, but not more than, an additional 64,716 visas for the fiscal year. All of these supplemental visas will be available only to those American businesses that are suffering or will suffer impending irreparable harm, *i.e.,* those facing permanent and severe financial loss, as attested by the employer. These supplemental visas will be distributed in three allocations based on the petitioner's start date of need through the end of the fiscal year.

DATES:

Effective Dates: This final rule is effective from January 30, 2026, through September 30, 2026, except for 20 CFR 655.69, which is effective from January 30, 2026, through September 30, 2029.

Petition dates: DHS will not accept any H–2B petitions under provisions related to the FY 2026 supplemental numerical allocations after September 15, 2026, and will not approve any such H–2B petitions after September 30, 2026.

Comments on the Information Collection: DOL's Office of Foreign Labor Certification (OFLC) will accept comments in connection with the new information collection Form ETA–9142–B–CAA–10 associated with this rule until April 6, 2026. The electronic Federal Docket Management System will accept comments prior to midnight eastern time at the end of that day.

ADDRESSES: You may submit written comments on the new information collection Form ETA–9142–B–CAA–10, identified by Regulatory Information Number (RIN) 1205–AC32, electronically by the following method:

Federal eRulemaking Portal: https://www.regulations.gov. Follow the instructions on the website for submitting comments.

Instructions: Include the agency's name and the RIN 1205–AC32 in your submission. All comments received will become a matter of public record and may be posted without change to *https://www.regulations.gov.* Comments submitted after the deadline for submission will not be considered. Please do not submit comments containing trade secrets, confidential or proprietary commercial or financial information, personal health information, sensitive personally identifiable information (for example, social security numbers, driver's license or state identification numbers, passport numbers, or financial account numbers), or other information that you do not want to be made available to the public. The agency reserves the right to redact or refrain from posting such personally sensitive or other sensitive information or comments that contain threatening language. Please note that depending on how information is submitted through regulations.gov, the agency may not be able to redact the information and instead reserves the right to refrain from posting the information or comment in such situations.

FOR FURTHER INFORMATION CONTACT: Regarding 8 CFR part 214: Business and Foreign Workers Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security, 5900 Capital Gateway Drive, Camp Springs, MD 20746; telephone (240) 721–3000 (not a toll-free number).

Regarding 20 CFR part 655 and Form ETA–9142–B–CAA–10: Brian D. Pasternak, Administrator, Office of Foreign Labor Certification, Employment and Training Administration, Department of Labor, 200 Constitution Ave. NW, Room N–5311, Washington, DC 20210, email: *OFLC.Regulations@dol.gov.*

Individuals with hearing or speech impairments may access the telephone numbers above via TTY by calling the toll-free Federal Information Relay Service at 1–877–889–5627 (TTY/TDD).

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I. Executive Summary

FY 2026 H–2B Supplemental Cap

The Secretary of Homeland Security, in consultation with the Secretary of Labor, is exercising time-limited Fiscal Year (FY) 2026 authority to issue up to, but not more than, an additional 64,716 visas for the fiscal year. All of these supplemental visas will be available only to those American businesses that are suffering or will suffer impending irreparable harm, *i.e.,* those facing permanent and severe financial loss, as attested by the employer. These supplemental visas will be distributed in three allocations based on the petitioner's start date of need through the end of the fiscal year:

(1) 18,490 immediately available visas limited to returning workers, that is, aliens who were issued an H–2B visa or otherwise granted H–2B status in FY 2023, 2024, or 2025, and who will be available for eligible employers with a need for workers to begin work between January 1, 2026 through March 31, 2026. Employers must file these petitions no later than 14 days after the second half of the statutory cap is reached;

(2) 27,736 visas, plus any unused visas from the first allocation, limited to returning workers, that is, aliens who

were issued an H–2B visa or otherwise granted H–2B status in FY 2023, 2024, or 2025, and who will be available for eligible employers with a need for workers to begin work between April 1, 2026 and April 30, 2026. Employers must file these petitions no earlier than 15 days after the second half of the statutory cap [1] is reached; and

(3) 18,490 visas, plus any unused visas from the first or second allocations, for aliens who will be available for eligible employers with a need for workers to begin work between May 1, 2026 and September 30, 2026. These petitions are exempt from the returning worker requirement. Employers must file these petitions no earlier than 45 days after the second half of the statutory cap is reached.

To qualify for the FY 2026 supplemental caps provided by this temporary final rule, eligible petitioners must:

—Meet all existing H–2B eligibility requirements, including obtaining an approved Temporary Labor Certification (TLC) from DOL before filing the Form I–129, Petition for a Nonimmigrant Worker, with USCIS;
—Properly file the Form I–129 with USCIS at the current filing location, during the appropriate filing period. USCIS will reject any petitions filed after September 15, 2026;
—Submit an attestation affirming, under the penalty of perjury, that the employer is suffering irreparable harm or will suffer impending irreparable harm without the ability to employ all of the H–2B workers requested on the petition, and that they are seeking to employ returning workers only, unless the H–2B worker is counted towards the 18,490 allocation, plus any rollover from the first and second allocations, for employment start dates between May 1 and September 30, 2026 (third allocation).
—Prepare and retain a detailed written statement describing how the employer is suffering irreparable harm or will suffer impending irreparable harm with evidence demonstrating irreparable harm supporting their petition.

Petitioners filing H–2B petitions under this FY 2026 supplemental cap must retain documentation of compliance with the attestation requirements for three years from the date DOL approved the TLC and must provide the documents and records upon the request of DHS and/or DOL, as well as fully cooperate with any compliance reviews.

DHS will not approve H–2B petitions filed in connection with the FY 2026 supplemental cap authority on or after October 1, 2026.

II. Background

A. Legal Framework

The Immigration and Nationality Act (INA), as amended, establishes the H–2B nonimmigrant classification for a nonagricultural temporary worker ''having a residence in a foreign country which he has no intention of abandoning who is coming temporarily to the United States to perform . . . temporary [non-agricultural] service or labor if unemployed persons capable of performing such service or labor cannot be found in this country.'' INA section 101(a)(15)(H)(ii)(b), 8 U.S.C. 1101(a)(15)(H)(ii)(b). Employers must petition DHS in such form and containing such information as the Secretary prescribes for classification of prospective temporary workers as H–2B nonimmigrants. INA section 214(c)(1), 8 U.S.C. 1184(c)(1). Generally, DHS must approve this petition before the beneficiary can be considered eligible for an H–2B visa. And the INA requires that ''[t]he question of importing any alien as [an H–2B] nonimmigrant . . . in any specific case or specific cases shall be determined by [DHS],[2] after consultation with appropriate agencies of the Government.'' INA section 214(c)(1), 8 U.S.C. 1184(c)(1).

In addition, the INA generally charges the Secretary of Homeland Security with the administration and enforcement of the nation's immigration laws, and provides that the Secretary ''shall establish such regulations . . . and perform such other acts as [she] deems necessary for carrying out [her] authority'' under the INA. *See* INA section 103(a)(1), (3), 8 U.S.C. 1103(a)(1), (3); *see also* 6 U.S.C. 202(4) (charging the Secretary with ''[e]stablishing and administering rules . . . governing the granting of visas or other forms of permission . . . to enter the United States to individuals who are not a citizen or an alien lawfully admitted for permanent residence in the United States''). With respect to nonimmigrants in particular, the INA provides that ''[t]he admission to the United States of any alien as a nonimmigrant shall be for such time and under such conditions as the [Secretary] may by regulations prescribe.'' INA section 214(a)(1), 8 U.S.C. 1184(a)(1). The Secretary may designate officers or employees to take and consider evidence concerning any matter that is material or relevant to the enforcement of the INA. INA sections 287(a)(1), (b), 8 U.S.C. 1357(a)(1), (b), and INA section 235(d)(3), 8 U.S.C. 1225(d)(3). INA section 291, 8 U.S.C. 1361, establishes that the petitioner or applicant for a visa or other immigration document bears the burden of proof with respect to eligibility and inadmissibility, including that the alien is eligible for the immigration status being sought.

DHS regulations provide that an approved TLC from DOL, issued pursuant to regulations established at 20 CFR part 655, or from the Guam Department of Labor if the workers will be employed on Guam, must accompany an H–2B petition for temporary employment in the United States. 8 CFR 214.2(h)(6)(iii)(A) and (C) through (E), (h)(6)(iv)(A); see also INA section 103(a)(6), 8 U.S.C. 1103(a)(6). The TLC serves as DHS's consultation with DOL with respect to whether a qualified U.S. worker is available to fill the petitioning H–2B employer's job opportunity and whether a foreign worker's employment in the job opportunity will adversely affect the wages and working conditions of similarly-employed U.S. workers. *See* INA section 214(c)(1); 8 U.S.C. 1184(c)(1); 8 CFR 214.2(h)(6)(iii)(A) and (D).

To determine whether to issue a TLC, the Departments have established regulatory procedures under which DOL certifies whether a qualified U.S. worker is available to fill the job opportunity described in the employer's petition for a temporary nonagricultural worker, and whether a foreign worker's employment in the job opportunity will adversely affect the wages or working conditions of similarly employed U.S. workers. *See* 20 CFR part 655, subpart A. The regulations establish the process by which employers obtain a TLC and the rights and obligations of workers and employers.

Once the H–2B petition is approved, under the INA and current DHS regulations, H–2B workers are limited to employment with the H–2B petitioner and do not have employment authorization outside of the validity period listed on the approved petition unless otherwise authorized. *See* 8 U.S.C. 1184(c)(1), 8 CFR 274a.12(b)(9).

[1] The term ''statutory cap'' refers to the 66,000 cap set forth at INA section 214(g)(1)(B) or the 33,300 semiannual caps at INA section 214(g)(10).

[2] As of March 1, 2003, in accordance with section 1517 of Title XV of the Homeland Security Act of 2002 (HSA), Public Law 107–296, 116 Stat. 2135, any reference to the Attorney General in a provision of the Immigration and Nationality Act describing functions which were transferred from the Attorney General or other Department of Justice official to the Department of Homeland Security by the HSA ''shall be deemed to refer to the Secretary'' of Homeland Security. *See* 6 U.S.C. 557 (2003) (codifying HSA, Title XV, § 1517); 6 U.S.C. 542 note; 8 U.S.C. 1551 note.

An employer or U.S. agent generally may submit a new H–2B petition, with a new, approved TLC, to USCIS to request an extension of H–2B nonimmigrant status for the validity of the TLC or for a period of up to 1 year. 8 CFR 214.2(h)(15)(ii)(C).

The INA also authorizes DHS to impose appropriate remedies against an employer for a substantial failure to meet the terms and conditions of employing an H–2B worker, or for a willful misrepresentation of a material fact in a petition for an H–2B worker. INA section 214(c)(14)(A), 8 U.S.C. 1184(c)(14)(A). The INA expressly authorizes DHS to delegate certain enforcement authority to DOL. INA section 214(c)(14)(B), 8 U.S.C. 1184(c)(14)(B); *see also* INA section 103(a)(6), 8 U.S.C. 1103(a)(6). DHS has delegated its authority under INA section 214(c)(14)(A)(i), 8 U.S.C. 1184(c)(14)(A)(i) to DOL. *See* DHS, Delegation of Authority to DOL under Section 214(c)(14)(A) of the INA (Jan. 16, 2009); *see also* 8 CFR 214.2(h)(6)(ix) (stating that DOL may investigate employers to enforce compliance with the conditions of, among other things, an H–2B petition and a DOL-approved TLC). This enforcement authority has been delegated within DOL to the Wage and Hour Division (WHD) and is governed by regulations at 29 CFR part 503.

B. H–2B Numerical Limitations Under the INA

The INA sets the maximum annual number (''statutory cap'') of aliens who may be issued H–2B visas or otherwise provided H–2B nonimmigrant status to perform temporary nonagricultural work at 66,000, to be distributed semi-annually beginning in October and April. *See* INA sections 214(g)(1)(B) and (g)(10), 8 U.S.C. 1184(g)(1)(B) and (g)(10). Accordingly, with certain exceptions, described below, up to 33,000 aliens may be issued H–2B visas or provided H–2B nonimmigrant status in the first half of a fiscal year, and the remaining annual allocation, including any unused nonimmigrant H–2B visas from the first half of a fiscal year, will be available for employers seeking to hire H–2B workers during the second half of the fiscal year.[3] If the full statutory cap of H–2B visas are not utilized in a given fiscal year, DHS cannot carry over the unused numbers for petition approvals for employment start dates beginning on or after the start of the next fiscal year.

In FYs 2005, 2006, 2007, and 2016, Congress exempted H–2B workers identified as returning workers from the annual H–2B cap of 66,000.[4] A returning worker is defined by statute as an H–2B worker who was previously counted against the annual H–2B cap during a designated period of time.[5] For example, Congress designated that returning workers for FY 2016 needed to have been counted against the cap during FY 2013, 2014, or 2015 to qualify for the exemption.[6] During each of the years Congress exempted returning workers from the annual H–2B cap, DHS and Department of State (DOS) worked together to confirm that all workers requested under the returning worker provision in fact were eligible for exemption from the annual cap (*i.e.,* were issued an H–2B visa or provided H–2B status during one of the prior three fiscal years) and were otherwise eligible for H–2B classification.

Because of the strong demand for H–2B visas in recent years, the statutorily-determined semi-annual visa allocation, the DOL regulatory requirement that employers apply for a TLC 75 to 90 days before the start date of work,[7] and the DHS regulatory requirement that all H–2B petitions be accompanied by an approved TLC,[8] employers that wish to obtain visas for their workers under the semiannual allotment must act early to receive a TLC and file a petition with USCIS. As a result, the date on which USCIS has reached sufficient H–2B petitions to reach the first half of the fiscal year statutory cap has generally trended earlier in recent years.[9] For FY 2022, for the first time in more than a decade, USCIS received sufficient H–2B petitions to reach the first half of the fiscal year statutory cap before the start of the fiscal year.[10] This occurred even earlier in FY 2023, when USCIS received enough H–2B petitions to reach the FY 2023 first-half statutory cap on September 12, 2022.[11] For FY 2024, USCIS received sufficient H–2B petitions to reach the first half of the fiscal year statutory cap on October 11, 2023.[12] For FY 2025, USCIS received sufficient H–2B petitions to reach the first half of the fiscal year statutory cap on September 18, 2024.[13] For FY 2026,

[3] The Federal Government's fiscal year runs from October 1 of the budget's prior year through September 30 of the year being described. For example, FY 2026 is from October 1, 2025, through September 30, 2026.

[4] *See* INA 214(g)(9)(A), 8 U.S.C. 1184(g)(9)(A), *see also* Consolidated Appropriations Act, 2016, Public Law 114–113, div. F, tit. V, sec 565; John Warner National Defense Authorization Act for Fiscal Year 2007, Public Law 109–364, div. A, tit. X, sec. 1074, (2006); Save Our Small and Seasonal Businesses Act of 2005, Public Law. 109–13, div. B, tit. IV, sec. 402.

[5] *See* INA section 214(g)(9)(A), 8 U.S.C. 1184(g)(9)(A).

[6] *See* Consolidated Appropriations Act, 2016, Public Law 114–113, div. F, tit. V, sec 565.

[7] *See* 20 CFR 655.15(b).

[8] *See* 8 CFR 214.2(h)(6)(vi)(A).

[9] In fiscal years 2017 through 2021, USCIS received a sufficient number of H–2B petitions to reach or exceed the relevant first half statutory cap on January 10, 2017, December 15, 2017, December 6, 2018, November 15, 2019, and November 16, 2020, respectively. *See* USCIS, USCIS Reaches the H–2B Cap for the First Half of Fiscal Year 2017, *https://www.uscis.gov/archive/uscis-reaches-the-h-2b-cap-for-the-first-half-of-fiscal-year-2017* (Jan. 13, 2017); USCIS, USCIS Reaches H–2B Cap for the First Half of Fiscal Year 2018, *https://www.uscis.gov/archive/uscis-reaches-h-2b-cap-for-first-half-of-fy-2018* (Dec. 21, 2017); USCIS, USCIS Reaches H–2B Cap for the First Half of Fiscal Year 2019, *https://www.uscis.gov/news/news-releases/uscis-reaches-h-2b-cap-for-first-half-of-fy-2019* (Dec. 12, 2018); USCIS, USCIS Reaches H–2B Cap for the First Half of Fiscal Year 2020, *https://www.uscis.gov/news/news-releases/uscis-reaches-h-2b-cap-for-first-half-of-fy-2020* (Nov. 20, 2019); USCIS, USCIS Reaches H–2B Cap for the First Half of Fiscal Year 2021, *https://www.uscis.gov/news/alerts/uscis-reaches-h-2b-cap-for-first-half-of-fy-2021* (Nov. 18, 2020).

[10] On October 12, 2021, USCIS announced that it had received sufficient petitions to reach the congressionally mandated cap on H–2B visas for temporary nonagricultural workers for the first half of FY 2022, and that September 30, 2021, was the final receipt date for new cap-subject H–2B worker petitions requesting an employment start date before April 1, 2022. *See* USCIS, USCIS Reaches H–2B Cap for the First Half of Fiscal Year 2022, *https://www.uscis.gov/newsroom/alerts/uscis-reaches-h-2b-cap-for-first-half-of-fy-2022* (October 12, 2021).

[11] On September 14, 2022, USCIS announced that it had received sufficient petitions to reach the congressionally mandated cap on H–2B visas for temporary nonagricultural workers for the first half of FY 2023, and that September 12, 2022, was the final receipt date for new cap-subject H–2B worker petitions requesting an employment start date before April 1, 2023. *See* USCIS, USCIS Reaches H–2B Cap for the First Half of Fiscal Year 2023, *https://www.uscis.gov/newsroom/alerts/uscis-reaches-h-2b-cap-for-first-half-of-fy-2023* (September 14, 2022).

[12] On October 13, 2023, USCIS announced that it had received sufficient petitions to reach the congressionally mandated cap on H–2B visas for temporary nonagricultural workers for the first half of FY 2024, and that October 11, 2023, was the final receipt date for new cap-subject H–2B worker petitions requesting an employment start date before April 1, 2024. *See* USCIS, USCIS Reaches H–2B Cap for First Half of FY 2024, *https://www.uscis.gov/newsroom/alerts/uscis-reaches-h-2b-cap-for-first-half-of-fy-2024* (October 13, 2023). While this date was slightly later than the prior two years, the Departments note that DOL received 2,157 applications for the first half of the FY 2024 statutory cap during the initial three-day filing window of July 3–5, 2023, covering 40,947 worker positions; a 59% increase in TLC workload when compared to the same time period in 2022. *See* DOL, OFLC Publishes List of Randomized H–2B Applications Submitted July 3–5, 2023, for Employers Seeking H–2B Workers Starting October 1, 2023, *https://www.dol.gov/agencies/eta/foreign-labor/news* (July 10, 2023).

[13] On September 19, 2024, USCIS announced that it had received sufficient petitions to reach the congressionally mandated cap on H–2B visas for temporary nonagricultural workers for the first half of FY 2025, and that September 18, 2024, was the final receipt date for new cap-subject H–2B worker petitions requesting an employment start date before April 1, 2025. *See* USCIS, USCIS Reaches H–2B Cap for First Half of Fiscal Year 2025, *https://*

USCIS received sufficient H–2B petitions to reach the first half of the fiscal year statutory cap on September 12, 2025.[14] This trend in recent years of increased demand for H–2B workers is even more apparent in the second half of the fiscal year.[15] For example, during the three-day filing window of January 1 through 3, 2026 for H–2B TLCs for the second half of FY 2026, DOL's Office of Foreign Labor Certification (OFLC) received requests to certify 162,603 worker positions for start dates of work on April 1, 2026.[16]

Congress, in recognition of historical and current demand has, for the last several fiscal years, authorized supplemental visas.[17] The authority for the current supplemental cap is under section 101 of the Continuing Appropriations Act, 2026, Public Law 119–37 (FY 2026 authority), as discussed below.

C. FY 2026 Public Law 119–37

Congress passed the FY 2026 authority, Public Law 119–37, which President Donald J. Trump signed on November 12, 2025. This law extends the authority under the same terms and conditions provided in section 105 of Division G, Title I of the Further Consolidated Appropriations Act, 2024, Public Law 118–47 (Mar. 23, 2024) (''FY 2024 Omnibus''),[18] permitting the Secretary of Homeland Security to increase the number of H–2B visas available to U.S. employers in FY 2026.[19] In other words, Public Law 119–37 [20] permits the Secretary of Homeland Security, after consultation with the Secretary of Labor, to provide up to 64,716 additional H–2B visas for the remainder of FY 2026, notwithstanding the otherwise-established statutory numerical limitation set forth in the INA, for eligible employers whose employment needs for FY 2026 cannot be met.[21] Under the Public Law 119–37 authority, DHS and DOL are jointly publishing this temporary final rule to authorize the issuance of up to 64,716 additional visas for the remainder of FY 2026 to those businesses that are suffering irreparable harm or will suffer impending irreparable harm, as attested by the employer on a new attestation form. The authority to approve H–2B petitions under this FY 2026 supplemental cap expires at the end of the fiscal year. Therefore, USCIS will not approve H–2B petitions filed in connection with the FY 2026 supplemental cap authority on or after October 1, 2026.

As noted above, since FY 2017, Congress has enacted a series of public laws providing the Secretary of Homeland Security with the discretionary authority to increase the H–2B cap beyond that set forth in section 214 of the INA. The previous statutory provisions were materially identical to section 105 of the FY 2024 Omnibus, which is the same authority provided for FY 2026 by the recent continuing resolution. During each fiscal year from FY 2017 through FY 2019, and FY 2021 through FY 2025, the Secretary of Homeland Security, after consulting with the Secretary of Labor, determined that the needs of some

www.uscis.gov/newsroom/alerts/uscis-reaches-h-2b-cap-for-first-half-of-fiscal-year-2025 (September 19, 2024). While this date was slightly later than in FY 2023, the Departments note that DOL received 2,158 applications for the first half of the FY 2025 statutory cap during the initial three-day filing window of July 3–5, 2024, covering 44,238 worker positions; a 59% increase in TLC workload and 48% increase in requested worker positions when compared to the same time period for fiscal year 2023. *See* DOL, OFLC Publishes List of Randomized H–2B Applications Submitted July 3–5, 2024, for Employers Seeking H–2B Workers Starting October 1, 2024, *https://www.dol.gov/agencies/eta/foreign-labor/news* (July 9, 2024).

[14] On September 16, 2025, USCIS announced that it had received a sufficient number of petitions to reach the congressionally mandated H–2B cap for the first half of FY 2026. *See* USCIS, ''USCIS Reaches H–2B Cap for First Half of FY 2026,'' *https://www.uscis.gov/newsroom/alerts/uscis-reaches-h-2b-cap-for-first-half-of-fiscal-year-2026* (last modified Sept. 16, 2025). On September 12, 2025, the number of beneficiaries listed on petitions received by USCIS surpassed the total number of remaining H–2B visas available against the H–2B statutory cap for the first half of FY 2026. In accordance with regulations, USCIS determined it was necessary to use a computer-generated process, commonly known as a lottery, to ensure the fair and orderly allocation of H–2B visa numbers to meet, but not exceed, the remainder of the FY 2026 statutory cap. 8 CFR 214.2(h)(8)(vii). USCIS conducted a lottery to randomly select petitions from those received. As a result, USCIS assigned all petitions selected in the lottery the receipt date of September 12, 2025.

[15] In recent years, DOL has received an increasing number of TLC applications for an increasing number of H–2B workers with April 1 start dates: DOL received 4,500 applications on January 1, 2018, covering more than 81,600 worker positions; DOL received 5,276 applications by January 8, 2019, covering more than 96,400 worker positions; DOL received 5,677 applications during the initial three-day filing window in 2020 covering 99,362 worker positions; DOL received 5,377 applications during the initial three-day filing window in 2021 covering 96,641 worker positions; DOL received 7,875 applications by January 4, 2022, covering 136,555 worker positions; DOL received 8,693 applications during the initial three-day filing window in 2023, covering 142,796 worker positions; DOL received 8,817 H–2B applications by January 8, 2024, covering 138,847 worker positions; and DOL received 8,759 H–2B applications by January 4, 2025, covering 149,953 worker positions. *See* DOL, Announcements, *https://www.dol.gov/agencies/eta/foreign-labor/news.*

[16] DOL announcement on January 5, 2026. *See https://www.foreignlaborcert.doleta.gov/.*

[17] *See* section 543 of Division F of the Consolidated Appropriations Act, 2017, Public Law 115–31 (FY 2017 Omnibus); section 205 of Division M of the Consolidated Appropriations Act, 2018, Public Law 115–141 (FY 2018 Omnibus); section 105 of Division H of the Consolidated Appropriations Act, 2019, Public Law 116–6 (FY 2019 Omnibus); section 105 of Division I of the Further Consolidated Appropriations Act, 2020, Public Law 116–94 (FY 2020 Omnibus); section 105 of Division O of the Consolidated Appropriations Act, 2021, Public Law 116–260 (FY 2021 Omnibus); section 105 of Division O of the Consolidated Appropriations Act, 2021, FY 2021 Omnibus, sections 101 and 106(3) of Division A of Public Law 117–43, Continuing Appropriations Act, 2022, and section 101 of Division A of Public Law 117–70, Further Continuing Appropriations Act, 2022 through February 18, 2022 (together, FY 2022 authority); section 204 of Division O of the Consolidated Appropriations Act, 2022, Public Law 117–103 (FY 2022 Omnibus); section 303 of Division O of the Consolidated Appropriations Act, 2023, Public Law 117–328 (FY 2023 Omnibus); Division A of Public Law 118–15, Continuing Appropriations Act, 2024 and Other Extensions Act, through November 17, 2023, as well as section 105 of Division G, Title I of the Further Consolidated Appropriations Act, 2024, Public Law 118–47 (FY 2024 Omnibus); and the Continuing Appropriations and Extensions Act, 2025, sections 101(6) and 106 of Division A, Title I of Public Law 118–83 (Sept. 26, 2024) (FY 2025 Omnibus), which extended the authorization previously provided in section 105 of Division G, Title I of the FY 2024 Omnibus.

[18] Further Consolidated Appropriations Act, 2024, Public Law 118–47 (Mar. 23, 2024). Specifically, Division G, section 105 provides that ''the Secretary of Homeland Security, after consultation with the Secretary of Labor, and upon determining that the needs of American businesses cannot be satisfied in [FY] 2024 with United States workers who are willing, qualified, and able to perform temporary nonagricultural labor,'' may increase the total number of aliens who may receive an H–2B visa in FY 2024 by the highest number of H–2B nonimmigrants who participated in the H–2B returning worker program in any fiscal year in which returning workers were exempt from the H–2B numerical limitation.

[19] *See* secs. 101(6) and 106, Div. A, Title I, Public Law 118–83 (Sept. 26, 2024), and section 105 of Division G, Title I of the Further Consolidated Appropriations Act, 2024, Public Law 118–47 (Mar. 23, 2024) (FY 2024 Omnibus); and section 1101(6) of Division A, Tittle I, the Full-Year Continuing Appropriations Act, 2025, Public Law 119–4 (Mar. 15, 2025).

[20] *See* section 101, Div. A, Title I, Public Law 119–37, Continuing Appropriations, Agriculture, Legislative Branch, Military Construction and Veterans Affairs, and Extensions Act, 2026.

[21] Appropriations and authorities provided by the continuing resolutions are available for the needs of the entire fiscal year to which the continuing resolution applies, although DHS's ability to obligate funds or exercise such authorities may lapse at the sunset of such resolution. *See, e.g.,* Comments on Due Date and Amount of District of Columbia's Contributions to Special Employee Retirement Funds, B–271304 (Comp. Gen. Mar. 19, 1996) (explaining that '' ''a continuing resolution appropriates the full annual amount regardless of its period of duration. . . Standard continuing resolution language makes it clear that the appropriations are available to the extent and in the manner which would be provided by the pertinent appropriations act that has yet to be enacted (unless otherwise provided in the continuing resolution).).'' ''). Consistent with this principle, DHS interprets the current continuing resolution to provide DHS with the discretion to authorize additional H–2B visa numbers with respect to all of FY 2026 subject to the same terms and conditions as the FY 2024 authority at any time before the continuing resolution expires, notwithstanding the reference to FY 2024 in the FY 2024 Omnibus.

American businesses could not be satisfied in such year with U.S. workers who were willing, qualified, and able to perform temporary nonagricultural labor. Based on these determinations, on July 19, 2017, and May 31, 2018, DHS and DOL jointly published temporary final rules for FY 2017 and FY 2018, respectively, each of which allowed an increase of up to 15,000 additional H–2B visas for those businesses that attested that if they did not receive all of the workers requested on the Form I–129, Petition for a Nonimmigrant Worker, they were likely to suffer irreparable harm, *i.e.,* suffer a permanent and severe financial loss.[22] USCIS approved a total of 12,294 H–2B workers under petitions filed pursuant to the FY 2017 supplemental cap increase.[23] In FY 2018, USCIS received petitions for more than 15,000 beneficiaries during the first five business days of filing for the supplemental cap, and held a lottery on June 7, 2018. The total number of H–2B workers approved toward the FY 2018 supplemental cap increase was 15,788.[24] The vast majority of the H–2B petitions received under the FY 2017 and FY 2018 supplemental caps requested premium processing (Form I–907, Request for Premium Processing) [25] and were adjudicated within 15 calendar days.

On May 8, 2019, DHS and DOL jointly published a temporary final rule authorizing an increase of up to 30,000 additional H–2B visas for the remainder of FY 2019.[26] The additional visas were limited to returning workers who had been counted against the H–2B cap or were otherwise granted H–2B status in the previous three fiscal years, and for those businesses that attested to a level of need such that, if they did not receive all of the workers requested on the Form I–129, they were likely to suffer irreparable harm, *i.e.,* suffer a permanent and severe financial loss.[27] The Secretary determined that limiting returning workers to those who were issued an H–2B visa or granted H–2B status in the past three fiscal years was appropriate, as it mirrored the standard that Congress designated in previous returning worker provisions. On June 5, 2019, approximately 30 days after the supplemental visas became available, USCIS announced that it received sufficient petitions filed pursuant to the FY 2019 supplemental cap increase. USCIS did not conduct a lottery for the FY 2019 supplemental cap increase. The total number of H–2B workers approved towards the FY 2019 supplemental cap increase was 32,680.[28] The vast majority of these petitions requested premium processing and were adjudicated within 15 calendar days.

Although Congress provided the Secretary of Homeland Security with the discretionary authority to increase the H–2B cap in FY 2020, the Secretary did not exercise that authority. DHS initially intended to exercise its authority and, on March 4, 2020, announced that it would make available 35,000 supplemental H–2B visas for the second half of the fiscal year.[29] On March 13, 2020, then-President Trump declared a National Emergency concerning COVID–19, a communicable disease caused by the coronavirus SARS–CoV–2.[30] On April 2, 2020, DHS announced that the rule to increase the H–2B cap was on hold due to economic circumstances, and that DHS would not release additional H–2B visas until further notice.[31] DHS also noted that the Department of State had suspended routine visa services.[32]

In FY 2021, DHS in consultation with DOL determined it was appropriate to increase the H–2B cap for FY 2021 coupled with additional protections (for example, post-adjudication audits, investigations, and compliance checks), based on the demand for H–2B workers in the second half of FY 2021, continuing economic growth, the improving job market, and increased visa processing capacity by the Department of State. Accordingly, on May 25, 2021, DHS and DOL jointly published a temporary final rule authorizing an increase of up to 22,000 additional H–2B visas for the remainder of FY 2021.[33] The supplemental visas were available only to employers that attested they were likely to suffer irreparable harm without the additional workers. The allocation of 22,000 additional H–2B visas under that rule consisted of 16,000 visas available only to H–2B returning workers from one of the last three fiscal years (FY 2018, 2019, or 2020) and 6,000 visas that were initially reserved for nationals of the Northern Central American countries of El Salvador, Guatemala, and Honduras, who were exempt from the returning worker requirement. By August 13, 2021, USCIS had received enough petitions for returning workers to reach the additional 22,000 H–2B visas made available under the FY 2021 H–2B supplemental visa temporary final rule.[34] The total number of H–2B workers approved towards the FY 2021 supplemental cap increase was 30,707.[35] This total number included approved H–2B petitions for 23,937 returning workers, as well as 6,805 beneficiaries from the Northern Central American countries.[36]

On January 28, 2022, DHS and DOL jointly published a temporary final rule

[22] *See* Exercise of Time-Limited Authority To Increase the Fiscal Year 2017 Numerical Limitation for the H–2B Temporary Nonagricultural Worker Program, 82 FR 32987, 32998 (July 19, 2017); Exercise of Time-Limited Authority To Increase the Fiscal Year 2018 Numerical Limitation for the H–2B Temporary Nonagricultural Worker Program, 83 FR 24905, 24917 (May 31, 2018).

[23] *See* Department of Homeland Security, U.S. Citizenship and Immigration Services, Office of Performance and Quality, CLAIMS3, VIBE, DOS Visa Issuance Data queried 10/2022, TRK 10625.

[24] *See* Department of Homeland Security, U.S. Citizenship and Immigration Services, Office of Performance and Quality, CLAIMS3, VIBE, DOS Visa Issuance Data queried 10/2022, TRK 10625. The number of approved workers exceeded the number of additional visas authorized for FY 2018 to allow for the possibility that some approved workers would either not seek a visa or admission, would not be issued a visa, or would not be admitted to the United States.

[25] Premium processing allows for expedited processing for an additional fee. *See* INA 286(u), 8 U.S.C. 1356(u).

[26] *See* Exercise of Time-Limited Authority To Increase the Fiscal Year 2019 Numerical Limitation for the H–2B Temporary Nonagricultural Worker Program, 84 FR 20005, 20021 (May 8, 2019).

[27] *See* 84 FR at 20021.

[28] *See* Department of Homeland Security, U.S. Citizenship and Immigration Services, Office of Performance and Quality, CLAIMS3, VIBE, DOS Visa Issuance Data queried 10/2022, TRK 10625. The number of approved workers exceeded the number of additional visas authorized for FY 2019 to allow for the possibility that some approved workers would either not seek a visa or admission, would not be issued a visa, or would not be admitted to the United States.

[29] *See* DHS, DHS to Improve Integrity of Visa Program for Foreign Workers (March 5, 2020), *https://www.dhs.gov/news/2020/03/05/dhs-improve-integrity-visa-program-foreign-workers.*

[30] *See* Proclamation 9994 of Mar. 13, 2020, Declaring a National Emergency Concerning the Coronavirus Disease (COVID–19) Outbreak, 85 FR 15337 (March 18, 2020).

[31] *See https://twitter.com/DHSgov/status/1245745115458568192?s=20.*

[32] *See https://twitter.com/DHSgov/status/1245745116528156673.*

[33] *See* Exercise of Time-Limited Authority To Increase the Fiscal Year 2021 Numerical Limitation for the H–2B Temporary Nonagricultural Worker Program and Portability Flexibility for H–2B Workers Seeking To Change Employers, 86 FR 28198 (May 25, 2021).

[34] *See* USCIS, Cap Reached for Remaining H–2B Visas for Returning Workers for FY 2021, *https://www.uscis.gov/news/alerts/cap-reached-for-remaining-h-2b-visas-for-returning-workers-for-fy-2021* (August 19, 2021).

[35] The number of approved workers exceeded number of additional visas authorized for FY 2021 to allow for the possibility that some approved workers would either not seek a visa or admission, would not be issued a visa, or would not be admitted to the United States. *See* Department of Homeland Security, U.S. Citizenship and Immigration Services, Office of Performance and Quality, CLAIMS3, VIBE, DOS Visa Issuance Data queried 10/2023, TRK 13122, H–2B Visa Issuance Report September 30, 2023.

[36] *See* Department of Homeland Security, U.S. Citizenship and Immigration Services, Office of Performance and Quality, CLAIMS3, VIBE, DOS Visa Issuance Data queried 10/2023, TRK 13122, H–2B Visa Issuance Report September 30, 2023.

authorizing an increase of up to 20,000 additional H–2B visas for FY 2022 positions with start dates on or before March 31, 2022.[37] These supplemental visas were available only to employers that attested they were suffering or would suffer impending irreparable harm without the additional workers. The allocation of 20,000 additional H–2B visas under that rule consisted of 13,500 visas available only to H–2B returning workers from one of the last three fiscal years (FY 2019, 2020, or 2021) and 6,500 visas reserved for Salvadoran, Guatemalan, Honduran, and Haitian nationals, who were exempted from the returning worker requirement. USCIS data show that the total number of H–2B workers approved towards the first half FY 2022 supplemental cap increase was 17,381, including 14,150 workers under the returning worker allocation, as well as 3,231 workers approved towards the Haitian/Northern Central American allocation.[38] For the second half of FY 2022, DHS in consultation with DOL determined it was appropriate to increase the H–2B cap for FY 2022 positions with start dates beginning on April 1, 2022 through September 30, 2022, based on the continued demand for H–2B workers for the remainder of FY 2022, continuing economic growth, increased labor demand, and increased visa processing capacity by the Department of State. Accordingly, on May 18, 2022, DHS and DOL jointly published a temporary final rule authorizing an increase of no more than 35,000 additional H–2B visas for the second half of FY 2022.[39] As in the January 2022 temporary final rule, the supplemental visas were available only to employers that attested they were suffering or would suffer impending irreparable harm without the additional workers. The allocation of 35,000 additional H–2B visas under the rule applicable to the second half of FY 2022 consisted of 23,500 visas available only to H–2B returning workers from one of the last three fiscal years (FY 2019, 2020, or 2021) and 11,500 visas reserved for Salvadoran, Guatemalan, Honduran, and Haitian nationals, who were exempted from the returning worker requirement. By May 25, 2022, USCIS had received enough petitions for returning workers to reach the additional 23,500 H–2B visas made available under the second half FY 2022 H–2B supplemental visa temporary final rule.[40] USCIS data show that the total number of H–2B workers approved towards the second half FY 2022 supplemental cap increase was 43,798, including 31,480 workers under the returning worker allocation, as well as 12,318 workers approved towards the Haitian/Northern Central American allocation.[41]

On December 15, 2022, DHS and DOL jointly published a temporary final rule authorizing an increase of up to 64,716 additional H–2B visas for the entirety of FY 2023.[42] As in the FY 2022 temporary final rules, the additional visas were available only to employers that attested they were suffering or would suffer impending irreparable harm without the additional workers. The 64,716 additional visas included 44,716 reserved for returning workers from one of the last three fiscal years (FY 2020, 2021, or 2022), which were distributed in several allocations based on date of employer need: 18,216 for employers with requested employment start dates on or before March 31, 2023; 16,500 for employers with requested employment start dates from April 1, 2023, to May 14, 2023 (early second half allocation); and 10,000 for employers with requested employment start dates from May 15, 2023, to Sept. 30, 2023 (late second half allocation). The remaining 20,000 visas were available for the entirety of FY 2023, and were set aside for nationals of El Salvador, Guatemala, Honduras, and Haiti, who were exempt from the returning worker requirement. By January 30, 2023, USCIS received enough petitions to reach the cap for the additional 18,216 H–2B visas made available for returning workers for the first half of fiscal year, and by March 30, 2023, USCIS received enough petitions to reach the cap for the additional 16,500 H–2B visas made available for returning workers for the early second half of fiscal year.[43] USCIS data show that the total number of H–2B workers approved towards the FY 2023 supplemental cap increase was 78,302, including 54,470 workers under the returning worker allocation, as well as 23,832 workers approved towards the Haitian/Northern Central American allocation.[44]

On November 17, 2023, DHS and DOL jointly published a temporary final rule authorizing an increase of up to 64,716 additional H–2B visas for the entirety of FY 2024.[45] As in the FY 2023 temporary final rule, the additional visas were available only to employers that attested they were suffering or would suffer impending irreparable harm without the additional workers. The 64,716 additional visas included 44,716 reserved for returning workers from one of the last three fiscal years (FY 2021, 2022, or 2023), which were distributed in several allocations based on date of employer need: 20,716 for employers with requested employment start dates on or before March 31, 2024; 19,000 for employers with requested employment start dates from April 1, 2024, to May 14, 2024 (early second half allocation); and 5,000 for employers with requested employment start dates from May 15, 2024, to September 30, 2024 (late second half allocation). The remaining 20,000 visas were available for the entirety of FY 2024, and were set aside for nationals of El Salvador, Guatemala, Honduras, Haiti, Colombia, Ecuador,

[37] *See* Exercise of Time-Limited Authority To Increase the Fiscal Year 2022 Numerical Limitation for the H–2B Temporary Nonagricultural Worker Program and Portability Flexibility for H–2B Workers Seeking To Change Employers, 87 FR 4722 (Jan. 28, 2022); 87 FR 6017 (Feb. 3, 2022) (correction).

[38] *See* Department of Homeland Security, U.S. Citizenship and Immigration Services, Office of Performance and Quality, CLAIMS3, VIBE, DOS Visa Issuance Data queried 10/2023, TRK 13122, H–2B Visa Issuance Report September 30, 2023.

[39] *See* Temporary Final Rule, Exercise of Time-Limited Authority To Increase the Numerical Limitation for Second Half of FY 2022 for the H–2B Temporary Nonagricultural Worker Program and Portability Flexibility for H–2B Workers Seeking To Change Employers, 87 FR 30334 (May 18, 2022).

[40] *See* USCIS, Cap Reached for Additional Returning Worker H–2B Visas for Second Half of FY 2022, *https://www.uscis.gov/newsroom/alerts/cap-reached-for-additional-returning-worker-h-2b-visas-for-second-half-of-fy-2022* (May 31, 2022).

[41] The number of approved workers exceeded the number of additional visas authorized for the second half of FY 2022 to allow for the possibility that some approved workers would either not seek a visa or admission, would not be issued a visa, or would not be admitted to the United States. *See* Department of Homeland Security, U.S. Citizenship and Immigration Services, Office of Performance and Quality, C3 Consolidated, queried 10/2023, TRK 13122, H–2B Visa Issuance Report September 30, 2023.

[42] *See* Exercise of Time-Limited Authority To Increase the Numerical Limitation for FY 2023 for the H–2B Temporary Nonagricultural Worker Program and Portability Flexibility for H–2B Workers Seeking To Change Employers, 87 FR 76816 (Dec. 15, 2022); 87 FR 77979 (Dec. 21, 2022) (correction).

[43] *See* USCIS, Cap Reached for Additional Returning Worker H–2B Visas for the First Half of FY 2023, *https://www.uscis.gov/newsroom/alerts/cap-reached-for-additional-returning-worker-h-2b-visas-for-the-first-half-of-fy-2023* (Jan. 31, 2023); USCIS, Cap Reached for Additional Returning Worker H–2B Visas for the Early Second Half of FY 2023, *https://www.uscis.gov/newsroom/alerts/cap-reached-for-additional-returning-worker-h-2b-visas-for-the-early-second-half-of-fy-2023* (Mar. 31, 2023).

[44] The number of approved workers exceeded the number of additional visas authorized for FY 2023 to allow for the possibility that some approved workers would either not seek a visa or admission, would not be issued a visa, or would not be admitted to the United States. *See* DHS, USCIS, Office of Performance and Quality, CLAIMS3, VIBE, DOS Visa Issuance Data, queried 10/2023, TRK 13122, H–2B Visa Issuance Report September 30, 2023.

[45] Exercise of Time-Limited Authority To Increase the Numerical Limitation for FY 2024 for the H–2B Temporary Nonagricultural Worker Program and Portability Flexibility for H–2B Workers Seeking To Change Employers, 88 FR 80394 (Nov. 17, 2023).

and Costa Rica, who were exempt from the returning worker requirement. By January 9, 2024, USCIS received enough petitions to reach the cap for the additional 20,716 H–2B visas made available for returning workers for the first half of fiscal year, and by April 17, 2024, USCIS received enough petitions to reach the cap for the additional 19,000 H–2B visas made available for returning workers for the early second half of fiscal year.[46] USCIS data show that the total number of H–2B workers approved towards the FY 2024 supplemental cap increase was 85,577, including 61,102 workers under the returning worker allocation, as well as 24,475 workers approved towards the country-specific allocation.[47]

On December 2, 2024, DHS and DOL jointly published a temporary final rule authorizing an increase of up to 64,716 additional H–2B visas for the entirety of FY 2025.[48] Similar to the previous temporary final rules, the additional visas were available only to employers that attested they were suffering or would suffer impending irreparable harm without the additional workers. The 64,716 additional visas included 44,716 reserved for returning workers from one of the last three fiscal years (FY 2022, 2023, or 2024), which were distributed in several allocations based on date of employer need: 20,716 for employers with requested employment start dates on or before March 31, 2025; 19,000 for employers with requested employment start dates from April 1, 2025, to May 14, 2025 (early second half allocation); and 5,000 for employers with requested employment start dates from May 15, 2025, to September 30, 2025 (late second half allocation). The remaining 20,000 visas were available for the entirety of FY 2025, and were set aside for nationals of El Salvador, Guatemala, Honduras, Haiti, Colombia, Ecuador, and Costa Rica, who were exempt from the returning worker requirement. By January 7, 2025, USCIS received enough petitions to reach the cap for the additional 20,716 H–2B visas made available for returning workers for the first half of fiscal year, and by April 18, 2025, USCIS received enough petitions to reach the cap for the additional 19,000 H–2B visas made available for returning workers for the early second half of fiscal year.[49] USCIS data show that the total number of H–2B workers approved towards the FY 2025 supplemental cap increase was 87,067, including 60,941 workers under the returning worker allocations, as well as 26,126 workers approved towards the country-specific allocation.[50]

DHS, in consultation with DOL, believes that it is appropriate to increase the H–2B cap for FY 2026 based on the demand for H–2B workers in the first half of FY 2026, demand for the second half of FY 2026, and recent economic and labor market data.[51]

D. Joint Issuance of the Final Rule

As in prior years, DHS and DOL (the Departments) have determined that it is appropriate to jointly issue this temporary rule.[52] The determination to issue the temporary final rule jointly follows conflicting court decisions concerning DOL's authority to independently issue legislative rules to carry out its consultative and delegated functions pertaining to the H–2B program under the INA.[53] Although DHS and DOL each have authority to independently issue rules implementing their respective duties under the H–2B program,[54] the Departments are implementing the numerical increase in this manner to ensure there can be no question about the authority underlying the administration and enforcement of the temporary cap increase. This approach is consistent with rules implementing DOL's general consultative role under section 214(c)(1) of the INA, 8 U.S.C. 1184(c)(1), and delegated functions under sections 103(a)(6) and 214(c)(14)(B) of the INA, 8 U.S.C. 1103(a)(6), 1184(c)(14)(B). *See* 8 CFR 214.2(h)(6)(iii)(A) & (C), (iv)(A).

II. Discussion

A. Statutory Determination

Following consultation with the Secretary of Labor, the Secretary of Homeland Security has determined that the needs of some U.S. employers cannot be satisfied for the remainder of FY 2026 with U.S. workers who are willing, qualified, and able to perform temporary nonagricultural labor. In accordance with the FY 2026 continuing resolution extending the authority provided in section 105 of the FY 2024 Omnibus, the Secretary of Homeland Security has determined that it is appropriate, for the reasons stated below, to raise the numerical limitation on H–2B nonimmigrant visas by up to 64,716 additional visas, the maximum

[46] *See* USCIS, Cap Reached for Additional Returning Worker H–2B Visas for the First Half of FY 2024, *https://www.uscis.gov/newsroom/alerts/cap-reached-for-additional-returning-worker-h-2b-visas-for-the-first-half-of-fy-2024* (Jan. 12, 2024); USCIS, Cap Reached for Additional Returning Worker H–2B Visas for the Early Second Half of FY 2024, *https://www.uscis.gov/newsroom/alerts/cap-reached-for-additional-returning-worker-h-2b-visas-for-the-early-second-half-of-fy-2024* (Apr. 18, 2024).

[47] The number of approved workers exceeded the number of additional visas authorized for FY 2024 to allow for the possibility that some approved workers would either not seek a visa or admission, would not be issued a visa, or would not be admitted to the United States. *See* DHS, USCIS, Office of Performance and Quality, ELIS, CLAIMS3, VIBE, DOS Visa Issuance Data queried 10/2024, PAER0016221.

[48] Exercise of Time-Limited Authority To Increase the Numerical Limitation for FY 2025 for the H–2B Temporary Nonagricultural Worker Program and Portability Flexibility for H–2B Workers Seeking To Change Employers, 89 FR 95626 (Dec. 2, 2024).

[49] *See* USCIS, Cap Reached for Additional Returning Worker H–2B Visas for the First Half of FY 2025, *https://www.uscis.gov/newsroom/alerts/cap-reached-for-additional-returning-worker-h-2b-visas-for-the-first-half-of-fy-2025* (Jan. 10, 2025); USCIS, Cap Reached for Additional Returning Worker H–2B Visas for the Early Second Half of FY 2025, *https://www.uscis.gov/newsroom/alerts/cap-reached-for-additional-returning-worker-h-2b-visas-for-the-early-second-half-of-fy-2025* (Apr. 23, 2025).

[50] The number of approved workers exceeded the number of additional visas authorized for FY 2025 to allow for the possibility that some approved workers would either not seek a visa or admission, would not be issued a visa, or would not be admitted to the United States. *See* USCIS OPQ H2B Cap Tracking Dashboard (as of December 30, 2025).

[51] The BLS Job Openings and Labor Turnover Survey (JOLTS) reports 7.1million job openings in November 2025. *See* DOL, BLS, Job Openings and Labor Turnover—November 2025, *https://www.bls.gov/news.release/archives/jolts_01072026.htm.*

[52] *See* Exercise of Time-Limited Authority To Increase the Fiscal Year 2017 Numerical Limitation for the H–2B Temporary Nonagricultural Worker Program, 82 FR 32987 (Jul. 19, 2017); Exercise of Time-Limited Authority To Increase the Fiscal Year 2018 Numerical Limitation for the H–2B Temporary Nonagricultural Worker Program, 83 FR 24905 (May 31, 2018); Exercise of Time-Limited Authority To Increase the Fiscal Year 2019 Numerical Limitation for the H–2B Temporary Nonagricultural Worker Program, 84 FR 20005 (May 8, 2019); Exercise of Time-Limited Authority To Increase the Fiscal Year 2021 Numerical Limitation for the H–2B Temporary Nonagricultural Worker Program and Portability Flexibility for H–2B Workers Seeking To Change Employers, 86 FR 28198 (May 25, 2021); Exercise of Time-Limited Authority To Increase the Fiscal Year 2022 Numerical Limitation for the H–2B Temporary Nonagricultural Worker Program and Portability Flexibility for H–2B Workers Seeking To Change Employers, 87 FR 4722 (Jan. 28, 2022); Exercise of Time-Limited Authority To Increase the Numerical Limitation for Second Half of FY 2022 for the H–2B Temporary Nonagricultural Worker Program and Portability Flexibility for H–2B Workers Seeking To Change Employers, 87 FR 30334 (May 18, 2022); Exercise of Time-Limited Authority To Increase the Numerical Limitation for FY 2023 for the H–2B Temporary Nonagricultural Worker Program and Portability Flexibility for H–2B Workers Seeking To Change Employers, 87 FR 76816 (Dec. 15, 2022); Exercise of Time-Limited Authority To Increase the Numerical Limitation for FY 2024 for the H–2B Temporary Nonagricultural Worker Program and Portability Flexibility for H–2B Workers Seeking To Change Employers, 88 FR 80394 (Nov. 17, 2023); and Exercise of Time-Limited Authority To Increase the Numerical Limitation for FY 2025 for the H–2B Temporary Nonagricultural Worker Program and Portability Flexibility for H–2B Workers Seeking To Change Employers, 89 FR 95626 (Dec. 2, 2024).

[53] *See Outdoor Amusement Bus. Ass'n* v. *Dep't of Homeland Sec.,* 334 F. Supp. 3d 697 (D. Md. 2018), *appeal docketed,* No. 18–2370 (4th Cir. Nov. 15, 2018)*; see also* Temporary Non-Agricultural Employment of H–2B Aliens in the United States, 80 FR 24042, 24045 (Apr. 29, 2015).

[54] *See Outdoor Amusement Bus. Ass'n,* 983 F.3d at 684–89.

authorized, for those American businesses that attest that they are suffering irreparable harm or will suffer impending irreparable harm, in other words, a permanent and severe financial loss, without the ability to employ all of the H–2B workers requested on their petition. These businesses must retain documentation, as described below, supporting this attestation.

As in connection with H–2B supplemental visa temporary final rules in previous years, and consistent with existing authority, DHS and/or DOL may conduct audits with respect to petitions filed under this temporary final rule requesting supplemental H–2B visas during the period of temporary need. Contingent on the availability of resources, the Departments will use their discretion to select which petitions to audit, and the Departments will use the audits to verify compliance with H–2B program requirements. If the Departments find that an employer's documentation does not meet the irreparable harm standard, or that the employer fails to provide evidence demonstrating irreparable harm or comply with the audit process, the Departments may consider it to be a willful violation resulting in an adverse agency action against the employer, including revocation of the TLC or program debarment.

DHS will not accept, and will reject, H–2B supplemental cap petitions submitted with a start date of need between January 1 and March 31, 2026, that are received after the applicable numerical limitation has been reached or, if the numerical limitation for this allocation has not been met, 15 days or later after the FY 2026 second half statutory cap has been met. If DHS determines by this latter date that it has received fewer petitions than needed to reach the cap for the first supplemental allocation, DHS will make the unused visas from this first allocation available under the second supplemental allocation for aliens who are returning workers with employment start dates between April 1 and 30, 2026. A similar filing deadline also applies for the second supplemental allocation where any unused visas from the second supplemental allocation (involving employment start dates between April 1 and 30, 2026) will be carried over to the third supplemental allocation for aliens with employment start dates between May 1 and September 30, 2026. DHS believes the established filing windows after which it will make any remaining visas available to the next immediate allocation will provide sufficient opportunity for their use by employers who need these H–2B workers while also providing a greater likelihood that supplemental H–2B visas do not go unused.

DHS will not accept, and will reject, H–2B supplemental cap petitions submitted with a date of need between April 1 and 30, 2026 (second allocation), that are received earlier than 15 days after the FY 2026 second half statutory cap is met. DHS will also not accept, and will reject, such petitions that are received after the applicable numerical limitation has been reached or, if the numerical limitation for this allocation has not been met, 45 days or later after the FY 2026 second half statutory cap is met. For H–2B supplemental cap petitions with a date of need between May 1 and September 30, 2026 (third allocation), DHS will not accept, and will reject such petitions that are received earlier than 45 days after the FY 2026 second half statutory cap is met or that are received after the applicable numerical limitation has been reached or after September 15, 2026. Requiring petitioners to wait to submit H–2B supplemental cap petitions for these allocations is consistent with the supplemental cap authority in section 105 of the FY 2024 Omnibus, as extended to FY 2026 by Public Law 119–37 (November 12, 2025), and will facilitate the orderly intake and processing of supplemental cap petitions for American businesses to meet their temporary and seasonal labor needs.

Similar to previous temporary final rules, the Secretary of Homeland Security, in consultation with the Secretary of Labor, has determined to limit 46,226 supplemental visas to H–2B returning workers.[55] Because American businesses who need workers to fill temporary or seasonal labor during the summer months of May 1 through September 30 have historically been shut out of receiving H–2B workers under the statutory cap, the Secretary, in consultation with the Secretary of Labor, has also determined that the remaining 18,490 supplemental visas reserved for petitions requesting employment start dates between May 1 and September 30, 2026, plus any rollover unused visas from the first and second allocations, will be exempt from the returning worker requirement.

The Secretary of Homeland Security's determination to increase the numerical limitation is based, in part, on the conclusion that some American businesses, including those with late-season needs, particularly those who support the critical infrastructure sectors of the U.S. economy,[56] may not be able to meet their business needs without the ability to employ all of the H–2B workers requested on their H–2B petition. The determination supports President Trump's domestic policy goal to make the United States ''the investment capital of the world and ensuring that expansion remains the hallmark of American manufacturing for decades to come'' [57] while ensuring available U.S. workers continue to have the opportunity to seek employment in positions that support our nation's critical infrastructure. As stated in prior temporary final rules, in the past, members of Congress have informed the Secretaries of Homeland Security and Labor about the needs of some American businesses for H–2B workers (after the statutory cap for the relevant half of the fiscal year has been reached) and about the potentially negative impact on state and local economies if the cap is not increased.[58] American businesses, chambers of commerce, employer organizations, and state and local elected officials have also previously expressed concerns to the Secretaries of Homeland Security and Labor regarding the unavailability of H–2B visas after the statutory cap was reached, and have urged the Departments to publish one rule covering the release of supplemental visas for the entire fiscal year in order to save time, conserve limited agency

[55] For purposes of this rule, these returning workers could have been H–2B cap exempt or extended H–2B status in FY 2023, 2024, or 2025. Additionally, they may have been previously counted against the annual H–2B cap of 66,000 visas during FY 2023, 2024, or 2025, or the supplemental caps in FY 2023, 2024, or 2025.

[56] These businesses include, but are not limited to, American businesses that support our manufacturing, food supply (*e.g.,* seafood), hospitality and tourism, forestry, and transportation, particularly as the United States readies itself for celebrating America's 250th anniversary and hosts the World Cup 2026 this summer. President Trump has issued several executive orders and proclamations aimed at building and protecting these industries. *See, e.g.,* Proclamation 10977, ''National Manufacturing Day, 2026,'' 90 FR 48159 (Oct. 3, 2025). ''. . . manufacturing has always been the foundation of our prosperity, the strength of our communities, the safeguard of our independence, and the engine of our greatness.'' *See also* Executive Order 14225, ''Immediate Expansion of American Timber Production,'' 90 FR 11365 (Mar. 1, 2025). ''. . . The production of timber, lumber, paper, bioenergy, and other wood products (timber production) is critical to our Nation's well-being. Timber production is essential for crucial human activities like construction and energy production. . .''

[57] Proclamation 10977, ''National Manufacturing Day, 2025,'' 90 FR 48159 (Oct. 3, 2025).

[58] *See, e.g.,* Exercise of Time-Limited Authority To Increase the Numerical Limitation for FY 2023 for the H–2B Temporary Nonagricultural Worker Program and Portability Flexibility for H–2B Workers Seeking To Change Employers, 87 FR 76816 (Dec. 15, 2022). These documents were retained in the administrative record for those rules.

resources, and reduce uncertainty for employers.[59]

Based on the most recent labor market and DOL H–2B worker demand data, the Secretary of Homeland Security, following consultation with the Secretary of Labor, has determined that it is appropriate to provide a one-time increase of H–2B supplemental visas for the remainder of FY 2026 and to publish one rule covering the entire fiscal year for 2026. Given President Trump's focus on strengthening the U.S. industrial base by securing historic investments, the Departments deemed this action as appropriate to support American businesses with seasonal or temporary workforce needs, such as those in critical infrastructure sectors of the U.S. economy, that are suffering or will suffer impending irreparable harm if they are unable to obtain H–2B workers under the statutory cap.[60]

DOL data identifies six industry sectors—administrative/landscaping services, accommodation and food services, entertainment and recreation, construction, agriculture and forestry, and manufacturing—requested almost 95 percent of H–2B TLC applications in FY 2025.[61] The most recent DOL's Bureau of Labor Statistics (BLS) data shows weaker unemployment rates across the top industries relative to prior years,[62] and DOL OFLC's data shows a strong demand for H–2B workers to supplement their business needs for positions with employment start dates under the FY 2026 statutory cap.[63] The decision to release additional H–2B visas for FY 2026 under the time-limited authority represents an important step to help American businesses in industry sectors experiencing labor shortages due to seasonal workforce needs while supporting President Trump's domestic policy agenda to strengthen the U.S. economy and its industrial base.

The decision to afford the benefits of this temporary cap increase to American businesses that need workers because they are suffering irreparable harm or will suffer impending irreparable harm, rather than applying the cap increase to any and all businesses seeking temporary workers, is consistent with DHS's time-limited authority to increase the cap, as explained below. The Secretary of Homeland Security, in implementing section 105 of the FY 2024 Omnibus, as extended by Public Law 119–37, and determining the scope of any such increase, has broad discretion, following consultation with the Secretary of Labor, to identify the business needs that are most relevant, while bearing in mind the need to protect U.S. workers.[64] Within that context, for the below reasons, the Secretary of Homeland Security has determined to allow an increase of up to 64,716 additional visas solely for American businesses facing permanent, severe financial loss or those who will face such loss in the near future.[65]

As explained in earlier temporary final rules, DHS has long interpreted the reference to ''the needs of American businesses'' reiterated in section 105 of the FY 2024 Omnibus, as extended by Public Law 119–37, as describing a need different from the need ordinarily required of employers in petitioning for an H–2B worker. Under the generally applicable H–2B program, each individual H–2B employer must demonstrate that it has a temporary need for the services or labor for which it seeks to hire H–2B workers. *See* 8 CFR 214.2(h)(6)(ii); 20 CFR 655.6. The use of the phrase ''needs of American businesses,'' which is not found in INA section 101(a)(15)(H)(ii)(b), 8 U.S.C. 1101(a)(15)(H)(ii)(b), or the regulations governing the standard H–2B cap, authorizes the Secretary of Homeland Security in allocating additional H–2B visas under section 105 of the FY 2024 Omnibus, as extended by Public Law 119–37, to require that employers establish a need above and beyond the normal standard under the H–2B program, that is, an inability to find sufficient qualified U.S. workers willing and available to perform temporary services or labor and that the employment of the H–2B worker will not adversely affect the wages and working conditions of U.S. workers, *see* 8 CFR 214.2(h)(6)(i)(A). DOL concurs with this interpretation. Accordingly, the Secretaries have determined that it is appropriate, within the limits discussed below, to tailor the availability of this temporary cap increase to those American businesses that are suffering irreparable harm or will suffer impending irreparable harm, in other words, those facing permanent and severe financial loss.

[59] These letters were retained in the administrative record for those rules.

[60] The Cybersecurity & Infrastructure Security Agency (CISA) has identified 16 critical infrastructure sectors. *See https://www.cisa.gov/topics/critical-infrastructure-security-and-resilience/critical-infrastructure-sectors.* The first 2-digits of the North American Industry Classification System (NAICS) code identifies the industry associated for a specific employer. For example, 23 is for Construction and 72 is for Accommodation and Food Services. *See* U.S. Census Bureau, North American Industry Classification System, *https://www.census.gov/naics/.*

[61] Based on an analysis of OFLC H–2B Performance data for FY 2025 available at *https://www.dol.gov/agencies/eta/foreign-labor/performance* for all TLCs listed as having a case status of ''Determination—Certification'' or ''Determination—Partial Certification'' and using the first 2-digit economic sector designation of the North American Industrial Classification System (NAICS) self-reported by the employer on the DOL Form ETA–9142B that best represents its primary business activity. Out of more than 232,400 H–2B worker positions certified during FY 2025, 95.1 percent of H–2B filings were certified for positions within just the following 6 industry sectors: NAICS 56 (Administrative and Support and Waste Management and Remediation Services, which includes landscaping services) accounted for 42.6 percent of labor demand; NAICS 71 (Arts, Entertainment, and Recreation) accounted for 15.3 percent of labor demand; NAICS 72 (Accommodation and Food Services) accounted for 13.8 percent of labor demand; NAICS 23, (Construction) accounted for 9.2 percent of labor demand; NAICS 11 (Agriculture, Forestry, Fishing, and Hunting) accounted for 8.1 percent of labor demand; and NAICS 31–33 (Manufacturing) accounted for 6.0 percent of labor demand.

[62] BLS data indicates current labor market conditions are comparable to the labor market conditions in FY 2020 when 35,000 supplemental visas were initially announced (but not released due to the National Emergency concerning COVID–19). BLS, The Employment Situation, December 2025. *https://www.bls.gov/news.release/archives/empsit_01092026.htm.*

[63] DOL OFLC received 2,421 H–2B applications covering 47,488 worker positions with a work start date of October 1, 2025, and 10,062 H–2B applications covering 162,603 worker positions with a work start date of April 1, 2026. *See* DOL Announcement, ''July 9, 2025. OFLC Publishes List of Randomized H–2B Applications Submitted July 3–5, 2025, for Employers Seeking H–2B Workers Starting October 1, 2025'' and ''January 5, 2026. OFLC Publishes List of Randomized H–2B Applications Submitted January 1–3 for Employers Seeking H–2B Workers Starting April 1, 2026,'' respectively.

[64] Congress has delegated to DHS the broad authority to administer and enforce the immigration laws in title 8 of the U.S.C. as well as other immigration and naturalization laws. *See, e.g.,* INA sec. 103(a)(1), 214(a)(1), (c)(1); 8 U.S.C. 1103(a)(1), 1184(a)(1), (c)(1); *see Loper Bright Enterprises* v. *Raimondo,* 144 S. Ct. 2244, 2263 (2024) (''In a case involving an agency, of course, the statute's meaning may well be that the agency is authorized to exercise a degree of discretion. Congress has often enacted such statutes. For example, some statutes 'expressly delegate' to an agency the authority to give meaning to a particular statutory term. Others empower an agency to prescribe rules to fill up the details of a statutory scheme, or to regulate subject to the limits imposed by a term or phrase that leaves agencies with flexibility, such as 'appropriate' or 'reasonable.' '') (cleaned up and internal citations omitted).

[65] The statute explicitly provides that the Secretary of Homeland Security, after consulting with the Secretary of Labor, and upon the determination that the needs of United States businesses cannot be satisfied during FY 2026 with U.S. workers to perform temporary nonagricultural labor, may determine the appropriate number of H–2B supplemental visas to be issued in FY 2026, limited to the highest number of H–2B nonimmigrants who participated in the H–2B returning worker program. Consistent with the discretion afforded thereunder by Congress, and commensurate with authorities including those afforded under sections 103 and 214 of the INA, 8 U.S.C. 1103 and 1184, DHS, in consultation with DOL, is making available up to an additional 64,716 H–2B visas for FY 2026 to employers who are suffering irreparable harm or will suffer impending irreparable harm. *See Loper Bright Enterprises* v. *Raimondo,* 144 S. Ct. at 2263 (2024).

In sum, this rule increases the numerical limitation by up to 64,716 additional H–2B visas for FY 2026, but also restricts the availability of those additional visas by prioritizing only the most significant business needs, and limiting eligibility to H–2B returning workers, unless the worker will start work on or after May 1 through September 30, 2026. This rule also distributes the supplemental visas in three allocations to assist American businesses that need workers to begin work on different start dates. These provisions are each described in turn below.

B. Numerical Increase and Allocations for Fiscal Year 2026

The increase of up to 64,716 visas will help address the urgent needs of eligible U.S. employers for additional H–2B workers with employment needs in FY 2026.[66] The determination to make available up to 64,716 additional H–2B visas reflects a balancing of a number of factors including: the demand for H–2B visas during the first half of FY 2026 and expected demand for the second half of FY 2026; current labor market conditions; the general trend of increased demand for H–2B visas from FY 2018 to FY 2025; H–2B returning worker data; the amount of time for employers to hire and obtain H–2B workers in this fiscal year; and President Trump's focus on strengthening the U.S. industrial base and securing America's dominance. DHS believes the numerical increase addresses the needs of American businesses.

Section 105 of the FY 2024 Omnibus, as extended by Public Law 119–37, sets the highest number of H–2B returning workers who were exempt from the cap in certain previous years as the maximum limit for any increase in the H–2B numerical limitation for FY 2026.[67] Consistent with the statute's reference to H–2B returning workers, in determining the appropriate number by which to increase the H–2B numerical limitation, the Secretary of Homeland Security focused on the number of visas allocated to such workers in years in which Congress enacted returning worker exemptions from the H–2B numerical limitation. During each of the years the returning worker provision was in force, U.S. employers' standard business needs for H–2B workers exceeded the statutory 66,000 cap. The highest number of H–2B returning workers approved was 64,716 in FY 2007. In setting the number of additional H–2B visas to be made available for FY 2026, DHS considered this number, overall indications of increased need, weakening unemployment numbers, and the availability of U.S. workers, as discussed below. On the basis of these considerations, DHS determined that it is appropriate to make available 64,716 additional visas, the maximum authorized, under the FY 2026 authority.

In past years, the number of beneficiaries covered by H–2B petitions submitted exceeded the number of additional visas allocated under recent supplemental caps. For example, in FY 2018, USCIS received petitions for approximately 29,000 beneficiaries during the first five business days of filing for the 15,000 supplemental cap. USCIS therefore conducted a lottery on June 7, 2018, to randomly select petitions that it would accept under the supplemental cap. Of the selected petitions, USCIS issued approvals for 15,672 beneficiaries.[68] In FY 2019, USCIS received sufficient petitions for the 30,000 supplemental cap on June 5, 2019, but did not conduct a lottery to randomly select petitions that it would accept under the supplemental cap. Of the petitions received, USCIS issued approvals for 32,717 beneficiaries. In FY 2021, USCIS received a sufficient number of petitions for the 22,000 supplemental cap on August 13, 2021, including a significant number for workers from Northern Central American countries.[69] Of the petitions received, USCIS issued approvals for 30,707 beneficiaries, including approvals for 6,805 beneficiaries under the allocation for the nationals of the Northern Central American countries.[70]

In FY 2022, DHS made the supplemental cap available twice, once in January 2022 and again in May 2022. Under the earlier FY 2022 supplemental cap for petitions with start dates in the first half of FY 2022, USCIS had issued approvals for 17,381 beneficiaries, including approvals for 3,231 beneficiaries under the allocation for nationals of the Northern Central American countries and Haiti.[71] For the second half of FY 2022, within the first five business days of filing, USCIS received petitions for more beneficiaries than the additional 23,500 supplemental visas made available for returning

[66] In contrast with section 214(g)(1) of the INA, 8 U.S.C. 1184(g)(1), which establishes a cap on the number of individuals who may be issued visas or otherwise provided H–2B status (emphasis added), and section 214(g)(10) of the INA, 8 U.S.C. 1184(g)(10), which imposes a first half of the fiscal year cap on H–2B issuance with respect to the number of aliens who may be issued visas or are accorded H–2B status (emphasis added), section 105 of the FY 2024 Omnibus, as extended by Public Law 119–37, only authorizes DHS to increase the number of available H–2B visas. Accordingly, DHS will not permit aliens authorized for H–2B status pursuant to an H–2B petition approved under section 105 of the FY 2024 Omnibus, as extended by Public Law 119–37, to change to H–2B status from another nonimmigrant status. *See* INA section 248, 8 U.S.C. 1258; *see also* 8 CFR part 248. If a petitioner files a petition seeking H–2B workers in accordance with this rule and requests a change of status on behalf of someone in the United States, the change of status request will be denied, but the petition will be adjudicated in accordance with applicable DHS regulations. Any alien authorized for H–2B status under the approved petition would need to obtain the necessary H–2B visa at a consular post abroad and then seek admission to the United States in H–2B status at a port of entry.

[67] During fiscal years 2005 to 2007, and 2016, Congress enacted ''returning worker'' exemptions to the H–2B visa cap, allowing workers who were counted against the H–2B cap in one of the three preceding fiscal years not to be counted against the upcoming fiscal year cap. Save Our Small and Seasonal Businesses Act of 2005, Public Law 109–13, Sec. 402 (May 11, 2005); John Warner National Defense Authorization Act, Public Law 109–364, Sec. 1074 (Oct. 17, 2006); Consolidated Appropriations Act of 2016, Public Law 114–113, Sec. 565 (Dec. 18, 2015).

[68] USCIS recognizes it has approved petitions for more than the number of supplemental H–2B workers authorized under the relevant fiscal year supplemental cap. This is because DHS estimates that not all of the workers requested in the approved petitions will eventually obtain a visa. For instance, although DHS approved petitions for 15,672 beneficiaries under the FY 2018 cap increase, the Department of State data shows that as of January 15, 2019, it issued only 12,243 visas under that cap increase. Similarly, DHS approved petitions for 12,294 beneficiaries under the FY 2017 cap increase, but the Department of State data shows that it issued only 9,160 visas.

[69] On June 3, 2021, USCIS announced that it had received enough petitions to reach the cap for the additional 16,000 H–2B visas made available for returning workers only, but that it would continue accepting petitions for the additional 6,000 visas allotted for nationals of the Northern Central American countries. *See* USCIS, Cap Reached for Additional Returning Worker H–2B Visas for FY 2021, *https://www.uscis.gov/news/alerts/cap-reached-for-additional-returning-worker-h-2b-visas-for-fy-2021* (Jun. 3, 2021). On July 23, 2021, USCIS announced that, because it did not receive enough petitions to reach the allocation for the Northern Central American countries by the July 8 filing deadline, the remaining visas were available to H–2B returning workers regardless of their country of origin. *See* USCIS, Employers May File H–2B Petitions for Returning Workers for FY 2021, *https://www.uscis.gov/news/alerts/employers-may-file-h-2b-petitions-for-returning-workers-for-fy-2021* (Jul. 23, 2021).

[70] *See* Department of Homeland Security, U.S. Citizenship and Immigration Services, Office of Performance and Quality, CLAIMS3, VIBE, DOS Visa Issuance Data queried 10/2023, TRK 13122. The number of approved workers exceeded the number of additional visas authorized for FY 2018, FY 2019, as well as for FY 2021 to allow for the possibility that some approved workers would either not seek a visa or admission, would not be issued a visa, or would not be admitted to the United States. Unlike these past supplemental cap temporary final rules, petitions filed under the first half FY 2022 temporary final rule did not exceed the additional allocation of 20,000 H–2B visas provided by that rule.

[71] *See* Department of Homeland Security, U.S. Citizenship and Immigration Services, Office of Performance and Quality, CLAIMS3, VIBE, DOS Visa Issuance Data queried 10/2023, TRK 13122.

workers, thus necessitating a random selection of petitions to meet the returning worker allotment.[72] Of the FY 2022, USCIS issued approvals for 43,798 beneficiaries, including approvals for 12,318 beneficiaries under the allocation for nationals of the Northern Central American countries and Haiti.[73]

In FY 2023, USCIS received enough petitions to reach the cap for the additional 18,216 H–2B visas made available for returning workers for the first half of fiscal year by January 30, 2023, and USCIS received enough petitions to reach the cap for the additional 16,500 H–2B visas made available for returning workers for the early second half of fiscal year by March 30, 2023.[74] Of the petitions for supplemental H–2B visas in FY 2023, USCIS issued approvals for 78,302 beneficiaries, including 7,157 beneficiaries under the allocation of 10,000 visas made available for returning workers for the late second half of the fiscal year and 23,832 beneficiaries under the allocation of 20,000 visas reserved for nationals of the Northern Central American countries and Haiti.[75]

In FY 2024, USCIS received a sufficient number of H–2B petitions to reach the first half of the FY 2024 fiscal year statutory cap on October 11, 2023.[76] USCIS received enough petitions to reach the cap for the additional 20,716 H–2B visas made available for returning workers for the first half of fiscal year by January 9, 2024, and USCIS received enough petitions to reach the cap for the additional 19,000 H–2B visas made available for returning workers for the early second half of fiscal year by April 17, 2024.[77] Of the petitions for supplemental H–2B visas in FY 2024, USCIS issued approvals for 85,577 beneficiaries, including 6,314 beneficiaries under the allocation of 5,000 visas made available for returning workers for the late second half of the fiscal year and 24,475 beneficiaries under the allocation of 20,000 visas reserved for nationals of Guatemala, El Salvador, Honduras, Haiti, Colombia, Ecuador, or Costa Rica.[78]

In FY 2025, USCIS received a sufficient number of H–2B petitions to reach the first half of the FY 2025 fiscal year statutory cap on September 18, 2024.[79] USCIS received enough petitions to reach the cap for the additional 20,716 H–2B visas made available for returning workers for the first half of fiscal year by January 7, 2025, and USCIS received enough petitions to reach the cap for the additional 19,000 H–2B visas made available for returning workers for the early second half of fiscal year by April 18, 2025.[80] Of the petitions for supplemental H–2B visas in FY 2025, USCIS issued approvals for 87,067 beneficiaries, including 5,347 beneficiaries under the allocation of 5,000 visas made available for returning workers for the late second half of the fiscal year and 26,126 beneficiaries under the allocation of 20,000 visas reserved for nationals of Guatemala, El Salvador, Honduras, Haiti, Colombia, Ecuador, or Costa Rica.[81]

Data for the first half of FY 2026 indicates an immediate need for additional supplemental H–2B visas for U.S. employers with start dates between January 1 and March 31, 2026 (the last date of the first half of FY 2026 statutory cap). USCIS received a sufficient number of H–2B petitions to reach the first half of the FY 2026 statutory cap on September 12, 2025.[82] On July 9, 2025, DOL OFLC announced that it received 2,421 H–2B TLC applications covering 47,488 workers with an employment start date of October 1, 2025.[83] Further, the date on which USCIS received sufficient H–2B petitions to reach the first half semiannual statutory cap has generally trended earlier in recent years. In fiscal years 2017 through 2026, USCIS received a sufficient number of H–2B petitions to reach or exceed the relevant first half statutory cap on January 10, 2017, December 15, 2017, December 6, 2018, November 15, 2019, November 16, 2020, September 30, 2021, September 12, 2022, October 11, 2023, September 18, 2024, and September 12, 2025, respectively.[84]

[72] *See* USCIS, Cap Reached for Additional Returning Worker H–2B Visas for Second Half of FY 2022, *https://www.uscis.gov/newsroom/alerts/cap-reached-for-additional-returning-worker-h-2b-visas-for-second-half-of-fy-2022* (May 31, 2022).

[73] *See* Department of Homeland Security, U.S. Citizenship and Immigration Services, Office of Performance and Quality, C3 Consolidated, queried 10/2023, TRK 13122, FY 2023 H–2B Northern Central American Cap Approvals by Validity Start Date Month. The number of approved workers exceeded the number of additional visas authorized for the second half of FY 2022 to allow for the possibility that some approved workers would either not seek a visa or admission, would not be issued a visa, or would not be admitted to the United States.

[74] *See* USCIS, Cap Reached for Additional Returning Worker H–2B Visas for the First Half of FY 2023, *https://www.uscis.gov/newsroom/alerts/cap-reached-for-additional-returning-worker-h-2b-visas-for-the-first-half-of-fy-2023* (Jan. 31, 2023); USCIS, Cap Reached for Additional Returning Worker H–2B Visas for the Early Second Half of FY 2023, *https://www.uscis.gov/newsroom/alerts/cap-reached-for-additional-returning-worker-h-2b-visas-for-the-early-second-half-of-fy-2023* (Mar. 31, 2023).

[75] *See* DHS, USCIS, Office of Performance and Quality, CLAIMS3, VIBE, DOS Visa Issuance Data, queried 10/2023, TRK 13122, H–2B Visa Issuance Report September 30, 2023. The number of approved workers exceeded the number of additional visas authorized for FY 2023 to allow for the possibility that some approved workers would either not seek a visa or admission, would not be issued a visa, or would not be admitted to the United States.

[76] *See* USCIS, USCIS Reaches H–2B Cap for First Half of FY 2024, *https://www.uscis.gov/newsroom/alerts/uscis-reaches-h-2b-cap-for-first-half-of-fy-2024* (Oct. 13, 2023).

[77] *See* USCIS, Cap Reached for Additional Returning Worker H–2B Visas for the First Half of FY 2024, *https://www.uscis.gov/newsroom/alerts/cap-reached-for-additional-returning-worker-h-2b-visas-for-the-first-half-of-fy-2024* (Jan. 12, 2024); USCIS, Cap Reached for Additional Returning Worker H–2B Visas for the Early Second Half of FY 2024, *https://www.uscis.gov/newsroom/alerts/cap-reached-for-additional-returning-worker-h-2b-visas-for-the-early-second-half-of-fy-2024* (Apr. 18, 2024).

[78] *See* Department of Homeland Security, U.S. Citizenship and Immigration Services, Office of Performance and Quality, ELIS, CLAIMS3, VIBE, DOS Visa Issuance Data queried 10/2024, PAER0016221. The number of approved workers exceeded the number of additional visas authorized for FY 2024 to allow for the possibility that some approved workers would either not seek a visa or admission, would not be issued a visa, or would not be admitted to the United States.

[79] *See* USCIS, USCIS Reaches H–2B Cap for First Half of Fiscal Year 2025, *https://www.uscis.gov/newsroom/alerts/uscis-reaches-h-2b-cap-for-first-half-of-fiscal-year-2025* (Sept. 19, 2024).

[80] *See* USCIS, Cap Reached for Additional Returning Worker H–2B Visas for the First Half of FY 2025, *https://www.uscis.gov/newsroom/alerts/cap-reached-for-additional-returning-worker-h-2b-visas-for-the-first-half-of-fy-2025* (Jan. 10, 2026); USCIS, Cap Reached for Additional Returning Worker H–2B Visas for the Early Second Half of FY 2025, *https://www.uscis.gov/newsroom/alerts/cap-reached-for-additional-returning-worker-h-2b-visas-for-the-early-second-half-of-fy-2025* (Apr. 23, 2025).

[81] USCIS OPQ H2B Cap Tracking Dashboard (as of Dec. 30, 2025).

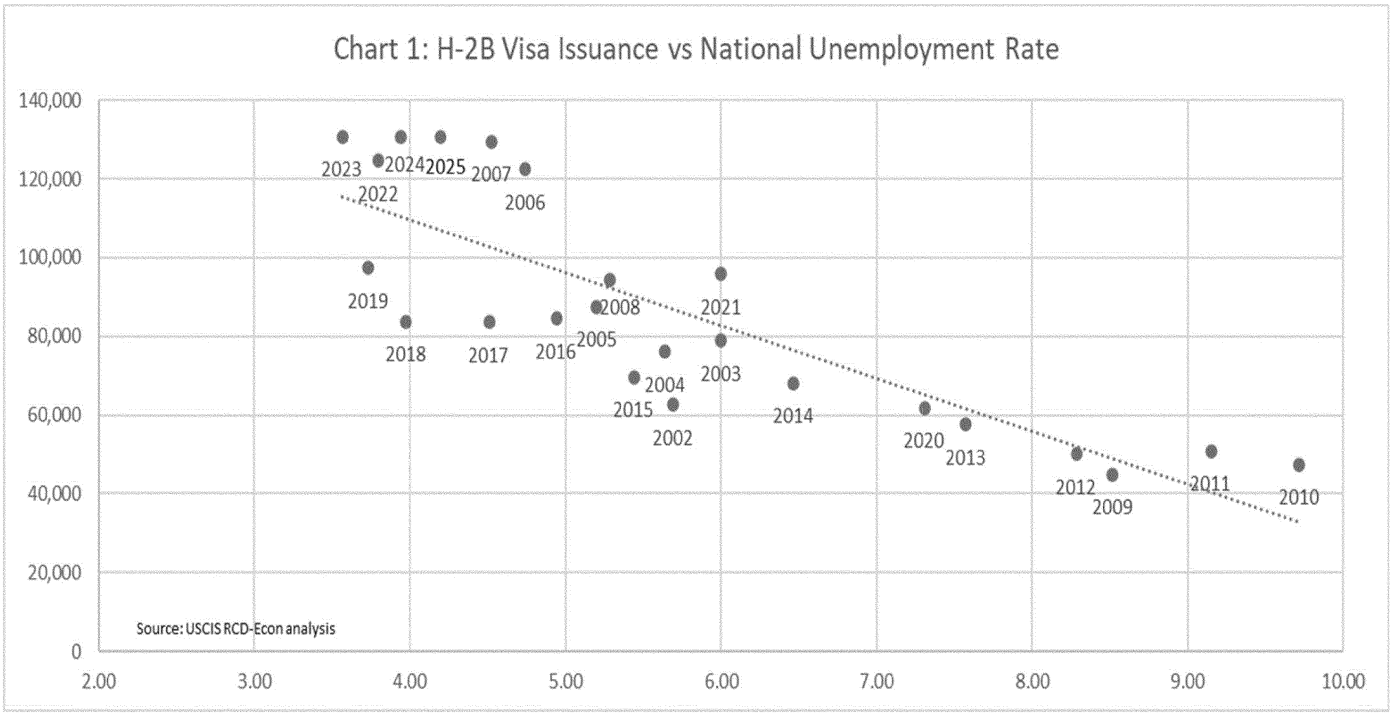
[82] *See* USCIS, USCIS Reaches H–2B Cap for First Half of Fiscal Year 2026, *https://www.uscis.gov/newsroom/alerts/uscis-reaches-h-2b-cap-for-first-half-of-fiscal-year-2026* (Sept. 16, 2025).

[83] *See* DOL, Announcements, *https://www.dol.gov/agencies/eta/foreign-labor/news.*

[84] *See* USCIS, USCIS Reaches H–2B Cap for First Half of FY 2017, *https://www.uscis.gov/archive/uscis-reaches-the-h-2b-cap-for-the-first-half-of-fiscal-year-2017* (Jan. 13, 2017); USCIS, USCIS Reaches H–2B Cap for First Half of FY 2018, *https://www.uscis.gov/archive/uscis-reaches-h-2b-cap-for-first-half-of-fy-2018* (Dec. 21, 2017); USCIS, USCIS Reaches H–2B Cap for First Half of FY 2019, *https://www.uscis.gov/news/news-releases/uscis-reaches-h-2b-cap-for-first-half-of-fy-2019* (Dec. 12, 2018); USCIS, USCIS Reaches H–2B Cap for First Half of FY 2020, *https://www.uscis.gov/news/news-releases/uscis-reaches-h-2b-cap-for-first-half-of-fy-2020* (Nov. 20, 2019); USCIS, USCIS Reaches H–2B Cap for First Half of FY 2021, *https://www.uscis.gov/news/alerts/uscis-reaches-h-2b-cap-for-first-half-of-fy-2021* (Nov. 18, 2020); USCIS, USCIS Reaches H–2B Cap for First Half of FY 2022, *https://www.uscis.gov/newsroom/alerts/uscis-reaches-h-2b-cap-for-first-half-of-fy-2022* (Oct. 12, 2021); USCIS, USCIS Reaches H–2B Cap for First Half of FY 2023, *https://www.uscis.gov/newsroom/alerts/uscis-reaches-h-2b-cap-for-first-half-of-fy-2023* (Sept. 14, 2022); USCIS, USCIS Reaches H–2B Cap for First Half of FY 2024, *https://www.uscis.gov/newsroom/alerts/uscis-reaches-h-2b-cap-for-first-half-of-fy-2024;* USCIS, USCIS Reaches H–2B Cap for First Half of Fiscal Year 2025, *https://www.uscis.gov/newsroom/alerts/uscis-reaches-h-2b-cap-for-first-half-of-fiscal-year-2025* (Sept. 19, 2024); and USCIS, USCIS Reaches H–2B Cap for First Half of Fiscal Year 2026, *https://*

Most American businesses in these top industry sectors support one of the 16 critical infrastructure sectors that have a significant impact on national economic security. Given these trends in program usage and the documented need for H–2B workers among American businesses that continue to support economic recovery and growth across the U.S. industrial base, DHS believes it is appropriate to release the additional visas for FY 2026.[85] For example, American businesses classified under NAICS 31–33 (Manufacturing) may be considered to fall under the Critical Manufacturing Sector,[86] while NAICS 71 (Arts, Entertainment, and Recreation) and 72 (Accommodation and Food Services) may fall under one of the eight subsectors that comprise the Commercial Facilities Sector.[87]

The 2025 [88] numbers are higher than the historical trend but are generally consistent with what the current unemployment rate alone would predict. The data presented in Chart 1 is meant to provide additional context and to demonstrate that the total allocation of H–2B visas is reasonable given labor market conditions.



Returning Worker Allocation and Filing Deadline for Employment Start Dates Between January 1 and March 31, 2026 (First Allocation)

For the first half of FY 2026, DHS will make 18,490 visas immediately available upon publication of this temporary final rule that are limited to returning workers, in other words, those workers who were issued H–2B visas or held H–2B status in fiscal years 2023, 2024, or 2025. These petitions must request a date of need starting between January 1 and March 31, 2026. *See* new 8 CFR 214.2(h)(6)(xvi). Petitions filed for supplemental allocations under this rule requesting a date of need before January 1, 2026 will be rejected and the filing fees will be returned.

DHS anticipates that U.S. employers will use all of the first allocation for returning workers starting between January 1 and March 31, 2026 (the last day of the first half of FY 2026), given how quickly USCIS reached the FY 2026 first half statutory cap. As noted previously, USCIS received enough H–2B petitions to reach the FY 2026 first half statutory cap on September 12, 2025.[89] Because of the regulatory requirement that employers apply for a TLC 75 to 90 days before the start date of work and the strong demand for H–2B workers in recent years to begin work on the earliest employment start date (*i.e.,* October 1), employers with late-winter employment start dates were likely unable to receive cap-subject H–2B workers and/or did not have a fair opportunity to file visa petitions for cap-subject H–2B workers before the first half statutory cap was reached. Thus, this first allocation would provide these late-winter season employers an opportunity to access the H–2B program.[90]

To mitigate complications from concurrent administration of multiple supplemental allocations and to permit this carry over, petitions for the first supplemental allocation must be filed before petitions for the second allocation may be filed. DHS will not

www.uscis.gov/newsroom/alerts/uscis-reaches-h-2b-cap-for-first-half-of-fiscal-year-2026 (Sept. 16, 2025).

[85] *See* CISA, Critical Infrastructure Sectors, *https://www.cisa.gov/topics/critical-infrastructure-security-and-resilience/critical-infrastructure-sectors.*

[86] *See* CISA, Critical Manufacturing Sector, *https://www.cisa.gov/topics/critical-infrastructure-security-and-resilience/critical-infrastructure-sectors/critical-manufacturing-sector.*

[87] *See* CISA, Commercial Facilities Sector, *https://www.cisa.gov/topics/critical-infrastructure-security-and-resilience/critical-infrastructure-sectors/commercial-facilities-sector.*

[88] The number of estimated visas issued for FY 2025 is based on the sum of the fiscal year statutory cap for H–2B workers (66,000) and the supplemental allocation for FY 2025 (64,716), for a total H–2B visa allocation of 130,716.

[89] *See* USCIS, USCIS Reaches H–2B Cap for First Half of Fiscal Year 2026, *https://www.uscis.gov/newsroom/alerts/uscis-reaches-h-2b-cap-for-first-half-of-fiscal-year-2026* (Sept. 16, 2025).

[90] DOL announcement on July 9, 2025. *See https://www.dol.gov/agencies/eta/foreign-labor/news.*

accept, and will reject, H–2B supplemental cap petitions submitted with a start date of need between January 1 and March 31, 2026, that are received after the applicable numerical limitation has been reached or, if the numerical limitation for this allocation has not been met, 15 days or later after the FY 2026 second half statutory cap has been met. In the event that USCIS approves insufficient petitions to use all 18,490 supplemental visas under this first allocation, the unused numbers will carry over to the second allocation under this rule.

Returning Worker Allocation and Filing Deadline for Employment Start Dates Between April 1 and April 30, 2026 (Second Allocation)

For the early second half of FY 2026, DHS will initially make available 27,736 visas, plus any unused visas from the first allocation, limited to returning workers, in other words, those workers who were issued H–2B visas or held H–2B status in fiscal years 2023, 2024, or 2025. These petitions must request a date of need starting between April 1 and April 30, 2026. *See* new 8 CFR 214.2(h)(6)(xvi).

DHS cannot predict with certainty when the FY 2026 second half statutory cap will be reached (or if it will be reached), and therefore, did not specify a date for when to first allow petitioners to file for FY 2026 second allocation of supplemental visas. In the event that the statutory second half FY 2026 cap is not reached, the supplemental allocations for the second half of FY 2026 will not become available.

To mitigate complications from concurrent administration of the statutory second half cap, these petitions must be filed no earlier than 15 days after the second half statutory cap is reached, a date that USCIS will identify in a public announcement.[91] When USCIS announces that it has received a sufficient number of petitions to reach the second half statutory cap, it will also announce the earliest possible filing date (15 days after the second half statutory cap) for this allocation. Concurrent administration of the second half statutory cap with the second half supplemental cap would pose significant operational challenges, particularly considering the volume of H–2B petitions USCIS would have to process at the same time. A cushion of 15 days after the second half statutory cap is reached should provide USCIS with sufficient time to process H–2B petitions filed under the second half statutory cap and prepare to process petitions under this second allocation of the supplemental cap, and should also provide petitioners not selected under the statutory cap with enough time to refile under this second allocation of the supplemental cap. Furthermore, making this allocation available *after* the second half statutory cap has been reached builds in flexibility to account for variations in the timing of that cap being reached.

Based on historical data showing increasingly high demand for H–2B workers with April 1 start dates, DHS expects all 27,736 visas to be used quickly once the second allocation becomes available as occurred in FY 2024 and FY 2025. However, in the event that USCIS approves insufficient petitions to use all 27,736 visas, the unused numbers will carry over for petition approvals for employment start dates beginning on or after May 1, 2026.

DHS will not accept, and will reject, H–2B supplemental cap petitions submitted with a date of need between April 1 and 30, 2026 (second allocation), that are received earlier than 15 days after the FY 2026 second half statutory cap is met. DHS will also not accept, and will reject, such petitions that are received after the applicable numerical limitation has been reached or, if the numerical limitation for this allocation has not been met, 45 days or later after the FY 2026 second half statutory cap is met.

Allocation and Filing Deadline for Employment Start Dates Between May 1 and September 30, 2026 (Third Allocation)

For the late second half of FY 2026, DHS will make available an additional allocation of 18,490 visas, plus any unused visas from the first and second allocations. In past years, because of the regulatory requirement that employers apply for a TLC 75 to 90 days before the start date of work and the strong demand for H–2B workers in recent years to begin work on the earliest employment start date (*i.e.,* April 1), late-season employers[92] were likely unable to receive cap-subject H–2B workers and/or did not have an opportunity to file visa petitions for cap-subject H–2B workers before the second half statutory cap was reached. Employers who need workers to begin work on or after May 1 are not eligible to file TLC applications until on or after February 1. Furthermore, these employers who filed TLC applications on or after February 1 may not have received their approved TLC in time to file an H–2B petition before the statutory cap for the second half of FY 2025 is met,[93] and may not have identified workers to supplement their business needs. Therefore, the Secretary has determined that it is appropriate that this third allocation be available for U.S. employers with a need for workers to begin work on or after May 1 through the end of the fiscal year and that the 18,490 additional visas will be exempt from the returning worker requirement to provide these U.S. employers, especially those in critical infrastructure sectors, with late-season needs a better opportunity to receive H–2B workers to avoid irreparable harm and continue to contribute to the U.S. economy.

To mitigate complications from concurrent administration of the returning worker allocations, these petitions must be filed no earlier than 45 days after the second half statutory cap is reached, a date that USCIS will identify in a public announcement.[94] When USCIS announces that it has received a sufficient number of petitions to reach the second half statutory cap, it will also announce the earliest possible filing date (45 days after the second half statutory cap) for this third allocation. Concurrent administration of the second half statutory cap with the second supplemental allocation cap would pose significant operational challenges, particularly considering the volume of H–2B petitions USCIS would have to process at the same time. A cushion of 45 days after the second half statutory cap is reached should provide USCIS with sufficient time to process H–2B petitions filed under the second half statutory cap and prepare to process petitions under this third allocation of the supplemental cap. Furthermore, making this allocation available *after* the second half statutory cap has been reached builds in flexibility to account

[91] Pursuant to new 8 CFR 214.2(h)(6)(xvi)(C)(*2*), USCIS will reject petitions filed pursuant to paragraph (h)(6)(xvi)(A)(*1*)(*ii*) of this section requesting employment start dates from April 1, 2026 to April 30, 2026 that are received earlier than 15 days after the INA section 214(g) cap for the second half of FY 2026 has been met.

[92] Employers needing workers to begin work during the late spring and summer seasons in the fiscal year are also referred to as ''late season employers.''

[93] In FY 2025, USCIS announced that it received sufficient petitions to meet the H–2B statutory cap for the second half of FY 2025 on March 5, 2025. *See* USCIS, USCIS Reaches H–2B Cap for Second Half of FY 2025 and Filing Dates Now Available for Supplemental Visas, *https://www.uscis.gov/newsroom/alerts/uscis-reaches-h-2b-cap-for-second-half-of-fy-2025-and-filing-dates-now-available-for-supplemental* (Mar. 26, 2025).

[94] Pursuant to new 8 CFR 214.2(h)(6)(xvi)(C)(*2*), USCIS will reject petitions filed pursuant to paragraph (h)(6)(xvi)(A)(*1*)(*ii*) of this section requesting employment start dates from April 1, 2026 to April 30, 2026 that are received earlier than 15 days after the INA section 214(g) cap for the second half FY 2026 has been met.

for variations in the timing of that cap being reached. DHS cannot predict with certainty when the FY 2026 second half statutory cap will be reached (or if it will be reached), and therefore, did not specify a date in this rule for when to first allow petitioners to file for FY 2026 third allocation of supplemental visas. In the event that the statutory second half of FY 2026 cap is not reached, the supplemental allocations for the second half of FY 2026 will not become available. In the event that USCIS approves insufficient petitions to use all 18,490 visas, the unused numbers will not carry over to FY 2027.

C. Returning Workers

The Secretary of Homeland Security, in consultation with the Secretary of Labor, has determined that the supplemental visas should be granted to returning workers from the past three fiscal years, unless the H–2B worker is counted towards the separate 18,490 cap available to employers with employment start dates between May 1 and September 30, 2026. The Secretaries have determined that, for purposes of this program, H–2B returning workers include those aliens who were issued an H–2B visa or were otherwise granted H–2B status in FY 2023, 2024, or 2025. As discussed above, the Secretaries determined that limiting returning workers to those who were issued an H–2B visa or granted H–2B status in the past three fiscal years is appropriate as it mirrors the standard that Congress designated in previous returning worker provisions. Returning workers have previously obtained H–2B visas and therefore been vetted by DOS and DHS,[95] would have departed the United States after their authorized period of stay as generally required by the terms of their nonimmigrant admission, and therefore may obtain their new visas through DOS and begin work more expeditiously.

Limiting the supplemental cap mostly to returning workers is beneficial because these workers have generally followed immigration law in good faith and demonstrated their willingness to return home after they have completed their temporary labor or services or their period of authorized stay, which is a condition of H–2B status. The returning worker condition therefore provides a basis to believe that H–2B workers under this cap increase will abide by terms and conditions of their H–2B nonimmigrant status and return home again after another temporary stay in the United States.

To ensure compliance with the requirement that additional visas be made available to returning workers, petitioners seeking H–2B workers under the supplemental cap will be required to attest that each employee requested or instructed to apply for a visa under the FY 2026 supplemental cap was issued an H–2B visa or otherwise granted H–2B status in FY 2023, 2024, or 2025, unless the H–2B worker is counted towards the separate 18,490 cap available to employers with employment start dates between May 1 and September 30, 2026. This attestation will serve as prima facie initial evidence to DHS that each worker, unless an H–2B worker who is counted against the 18,490 cap for those that will start work between May 1 and September 30, 2026 (third allocation), meets the returning worker requirement. DHS retains the right to review and verify that each beneficiary under this supplemental rule is in fact a returning worker any time before and after approval of the petition.

Employers requesting H–2B workers subject to the returning worker requirement must maintain evidence that the employer requested and/or instructed that each of the workers petitioned by the employer in connection with this temporary rule were issued H–2B visas or otherwise granted H–2B status in FY 2023, 2024, or 2025. As with previous years, such evidence would include, but is not limited to, a date-stamped written communication from the employer to its agent(s) and/or recruiter(s) that instructs the agent(s) and/or recruiter(s) to only recruit and provide instruction regarding an application for an H–2B visa to those foreign workers who were previously issued an H–2B visa or granted H–2B status in FY 2023, 2024, or 2025.

D. Returning Worker Exemption for Up to 18,490 Visas for Employment Start Dates Between May 1 and September 30, 2026 (Third Allocation)

The Secretary of Homeland Security, in consultation with the Secretary of Labor, has determined that 18,490 additional H–2B visas will be exempt from the returning worker requirement only if the employment start date on the H–2B petition is between May 1 and September 30, 2026. In the event the limit for the supplemental visas available in the first and second allocations are not reached, DHS will make the unused visas available to employers requesting employment start dates between May 1 and September 30, 2026. Because these unused visas will be made available as part of the third allocation, they will also be exempt from the returning worker requirement. As described above, these late-season employers were likely unable to receive cap-subject H–2B workers and/or did not have an opportunity to file visa petitions for cap-subject H–2B workers before the second half statutory cap was reached due to the regulatory requirement that employers apply for a TLC 75 to 90 days before the start date of work and the strong demand for H–2B workers in recent years to begin work on the earliest employment start date (*i.e.,* April 1).

E. Business Need Standard—Irreparable Harm and FY 2026 Attestation

To file any H–2B petition under this rule during the remainder of FY 2026, petitioners must meet all existing H–2B eligibility requirements, including having an approved, valid, and unexpired TLC. *See* 8 CFR 214.2(h)(6) and 20 CFR part 655 subpart A. The TLC process focuses on establishing whether a petitioner has a temporary need for workers and whether there are U.S. workers who are able, willing qualified, and available to perform the temporary service or labor, and does not address the harm a petitioner is facing or will face in the absence of such workers; the attestation addresses this question. In addition, under this rule, the petitioner must submit an attestation to USCIS in which the petitioner affirms, under penalty of perjury, that it meets the business need standard. Under this standard, the petitioner must be able to establish that, if it does not receive all of the workers requested under the cap increase,[96] it is suffering irreparable harm or will suffer impending irreparable harm, that is, permanent and severe financial loss. In addition to asserting that it meets the business need standard, the U.S. employer must attest that, by the time of submission of the petition to USCIS, they have prepared and retained a detailed written statement describing how the evidence gathered in support of their H–2B petition demonstrates that irreparable harm is occurring or impending. The employer must also attest that, upon request, it will provide

[95] Employers may file one H–2B petition to request all of their H–2B workers associated with one TLC (with a limit of 25 named workers per petition). USCIS vets all named H–2B workers prior to issuing a decision. DOS vets all named and unnamed H–2B workers during the visa application process at the U.S. Embassy or Consulate.

[96] An employer may request fewer workers on the H–2B petition than the number of workers listed on the TLC. *See* Instructions for Petition for Nonimmigrant Worker, providing that ''[t]he total number of workers you request on an H–2B petition must not exceed the number of workers approved by the Department of Labor on the temporary labor certification.''

to DHS and/or DOL all of the types of documentary evidence it selected in the attestation form that support its claim of irreparable harm, along with the detailed written statement it prepared by the time of submitting the petition to USCIS describing how such evidence demonstrates irreparable harm. The petitioner must submit the attestation directly to USCIS, together with Form I–129, the approved and valid TLC,[97] and any other necessary documentation. As in prior temporary final rules, employers will be required to complete the new attestation form which can be found at: *https://www.foreignlaborcert.doleta.gov/form.cfm.*

The irreparable harm standard is the same as in previous temporary final rules for recent years. The irreparable harm standard requires U.S. employers to attest that they are suffering irreparable harm or will suffer impending irreparable harm without the ability to employ all of the H–2B workers requested on the petition filed under this rule. The irreparable harm standard in this rule aligns with this determination that Congress requires DHS to make before increasing the number of H–2B visas available to U.S. employers. In particular, requiring U.S. employers to attest that they are suffering irreparable harm or will suffer impending irreparable harm without the ability to employ all of the requested H–2B workers is directly relevant to the needs of the business—if an employer is suffering or will suffer irreparable harm, then their needs are not being satisfied. Because the authority to increase the statutory cap is tied to the needs of businesses, as it has been since 2017, the Departments think, as a policy matter, that it is reasonable to require employers to attest that they are suffering irreparable harm or that they will suffer impending irreparable harm without the ability to employ all of the H–2B workers requested on their petition. If such employers are unable to attest to such harm and retain and produce (upon request) documentation of that harm, it calls into question whether the need set forth in this rule cannot in fact be satisfied without the ability to employ H–2B workers. This requirement falls within the broad discretion Congress gave to the Secretary to, in consultation with the Secretary of Labor, increase the number of H–2B workers in order to meet the needs of American businesses.[98] As discussed in the Legal Framework section, DHS has broad delegation to administer and enforce U.S. immigration laws and issue regulations regarding the same, as well as broad discretion to establish conditions on the admission of nonimmigrants, and over the adjudication of nonimmigrant petitions, after consultation with other agencies, including DOL. *See* INA sec. 103(a)(1), 214(a)(1), (c)(1); 8 U.S.C. 1103(a)(1), 1184(a)(1), (c)(1). In addition, through the temporary enactment authorizing the Secretary of DHS to increase the number of H–2B visas,[99] Congress delegated to the Secretary of DHS, after consultation with the Secretary of Labor, the discretion to establish a framework for determining that the needs of American businesses cannot be satisfied with the existing workforce and the conditions under which to authorize additional visas to further the purpose of the enactment. In the most recent, as well as each prior annual enactment,[100] Congress has consistently used the word ''may'' when describing the Secretary's authority, and the use of the word ''may'' indicates a grant of discretion, absent contrary legislative intent, structure and purpose of the statute.[101] As in prior years, the Departments have determined that the irreparable harm standard falls within the discretionary authority of the Secretary of DHS and furthers the legislative purpose behind the temporary enactment by making visas available to those American businesses that are most likely to be severely impacted by a lack of an able, willing, and qualified workforce.

This rule also requires an employer to attest that it has prepared a detailed written statement describing (i) how the employer's business is suffering irreparable harm or will suffer impending irreparable harm without the ability to employ all H–2B workers requested on the I–129 petition, and (ii) how each type of evidence selected in the attestation form and relied upon by the employer demonstrates the applicable irreparable harm. The employer will not submit this detailed written statement to DHS with its petition for supplemental visas, but will attest on the attestation form to having prepared a detailed written statement. The detailed written statement must be provided to DHS and/or DOL upon request in the event of an audit or during the course of an investigation.

The attestation that irreparable harm is occurring or is impending cannot be based on a speculative analysis that permanent and severe financial loss ''may occur'' or ''is likely to occur.'' Rather, as of the time of submission to DHS, U.S. employers must have concrete evidence establishing that severe and permanent financial loss is occurring, with the scope and severity of harm clearly articulable, or that severe and permanent financial loss will occur in the near future without access to the supplemental visas. Even if no irreparable harm ultimately occurs because the employer is approved for supplemental visas under this rule, the U.S. employer must be able to articulate how permanent and severe financial loss was impending at the time of filing.

Additionally, in DOL's experience, employers sometimes do not retain the documentation they specifically attested they would retain, or will not or cannot explain how this documentation demonstrates the relevant irreparable harm to which they attested, which indicates that some of the employers seeking to benefit from hiring H–2B workers are not thoughtfully considering, or considering at all, whether their business needs qualify them for supplemental H–2B visas under these rules.

The Departments continue to believe that the written statement is necessary in the case of an audit or investigation to explain, in detail, the employer's reasoning as to why irreparable harm was occurring or impending without the ability to employ H–2B workers, and how the evidence supports the employer's reasoning. In audits and investigations, some employers have provided hundreds of pages of evidence without any explanation as to how this

[97] Since July 26, 2019, USCIS has been accepting a printed copy of the electronic one-page ETA–9142B, Final Determination: H–2B Temporary Labor Certification Approval, as an original, approved TLC. See Notice of DHS' Requirement of the Temporary Labor Certification Final Determination Under the H–2B Temporary Worker Program, 85 FR 13178, 13179 (Mar. 6, 2020).

[98] *See Loper Bright Enterprises* v. *Raimondo,* 144 S. Ct. 2244, 2263 (2024).

[99] Public Law 118–47, Division G, Title I, sec. 105, states: ''Notwithstanding the numerical limitation set forth in section 214(g)(1)(B) of the Immigration and Nationality Act (8 U.S.C. 1184(g)(1)(B)), the Secretary of Homeland Security, after consultation with the Secretary of Labor, and upon the determination that the needs of United States businesses cannot be satisfied during fiscal year 2024 with United States workers who are willing, qualified, and able to perform temporary nonagricultural labor, may increase the total number of aliens who may receive a visa under section 101(a)(15)(H)(ii)(b) of such Act (8 U.S.C. 1101(a)(15)(H)(ii)(b)) in such fiscal year by not more than the highest number of H–2B nonimmigrants who participated in the H–2B returning worker program in any fiscal year in which returning workers were exempt from such numerical limitation.''

[100] *Lorillard* v. *Pons,* 434 U.S. 575, 581 (1978). (''Congress is presumed to be aware of an administrative or judicial interpretation of a statute and to adopt that interpretation when it reenacts a statute without change.'').

[101] *See generally U.S.* v. *Rodgers,* 461 U.S. 677, 706 (1983) (The word ''may,'' when used in a statute, usually implies some degree of discretion unless there is indication of contrary legislative intent, or an obvious inference from the structure and purpose of the statute.).

evidence demonstrates irreparable harm, leaving DOL or DHS to determine how a voluminous compilation of complex and, sometimes, seemingly unrelated documents demonstrates irreparable harm without any understanding of the employer's intent when providing the documents. A detailed, thoughtful explanation from the employer will clarify the purpose of these documents and allow the employer to clearly make their case that the business was experiencing irreparable harm or would experience impending irreparable harm at the time of petitioning for supplemental visas.

As such, the Departments believe that it is prudent to continue to require employers to identify how they are suffering irreparable harm (that is, permanent and severe financial loss), or will suffer impending irreparable harm, and how the evidence they will maintain shows that harm was occurring or impending, at the time they petition for H–2B visas under this rule. The written statement should identify, in detail, the severe and permanent financial loss that is occurring or will occur in the near future without access to the supplemental visas and should describe how the information contained in the documentary evidence demonstrates this severe and permanent financial loss. A written statement explaining that no irreparable harm occurred because the employer was approved for supplemental H–2B visas is insufficient; if no irreparable harm actually occurred, the U.S. employer must be able to show that irreparable harm was impending at the time of the petition's filing. Supporting evidence of the employer's irreparable harm (either occurring or impending) maintained and discussed in the detailed written statement may include, but is not limited to, the following types of documentation:

(1) Evidence that the business is suffering or will suffer in the near future permanent and severe financial loss due to the inability to meet financial or existing contractual obligations because they were unable to employ all of the requested H–2B workers, including evidence of executed contracts, reservations, orders, or other business arrangements that have been or would be cancelled, and evidence demonstrating an inability to pay debts/bills;

(2) Evidence that the business is suffering or will suffer in the near future permanent and severe financial loss, as compared to prior years, such as financial statements (including profit/loss statements) comparing the employer's period of need to prior years; bank statements, tax returns, or other documents showing evidence of current and past financial condition; and relevant tax records, employment records, or other similar documents showing hours worked and payroll comparisons from prior years to the current year;

(3) Evidence showing the number of workers needed in the previous three seasons (FY 2023, 2024, and 2025) to meet the employer's need as compared to those currently employed or expected to be employed at the beginning of the start date of need. Such evidence must indicate the dates of their employment, and their hours worked (for example, payroll records) and evidence showing the number of H–2B workers it claims are needed, and the workers' actual dates of employment and hours worked; and/or

(4) Evidence that the petitioner is reliant on obtaining a certain number of workers to operate, based on the nature and size of the business, such as documentation showing the number of workers it has needed to maintain its operations in the past, or will in the near future need, including but not limited to: a detailed business plan, copies of purchase orders or other requests for good and services, or other reliable forecast of an impending need for workers.

As with the attestation requirement in prior temporary final rules, these examples are not exhaustive, nor will they necessarily establish that the business meets the irreparable harm standard; petitioners may retain other types of evidence they believe will satisfy these standards. Such evidence must be maintained and provided, with the written statement, to DOL and/or DHS upon request. It has been DOL's experience when reviewing documentation submitted to establish irreparable harm that employers commonly provide unexecuted contracts or letters of intent; contracts with redacted financial terms or dates of performance; or written statements memorializing verbal agreements that are not signed by all parties and thus may be insufficient evidence of the terms of such agreements and may call into question their credibility. In addition, DOL has encountered contracts among related entities that are owned, operated, or otherwise controlled by the employer or an individual with ownership interest in the employer. Such contracts may lack credibility as evidence of irreparable harm because the employer and related parties may share the same interest in obtaining H–2B workers even in situations where the employer is not suffering irreparable harm or will not suffer impending irreparable harm. In those instances, DOL may request that an employer provide additional credible evidence to demonstrate that it has met the legal standard. In other situations, the only documentation offered by the employer is a declaration, without any supporting documentary evidence. Given that the employer must establish that they are suffering irreparable harm or will suffer impending irreparable harm, in other words, a permanent and severe financial loss without the ability to employ all of the H–2B workers requested on their petition, an employer's irreparable harm cannot be properly assessed without evidence of its financial business needs. As such, DOL is clarifying that merely asserting irreparable harm, or providing documentation that lacks sufficient facts or indicia of validity (*e.g.,* signatures) for DOL to determine that the employer was suffering or would suffer impending irreparable harm without the ability to employ all of the H–2B workers requested under the supplemental cap at the time of filing their petition, will be insufficient to make an irreparable harm determination. In such instances where the evidence is insufficient or the petitioner merely submits a declaration without supporting documentation, DOL may require the employer to provide additional credible evidence. This is because mere assertions or the absence of key financial terms or dates of performance in a contract due to redaction, for example, hinder the Department's ability to evaluate whether the employer was in fact suffering irreparable harm or would have suffered impending irreparable harm without the ability to employ all of the H–2B workers it requested for a given period. Factors that can demonstrate the credibility of a contract or similar commitment or obligation may include evidence of an agreement, preferably in writing, that includes the financial terms, dates of performance, and evidence it was signed and/or agreed upon before the petition was filed.

While the employer will not submit the detailed written statement nor the supporting evidence to DHS at the time of filing a petition for H–2B visas under this rule, the Departments emphasize that the employer must prepare the detailed written statement and compile the evidence at the time of filing. The employer must complete the analysis as to whether the employer is experiencing irreparable harm or will experience impending irreparable harm at the time the employer petitions for supplemental

visas using evidence available at this time. In the interest of efficiency, the Departments do not require the submission of this statement to DHS at the time of filing the petition. Instead, the employer must attest that it has prepared the detailed written statement and that it will keep it as part of its records, to be provided to the Departments, upon request.

As the burden rests with the petitioner to prove eligibility for supplemental H–2B visas under the time-limited authority implemented with this temporary final rule by a preponderance of the evidence, it is the petitioner's burden to establish that it meets the irreparable harm standard. INA sec. 291, 8 U.S.C. 1361; *Matter of Chawathe,* 25 I&N Dec. 369, 375–76 (AAO 2010). The attestation form will serve as prima facie initial evidence to DHS that the petitioner's business is suffering irreparable harm or will suffer impending irreparable harm. USCIS will reject in accordance with 8 CFR 103.2(a)(7)(ii) or may deny in accordance with 8 CFR 103.2(b)(8)(ii), as applicable, any petition requesting H–2B workers under this FY 2026 supplemental cap that is lacking the requisite attestation form. Although this rule does not require submission of the evidence selected in the attestation and/or a detailed written statement at the time of filing of the petition, other than an attestation, the employer must have the evidence selected in the attestation and the accompanying detailed written statement on hand and ready to present to DHS and/or DOL at any time starting with the date of filing the I–129 petition, through the prescribed document retention period discussed below.

As with petitions filed under the supplemental TFRs in recent years, the Departments may select a random number of petitions for audit examination to verify compliance with program requirements, including the irreparable harm standard implemented through this rule. The Departments may consider failure to provide evidence demonstrating irreparable harm, to prepare or provide the detailed written statement explaining irreparable harm, or to comply with the audit process to be a willful violation resulting in an adverse agency action on the employer, including revocation of the TLC or program debarment. Similarly, failure to cooperate with any compliance review, evaluation, verification, or inspection conducted by DHS and/or DOL as required by 8 CFR 214.2(h)(6)(xvi)(B)(*2*)(*i*) and (*ii*) may constitute a violation of the terms and conditions of an approved petition and lead to petition revocation under 8 CFR 214.2(h)(11)(iii)(A)(*3*).

The attestation submitted to USCIS will also state that the employer:

(1) meets all other eligibility criteria for the available visas, including the returning worker requirement, unless exempt because the H–2B worker is counted against the 18,490 visas reserved for workers with employment start dates between May 1 and September 30, 2026;

(2) will comply with all assurances, obligations, and conditions of employment set forth in the Application for Temporary Employment Certification (Form ETA–9142B and appendices) certified by DOL for the job opportunity (which serves as the TLC); and

(3) will document and retain evidence of such compliance.

Because petitioners will submit the attestation to USCIS as initial evidence with Form I–129, DHS considers the attestation to be evidence that is incorporated into and a part of the petition consistent with 8 CFR 103.2(b)(1). Accordingly, USCIS may deny or revoke, as applicable, a petition based on or related to statements made in the attestation, including but not limited to the following grounds: (1) the employer failed to demonstrate employment of all of the requested workers is necessary under the appropriate business need standard; or (2) the employer failed to demonstrate that it requested and/or instructed that each worker petitioned for is a returning worker, or is exempt because of an employment start date between May 1 and September 30, 2026, as required by this rule. The petitioner may appeal any denial or revocation on such basis, however, under 8 CFR part 103, consistent with DHS regulations and existing USCIS procedures.

It is the view of the Secretaries of Homeland Security and Labor that requiring a post-TLC attestation to USCIS is both practical, given the time remaining in FY 2026 and the need to assemble the necessary documentation, as well as sufficiently protective of U.S. workers given that the employer, in completing the TLC process, is required to conduct a labor market test to determine whether a sufficient number of qualified U.S. workers will be available at the time and place needed to perform the nonagricultural work. In addition, the employer is required to retain documentation, which must be provided upon request, supporting the new attestations regarding (1) the irreparable harm standard and (2) the returning worker requirement where required, or, alternatively, documentation supporting that the H–2B worker(s) requested has an employment start date between May 1 and September 30, 2026 and counted against the 18,490 cap (which may be satisfied by the separate Form I–129 that employers are required to file for such workers in accordance with this rule). Although the employer must have such documentation on hand at the time it files the petition, the Departments have determined that, if employers were required to submit the attestation form to DOL before filing a petition with DHS, the attendant delays would render any visas unlikely to satisfy the needs of American businesses given processing timeframes and the time remaining in this fiscal year. USCIS may issue a notice of intent to revoke and request additional evidence, or issue a revocation notice, based on such documentation, and DOL's OFLC and WHD will be able to review this documentation and enforce the attestations during the course of an audit examination or investigation. *See* 8 CFR 103.2(b) or 8 CFR 214.2(h)(11).

In accordance with the attestation requirements, under which petitioners attest that they meet the irreparable harm standard, that they are seeking to employ only returning workers (unless exempt as described above), and that they meet the document retention requirements at 20 CFR 655.69, petitioners must retain documents and records meeting their burden to demonstrate compliance with this rule for three years from the date of the attestation, and must provide the documents and records upon the request of DHS or DOL, such as in the event of an audit or investigation. As mentioned above, the employer bears the burden of establishing that they are suffering or will suffer impending irreparable harm. With regard to the irreparable harm standard, employers attesting that they are suffering irreparable harm must be able to provide concrete evidence establishing severe and permanent financial loss that is occurring; the scope and severity of the harm must be clearly articulable. Employers attesting that they will suffer impending irreparable harm must be able to demonstrate that severe and permanent financial loss will occur in the near future without access to the supplemental visas. It will not be enough to provide evidence suggesting that such harm may or is likely to occur; rather, the documentary evidence must show that impending harm is occurring or will occur and document the form of such harm. Examples of possible types

of evidence to be maintained are listed earlier in this section.

When a petition is selected for audit examination, or investigation, DHS and/or DOL will review all evidence available to it to confirm that the petitioner properly attested to DHS, at the time of filing the petition, that their business was suffering irreparable harm or would suffer impending irreparable harm, and that they petitioned for and employed only returning workers, unless the H–2B worker is exempt from the returning worker requirement as described above, among other attestations. If DHS subsequently finds that the evidence does not support the employer's attestations, DHS may deny or, if the petition has already been approved, revoke the petition at any time consistent with existing regulatory authorities. DHS may also, or alternatively, refer the petitioner to DOL for further investigation. In addition, DOL may independently take enforcement action, including by, among other things, debarring the petitioner from the H–2B program for not less than one year or more than five years from the date of the final agency decision, which also disqualifies the debarred party from filing any labor certification applications or labor condition applications with DOL for the same period set forth in the final debarment decision. *See, e.g.,* 20 CFR 655.73; 29 CFR 503.20, 503.24.[102]

Evidence reflecting a preference for hiring H–2B workers over U.S. workers may warrant an investigation by additional agencies enforcing employment and labor laws, such as the Immigrant and Employee Rights Section (IER) of the Department of Justice's Civil Rights Division. INA section 274B, 8 U.S.C. 1324b (prohibiting certain types of employment discrimination based on citizenship status or national origin). Moreover, DHS and DOL may refer potential discrimination to IER pursuant to applicable interagency agreements.[103] In addition, if members of the public have information that a participating employer may be abusing this program, DHS invites them to notify U.S. Immigration and Customs Enforcement (ICE) by completing the online ICE Tip Form [104] or alternately, via the toll-free ICE Tip Line, (866) 347–2423.[105]

DHS, in exercising its statutory authority under INA section 101(a)(15)(H)(ii)(b), 8 U.S.C. 1101(a)(15)(H)(ii)(b), and section 105 of the FY 2024 Omnibus, as extended by Public Law 119–37, is responsible for adjudicating eligibility for H–2B classification. As in all cases, the burden rests with the petitioner to establish eligibility by a preponderance of the evidence. INA section 291, 8 U.S.C. 1361. *Matter of Chawathe,* 25 I&N Dec. 369, 375–76 (AAO 2010).

Accordingly, as noted above, where the petition lacks initial evidence, such as a properly completed attestation, USCIS will, as applicable, reject the petition in accordance with 8 CFR 103.2(a)(7)(ii) or may deny the petition in accordance with 8 CFR 103.2(b)(8)(ii). Further, where the initial evidence submitted with the petition contains inconsistencies or is inconsistent with other evidence in the petition and the underlying TLC, USCIS may issue a Request for Evidence, Notice of Intent to Deny, or Denial in accordance with 8 CFR 103.2(b)(8). In addition, where it is determined that an H–2B petition filed pursuant to the FY 2024 Omnibus, as extended by Public Law 119–37, was granted erroneously, the H–2B petition approval may be revoked. *See* 8 CFR 214.2(h)(11).

F. DHS Petition Procedures

To petition for H–2B workers under this rule, the petitioner must file a Form I–129 at the current filing location in accordance with applicable regulations and form instructions, an unexpired TLC, and the attestation form ETA–9142–B–CAA–10. If filing multiple Forms I–129 based on the same TLC, each H–2B petition must include a copy of the TLC and reference all previously-filed petitions associated with the same TLC. The total number of requested workers may not exceed the total number of workers indicated on the approved TLC. In addition, the USCIS Fee Schedule Final Rule, 89 FR 6194 (January 31, 2024), which took effect on April 1, 2024, imposed a limit of 25 named beneficiaries per petition.[106]

Petitions filed for supplemental allocations under this rule at any location other than the current filing location will be rejected and the filing fees will be returned. For all petitions filed under this rule and the H–2B program, generally, employers must establish, among other requirements, that insufficient qualified U.S. workers are available to fill the petitioning H–2B employer's job opportunity and that the foreign worker's employment in the job opportunity will not adversely affect the wages or working conditions of similarly-employed U.S. workers.[107] To meet this standard of protection for U.S. workers and, in order to be eligible for additional visas under this rule, employers must have applied for and received a valid TLC in accordance with 8 CFR 214.2(h)(6)(iv)(A) and (D) and 20 CFR part 655, subpart A. Under DOL's H–2B regulations, TLCs are valid only for the period of employment certified by DOL and expire on the last day of authorized employment.[108]

In order to have a valid TLC, the employment start date on the employer's H–2B petition must not be different from the employment start date certified by DOL on the TLC.[109] Under generally applicable DHS regulations, the only exception to this requirement applies when an employer files an amended H–2B petition, accompanied by a copy of the previously approved TLC and a copy of the initial visa petition approval notice, at a later date to substitute workers as set forth under 8 CFR 214.2(h)(6)(viii)(B).

The attestations must be filed on Form ETA–9142–B–CAA–10, Attestation for Employers Seeking to Employ H–2B Nonimmigrant Workers Under Section 105 of Division G, Title I of the Further Consolidated Appropriations Act, 2024, Public Law 118–47, as extended by Public Law 119–37.[110] Petitioners are required to retain a copy of such attestations and all supporting evidence for 3 years from the date the associated TLC was approved, consistent with 20 CFR 655.56 and 29 CFR 503.17.[111] Petitions submitted to DHS pursuant to Public Law 119–37, which extended the FY 2024 Omnibus, will be processed in the order in which they were received within the relevant supplemental allocation, and pursuant to processes parallel to those in place for when numerical limitations are reached under INA section 214(g)(1)(B)

[102] Pursuant to the statutory provisions governing enforcement of the H–2B program, INA section 214(c)(14), 8 U.S.C. 1184(c)(14), a violation exists for purposes of DOL enforcement actions in the H–2B program where there has been a willful misrepresentation of a material fact in the petition or a substantial failure to meet any of the terms and conditions of the petition. A substantial failure is a willful failure to comply that constitutes a significant deviation from the terms and conditions. *See, e.g.,* INA section 214(c)(14)(D), 8 U.S.C. 1184(c)(14)(D); *see also* 29 CFR 503.19.

[103] *See* IER, Partnerships, *https://www.justice.gov/crt/partnerships* (last visited Jan. 9, 2026).

[104] ICE Tip Form, *https://www.ice.gov/webform/ice-tip-form.*

[105] DHS may publicly disclose information regarding the H–2B program consistent with applicable law and regulations. For information about DHS disclosure of information contained in a system of records, see *https://www.dhs.gov/system-records-notices-sorns.* Additional general information about DHS privacy policy can be accessed at *https://www.dhs.gov/policy.*

[106] *See* 8 CFR 214.2(h)(2)(ii).

[107] INA section 214(c)(1), 8 U.S.C. 1184(c)(1); 8 CFR 214.2(h)(6)(iii)(A) and (D); 20 CFR 655.1.

[108] 20 CFR 655.55(a).

[109] *See* 8 CFR 214.2(h)(6)(iv)(D).

[110] *See* 20 CFR 655.64.

[111] *See* new 20 CFR 655.69.

or (g)(10), 8 U.S.C. 1184(g)(1)(B) or (g)(10). Petitioners may also choose to request premium processing of their petitions under 8 CFR 103.7(e), which allows for expedited processing for an additional fee.

USCIS will reject petitions filed under the supplemental allocations in this rule at any location other than the current filing location and will return the filing fees for any such petition.

Immediately upon publication of the rule, but no earlier than that date, USCIS will begin accepting returning worker H–2B petitions requesting employment start dates between January 1 and March 31, 2026. Beginning no earlier than 15 days after the second half statutory cap is reached, USCIS will begin accepting returning worker H–2B petitions requesting employment start dates between April 1 and April 30, 2026. Finally, beginning no earlier than 45 days after the second half statutory cap is reached, USCIS will begin accepting H–2B petitions exempt from the returning worker requirement for employment start dates between May 1 and September 30, 2026.

USCIS will reject H–2B supplemental cap petitions submitted with a start date of need between January 1 and March 31, 2026 (first allocation), that are received after the applicable numerical limitation has been reached or, if the numerical limitation for this allocation has not been met, 15 days or later after the FY 2026 second half statutory cap has been met. USCIS will not accept, and will reject, H–2B supplemental cap petitions submitted with a date of need between April 1 and 30, 2026 (second allocation), that are received earlier than 15 days after the FY 2026 second half statutory cap is met. USCIS will also not accept, and will reject, such petitions that are received after the applicable numerical limitation has been reached or, if the numerical limitation for this allocation has not been met, 45 days or later after the FY 2026 second half statutory cap is met. For H–2B supplemental cap petitions with a date of need between May 1 and September 30, 2026 (third allocation), USCIS will not accept, and will reject such petitions that are received earlier than 45 days after the FY 2026 second half statutory cap is met or that are received after the applicable numerical limitation has been reached or after September 15, 2026. DHS believes that 15 days from the end of the fiscal year is the minimum time needed for petitions filed under the third allocation to be adjudicated, although USCIS cannot guarantee the time period will be sufficient in all cases. *See* new 8 CFR 214.2(h)(6)(xvi)(C). Such petitions will be rejected and the filing fees will be returned. Petitioners may choose to request premium processing of their petitions under 8 CFR 106.4, which allows for expedited processing for an additional fee.

Based on the time-limited authority granted to DHS by section 101 of Division A, Title I of the Continuing Appropriations, Agriculture, Legislative Branch, Military Construction and Veterans Affairs, and Extensions Act, 2026, Public Law 119–37, on the same terms as section 105 of the FY 2024 Omnibus, DHS is notifying the public that USCIS cannot approve petitions seeking H–2B workers under this rule on or after October 1, 2026. *See* new 8 CFR 214.2(h)(6)(xvi)(C). Petitions pending with USCIS that are not approved before October 1, 2026 will be denied and any fees will not be refunded. *See* new 8 CFR 214.2(h)(6)(xvi)(C).

Nothing in this rule will limit the authority of DHS or DOS to deny, rescind, revoke, or take any other action with respect to an H–2B petition or visa application at any time before or after approval of the H–2B petition or visa application.

G. DOL Procedures

All employers are required to have an approved and valid TLC from DOL in order to file a Form I–129 petition with DHS. *See* 8 CFR 214.2(h)(6)(iv)(A) and (D). The standards and procedures governing the submission and processing of Applications for Temporary Employment Certification for employers seeking to hire H–2B workers are set forth in 20 CFR part 655, subpart A. An employer that seeks to hire H–2B workers must request a TLC in compliance with the application filing requirements set forth in 20 CFR 655.15 and meet all the requirements of 20 CFR part 655, subpart A, to obtain a valid TLC, including the criteria for certification set forth in 20 CFR 655.51. *See* 20 CFR 655.64(a) and 655.50(b). Employers with an approved TLC have conducted recruitment, as set forth in 20 CFR 655.40 through 655.49, to determine whether U.S. workers are qualified and available to perform the work for which employers sought H–2B workers.

The H–2B regulations require, among other things, an employer with a non-emergency situation that seeks to hire H–2B workers must file a completed Application for Temporary Employment Certification with the National Processing Center (NPC) designated by the OFLC Administrator no more than 90 calendar days and no fewer than 75 calendar days before the employer's date of need (start date for the work). *See* 20 CFR 655.15.

Emergency Procedures

Under 20 CFR 655.17, an employer may request a waiver of the time period(s) for filing an Application for Temporary Employment Certification based on ''good and substantial'' cause, provided that the employer has sufficient time to thoroughly test the domestic labor market on an expedited basis and the OFLC certifying officer (CO) has sufficient time to make a final determination as required by the regulation. To rely on this provision, as the Departments explained in the 2015 H–2B Interim Final Rule, the employer must provide the OFLC CO with detailed information describing the ''good and substantial cause'' necessitating the waiver. Such cause may include the substantial loss of U.S. workers due to Acts of God, or a similar unforeseeable human-made catastrophic event that is wholly outside the employer's control, unforeseeable changes in market conditions, or pandemic health issues. Thus, to ensure an adequate test of the domestic labor market and to protect the integrity of the H–2B program, the Departments clearly intended that use of emergency procedures must be narrowly construed and permitted in extraordinary and unforeseeable catastrophic circumstances that have a direct impact on the employer's need for the specific services or labor to be performed. Even under the existing H–2B statutory visa cap structure, DOL considers USCIS' announcement(s) that the statutory cap(s) on H–2B visas has been reached, which may occur with regularity every six months depending on H–2B visa need, as foreseeable, and therefore not within the meaning of ''good and substantial cause'' that would justify a request for emergency procedures. Accordingly, employers cannot rely solely on the supplemental H–2B visas made available through this rule as good and substantial cause to use emergency procedures under 20 CFR 655.17.

H. Non-severability

Because of the particular circumstances of this regulation, and because the attestation and other requirements of this rule play a vital role in achieving the purposes of this rule, DHS and DOL intend that the attestation requirement, DOL procedures, and other aspects of this rule be non-severable from the remainder of the rule, including the

increase in the numerical allocations.[112] Thus, if the attestation requirement or any other part of this rule is enjoined or held invalid, the Departments intend for the remainder of the rule, with the exception of the retention requirements being codified in 20 CFR 655.69, to cease operation in the relevant jurisdiction, without prejudice to workers already present in the United States under this regulation, as consistent with law.

III. Statutory and Regulatory Requirements

A. Administrative Procedure Act

This rule is issued without prior notice and opportunity to comment and with an immediate effective date pursuant to the Administrative Procedure Act (APA). 5 U.S.C. 553(b) and (d).

1. Good Cause To Forgo Notice and Comment Rulemaking

The APA, 5 U.S.C. 553(b)(B), 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.'' Among other things, the good cause exception for forgoing notice and comment rulemaking ''excuses notice and comment in emergency situations, or where delay could result in serious harm.'' *Jifry* v. *FAA,* 370 F.3d 1174, 1179 (D.C. Cir. 2004). Courts have found ''good cause'' under the APA in similar situations when an agency is moving expeditiously to avoid significant economic harm to a program, program users, or an industry. *See, e.g., Nat'l Fed'n of Fed. Emps.* v. *Devine,* 671 F.2d 607, 611 (D.C. Cir. 1982) (holding that an agency may use the good cause exception to address ''a serious threat to the financial stability of [a government] benefit program''); *Am. Fed'n of Gov't Emps.* v. *Block,* 655 F.2d 1153, 1156 (D.C. Cir. 1981) (finding good cause when an agency bypassed notice and comment to avoid ''economic harm and disruption'' to a given industry, which would likely result in higher consumer prices).

Although the good-cause exception is ''narrowly construed and only reluctantly countenanced,'' *Tenn. Gas Pipeline Co.* v. *FERC,* 969 F.2d 1141, 1144 (D.C. Cir. 1992), the Departments have appropriately invoked the exception in this case due to the time exigencies resulting from the unique procedural history of the Department's authority for this action and the ongoing economic need for this rulemaking, as described further below. Overall, the Departments are bypassing notice and comment to prevent ''serious economic harm to the H–2B community,'' including U.S. employers, associated U.S. workers, and related professional associations, that could result from the failure to provide supplemental visas as authorized by Congress. *See Bayou Lawn & Landscape Servs.* v. *Johnson,* 173 F. Supp. 3d 1271, 1285 & n.12 (N.D. Fla. 2016). The Departments note that this action is temporary in nature, and limits eligibility for H–2B supplemental visas to only those businesses most in need, and also protects H–2B and U.S. workers.

With respect to the supplemental allocations provisions in 8 CFR 214.2 and 20 CFR part 655, subpart A, as explained above, the Departments are acting pursuant to the extension of supplemental cap authority in Section 105 of the FY 2024 Omnibus by sections 101(6) and Section 101, Division A, Title I of Public Law 119–37 (Nov. 12, 2025) to FY 2026. The deadline for exercising the FY 2026 supplemental cap authority under the Continuing Appropriations, Agriculture, Legislative Branch, Military Construction and Veterans Affairs, and Extensions Act, 2026, is January 30, 2026, the date on which the FY 2026 continuing resolution expires. This timing concern is critical since the Departments are bypassing advance notice and comment in order to authorize the additional visas before this deadline.

Acting expeditiously is intended to prevent economic harm resulting from American businesses suffering irreparable harm due to a lack of a sufficient labor force. This harm would ensue if the Departments do not exercise the authority provided by the extension of supplemental cap authority. USCIS received more than enough petitions to meet the H–2B visa statutory cap for the first half of FY 2026 on September 12, 2025.[113] Based on past years' experience, DHS anticipates that it will also receive sufficient petitions to meet the semiannual cap for the second half of the FY 2026. USCIS received sufficient petitions to meet the H–2B visa statutory cap for the second half of FY 2025 on March 5, 2025.[114] Given the continued high demand of American businesses for H–2B workers (as discussed in this preamble), rapidly evolving economic conditions, low unemployment rates, and the limited time remaining until the expiration of the continuing resolution authorizing supplemental cap authority to help prevent further irreparable harm currently experienced by some U.S. employers or avoid impending economic harm for others, a decision to undertake notice and comment rulemaking, which would delay final action on this matter by months, would greatly complicate and potentially preclude the Departments from successfully exercising the authority created by Section 105 of the FY 2024 Omnibus as extended by Section 101, Division A, Title I of Public Law 119–37 (Nov. 12, 2025). If the Departments are precluded from exercising this authority, substantial economic harm will result for the reasons stated above.

2. Good Cause To Proceed With an Immediate Effective Date

The APA also authorizes agencies to make a rule effective immediately, upon a showing of good cause, instead of imposing a 30-day delay. 5 U.S.C. 553(d)(3). The good cause exception to the 30-day effective date requirement is easier to meet than the good cause exception for foregoing notice and comment rulemaking. *Riverbend Farms, Inc.* v. *Madigan,* 958 F.2d 1479, 1485 (9th Cir. 1992); *Am. Fed'n of Gov't Emps., AFL–CIO* v. *Block,* 655 F.2d 1153, 1156 (D.C. Cir. 1981); *U.S. Steel Corp.* v. *EPA,* 605 F.2d 283, 289–90 (7th Cir. 1979). An agency can show good cause for eliminating the 30-day delayed effective date when it demonstrates urgent conditions the rule seeks to correct or unavoidable time limitations. *U.S. Steel Corp.,* 605 F.2d at 290; *United States* v. *Gavrilovic,* 511 F.2d 1099, 1104 (8th Cir. 1977). For the same reasons set forth above expressing the need for immediate action, we also conclude that the Departments have good cause to dispense with the 30-day effective date requirement.

B. Executive Orders 12866 (Regulatory Planning and Review), 13563 (Improving Regulation and Regulatory Review), and 14192 (''Unleashing Prosperity Through Deregulation'')

Executive Orders 12866 (Regulatory Planning and Review) and 13563 (Improving Regulation and Regulatory Review) direct agencies to assess the costs and benefits of available regulatory

[112] The Departments' intentions with respect to non-severability extend to all features of this rule.

[113] *See* USCIS, USCIS Reaches H–2B Cap for First Half of Fiscal Year 2026, *https://www.uscis.gov/newsroom/alerts/uscis-reaches-h-2b-cap-for-first-half-of-fiscal-year-2026* (Sept. 16, 2025).

[114] *See* USCIS, USCIS Reaches H–2B Cap for Second Half of FY 2025 and Filing Dates Now Available for Supplemental Visas, *https://www.uscis.gov/newsroom/alerts/uscis-reaches-h-2b-cap-for-second-half-of-fy-2025-and-filing-dates-now-available-for-supplemental* (Mar. 26, 2025).

alternatives and, if a regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. Executive Order 14192 (Unleashing Prosperity Through Deregulation) directs agencies to significantly reduce the private expenditures required to comply with Federal regulations and provides that ''any new incremental costs associated with the new regulations shall, to the extent permitted by law be offset by the elimination of existing costs associated with at least 10 prior regulations.''

The Office of Management and Budget (OMB) has designated this temporary final rule a ''significant regulatory action'' under section 3(f) of Executive Order 12866, although not economically significant under section 3(f)(1), because its annual effects on the economy do not exceed $100 million in any year of the analysis. Accordingly, the rule has been reviewed by the Office of Management and Budget.

This rule is not an Executive Order 14192 regulatory action because it is being issued with respect to an immigration-related function of the United States. The rule's primary direct purpose is to implement or interpret the immigration laws of the United States (as described in INA sec. 101(a)(17), 8 U.S.C. 1101(a)(17)) or any other function performed by the U.S. Federal Government with respect to aliens. *See* OMB Memorandum M–25–20, ''Guidance Implementing Section 3 of Executive Order 14192, titled ''Unleashing Prosperity Through Deregulation'' (Mar. 26, 2025).

1. Summary

With this temporary final rule (TFR), DHS is authorizing the release of up to an additional 64,716 total H–2B visas to be allocated for FY 2026. In accordance with the authority given under the FY 2024 Omnibus as extended by Public Law 119–37, which President Donald J. Trump signed on November 12, 2025, DHS is allocating the supplemental visas in the following manner (see Table 1a):

TABLE 1A—ALLOCATION OF SUPPLEMENT VISAS

FY 2026 Supplement	Number of visas
Returning Worker Allocation Between January 1 and March 31, 2026	18,490
Returning Worker Allocation Between April 1 and April 30, 2026	27,736
Allocation Between May 1 and September 30, 2026	18,490
FY 2026 Total Supplemental Visas	64,716

These visas will be available to businesses that: (1) show that there are an insufficient number of U.S. workers to meet their needs throughout FY 2026; (2) attest that their businesses are suffering irreparable harm or will suffer impending irreparable harm without the ability to employ all of the H–2B workers requested on their petition; and (3) petition for returning workers who were issued an H–2B visa or were otherwise granted H–2B status in FY 2023, 2024, or 2025, unless requesting a start date between May 1 and September 30, 2026. This TFR aims to prevent irreparable harm to certain American businesses by allowing them to hire additional H–2B workers within FY 2026.

The estimated total costs to petitioners range from $4,576,426 to $6,018,119. Estimated total transfers from filing fees made by petitioners to the Government are $13,495,220. The benefits of this rule are diverse, though some of them are difficult to quantify. Some of these benefits include:

- Employers benefit from this rule significantly through increased access to H–2B workers;
- Customers and others benefit directly or indirectly from increased access;
- Some U.S. workers may benefit to the extent that they do not lose jobs through the reduced or closed business activity that might occur if fewer H–2B workers were available;
- The Federal Government benefits from increased evidence regarding attestations.

Table 1b provides a summary of the provisions in this rule and some of their impacts.

TABLE 1B—SUMMARY OF THE TFR'S PROVISIONS AND ECONOMIC IMPACT

Current provision	Changes resulting from the provisions of the TFR	Expected costs of the provisions of the TFR	Expected benefits of the provisions of the TFR
The current statutory cap limits H–2B visa allocations to 66,000 workers a year.	The amended provisions will allow for an additional 64,716 H–2B temporary workers.	• The total opportunity cost of time to file Form I–129 petitions if filed by HR specialists is $497,495 (rounded). • The total opportunity cost of time to file Form I–129 petitions and Form G–28 if filed by lawyers will range from $1,730,496 (rounded) if only in-house lawyers file these forms, to $2,963,074 (rounded) if only outsourced lawyers file them. • DHS estimates the total opportunity cost of time associated with Form I–907 filed by HR specialists is about $35,311 (rounded).	• Form I–129 petitioners would be able to hire temporary workers needed to prevent their businesses from suffering irreparable harm. • Businesses that are dependent on the success of other businesses that are dependent on H–2B workers would be protected from the repercussions of local business failures. • Some U.S. workers may benefit to the extent that they do not lose jobs through the reduced or closed business activity that might occur if additional H–2B workers were not available.

TABLE 1B—SUMMARY OF THE TFR'S PROVISIONS AND ECONOMIC IMPACT—Continued

Current provision	Changes resulting from the provisions of the TFR	Expected costs of the provisions of the TFR	Expected benefits of the provisions of the TFR
		• DHS estimates the total opportunity cost of time to file Form I–907 filed by lawyers range from about $104,839 (rounded) for only in-house lawyers, to $179,525 (rounded) for only outsourced lawyers.	
n/a	Petitioners will be required to fill out Form ETA–9142B in order to utilize the 18,490 late season H–2B visas allocated under the rule.	• The total opportunity cost of time for Form ETA–9142B filed by HR specialists is about $63,631 (rounded). • The total opportunity cost of time to file Form ETA–9142B by lawyers range from about $188,733 (rounded) for only in-house lawyers, to $323,162 (rounded) for only outsourced lawyers.	• An approved Form ETA–9142B is required before filing a Form I–129 to request H–2B workers.
	Petitioners will be required to fill out the newly created Form ETA–9142–B–CAA–10, Attestation for Employers Seeking to Employ H–2B Nonimmigrant Workers Under Section 105 of Division G, Title I of the Further Consolidated Appropriations Act, 2024, Public Law 118–47, as extended by Public Law 119–37 signed November 12, 2025.	• The estimated total opportunity cost of time to file Form ETA–9142–B–CAA–10 and comply with the attestation is approximately $1,955,921.	• Form ETA–9142–B–CAA–10 will serve as initial evidence to DHS that the petitioner meets the irreparable harm standard and applicable returning worker requirements.
Total Costs		• The total estimated cost to petitioners ranges from $4,576,426* to $6,018,119,** depending on the filer.	

Source: USCIS and DOL analysis.
* Calculation: $497,495 + $1,730,496 + $35,311 + $104,839 + $63,631 + $188,733 + $1,955,921 = $4,576,426.
** Calculation: $497,495 + $2,963,074 + $35,311 + $179,525 + $63,631 + $323,162 + $1,955,921 = $6,018,119.

2. Background and Purpose of the Temporary Rule

The H–2B visa classification program was designed to serve American businesses that are unable to find enough U.S. workers to perform nonagricultural work of a temporary nature. For a nonimmigrant worker to be admitted into the United States under this visa classification, the hiring employer is required to: (1) receive a temporary labor certification (TLC) from the Department of Labor (DOL); and (2) file Form I–129 with DHS. The temporary nature of the services or labor described on the approved TLC is subject to DHS review during adjudication of Form I–129.[115] The INA sets the annual number of H–2B visas for workers performing temporary nonagricultural work at 66,000 to be distributed semiannually beginning in October (33,000) and in April (33,000).[116] Any unused H–2B visas from the first half of the fiscal year are available for employers seeking to hire H–2B workers during the second half of the fiscal year. However, any unused H–2B visas from one fiscal year do not carry over into the next and would therefore not be made available.[117] Once the statutory H–2B visa cap limit has been reached, petitioners must wait until the next half of the fiscal year, or the beginning of the next fiscal year, for additional visas to become available.

On November 12, 2025, the President signed Public Law 119–37. This law extends authorization under the same terms and conditions provided in section 105 of Division G, Title I of the FY 2024 Omnibus [118] authorizing the Secretary of Homeland Security to increase the number of H–2B visas available to U.S. employers in FY 2026, and expires on January 30, 2026.[119] After consulting with the Secretary of Labor, the Secretary of Homeland Security has determined it is appropriate to exercise her discretion and raise the H–2B cap by up to a total of 64,716 visas for FY 2026. The total supplemental allocation will be divided into three separate allocations. One allocation for 18,490 immediately

[115] Revised effective 1/18/2009; *Changes to Requirements Affecting H–2B Nonimmigrants and Their Employers; Correction,* 73 FR 78104 (Jan. 19, 2009); *Changes to Requirements Affecting H–2B Nonimmigrants and Their Employers; Correction,* 74 FR 2837 (Jan 18, 2009).

[116] *See* INA 214(g)(1)(B), 8 U.S.C. 1184(g)(1)(B) and INA 214(g)(4), 8 U.S.C. 1184(g)(4).

[117] A TLC approved by DOL must accompany an H–2B petition. The employment start date stated on the petition must match the start date listed on the TLC. *See* 8 CFR 214.2(h)(6)(iv)(A) and (D).

[118] Further Consolidated Appropriations Act, 2024, Public Law 118–47 (Mar. 23, 2024). Specifically, section 105 provides that ''the Secretary of Homeland Security, after consultation with the Secretary of Labor, and upon determining that the needs of American businesses cannot be satisfied in [FY] 2024 with United States workers who are willing, qualified, and able to perform temporary nonagricultural labor,'' may increase the total number of aliens who may receive an H–2B visa in FY 2024 by the highest number of H–2B nonimmigrants who participated in the H–2B returning worker program in any fiscal year in which returning workers were exempt from the H–2B numerical limitation.

[119] *See* secs. 101(6) and 106, Div. A, Title I, Public Law. 118–83 (Sept. 26, 2024), and section 105 of Division G, Title I of the Further Consolidated Appropriations Act, 2024, Public Law 118–47 (Mar. 23, 2024) (FY 2024 Omnibus).

available visas for returning workers issued H–2B visas in FY 2023, FY 2024, or FY 2025 with a need for workers to begin between January 1 through March 31, 2026. And two allocations for the second half of FY 2026 (a first one for 27,736 visas for returning workers issued H–2B visas in FY 2023, FY 2024, and FY 2025 with a need for workers to begin between April 1 through April 30, 2026; and a second one for 18,490 visas for workers to begin between May 1 through September 30, 2026). As with previous supplemental allocations, USCIS will make these supplemental visas available only to businesses that qualify and meet the requirements for the supplemental visas. These businesses must attest that they are suffering irreparable harm or will suffer impending irreparable harm without the ability to employ all the H–2B workers requested on their petition.

This TFR will cover FY 2026. While the Departments cannot predict with certainty what labor market conditions will be during the second half of FY 2026, they believe that the structure of this TFR is reasonable because: (1) the availability of the second half FY supplemental visas is contingent on the exhaustion of the second half FY statutory cap, (2) strong historical demand for H–2B workers, and (3) mainstream estimates of labor market conditions for FY 2026 indicate a general continuation of labor market tightness from a historical perspective.[120]

TABLE 2—DOL CERTIFIED WORKER DEMAND,* FY 2021 THROUGH FY 2025

Fiscal year	Number of certifications	Number of DOL certified workers requested	DOL certified workers with requested start dates April 1 or later
2021	7,772	159,081	100,522
2022	10,674	205,037	127,654
2023	12,126	220,552	128,115
2024	13,115	227,277	127,383
2025	13,310	226,558	118,252
5-year Average**	11,399	207,701	120,385

Source: USCIS analysis of DOL Office of Foreign Labor Certification (OFLC) Performance data, available at *https://www.dol.gov/agencies/eta/foreign-labor/performance* (accessed Jan. 8, 2026).

Note:

* All data are for applications listed as having a case status of ''Certification'', ''Partial Certification'', ''Determination—Certification'', or ''Determination—Partial Certification.'' Furthermore, data have been adjusted to a fiscal year using the employment begin date provided on the TLC application. As such, counts differ from counts based on the Disclosure Files of OFLC H–2B Performance data. This adjustment was made so that the OFLC data more closely aligns to USCIS I–129 data.

** Averages are rounded to the nearest whole number.

With respect to historical demand for H–2B workers, Table 2 makes two important points. First, Table 2 shows that H–2B demand, as represented by the number of workers requested on certified TLCs, has outpaced the statutorily capped allotment of H–2B visas, which demonstrates that, in aggregate, sufficient demand exists for the entire supplementary allocation that the Departments are making available. To that end, the 5-year average of workers requested on certified TLCs, 207,701, would exhaust the total supplemental allocation made available by the TFR. Second, Table 2 demonstrates that within a given fiscal year, demand for H–2B workers is particularly strong in the second half of the fiscal year. On average over the last 5 fiscal years, H–2B employers have requested 120,385 employees with start dates on April 1 or later, which would exhaust the 46,226 total supplemental H–2B visas [121] explicitly set aside for workers with employment start dates in the second half of FY 2026. Given these conditions, the Departments believe that the decision to authorize a second half supplement is reasonable.

For the visas being made available by the rule, the Departments have determined that up to 46,226 of the 64,716 supplemental visas will be limited to returning H–2B returning workers. These aliens must be workers who were issued H–2B visas or were otherwise granted H–2B status in fiscal years 2023, 2024, or 2025. The 46,226 visas for returning workers will be divided into two separate allocations that will be available to petitioners over the fiscal year. The first allocation is comprised of 18,490 immediately available visas for returning workers with requested start dates between January 1 and March 31, 2026. These visas will be available to petitioners immediately upon the publication of the rule. The second allocation is comprised of 27,736 visas for returning workers with requested start dates between April 1 and April 30, 2026. These visas will be available to petitioners 15 calendar days after the second half statutory cap of 33,000 visas is reached. The third allocation is comprised of 18,490 visas with requested start dates between May 1 and September 30, 2026. These visas will be available to petitioners 45 calendar days after the second half statutory cap of 33,000 visas is reached.

The inclusion of an allocation of visas starting on or after May 1 specifically for those petitioners with employment needs is in response to trends in TLC data and conclusions gleaned from the three years that a late season filer allocation has been available to petitioners with late season employment needs. As stated in the FY 2023 H–2B TFR, the relative demand in FY 2016 for workers with start dates later in the fiscal year was higher relative to recent years. More specifically, data for FY 2016 show that approximately 45.51 percent of certified TLCs requested workers with start dates in April while 17.93 percent of certified TLCs requested workers with start dates after April.[122] Table 3 and Table 4 in this rule demonstrate that the 5-year average for these values has moved away from April start dates after the implementation of a

[120] December 2025 Federal Open Market Committee (FOMC) projections for unemployment rate in 2026 were a median of 4.4% with a central tendency between 4.3 and 4.4%. *See https://www.federalreserve.gov/monetarypolicy/fomcprojtabl20251210.htm* (last accessed Jan. 8, 2026).

[121] 27,736 visas for returning workers between April 1, 2026 and April 30, 2026 and 18,490 visas for filers with employment start dates on or after May 1, 2026.

[122] *See* Table 4 and Table 5, *https://www.federalregister.gov/documents/2022/12/15/2022-27236/exercise-of-time-limited-authority-to-increase-the-numerical-limitation-for-fy-2023-for-the-h-2b* (accessed January 8, 2026).

late season filer allocation. The decrease in the relative prevalence of April 1 start dates since the implementation of a late season filer allocation supports the rationale for providing such an allocation in response to concerns that, absent such an allocation, employers with late season employment needs could be effectively shut out of the H–2B program.

Under DOL regulations, employers must apply for a TLC 75 to 90 days before the start date of work.[123] Employers must have a DOL-approved TLC before filing their Form I–129 request for H–2B workers with USCIS. Because the availability of H–2B visas is limited by statute and regulation, USCIS generally announces to the public when it has received a sufficient number of I–129 petitions, and by extension H–2B beneficiaries, to exhaust the respective H–2B visa allocation.[124] USCIS rejects H–2B I–129 petitions that are received after USCIS has determined that a given allocation has been fully utilized. Functionally, this means a subset of petitioners who would employ H–2B workers, given the chance, may not be able to do so because the available visas have already been allocated before they can petition USCIS for the necessary workers.

Using OFLC TLC data, Table 3 illustrates that relative to previous fiscal years that did *not* include a late-season filer allocation, requested H–2B employment start dates have become less concentrated in April.[125] Table 4 details DOL certified worker demand, for post-April start dates.

TABLE 3—DOL CERTIFIED WORKER DEMAND FOR APRIL START DATES, FY 2021 THROUGH FY 2025

Fiscal year	Certified DOL workers requested	DOL certified workers with requested start dates *in* April	Percentage of DOL certified workers with requested start dates in April
2021	159,081	94,656	59.50
2022	205,037	118,381	57.74
2023	220,552	112,639	51.07
2024	227,277	112,931	49.69
2025	226,558	105,417	46.53

Source: USCIS analysis of OFLC Performance data.

TABLE 4—DOL CERTIFIED WORKER DEMAND FOR POST-APRIL START DATES, FY 2021 THROUGH FY 2025

Fiscal year	Certified DOL workers requested	DOL certified workers with requested start dates *after* April	Percentage of DOL certified workers with requested start dates after April
2021	159,081	5,866	3.69
2022	205,037	9,273	4.52
2023	220,552	15,476	7.02
2024	227,277	14,452	6.36
2025	226,558	12,835	5.67

Source: USCIS analysis of OFLC Performance data.

As seen in Table 4, DOL certified workers with requested start dates after April averaged 14,254 for FY 2023 through FY 2025. Given the demand for late season workers, a late season filer allocation of 18,490 visas for FY 2026 is reasonable.

3. Population

This rule will affect those employers that file Form I–129 on behalf of nonimmigrant workers they seek to hire under the H–2B visa program. More specifically, this rule will affect those employers that can establish that their business is suffering irreparable harm or will suffer impending irreparable harm without the ability to employ all the H–2B workers requested on their petition and without the exercise of authority that is the subject of this rule. Due to historical trends and demand for the H–2B program (see Table 2), the Departments believe it is reasonable to assume that the population of eligible petitioners for these additional 64,716 visas will generally be the same population as those employers that would already complete the steps to receive an approved TLC irrespective of this rule. One exception is the population of late season employers, described below.

a. Population That Will File Form I–129, Petition for a Nonimmigrant Worker

As discussed above, the population that will file a Form I–129 is necessarily limited to those business that have already established that their business is suffering irreparable harm or will suffer impending irreparable harm without the ability to employ all the H–2B workers requested on their petition and without the exercise of authority that is the subject of this rule. Because the number of supplementary visas available is finite, USCIS has generally informed the public when the number of submitted Form I–129 petitions and, by extension, the number of respective beneficiaries is enough to exhaust the supply of supplemental visas.[126]

[123] *See* 20 CFR 655.15(b).

[124] *See* USCIS, *https://www.uscis.gov/newsroom/alerts/uscis-reaches-h-2b-cap-for-first-half-of-fiscal-year-2026,* for example (accessed January 8, 2026).

[125] Tables 3 and 4 contain USCIS analysis of OFLC Performance data. All data are for applications listed as having a case status of ''Certification'', ''Partial Certification'', ''Determination—Certification'', or ''Determination—Partial Certification.'' Furthermore, data have been adjusted to a fiscal year using the employment begin date provided on the TLC application. As such, counts differ from counts based on the Disclosure Files of OFLC H–2B Performance data. This adjustment was made so that the OFLC data more closely align to USCIS I–129 data.

[126] *See, e.g., https://www.uscis.gov/newsroom/alerts/uscis-reaches-h-2b-cap-for-first-half-of-fiscal-year-2026.*

TABLE 5—FORM I–129 PETITIONS PER SUPPLEMENTAL H–2B VISA ALLOCATION, FY 2021 THROUGH FY 2025

Supplement	Supplement amount	Total Form I–129 petitions received	Total Form I–129 beneficiaries	Beneficiaries per Form I–129 petition
2021 Supplement *	22,000	2,180	31,274	14.35
2022 Supplement **	55,000	4,046	61,873	15.29
2023 Supplement	64,716	4,901	79,050	16.13
2024 Supplement	64,716	5,426	86,221	15.89
2025 Supplement	64,716	5,794	88,318	15.24
Average				15.38

Source: DHS, USCIS, Office of Performance and Quality (OPQ); ELIS and CLAIMS3 databases, queried Jan. 2026, PAER0020038.

Notes:

* In Fiscal Year 2021, the Departments authorized a single supplemental allocation which was divided between returning workers and workers from specific countries. *See https://www.federalregister.gov/documents/2021/05/25/2021-11048/exercise-of-time-limited-authority-to-increase-the-fiscal-year-2021-numerical-limitation-for-the* (accessed January 8, 2025).

** In Fiscal Year 2022, the Departments authorized two separate supplemental allocations of H–2B Visas, with each being further divided between returning workers and workers from specific countries. *See https://www.federalregister.gov/documents/2022/01/28/2022-01866/exercise-of-time-limited-authority-to-increase-the-fiscal-year-2022-numerical-limitation-for-the* (accessed January 8, 2026); *https://www.federalregister.gov/documents/2022/05/18/2022-10631/exercise-of-time-limited-authority-to-increase-the-numerical-limitation-for-second-half-of-fy-2022* (accessed January 8, 2026).

Table 5 above shows the total supplemental H–2B visa allocations issued by the Departments in each fiscal year since FY 2021, including the total number of petitions and the total number of beneficiaries submitted under a supplement in each fiscal year. Using the historical average of 15.38 beneficiaries per petition for supplemental visas derived in Table 5, USCIS anticipates that 4,208 Forms I–129 will be submitted as a result of this TFR.[127]

Using the estimates in Table 5, the Departments further estimate that the allocation of 18,490 visas for late season filers made by this TFR, addressing the disadvantage these employers face in accessing scarce H–2B visas, will result in 1,202 additional Form ETA–9142B requests[128] to DOL, assuming each late season visa requestor submits a TLC and Form I–129 for the historic average of 15.38 beneficiaries.[129] The number of additional Form ETA–9142B requests could be lower if some petitioners that would have filed for April 1 start dates in the absence of this TFR change their behavior to request late season workers as a result of this allocation. Alternatively, this number could be higher if late season filers are at a larger disadvantage in accessing H–2B workers than recent data suggests.

b. Population That Files Form G–28, Notice of Entry of Appearance as Attorney or Accredited Representative

If a lawyer or accredited representative submits Form I–129 on behalf of the petitioner, Form G–28, Notice of Entry of Appearance as Attorney or Accredited Representative, must accompany the Form I–129 submission.[130] Table 6 shows the percentage of Form I–129 H–2B petitions that were accompanied by a Form G–28. Using data from FY 2021 through FY 2025, we estimate that a lawyer or accredited representative will file 56.44 percent of Form I–129 petitions. Therefore, we estimate that in-house or outsourced lawyers will file 2,375 Forms I–129 and Forms G–28, and that human resources (HR) specialists will file 1,833 Forms I–129.[131]

TABLE 6—FORM I–129 H–2B PETITION RECEIPTS THAT WERE ACCOMPANIED BY FORM G–28, FY 2021 THROUGH FY 2025

Fiscal year	Number of Form I–129 H–2B petitions accompanied by a Form G–28	Total number of Form I–129 H–2B petitions received	Percent of Form I–129 H–2B petitions accompanied by a Form G–28
2021	4,228	9,160	46.16
2022	5,984	12,392	48.29
2023	6,837	13,744	49.75
2024	8,316	15,693	52.99
2025	12,699	16,448	77.21
Total	38,064	67,437	* 56.44%

Source: DHS, USCIS, Office of Performance and Quality (OPQ); ELIS and CLAIMS3 databases, queried Jan. 2026, PAER0020038.

* Calculation: 38,064/67,437 = 56.44%.

[127] Calculation for expected petitions. If each Form I–129 petition requests 15.38 workers, we'd expect to see petitioners exhausting the 64,716 supplement allocated this year: 64,716/15.38 = 4,208 (rounded).

[128] Calculation for expected late season TLCs: 18,490 visas/15.38 beneficiaries per petition = 1,202 TLCs (rounded).

[129] In the event that USCIS approves insufficient petitions to use all 27,736 visas, the unused numbers will carry over for petition approvals for employment start dates beginning on or after May 1, 2026 (late season filers). In which case, there would possibly be more Form ETA–9142B requests, making the estimated 1,202 additional requests an underestimate.

[130] USCIS, *Filing Your Form G–28, https://www.uscis.gov/forms/filing-your-form-g-28* (last updated Aug. 29, 2024).

[131] Calculation: 4,208 estimated additional petitions * 56.44 percent of petitions filed by a lawyer = 2,375 (rounded) petitions filed by a lawyer.

Calculation: 4,208 estimated additional petitions—2,375 petitions filed by a lawyer = 1,833 petitions filed by an HR specialist.

c. Population That Files Form I–907, Request for Premium Processing Service

Employers may use Form I–907, Request for Premium Processing Service, to request faster processing of their Form I–129 petitions for H–2B visas. Table 7 shows the percentage of Form I–129 H–2B petitions that were filed with a Form I–907. Using data from FY 2021 through FY 2025, DHS estimates that approximately 93.01 percent of Form I–129 H–2B petitioners will file a Form I–907 requesting premium processing. Based on this historical data, DHS estimates that 3,914 Form I–907's will be filed with the Form I–129 as a result of this rule.[132] Of these 3,914 premium processing requests, we estimate that in-house or outsourced lawyers will file 2,209 Forms I–907 and HR specialists or an equivalent occupation will file 1,705.[133]

TABLE 7—FORM I–129 H–2B PETITION RECEIPTS THAT WERE ACCOMPANIED BY FORM I–907, FY 2021 THROUGH FY 2025

Fiscal year	Number of Form I–129 H–2B petitions accompanied by Form I–907	Total number of Form I–129 H–2B petitions received	Percent of Form I–129 H–2B Petitions accompanied by Form I–907
2021	8,650	9,160	94.43
2022	11,773	12,392	95.00
2023	12,078	13,744	87.88
2024	14,706	15,693	93.71
2025	15,519	16,448	94.35
5-Year Total	62,726	67,437	93.01

Source: DHS, USCIS, Office of Performance and Quality (OPQ); ELIS and CLAIMS3 databases, queried Jan. 2026, PAER0020038.
* Calculation: 62,726/67,437 = 93.01%.

d. Population That Files Form ETA–9142–B–CAA–10

Petitioners seeking to take advantage of this FY 2026 H–2B supplemental visa cap will need to file a Form ETA–9142–B–CAA–10 attesting that their business is suffering irreparable harm or will suffer impending irreparable harm without the ability to employ all the H–2B workers requested on the petition, comply with third-party notification if applicable, and maintain required records, among other requirements. DOL estimates that each of the 4,208 petitions will need to be accompanied by Form ETA–9142–B–CAA–10 and petitioners filing these petitions and attestations will incur burdens complying with the evidentiary requirements.

4. Cost-Benefit Analysis

The provisions of this rule require the submission of a Form I–129 H–2B petition. The costs for this form include the opportunity cost of time to complete and submit the form.[134] The estimated time to complete and file Form I–129 for H–2B classification is 4.85 hours.[135] A U.S. employer, a U.S. agent, or a foreign employer filing through the U.S. agent must file the petition. DHS estimates that an in-house or outsourced lawyer will file 56.44 percent of Form I–129 H–2B petitions, and an HR specialist or equivalent occupation will file the remainder (43.56 percent). DHS presents estimated costs for HR specialists filing Form I–129 petitions and an estimated range of costs for in-house lawyers or outsourced lawyers filing Form I–129 petitions.

To estimate the total opportunity cost of time to HR specialists who complete and file Form I–129, DHS uses the mean hourly wage rate of HR specialists of $38.33 as the base wage rate.[136] If petitioners hire an in-house or outsourced lawyer to file Form I–129 on their behalf, DHS uses the mean hourly wage rate $87.86 as the base wage rate.[137] Using the most recent BLS data, DHS calculated a benefits-to-wage multiplier of 1.46 to estimate the full wages to include benefits such as paid leave, insurance, and retirement.[138] DHS multiplied the average hourly U.S. wage rate for HR specialists and for in-house lawyers by the benefits-to-wage multiplier of 1.46 to estimate total compensation to employees. The total compensation for an HR specialist is $55.96 per hour, and the total compensation for an in-house lawyer is $128.28 per hour.[139]

In addition, DHS recognizes that an entity may not have an in-house lawyer and may seek outside counsel to complete and file Form I–129 on behalf of the petitioner. Therefore, DHS presents a second wage rate for lawyers labeled as outsourced lawyers. DHS recognizes that the wages for outsourced lawyers may be much higher than in-house lawyers and therefore uses a higher compensation-to-wage multiplier

[132] Calculation: 4,208 estimated additional petitions * 93.01 percent premium processing filing rate = 3,914 (rounded) additional Form I–907.

[133] Calculation: 3,914 additional Form I–907 * 56.44 percent of petitioners represented by a lawyer = 2,209 (rounded) additional Form I–907 filed by a lawyer.

Calculation: 3,914 additional Form I–907—2,209 additional Form I–907 filed by a lawyer = 1,705 additional Form I–907 filed by an HR specialist.

[134] Filing fees are not considered costs to society. These fees have been accounted for as a transfer from petitioners to USCIS.

[135] The public reporting burden for this form is 2.55 hours for Form I–129 and an additional 2.3 hours for H Classification Supplement, totaling 4.85 hours. *See* Form I–129 instructions at *https://www.uscis.gov/sites/default/files/document/forms/i-129instr.pdf* (accessed Jan. 8, 2026).

[136] U.S. Department of Labor, Bureau of Labor Statistics, ''May 2024 National Occupational Employment and Wage Statistics'' Human Resources Specialist (13–1071), Mean Hourly Wage, available at *https://www.bls.gov/news.release/archives/ocwage_04022025.htm* and *https://data.bls.gov/oes/#/industry/000000* (accessed Jan. 8, 2026).

[137] U.S. Department of Labor, Bureau of Labor Statistics. ''May 2024 National Occupational Employment and Wage Estimates'' Lawyers (23–1011), Mean Hourly Wage, available at *https://www.bls.gov/news.release/archives/ocwage_04022025.htm* and *https://data.bls.gov/oes/#/industry/000000* (accessed Jan. 8, 2026).

[138] Calculation: $48.05 mean Total Employee Compensation per hour for civilian workers/$33.02 mean Wages and Salaries per hour for civilian workers = 1.46 benefits-to-wage multiplier. *See* Economic News Release, Bureau of Labor Statistics, U.S. Department of Labor, Employer Costs for Employee Compensation—June 2025 Table 1. Employer Costs for Employee Compensation by ownership, Civilian workers, available at *https://www.bls.gov/news.release/archives/ecec_09122025.pdf* (accessed Jan. 8, 2026).

[139] Calculation, HR specialist: $38.33 mean hourly wage * 1.46 benefits-to-wage multiplier = $55.96 hourly total compensation (hourly opportunity cost of time).

Calculation, In-house Lawyer: $87.86 mean hourly wage * 1.46 benefits-to-wage multiplier = $128.28 hourly total compensation (hourly opportunity cost of time).

of 2.5 for outsourced lawyers.[140] DHS estimates the total compensation for an outsourced lawyer is $219.65 per hour.[141] If a lawyer submits Form I–129 on behalf of the petitioner, Form G–28 must accompany the Form I–129 petition.[142] DHS estimates the time burden to complete and submit Form G–28 for a lawyer is 50 minutes (0.83 hour, rounded).[143] For this analysis, DHS adds the time to complete Form G–28 to the opportunity cost of time to lawyers for filing Form I–129 on behalf of a petitioner. This results in a time burden of 5.68 hours for in-house lawyers and outsourced lawyers to complete Form G–28 and Form I–129.[144] Therefore, the total opportunity cost of time per petition for an HR specialist to complete and file Form I–129 is approximately $271.41, for an in-house lawyer to complete and file Forms I–129 and G–28 is about $728.63, and for an outsourced lawyer to complete and file is approximately $1,247.61.[145]

a. Transfers From Petitioners to Government

The provisions of this rule require the submission of a Form I–129 H–2B petition. The transfers for this form include the filing costs to submit the form. As of April 1, 2024, the fee structure for I–129 H–2B petitions changed and now takes into account whether petitioners are named or unnamed, as well as the characteristics of the petitioner based on size. Additionally, petitioners pay a variable Asylum Processing Fee based on the identity of the petitioner based on entity type. All petitioners pay an additional Fraud Prevention and Detection Fee of $150.[146] The fee structure is summarized in Table 8 below. These filing fees are not a cost to society or an expenditure of new resources but a transfer from the petitioner to USCIS in exchange for agency services. DHS anticipates that petitioners will file 4,208 Forms I–129 due to the rule's supplemental visa allocation.

TABLE 8—FORM I–129 FILING FEES BY PETITIONER TYPE

Petitioner type	Base fee	Fraud prevention and detection fee	Asylum processing fee	Total fee
H–2B Named Non-Small Employer or Nonprofit	$1,080	$150	$600	$1,830
H–2B Named Small Employer	540	150	300	990
H–2B Named Nonprofit	540	150	0	690
H–2B Unnamed Non-Small Employer or Nonprofit	580	150	600	1,330
H–2B Unnamed Small Employer	460	150	300	910
H–2B Unnamed Nonprofit	460	150	0	610

Source: USCIS, Form I–129 instructions at https://www.uscis.gov/sites/default/files/document/forms/i-129instr.pdf (accessed Jan. 8, 2026). *See also* 8 USC 1184(c)(13).

Using the total number of petitioners requesting named versus unnamed beneficiaries for H–2B visas during FY 2025, DHS estimates that 82.1 percent will request named beneficiaries and 17.9 percent will request unnamed beneficiaries.[147] Using the same H–2B visa data during FY 2025, DHS estimates that 75.3 percent of I–129 H–2B petitioners have 26 or more employees, 24.6 percent have 25 or fewer employees, and 0.1 percent have nonprofit status. This equates to 3,169 petitioners with 26 or more employees,[148] 1,035 petitioners with 25 or fewer employees,[149] and 4 non-profit petitioners filing Forms I–129 as part of the supplemental allocation.[150] USCIS assumes that the percentage of named versus unnamed beneficiaries does not vary by employer size or nonprofit status. Thus, by multiplying the percentages of requests of named versus unnamed beneficiaries by the number of petitioners by characteristic, this equates to 2,602 petitioners with 26 or more employees requesting named beneficiaries,[151] 567 petitioners with 26 or more employees requesting unnamed beneficiaries,[152] 850 petitioners with 25 or fewer employees requesting named beneficiaries,[153] 185 petitioners with 25 or fewer employees requesting unnamed beneficiaries,[154] 3 non-profit petitioners

[140] The DHS ICE ''Safe-Harbor Procedures for Employers Who Receive a No-Match Letter'' acknowledges that ''the cost of hiring services provided by an outside vendor or contractor is two to three times more expensive than the wages paid by the employer for that service produced by an in-house employee,'' based on information received in public comment to that rule. We believe the explanation and methodology used in the Final Small Entity Impact Analysis (SEIA) remains sound for using 2.5 as a multiplier for outsourced labor wages in this rule: *Safe Harbor Procedures for Employers Who Receive a No-Match Letter: Clarification; Final Regulatory Flexibility Analysis,* 73 FR 63843 (Oct. 28, 2008), available at *https://www.regulations.gov/document/ICEB-2006-0004-0921* (accessed Jan. 8, 2026). *See also Exercise of Time-Limited Authority To Increase the Fiscal Year 2022 Numerical Limitation for the H–2B Temporary Nonagricultural Worker Program and Portability Flexibility for H–2B Workers Seeking To Change Employers,* 87 FR 4722 (Jan. 28, 2022), available at *https://www.regulations.gov/document/DHS-2022-0010-0001* (accessed Jan. 8, 2026).

[141] Calculation, Outsourced Lawyer: $87.86 mean hourly wage * 2.5 benefits-to-wage multiplier = $219.65 hourly total compensation (hourly opportunity cost of time).

[142] USCIS, Filing Your Form G–28, *https://www.uscis.gov/sites/default/files/document/forms/g-28instr.pdf* (accessed Jan. 8, 2026).

[143] USCIS, G–28, Instructions for Notice of Entry of Appearance as Attorney or Accredited Representative, *https://www.uscis.gov/sites/default/files/document/forms/g-28instr.pdf* (accessed Jan. 8, 2026). Calculation: 50 minutes/60 minutes per hour = 0.83 hour (rounded).

[144] Calculation: 0.83 hour to file Form G–28 + 4.85 hours to file Form I–129 = 5.68 hours to file both forms.

[145] Calculation, HR specialist files Form I–129: $55.96 hourly opportunity cost of time * 4.85 hours = $271.41 opportunity cost of time per petition.

Calculation, In-house Lawyer files Form I–129 and Form G–28: $128.28 hourly opportunity cost of time * 5.68 hours = $728.63 opportunity cost of time per petition.

Calculation, Outsourced Lawyer files Form I–129 and Form G–28: $219.65 hourly opportunity cost of time * 5.68 hours = $1,247.61 opportunity cost of time per petition.

[146] *See* Form I–129 instructions at *https://www.uscis.gov/sites/default/files/document/forms/i-129instr.pdf* (accessed Jan. 8, 2026). *See also* 8 U.S.C. 1184(c)(13).

[147] Source: DHS, USCIS, Office of Performance and Quality (OPQ); ELIS and CLAIMS3 databases, queried Jan. 2026, PAER0020038.

[148] Calculation: 4,208 expected additional Forms I–129 * 75.3 percent petitioners with 26 or more employees = 3,169 (rounded).

[149] Calculation: 4,208 expected additional Forms I–129 * 24.6 percent petitioners with 25 or fewer employees = 1,035 (rounded).

[150] Calculation: 4,208 expected additional Forms I–129 * 0.1 percent non-profit petitioners = 4 (rounded).

[151] Calculation: 3,169 petitioners with 26 or more employees * 82.1 percent named beneficiaries = 2,602 (rounded).

[152] Calculation: 3,169 petitioners with 26 or more employees * 17.9 percent unnamed beneficiaries = 567 (rounded).

[153] Calculation: 1,035 petitioners with 25 or fewer employees * 82.1 percent named beneficiaries = 850 (rounded).

[154] Calculation: 1,035 petitioners with 25 or fewer employees * 17.9 percent unnamed beneficiaries = 185 (rounded).

requesting named beneficiaries,[155] and 1 non-profit petitioner requesting unnamed beneficiaries as part of the supplemental allocation.[156]

The total transfers from petitioners to the government for filing Forms I–129 H–2B petitioners are $6,528,300.[157] Transfers from petitioners to the Government related to the filing of Forms I–907 as a result of the rule are $6,966,920.[158] [159] Total transfers from petitioners to the Government are $13,495,220.[160]

b. Cost to Petitioners

The estimated population impacted by this rule is 4,208 eligible petitioners that are projected to apply for the additional 64,716 H–2B visas.

i. Costs To Petitioners To File Form I–129, Petition for a Nonimmigrant Worker, Nonagricultural Worker and Form G–28, Notice of Entry of Appearance as Attorney or Accredited Representative

As discussed above, DHS estimates that HR specialists will file an additional 1,833 petitions using Form I–129 and lawyers will file an additional 2,375 petitions using Form I–129 and Form G–28. DHS estimates the total cost to file Form I–129 petitions if filed by HR specialists is $497,495 (rounded).[161] DHS estimates the total cost to file Form I–129 petitions and Form G–28 if filed by lawyers will range from $1,730,496 (rounded) if only in-house lawyers file these forms, to $2,963,074 (rounded) if only outsourced lawyers file them.[162] Therefore, the estimated total cost to file Form I–129 and Form G–28 range from $2,227,991 and $3,460,569.[163]

ii. Costs To File Form I–907, Request for Premium Processing

Employers may use Form I–907 to request premium processing of Form I–129 petitions for H–2B visas. The filing fee for Form I–907 for H–2B petitions is $1,780, and the time burden for completing the form is 22 minutes (0.37 hour).[164] Using the wage rates established previously, the opportunity cost of time to file Form I–907 is approximately $20.71 for an HR specialist, $47.46 for an in-house lawyer, and $81.27 for an outsourced lawyer.[165]

As discussed above, DHS estimates that HR specialists will file an additional 1,705 Form I–907 and lawyers will file an additional 2,209 Form I–907. DHS estimates the total cost of Form I–907 filed by HR specialists is about $35,311 (rounded).[166] DHS estimates the total cost to file Form I–907 filed by lawyers range from about $104,839 (rounded) for only in-house lawyers, to $179,525 (rounded) for only outsourced lawyers.[167] The estimated total cost to file Form I–907 range from $140,150 and $214,836.[168]

iii. Cost to Late Season Employers Filing Form ETA–9142B

In addition to the costs for employers projected to request TLCs irrespective of this rule, the population of 1,202 late season employers that would not otherwise request H–2B workers will file Form ETA–9142B as a precondition to utilizing the late season allocation of H–2B visas made available by the rule.[169] There is no filing fee for Form ETA–9142B, and the time burden for completing the form, including Appendix A, Appendix B, Appendix C, Appendix D, and record keeping, is 2 hours and 10 minutes (2.17 hours).[170] DOL estimates the total cost of Form ETA–9142B filed by HR specialists is about $63,631 (rounded).[171] DOL estimates the total cost to file Form ETA–9142B filed by lawyers range from about $188,733 (rounded) for only in-house lawyers, to $323,162 (rounded) for only outsourced lawyers.[172] The estimated total cost to file Form ETA–9142B range from $252,364 and $386,793.[173]

iv. Cost To File Form ETA–9142–B–CAA–10

Form ETA–9142–B–CAA–10 is an attestation form that includes the irreparable harm standard and

[155] Calculation: 4 non-profit petitioners * 82.1 percent named beneficiaries = 3 (rounded).

[156] Calculation: 4 non-profit petitioners * 17.9 percent unnamed beneficiaries = 1 (rounded).

[157] Calculation: 2,602 petitioners with 26 or more employees requesting named beneficiaries * $1,830 + 567 petitioners with 26 or more employees requesting unnamed beneficiaries * $1,330 + 850 petitioners with 25 or fewer employees requesting named beneficiaries * $990 + 185 petitioners with 25 or fewer employees requesting unnamed beneficiaries * $910 + 3 non-profits requesting named beneficiaries * $690 + 1 non-profit requesting unnamed beneficiaries * $610 = $6,528,300.

[158] Calculation: $1,780 per petition * 3,914 Forms I–907 = $6,966,920.

[159] The recently promulgated FY 2026 Adjustment to Premium Processing Fees Rule increased the premium processing fee for Forms I–907 from $1,685 to $1,780 per petition, with an effective date of March 1, 2026. USCIS acknowledges that there may be some H–2B supplement petitions requesting premium processing filed between the effective date of this rule and March 1, 2026, and that those petitions would be subject to the $1,685 rate. However, USCIS is unable to accurately project the number of petitions that would be filed during that time, and understand that the transfer estimate related to the filing of Forms I–907, as a result of this rule may be an overestimate.

[160] Calculation: $6,528,300 + $6,966,920 = $13,495,220.

[161] Calculation, HR specialist: $271.41 cost per petition * 1,833 Form I–129 = $497,495 (rounded) total cost.

[162] Calculation, In-house Lawyer: $728.63 cost per petition * 2,375 Form I–129 and Form G–28 = $1,730,496 (rounded) total cost. Calculation, Outsourced Lawyer: $1,247.61 cost per petition * 2,375 Form I–129 and Form G–28 = $2,963,074 (rounded) total cost.

[163] Calculation: $497,495 total cost of Form I–129 filed by HR specialists + $1,730,496 total cost of Form I–129 and Form G–28 filed by in-house lawyers = $2,227,991 estimated total costs to file Form I–129 and G–28. Calculation: $497,495 total cost of Form I–129 filed by HR specialists + $2,963,074 total cost of Form I–129 and G–28 filed by outsourced lawyers = $3,460,569 estimated total costs to file Form I–129 and G–28.

[164] The filing fee is a transfer from the petitioner requesting premium processing and proxy for the total costs to USCIS. Calculation: 22 minutes/60 minutes per hour = 0.37 (rounded) hour.

[165] Calculation, HR specialist Form I–907: $55.96 hourly opportunity cost of time * 0.37 hour = $20.71 opportunity cost of time per request.

Calculation, In-house Lawyer Form I–907: $128.28 hourly opportunity cost of time * 0.37 hour = $47.46 opportunity cost of time per request. .

Calculation, Outsourced Lawyer Form I–907: $219.65 hourly opportunity cost of time * 0.37 hour = $81.27 opportunity cost of time per request.

[166] Calculation, HR specialist: $20.71 opportunity cost of time per request * 1,705 Form I–907 = $35,311 (rounded) total cost of Form I–907 filed by HR specialists.

[167] Calculation, In-house Lawyer Form I–907: $47.46 hourly opportunity cost of time * 2,209 applications = $104,839.

Calculation, Outsourced Lawyer Form I–907: $81.27 hourly opportunity cost of time * 2,209 applications = $179,525.

[168] Calculation: $35,311 total cost of Form I–907 filed by HR specialists + $104,839 total cost of Form I–907 filed by in-house lawyers = $140,150 estimated total costs to file Form I–907.

Calculation: $35,311 total cost of Form I–129 filed by HR specialists + $179,525 total cost of Form I–907 filed by outsourced lawyers = $214,836 estimated total costs to file Form I–907.

[169] The estimated number represented by a lawyer = 678 = 1,202 * 56.44%. As previously mentioned, we estimate that a lawyer or accredited representative will file 56.44 percent of Form I–129 petitions, and we use this percentage as a proxy for those filing Form ETA–9142B. The estimated number represented by an HR specialist = 524 = 1,202 − 678.

[170] The time burden estimate of 130 minutes is as follows: 9142–B—55 minutes, Appendix A—15 minutes, Appendix B—15 minutes, Appendix C—20 minutes, Appendix D—10 minutes, Record Keeping—15 minutes. *See* Form ETA–9142–B at *https://www.dol.gov/sites/dolgov/files/ETA/oflc/pdfs/Form-ETA-9142B-Instructions-1205-0509.pdf* (accessed Jan. 8, 2026).

[171] Calculation, HR specialist: $55.96 per hour * 2.17 hours * 524 Form ETA–9142–B = $63,631 (rounded) total cost of Form ETA–9142–B filed by HR specialists.

[172] Calculation, In-house Lawyer Form ETA–9142–B: $128.28 per hour * 2.17 hours * 678 applications = $188,733 (rounded). Calculation, Outsourced Lawyer Form ETA–9142–B: $219.65 per hour * 2.17 hours * 678 applications = $323,162 (rounded).

[173] Calculation: $63,631 total cost of Form ETA–9142–B filed by HR specialist + $188,733 total cost of Form ETA–9142–B filed by In-house Lawyer = $252,364 estimated total costs to file Form ETA–9142–B.

Calculation: $63,631 total cost of Form ETA–9142–B filed by HR specialist + $323,162 total cost of Form ETA–9142–B filed by Outsourced Lawyer = $386,793 estimated total costs to file Form ETA–9142–B.

document retention obligations. DOL estimates the time burden for completing and signing the form is 0.25 hours, 0.25 hours for retaining records, and 0.50 hours to comply with the returning workers' attestation, for a total time burden of 1 hour. Using the $55.96 hourly total compensation for an HR specialist, the opportunity cost of time for an HR specialist to complete the attestation form, notify third parties, and retain records relating to the returning worker requirements is approximately $55.96.[174]

Additionally, the form requires that petitioners assess, prepare a detailed written statement, and document supporting evidence for meeting the irreparable harm standard, and retain those documents and records, which we assume will require the resources of a financial analyst (or another equivalent occupation). Using the same methodology previously described for wages, the mean hourly wage for a financial analyst is $56.01,[175] and the estimated hourly total compensation for a financial analyst is $81.77.[176] DOL estimates the time burden for these tasks is at least 4 hours, and 1 hour for gathering and retaining documents and records, for a total time burden of 5 hours. Therefore, the total opportunity cost of time for a financial analyst to assess, document, and retain supporting evidence is approximately $408.85.[177]

As discussed previously, DHS believes that the 4,208 Form I–129 petitions required to exhaust the number of supplemental visas made available in this rule represents the number of potential employers that will request to employ H–2B workers under this rule. This number of petitions is a reasonable proxy for the number of employers that may need to review and sign the attestation. Using this estimate for the total number of certifications, we estimate the opportunity cost of time for completing the attestation for HR specialists is approximately $235,480 (rounded) and for financial analysts is about $1,720,441 (rounded).[178]

The estimated total cost to file Form ETA–9142–B–CAA–10 and comply with the attestation is approximately $1,955,921.[179]

v. Estimated Total Costs to Petitioners

In sum, the monetized costs of this rule come from time spent filing and complying with Form I–129, Form G–28, Form I–907, and Form ETA–9142–B–CAA–10. The estimated total cost to file Form I–129 and an accompanying Form G–28 ranges from $2,227,991 to $3,460,569, depending on the filer. The estimated total cost of filing Form I–907 ranges from $140,150 to $214,836, depending on the filer. The estimated cost for late season employers to file Form ETA–9142B ranges from $252,364 to $386,793 depending on the filer. The estimated total cost of filing and complying with Form ETA–9142–B–CAA–10 is $1,955,921. The total estimated cost to petitioners ranges from $4,576,426 to $6,018,119, depending on the filer.[180]

c. Cost to the Federal Government

USCIS will incur costs related to the adjudication of petitions as a result of this TFR. DHS expects USCIS to recover these costs by the fees associated with the forms, which have been accounted for as a transfer from petitioners to USCIS and serve as a proxy for the costs to the agency. The total filing fees associated with Form I–129 H–2B petitions are $6,528,300, and the total filing fees associated with premium processing are $6,966,920. Total transfers from petitioners to the Government are $13,495,220.[181]

The INA provides USCIS with the authority to collect fees at a level that will ensure recovery of the full costs of providing adjudication and naturalization services, including administrative costs, and services provided without charge to certain applicants and petitioners.[182] DHS notes USCIS establishes its fees by assigning costs to an adjudication based on its relative adjudication burden and use of USCIS resources. USCIS establishes fees at an amount that is necessary to recover these assigned costs, such as clerical, officers, and managerial salaries and benefits, plus an amount to recover unassigned overhead (for example, facility rent, IT equipment and systems among other expenses) and immigration benefits provided without a fee charged. Consequently, since USCIS immigration fees are primarily based on resource expenditures related to the benefit in question, USCIS uses the fee associated with an information collection as a reasonable measure of the collection's costs to USCIS.

DOL will also incur costs by the issuance of additional supplemental H–2B visas. While USCIS collects fees to cover the costs associated with the adjudication of petitions as a result of this TFR. DOL will also incur processing costs as result of the increase in workload from the additional H–2B visas.

d. Benefits to Petitioners

The Departments assume that employers will incur the costs of this rule and other costs associated with hiring H–2B workers if the expected benefits of those workers exceed the expected costs. We assume that employers expect some level of net benefit from being able to hire additional H–2B workers. However, the Departments do not collect or require data from H–2B employers on the profits from hiring these additional workers to estimate this increase in net benefits.

The inability to access H–2B workers for some entities is currently causing irreparable harm or will cause their businesses to suffer irreparable harm in the near future. Temporarily increasing the number of available H–2B visas for this fiscal year may result in a benefit, because it will allow some businesses to hire the additional labor resources necessary to avoid such harm. Preventing such harm may also result in cost savings by ultimately preserving the jobs of other employees (including U.S. workers) at that establishment. Additionally, returning workers are likely to be very familiar with the H–2B process and requirements, and may be positioned to begin work more expeditiously with these employers. Moreover, employers may already be familiar with returning workers as they have trained, vetted, and worked with

[174] Calculation: $55.96 hourly opportunity cost of time * 1-hour time burden for the new attestation form and notifying third parties and retaining records related to the returning worker requirements = $55.96.

[175] *See* U.S. Department of Labor, Bureau of Labor Statistics, ''May 2024 National Occupational Employment and Wage Statistics'' Financial and Investment Analysts (13–2051), *https://www.bls.gov/news.release/archives/ocwage_04022025.htm* and *https://data.bls.gov/oes/#/industry/000000* (accessed Jan. 8, 2026).

[176] Calculation: $56.01 mean hourly wage for a financial analyst * 1.46 benefits-to-wage multiplier = $81.77 (rounded).

[177] Calculation: $81.77 estimated total compensation for a financial analyst * 5 hours to meet the requirements of the irreparable harm standard = $408.85.

[178] Calculations, HR specialists: $55.96 opportunity cost of time to comply with attestation requirements * 4,208 estimated additional petitions = $235,480 (rounded) total cost to comply with attestation requirements. Calculation, Financial Analysts: $408.85 opportunity cost of time to comply with attestation requirements * 4,208 estimated additional petitions = $1,720,441 (rounded) to comply with attestation requirements.

[179] Calculation: $235,480 total cost for HR specialist to comply with attestation requirement + $1,720,441 total cost for financial analysts to comply with attestation requirements = $1,955,921 total cost to comply with attestation requirements.

[180] Calculation of lower range: $2,227,991 + $140,150 + $252,364 + $1,955,921 = $4,576,426. Calculation of upper range: $3,460,569 + $214,836 + $386,793 + $1,955,921 = $6,018,119.

[181] For more information, please see ''Transfers from petitioners to the Government'' section.

[182] *See* INA section 286(m), 8 U.S.C. 1356(m).

some of these returning workers in past years. As such, limiting most of the supplemental visas to returning workers will assist employers that are suffering irreparable harm or will suffer impending irreparable harm.

e. Benefits to Workers

The Departments assume that workers will only incur the costs of this rule and other costs associated with obtaining an H–2B position if the expected benefits of that position exceed the expected costs. We assume that H–2B workers expect some level of net benefit from being able to work for H–2B employers. However, the Departments do not have sufficient data to estimate this increase in net benefits and lack the necessary resources to investigate this in a timely manner. This rule is not expected to impact wages because DOL prevailing wage regulations apply to all H–2B workers covered by this rule. Additionally, this analysis shows that employers incur costs in attesting to irreparable harm from current labor shortfall.

The existence of this rule will benefit the workers who receive H–2B visas. According to Brodbeck et al. (2018):

> Participation in the H–2B guest worker program has become a vital part of the livelihood strategies of rural Guatemalan families and has had a positive impact on the quality of life in the communities where they live. Migrant workers who were landless, lived in isolated rural areas, had few economic opportunities, and who had limited access to education or adequate health care, now are investing in small trucks, building roads, schools, and homes, and providing employment for others in their home communities. . . . The impact has been transformative and positive.[183]

DHS recognizes that some of the effects of these provisions may occur beyond the borders of the United States. The current analysis does not seek to quantify or monetize costs or benefits that occur outside of the United States. U.S. workers will also benefit from this rule. The avoidance of current or impending irreparable harm made possible through the granting of supplemental visas in this rule could ensure that U.S. workers—who otherwise may be vulnerable if H–2B workers were not given visas—do not lose their jobs.

C. Regulatory Flexibility Act (RFA)

The Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* (RFA), imposes certain requirements on Federal agency rules that are subject to the notice and comment requirements of the APA. *See* 5 U.S.C. 603(a), 604(a). This temporary final rule is exempt from notice and comment requirements for the reasons stated above. Therefore, the requirements of the RFA applicable to final rules, 5 U.S.C. 604, do not apply to this temporary final rule. Accordingly, the Departments are not required to either certify that the temporary final rule would not have a significant economic impact on a substantial number of small entities or conduct a regulatory flexibility analysis.

D. Unfunded Mandates Reform Act of 1995 (UMRA)

The Unfunded Mandates Reform Act of 1995 (UMRA) is intended, among other things, to curb the practice of imposing unfunded Federal mandates on State, local, and tribal governments. Title II of UMRA requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed rule, or final rule for which the agency published a proposed rule that includes any Federal mandate that may result in $100 million or more expenditure (adjusted annually for inflation) in any one year by State, local, and Tribal governments, in the aggregate, or by the private sector. See 2 U.S.C. 1532(a). This rule is exempt from the written-statement requirement, because DHS did not publish a notice of proposed rulemaking for this rule.

In addition, this rule does not exceed the $100 million expenditure in any one year when adjusted for inflation ($213 million in 2025 based on the Consumer Price Index for All Urban Consumers (CPI–U),[184] and this rulemaking does not contain such a Federal mandate as the term is defined under UMRA.[185] The requirements of Title II of the Act; therefore, do not apply, and the Departments have not prepared a statement under the Act.

E. Executive Order 13132 (Federalism)

This rule does not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132, 64 FR 43255 (Aug. 4, 1999), this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

F. Executive Order 12988 (Civil Justice Reform)

This rule meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988, 61 FR 4729 (Feb. 5, 1996).

G. Congressional Review Act (CRA)

The Congressional Review Act (CRA) enacted as part of section 251 of the Small Business Regulatory Enforcement Fairness Act of 1996, Public Law 104–121, 110 Stat. 847, 868 *et seq.,* generally delays the effective date of a ''major rule'' as defined by the CRA for at least 60 days. *See* 5 U.S.C. 801(a)(3). Based on the Departments' assessment, the Office of Information and Regulatory Affairs has determined that this temporary final rule is not a major rule as defined under the CRA, as this rule will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or an ability of the United States-based companies to compete with foreign-based companies in domestic and export markets. *See* 5 U.S.C. 804(2). On behalf of both Departments, DHS will submit this temporary final rule to both houses of Congress and the Comptroller General as required by 5 U.S.C. 801(a)(1).

H. National Environmental Policy Act (NEPA)

DHS and its components analyze regulatory actions to determine whether the National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.,* applies to them and, if so, what degree of analysis is required. DHS Directive 023–01 Rev. 01 ''Implementing the National Environmental Policy Act'' (Dir. 023–01 Rev. 01) and Instruction Manual 023–01–001–01 Rev. 01 (Instruction

[183] *See* Arnold Brodbeck et al. (2018), Seasonal Migrant Labor in the Forest Industry of the United States: The Impact of H–2B Employment on Guatemalan Livelihoods, 31 Society & Natural Resources 1012.

[184] *See* BLS, ''Historical Consumer Price Index for All Urban Consumers (CPI–U): U.S. city average, all items, by month,'' *https://www.bls.gov/cpi/tables/supplemental-files/historical-cpi-u-202512.pdf* (last visited Jan. 13, 2026). Calculation of inflation: (1) Calculate the average monthly CPI–U for the reference year (1995) and the current year (2025); (2) Subtract reference year CPI–U from current year CPI–U; (3) Divide the difference of the reference year CPI–U and current year CPI–U by the reference year CPI–U; (4) Multiply by 100 = [(Average monthly CPI–U for 2025–Average monthly CPI–U for 1995) ÷ (Average monthly CPI–U for 1995)] × 100 = [(324.054–152.383) ÷152.383] = (171.671/152.383) = 1.126 × 100 = 112.6 percent = 113 percent (rounded). Calculation of inflation-adjusted value: $100 million in 1995 dollars × 2.13 = $213 million in 2025 dollars.

[185] The term ''Federal mandate'' means a Federal intergovernmental mandate or a Federal private sector mandate. *See* 2 U.S.C. 1502(1), 658(6).

Manual) [186] establish the policies and procedures that DHS and its components use to comply with NEPA.

NEPA allows Federal agencies to establish, in their NEPA implementing procedures, categories of actions (''categorical exclusions'') that experience has shown do not, individually or cumulatively, have a significant effect on the human environment and, therefore, do not require an environmental assessment or environmental impact statement. *See* 42 U.S.C. 4336(a)(2), 4336e(1). The Instruction Manual, Appendix A lists the DHS Categorical Exclusions.[187]

Under DHS NEPA implementing procedures, for an action to be categorically excluded, it must satisfy each of the following three conditions: (1) the entire action clearly fits within one or more of the categorical exclusions; (2) the action is not a piece of a larger action; and (3) no extraordinary circumstances exist that create the potential for a significant environmental effect.[188]

This rule temporarily amends the regulations implementing the H–2B nonimmigrant visa program to increase the numerical limitation on H–2B nonimmigrant visas for FY 2026, based on the Secretary of Homeland Security's determination, in consultation with the Secretary of Labor, consistent with the FY 2024 Omnibus, and Public Law 119–37.

The amendments to DHS's existing regulations in 8 CFR part 214 would authorize up to an additional 64,716 visas for aliens who may receive H–2B nonimmigrant visas, of which 46,226 are for returning workers (persons issued H–2B visas or were otherwise granted H–2B status in Fiscal Years 2023, 2024, or 2025). The amendment's operative provisions approving H–2B petitions under the supplemental allocation would effectively terminate after September 30, 2026 for the cap increase.

DHS has reviewed this temporary final rule and finds that no significant impact on the environment, or any change in environmental effect will result from the amendments being promulgated in this final rule.

Accordingly, DHS finds that the promulgation of this temporary final rule's amendments to current regulations clearly fits within categorical exclusion A3 established in DHS's NEPA implementing procedures as an administrative change with no change in environmental effect, is not part of a larger Federal action, and does not present extraordinary circumstances that create the potential for a significant environmental effect.

I. Paperwork Reduction Act (PRA)

Attestation for Employers Seeking to Employ H–2B Nonimmigrants Workers Under section 105 of Division G, Title I of the Further Consolidated Appropriations Act, 2024, Public Law 118–47, as extended by Public Law 119–37, Form ETA–9142–B–CAA–10

The Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.,* provides that 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 it is approved by OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. DOL has submitted the Information Collection Request (ICR) contained in this rule to OMB and obtained approval using emergency clearance procedures outlined at 5 CFR 1320.13. The Departments note that while DOL submitted the ICR, both DHS and DOL will use the information.

Petitioners will use the new form, Form ETA–9142–B–CAA–10, to regarding, for example, irreparable harm and the returning worker requirement (unless exempt because the H–2B worker will start employment between May 1 and September 30, 2026) described above. Petitioners will need to file the attestation with DHS until DHS announces that the supplemental H–2B cap has been reached. In addition, the petitioner will need to retain documentation demonstrating compliance with this implementing rule, and must provide it to DHS and/or DOL in the event of an audit or investigation.

In addition to obtaining emergency approval pursuant to 5 CFR 1320.13, DOL is seeking comments on this information collection pursuant to 44 U.S.C. 3506(c)(2)(A). Comments on the information collection must be received by April 6, 2026. This process of engaging the public and other Federal agencies helps ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. The PRA provides that 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 it is approved by OMB under the PRA and displays a currently valid OMB Control Number. *See* 44 U.S.C. 3501 *et seq.* In addition, notwithstanding any other provisions of law, no person must generally be subject to a 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.

In accordance with the PRA, DOL is affording the public with notice and an opportunity to comment on the new information collection, which is necessary to implement the requirements of this temporary rule. The information collection activities covered by this new OMB Control Number 1205–NEW are required under section 105 of Division G, Title I of the Further Consolidated Appropriations Act, 2024 as extended by Public Law 119–37, which provides that ''the Secretary of Homeland Security, after consultation with the Secretary of Labor, and upon the determination that the needs of American businesses cannot be satisfied . . . with U.S. workers who are willing, qualified, and able to perform temporary nonagricultural labor,'' may increase the total number of aliens who may receive an H–2B visa in FY 2026 by not more than the highest number of H–2B nonimmigrants who participated in the H–2B returning worker program in any fiscal year in which returning workers were exempt from the H–2B numerical limitation. As previously discussed in the preamble of this rule, the Secretary of Homeland Security, in consultation with the Secretary of Labor, has decided to increase the numerical limitation on H–2B nonimmigrant visas to authorize the issuance of an additional 64,716 visas, the maximum allowed, through the end of FY 2026 for American businesses who attest that they are suffering irreparable harm or will suffer impending irreparable harm. As with the previous supplemental rules, the Secretary has determined that the first 46,226 additional visas, distributed in two allocations based on start date of work, will only be available for returning workers, that is workers who were issued H–2B visas or otherwise granted H–2B status in FY 2023, 2024, or 2025, requested by employers with a need for work to beginning between

[186] The Instruction Manual, which contains DHS's procedures for implementing NEPA, was issued on November 6, 2014, and is available at *https://www.dhs.gov/ocrso/eed/epb/nepa* (last modified July 29, 2025).

[187] *See* Appendix A, Table 1.

[188] *Instruction Manual 023–01 at V.B(2)(a)–(c).*

January 1, 2026 and April 30, 2026. The remaining 18,490 additional visas, and any unused visas from the previous allocations, are exempt from the returning worker requirement and will only be available for employers with a need for work to begin on or after May 1 through September 30, 2026.

Commenters are encouraged to discuss the following:

- Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information to be collected; and
- The burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

The aforementioned information collection requirements are summarized as follows:

Agency: DOL–ETA.

Type of Information Collection: New Collection.

Title of the Collection: Attestation for Employers Seeking to Employ H–2B Nonimmigrant Workers Under Section 105 of Division G, Title I of the Further Consolidated Appropriations Act, 2024, Public Law 118–47, as extended by Public Law 119–37.

Agency Form Number: Form ETA–9142–B–CAA–10.

Affected Public: Private Sector—businesses or other for-profits.

Total Estimated Number of Respondents: 4,208.

Average Responses per Year per Respondent: 1.

Total Estimated Number of Responses: 4,208.

Average Time per Response: 6 hours per application.

Total Estimated Annual Time Burden: 25,248 hours.

Total Estimated Other Costs Burden: $0.

Application for Premium Processing Service, Form I–907

The Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.,* provides that 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 it is approved by OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. Application for Premium Processing Service, Form I–907 has been approved by OMB and assigned OMB control number 1615–0048. DHS is making no changes to the Form I–907 in connection with this temporary rule implementing the time-limited authority pursuant to section 105 of Division G, Title I of the Further Consolidated Appropriations Act, 2024, Public Law 118–47, as extended by Public Law 119–37 (which expires on January 30, 2026). However, DHS estimates that this temporary rule may result in approximately 3,914 additional filings of Form I–907 in fiscal year 2026. The current OMB-approved estimate of the number of annual respondents filing a Form I–907 for Form I–129 is 318,874.[189] DHS has determined that the OMB-approved estimate is sufficient to fully encompass the additional respondents who will be filing Form I–907 in connection with this temporary rule, which represents a small fraction of the overall Form I–907 population. Therefore, DHS is not changing the collection instrument or increasing its burden estimates in connection with this temporary rule, and is not publishing a notice under the PRA or making revisions to the currently approved burden for OMB control number 1615–0048.

List of Subjects

8 CFR Part 214

Administrative practice and procedure, Aliens, Cultural exchange programs, Employment, Foreign officials, Health professions, Reporting and recordkeeping requirements, Students.

20 CFR Part 655

Administrative practice and procedure, Employment, Employment and training, Enforcement, Foreign workers, Forest and forest products, Fraud, Health professions, Immigration, Labor, Longshore and harbor work, Migrant workers, Nonimmigrant workers, Passports and visas, Penalties, Reporting and recordkeeping requirements, Unemployment, Wages, Working conditions.

[189] *See* DHS, USCIS, FY 2026 Adjustment to Premium Processing Fees, Table 2 at *https://www.federalregister.gov/documents/2026/01/12/2026-00321/adjustment-to-premium-processing-fees.*

DEPARTMENT OF HOMELAND SECURITY

8 CFR Chapter I

For the reasons discussed in the joint preamble, part 214 of chapter I of title 8 of the Code of Federal Regulations is amended as follows:

PART 214—NONIMMIGRANT CLASSES

■ 1. The authority citation for part 214 continues to read as follows:

Authority: 6 U.S.C. 202, 236; 8 U.S.C. 1101, 1102, 1103, 1182, 1184, 1186a, 1187, 1188, 1221, 1281, 1282, 1301–1305, 1357, and 1372; sec. 643, Pub. L. 104–208, 110 Stat. 3009–708; Public Law 106–386, 114 Stat. 1477–1480; section 141 of the Compacts of Free Association with the Federated States of Micronesia and the Republic of the Marshall Islands, and with the Government of Palau, 48 U.S.C. 1901 note and 1931 note, respectively; 48 U.S.C. 1806; 8 CFR part 2; Pub. L. 115–218, 132 Stat. 1547 (48 U.S.C. 1806).

■ 2. Effective January 30, 2026, through September 30, 2026, amend § 214.2 by adding paragraph (h)(6)(xvi) to read as follows:

§ 214.2 Special requirements for admission, extension, and maintenance of status.

* * * * *

(h) * * *

(6) * * *

(xvi) *Special requirements for additional cap allocations under the Continuing Appropriations, Agriculture, Legislative Branch, Military Construction and Veterans Affairs, and Extensions Act, 2026, Public Law 119–37*—(A) *Public Law 119–37*—(*1*) *General supplemental allocations.* Notwithstanding the numerical limitations set forth in paragraph (h)(8)(i)(C) of this section, for fiscal year 2026 only, the Secretary has authorized up to an additional 64,716 aliens who may receive H–2B nonimmigrant visas pursuant to section 101 of Division A of the Continuing Appropriations, Agriculture, Legislative Branch, Military Construction and Veterans Affairs, and Extensions Act, 2026, Public Law 119–37. Except for visas made available under paragraph (h)(6)(xvi)(A)(*1*)(*iii*) of this section, an alien must be a returning worker to be eligible to receive an H–2B nonimmigrant visa under this paragraph (h)(6)(xvi)(A)(*1*). The term ''returning worker'' under this paragraph (h)(6)(xvi)(A)(*1*) means a person who was issued an H–2B visa or was otherwise granted H–2B status in fiscal year 2023, 2024, or 2025. Notwithstanding § 248.2 of this chapter,

an alien may not change status to H–2B nonimmigrant under this paragraph (h)(6)(xvi)(A)(*1*). The additional H–2B visas authorized under this paragraph will be made available as follows:

(*i*) 18,490 visas immediately available for aliens who are returning workers with employment start dates between January 1 and March 31, 2026.

(*ii*) 27,736 visas available, plus any unused visas that were made available under (h)(6)(xvi)(A)(*l*)(*i*), for aliens who are returning workers with employment start dates between April 1 and 30, 2026.

(*iii*) 18,490 visas available plus any unused visas that were made available under (h)(6)(xvi)(A)(*l*)(*i*) or (*ii*), for aliens with employment start dates between May 1 and September 30, 2026.

(B) *Eligibility.* In order to file a petition with USCIS under this paragraph (h)(6)(xvi), the petitioner must:

(*1*) Comply with all other statutory and regulatory requirements for H–2B classification, including, but not limited to, requirements in this section, under part 103 of this chapter, and under parts 655 of Title 20 and 503 of Title 29; and

(*2*) Submit to USCIS, at the time the employer files its petition, a U.S. Department of Labor attestation, in compliance with this section and 20 CFR 655.64, evidencing that:

(*i*) Its business is suffering irreparable harm or will suffer impending irreparable harm (that is, permanent and severe financial loss) without the ability to employ all of the H–2B workers requested on the petition filed pursuant to this paragraph (h)(6)(xvi);

(*ii*) All workers requested and/or instructed to apply for a visa have been issued an H–2B visa or otherwise granted H–2B status in fiscal year 2023, 2024, or 2025, unless the H–2B worker is a beneficiary for an H–2B petition with employment start dates between May 1 and September 30, 2026;

(*iii*) The employer will provide documentary evidence of the facts in paragraphs (h)(6)(xvi)(B)(*2*)(*i*) through (*ii*) of this section to DHS and/or DOL upon request;

(*iv*) The employer will agree to fully cooperate with any compliance review, evaluation, verification, or inspection conducted by DHS, including an on-site inspection of the employer's facilities, interview of the employer's employees and any other individuals possessing pertinent information, and review of the employer's records related to the compliance with immigration laws and regulations, including but not limited to evidence pertaining to or supporting the eligibility criteria for the FY 2026 supplemental allocations outlined in paragraph (h)(6)(xvi)(B) of this section, as a condition for the approval of the petition; and

(*v*) The employer will fully cooperate with any audit, investigation, compliance review, evaluation, verification or inspection conducted by DOL, including an on-site inspection of the employer's facilities, interview of the employer's employees and any other individuals possessing pertinent information, and review of the employer's records related to the compliance with applicable laws and regulations, including but not limited to evidence pertaining to or supporting the eligibility criteria for the FY 2026 supplemental allocations outlined in 20 CFR 655.64(a) and 655.69(a), as a condition for the approval of the H–2B petition. The employer must attest to this on Form ETA–9142–B–CAA–10 and must further attest on Form ETA–9142–B–CAA–10 that it will not impede, interfere, or refuse to cooperate with an employee of the Secretary of the U.S. Department of Labor who is exercising or attempting to exercise DOL's audit or investigative authority pursuant to 20 CFR part 655, subpart A, and 29 CFR 503.25.

(C) *Processing—(1) Petitions filed pursuant to paragraph (h)(6)(xvi)(A)(1)(i) of this section requesting FY 2026 employment start dates from January 1, 2026 to March 31, 2026.* USCIS will reject petitions filed pursuant to paragraph (h)(6)(xvi)(A)(*1*)(*i*) of this section requesting employment start dates before January 1, 2026. USCIS will also reject petitions filed pursuant to paragraph (h)(6)(xvi)(A)(*1*)(*i*) of this section requesting employment start dates between January 1 and March 31, 2026 that are received after the applicable numerical limitation has been reached or 15 days or later after the INA section 214(g) cap for the second half FY 2026 has been met. If USCIS determines by this latter date that it has received fewer petitions than needed to reach the USCIS projections for this supplemental allocation under paragraph (h)(6)(xvi)(A)(*1*)(*i*) of this section, it will make the unused visas from this allocation available under the allocation described in paragraph (h)(6)(xvi)(A)(*1*)(*ii*) of this section for aliens who are returning workers with employment start dates between April 1 and 30, 2026.

(*2*) *Petitions filed pursuant to paragraph (h)(6)(xvi)(A)(1)(ii) of this section requesting FY 2026 employment start dates from April 1, 2026 to April 30, 2026.* USCIS will reject petitions filed pursuant to paragraph (h)(6)(xvi)(A)(*1*)(*ii*) of this section requesting employment start dates from April 1 to April 30, 2026 that are received earlier than 15 days after the INA section 214(g) cap for the second half FY 2026 has been met. USCIS will also reject petitions filed pursuant to paragraph (h)(6)(xvi)(A)(*1*)(*ii*) of this section requesting employment start dates between April 1 and 30, 2026 that are received after the applicable numerical limitation has been reached, or 45 days or later after the INA section 214(g) cap for the second half FY 2026 has been met. If USCIS determines by this latter date that it has received fewer petitions than needed to reach the USCIS projections for this supplemental allocation under paragraph (h)(6)(xvi)(A)(*1*)(*ii*) of this section, it will make the unused visas from this allocation available under the allocation described in paragraph (h)(6)(xvi)(A)(*1*)(*iii*) of this section for aliens with employment start dates between May 1 and September 30, 2026.

(*3*) *Petitions filed pursuant to paragraph (h)(6)(xvi)(A)(1)(iii) of this section requesting FY 2026 employment start dates from May 1, 2026 to September 30, 2026.* USCIS will reject petitions filed pursuant to paragraph (h)(6)(xvi)(A)(*1*)(*iii*) of this section requesting employment start dates from May 1, 2026 to September 30, 2026 that are received earlier than 45 days after the INA section 214(g) cap for the second half FY 2026 has been met, after the applicable numerical limitation has been reached, or after September 15, 2026.

(*4*) USCIS will not approve a petition filed pursuant to this paragraph (h)(6)(xvi) on or after October 1, 2026.

(D) *Numerical limitations under 8 CFR 214.2(h)(6)(xvi)(A)(1).* When calculating the numerical limitations under paragraph (h)(6)(xvi)(A)(*1*) of this section, as authorized under section 101 of Division A of Public Law 119–37, Continuing Appropriations, Agriculture, Legislative Branch, Military Construction and Veterans Affairs, and Extensions Act, 2026, USCIS will make numbers for each allocation available to petitions in the order in which the petitions subject to the respective limitation are received. USCIS will make projections of the number of petitions necessary to achieve the numerical limit of approvals, taking into account historical data related to approvals, denials, revocations, and other relevant factors. USCIS will monitor the number of petitions received (including the number of workers requested when necessary) and will notify the public of the dates that USCIS has received the necessary number of petitions (the ''final receipt

dates'') under paragraph (h)(6)(xvi)(A)(*1*). The day the public is notified will not control the final receipt dates. When necessary to ensure the fair and orderly allocation of numbers subject to the numerical limitations in (h)(6)(xvi)(A)(*1*), USCIS may randomly select from among the petitions received on the final receipt dates the remaining number of petitions deemed necessary to generate the numerical limit of approvals. This random selection will be made via computer-generated selection. Petitions subject to a numerical limitation not randomly selected or that were received after the final receipt dates that may be applicable under paragraph (h)(6)(xvi)(A)(*1*) will be rejected. If the final receipt date is any of the first five business days on which petitions subject to the applicable numerical limits described in paragraph (h)(6)(xvi)(A)(*1*) may be received, USCIS will randomly apply all of the numbers among the petitions received on any of those five business days.

(E) *Sunset.* This paragraph (h)(6)(xvi) expires on October 1, 2026.

(F) *Non-severability.* The requirement to file an attestation under paragraph (h)(6)(xvi)(B)(*2*) of this section is intended to be non-severable from the remainder of this paragraph (h)(6)(xvi), including, but not limited to, the numerical allocation provisions at paragraph (h)(6)(xvi)(A)(*1*) of this section. In the event that any part of this paragraph (h)(6)(xvi) is enjoined or held to be invalid by any court of competent jurisdiction, the remainder of this paragraph (h)(6)(xvi) is also intended to be enjoined or held to be invalid in such jurisdiction, without prejudice to workers already present in the United States under this paragraph (h)(6)(xvi), as consistent with law.

* * * * *

DEPARTMENT OF LABOR

Employment and Training Administration

20 CFR Chapter V

Accordingly, for the reasons stated in the joint preamble, 20 CFR part 655 is amended as follows:

PART 655—TEMPORARY EMPLOYMENT OF FOREIGN WORKERS IN THE UNITED STATES

■ 3. The authority citation for part 655 continues to read as follows:

Authority: Section 655.0 issued under 8 U.S.C. 1101(a)(15)(E)(iii), 1101(a)(15)(H)(i) and (ii), 8 U.S.C. 1103(a)(6), 1182(m), (n) and (t), 1184(c), (g), and (j), 1188, and 1288(c) and (d); sec. 3(c)(1), Pub. L. 101–238, 103 Stat. 2099, 2102 (8 U.S.C. 1182 note); sec. 221(a), Pub. L. 101–649, 104 Stat. 4978, 5027 (8 U.S.C. 1184 note); sec. 303(a)(8), Pub. L. 102–232, 105 Stat. 1733, 1748 (8 U.S.C. 1101 note); sec. 323(c), Pub. L. 103–206, 107 Stat. 2428; sec. 412(e), Pub. L. 105–277, 112 Stat. 2681 (8 U.S.C. 1182 note); sec. 2(d), Pub. L. 106–95, 113 Stat. 1312, 1316 (8 U.S.C. 1182 note); 29 U.S.C. 49k; Pub. L. 107–296, 116 Stat. 2135, as amended; Pub. L. 109–423, 120 Stat. 2900; 8 CFR 214.2(h)(4)(i); 8 CFR 214.2(h)(6)(iii); and sec. 6, Pub. L. 115–218, 132 Stat. 1547 (48 U.S.C. 1806).

Subpart A issued under 8 CFR 214.2(h).

Subpart B issued under 8 U.S.C. 1101(a)(15)(H)(ii)(a), 1184(c), and 1188; and 8 CFR 214.2(h).

Subpart E issued under 48 U.S.C. 1806.

Subparts F and G issued under 8 U.S.C. 1288(c) and (d); sec. 323(c), Pub. L. 103–206, 107 Stat. 2428; and 28 U.S.C. 2461 note, Pub. L. 114–74 at section 701.

Subparts H and I issued under 8 U.S.C. 1101(a)(15)(H)(i)(b) and (b)(1), 1182(n) and (t), and 1184(g) and (j); sec. 303(a)(8), Pub. L. 102–232, 105 Stat. 1733, 1748 (8 U.S.C. 1101 note); sec. 412(e), Pub. L. 105–277, 112 Stat. 2681; 8 CFR 214.2(h); and 28 U.S.C. 2461 note, Pub. L. 114–74 at section 701.

Subparts L and M issued under 8 U.S.C. 1101(a)(15)(H)(i)(c) and 1182(m); sec. 2(d), Pub. L. 106–95, 113 Stat. 1312, 1316 (8 U.S.C. 1182 note); Pub. L. 109–423, 120 Stat. 2900; and 8 CFR 214.2(h).

■ 4. Effective January 30, 2026, through September 30, 2026, add § 655.64 to read as follows:

§ 655.64 Special application filing and eligibility provisions for Fiscal Year 2026 under the supplemental cap increase under Section 105 of Division G, Title I of the Further Consolidated Appropriations Act, 2024, Public Law 118–47, as extended by the Continuing Appropriations, Agriculture, Legislative Branch, Military Construction and Veterans Affairs, and Extensions Act, 2026, Public Law 119–37.

(a) An employer filing a petition with USCIS under 8 CFR 214.2(h)(6)(xvi) to request H–2B workers to begin employment from January 1, 2026, through September 30, 2026, must meet the following requirements:

(1) The employer must attest on the Form ETA–9142–B–CAA–10 that its business is suffering irreparable harm or will suffer impending irreparable harm (that is, permanent and severe financial loss) without the ability to employ all of the H–2B workers requested on the petition filed pursuant to 8 CFR 214.2(h)(6)(xvi). The employer's attestation must identify the types of evidence the employer is relying on and will retain to meet the irreparable harm standard. The employer must attest that it has created a detailed written statement describing how it is suffering irreparable harm or will suffer impending irreparable harm and describing how such evidence demonstrates irreparable harm. In addition, the employer must attest that it will provide to DHS and/or DOL upon request all of the documentation it relied upon and retained as evidence that it meets the irreparable harm standard, including all of the supporting documentation the employer committed to retain at the time of filing on the employer's attestation form by selecting a checkbox next to the applicable type of documentation in section C, and the written statement describing how such evidence demonstrates irreparable harm

(2) The employer must attest on Form ETA–9142–B–CAA–10 that each of the workers requested and/or instructed to apply for a visa, whether named or unnamed, on a petition filed pursuant to 8 CFR 214.2(h)(6)(xvi)(A)(*1*)(*i*) and (*ii*), have been issued an H–2B visa or otherwise granted H–2B status during one of the last three (3) fiscal years (fiscal year 2023, 2024, or 2025), request and obtain a valid temporary labor certification in compliance with the application filing requirements set forth in 20 CFR 655.15.

(3) The employer must attest on Form ETA–9142–B–CAA–10 that the employer will comply with all the assurances, obligations, and conditions of employment set forth on its approved Application for Temporary Employment Certification

(b) An employer filing a petition with USCIS under 8 CFR 214.2(h)(6)(xvi) to request H–2B workers who will begin employment on or after January 1, 2026, through September 30, 2026, must meet the following requirements:

(1) The employer must attest on Form ETA–9142–B–CAA–10 that without the ability to employ all of the H–2B workers requested on the petition filed pursuant to 8 CFR 214.2(h)(6)(xvi), its business is suffering irreparable harm or will suffer impending irreparable harm (that is, permanent and severe financial loss), and that the employer will provide documentary evidence of this fact to DHS or DOL upon request.

(2) The employer must attest on Form ETA–9142–B–CAA–10 that each of the workers requested and/or instructed to apply for a visa, whether named or unnamed, on a petition filed pursuant to 8 CFR 214.2(h)(6)(xvi)(A)(*1*)(*i*) and (*ii*), have been issued an H–2B visa or otherwise granted H–2B status during one of the last three (3) fiscal years (Fiscal Years 2023, 2024, or 2025), unless the H–2B worker is counted towards the 18,490 cap described in 8 CFR (h)(6)(xvi)(A)(*1*)(*iii*).

(3) The employer must attest on Form ETA–9142–B–CAA–10 that it will comply with all the assurances, obligations, and conditions of

employment set forth on its approved *Application for Temporary Employment Certification.*

(4) The employer must attest on Form ETA–9142–B–CAA–10 that it will fully cooperate with any audit, investigation, compliance review, evaluation, verification, or inspection conducted by DOL, including an on-site inspection of the employer's facilities, interview of the employer's employees and any other individuals possessing pertinent information, and review of the employer's records related to the compliance with applicable laws and regulations, including but not limited to evidence pertaining to or supporting the eligibility criteria for the FY 2026 supplemental allocations outlined in this paragraph (a) and § 655.69(a), as a condition for the approval of the H–2B petition. Pursuant to this subpart A at § 655.73 and 29 CFR 503.25, the employer will not impede, interfere, or refuse to cooperate with an employee of the Secretary who is exercising or attempting to exercise DOL's audit or investigative authority. DOL may consider the failure to respond to and/or comply with an investigation or audit to be a willful misrepresentation of material fact or a substantial failure to meet the terms and conditions of the *H–2B Application for Prevailing Wage Determination,* or *Application for Temporary Employment Certification,* resulting in an adverse agency action on the employer, agent, or attorney, including assessment of a civil money penalty, revocation of the temporary labor certification, and/or program debarment for not less than one year or more than five years from the date of the final agency decision under 20 CFR 655.70, 655.72, 655.73 or 29 CFR part 503. A debarred party will be disqualified from filing any labor certification applications or labor condition applications with the Department of Labor by, or on behalf of, the debarred party for the same period of time set forth in the final debarment decision.

(d) This section expires on October 1, 2026.

(e) The requirements under paragraph (a) of this section are intended to be non-severable from the remainder of this section; in the event that paragraph (a)(1), (2), (3), (4), or (5) of this section is enjoined or held to be invalid by any court of competent jurisdiction, the remainder of this section is also intended to be enjoined or held to be invalid in such jurisdiction, without prejudice to workers already present in the United States under this part, as consistent with law.

■ 5. Effective January 30, 2026, through September 30, 2029, add § 655.69 to read as follows:

§ 655.69 Special document retention provisions for Fiscal Years 2026 through 2029 under the Continuing Appropriations, Agriculture, Legislative Branch, Military Construction and Veterans Affairs, and Extensions Act, 2026, Public Law 119–37.

(a) An employer who files a petition with USCIS to employ H–2B workers in fiscal year 2026 under authority of the temporary increase in the numerical limitation under section 101 of Division A, Public Law 119–37 must maintain for a period of three (3) years from the date of certification, consistent with 20 CFR 655.56 and 29 CFR 503.17, the following:

(1) A copy of the attestation filed pursuant to regulations in 8 CFR 214.2 governing that temporary increase;

(2) Evidence establishing, at the time of filing the I–129 petition and as attested to in the attestation form, that the employer's business is suffering irreparable harm or will suffer impending irreparable harm (that is, permanent and severe financial loss) without the ability to employ all of the H–2B workers requested on the petition filed pursuant to 8 CFR 214.2(h)(6)(xvi), including a detailed written statement describing the irreparable harm and how such evidence shows irreparable harm;

(3) Documentary evidence establishing that each of the workers the employer requested and/or instructed to apply for a visa, whether named or unnamed on a petition filed pursuant to 8 CFR 214.2(h)(6)(xvi), have been issued an H–2B visa or otherwise granted H–2B status during one of the last three (3) fiscal years (fiscal year 2023, 2024, or 2025), unless the H–2B worker is counted towards the 18,490 cap described in section (h)(6)(xvi)(A)(*1*)(*iii*); and

(b) DOL or DHS may inspect these documents upon request.

(c) This section expires on October 1, 2029.

Kristi Noem,

Secretary of Homeland Security.

Lori Chavez-DeRemer,

Secretary of Labor.

[FR Doc. 2026–02131 Filed 1–30–26; 4:15 pm]

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FEDERAL REGISTER

Vol. 91 Tuesday,
No. 22 February 3, 2026

Part III

The President

Proclamation 11007—Year of Celebration and Rededication, 2026
Executive Order 14379—Addressing Addiction Through the Great American Recovery Initiative
Executive Order 14380—Addressing Threats to the United States by the Government of Cuba

Federal Register
Vol. 91, No. 22
Tuesday, February 3, 2026

Presidential Documents

Title 3—

The President

Proclamation 11007 of January 29, 2026

Year of Celebration and Rededication, 2026

By the President of the United States of America

A Proclamation

On January 1, 2026, the United States began our year-long commemoration of an important milestone in the history of our country: 250 years of American freedom and independence.

Two and a half centuries ago, on July 4, 1776, thousands of years' worth of wisdom, philosophy, and culture were brought together in Philadelphia where delegates to the Second Continental Congress gathered to declare the birth of a new nation—''conceived in Liberty and dedicated to the proposition that all men are created equal''—and, in so doing, launched the single greatest force for goodness, justice, prosperity, and human flourishing the world has ever known.

As we celebrate the 250th year since the signing of the Declaration of Independence, we acknowledge with gratitude and pride that July 4, 1776, represents the most seminal political event in all of human history.

Unlike other nations, America's Founding was rooted in the belief that every man, woman, and child is ''endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness.''

This conviction, enshrined in our Declaration of Independence, and indelibly etched upon every American heart, remains the bedrock of our government and the crown jewel of Western civilization. For 250 years, the burning flame of liberty has been passed down from one generation to the next, and has carried our Nation and our people to heights that our Founding Fathers could have never dreamed.

Guided by the example of Founding Fathers like George Washington, John Adams, James Madison, Benjamin Franklin, and other American patriots who helped light the torch of liberty in 1776, let us ask our Creator to bless America, free our Nation and our people from all threats to our safety and happiness, and to guide our actions for the security and common good of all Americans.

This year, we honor and cherish the generations of pioneers, warriors, statesmen, preachers, inventors, risk-takers, workers, and heroes whose unwavering commitment to the promise of freedom gave rise to the greatest Republic ever created. Today and throughout this year, I call on every American to celebrate this triumph of the American spirit, and to rededicate themselves to the sacred cause of liberty and justice for all.

The Bible teaches: ''In all circumstances give thanks.'' As such, it is fitting that we mark this special year as a unique occasion to celebrate our proud history, reflect on our abundant blessings, pray for our country and our people, and rededicate ourselves as one Nation under God.

From the earliest days of our national story, reflection and thanksgiving have been central to our character, identity, and destiny. Just weeks before declaring independence, the Second Continental Congress ordered a day of ''fasting, humiliation and prayer,'' petitioning God ''to pardon all our manifold sins and transgressions'' and to ''establish the peace and freedom

of America, upon a solid and lasting foundation.'' Later, in the heart of the Revolutionary War, the Second Continental Congress declared it ''the indispensable duty of all men to adore the superintending providence of Almighty God.''

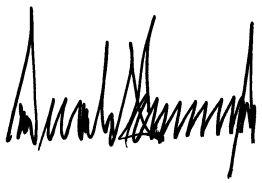
In the sweltering summer of 1776, the promise of Freedom moved our ancestors to break with a tyrannical empire, issue the Declaration of Independence, and go on to overcome every hardship to establish a Republic like no other. It is this unwavering spirit of courage, faith and patriotism that propelled Paul Revere on his famous midnight ride, and that later inspired some of the world's greatest men to pledge their lives, fortunes, and sacred honor to build a new nation. It is this spirit that led General George Washington to persevere at Valley Forge; inspired Davy Crockett to make his last stand at the Alamo; sustained settlers on the Oregon Trail; held the bloody ridges of Gettysburg; set slavery on a path to worldwide extinction; roused a generation of young men to conquer tyranny and communism overseas; and carried our beautiful Stars and Stripes to the face of the moon. To this very day, it is this American spirit that lives on in the hearts, minds, and souls of every patriot—and inspires every new generation of American citizens to reach further and aim higher.

When the Second Continental Congress voted in favor of independence, General George Washington issued General Orders to his army. In words that have echoed throughout history, he wrote: ''The fate of unborn Millions will now depend, under God, on the Courage and Conduct of this army. . . Let us therefore rely upon the goodness of the Cause, and the aid of the supreme Being, in whose hands Victory is, to animate and encourage us to great and noble Actions.''

Today, too, we pray that our noble cause continues to be guided by the hand of providence and the grace of God—and that the fire of freedom will forever burn brightly in the heart of every American. Above all, this year, we pray and endeavor that the triumph of the American spirit and the glorious truths expressed in our Declaration of Independence will shine more radiantly than ever before.

NOW, THEREFORE, I, DONALD J. TRUMP, President of the United States of America, do hereby proclaim 2026 as a Year of Celebration and Rededication. I call on every American to reflect upon and celebrate the wisdom and deeds of the heroes of our Founding who made the miracle of America possible. I call on parents to teach their children about America's inspiring history, heritage, and heroes. I invite the world to come to our shores to experience the splendor, warmth, and hospitality of America. And I encourage all Americans—including businesses, churches, families, and the military—to observe this year, reflecting on the blessings our Nation has received, with appropriate programs, ceremonies, concerts, celebrations, and activities in their homes, schools, work, communities, military bases, and houses of worship.

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



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Presidential Documents

Executive Order 14379 of January 29, 2026

Addressing Addiction Through the Great American Recovery Initiative

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered:

Section 1. *Purpose and Policy.* The disease of addiction, also known as substance use disorder, is a crisis that touches families in every community and neighborhood in our Nation. 48.4 million Americans, or 16.8 percent of our Nation's population, suffer from addiction, and my Administration will continue to respond to a crisis of this scale with the attention it deserves. Over the past year, we have made incredible progress in stopping the inflow of illegal drugs that threaten American communities. We must now supplement that work by furthering a national effort to prioritize addiction treatment and recovery.

Addiction is a chronic, treatable disease with relapse rates similar to other chronic diseases. Unfortunately, very few Americans who need treatment ever receive it or believe they need it. Among the 40.7 million adults who had a substance use disorder in 2024 and did not receive substance use treatment, 95.6 percent (or 38.1 million people) did not perceive that they needed treatment. Despite significant investment of resources, addiction recovery efforts remain fragmented and do not keep pace with scientific advancements.

The costs of these failures are devastating, not only in lives lost, but also in the ripple effects across our economy, workforce, and national strength. Addiction contributes to declining workforce participation, increased healthcare costs, homelessness, family instability, and lost productivity that together cost the United States hundreds of billions of dollars each year.

The framework for addiction treatment should parallel that of other chronic diseases—utilizing evidence-based care, scientific advancement, continuous support, and community connection. My Administration will drive a new national response to the disease of addiction that will create stronger coordination across government, the healthcare sector, faith communities, and the private sector in order to save lives, restore families, strengthen our communities, and build the Great American Recovery.

Sec. 2. *Launching the Great American Recovery Initiative.* (a) There is hereby established the White House Great American Recovery Initiative (Initiative) co-chaired by the Secretary of Health and Human Services and the Senior Advisor for Addiction Recovery. There shall be an Executive Director who shall administer and execute the day to day operations of the Initiative, and who shall report to the Assistant to the President for Domestic Policy.

(b) In addition to the Co-Chairs and the Executive Director, the Initiative shall consist of the following officials, or their designees:

(i) the Attorney General;

(ii) the Secretary of the Interior;

(iii) the Secretary of Education;

(iv) the Secretary of Labor;

(v) the Secretary of Housing and Urban Development;

(vi) the Secretary of Veterans Affairs;

(vii) the Assistant to the President and Chief of Staff;

(viii) the Assistant to the President and Special Envoy for Peace Missions;

(ix) the Assistant to the President and Cabinet Secretary;

(x) the Director of National Drug Control Policy;

(xi) the Administrator of the Centers for Medicare and Medicaid Services;

(xii) the Commissioner of Food and Drugs;

(xiii) the Director of the National Institutes of Health;

(xiv) the Assistant Secretary for Mental Health and Substance Use, Department of Health and Human Services; and

(xv) the heads of such other executive departments, agencies, and offices that the Co-Chairs and the Executive Director may from time to time designate or invite to participate.

(c) The Co-Chairs may hold public hearings, meetings, roundtables, and similar events, as appropriate, and may receive expert input from leaders in public health, addiction and recovery treatment, and other relevant subject matter areas.

Sec. 3. *Addressing the Disease of Addiction.* The Co-Chairs and the Executive Director, along with the other members of the Initiative, shall:

(i) recommend all necessary steps to coordinate the Federal Government's response to the addiction crisis, including by better aligning relevant Federal programs, setting clear objectives, and providing data-driven updates to the public on progress towards meeting these objectives;

(ii) take appropriate actions to increase awareness of the disease of addiction, help Americans receive the treatment they need, and foster a culture that celebrates recovery;

(iii) advise heads of executive departments and agencies (agency heads) on how to implement programs that integrate prevention, early intervention, treatment, recovery support, and re-entry into all relevant public health, healthcare, criminal justice, workforce, education, housing and social services systems, and remove outdated silos between agencies, programs, or systems, in each case as deemed appropriate by the agency head and consistent with applicable law;

(iv) advise agency heads on directing appropriate grants to support addiction recovery, with a focus on prevention, treatment, and long-term resilience; and

(v) consult with States, tribal nations, local jurisdictions, community-based organizations, faith-based organizations, the private sector, and philanthropic entities on the best strategies to ensure more Americans receive the treatment they need and celebrate individuals going through the recovery process.

Sec. 4. *General Provisions.* (a) Nothing in this order shall be construed to impair or otherwise affect:

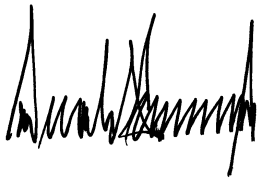
(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

(d) The costs for publication of this order shall be borne by the Department of Health and Human Services.



THE WHITE HOUSE,
January 29, 2026.

[FR Doc. 2026–02249
Filed 2–2–26; 11:15 am]
Billing code 4150–28–P

Presidential Documents

Executive Order 14380 of January 29, 2026

Addressing Threats to the United States by the Government of Cuba

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*) (IEEPA), the National Emergencies Act (50 U.S.C. 1601 *et seq.*) (NEA), and section 301 of title 3, United States Code, I hereby determine and order:

Section 1. *National Emergency.* As President of the United States, I have an imperative duty to protect the national security and foreign policy of this country. I find that the policies, practices, and actions of the Government of Cuba constitute an unusual and extraordinary threat, which has its source in whole or substantial part outside the United States, to the national security and foreign policy of the United States.

The Government of Cuba has taken extraordinary actions that harm and threaten the United States. The regime aligns itself with—and provides support for—numerous hostile countries, transnational terrorist groups, and malign actors adverse to the United States, including the Government of the Russian Federation (Russia), the People's Republic of China (PRC), the Government of Iran, Hamas, and Hezbollah. For example, Cuba blatantly hosts dangerous adversaries of the United States, inviting them to base sophisticated military and intelligence capabilities in Cuba that directly threaten the national security of the United States. Cuba hosts Russia's largest overseas signals intelligence facility, which tries to steal sensitive national security information of the United States. Cuba continues to build deep intelligence and defense cooperation with the PRC. Cuba welcomes transnational terrorist groups, such as Hezbollah and Hamas, creating a safe environment for these malign groups so that these transnational terrorist groups can build economic, cultural, and security ties throughout the region and attempt to destabilize the Western Hemisphere, including the United States. Cuba has long provided defense, intelligence, and security assistance to adversaries in the Western Hemisphere, attempting to thwart United States and international sanctions designed to enforce the stability of the region, uphold the rule of law, and safeguard the national security and foreign policy of the United States. Cuba continues to try to thwart United States efforts to address threats to the United States posed by hostile countries, transnational terrorist groups, and malign actors, including in the Western Hemisphere.

Further, contrary to the interests and foreign policy of the United States, the Cuban communist regime supports terrorism and destabilizes the region through migration and violence. The communist regime persecutes and tortures its political opponents; denies the Cuban people free speech and press; corruptly profits from their misery; and commits other human-rights violations. For example, families of political prisoners face retaliation for peacefully protesting the improper confinement of their loved ones. Cuban authorities harass worshippers, block free association by civil society organizations, prohibit free press, and deny the ability to speak freely, including on the internet. The Cuban regime continues to spread its communist ideas, policies, and practices around the Western Hemisphere, threatening the foreign policy of the United States.

The United States has zero tolerance for the depredations of the communist Cuban regime. The United States will act to protect the foreign policy, national security, and national interests of the United States, including by holding the Cuban regime accountable for its malign actions and relationships, while also remaining committed to supporting the Cuban people's aspirations for a free and democratic society.

I find that the policies, practices, and actions of the Government of Cuba directly threaten the safety, national security, and foreign policy of the United States. The policies, practices, and actions of the Government of Cuba are designed to harm the United States and support hostile countries, transnational terrorist groups, and malign actors that seek to destroy the United States. The policies, practices, and actions of the Government of Cuba are also repugnant to the moral and political values of democratic and free societies and conflict with the foreign policy of the United States to encourage peaceful change in Cuba and to promote democracy, the principle of free expression and press, the rule of law, and respect for human rights throughout the world.

NOW, THEREFORE, I, DONALD J. TRUMP, President of the United States of America, find that the situation with respect to Cuba constitutes an unusual and extraordinary threat, which has its source in whole or substantial part outside the United States, to the national security and foreign policy of the United States and hereby declare a national emergency with respect to that threat.

To deal with the national emergency declared in this order, I determine that it is necessary and appropriate to establish a tariff system, as described below. Under this system, an additional *ad valorem* duty may be imposed on imports of goods that are products of a foreign country that directly or indirectly sells or otherwise provides any oil to Cuba. In my judgment, the tariff system, as described below, is necessary and appropriate to address the national emergency declared in this order.

Sec. 2. *Imposition of Tariffs.* (a) Beginning on the effective date of this order, an additional *ad valorem* rate of duty may be imposed on goods imported into the United States that are products of any other country that directly or indirectly sells or otherwise provides any oil to Cuba, in accordance with subsections (b) and (c) of this section.

(b)(i) The Secretary of Commerce, in consultation with the Secretary of State and any senior official the Secretary of Commerce deems appropriate, shall determine whether, after the effective date of this order, a foreign country directly or indirectly sells or otherwise provides any oil to Cuba. After the Secretary of Commerce finds that a foreign country directly or indirectly sells or otherwise provides any oil to Cuba, the Secretary of Commerce shall inform the Secretary of State of his finding, including any information relevant to that finding.

(ii) The Secretary of Commerce may issue rules, regulations, and guidance necessary or appropriate to implement this order. The Secretary of Commerce may also make any other determinations or take any other actions necessary or appropriate to implement this order.

(c)(i) After the Secretary of Commerce makes an affirmative finding pursuant to subsection (b)(i) of this section and informs the Secretary of State of his finding, the Secretary of State, in consultation with the Secretary of the Treasury, the Secretary of Commerce, the Secretary of Homeland Security, and the United States Trade Representative, shall determine whether and to what extent an additional *ad valorem* rate of duty should be imposed on goods that are products of the foreign country found to directly or indirectly sell or otherwise provide any oil to Cuba.

(ii) If the Secretary of State determines that an additional *ad valorem* rate of duty should be imposed on goods that are products of the country found to directly or indirectly sell or otherwise provide any oil to Cuba, the Secretary of State shall inform me of his recommendation, and the Secretary of Commerce shall inform me of his finding related to that

recommendation. I will then consider the recommendation and finding, among other relevant things, in determining whether and to what extent to impose an additional *ad valorem* rate of duty on goods that are products of the country in question.

(iii) The Secretary of State may issue rules, regulations, and guidance necessary or appropriate to implement this order. The Secretary of State may also make any other determinations or take any other actions necessary or appropriate to implement this order.

Sec. 3. *Modification Authority.* (a) To ensure that the national emergency declared in this order is dealt with, I may modify this order, including in light of additional information, recommendations from senior officials, or changed circumstances.

(b) Should a foreign country retaliate against the United States in response to this order or any action taken pursuant to this order, I may modify this order or actions taken pursuant to this order to ensure the efficacy of this order and the actions taken pursuant to this order to deal with the national emergency declared in this order.

(c) Should the Government of Cuba or another foreign country affected by this order take significant steps to address the national emergency declared in this order and align sufficiently with the United States on national security and foreign policy matters, I may modify this order.

Sec. 4. *Monitoring and Recommendations.* (a) The Secretary of State, in consultation with any senior official the Secretary of State deems appropriate, shall monitor the circumstances involving the national emergency declared in this order. The Secretary of State shall inform me of any circumstance that, in his opinion, might indicate the need for further Presidential action to deal with the national emergency declared in this order.

(b) The Secretary of State, in consultation with the Secretary of the Treasury, the Secretary of Commerce, the Secretary of Homeland Security, the United States Trade Representative, and any other senior official the Secretary of State deems appropriate, shall recommend to me additional action, if necessary, if the actions in this order or taken pursuant to this order are not effective in dealing with the national emergency declared in this order.

(c) The Secretary of Commerce shall monitor whether a foreign country directly or indirectly sells or otherwise provides any oil to Cuba. The Secretary of Commerce shall continue such monitoring after a foreign country has been found to do so.

Sec. 5. *Delegation.* Consistent with applicable law, the Secretary of State and the Secretary of Commerce are directed and authorized to take all actions necessary to implement and effectuate this order—including through temporary suspension or amendment of regulations or through notices in the *Federal Register* and by adopting rules, regulations, or guidance—and to employ all powers granted to the President, including by IEEPA, as may be necessary to implement this order. The head of each executive department and agency (agency) is authorized to and shall take all appropriate measures within the agency's authority to implement this order. The head of each agency may, consistent with applicable law, including section 301 of title 3, United States Code, redelegate the authority to take such appropriate measures within the agency.

Sec. 6. *Reporting Directives.* The Secretary of State, in consultation with any senior official he deems appropriate, is hereby authorized and directed to submit recurring and final reports to the Congress on the national emergency declared in, and authorities exercised by, this order, consistent with section 401 of the NEA (50 U.S.C. 1641) and section 204(c) of IEEPA (50 U.S.C. 1703(c)).

Sec. 7. *Definitions.* For the purposes of this order:

(a) The term ''oil'' means crude oil or petroleum products.

(b) The term ''indirectly'' includes selling to or otherwise providing oil to Cuba through intermediaries or third countries, with knowledge that

such oil may be provided to Cuba, as determined by the Secretary of Commerce.

(c) The term ''Cuba'' means the territory of Cuba and any other territory or marine area, including the exclusive economic zone and continental shelf, over which the Government of Cuba claims sovereignty, sovereign rights, or jurisdiction, provided that the Government of Cuba exercises partial or total de facto control over the area or derives a benefit from economic activity in the area pursuant to international arrangements.

(d) The term ''Government of Cuba'' includes the Government of Cuba, any political subdivision, agency, or instrumentality thereof, and any person owned or controlled by, or acting for or on behalf of, the Government of Cuba.

Sec. 8. *Effective Date.* This order is effective at 12:01 a.m. eastern standard time on January 30, 2026.

Sec. 9. *Interaction With Other Presidential Actions.* Any provision of previous proclamations and Executive Orders that is inconsistent with the actions directed in this order is superseded to the extent of such inconsistency.

Sec. 10. *Severability.* If any provision of this order or the application of any provision of this order to any individual or circumstance is held to be invalid, the remainder of this order and the application of its provisions to any other individuals or circumstances shall not be affected. If the action in this order or any action taken pursuant to this order is held invalid, the other actions imposed to deal with the national emergencies declared with respect to the Government of Cuba shall not be affected and shall remain in effect.

Sec. 11. *General Provisions.* (a) Nothing in this order shall be construed to impair or otherwise affect:

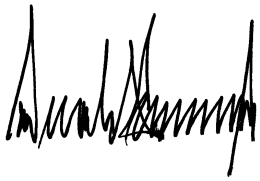
(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

(d) The costs for publication of this order shall be borne by the Department of State.



THE WHITE HOUSE,
January 29, 2026.

[FR Doc. 2026–02250
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Billing code 4710–05–P

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