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Contents

Federal Register

Vol. 91, No. 60

Monday, March 30, 2026

Agricultural Marketing Service
PROPOSED RULES
Softwood Lumber Board Assessment Rate Clarification and Changes to Membership, 15545–15551

Agriculture Department
See Agricultural Marketing Service
See Food and Nutrition Service
See Food Safety and Inspection Service
See National Agricultural Statistics Service

Bureau of Consumer Financial Protection
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 15604–15605

Census Bureau
RULES
Streamlining Foreign Trade Regulations, 15535–15536

Centers for Disease Control and Prevention
NOTICES
Hearings, Meetings, Proceedings, etc.:
Advisory Board on Radiation and Worker Health, National Institute for Occupational Safety and Health, 15620
Advisory Board on Radiation and Worker Health, Subcommittee for Procedure Reviews, National Institute for Occupational Safety and Health, 15619–15620

Children and Families Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Adoption and Foster Care Analysis and Reporting System, 15622
National Child Abuse and Neglect Data System, 15620–15622

Commerce Department
See Census Bureau
See Economic Analysis Bureau
See Industry and Security Bureau
See National Oceanic and Atmospheric Administration

Consumer Product Safety Commission
RULES
Safety Standard:
Portable Hook–on Chairs, 15536–15540

Copyright Royalty Board
RULES
Adjustment to Sound Recordings by New Subscription Services and Ephemeral Recordings to Facilitate Those Performances License 2026 Royalty Rates, 15543–15544

Defense Department
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Reporting Purchases from Sources Outside the United States, 15618–15619

Drug Enforcement Administration
NOTICES
Importer, Manufacturer or Bulk Manufacturer of Controlled Substances; Application, Registration, etc.:
Chemtos, LLC, 15636–15637
Pharmaron Manufacturing Services (US) LLC, 15637–15638
Usona Institute, 15637

Economic Analysis Bureau
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Direct Investment Surveys: Quarterly Survey of Foreign Direct Investment in the United States—Transactions of U.S. Affiliate with Foreign Parent, 15595–15596
Direct Investment Surveys: Survey of New Foreign Direct Investment in the United States, 15596

Education Department
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Federal Direct Loan Program Regulations for Forbearance and Loan Rehabilitation, 15605–15606
Financial Report for the Institutional Service Endowment Activities, 15607
Targeted Teacher Shortage Areas Data Collection, 15606–15607

Energy Department
See Federal Energy Regulatory Commission

Environmental Protection Agency
PROPOSED RULES
Reporting Deadline Extension for the Health and Safety Data Reporting Rule under Toxic Substance Control Act Section 8(d), 15582–15585

Export–Import Bank
NOTICES
Application:
Final Commitment for a Long-Term Loan or Financial Guarantee in Excess of 100 Million Dollars, 15610–15611

Farm Credit Administration
NOTICES
Meetings; Sunshine Act, 15611

Farm Credit System Insurance Corporation
NOTICES
Hearings, Meetings, Proceedings, etc.:
Board of Directors, 15611

Federal Aviation Administration
RULES
Airspace Designations and Reporting Points:
Teterboro, NJ, 15534–15535
PROPOSED RULES
Airworthiness Directives:
Airbus SAS Airplanes, 15569–15572

The Boeing Company Airplanes, 15566–15569
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Certified Training Centers—Simulator Rule, 15683–15684
Employee Assault Prevention and Response Plan, 15686
Helicopter Air Ambulance, Commercial Helicopter, and Part 91 Helicopter Operations, 15685–15686
Intent to Designate as Abandoned:
Air Mods N.W. Supplemental Type Certificates, 15684–15685

Federal Communications Commission
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals 15611–15614

Federal Energy Regulatory Commission
NOTICES
Combined Filings, 15607–15609
Environmental Assessments; Availability, etc.:
Algonquin Gas Transmission, LLC; Cape Cod Canal Pipeline Relocation Project, 15610

Federal Procurement Policy Office
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Reporting Purchases from Sources Outside the United States, 15618–15619

Federal Reserve System
NOTICES
Formations of, Acquisitions by, and Mergers of Bank Holding Companies, 15614–15615

Federal Trade Commission
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals 15615–15618

Financial Stability Oversight Council
PROPOSED RULES
Authority to Require Supervision and Regulation of Certain Nonbank Financial Companies, 15551–15566

Fiscal Service
RULES
Marketable Treasury Securities Redemption Operations, 15540–15543

Food and Drug Administration
PROPOSED RULES
Microbiology Devices:
Reclassification of Mycobacterium tuberculosis Cell-Mediated Immunity Tests and Immune Response Enzyme-Linked Immunospot Tests, 15572–15582
NOTICES
Guidance:
Incorporating Voluntary Patient Preference Information over the Total Product Life Cycle, 15622–15624

Food and Nutrition Service
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Senior Farmers' Market Nutrition Programs, 15591–15595

Food Safety and Inspection Service
NOTICES
Overtime and Holiday Inspection Fee Reductions for Small and Very Small Establishments, 15589–15591

General Services Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Reporting Purchases from Sources Outside the United States, 15618–15619

Health and Human Services Department
See Centers for Disease Control and Prevention
See Children and Families Administration
See Food and Drug Administration
See National Institutes of Health

Industry and Security Bureau
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Technology Letter of Explanation, 15597

Interior Department
See Land Management Bureau
See National Park Service

International Trade Commission
NOTICES
Investigations; Determinations, Modifications, and Rulings, etc.:
Certain Dental Burs and Kits Thereof, 15631–15632
Certain Electrolyte Containing Beverages and Labeling and Packaging Thereof (II), 15635–15636
Certain In-Vehicle Infotainment Systems, Components Thereof, and Products Containing the Same, 15631
Certain NAND and DRAM Memory Chips, 15634–15635
Certain TOPCon Solar Cells, Modules, Panels, Components Thereof, and Products Containing Same, 15632–15634

Justice Department
See Drug Enforcement Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Census of Prosecutor Offices, 15638–15639

Labor Department
See Occupational Safety and Health Administration
See Wage and Hour Division
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Asbestos in Shipyards Standard, 15639–15640

Land Management Bureau
NOTICES
Plats of Survey and Supplemental Plat:
New Mexico; Oklahoma, 15626

Library of Congress
See Copyright Royalty Board

Management and Budget Office
See Federal Procurement Policy Office

Maritime Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Capital Construction Fund and Exhibits, 15688
Eligibility of US-flag Vessels of 100 Feet or Greater in Registered Length to Obtain a Fishery Endorsement, 15689–15690
Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel:
M/V Riptide, 15688–15689
M/V Scout, 15687

National Aeronautics and Space Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Complaint of Discrimination, 15643–15644
Reporting Purchases from Sources Outside the United States, 15618–15619
Software Catalog, 15644–15645

National Agricultural Statistics Service
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 15595

National Highway Traffic Safety Administration
NOTICES
Denial of Motor Vehicle Defect Petition, 15690–15692

National Institutes of Health
NOTICES
Hearings, Meetings, Proceedings, etc.:
Center for Scientific Review, 15624–15625
National Institute on Minority Health and Health Disparities, 15625–15626

National Oceanic and Atmospheric Administration
PROPOSED RULES
Fisheries of the Northeastern United States:
Mid-Atlantic Blueline Tilefish and Golden Tilefish Fisheries; 2026 Specifications, 15585–15588
NOTICES
Hearings, Meetings, Proceedings, etc.:
Ocean Research Advisory Panel, 15598–15599
Request for Nominations:
Ocean Research Advisory Panel, 15604
Taking or Importing of Marine Mammals:
Furie Operating Alaska, LLC Natural Gas Activities in Cook Inlet, AK, 15599–15604
Washington State Parks and Recreation Commission s Marine Facilities Replacement Program in North Puget Sound, WA, 15597–15598

National Park Service
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Nomination of Properties for Listing in the National Register of Historic Places, 15630–15631
NPS Case and Outbreak Investigation Data Collections, 15626–15627
Snow coaches and Snowmobiles, Yellowstone National Park, 15627–15629
Using Web and Mobile-Based Apps During NPS Citizen Science Events, 15629

Nuclear Regulatory Commission
RULES
Categorical Exclusions from Environmental Review, 15519–15534
Risk-Informed, Technology-Inclusive Regulatory Framework for Advanced Reactors, 15696–15881
NOTICES
Meetings; Sunshine Act, 15645

Occupational Safety and Health Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Regulations Containing Procedures for the Handling of Retaliation Complaints, 15641–15642
Nationally Recognized Testing Laboratories:
UL LLC; Grant of Expansion of Recognition, 15640

Postal Regulatory Commission
NOTICES
New Postal Products, 15645–15646

Postal Service
NOTICES
Change in Rates of General Applicability for Competitive Products, 15646–15647
Meetings; Sunshine Act, 15646

Securities and Exchange Commission
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 15677–15678
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Ombudsman Matter Management System Form, 15654–15655
Application:
Lord Abbett Private Credit Fund, et al., 15682–15683
Multi-Class ETF Fund Exemptive Relief under the Investment Company Act, 15678–15681
Self-Regulatory Organizations; Proposed Rule Changes:
Cboe C2 Exchange, Inc., 15659–15663
Cboe Exchange, Inc. 15655–15659, 15663–15671
MIAX Sapphire, LLC, 15647–15654
Nasdaq Texas, LLC, 15681–15682
National Securities Clearing Corp., 15671–15677

Small Business Administration
NOTICES
Interest Rates, 15683

Transportation Department
See Federal Aviation Administration
See Maritime Administration
See National Highway Traffic Safety Administration

Treasury Department
See Fiscal Service

U.S. International Development Finance Corporation
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 15605

Unified Carrier Registration Plan
NOTICES
Meetings; Sunshine Act, 15692–15693

Veterans Affairs Department
NOTICES
Hearings, Meetings, Proceedings, etc.:
Advisory Committee on Former Prisoners of War, 15693

Wage and Hour Division
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
The Family and Medical Leave Act, 15642–15643

Separate Parts In This Issue

Part II
Nuclear Regulatory Commission, 15696–15881

Reader Aids
Consult the Reader Aids section at the end of this issue for phone numbers, online resources, finding aids, and notice of recently enacted public laws.

To subscribe to the Federal Register Table of Contents electronic mailing list, go to https://public.govdelivery.com/accounts/USGPOOFR/subscriber/new, enter your e-mail address, then follow the instructions to join, leave, or manage your subscription.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

7 CFR

Proposed Rules:

1217 15545

10 CFR

1 15696
2 15696
10 15696
11 15696
19 15696
20 15696
21 15696
25 15696
26 15696
30 15696
40 15696
50 15696
51 (2 documents) 15519, 15696
53 15696
70 15696
72 15696
73 15696
74 15696
75 15696
95 15696
140 15696
150 15696
170 15696
171 15696

12 CFR

Proposed Rules:

1310 15551

14 CFR

71 15534

Proposed Rules:

39 (2 documents) 15566, 15569

15 CFR

30 15535

16 CFR

1233 15536

21 CFR

Proposed Rules:

866 15572

31 CFR

375 15540

37 CFR

383 15543

40 CFR

Proposed Rules:

716 15582

50 CFR

Proposed Rules:

648 15585

Rules and Regulations

Federal Register
Vol. 91, No. 60
Monday, March 30, 2026

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NUCLEAR REGULATORY COMMISSION

10 CFR Part 51

[NRC–2018–0300]

RIN 3150–AK54

Categorical Exclusions From Environmental Review

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is amending its regulations for categorical exclusions for licensing, regulatory, and administrative actions that do not significantly affect the quality of the human environment. This final rule eliminates the need to prepare environmental assessments for such NRC actions. The final rule will not change any requirements for applicants or licensees.

DATES: This final rule is effective on April 29, 2026.

ADDRESSES: Please refer to Docket ID NRC–2018–0300 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* and search for Docket ID NRC–2018–0300. 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.
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FOR FURTHER INFORMATION CONTACT: Nancy Martinez, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 630–829–9734; email: *Nancy.Martinez@nrc.gov.*

SUPPLEMENTARY INFORMATION: This rulemaking is separate from NRC's comprehensive review and reform of its regulations in accordance with Executive Order (E.O.) 14300, ''Ordering the Reform of the Nuclear Regulatory Commission'' (90 FR 22587; May 29, 2025). The rulemakings associated with that effort will comprehensively reexamine NRC requirements. While there could be additional revisions as a result of these future rulemakings, the NRC is moving forward with publication of this final rule at this time because it is a deregulatory action of high interest for stakeholders that was in progress before the issuance of E.O. 14300.

Table of Contents

I. Background
A. General Overview of Categorical Exclusions
B. July 2024 Proposed Rule
C. Changes From Proposed Rule
II. Discussion of Changes
A. What action is the NRC taking?
B. How are categorical exclusions established and applied?
C. Who will this action affect?
D. Why is the NRC taking this action now?
E. How did the NRC determine which categorical exclusions to modify or add?
F. What are the revisions to address inefficiencies and inconsistencies?
G. What is the basis for the new categorical exclusions?
H. What is the basis for the revisions to existing categorical exclusions?
I. Why is the NRC removing categorical exclusions?
J. Why is the NRC defining the term previously disturbed areas?
III. Opportunities for Public Participation
IV. Public Comment Analysis
A. Comments and NRC Responses to Specific Questions on the Proposed Rule
B. General Comments and NRC Responses on the Proposed Rule
V. Discussion of Amendments by Section
VI. Regulatory Flexibility Certification
VII. Regulatory Analysis
VIII. Backfitting and Issue Finality
IX. Cumulative Effects of Regulation
X. Plain Writing
XI. Paperwork Reduction Act Statement
XII. Executive Orders
XIII. Congressional Review Act
XIV. Compatibility of Agreement State Regulations
XV. Voluntary Consensus Standards
XVI. Availability of Guidance
XVII. Availability of Documents

I. Background

The National Environmental Policy Act of 1969, as amended, (NEPA) requires Federal agencies to undertake an assessment of the environmental effects of certain of their proposed Federal actions prior to deciding whether to approve or disapprove the proposed actions. The Fiscal Responsibility Act of 2023 (FRA) amended NEPA to, among other things, expressly incorporate categorical exclusions, previously a matter of longstanding Council on Environmental Quality and agency practice, into the NEPA environmental review process. The NRC's NEPA implementing regulations are contained in part 51 of title 10 of the *Code of Federal Regulations* (10 CFR), ''Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions.''

A. General Overview of Categorical Exclusions

NEPA establishes three levels of environmental review for Federal proposed actions: categorical exclusions, environmental assessments (EAs), and environmental impact statements (EISs). If a Federal agency believes that the environmental impacts of a proposed action are not likely to be significant, or if the significance of the impacts are unknown, the agency may prepare an EA. An EA is a concise document that provides sufficient

evidence and analysis for determining whether to make a finding of no significant impact (FONSI) or to prepare an EIS. If a Federal agency believes that the environmental impacts of a proposed action may be significant (for example, because an EA did not result in a FONSI), the agency will prepare an EIS. An EIS is a detailed written statement of the environmental impacts of a proposed action and alternatives to the proposed action.

As defined by NEPA, a categorical exclusion is a category of actions that a Federal agency has determined normally does not significantly affect the quality of the human environment within the meaning of section 102(2)(C) of NEPA. Under the NRC's NEPA implementing regulations, *see* 10 CFR 51.14(a), 51.22(a), if the NRC finds that actions in a given category have no significant effect on the human environment, either individually or cumulatively then the NRC may establish a categorical exclusion for that category of actions. Once it has established a categorical exclusion, the NRC is not required to prepare an EA or EIS for any action that falls within the scope of the categorical exclusion unless the NRC finds, for any particular action, special circumstances, *see* 10 CFR 51.22(b), that would preclude use of the categorical exclusion. Categorical exclusions facilitate efficient and effective reviews in accordance with Congress's intent. The determination that special circumstances are not present does not require the preparation of any specific or additional documentation beyond the documentation normally prepared indicating that the categorical exclusion is being invoked for the proposed action.

On March 12, 1984 (49 FR 9352), the NRC published 10 CFR part 51, including § 51.22, ''Criterion for categorical exclusion: identification of licensing and regulatory actions eligible for categorical exclusion or otherwise not requiring environmental review.'' The regulation included the NRC's first list of 18 categorical exclusions in § 51.22(c). Since 1984, the NRC has made 18 amendments to the categorical exclusions in § 51.22(c). The NRC's categorical exclusions include administrative, organizational, and procedural amendments to certain types of NRC regulations, licenses, and certificates; minor changes related to application filing procedures; certain personnel and procurement activities; and activities for which environmental review by the NRC is excluded by statute. The NRC last amended its categorical exclusion regulations on April 29, 2010 (75 FR 20248).

The NRC published an advance notice of proposed rulemaking (ANPR) on May 7, 2021 (86 FR 24514), after a review of the NRC's environmental programs and organization identified potential opportunities to enhance the NRC's environmental review process for more efficient and effective reviews. In the ANPR the staff raised the possibility of reorganizing the existing categorical exclusions and adding new categorical exclusions. The NRC received more than 2,300 comment submittals on the ANPR; most were identical comments on topics that the NRC determined were out of scope. The NRC evaluated approximately 20 unique comment submittals and considered them during the development of the proposed rule. Some of the comments supported reorganizing the list of categorical exclusions to eliminate redundancy and add clarity. Additionally, some comments supported revisions to eliminate distinctions in categorical exclusions between license amendments, exemptions, rulemaking, and other forms of NRC actions to ensure that categorical exclusions are based on the activities that would be authorized rather than the administrative and legal differences between the different forms of NRC approvals.

The NRC received comments that did not support some of the categories considered in the ANPR. Based on these comments, the NRC modified some of the changes under consideration; for example, the NRC did not pursue categorical exclusions for the four following categories of actions considered in the ANPR: (1) the issuance of exemptions to low-level waste disposal sites for the storage and disposal of special nuclear material regulated by Agreement States; (2) approvals for alternative waste disposal procedures for reactor and materials licenses in accordance with 10 CFR 20.2002, ''Method for obtaining approval of proposed disposal procedures''; (3) the NRC's concurrence, under the Atomic Energy Act of 1954, as amended (AEA), section 274c., on termination by an Agreement State of licenses for AEA section 11e.(2) byproduct material where all decommissioning activities have been completed; and (4) approvals of long-term surveillance plans for decommissioned uranium mills.

In addition, based on a comment received on the ANPR, the NRC evaluated categorical exclusions by other Federal agencies for potential adoption by the NRC. This evaluation did not identify any categorical exclusions for incorporation in the proposed rule. Comments submitted on the ANPR can be found on *https://www.regulations.gov* by searching for ''Docket ID NRC–2018–0300.''

B. July 2024 Proposed Rule

The NRC published a proposed rule in the **Federal Register** on July 2, 2024 (89 FR 54727). The proposed rule identified the NRC's proposed changes to its list of categorical exclusions to clarify the scope of existing categories, to improve consistency in their application, and to add new categories of actions that have no significant effect on the human environment. The proposed amendments would ensure resources are directed to activities that have the potential to significantly affect the environment.

The amendments do not impose any new requirements on NRC applicants or licensees but ensure that NRC actions (including decisions on licensing requests) are completed in a more consistent, efficient, and effective manner and result in cost savings to the NRC and applicants and licensees, when applicable. The amendments eliminate the NRC's preparation of EA/FONSIs for many routine actions and actions that have no significant effect on the human environment (*e.g.,* licensee requests for approval of minor administrative, procedural, or organizational changes).

The NRC held a public meeting on July 31, 2024, to provide an overview of these changes and to help facilitate comments on the proposed rule. The NRC received nine comment submittals on the proposed rule, resulting in approximately 37 unique comments that the staff considered in the development of the final rule.

C. Changes From Proposed Rule

In the proposed rule, the NRC explained that it was considering defining the phrase ''previously disturbed areas'' and requested input from the public on a possible definition. That definition was based on the definition of ''previously disturbed or developed'' in the Department of Energy's NEPA implementing regulations in 10 CFR 1021.410(g)(1). In the final rule, the NRC included the definition of previously disturbed areas with revisions to enable its application to a broader range of NRC actions than DOE's definition is used for, to focus on important habitats and habitat to important species of concern, to provide clarity about the extent of previous disturbances to address comments received about historical and cultural

resources, and for plain language. The NRC is defining the phrase ''previously disturbed areas'' to refer to areas that have been changed by development of the facility and remain altered by human activity such that they do not support important habitat or habitat to important species and no longer have the potential to yield historic and cultural resources. This includes the lateral and vertical extent of alteration from natural cover to a managed state. Important habitat includes wetlands, large contiguous tracts of habitat, scrub shrub habitat, and critical habitat as defined under the Endangered Species Act. Important species include State-listed species and species listed under the Endangered Species Act.

The focus on important habitats and important species is based on previous NRC environmental reviews. NRC staff reviewed previous environmental reviews to determine when ground disturbance has resulted in a significance level of MODERATE (the effect is sufficient to alter noticeably, but not destabilize, important attributes of the resource) or greater. NRC environmental reviews indicate that MODERATE or greater impacts occurred when there were significant impacts to habitat for State- or Endangered Species Act-listed species or to habitats that are considered particularly important for other reasons, such as wetlands, large contiguous tracts of habitat, and scrub shrub habitats, which may be sensitive to disturbance or important to preserve (*e.g.,* because there are no or few other large contiguous tracts of habitat remaining in the area). No further substantial changes were made between the proposed rule and this final rule.

II. Discussion of Changes

A. What action is the NRC taking?

The NRC is changing its list of categorical exclusions to enhance the efficiency of its environmental reviews by clarifying the scope of existing categories, to improve consistency in their application, and adding new categories of actions that have no significant effect on the human environment. For example, the NRC is eliminating distinctions in categorical exclusions between license amendments, exemptions, rulemaking, and other forms of NRC actions to ensure that categorical exclusions are based on the activities that would be authorized (*e.g.,* certain maintenance activities) rather than on the different forms of the NRC approvals. The amendments will ensure resources are directed to activities that have the potential to significantly affect the environment. In addition, the NRC is updating references to paragraphs of NEPA that were renumbered by recent amendments in the FRA; the NRC finds for good cause pursuant to the Administrative Procedure Act at 5 U.S.C. 553(b)(B) that an opportunity for comment on these updates is unnecessary because they are mere technical amendments to correct existing references to statutory requirements.

B. How are categorical exclusions established and applied?

If the NRC finds that actions in a given category have no significant effect on the human environment, either individually or cumulatively, *see* 10 CFR 51.14(a), 51.22(a), then the NRC may establish a categorical exclusion for that category of action. Once established, categorical exclusions are an efficient level of the NEPA environmental review process for actions that do not require an environmental assessment or environmental impact statement. The NRC establishes and revises categorical exclusions pursuant to a rulemaking, for defined classes of actions that the NRC determines are supported by a record showing that the actions do not have significant environmental impacts, individually or cumulatively, *see* 10 CFR 51.14(a), 51.22(a). Once it has established a categorical exclusion, the NRC is not required to prepare an EA or EIS for any action that falls within the scope of the categorical exclusion unless the NRC finds, for any particular action, that there are special circumstances that indicate the action may have a significant effect on the human environment. If such special circumstances are present or are likely to be present, the NRC may prepare an EA (which may result in a FONSI) or, if necessary, an EIS. *See* 10 CFR 51.20(b)(14), 51.22(b). If special circumstances are not present, the categorical exclusion may be applied, and the NRC will have satisfied its NEPA obligation for that proposed action.

Under 10 CFR 51.22, the determination of whether special circumstances are present is a matter of agency discretion. The determination that special circumstances are not present does not require the preparation of any specific or additional documentation beyond the documentation normally prepared to indicate that the proposed action falls under a categorical exclusion.

C. Who will this action affect?

The amendments will not impose any new requirements on NRC applicants or licensees but will ensure that NRC actions (including decisions on licensing requests) are completed in a more consistent, efficient, and effective manner and will result in cost savings to the NRC and applicants and licensees. The amendments will eliminate the NRC's preparation of EA/FONSIs for actions that the NRC knows from staff expertise or experience have no significant effect on the human environment (*e.g.,* licensee requests for approval of minor administrative, procedural, or organizational changes).

D. Why is the NRC taking this action now?

This rule is based upon a review of NRC regulatory actions that identified potential revisions to the NRC's categorical exclusions that could ensure resources are directed to activities that have the potential to significantly affect the environment.

E. How did the NRC determine which categorical exclusions to modify or add?

The NRC reviewed and analyzed past actions, including their supporting NEPA documentation, to develop initial candidates for potential changes to categorical exclusion regulations. The NRC considered available information and agency experience to determine whether the candidates for categorical exclusion and revisions to the existing categorical exclusions could be substantiated. The NRC then solicited input from internal stakeholders and from the public.

The NRC ultimately used two methods to substantiate the proposed changes. The methods used in the NRC's proposal are based on (1) data from implementing comparable past actions and the expert judgment of the NRC staff who conducted the past actions, and (2) professional opinions and information from other NRC staff. Based on its review of all the information collected, the NRC determined that actions covered by the changes will not individually or cumulatively have significant effects on the human environment. *See* 10 CFR 51.14(a), 51.22(a).

F. What are the revisions to address inefficiencies and inconsistencies?

The NRC is reorganizing the list of categorical exclusions to eliminate redundancy, add clarity, and improve consistency and efficiency. The former regulations contained 25 separate paragraphs, several of which contained multiple categorical exclusions. The

NRC identified several actions where staff have cited different, potentially overlapping, categorical exclusions for similar or even identical actions. The reorganization eliminates distinctions in categorical exclusions among license amendments, exemptions, rulemaking, and other forms of NRC actions to ensure that categorical exclusions are based on the activities that will be authorized rather than the administrative and legal differences among the different forms of NRC approvals. The reorganization removes the overlapping actions and consolidates similar actions into one categorical exclusion.

The reorganization lists the categorical exclusions in paragraphs (a) through (d), based on threshold criteria used to more clearly and consistently identify the categories of actions being excluded.

The NRC is removing the ''no significant hazards consideration'' criterion. The ''no significant hazards consideration'' criterion is a procedural standard from § 50.92, ''Issuance of amendment,'' that governs whether an opportunity for a hearing must be provided before a license amendment action is taken by the NRC for a production and utilization facility under part 50 (51 FR 7746; March 6, 1986). It is not related to NEPA and not applicable to exemptions that do not include license amendments or actions related to materials licenses (*e.g.,* 10 CFR part 30, ''Rules of General Applicability to Domestic Licensing of Byproduct Material,'' or 10 CFR part 40, ''Domestic Licensing of Source Material,'' licenses).

In addition, the ''no significant construction impact'' criterion is revised in the new § 51.22(b) and (d) to ''provide that any ground disturbance is limited to previously disturbed areas.'' The purpose of this change is to provide clarification. The regulatory history indicates that the ''no significant construction impact'' criterion was intended to preclude actions that would result in ground disturbing activities in undisturbed areas, which would have the potential to alter, modify, or destroy important attributes of environmental resource areas (*e.g.,* land use, terrestrial ecology, historic and cultural resources). Based on experience with the use of these categorical exclusions, the NRC's view is that it will be clearer to explicitly state the relevant consideration in the regulations. The ''any ground disturbance is limited to previously disturbed areas'' criterion can be demonstrated by determining that the proposed action will not consist of ground disturbing activities at all or documentation (*e.g.,* surveys) confirming that there are no important habitats, important species, or historic and cultural resources in the areas where ground disturbance will occur.

G. What is the basis for the new categorical exclusions?

The NRC is adding the following categorical exclusions.

Issuance of amendments to § 72.214 for new, amended, revised, or renewed certificates of compliance for cask designs used for spent fuel storage. The codification of certificates of compliance for cask designs is accomplished by rulemaking to amend 10 CFR part 72. The NRC conducts a safety review for each rulemaking action to issue, amend, or renew a certificate of compliance. As background, on July 18,1990 (55 FR 29181), the NRC issued an amendment to 10 CFR part 72 to provide for the storage of spent fuel under a general license in cask designs approved by the NRC. The potential environmental impact of using NRC-approved storage casks was initially analyzed in the EA for the 1990 final rule. Currently, the NRC prepares EAs for new, amended, revised, and renewed certificates of compliance for cask designs used for spent fuel storage. Between the 2010 rulemaking and 2021 the NRC completed approximately 125 EAs for amendments to § 72.214 for new, amended, revised, or renewed certificates of compliance for cask designs, all resulting in FONSIs. No amendments to § 72.214 resulted in the need to prepare an EIS. Accordingly, the NRC determined that certificate of compliance cask design changes do not result in any radiological or non-radiological environmental impacts that differ substantially from the environmental impacts evaluated in the EA and FONSI supporting the 1990 final rule. Therefore, the NRC concluded that codifying certificates of compliance for cask designs do not individually or cumulatively affect the human environment, *see* 10 CFR 51.14(a), 51.22(a). This categorical exclusion is § 51.22(a)(12).

Actions under § 50.55a, ''Codes and standards.'' Section 50.55a establishes minimum quality standards for the design, fabrication, erection, construction, testing, and inspection of certain systems, structures, and components of boiling and pressurized water-cooled nuclear power plants. Under § 50.55a, the NRC can authorize proposed alternatives to these standards (§ 50.55a(z)), grant relief from or impose augments to requirements for in service inspection and testing of components due to impracticality (§ 50.55a(f)(6)(i) and (g)(6)(i)), or approve the early use of later code editions for inservice inspection and testing of components (§ 50.55a(f)(4)(iv) and (g)(4)(iv)). Categorically excluding these actions will provide clarity and surety for future actions of this type. For the following reasons, these approvals under § 50.55a do not individually or cumulatively have a significant effect on the human environment, which makes these actions eligible for categorical exclusion. Approvals under § 50.55a do not authorize new ground disturbance or the installation of new systems, structures, or components; rather, they relate to requirements for the design, construction, and maintenance of systems, structures and components authorized for use by other actions (*i.e.,* licensing). These approvals also do not increase the probability or consequences of accidents, do not result in changes to the types or amounts of effluents released offsite, do not result in an increase to occupational or public dose, and do not result in other radiological or nonradiological environmental impacts. Therefore, the NRC concludes that actions under § 50.55a do not individually or cumulatively affect the human environment. This categorical exclusion is § 51.22(a)(16).

Changes to requirements for fire protection, emergency planning, physical security, cybersecurity, or quality assurance. Between the 2010 rulemaking and 2021, the NRC completed approximately 51 EAs/FONSIs associated with the approval of exemptions or license amendments related to fire protection, emergency planning, or physical security requirements. The EAs concluded that these license amendments or exemptions will not significantly increase the probability or consequences of accidents and do not result in significant changes to the types or amounts of effluents released offsite, increases to occupational or public dose, or any other radiological or non-radiological environmental impacts. Although some of these actions include ground disturbing activities, such as construction of security fences, because the ground disturbing activities were limited to previously disturbed areas (as defined in this rule), none of the actions resulted in significant environmental effects under NEPA. Therefore, the NRC concluded that these changes to requirements for fire protection, emergency planning, or physical security do not individually or cumulatively have a significant effect on the human environment, provided that

any associated ground disturbance is limited to previously disturbed areas.

Quality assurance programs are intended to provide adequate confidence that a structure, system, or component will perform satisfactorily in service. Elements of a quality assurance program include procedures, recordkeeping, inspections, corrective actions, and audits. Cybersecurity programs protect computer and digital communication systems and networks against cyber-attacks. These programs ensure that actions associated with structures, systems, and components will satisfy stated performance criteria. Changes to quality assurance programs or cybersecurity programs could affect activities that occur inside buildings. These changes do not significantly increase the probability or consequences of accidents and do not result in significant changes to the types or amounts of effluents released offsite, increases to occupational or public dose, or any other radiological or non-radiological impacts and do not involve ground disturbance in undisturbed areas. Therefore, changes to requirements for quality assurance or cybersecurity do not have the potential to individually or cumulatively affect the human environment. These actions will be categorically excluded by § 51.22(d)(4).

Changes to extend implementation dates for activities previously found to not have a significant environmental impact. These revisions will categorically exclude actions authorizing licensees to delay implementation of certain new NRC requirements. This categorical exclusion only applies to implementation date delays for activities previously found to have no significant environmental impact and where the delay will result in no significant increase in the potential for or consequences from radiological accidents, no ground disturbance in undisturbed areas, no changes in effluents released offsite, and no additional doses to individuals. The categorical exclusion does not apply to authorizations for other date extensions, such as license term extensions. Between the 2010 rulemaking and 2021, the NRC completed approximately 44 EAs to extend implementation dates, all resulting in FONSIs. Therefore, the NRC determined that implementation date extensions do not have the potential to individually or cumulatively have a significant effect on the human environment. These actions will be categorically excluded by § 51.22(d)(6).

In addition, and as discussed in more detail below relating to a reorganization of categorical exclusions, the NRC is establishing a new categorical exclusion for actions that are administrative, procedural, or solely financial in nature and has identified the following two examples of actions that are included in this category that will be specifically stated in the rule for the first time:

Termination of licenses that were issued but for which no construction activities have begun or where all decommissioning activities have been completed and approved and license termination is a final administrative step. First, the termination of licenses that were issued but for which no construction has begun removes authorization for activities that could affect the environment. Second, when all site decommissioning activities have been approved and completed, license termination is an NRC administrative action. To be eligible for license termination, facilities must complete necessary dismantlement and decontamination activities and have met radiological criteria in 10 CFR part 20, ''Standards for Protection Against Radiation,'' for site release and demonstrated that public health and safety and the environment will be protected. Therefore, the action of terminating a license after all site decommissioning activities have been approved and completed is administrative in nature and does not have the potential to individually or cumulatively have a significant effect on the human environment. The NRC has historically cited various other categorical exclusions or prepared an EA for these activities. The inclusion of this example in § 51.22(a)(1)(xiii) will provide clarity and consistency for future license terminations. This categorical exclusion will not include the NRC's concurrence on termination of an Agreement State license for AEA § 11e.(2) byproduct material. It will also not include partial site releases or license termination plans.

Actions on or changes to requirements for decommissioning funding. Decommissioning funding actions only relate to changes in the management of funds allowed for managing decommissioning activities. They do not authorize new land-disturbing activities that could affect land use, soils and geology, water resources, ecological resources, historic and cultural resources, air quality, traffic and transportation, socioeconomics, or accidents. Categorically excluding decommissioning funding actions will provide clarity and surety for future actions and eliminate inconsistencies in the decommissioning funding approval process. Licensees will continue to comply with all appropriate NRC regulations related to occupational and public radiation exposure and therefore decommissioning funding actions will not result in an increase to occupational or public doses. Finally, licensees are required to maintain adequate funding for radiological decommissioning and to provide information regarding this funding to the NRC. Between 2010 and 2021 the NRC completed approximately 30 EAs for decommissioning funding actions, all resulting in FONSIs. Therefore, the NRC determined that decommissioning funding actions are strictly financial in nature and do not have the potential to individually or cumulatively have a significant effect on the human environment. These actions are listed in § 51.22(a)(1)(xii) as examples of actions that are administrative, procedural, or solely financial in nature.

H. What is the basis for the revisions to existing categorical exclusions?

The NRC is reorganizing the list of categorical exclusions to eliminate redundancy, add clarity, and improve consistency. The reorganization will eliminate distinctions in categorical exclusions among license amendments, exemptions, rulemaking, and other forms of NRC actions, to ensure that categorical exclusions are based on the activities that will be authorized rather than the administrative and legal differences among the different forms of NRC approvals. The reorganization will consolidate similar actions into one categorical exclusion. In some instances, the revisions will expand or clarify language used in the existing categorical exclusions (*e.g.,* focusing on ground disturbance rather than on whether there will be a ''significant construction impact''). In these cases, the rulemaking analyzes these newly included actions for suitability for categorical exclusion but does not revisit the suitability of the existing categorical exclusion. The NRC also made a small number of editorial revisions. This section provides the basis for the revisions.

The new categorical exclusion in § 51.22(a)(1) applies to all NRC actions that are administrative, procedural, or solely financial in nature including exemptions and orders pertaining to these actions. The list of activities in §§ 51.22(a)(1)(i) through (xi) consolidates all existing categorical exclusions that fit into the new category, but the list is not exclusive; rather it provides examples of actions that are included in the category for clarity. The actions included in § 51.22(a)(1) are limited to those that are administrative, procedural, or solely financial in nature. The NRC notes that actions that are

''solely financial in nature'' do not include, for example, grants or contracts that enable activities that could have environmental effects where NRC ''exercise[s] sufficient control and responsibility over the subsequent use of such financial assistance or the effect of the action,'' NEPA § 111(10)(B)(iii). Instead, this refers to activities that relate only to sources or means of funding or verifying that adequate funding is available for approved activities. Actions that are solely financial in nature affect the financial arrangements of the licensees, but do not have environmental impacts. Accordingly, the NRC concluded that these actions will not individually or cumulatively have a significant effect on the human environment.

The new § 51.22(a)(8) will expand the categorical exclusion for issuance, amendment, or renewal of operators' licenses under 10 CFR part 55, ''Operators' Licenses'' to include all forms of related NRC actions, including exemptions and orders. Part 55 of 10 CFR prohibits persons from performing the functions of an operator or a senior operator at a licensed facility unless authorized to do so by a license issued by the Commission. Although issuance or denial of an operator's license may have an economic effect on the individual applicant, the action of the Commission in issuing, amending, or renewing an operator's license in accordance with the procedures of 10 CFR part 55 does not have a significant environmental effect. The environmental impact of the operation of a licensed facility by a licensed operator is considered in the EIS or EA prepared in connection with the licensing action authorizing operation of the facility. The formal action of certifying an operator does not authorize facility operation. Accordingly, the NRC finds that issuance, amendment, or renewal of operators' licenses under 10 CFR part 55 comprises a category of actions that do not individually or cumulatively have a significant effect on the human environment, *see* 10 CFR 51.14(a), 51.22(a). For the same reasons, the NRC concluded that neither exemptions nor orders relating to these requirements will have significant effects on the human environment.

The new § 51.22(a)(10) will expand an existing categorical exclusion to include all forms of related NRC actions, including exemptions and orders, but not rulemakings. Specifically, it will expand the categorical exclusions for issuance, amendment, or renewal of materials licenses issued under 10 CFR parts 30, 31, 32, 33, 34, 35, 36, 39, 40, or 70 authorizing the types of activities listed in the former § 51.22(c)(14). It has been the NRC's experience that additional NRC actions such as exemptions and orders involve insignificant amounts of source, byproduct, or special nuclear material in quantities and form similar to those categorically excluded in § 51.22(c)(14) and, therefore, have no significant individual or cumulative environmental impact. For the same reasons, the NRC concluded that neither exemptions nor orders relating to these requirements will not individually or cumulatively have significant effects on the human environment.

The new § 51.22(b) and (d) include a criterion stating that the actions will not result in disturbances to previously undisturbed areas. This wording replaces the previous wording of ''no significant construction impact.'' The purpose of this new wording is to clarify that ground disturbance in areas that are already disturbed can be a factor in determining whether an action will have potential impacts. Actions that involve ground disturbance in areas not already disturbed will be reviewed for potential environmental impacts. The new § 51.22(b) is otherwise substantively unchanged from the former § 51.22(c)(6).

The new § 51.22(d)(1) through (3), and (5) will expand the following categorical exclusions to include rulemaking, orders, and license amendments, provided the actions will not disturb previously undisturbed areas, will not result in a significant change in the types or amounts of effluents released offsite, will not significantly increase public or occupational radiation exposure, and will not increase the potential for or consequences from radiological accidents:

- Changes to inspection or surveillance requirements (new § 51.22(d)(1)): this will also be expanded to apply to facilities other than reactors (*i.e.,* will eliminate reference to 10 CFR part 50 or 52). Expanding this categorical exclusion to include facilities other than reactors improves the consistency of the categorical exclusion. The NRC expects that the application of this categorical exclusion to non-reactor facilities will not be materially different from the former application to reactor facilities because the activities are substantially similar at all NRC licensed facilities;
- Changes to equipment servicing or maintenance requirements (new § 51.22(d)(2));
- Changes to safeguards plans or material control and accounting inventory requirements, including modifications to systems used for security and/or materials accountability (new § 51.22(d)(3)); and
- Changes to scheduling requirements (new § 51.22(d)(5)).

In addition to exemptions, the NRC conveys its regulatory decisions using other forms, such as rulemaking, orders, and license amendments. The NRC previously found that requests for exemptions from requirements for inspection and surveillance, equipment servicing and maintenance, safeguards plans and material control and accounting, and scheduling requirements will not lead to significant environmental impacts on the human environment. Similarly, the NRC concluded that changes to these requirements resulting from rulemakings, orders, and license amendments, assuming the changes meet the criteria in the new § 51.22(d), will not have significant individual or cumulative effects on the human environment.

The new § 51.22(d)(7) will expand an existing categorical exclusion, former § 51.22(c)(11), to include exemptions, orders, and rulemaking. Specifically, former § 51.22(c)(11) is a categorical exclusion for amendments to licenses for fuel cycle plants and radioactive waste disposal sites and amendments to materials licenses identified in § 51.60(b)(1) that are administrative, organizational, or procedural in nature, or that result in a change in process operations or equipment, provided that there is no significant change in the types or significant increase in the amounts of any effluents released offsite, no significant increase in individual or cumulative public or occupational radiation exposure, no significant construction impact, and no significant increase in the potential for or consequences from radiological accidents. In the NRC's experience, these actions also do not result in any significant adverse impacts to the environment. Implementation of these minor and routine types of changes do not substantially alter the previously evaluated environmental impacts associated with the licensed activity, considering the potential for ground disturbance, types and amounts of effluents released by the operation, occupational exposure to employees, or potential accidents. The actions that will be categorically excluded do not affect the scope or nature of the licensed activity. Therefore, the issuance of exemptions and orders relating to these matters in and of themselves will not cause any significant individual or cumulative environmental effects.

The new § 51.22(d)(7) relating to authorizations that result in changes in

process operations or equipment under certain licenses, will be subject to the criterion in § 51.22(d) stating that the actions will not result in disturbances to previously undisturbed ground. This wording replaces the limitation in the former categorical exclusion (at § 51.22(c)(11)) to activities that involve ''no significant construction impact.'' The purpose of this new wording is to clarify that ground disturbance is a factor in determining whether an action will have potential impacts. The NRC has found that ground disturbance actions in undisturbed areas could have potential impacts that should be evaluated in an environmental assessment. These environmental assessments can vary, as some undisturbed areas can be environmentally sensitive to even small actions.

The new § 51.22(d)(8), relating to certain authorizations under 10 CFR part 50 or 52, will expand the existing categorical exclusion in the former § 51.22(c)(9) to include rulemakings and orders. Specifically, it will expand the existing categorical exclusion for the issuance of an amendment to a permit or license for a reactor under 10 CFR part 50 or 52 that changes a requirement or issuance of an exemption from a requirement with respect to installation or use of a facility component. The rule will also expand this categorical exclusion to include installation or use of a facility component outside the restricted area under certain circumstances.

The new § 51.22(d)(8) will be subject to the criterion in § 51.22(d) stating that the actions will not result in disturbances to previously undisturbed areas. This criterion will replace the restriction of the former categorical exclusion (at § 51.22(c)(9)) to facility components located within the restricted area. Restricting this categorical exclusion to components in the restricted area ensured that ground disturbance was limited to previously disturbed areas, which was part of the basis for the former categorical exclusion. Thus, this revision will continue to ensure that the categorical exclusion does not apply to activities that include ground disturbance in areas not already disturbed. As a result, this categorical exclusion will apply whether a facility component is located inside or outside the restricted area but only so long as installation or use of the component will not disturb previously undisturbed areas (and meets the other criteria in § 51.22(d)).

I. Why is the NRC removing categorical exclusions?

The NRC evaluated all categorical exclusions to determine if any are no longer necessary or have proven to no longer meet the criteria for categorical exclusion. The NRC determined that two categorical exclusions are no longer necessary because they are obsolete. The remaining categorical exclusions continue to be valid. The NRC is removing the former § 51.22(c)(17), ''Issuance of an amendment to a permit or license under 10 CFR part 30, 40, 50, 52, or 70, which removes any limiting condition of operation or monitoring requirement based on or applicable to any matter subject to the provisions of the Federal Water Pollution Control Act.'' The NRC concluded its activity to amend applicable NRC licenses and permits to remove limiting conditions of operation or monitoring requirements pertaining to nonradiological discharge pollutants under the Federal Water Pollution Control Act and no longer includes such conditions in NRC permits and licenses (49 FR 9380; March 12, 1984). Therefore, the NRC has determined that this categorical exclusion is no longer necessary.

The NRC is also removing former § 51.22(c)(18), ''Issuance of amendments or orders authorizing licensees of production or utilization facilities to resume operation, provided the basis for the authorization rests solely on a determination or redetermination by the Commission that applicable emergency planning requirements are met.'' This categorical exclusion was established in 1984 (49 FR 9352; March 12, 1984) to support the implementation of a 1980 emergency planning rule (45 FR 55402; August 19, 1980). That emergency planning rule has been fully implemented; therefore, the NRC has determined that this categorical exclusion is no longer applicable and should be removed.

J. Why is the NRC defining the term previously disturbed areas?

The NRC is defining the phrase ''previously disturbed areas'' to refer to areas that have been changed by development of the facility and remain altered by human activity such that they do not support important habitat or habitat to important species and no longer have the potential to yield historic and cultural resources. This includes the lateral and vertical extent of alteration from natural cover to a managed state. This definition is based on the definition of ''previously disturbed or developed'' in the Department of Energy's (DOE's) NEPA implementing regulations in 10 CFR 1021. The definition includes modifications to enable its application to a broader range of NRC actions than DOE's definition is used for, for plain language, and to provide clarity about the extent of previous disturbances to address comments received about historical and cultural resources. Important habitats include wetlands, large contiguous tracts of habitat, scrub shrub habitat, and critical habitat as defined under the Endangered Species Act. Important species include State-listed species and species listed under the Endangered Species Act.

The NRC's reassessment of the previous language of ''no significant construction impact'' concluded that the new wording ''any ground disturbance is limited to previously disturbed areas'' clarifies that ground disturbance can be a factor in determining whether an action would have potential impacts. The criterion ''any ground disturbance is limited to previously disturbed areas'' is appropriate in a categorical exclusion because it clearly and explicitly states the relevant consideration in the regulations.

III. Opportunities for Public Participation

The NRC published an advance notice of proposed rulemaking (ANPR) in the **Federal Register** on May 7, 2021 (86 FR 24514). The NRC held a meeting on June 16, 2021, to help facilitate comments on the ANPR. The ANPR identified potential new categorical exclusions, areas where existing categories could be clarified, and inconsistencies among existing excluded categories. Comments received as a result of the ANPR can be found at *https://www.regulations.gov,* under Docket ID NRC–2018–0300.

The NRC published a proposed rule in the **Federal Register** on July 2, 2024 (89 FR 54727). The NRC held a public meeting on July 31, 2024, where the NRC provided background on the proposed changes. Comments received on the proposed rule can be found at *https://www.regulations.gov,* under Docket ID NRC–2018–0300.

IV. Public Comment Analysis

The public comment period for the proposed rule closed on September 16, 2024. In the proposed rule, the NRC requested comments regarding the proposed requirements. The NRC received nine comment submittals which included 37 unique comments. The public comment submissions are available from the Federal e-Rulemaking website at *https://www.regulations.gov* under Docket ID NRC–2018–0300.

This analysis addresses the three specific questions included in the request for comment on the proposed rule. This analysis also addresses general comments, which have been binned into four categories based on their relevance to particular topics.

A. Comments and NRC Responses To Specific Questions on the Proposed Rule

In Section IV of the **SUPPLEMENTARY INFORMATION** for the proposed rule, the NRC solicited comments on three specific questions. In the next paragraphs, these questions are restated, comments received from stakeholders are summarized, and the NRC's responses to the public comments are presented.

Question 1: The categorical exclusions in proposed § 51.22(b) (related to confirmatory research and review and approval of transportation routes under § 73.3) and (d) (addressing nine different types of actions) will require the application of threshold criteria to determine whether the actions listed in those sections may be categorically excluded. The threshold criteria used in current § 51.22 include ''no significant construction impact.'' The NRC is proposing to substitute the phrase ''any ground disturbance is limited to previously disturbed areas'' for ''no significant construction impact.'' The purpose of this change is to prevent the categorical exclusion of actions that would disturb previously undisturbed land, which have the potential to affect historic or cultural resources, and actions that would disturb areas that are in or have been allowed to return to a natural state, which have the potential to affect functioning ecologies. The NRC requested input on the proposed phrase ''any ground disturbance is limited to previously disturbed areas.''

Comments Summary: Commenters indicated that changing the rule language from ''no significant construction impact'' to the new criterion of ''any ground disturbance is limited to previously disturbed areas'' may be overly restrictive or reduce agency efficiency. One commenter indicated that the proposed language change represents a shift from a more performance-based standard, which evaluated the actual environmental impact of the project, to one that focuses more on the history of the land's disturbance. That commenter stated that the language ''no significant construction impact'' should not be removed strictly due to interpretation concerns and that projects in undisturbed areas may have minimal or no environmental impacts and should still qualify for a categorical exclusion. Another commenter indicated that the rule should include language that permits use of context-specific, performance-based language rather than prescriptively limiting all potential ground disturbance to ''previously disturbed areas.''

One commenter suggested that the NRC should retain the flexibility to apply categorical exclusions to actions that may involve limited ground-disturbing or other physical activities on undisturbed or undeveloped sites, provided those activities do not destabilize or noticeably alter any important attribute of the relevant environmental resources.

Several commenters indicated a preference for including both the previous language of ''no significant construction impact'' in addition to the proposed language of ''any ground disturbance is limited to previously disturbed areas'' in the rule language because such inclusion can ensure that low-risk, low-impact projects are not unnecessarily delayed while safeguarding against potential harm to both previously disturbed and undisturbed lands, allowing for a more nuanced assessment of categorical exclusions and project impacts.

One commenter suggested using the new criterion ''any ground disturbance is limited to previously disturbed areas'' with ''or the effects of any ground disturbances are not detectable or so minor that they will neither destabilize nor noticeably alter any important attribute of an environmental resource.''

Response: The NRC disagrees with these comments. The purpose for this change is to provide clarification. This new wording clarifies that ground disturbance is a factor in determining whether an action would have potential impacts. The regulatory history indicates that the ''no significant construction'' impact criterion was intended to preclude actions that would result in ground disturbing activities in undisturbed areas because the actions would have the potential to alter, modify, or destroy important attributes of environmental resource areas (*e.g.,* land use, terrestrial ecology, historic and cultural resources). The NRC believes this change would explicitly state the relevant consideration in the regulations.

In contrast, the NRC has found that ground disturbance actions in previously undisturbed areas could have potential impacts that should be evaluated in an environmental assessment. These environmental assessments can vary, as some undisturbed areas can be environmentally sensitive to even small actions. The extent of construction impacts on undisturbed areas needs to be assessed through either an environmental assessment or an environmental impact statement. Although the assessments may in many cases be brief, because these potential impacts require individual assessment, ground disturbance actions in undisturbed areas are not appropriate for a categorical exclusion.

The use of a ''performance-based approach'' or use of a noticeability criteria is not appropriate for categorical exclusions because the NRC's regulations require that categories for exclusion have no significant environmental impact.

The NRC has defined SMALL in environmental impact statements to indicate environmental effects that are not detectable or are so minor that they will neither destabilize nor noticeably alter any important attribute of a resource. The NRC has proposed to use a performance-based approach to address the NRC licensing of the building and operation of new nuclear reactors in the United States by codifying the findings of the Generic Environmental Impact Statement for Licensing of New Nuclear Reactors, Draft NUREG–2249. This approach reflects minimization of potential environmental impacts by the applicant when choosing a plant design and site prior to submitting an application. The performance-based values and assumptions in the Generic Environmental Impact Statement (GEIS) describe the bounding environmental conditions for the generic analysis to confidently conclude that environmental impacts would be SMALL for any location within the United States. Applicants and NRC staff may rely on the generic analysis for each Category 1 issue provided that the relevant values and assumptions are met and there is no new and significant information that changes the conclusions in the GEIS.[1] A minimization of potential environmental impacts or an impact finding of SMALL in the GEIS does not necessarily mean that a specific action would not individually or cumulatively have a significant effect on the human environment. Therefore, the NRC cannot generically substitute those conclusions to support a categorical exclusion criterion without assessing the specific actions to be excluded. In contrast,

[1] Category 1 issues are those issues determined to be common, or generic, to all nuclear reactors, as discussed in NUREG–1437. The NRC staff determined that the vast majority of Category 1 issues were of SMALL significance level.

excluding ground disturbance of previously undisturbed areas allows the NRC to generically conclude that impacts to certain environmental resource areas will not occur. Combined with other threshold criteria and knowledge and experience of the listed categories of actions, this allows the NRC to conclude that the listed actions will not result in significant effects on the human environment.

Finally, the previously disturbed areas criterion provides a clear and objective standard that will more readily and transparently allow applicants, the NRC staff, and members of the public to determine whether a proposed action meets the categorical exclusion. In contrast, the version of the ''no significant construction impacts'' standard proposed by commenters would require a subjective, EA-like evaluation of the significance of the construction impacts before the categorical exclusion could be applied. No changes to the rule language were made as a result of these comments.

Question 2: The NRC is considering defining the phrase ''previously disturbed areas'' to refer to areas that have been changed such that its functioning ecological processes have been and remain altered by human activity. The phrase encompasses areas that have been transformed from natural cover to non-native species or a managed state, including, but not limited to, utility and electric power transmission corridors and rights-of-way, and other areas where active utilities and currently used roads are readily available. The NRC requested input on the proposed definition.

Comments Summary: Commenters noted that the NRC's proposed definition is identical to DOE's definition of ''previously disturbed or developed'' land in 10 CFR 1021. Commenters did not object to the NRC's proposed definition, or its consideration of the concept, of ''previously disturbed areas'' applying to certain categorical exclusions. Additionally, commenters stated that the ''previously disturbed area'' criterion could be beneficial insofar as it serves as a rebuttable presumption that, when a proposed action affects only a previously disturbed area, that action can be categorically excluded from environmental review. This assumes that the NRC determines that any other applicable criteria in § 51.22 (*e.g.,* no significant increase in individual or cumulative public or occupational radiation exposure) are met and no special circumstances are present. This could simplify the analysis of whether a particular categorical exclusion applies to a proposed action, thereby enhancing efficiency. However, one comment asserted that the proposed ''limited to previously disturbed areas'' criterion may be more restrictive than the current ''no significant construction impact'' criterion.

Response: The NRC disagrees with the comment expressing concern that the new criterion may be more restrictive. The previous language of ''no significant construction impact'' was intended to reflect that ground disturbance can be a factor in determining whether an action would have potential impacts. The NRC considers this revision to more clearly capture this intent and anticipates that the additional clarification may result in application of the affected categorical exclusions to actions that may not previously have been considered to qualify (*e.g.,* an action that includes construction but is limited to previously disturbed areas). The criterion ''any ground disturbance is limited to previously disturbed areas'' is appropriate in a categorical exclusion because it clearly and explicitly states the relevant consideration in the regulations. Based in part on these comments, and as discussed under Section II.J of this document, the NRC is defining the phrase ''previously disturbed areas,'' but has revised the definition from that presented in the draft rule FRN to reflect a plain writing approach. The NRC is defining the phrase ''previously disturbed areas'' to refer to areas that have been changed by development of the facility and remain altered by human activity such that they do not support important habitat or habitat to important species and no longer have the potential to yield historic and cultural resources. This includes the lateral and vertical extent of alteration from natural cover to a managed state.

Question 3: As discussed in Section II.F, of this document, the NRC is proposing to remove the ''no significant hazards consideration'' determination in §§ 51.22(c)(9) and (c)(25)(i) and (v), which is related to a process for issuance of license amendments for nuclear power reactor and testing facility licenses, but is not related to environmental impacts and not relevant to materials licenses. The ''no significant hazards consideration'' is a procedural standard that governs whether an opportunity for a hearing must be provided before an action is taken by the NRC. The NRC requested input on the removal of the ''no significant hazards consideration'' determination in §§ 51.22(c)(9) and (c)(25)(i) and (v).

Comments Summary: Several commenters support the removal of the ''no significant hazards consideration.''

Response: The NRC agrees with these comments, which support the proposed change in the rule. No changes to the rule language were made as a result of these comments.

B. General Comments and NRC Responses on the Proposed Rule

The NRC received additional public comments on the proposed rule. The NRC separated these comments into five categories based on their relevance to particular topics.

1. Comments on the Broader Use of Categorical Exclusions

Comments Summary: Commenters recommended that the final categorical exclusion rule should allow the use of mitigated categorical exclusions, analogous to the NRC allowing the use of a mitigated finding of no significant impact. Commenters stated that ''[m]itigated CATEXs would allow the NRC to promulgate a broader scope of CATEXs for new reactors.''

Commenters indicated that the NRC staff should continue to consider how performance-based regulations can be applied to the promulgation of categorical exclusions and identify opportunities to develop additional categorical exclusions beyond those contained in the current § 51.22 and the proposed rule in accordance with the FRA and the Accelerating Deployment of Versatile Advanced Nuclear for Clean Energy Act of 2024 (ADVANCE Act). Commenters recognized that the NRC's proposed rule is intended to clarify the scope of existing categories, improve the consistency of their application, and add some limited new categories of actions that have no significant impact on the human environment.

Commenters suggested several broad areas, such as new nuclear power plant licensing, where additional categorical exclusions might be appropriate.

Response: The NRC disagrees with these comments. To support this rulemaking, the NRC conducted a broad review of NRC actions, including prior NEPA reviews resulting in FONSIs since the NRC's last categorical exclusion rulemaking. The proposed rule included categorical exclusions for each category of actions the NRC's review identified as eligible. The comments do not provide sufficient new information to support additional categorical exclusions.

With respect to the use of mitigated categorical exclusions, the NRC agrees that mitigation can be relevant in determining whether an action or category of actions have no significant

effect on the human environment either individually or cumulatively, and thus whether the NRC can establish a categorical exclusion. As traditionally used in environmental assessments, ''mitigation'' refers to enforceable measures that ensure the impacts of the proposed action will not be significant, allowing the agency to reach a FONSI. In this final rule, the threshold criteria in new paragraphs § 51.22(b)–(d) could be viewed as acknowledging aspects of a proposed action that ensure environmental impacts will not be significant without specifying that particular mitigation measures be used to achieve that outcome. For example, a licensee could make design or location choices for a facility modification to ensure there will be no significant increase in effluents that may be released offsite to qualify for a categorical exclusion. The NRC recognizes that there may be additional actions that could qualify for categorical exclusion with appropriate threshold criteria or by specifying the inclusion of specific mitigation measures, however, the NRC has not identified such additional categorical exclusions at this time.

In addition, for any particular action, there may be extraordinary circumstances (special circumstances in the NRC's regulations) that could result in an action having a significant effect on the human environment and thus preclude the use of a categorical exclusion. The NRC recognizes that mitigation to avoid significant effects on the human environment can factor into the NRC's determination of whether special circumstances are indeed present.

With respect to developing additional categorical exclusions beyond those contained in the current § 51.22 and the proposed rule, in accordance with the FRA and the ADVANCE Act, NRC will continue to evaluate opportunities for establishing or adopting additional use of categorical exclusions beyond those that are part of this rulemaking. This rulemaking was in development before the FRA and the ADVANCE Act were enacted. For instance, the FRA NEPA amendments codified a process through which an agency can adopt a categorical exclusion issued by another agency. Furthermore, that rulemaking plan will revise the NRC's NEPA implementing regulations to reflect NEPA's revised definition of categorical exclusion. In the development of a proposed rule, NRC staff will explore whether the change in definition results in any additional categories of actions being eligible for categorical exclusion. Promulgating a broader scope of new categorical exclusions for new reactors was outside the scope of this final rule. No changes to the rule language were made as a result of these comments.

2. Comments on Government-to-Government Consultations

Comments Summary: A federally recognized Indian Tribe indicated that the NRC has a responsibility to conduct government-to-government consultations with Tribes concerning the proposed revisions to the categorical exclusions.

A commenter recommends that the proposed categorical exclusions rulemaking should include a provision allowing affected Tribal governments and interested parties the ability to challenge a categorical exclusion with or without the presence of new and significant information.

Response: The NRC agrees in part and disagrees in part with these comments. The NRC recognizes the Federal Trust Relationship and is committed to a government-to-government relationship with federally recognized Indian Tribes. On August 14, 2024, the NRC issued a State and Tribal Communication (STC) letter STC–24–047 informing all federally recognized Tribes of the opportunity to request formal consultation on the proposed rule in accordance with its Tribal Policy Statement.

The NRC disagrees that this rulemaking should include a provision allowing these entities to challenge the application of a categorical exclusion. The NRC has found that the kinds of actions in this rulemaking covered by the NRC's categorical exclusions have no significant effect on the human environment. The NRC has made this determination based on an in-depth review of past NRC regulatory actions, professional opinions and information from NRC staff, and input from stakeholders and the public received in a variety of ways throughout the rulemaking process, including through an ANPR, public meetings, and written comments.

Accordingly, the NRC did not revise the rule in response to these comments.

3. Comments Concerning Cultural and Historical Resources

Comments Summary: A federally recognized Indian Tribe also added that while categorical exclusions add to agency flexibility to undertake necessary actions, it undermines Tribal Sovereignty, ignores Traditional Cultural Landscapes, and works to ignore cultural concerns.

A commenter indicated that the NRC is required to provide additional information relating to proposed rule criterion and justification that ensures NRC actions will not result in disturbances or inadvertent discoveries within previously undisturbed areas consistent with Federal law and trust responsibility.

Response: The NRC agrees that this final rule will add to the agency's flexibility to undertake necessary actions. However, the NRC disagrees that this final rule undermines Tribal Sovereignty, ignores Traditional Cultural Landscapes, and works to ignore cultural concerns. To establish a categorical exclusion, the NRC determines whether a proposed activity is one that, on the basis of knowledge or experience, does not individually or cumulatively have a significant effect on the environment, *see* 10 CFR 51.14(a), 51.22(a), including historic and cultural resources. In determining if one or more categorical exclusions applies to a proposed action, the NRC considers if special circumstances are present, in which a normally excluded action may have a significant environmental effect and therefore requires preparation of an EA or EIS. Furthermore, the categorical exclusions in the new §§ 51.22(b) and (d) are limited to ground disturbance on previously disturbed areas, where there is no potential to affect cultural or historic resources. If ground disturbance is not restricted to previously disturbed areas, as defined in the final rule, then the categorical exclusion would not apply. No changes were made to the rule as a result of these comments.

4. Comments of General Concern

Comment Summary: A commenter indicated that the term ''no significant impacts'' is arbitrary, that impacts from nuclear and fossil fuel projects can be delayed or hidden for years and recommends that categorical exclusions should not be allowed for nuclear or fossil fuel projects.

Response: The NRC disagrees with this comment. The comment does not provide substantive information related to the potential environmental effects of the category of actions to which a categorical exclusion can apply. If the NRC finds that actions in a given category does not individually or cumulatively have a significant effect on the human environment, then the NRC may establish a categorical exclusion for that category of actions. *See* 10 CFR 51.14(a), 51.22(a). The NRC conducted an in-depth review of the NRC activities that identified several recurring categories of regulatory actions that are not addressed in § 51.22 and have no significant effect on the human environment, either individually or

cumulatively, *see* 10 CFR 51.14(a), 51.22(a). These categories of actions were considered in developing this rule.

The NRC strives to be open and transparent and provide stakeholders the opportunity to express their opinions on matters related to the NRC's regulatory functions. The NRC published an ANPR in May of 2021, seeking stakeholder input on identified potential changes to categorical exclusions to inform the rulemaking. A public meeting associated with the ANPR was held on June 16, 2021, to facilitate comments. On July 2, 2024, the NRC published the proposed Categorical Exclusions from Environmental Review rule in the **Federal Register** (89 FR 54727). The notice contained a solicitation for comments on the proposed rule language. A public meeting was held on July 31, 2024, to discuss the proposed rule and to answer questions to facilitate meaningful comments on the proposed rule. No changes to the rule language were made as a result of these comments.

Comment Summary: A commenter expressed the opinion that categorical exclusions should be very limited in scope and applied only to life threatening or contamination events with critical effects to the human population or physical environmental/natural world. A commenter believes the proposed rule must clearly state why particular exemptions may leave environmental, public health, safety, and cultural effects unevaluated.

Response: The NRC disagrees with this comment. Emergency conditions are not a factor in determining whether an action is eligible for a categorical exclusion; categorical exclusions are a type of environmental document the agency prepares before an action is implemented, not an exemption from NEPA. In addition, the NRC's regulations on the use of categorical exclusions include consideration of whether special circumstances (also known as extraordinary circumstances) are present and, if so, whether those special circumstances merit preparation of an EA or EIS. With respect to limiting the scope of categorical exclusions, the NRC's categorical exclusions are inherently ''limited in scope'' in that they only apply to actions that do not have significant effects based on the NRC's expertise and experience in evaluating the environmental effects of its actions. The rule does not ''leave public health and safety unevaluated.'' Categorical exclusions are developed and implemented for specific categories of actions that the NRC has previously determined will not individually or cumulatively have a significant effect on the human environment, *see* 10 CFR 51.14(a), 51.22(a), including public health and safety and cultural effects. The categorical exclusion specifically does not include actions involving ground disturbance in previously undisturbed areas. No changes to the rule language were made as a result of these comments.

5. General Comments in Support of the Rulemaking

Comment Summary: Commenters supported the reorganization of categories in § 51.22, noting that the changes are consistent with NRC's Principles of Good Regulation, and with NEPA.

Response: The NRC acknowledges the comments. The comments are general in nature and in support of the rulemaking. No changes to the rule language were made as a result of these comments.

Comment Summary: The comment supports the NRC's proposed new categorical exclusions, noting that the rule provided a reasoned basis for each new categorical exclusion. Namely, none of the specified actions increases the probability or consequences of accidents; results in significant changes to the types or amounts of effluents released offsite, increases to occupational or public dose, or any other radiological or non-radiological impacts.

Response: The NRC acknowledges the comments. The comments are general in nature and in support of the rulemaking. No changes to the rule language were made as a result of these comments.

V. Discussion of Amendments by Section

The following paragraphs describe the specific changes in this final rule.

Section 51.4 Definitions

The NRC is revising § 51.4 to add the definition of ''previously disturbed areas.''

Section 51.21 Criteria for and Identification of Licensing and Regulatory Actions Requiring Environmental Assessments

The NRC is revising § 51.21 to update the references for those categorical exclusions and other actions identified as not requiring further environmental review.

Section 51.22 Criterion for Categorical Exclusion; Identification of Licensing and Regulatory Actions Eligible for Categorical Exclusion or Otherwise Not Requiring Further Environmental Review

The NRC is revising the section heading to more accurately reflect the section. The rule also adds introductory text, redesignates paragraph (d) as paragraph (e), adds a new paragraph (d), and revises paragraphs (a) through (c) to add, clarify, and eliminate categorical exclusions.

Section 51.25 Determination To Prepare Environmental Impact Statement or Environmental Assessment; Eligibility for Categorical Exclusion

The NRC is amending section § 51.25 to update the reference for the location of categorical exclusions to § 51.22 (a) through (d). Subparagraphs (E) and (F) of section 102(2) of NEPA referred to in § 51.22 (d) are now designated as subparagraphs (H) and (I).

Appendix A to Subpart A of 10 CFR Part 51 Format for Presentation of Material in Environmental Impact Statements

This rule would revise footnote 4 to remove the reference to § 51.22(c)(17).

VI. Regulatory Flexibility Certification

As required by the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Commission certifies that this rule will not have a significant economic impact on a substantial number of small entities.

VII. Regulatory Analysis

The NRC has prepared a regulatory analysis to quantify the costs and benefits of this final rule, as well as to examine the qualitative factors to be considered in the NRC's rulemaking decision. The conclusion from the analysis is that this final rule results in a benefit to the NRC of $815,600 using a 7-percent discount rate. The regulatory analysis indicates the final rule is cost-beneficial and provides non-quantified benefits in the area of regulatory clarity. The NRC did not receive any public comments on the draft regulatory analysis. The regulatory analysis is available as indicated in the ''Availability of Documents'' section of this document.

VIII. Backfitting and Issue Finality

This rule revises the requirements for information under 10 CFR part 51 provided by applicants and petitioners for rulemaking. Applicants and petitioners are not, with certain

exceptions, within the scope of either the backfitting rules (§§ 50.109, 70.76, 72.62, or 76.76) or any issue finality provisions in 10 CFR part 52. The backfitting and issue finality regulations include language delineating when those provisions begin; in general, they begin after the issuance of a license, permit, or other approval (*e.g.,* § 50.109(a)(1)(iii) and § 52.98(a)). Neither the backfitting provisions nor the issue finality provisions, with certain exceptions, are intended to apply to NRC actions that substantially change the expectations of current and future applicants. These applicants cannot reasonably expect that future requirements will not change.

This rule eliminates the NRC's requirement to prepare environmental assessments or environmental impact statements for certain categories of actions. Although the rule does not alter requirements for applicants or petitioners for rulemaking to provide environmental reports under §§ 51.40–51.68, it may reduce the information an applicant or petitioner for rulemaking would be obligated to provide in an environmental report. Reductions in the information required to be included in applications and petitions for rulemaking constitutes a voluntary reduction in requirements and therefore is not a backfit under the backfitting rules (§§ 50.109, 70.76, 72.62, or 76.76) nor a violation of any issue finality provisions in 10 CFR part 52.

Therefore, this rule does not constitute backfitting under the backfitting rules (10 CFR 50.109, 70.76, 72.62, or 76.76) nor affect the issue finality of an approval issued under 10 CFR part 52. Accordingly, the NRC did not prepare a backfit or forward fit analysis for this rule.

IX. Cumulative Effects of Regulation

Cumulative Effects of Regulation (CER) consists of the challenges applicants and licensees may face in addressing the implementation of new regulatory positions, programs, and requirements (*e.g.,* rulemaking, guidance, generic letters, backfits, inspections). The CER may manifest in several ways, including the total burden imposed on applicants and licensees by the NRC from simultaneous or consecutive regulatory actions that can adversely affect the applicant's or licensee's capability to implement those requirements, while continuing to operate or construct its facility in a safe and secure manner.

The goals of the NRC's CER effort were met throughout the development of this final rule. The NRC engaged external stakeholders at public meetings and by soliciting public comments on the proposed rule and associated draft guidance document. The proposed rule (89 FR 54727) was issued on July 2, 2024, for public comment. A public meeting was held on July 31, 2024, to discuss the proposed rule. The feedback from the public meeting informed the development of the NRC's final rule.

X. Plain Writing

The Plain Writing Act of 2010 (Pub. L. 111–274) requires Federal agencies to write documents in a clear, concise, and well-organized manner. The NRC has written this document to be consistent with the Plain Writing Act as well as the Presidential Memorandum, ''Plain Language in Government Writing,'' published June 10, 1998 (63 FR 31885).

XI. Paperwork Reduction Act Statement

This rule does not contain any new or amended collections of information subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). Existing collections of information were approved by the Office of Management and Budget, approval number 3150–0021.

Public Protection Notification

The NRC may not conduct or sponsor, and a person is not required to respond to a collection of information unless the document requesting or requiring the collection displays a currently valid OMB control number.

XII. Executive Orders

Executive Order (E.O.) 12866

The Office of Information and Regulatory Affairs (OIRA) has determined that this final rule is a significant regulatory action under E.O. 12866, ''Regulatory Planning and Review.'' Accordingly, the NRC submitted this final rule to OIRA for review. The NRC is required to conduct an economic analysis in accordance with section 6(a)(3)(B) of E.O. 12866. More can be found in Section VII of this document, ''Regulatory Analysis.''

Review Under E.O.s 14154, 14192, 14215, and 14300

The NRC has examined this final rule and has determined that it is consistent with the policies and directives outlined in E.O. 14154, ''Unleashing American Energy,'' E.O. 14192, ''Unleashing Prosperity Through Deregulation,'' E.O. 14215 ''Ensuring Accountability for All Agencies,'' and E.O. 14300, ''Ordering the Reform of the Nuclear Regulatory Commission.'' This final rule is considered an E.O. 14192 deregulatory action. Details on the estimated costs of this final rule can be found in Section VII of this document.

Review Under E.O. 14270

Executive Order 14270, ''Zero-Based Regulatory Budgeting to Unleash American Energy,'' requires the NRC to insert a conditional sunset date into all new or amended NRC regulations provided the regulations are (1) promulgated under the Atomic Energy Act of 1954, as amended (AEA), the Energy Reorganization Act of 1974, as amended (ERA), and the Nuclear Waste Policy Act of 1982, as amended (NWPA); (2) not statutorily required; and (3) not part of the NRC's permitting regime. The NRC determined that the regulatory changes adopted in this rule are for processes that are required by statute and are part of the NRC's regulatory permitting scheme authorized by the AEA, ERA, or NWPA. Therefore, the NRC views this rulemaking to be outside the scope of Executive Order 14270 and did not insert conditional sunset dates for the regulatory changes in this final rule.

XIII. Congressional Review Act

This final rule is a rule as defined in the Congressional Review Act (5 U.S.C. 801 808). However, the Office of Management and Budget has found that it does not meet the criteria at 5 U.S.C. 804(2).

XIV. Compatibility of Agreement State Regulations

Under the ''Agreement State Program Policy Statement'' approved by the Commission on October 2, 2017, and published in the **Federal Register** (82 FR 48535; October 18, 2017), this rule is classified as compatibility ''NRC.'' Category NRC consists of program elements over which the NRC cannot discontinue its regulatory authority pursuant to the Atomic Energy Act of 1954 (AEA), as amended, or provisions of title 10 of the *Code of Federal Regulations.*

Under the Policy Statement, a program element means any component or function of a radiation control regulatory program, including regulations and other legally binding requirements imposed on regulated persons, which contributes to the implementation of that program. The NRC maintains regulatory authority over program elements classified as category NRC and the Agreement States must not adopt these NRC program elements. However, an Agreement State may inform its licensees of these NRC requirements through a mechanism under the State's administrative procedure laws, as long as the State

adopts these provisions solely for the purposes of notification, and does not exercise any regulatory authority as a result.

XV. Voluntary Consensus Standards

The National Technology Transfer and Advancement Act of 1995, Public Law 104–113, requires that Federal agencies use technical standards that are developed or adopted by voluntary consensus standards bodies unless the use of such a standard is inconsistent with applicable law or otherwise impractical. The NRC is amending § 51.22, the NRC's list of categories of actions that the NRC has determined to have no significant individual or cumulative effect on the human environment. This action does not constitute the establishment of a standard that contains generally applicable requirements.

XVI. Availability of Guidance

There is no licensee or applicant implementation or compliance required by this rulemaking. The NRC staff plans to update guidance documents that contain references to § 51.22 (*e.g.,* standard review plans). The NRC will publish notice in the **Federal Register** announcing the availability of the revised guidance documents. The final guidance documents will be available on the NRC website and at *https://www.regulations.gov* by searching on Docket ID NRC–2018–0300.

XVII. Availability of Documents

The documents identified in the following table are available to interested persons through one or more of the following methods, as indicated.

Document	ADAMS accession No./web link/ **Federal Register** citation
Regulatory Analysis for the Final Rule: Categorical Exclusions from Further Environmental Review, March 2026.	ML26064A136.
Proposed Rule—Categorical Exclusions from Environmental Review, July 2, 2024	89 FR 54727.
SRM–SECY–22–0100, ''Staff Requirements—SECY–22–0100—Proposed Rule: Categorical Exclusions From Environmental Review (3150–AK54; NRC–2018–0300),'' June 10, 2024.	ML24162A116.
SECY–22–0100, Proposed Rule: Categorical Exclusions From Environmental Review (3150–AK54; NRC–2018–0300), November 14, 2022.	ML22136A315.
Advance Notice of Proposed Rulemaking—Categorical Exclusions From Environmental Review, May 7, 2021.	86 FR 24514.
SECY–20–0065, ''Rulemaking Plan—Categorical Exclusions From Environmental Review,'' July 20, 2020	ML20021A160 (paper) ML20021A158 (package).
NUREG–2249, ''Generic Environmental Impact Statement for Licensing of New Nuclear Reactors,'' September 2024.	ML24176A220.
State and Tribal Communication (STC) Letter, STC–24–047, ''Invitation to Request Consultation on Proposed Rule 'Categorical Exclusions From Environmental Review,' '' August 14, 2024.	ML24222A633.
July 31, 2024, Public Meeting Summary—Public Meeting to Discuss the Categorical Exclusions from Environmental Review Proposed Rulemaking.	ML24218A084.
Rulemaking Plan—SECY–24–0046, ''Implementation of the Fiscal Responsibility Act of 2023 National Environmental Policy Act Amendments,'' May 30, 2024.	ML24078A006 (plan) ML24078A013 (package).
Public Law (Pub. L.) 118–67, Accelerating Deployment of Versatile, Advanced Nuclear for Clean Energy of 2024 (ADVANCE Act of 2024).	*https://www.congress.gov/118/plaws/publ67/PLAW-118publ67.pdf.*
Memo to Commission from M. Doane, EDO, RE: Response to Staff requirements—SECY–20–0032—''Rulemaking Plan on Risk-Informed, Technology-Inclusive Regulatory Framework for Advanced Reactors,'' November 2, 2020.	ML20288A251.
Agreement State Program Policy Statement, October 18, 2017	82 FR 48535.
Final Rule—Categorical Exclusions from Environmental Review, April 29, 2010	75 FR 20248.
Final Rule—Storage of Spent Fuel in NRC-Approved Storage Casks at Power Reactor Sites, July 18,1990	55 FR 29181.
Final Rule—Final Procedures and Standards on No Significant Hazards Considerations, March 6, 1986	51 FR 7744; 51 FR 7746.
Final Rule—Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions and Related Conforming Amendments, March 12, 1984.	49 FR 9352; 49 FR 9380.
Final Rule—Emergency Planning, August 19, 1980	45 FR 55402.
Presidential Memorandum, ''Plain Language in Government Writing,'' June 10, 1998	63 FR 31885.
NRC's Principles of Good Regulation	ML14135A076.
National Environmental Policy Act of 1969	*https://www.govinfo.gov/content/pkg/COMPS-10352/pdf/COMPS-10352.pdf.*
Public Comments	
Comment (001) from the Fort Independence Indian Reservation THPO on PR–51—Categorical Exclusions from Environmental Review.	ML24201A077.
Comment (002) from Anonymous on PR–51—Categorical Exclusions from Environmental Review	ML24218A194.
Comment (003) from Stephen Monarque on PR–51—Categorical Exclusions from Environmental Review Comment.	ML24225A081.
Comment (004) from the Yocha Dehe Wintun Nation on PR–51—Categorical Exclusions from Environmental Review.	ML24256A208.
Comment (005) from Nicholas McMurray on behalf of ClearPath on PR–51—Categorical Exclusions from Environmental Review.	ML24262A251.
Comment (006) from Spencer Toohill on behalf of the Breakthrough Institute on PR–51—Categorical Exclusions from Environmental Review.	ML24262A253.
Comment (007) from the Nuclear Energy Tribal Working Group on PR–51—Categorical Exclusions from Environmental Review.	ML24262A252.
Comment (008) from Martin J. O'Neill on Behalf of the Nuclear Energy Institute on PR–51—Categorical Exclusions from Environmental Review.	ML24264A112.

Document	ADAMS accession No./web link/ **Federal Register** citation
Comment (009) from Peter Hastings on Behalf of Kairos Power, LLC on PR–51—Categorical Exclusions from Environmental Review.	ML24267A035.
Executive Orders	
Executive Order 12866, ''Regulatory Planning and Review,'' October 4, 1993	58 FR 51735.
Executive Order 14154, ''Unleashing American Energy,'' January 29, 2025	90 FR 8353.
Executive Order 14192, ''Unleashing Prosperity Through Deregulation,'' February 6, 2025	90 FR 9065.
Executive Order 14215, ''Ensuring Accountability for All Agencies,'' February 24, 2025	90 FR 10447.
Executive Order 14270, ''Zero-Based Regulatory Budgeting to Unleash American Energy,'' April 15, 2025	90 FR 15643.
Executive Order 14300, ''Ordering the Reform of the Nuclear Regulatory Commission,'' May 29, 2025	90 FR 22587.

The NRC may post materials related to this document, including public comments, on the Federal rulemaking website at *https://www.regulations.gov* under Docket ID NRC–NRC–2018–0300. In addition, the Federal rulemaking website allows members of the public to receive alerts when changes or additions occur in a docket folder. To subscribe: (1) navigate to the docket folder (NRC–2018–0300); (2) click the ''Subscribe'' button; and (3) enter an email address and click on the ''Subscribe'' button.

List of Subjects in 10 CFR Part 51

Administrative practice and procedure, Environmental impact statements, Hazardous waste, Nuclear energy, Nuclear materials, Nuclear power plants and reactors, Reporting and recordkeeping requirements.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; and 5 U.S.C. 552 and 553, the NRC is amending 10 CFR part 51 as follows:

PART 51—ENVIRONMENTAL PROTECTION REGULATIONS FOR DOMESTIC LICENSING AND RELATED REGULATORY FUNCTIONS

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

Authority: Atomic Energy Act of 1954, secs. 161, 193 (42 U.S.C. 2201, 2243); Energy Reorganization Act of 1974, secs. 201, 202 (42 U.S.C. 5841, 5842); National Environmental Policy Act of 1969 (42 U.S.C. 4332, 4334, 4335); Nuclear Waste Policy Act of 1982, secs. 144(f), 121, 135, 141, 148 (42 U.S.C. 10134(f), 10141, 10155, 10161, 10168); 44 U.S.C. 3504 note.

■ 2. Amend § 51.4 by adding the definition for ''Previously disturbed areas'' in alphabetical order, to read as follows:

§ 51.4 Definitions.

* * * * *

Previously disturbed areas means areas that have been changed by development of the facility and remain altered by human activity such that they do not support important habitat or habitat to important species and no longer have the potential to yield historic and cultural resources. This includes the lateral and vertical extent of alteration from natural cover to a managed state.

■ 3. Revise and republish § 51.21 to read as follows:

§ 51.21 Criteria for and identification of licensing and regulatory actions requiring environmental assessments.

All licensing and regulatory actions subject to this subpart require an environmental assessment except those identified in § 51.20(b) as requiring an environmental impact statement, those covered by categorical exclusions identified in § 51.22(a) through (d), and those identified in § 51.22(e) as other actions not requiring environmental review. As provided in § 51.22, the Commission may, in special circumstances, prepare an environmental assessment on an action that could be covered by a categorical exclusion.

■ 4. Revise and republish § 51.22 to read as follows:

§ 51.22 Categorical exclusions.

Licensing, regulatory, and administrative actions eligible for categorical exclusion must belong to a category of actions that the Commission, by rule or regulation, has declared to be a categorical exclusion, after first finding that the actions within the category do not individually or cumulatively have a significant effect on the human environment. Except in special circumstances, as determined by the Commission upon its own initiative or upon request of any interested person, an environmental assessment or an environmental impact statement is not required for any action within a category of actions included in the list of categorical exclusions set out in paragraphs (a) through (d) of this section. Special circumstances include the circumstance where the proposed action involves unresolved conflicts concerning alternative uses of available resources within the meaning of section 102(2)(H) of NEPA.

(a) The following categories of NRC actions are excluded from the requirement to prepare an environmental assessment or environmental impact statement:

(1) Actions that are administrative, procedural, or solely financial in nature, including, for example:

(i) Issuance of or changes to procedures for filing and reviewing applications;

(ii) Issuance of or changes to recordkeeping or reporting requirements;

(iii) Issuance of or changes to surety, insurance, or indemnity requirements;

(iv) Issuance of or changes to administrative procedures or requirements;

(v) Actions on petitions for rulemaking, but not including rulemakings in response to a petition for rulemaking;

(vi) Amendments to the regulations in this chapter that are corrective or of a minor or nonpolicy nature and do not substantially modify existing regulations;

(vii) Issuance of or changes to guidance for the implementation of regulations in this chapter and other informational and procedural documents that do not impose any legal requirements;

(viii) Changes to a person or organization's name, position, or title;

(ix) Revisions that are editorial, corrective, or otherwise minor, including the updating of NRC-approved references, or changes to formatting of a document;

(x) Changes to contact information;

(xi) Personnel or managerial actions;

(xii) Actions on or changes to requirements for decommissioning funding under parts 30, 40, 50, 70, or 72 of this chapter; or

(xiii) Termination of licenses that were issued but for which no construction activities have begun or

where all decommissioning activities have been completed and approved and license termination is a final administrative step.

(2) Issuance of or changes to education, training, experience, qualification, or other employment suitability requirements.

(3) Amendments to parts 1, 2, 4, 5, 7, 8, 9, 10, 11, 12, 13, 15, 16, 19, 21, 25, 26, 55, 75, 95, 110, 140, 150, 160, 170, or 171 of this chapter.

(4) Procurement of general equipment and supplies, and procurement of technical assistance and personal services relating to the safe operation and protection of commercial reactors, other facilities, and materials subject to NRC licensing and regulation.

(5) Entrance into or amendment, suspension, or termination of all or part of an agreement with a State under section 274 of the Atomic Energy Act of 1954, as amended, providing for assumption by the State and discontinuance by the Commission of certain regulatory authority of the Commission.

(6) Approvals of direct or indirect transfers of any license issued by the NRC (any associated amendments of a license required to reflect the approval of a direct or indirect transfer of an NRC license are included in paragraph (a)(1) of this section).

(7) The import of nuclear facilities and materials under part 110 of this chapter, but not including the import of spent power reactor fuel.

(8) Approvals of or changes to operators' licenses under part 55 of this chapter.

(9) Approvals of package designs for packages to be used for the transportation of licensed materials.

(10) Actions under parts 30, 31, 32, 33, 34, 35, 36, 39, 40, or 70 of this chapter authorizing the following:

(i) Distribution of radioactive material and devices or products containing radioactive material to general licensees and to persons exempt from licensing;

(ii) Distribution of radiopharmaceuticals, generators, reagent kits and/or sealed sources to persons licensed under 10 CFR 35.18;

(iii) Nuclear pharmacies;

(iv) Use of radioactive materials for medical and veterinary purposes;

(v) Use of radioactive materials for research and development and for educational purposes;

(vi) Industrial radiography;

(vii) Irradiators;

(viii) Use of sealed sources and use of gauging devices, analytical instruments and other devices containing sealed sources;

(ix) Use of uranium as shielding material in containers or devices;

(x) Possession of radioactive material incident to performing services such as installation, maintenance, leak tests and calibration;

(xi) Use of sealed sources and/or radioactive tracers in well-logging procedures;

(xii) Acceptance of packaged radioactive wastes from others for transfer to licensed land burial facilities provided the interim storage period for any package does not exceed 180 days and the total possession limit for all packages held in interim storage at the same time does not exceed 50 curies;

(xiii) Manufacturing or processing of source, byproduct, or special nuclear materials for distribution to other licensees, except processing of source material for extraction of rare earth and other metals;

(xiv) Nuclear laundries;

(xv) Possession, manufacturing, processing, shipment, testing, or other use of depleted uranium military munitions; or

(xvi) Any use of source, byproduct, or special nuclear material not listed above which involves quantities and forms of source, byproduct, or special nuclear material similar to those listed in paragraphs (a)(10)(i) through (xv) of this section.

(11) Standard design approvals under part 52 of this chapter.

(12) Issuance of amendments to 10 CFR 72.214 for new, amended, revised, or renewed certificates of compliance for cask designs used for spent fuel storage.

(13) Issuance, amendment, modification, or renewal of a certificate of compliance of gaseous diffusion enrichment plants under part 76 of this chapter.

(14) The decommissioning of sites where licensed operations have been limited to the use of—

(i) Small quantities of short-lived radioactive materials;

(ii) Radioactive materials in sealed sources, provided there is no evidence of leakage of radioactive material from these sealed sources; or

(iii) Radioactive materials in such a manner that a decommissioning plan is not required by 10 CFR 30.36(g)(1), 10 CFR 40.42(g)(1), or 10 CFR 70.38(g)(1), and the NRC has determined that the facility meets the radiological criteria for unrestricted use in 10 CFR 20.1402 without further remediation or analysis.

(15) The Commission finding for a combined license under 10 CFR 52.103(g).

(16) Actions under 10 CFR 50.55a.

(b) The following categories of NRC actions are excluded from the requirement to prepare an environmental assessment or environmental impact statement, provided that any ground disturbance is limited to previously disturbed areas:

(1) Procurement of confirmatory research.

(2) Review and approval of transportation routes under 10 CFR 73.37.

(c) The following categories of NRC actions are excluded from the requirement to prepare an environmental assessment or environmental impact statement except to the extent they include activities directly affecting the environment, such as the construction of facilities; a major disturbance brought about by blasting, drilling, excavating or other means; field work, except that which only involves noninvasive or non-harmful techniques such as taking water or soil samples or collecting non-protected species of flora and fauna; or the release of radioactive material:

(1) Grants to institutions of higher education in the United States, to fund scholarships, fellowships, and stipends for the study of science, engineering, or another field of study that the NRC determines is in a critical skill area related to its regulatory mission, to support faculty and curricular development in such fields, and to support other domestic educational, technical assistance, or training programs (including those of trade schools) in such fields.

(2) [Reserved]

(d) The following categories of NRC actions are excluded from the requirement to prepare an environmental assessment or environmental impact statement provided that any ground disturbance is limited to previously disturbed areas and there is no significant change in the types or significant increase in the amounts of any effluents that may be released offsite, no significant increase in individual or cumulative public or occupational radiation exposure, and no significant increase in the potential for or consequences from radiological accidents.

(1) Changes to inspection or surveillance requirements.

(2) Changes to equipment servicing or maintenance requirements.

(3) Changes to safeguard plans or materials control and accounting inventory requirements, including modifications to systems used for security and/or materials accountability.

(4) Changes to requirements for fire protection, emergency planning, physical security, cybersecurity, or quality assurance.

(5) Changes to scheduling requirements.

(6) Changes to extend implementation dates for activities previously found to not have a significant environmental impact.

(7) Actions that result in a change in process operations or equipment under licenses for fuel cycle facilities or radioactive waste disposal sites, or under the materials licenses identified in § 51.60(b)(1).

(8) Authorizations under, or changes to requirements in 10 CFR part 50 or 52 with respect to installation or use of a facility component.

(e) In accordance with section 121 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10141), the promulgation of technical requirements and criteria that the Commission will apply in approving or disapproving applications under part 60 or 63 of this chapter shall not require an environmental impact statement, an environmental assessment, or any further environmental review under subparagraph (H) or (I) of section 102(2) of NEPA.

■ 5. Revise and republish § 51.25 to read as follows:

§ 51.25 Determination to prepare environmental impact statement or environmental assessment; eligibility for categorical exclusion.

Before taking a proposed action subject to the provisions of this subpart, the appropriate NRC director will determine on the basis of the criteria and classifications of types of actions in §§ 51.20, 51.21 and 51.22 whether the proposed action is of the type listed in § 51.22(a) through (d) as a categorical exclusion or whether an environmental impact statement or an environmental assessment should be prepared. An environmental assessment is not necessary if it is determined that an environmental impact statement will be prepared.

■ 6. In appendix A to subpart A of part 51, revise footnote 4 to read as follows:

Appendix A to Subpart A—Format for Presentation of Material in Environmental Impact Statements

* * * * *

[4] With respect to limitations on NRC's NEPA authority and responsibility imposed by the Federal Water Pollution Control Act Amendments of 1972, *see* §§ 51.10(c) and 51.71(d).

Dated: March 25, 2026.

For the Nuclear Regulatory Commission.

Tomas Herrera,

Acting Secretary of the Commission.

[FR Doc. 2026–06049 Filed 3–27–26; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2026–3207; Airspace Docket No. 26–AEA–8]

RIN 2120–AA66

Amendment of Class D Airspace; Teterboro, NJ

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action updates the geographic coordinates for Teterboro Airport, Teterboro, NJ, in the Class D airspace legal description. This action does not change the airspace boundaries or operating requirements.

DATES: Effective date 0901 UTC, July 9, 2026. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order JO 7400.11 and publication of conforming amendments.

ADDRESSES: A copy of this final rule and all background material may be viewed online at *www.regulations.gov* using the FAA Docket number. Electronic retrieval help and guidelines are available on the website. It is available 24 hours each day, 365 days each year. An electronic copy of this document may also be downloaded from *www.federalregister.gov.*

FAA Order JO 7400.11K, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *www.faa.gov/air_traffic/publications/.* You may also contact the Rules and Regulations Group, Policy Directorate, Federal Aviation Administration, 600 Independence Avenue SW, Washington, DC 20597; Telephone: (202) 267–8783.

FOR FURTHER INFORMATION CONTACT: Marc Ellerbee, Operations Support Group, Eastern Service Center, Federal Aviation Administration, 1701 Columbia Avenue, College Park, GA 30337; Telephone: (404) 305–5589.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it amends the legal description for Class D airspace extending upward from the surface at Teterboro Airport, Teterboro, NJ.

Incorporation by Reference

Class D airspace designations are published in paragraph 5000 of FAA Order JO 7400.11, Airspace Designations and Reporting Points, which is incorporated by reference in 14 CFR 71.1 on an annual basis. This document amends the current version of that order, FAA Order JO 7400.11K, dated August 4, 2025, and effective September 15, 2025. These amendments will be published in the next update to FAA Order JO 7400.11. FAA Order JO 7400.11K, which lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points, is publicly available as listed in the **ADDRESSES** section of this document.

The Rule

An airspace review revealed that an administrative update was needed for the geographic coordinates in the Class D airspace legal description at Teterboro Airport, Teterboro, NJ. Accordingly, this action amends 14 CFR part 71 by updating the airport's geographic coordinates, specifically by changing the longitude from 74°03′40″ W to 74°03′39″ W, which is a one second difference. This action does not change the airspace boundaries or operating requirements.

Good Cause for Bypassing Notice and Comment

The Administrative Procedure Act (APA) authorizes agencies to dispense with ordinary notice and comment requirements for rules when the agency for ''good cause'' finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' 5 U.S.C. 553(b)(B). Under this section, an agency, upon finding good cause, may issue a final rule without first publishing a proposed rule subject to public notice and comment. This rule only involves administrative changes, including the update of the airport's geographic coordinates to change the longitude by one second. This amendment will not impose any additional or amended substantive restrictions or requirements on the persons affected by these regulations as it does not affect the airspace boundaries or operating requirements.

The changes are ministerial in nature only.

This action constitutes ''a routine determination, insignificant in nature and impact, and inconsequential to the industry and to the public.'' *Mack Trucks, Inc.* v. *EPA,* 682 F.3d 87, 94 (D.C. Cir. 2012) (quoting *Util. Solid Waste Activities Grp.* v. *EPA,* 236 F.3d 749, 755 (D.C. Cir. 2001); see also Attorney General's Manual on the Administrative Procedure Act (1947), at 31; U.S. Department of Transportation (DOT) Order 2100.6B, paragraph 11.j(1)(b) (saying proposed rules are not required for ''[r]ules for which notice and comment is unnecessary to inform the rulemaking, such as rules correcting de minimis technical or clerical errors or rules addressing other minor and insubstantial matters, provided the reasons to forgo public comment are explained in the preamble to the final rule.''). Accordingly, the FAA finds good cause that notice and public comment under 5 U.S.C. 553(b) is unnecessary.

Regulatory Notices and Analyses

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

Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1G, ''FAA National Environmental Policy Act Implementing Procedures'' paragraph B–2.5(a). This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant the preparation of an environmental assessment.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

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

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

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order JO 7400.11K, Airspace Designations and Reporting Points, dated August 4, 2025, and effective September 15, 2025, is amended as follows:

Paragraph 5000 Class D Airspace.

* * * * *

AEA NJ D Teterboro, NJ [Amended]

Teterboro Airport, NJ
(Lat. 40°51′00″ N, long. 74°03′39″ W)

That airspace extending upward from the surface to and including 2,500 feet MSL within a 4.2-mile radius of Teterboro Airport.

* * * * *

Issued in College Park, Georgia, on March 26, 2026.

Patrick Young,

Manager, Airspace & Procedures Team North, Eastern Service Center, Air Traffic Organization.

[FR Doc. 2026–06086 Filed 3–27–26; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF COMMERCE

Census Bureau

15 CFR Part 30

[Docket No. 260316–0082]

RIN 0607–AA74

Streamlining the Census Bureau's Foreign Trade Regulations

AGENCY: Census Bureau, Department of Commerce (Department).

ACTION: Final rule.

SUMMARY: By this rule, the Census Bureau is amending its foreign trade regulations by consolidating and streamlining certain cross-references to, and restatements of, other regulations and authorities. This action is intended to simplify and streamline the foreign trade regulations, and thereby promote efficiency, without affecting any substantive obligations or entitlements.

DATES: The rule is effective March 30, 2026.

FOR FURTHER INFORMATION CONTACT: Daniel Sweeney, Senior Counsel, Office of the General Counsel, at (202) 482–1395.

SUPPLEMENTARY INFORMATION: By this rule, the Census Bureau is amending its foreign trade regulations at 15 CFR part 30. The regulations at part 30 were promulgated in their current structure via final rule on June 2, 2008 (73 FR 31555), and they have been amended multiple times since (*see, e.g.,* 74 FR 38914, Aug. 5, 2009; 78 FR 16366, Mar. 14, 2013; 79 FR 49659, Aug. 22, 2014; 79 FR 54588, Sept. 12, 2014; 82 FR 18383, Apr. 19, 2017; 82 FR 43842, Sept. 20, 2017; 83 FR 17749, Apr. 24, 2018; 90 FR 39112, Aug. 14, 2025). The Census Bureau now again amends such regulations. Specifically, the Census Bureau is streamlining its cross-references to, and restatements of, other export control and licensing requirements at §§ 30.15–30.19. *See* 15 CFR 30.15–30.19. The Census Bureau is doing so by consolidating the general language of § 30.19 into § 30.15; renaming and otherwise streamlining § 30.15 to generally establish the existence of other export control and licensing requirements; and removing §§ 30.16, 30.17, and 30.18 (which, respectively, merely cross-reference the Export Administration Regulations, the U.S. Customs and Border Protection regulations, and the U.S. Department of State regulations). These described changes will streamline part 30 and remove unnecessary language, thereby promoting efficiency without affecting any substantive obligations or entitlements. These changes will also reduce the cost associated with amending those cross-referenced and restated authorities. Lastly, these changes will foster direct review of and reliance on the text of those other authorities, which can speak for themselves.

Regulatory Classifications

A. Administrative Procedure Act

Pursuant to 5 U.S.C. 553(b)(B), the Department finds good cause to waive the prior notice and opportunity for public participation requirements of the Administrative Procedure Act for this final rule. The Department has determined that prior notice and opportunity for public participation is unnecessary because this rule only consolidates and removes regulatory language that is not required by statute

and that merely cross-references and/or restates other authorities; public comment could not justify the continued maintenance of such regulatory language, in its current form, under the Department's broader regulatory policies. The Department has also determined that delaying this amendment for the sake of carrying out the notice and comment process would be contrary to the public interest, as the language being consolidated and removed by this rule serves no meaningful independent purpose and contributes unnecessary complexity and clutter to part 30. The Department therefore finds good cause to waive the public notice and comment period under 553(b)(B) and, for the same reason, to waive the 30-day delay in effectiveness under 553(d).

B. Executive Orders 12866, 14192, 13132

The Office of Management and Budget has determined this rule is not significant pursuant to Executive Order (E.O.) 12866. This rule is an E.O. 14192 deregulatory action. This rule does not contain policies having federalism implications as the term is defined in E.O. 13132.

C. Regulatory Flexibility Act

Because a notice of proposed rulemaking and an opportunity for public participation are not required to be given for this rule by 5 U.S.C. 553(b)(B), the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are not applicable. Accordingly, no regulatory flexibility analysis is required, and none has been prepared.

D. Paperwork Reduction Act

This rule will not impose additional reporting or recordkeeping requirements under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.*

List of Subjects in 15 CFR Part 30

Economic statistics, Exports, Foreign trade, Reporting and recordkeeping requirements.

George M. Cook, Chief of Staff to the Under Secretary for Economic Affairs, performing the non-exclusive functions and duties of the Director of the Census Bureau, approved the publication of this notice in the **Federal Register**.

For the reasons set forth in the preamble, the Census Bureau amends 15 CFR part 30 to read as follows:

PART 30—FOREIGN TRADE REGULATIONS

■ 1. The authority citation for part 30 continues to read as follows:

Authority: 5 U.S.C. 301; 13 U.S.C. 301–307; Reorganization plan No. 5 of 1990 (3 CFR 1949–1953 Comp., p.1004); Department of Commerce Organization Order No. 35–2A, July 22, 1987, as amended and No. 35–2B, December 20, 1996, as amended; Public Law 107–228, 116 Stat. 1350.

Subpart B—Export Control and Licensing Requirements

■ 2. Revise § 30.15 to read as follows:

§ 30.15 Other Federal regulatory requirements.

(a) For export shipments to foreign countries, the EEI is used both for statistical and for export control purposes. All parties to an export transaction must comply with all relevant export control regulations, as well as the requirements of the statistical regulations of this part. For regulations and information concerning other agencies that exercise export control and licensing authority for particular types of commodity shipments, a USPPI, its authorized agent, or other party to the transaction shall consult the appropriate agency regulations.

(b) Independent of the reporting requirements set forth in § 30.6, other Federal agencies have requirements regarding the reporting of certain types of export transactions. The USPPIs and/or authorized agents are responsible for adhering to these requirements.

(c) This part requires the retention of documents or records pertaining to a shipment for five years from the date of export. All records concerning license exceptions or license exemptions shall be retained in the format (including electronic or hard copy) required by the controlling agency's regulations.

(d) In accordance with the provisions of Subpart G of this part, information from the EEI is used solely for official purposes, as authorized by the Secretary of Commerce, and any unauthorized use is not permitted.

§§ 30.16 through 30.19 [Removed and Reserved]

■ 3. Remove and reserve §§ 30.16 through 30.19.

Dated: March 24, 2026.

Shannon Wink,

Program Analyst, Policy Coordination Office, U.S. Census Bureau.

[FR Doc. 2026–06133 Filed 3–27–26; 8:45 am]

BILLING CODE 3510–07–P

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1233

[Docket No. CPSC–2015–0016]

Safety Standard for Portable Hook-On Chairs

AGENCY: Consumer Product Safety Commission.

ACTION: Direct final rule.

SUMMARY: In March 2016, the U.S. Consumer Product Safety Commission (CPSC or Commission) published a consumer product safety standard for portable hook-on chairs based on the ASTM voluntary standard for portable hook-on chairs. Currently, CPSC's mandatory standard incorporates by reference ASTM F1235–18, *Standard Consumer Safety Specification for Portable Hook-on Chairs.* The Consumer Product Safety Improvement Act of 2008 (CPSIA) sets forth a process for updating mandatory standards for durable infant or toddler products that are based on a voluntary standard, when a voluntary standards organization revises the standard. In January 2026, ASTM published a revised voluntary standard. This direct final rule updates the mandatory standard for portable hook-on chairs to incorporate by reference the 2025 version of ASTM F1235.

DATES: The rule is effective on July 19, 2026, unless the Commission receives a significant adverse comment by April 29, 2026. If the Commission receives such a comment, it will publish a notice in the **Federal Register**, withdrawing this direct final rule before its effective date. The incorporation by reference of the publication listed in this rule is approved by the Director of the Federal Register as of July 19, 2026.

ADDRESSES: You can submit comments, identified by Docket No. CPSC–2015–0016, by any of the following methods:

Electronic Submissions: Submit electronic comments to the Federal eRulemaking Portal at: *https://www.regulations.gov.* Follow the instructions for submitting comments. CPSC typically does not accept comments submitted by email, except as described below.

Mail/Hand Delivery/Courier/Confidential Written Submissions: CPSC encourages you to submit electronic comments by using the Federal eRulemaking Portal. You may, however, submit comments by mail, hand delivery, or courier to: Office of the Secretary, Consumer Product Safety Commission, 4330 East-West Highway,

Bethesda, MD 20814; telephone: (301) 504–7479. If you wish to submit confidential business information, trade secret information, or other sensitive or protected information that you do not want to be available to the public, you may submit such comments by mail, hand delivery, or courier, or you may email them to: *cpsc-os@cpsc.gov.*

Instructions: All submissions must include the agency name and docket number. CPSC may post all comments without change, including any personal identifiers, contact information, or other personal information provided, to: *https://www.regulations.gov.* Do not submit to this website: confidential business information, trade secret information, or other sensitive or protected information that you do not want to be available to the public. If you wish to submit such information, please submit it according to the instructions for mail/hand delivery/courier/ confidential written submissions.

Docket: For access to the docket to read background documents or comments received, go to: *https://www.regulations.gov,* and insert the docket number, CPSC–2015–0016, into the ''Search'' box, and follow the prompts.

FOR FURTHER INFORMATION CONTACT: Keysha Walker, Compliance Officer, U.S. Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814; telephone: (301) 504–6820; email: *kwalker@cpsc.gov;* Lawrence Mella, Project Manager, Division of Mechanical and Combustion Engineering, U.S. Consumer Product Safety Commission, 5 Research Place, Rockville, MD 20850; telephone: (301) 987–2537; email: *lmella@cpsc.gov.*

SUPPLEMENTARY INFORMATION:

I. Statutory Authority and Background

A. Statutory Authority

Section 104(b) of the CPSIA requires the Commission to assess the effectiveness of voluntary standards for durable infant or toddler products and adopt mandatory standards for these products. 15 U.S.C. 2056a(b)(1). Mandatory standards must be ''substantially the same as'' applicable voluntary standards, or they may be ''more stringent'' than the voluntary standards, if the Commission determines that more stringent requirements would further reduce the risk of injury associated with the products. *Id.* Accordingly, mandatory standards may be based, in whole or in part, on a voluntary standard.

Section 104(b)(4)(B) of the CPSIA specifies the process for when a voluntary standards organization revises a standard the Commission has incorporated by reference under section 104(b)(1). 15 U.S.C. 2056a(b)(4)(B). First, the voluntary standards organization must notify the Commission of the revision. Once the Commission receives this notification, the Commission may reject or accept the revised standard. To reject a revised standard, the Commission must notify the voluntary standards organization within 90 days of receiving the notice of revision that the Commission has determined that the revised standard does not improve the safety of the consumer product and that CPSC is retaining the existing standard. If the Commission does not take this action, then the revised voluntary standard will be considered a consumer product safety standard issued under section 9 of the Consumer Product Safety Act (CPSA) (15 U.S.C. 2058), effective 180 days after the Commission received notification of the revision (or a later date specified by the Commission in the **Federal Register**). 15 U.S.C. 2056a(b)(4)(B).

B. Safety Standard for Portable Hook-On Chairs

Pursuant to section 104(b)(1) of the CPSIA, on March 28, 2016, the Commission published a mandatory consumer product safety standard that incorporated by reference ASTM F1235–15, *Standard Consumer Safety Specification for Portable Hook-On Chairs.* (81 FR 17062, March 28, 2016). The standard covers performance requirements, test methods, and labeling requirements for portable hook-on chairs.

The ASTM standard incorporated by CPSC defines a portable hook-on chair in section 1.3 as ''[u]sually a legless seat constructed to locate the occupant at a table in such a position and elevation so that the surface of the table can be used as a feeding surface for the occupant . . . [s]upported solely by the table on which it is mounted.'' Typical hook-on chairs consist of a fabric over a lightweight frame, with a device to mount the seat to a support surface, such as a table or counter. Some hook-on chairs fold for easy storage or transport, and some include a removable tray that can be used in conjunction with a table.

On September 24, 2018, the Commission published a direct final rule revising the CPSC's mandatory standard for portable hook-on chairs. The revision incorporated by reference the most recent version of the applicable standard (ASTM F1235–18) at that time (83 FR 48219, Sept. 24, 2018). The updated standard included new requirements addressing fabric passive crotch restraints.

On January 20, 2026, ASTM notified the Commission that it had approved and published a newly revised version of the voluntary standard for portable hook-on chairs, ASTM F1235–25. As explained in sections II.A and II.B of this preamble, ASTM F1235–25 contains substantive revisions that improve the safety of portable hook-on chairs. The substantive changes add requirements for batteries, battery compartments, and AC adapters. The Commission determines that these changes improve the safety of portable hook-on chairs because of the addition of performance and marking requirements for batteries, battery compartments, and AC adapters that are consistent with other juvenile products. Also, the standard's language was updated to align with ASTM F15 Ad Hoc Language task group recommendations for consistency with other ASTM juvenile product standards. The Commission determines that these changes are safety neutral.

On January 29, 2026, the Commission published in the **Federal Register** a Notice of Availability, requesting comment on whether the 2025 revision improves the safety of portable hook-on chairs. 91 FR 3846. CPSC received one comment that was out of scope.

Based on staff's evaluation of ASTM F1235–25, the Commission will allow ASTM F1235–25 to become the new consumer product safety standard for portable hook-on chairs. Pursuant to CPSIA section 104, the revised voluntary standard will take effect as the new mandatory standard for portable hook-on chairs on July 19, 2026. 15 U.S.C. 2056a(b)(4)(B). This direct final rule updates 16 CFR part 1233 to incorporate by reference the revised voluntary standard, ASTM F1235–25.

II. Revisions to ASTM F1235

ASTM F1235–25 includes several additions and revisions to ASTM F1235–18, including new performance requirements, a test method, and marking requirements for batteries, battery compartments, and AC adapters, as well as ad-hoc language and editorial revisions that do not alter substantive requirements in the standard or impact safety. The Commission considers the revisions in ASTM F1235–25 to be an improvement to the safety of portable hook-on chairs because the revised standard added performance and marking requirements for batteries, battery compartments, and AC adapters.

A. Performance and Testing Requirements

In section 6.8 of ASTM F1235–25, ASTM added requirements for battery compartments to contain leaks, prevent charging of non-rechargeable batteries through design or circuitry, limit surface temperatures to 160 °F (71 °C) without causing fire or leakage, and ensure AC adapters meet national safety standards with output below 30 VDC and 8 amps.

In section 7.14 of ASTM F1235–25, ASTM added the peak temperature and battery leakage test. The test ensures that battery-powered functions operate at maximum intensity using specified battery types or AC power, under controlled conditions, to monitor peak temperature and verify safety without disabling protective features.

B. Warnings and Instructions

In section 8.6 of ASTM F1235–25, ASTM added marking requirements for portable hook-on chairs with batteries. The section states that products with battery compartments must be permanently and clearly labeled with battery specifications, and if they use non-replaceable batteries accessible by common tools, they must also be marked to indicate the batteries are not replaceable or include that information in the instructions.

In section 9.4 of ASTM F1235–25, ASTM added cautionary statement requirements that require products using replaceable batteries to include cautionary instructions to prevent leaks and injuries, emphasizing proper storage, disposal, and consistent battery replacement practices.

The requirements discussed above to ASTM F1235 improve the product safety of portable hook-on chairs by adding new performance, warning and instruction requirements that mitigate hazards associated with battery-powered features. While most hook-on chairs currently lack such features, these revisions proactively address risks observed in other juvenile products and align with established ASTM standards for juvenile products.

C. Other Revisions

ASTM F1235–25 includes several language revisions to reflect current ''ad hoc'' language recommendations, which are recommendations from the ASTM F15 Ad Hoc Language task group to maintain consistent language for requirements in ASTM juvenile product standards. Examples include requirements addressing scissoring, shearing, and pinching hazards; permanency of labels and warnings; and protective components. The modifications are consistent with CPSC's interpretation of the requirements in the current standard and therefore do not impact safety.

ASTM F1235–25 also includes editorial revisions, such as adding the parts of speech next to the terms in the terminology section, adding dimensions to numbers (*e.g.,* ''6 x 6 in.'' to ''6 in. x 6 in.''), and updates to section and figure numbers to reflect revised and new sections. These revisions do not impact safety because they do not alter any substantive requirements in the standard.

III. Incorporation by Reference

Section 1233.2 of the direct final rule incorporates by reference ASTM F1235–25. The Office of the Federal Register (OFR) has regulations regarding incorporation by reference. 1 CFR part 51. Under these regulations, agencies must discuss, in the preamble to a final rule, ways in which material the agency incorporates by reference is reasonably available to interested parties, and how interested parties can obtain the material. In addition, the preamble to the final rule must summarize the material. 1 CFR 51.5(b).

In accordance with the OFR regulations, section II of this preamble summarizes the revised provisions of ASTM F1235–25 that the Commission incorporates by reference into 16 CFR part 1233. The standard is reasonably available to interested parties in several ways. Until the direct final rule takes effect, a read-only copy of ASTM F1235–25 is available for viewing on ASTM's website at: *https://www.astm.org/CPSC.htm.* Once the rule takes effect, a read-only copy of the standard will be available for viewing on the ASTM website at: *https://www.astm.org/READINGLIBRARY/.* Additionally, interested parties can purchase a copy of ASTM F1235–25 from ASTM International, 100 Barr Harbor Drive, P.O. Box C700, West Conshohocken, PA 19428–2959 USA; phone: 610–832–9585; *www.astm.org.* Finally, interested parties can schedule an appointment to inspect a copy of the standard at CPSC's Office of the Secretary, U.S. Consumer Product Safety Commission, 4330 East-West Highway, Bethesda, MD 20814, telephone: 301–504–7479; email: *cpsc-os@cpsc.gov.*

IV. Certification

Section 14(a) of the CPSA (15 U.S.C. 2063(a)) requires manufacturers, including importers, of products subject to a consumer product safety rule under the CPSA, or to a similar rule, ban, standard, or regulation under any other act enforced by the Commission, to certify that the products comply with all applicable CPSC requirements. 15 U.S.C. 2063(a). Such certification must be based on a test of each product, or on a reasonable testing program, or, for children's products, on tests of a sufficient number of samples by a CPSC-accepted third party conformity assessment body accredited to test according to the applicable requirements. As noted, standards issued under section 104(b)(1)(B) of the CPSIA are ''consumer product safety standards.'' Thus, they are subject to the testing and certification requirements of section 14 of the CPSA.

Because portable hook-on chairs are children's products, a CPSC-accepted third party conformity assessment body must test samples of the products. Products subject to part 1233 also must comply with all other applicable CPSC requirements, such as the lead content requirements in section 101 of the CPSIA,[1] the phthalates prohibitions in section 108 of the CPSIA,[2] 16 CFR part 1307, the tracking label requirements in section 14(a)(5) of the CPSA,[3] and the consumer registration form requirements in section 104(d) of the CPSIA.[4] ASTM F1235–25 makes no changes that would impact any of these existing requirements.

V. Notice of Requirements

In accordance with section 14(a)(3)(B)(vi) of the CPSA (15 U.S.C. 2063(a)(3)(B)(vi)), the Commission previously published a notice of requirements (NOR) for accreditation of third-party conformity assessment bodies (third party labs) for testing portable hook-on chairs. 81 FR 17062 (March 28, 2016). The NOR provided the criteria and process for CPSC to accept accreditation of third-party conformity assessment bodies for testing portable hook-on chairs to 16 CFR part 1233. The NORs for all mandatory standards for durable infant or toddler products are listed in the Commission's rule, ''Requirements Pertaining to Third Party Conformity Assessment Bodies,'' codified in 16 CFR part 1112. The NOR for accreditation of third-party labs for testing for portable hook-on chairs is codified at 16 CFR 1112.15(b)(40).

ASTM F1235–25 changed the testing requirements for portable hook-on chairs by adding a peak temperature and battery leakage test. The new peak temperature and battery leakage test is included in other juvenile product

[1] 15 U.S.C. 1278a.

[2] 15 U.S.C. 2057c.

[3] 15 U.S.C. 2063(a)(5).

[4] 15 U.S.C. 2056a(d).

standards and can be conducted by accredited testing laboratories, as these facilities generally possess the capability to evaluate a range of different juvenile products. Therefore, testing laboratories that have demonstrated competence for testing in accordance with other juvenile product standards and ASTM F1235–18 will have the competence to test in accordance with the revised standard ASTM F1235–25. Based on the above, the Commission considers the existing CPSC-accepted laboratories for testing to ASTM F1235–18 to be capable of testing to ASTM 1235–25 as well. Accordingly, the existing NOR for this standard will remain in place, and CPSC-accepted third party conformity assessment bodies are expected to update the scope of the testing laboratories' accreditations to reflect the revised standard in the normal course of renewing their accreditations.

VI. Direct Final Rule Process

The Commission is issuing this rule as a direct final rule. Although the Administrative Procedure Act (APA; 5 U.S.C. 551–559) generally requires agencies to provide notice of a rule and an opportunity for interested parties to comment on it, section 553 of the APA provides an exception when the agency ''for good cause finds'' that notice and comment are ''impracticable, unnecessary, or contrary to the public interest.'' *Id.* 553(b)(B).

The purpose of this direct final rule is to update the reference in the Code of Federal Regulations (CFR) so that it reflects the version of the standard that takes effect by statute. This rule updates the reference in the CFR, but under the terms of the CPSIA, ASTM F1235–25 takes effect as the new CPSC standard for portable hook-on chairs, even if the Commission does not issue this rule. Thus, public comments would not lead to substantive changes to the standard or to the effect of the revised standard as a consumer product safety rule under section 104(b) of the CPSIA. Under these circumstances, notice and comment are unnecessary.

In Recommendation 2024–6, the Administrative Conference of the United States (ACUS) endorses direct final rulemaking as an appropriate procedure to expedite rules that are noncontroversial and that are not expected to generate significant adverse comments. *See* 89 FR 106406 (Dec. 30, 2024). ACUS recommends that agencies use the direct final rule process when they act under the ''unnecessary'' prong of the good cause exemption in 5 U.S.C. 553(b)(B). 89 FR 106406, 106409. ACUS also explains that notice and comment may be ''unnecessary'' when the agency lacks discretion regarding the substance of the rule. *Id.* at 106408. As noted, this rule updates a reference in the CFR to reflect a change that occurs by statute. Consistent with the ACUS recommendation the Commission is publishing this rule as a direct final rule, because CPSC does not expect any significant adverse comments.

Unless CPSC receives a significant adverse comment within 30 days of this notification, the rule will become effective on July 19, 2026. In accordance with ACUS's recommendation, the Commission considers a significant adverse comment to be one where the commenter explains why the rule would be inappropriate, ''including challenges to the rule's underlying premise or approach,'' or where the commenter explains why the rule would be ineffective or unacceptable without change. Id. at 106409. As noted, this rule updates a reference in the CFR to reflect a change that occurs by statute.

If the Commission receives a significant adverse comment, the Commission will withdraw this direct final rule. Depending on the comment and other circumstances, the Commission may then incorporate the adverse comment into a subsequent direct final rule or publish a notice of proposed rulemaking, providing an opportunity for public comment.

VII. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA; 5 U.S.C. 601–612) generally requires agencies to review proposed and final rules for their potential economic impact on small entities, including small businesses, and prepare regulatory flexibility analyses. 5 U.S.C. 603, 604. The RFA applies to any rule that is subject to notice and comment procedures under section 553 of the APA. 5 U.S.C. 601–612. As discussed in section VI of this preamble regarding the Direct Final Rule Process, the Commission has determined that notice and the opportunity to comment are unnecessary for this rule. Therefore, the RFA does not apply. The Commission also notes the limited nature of this document, which updates the incorporation by reference to reflect the mandatory CPSC standard that takes effect under section 104 of the CPSIA.

VIII. Paperwork Reduction Act

The current mandatory standard for portable hook-on chairs includes labeling requirements that constitute a ''collection of information,'' as defined in the Paperwork Reduction Act (PRA; 44 U.S.C. 3501–3521). While the revised mandatory standard adds marking and labeling requirements for portable hook-on chairs, the new requirements would not materially add to the burden hours because the products already require marking and labeling. The Commission took the steps required by the PRA for information collections when it promulgated 16 CFR part 1233, and the marking, labeling, and instructional literature for portable hook-on chairs are currently approved under OMB Control Number 3041–0159. Because the information collection burden is essentially unchanged, the revision does not affect the information collection requirements or approval related to the standard. The agency will consider whether OMB Control number 3041–0159 should be revised for portable hook-on chairs in the next scheduled update.

IX. Environmental Considerations

The Commission's regulations provide for a categorical exclusion from any requirement to prepare an environmental assessment or an environmental impact statement where they ''have little or no potential for affecting the human environment.'' 16 CFR 1021.5(c)(2). This rule falls within the categorical exclusion, so no environmental assessment or environmental impact statement is required.

X. Preemption

Section 26(a) of the CPSA provides that where a consumer product safety standard is in effect and applies to a product, no state or political subdivision of a state may either establish or continue in effect a requirement dealing with the same risk of injury unless the state requirement is identical to the Federal standard. 15 U.S.C. 2075(a). Section 26(c) of the CPSA also provides that states or political subdivisions of states may apply to CPSC for an exemption from this preemption under certain circumstances. Section 104(b) of the CPSIA deems rules issued under that provision ''consumer product safety standards.'' Therefore, once a rule issued under section 104 of the CPSIA takes effect, it will preempt in accordance with section 26(a) of the CPSA.

XI. Effective Date

Under the procedure set forth in section 104(b)(4)(B) of the CPSIA, when a voluntary standards organization revises a standard that the Commission adopted as a mandatory standard, the revision becomes the CPSC standard 180 days after notification to the Commission, unless the Commission

determines that the revision does not improve the safety of the product, or the Commission sets a later date in the **Federal Register**. 15 U.S.C. 2056a(b)(4)(B). The Commission is taking neither of those actions with respect to the revised standard for portable hook-on chairs. Therefore, ASTM F1235–25 automatically will take effect as the new mandatory standard for portable hook-on chairs on July 19, 2026, 180 days after the Commission received notice of the revision. As a direct final rule, unless the Commission receives a significant adverse comment within 30 days of this notice, the rule will become effective on July 19, 2026.

XII. Congressional Review Act and Executive Order 12866

Pursuant to the Congressional Review Act (CRA) and Executive Order (E.O.) 12866, the Office of Management and Budget's Office of Information and Regulatory Affairs has determined that this rule does not qualify as a ''major rule,'' as defined in 5 U.S.C. 804(2), and is not a significant regulatory action as defined under section 2(f) of E.O. 12866. To comply with the CRA, CPSC will submit the required information to each House of Congress and the Comptroller General.

List of Subjects in 16 CFR Part 1233

Consumer protection, Imports, Incorporation by reference, Infants and children, Labeling, Law enforcement, Safety.

For the reasons discussed in the preamble, the Commission amends 16 CFR chapter II as follows:

PART 1233—SAFETY STANDARD FOR PORTABLE HOOK—ON CHAIRS

■ 1. The authority citation for part 1233 is revised to read as follows:

Authority: 15 U.S.C. 2056a.

■ 2. Revise 1233.2 to read as follows:

§ 1233.2 Requirements for portable hook-on chairs.

Each portable hook-on chair must comply with all applicable provisions of ASTM F1235–25, *Standard Consumer Safety Specification for Portable Hook-On Chairs,* approved November 15, 2025. The Director of the Federal Register approves the incorporation by reference listed in this section in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. You may obtain a copy of this ASTM standard from ASTM International, 100 Barr Harbor Drive, P.O. Box C700, West Conshohocken, PA 19428–2959 USA; phone: 610–832–9585; *http://www.astm.org/.* You may inspect a copy at the Division of the Secretariat, U.S. Consumer Product Safety Commission, Room 820, 4330 East West Highway, Bethesda, MD 20814, telephone 301–504–7923, or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Alberta E. Mills,

Secretary, Consumer Product Safety Commission.

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DEPARTMENT OF THE TREASURY

Fiscal Service

31 CFR Part 375

[Docket No. FISCAL–2025–0001]

Marketable Treasury Securities Redemption Operations

AGENCY: Bureau of the Fiscal Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: The Department of the Treasury (Treasury) is issuing in final form amendments to the terms and conditions for marketable Treasury securities redemption (buyback) operations. These amendments reflect expanded direct offer submission eligibility, update the certification statements to participate in buyback operations, enhance clarity, and make conforming changes to several sections of the buyback regulations to reflect Treasury's current practices.

DATES: Effective March 30, 2026.

ADDRESSES: This final rule is available at *https://www.treasurydirect.gov.*

FOR FURTHER INFORMATION CONTACT: Fred Pietrangeli, Director, Office of Debt Management, at *debt.management@treasury.gov* for policy questions, or Lori Santamorena, Office of Securities Regulatory Operations, at *govsecreg@fiscal.treasury.gov*, or 202–504–3632, for technical questions.

SUPPLEMENTARY INFORMATION:

Background

Section 3111 of title 31 of the United States Code authorizes the Secretary of the Treasury to issue obligations under chapter 31 of title 31 to ''buy, redeem, or refund, at or before maturity, outstanding bonds, notes, certificates of indebtedness, Treasury bills, or savings certificates of the United States government'' and, under regulations of the Secretary of the Treasury, to use money received from the sale of an obligation and other money in the general fund of the Treasury in making such purchases, redemptions, or refunds. In January 2000, Treasury issued regulations regarding Treasury buyback operations.[1] Buyback operation announcements also specify terms and conditions for buyback operations. If anything in a buyback operation announcement differs from the buyback regulations, the terms of the announcement control.

On January 14, 2026, Treasury issued a notice of proposed rulemaking that would amend the buyback regulations to reflect expanded direct offer submission eligibility, update the certification statements to participate in buyback operations, enhance clarity, and make conforming changes to several sections of the buyback regulations to reflect Treasury's current practices.[2] The closing date for comments was February 13, 2026. Treasury received two comments on its proposal: one comment was not germane to the request, and the other comment was supportive of Treasury's efforts to expand direct buyback participation. Accordingly, Treasury is adopting the amendments largely as proposed.

Treasury is updating the buyback regulations for several reasons. First, certain typical buyback operation announcement terms differ from, and supersede, the buyback regulations. These amendments update the regulations to reflect those typical buyback operation announcement terms and promote consistency between the buyback regulations and buyback operation announcements and thereby mitigate potential confusion.

Second, the amendments update the regulations to expand the scope of entities eligible to submit offers directly to Treasury in buyback operations.[3] On July 30, 2025, Treasury announced plans to expand direct offer submission eligibility to buyback operations to a limited number of additional counterparties based on their participation in Treasury auctions, to foster greater competition in the buyback process and broaden access to liquidity support.[4] On September 19, 2025, Treasury published eligibility

[1] *See* 65 FR 3116 (Jan. 19, 2000).

[2] *See* 91 FR 1477 (Jan. 14, 2026).

[3] Expanded direct offer submitters will access buyback operations via the Federal Reserve Bank of New York's trading platform (FedTrade or any successor platform).

[4] Quarterly Refunding Statement of Deputy Assistant Secretary for Federal Finance Brian Smith (July 2025). Available at *https://home.treasury.gov/news/press-releases/sb0212.*

criteria for expanded direct offer submission eligibility.[5]

Third, the buyback regulations previously did not expressly address the extent to which buyback participants were permitted to use buyback operation information from the Federal Reserve Bank of New York's FedTrade platform as the basis for a transaction. Treasury expects buyback participants to maintain the highest standards in their market practices and comply with all applicable laws and regulations. Under these amendments, buyback participants may use buyback operation information solely found in FedTrade as a basis for a transaction only in the case of a hedging transaction. A hedging transaction should reduce or mitigate a specific, identifiable risk related to the buyback operation. This amendment aims to prevent potential misuse of information found in FedTrade while preserving the ability of buyback participants to appropriately hedge risk.

Discussion

For the reasons described above, Treasury is making the following amendments to the buyback regulations:

1. Modify 31 CFR 375.0 to more closely reflect the statutory language in 31 U.S.C. 3111.

2. Modify 31 CFR 375.2 to change the defined term ''Redemption amount'' to ''Maximum redemption amount'' for additional clarity and add a new defined term, ''FedTrade.''

3. Remove references to the term ''privately held amount'' from 31 CFR 375.2 and 375.21, because Treasury does not include the privately held amount in buyback operation results.

4. Modify 31 CFR 375.11(a) to reflect the expanded direct buyback offer submission eligibility, as described above.

5. Modify 31 CFR 375.13(b) to clarify the format that submitters must use to specify offered prices.

6. Modify 31 CFR 375.13(c) to reflect, in accordance with typical practice, that a buyback operation announcement may specify a maximum number of offers per submitter per security.

7. Modify 31 CFR 375.14 to update the certification statements related to submitters' permissible uses of information from FedTrade.

8. Modify 31 CFR 375.21 to more accurately reflect the information that is typically contained in buyback operation results and to reflect that Treasury announces buyback operation results through its website, not necessarily through the issuance of press releases. In addition to the modifications reflected in the notice of proposed rulemaking, in the final rule Treasury also is clarifying that results generally include certain information for each operation, rather than for each security redeemed, consistent with current practice.

9. Modify 31 CFR 375.22(a) to state Treasury does not provide confirmation of rejections of offers, in accordance with typical Treasury practice.

10. Add a new 31 CFR 375.24 to inform the public that offers at the highest accepted price for a particular security may be accepted on a prorated basis.

11. Amend 31 CFR 375.31 to clarify that the enumerated actions that Treasury may take if someone does not fully comply with the buyback operation rules or fails to deliver securities are not exclusive or mutually exclusive.

The amendments also include certain nonsubstantive, ministerial, or conforming changes to the buyback regulations.

Procedural Requirements

Executive Order 12866. This final rule is not a significant regulatory action pursuant to Executive Order 12866 as amended.

Executive Order 14192. This final rule is a deregulatory action pursuant to Executive Order 14192.

Administrative Procedure Act (APA). The APA generally imposes requirements on agency rulemakings related to notice, public comment, and delayed effective dates, under 5 U.S.C. 553. However, 5 U.S.C. 553(a)(2) exempts matters relating to contracts from those requirements. The buyback regulations relate to Treasury securities, which are contracts between Treasury and the owner of the security; therefore, the notice, public comment, and delayed effective date requirements of the APA do not apply to this rulemaking.

Regulatory Flexibility Act. The provisions of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.,* do not apply to this final rule because, pursuant to 5 U.S.C. 553(a)(2), this rule is not required to be issued with notice and opportunity for public comment.

Paperwork Reduction Act. This final rule does not involve a collection of information. Therefore, the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.,* does not apply.

Congressional Review Act (CRA). This final rule is not a major rule pursuant to the CRA, 5 U.S.C. 801 *et seq.*

List of Subjects in 31 CFR Part 375

Bonds, Federal Reserve System, Government securities.

Text of Amendments

For the reasons set forth in the preamble, we are revising and republishing 31 CFR part 375 to read as follows:

PART 375—MARKETABLE TREASURY SECURITIES REDEMPTION OPERATIONS

Subpart A—General Information

Sec.

375.0 What authority does the Treasury Department have to redeem its securities?
375.1 Where are the rules for the redemption operation located?
375.2 What special definitions apply to this part?
375.3 What is the role of the Federal Reserve Bank of New York in this process?

Subpart B—Offering, Certifications, and Delivery

375.10 What is the purpose of the redemption operation announcement?
375.11 Who may participate in a redemption operation?
375.12 How do I submit an offer?
375.13 What requirements apply to offers?
375.14 Do I have to make any certifications?
375.15 Who is responsible for delivering securities?

Subpart C—Determination of Redemption Operation Results; Settlement

375.20 When will the Treasury Department decide which offers to accept?
375.21 How will the Treasury Department announce the redemption operation results?
375.22 Will I receive confirmations and, if I am submitting offers for others, do I have to provide confirmations?
375.23 How does the securities delivery process work?
375.24 Does the Treasury Department prorate offers at the highest accepted price for a particular security?

Subpart D—Miscellaneous Provisions

375.30 Does the Treasury Department have any discretion in this process?
375.31 What could happen if someone does not fully comply with the redemption operation rules or fails to deliver securities?

Authority: 5 U.S.C. 301; 31 U.S.C. 321; 31 U.S.C. 3111; 12 U.S.C. 391.

[5] See ''FAQs about Treasury Securities Buybacks,'' available at *https://treasurydirect.gov/help-center/faqs/buyback-faqs.* See also ''Remarks by PDO Assistant Secretary McMaster Before the 2025 Annual Primary Dealer Meeting at the Federal Reserve Bank of New York'' (Sept. 2025), available at *https://home.treasury.gov/news/press-releases/sb0267.*

PART 375—MARKETABLE TREASURY SECURITIES REDEMPTION OPERATIONS

Subpart A—General Information

§ 375.0 What authority does the Treasury Department have to redeem its securities?

Section 3111 of title 31 of the United States Code authorizes the Secretary of the Treasury to issue obligations under 31 U.S.C. chapter 31 to buy, redeem, or refund, at or before maturity, outstanding bonds, notes, certificates of indebtedness, Treasury bills, or savings certificates of the U.S. Government and, under regulations of the Secretary of the Treasury in this chapter, to use money received from the sale of an obligation and other money in the general fund of the Treasury Department in making such purchases, redemptions, or refunds.

§ 375.1 Where are the rules for the redemption operation located?

The provisions in this part and the redemption operation announcement govern the redemption of marketable Treasury securities under 31 U.S.C. 3111. (See § 375.10.)

§ 375.2 What special definitions apply to this part?

The definitions in 31 CFR part 356 govern this part except as follows:

Accrued interest means an amount payable by the Treasury Department as part of the settlement amount for the interest income earned between the last interest payment date up to and including the settlement date.

Bank means the Federal Reserve Bank of New York.

Customer means a person or entity on whose behalf a submitter has been directed to submit an offer of a specified amount of securities in a specific redemption operation.

FedTrade means the Federal Reserve Bank of New York's proprietary electronic trading platform used to conduct redemption operations, and includes any successor thereto.

Maximum redemption amount means the maximum par amount of securities that we are planning to redeem through a redemption operation. We will state the maximum redemption amount in the redemption operation announcement.

Minimum offer amount means the smallest par amount of a security that may be offered to the Treasury Department. We will state the minimum offer amount in the redemption operation announcement.

Multiple means the smallest additional par amount of a security that may be offered to the Treasury Department. We will state the multiple in the redemption operation announcement.

Offer means an offer to deliver for redemption a stated par amount of a specific security to the Treasury Department at a stated price.

Price means the dollar amount to be paid for a security expressed as a percent of its current par amount.

Redemption operation means a competitive process by which the Treasury Department accepts offers of marketable Treasury securities that by their terms are not immediately payable.

Security means an outstanding unmatured obligation of the United States Government that the Secretary of the Treasury is authorized to buy, redeem, or refund under 31 U.S.C. 3111.

Settlement means full and complete delivery of and payment for securities redeemed.

Settlement amount means the par amount of each security that we redeem, multiplied by the price we accept in a redemption operation, plus any accrued interest.

Settlement date means the date specified in the redemption operation announcement on which you must deliver a security to the Treasury Department for payment.

Submitter means an entity submitting offers directly to the Treasury Department for its own account, for the account of others, or both. (See § 375.11(a)).

Tender means a computer transmission or document submitted in a redemption operation that contains one or more offers.

We or *us* means the Secretary of the Treasury and his or her delegates, including the Treasury Department, the Bureau of the Fiscal Service, and their representatives. The term also includes the Federal Reserve Bank of New York, acting as fiscal agent of the United States.

You means a prospective submitter in a redemption operation.

§ 375.3 What is the role of the Federal Reserve Bank of New York in this process?

As fiscal agent of the United States, the Federal Reserve Bank of New York performs various activities necessary to conduct a redemption operation under this part. These activities may include but are not limited to:

(a) Accepting and reviewing tenders;

(b) Calculating redemption operation results;

(c) Issuing notices of redemptions;

(d) Accepting deliveries of Treasury securities at settlement; and

(e) Processing the Treasury payment for securities delivered at settlement.

Subpart B—Offering, Certifications, and Delivery

§ 375.10 What is the purpose of the redemption operation announcement?

We provide public notice that we are redeeming Treasury securities by issuing a redemption operation announcement. This announcement lists the details of each proposed redemption operation, including the maximum redemption amount, the range of maturities of eligible securities, descriptions of the securities that fall within that maturity range, and the redemption operation and settlement dates. The redemption operation announcement and this part specify the terms and conditions of a redemption operation. If anything in the redemption operation announcement differs from anything in this part, the redemption operation announcement will apply. Accordingly, you should read the applicable redemption operation announcement along with this part.

§ 375.11 Who may participate in a redemption operation?

(a) *Submitters.* To be a submitter, you must be:

(1) An institution that the Federal Reserve Bank of New York has designated as a primary dealer; or

(2) An entity approved by the Treasury Department to participate directly in redemption operations.

(b) *Others.* A person or entity other than a submitter may participate only if it arranges to have an offer or offers submitted on its behalf by a submitter.

§ 375.12 How do I submit an offer?

As a submitter, you must submit an offer in a tender to the Treasury Department via the Federal Reserve Bank of New York. You must submit any tenders in an approved format and the Bank must receive them prior to the closing time stated in the redemption operation announcement. If we do not receive your tenders timely, we will reject them. Your tenders are binding on you after the closing time specified in the redemption operation announcement. You are responsible for ensuring that we receive your tenders on time. We will not be responsible in any way for any unauthorized tender submissions or for any delays, errors, or omissions in submitting tenders.

§ 375.13 What requirements apply to offers?

(a) *General.* You may only submit competitive offers (specifying a price). All offers must state the security description, par amount, and price of each security offered. All offers must equal or exceed the minimum offer

amount, and be in the multiple stated in the redemption operation announcement.

(b) *Price format.* You must express offered prices in terms of price per $100 of par amount.

(c) *Maximum number of offers.* We may specify a maximum number of offers per security in the redemption operation announcement. There is no limit on the number of eligible securities you may offer.

§ 375.14 Do I have to make any certifications?

By submitting a tender offering a security or securities for sale, you are deemed to certify to us that:

(a) You are in compliance with this part and the redemption operation announcement;

(b) You will not use any redemption operation information from FedTrade as a basis for any transaction unless:

(1) such information is available to you from another source at the time of the transaction; or

(2) such transaction is solely for the purpose of hedging specific, identifiable risks to you arising from the acceptance or rejection of your offers in a Treasury redemption operation or unwinding hedges of specific, identifiable risks to you arising from securities you redeem in a Treasury redemption operation; and

(c) You will not convey any redemption operation information from FedTrade to another person or entity except for the purpose of effectuating a transaction permitted under paragraph (b) of this section.

§ 375.15 Who is responsible for delivering securities?

As a submitter, you are responsible for delivering any securities we accept in the redemption operation, including any securities for which you submitted offers on behalf of others. (See § 375.23.) All securities you deliver must be free and clear of all liens, charges, claims, and any other restrictions.

Subpart C—Determination of Redemption Operation Results; Settlement

§ 375.20 When will the Treasury Department decide which offers to accept?

We will determine which offers or portions of offers to accept after the closing time for receipt of tenders. All such determinations will be final.

§ 375.21 How will the Treasury Department announce the redemption operation results?

We will make the redemption operation results available on our website. For each operation, the results generally will include information such as the amounts offered and accepted and pricing information.

§ 375.22 Will I receive confirmations and, if I am submitting offers for others, do I have to provide confirmations?

(a) *Confirmations to submitters.* We will provide a confirmation of acceptance in the form of a results message to submitters of offers by the close of the business day of the redemption operation. We will not provide confirmation of rejections of offers.

(b) *Confirmation of customer offers.* If you submit a successful offer for a customer, you are responsible for notifying that customer of the impending redemption.

§ 375.23 How does the securities delivery process work?

If any of the offers you submitted are accepted, you must transfer the correct book-entry Treasury securities in the correct par amount against the correct settlement amount on the settlement date. You must deliver the securities to the account specified in the redemption operation announcement.

§ 375.24 Does the Treasury Department prorate offers at the highest accepted price for a particular security?

Offers at the highest accepted price for a particular security may be accepted on a prorated basis.

Subpart D—Miscellaneous Provisions

§ 375.30 Does the Treasury Department have any discretion in this process?

(a) We have the discretion to:

(1) Accept or reject any offers or tenders submitted in a redemption operation;

(2) Redeem less than the maximum redemption amount specified in the redemption operation announcement;

(3) Add to, change, or waive any provision of this part; or

(4) Change the terms and conditions of a redemption operation.

(b) Our decisions under this part are final. We will provide a public notice if we change any redemption operation provision, term, or condition.

§ 375.31 What could happen if someone does not fully comply with the redemption operation rules or fails to deliver securities?

(a) *General.* If a person or entity fails to comply with any of the redemption operation rules in this part, we will consider the circumstances and take what we deem to be appropriate action. This could include, but is not limited to, barring the person or entity from participating in future redemption operations under this part and future auctions under 31 CFR part 356. We also may refer the matter to an appropriate regulatory agency.

(b) *Liquidated damages.* In addition to other remedies available to us, if you fail to deliver securities on time, we may require you to pay liquidated damages of up to 1% of your projected settlement amount.

Gary Grippo,

Acting Fiscal Assistant Secretary.

[FR Doc. 2026–06070 Filed 3–27–26; 8:45 am]

BILLING CODE 4810–AS–P

LIBRARY OF CONGRESS

Copyright Royalty Board

37 CFR Part 383

[Docket No. 23–CRB–0013–NSR (2026–2030)]

Adjustment to Sound Recordings by New Subscription Services and Ephemeral Recordings To Facilitate Those Performances License 2026 Royalty Rates

AGENCY: Copyright Royalty Board (CRB), Library of Congress.

ACTION: Final rule—technical amendment.

SUMMARY: The Copyright Royalty Judges announce an adjustment (based on CPI–U figures) in the royalty for the digital performances of sound recordings by new subscription services and for the making of ephemeral recordings necessary to facilitate those transmissions.

DATES:

Effective date: March 30, 2026.

Applicability dates: These rates are applicable to the period January 1, 2026, through December 31, 2030.

FOR FURTHER INFORMATION CONTACT: Anita Brown, (202) 707–7658, *crb@loc.gov.*

SUPPLEMENTARY INFORMATION: Sections 112(e) and 114(f) of the Copyright Act, title 17 of the United States Code, create statutory licenses for certain digital performances of sound recordings and the making of ephemeral reproductions to facilitate transmission of those sound recordings. On March 10, 2026, the Copyright Royalty Judges (Judges) adopted final regulations governing the rates and terms of copyright royalty payments under those licenses for the license period 2026–2030 for the digital performances of sound recordings by new subscription services and for the making of ephemeral recordings

necessary to facilitate those transmissions. *See* 91 FR 11471.

Pursuant to those regulations, the calculation of the rate for each year shall be cumulative based on a calculation of the percentage increase in the CPI–U from the CPI–U published in November 2024 (CPI–U%) and shall be made according to the following formulas: (A) For Stand-Alone Contracts, $(1 + (C_y - 315.664)/315.664) \times \$0.0234$; and (B) For Bundled Contracts, $(1 + (C_y - 315.664)/315.664) \times \$0.0390$; and (ii) For both formulas, Cy is the CPI–U published by the Secretary of Labor before December 1 of the preceding year. The adjusted rate shall be rounded to the nearest fourth decimal place. *See* 37 CFR 385.3.

The CPI–U published by the Secretary of Labor from the most recent index published before December 1, 2025, is 324.800.[1] Applying the formulas above, adjusted rates for 2026 are $0.0241 for standalone contracts and $0.0401 for bundled contracts.

List of Subjects in 37 CFR Part 383

Copyright, Sound recordings, Webcasters.

Final Regulations

In consideration of the foregoing, the Copyright Royalty Board amends part 383 of title 37 of the Code of Federal Regulations as follows:

PART 383—RATES AND TERMS FOR SUBSCRIPTION TRANSMISSIONS AND THE REPRODUCTION OF EPHEMERAL RECORDINGS BY CERTAIN NEW SUBSCRIPTION SERVICES

■ 1. The authority citation for part 383 continues to read as follows:

Authority: 17 U.S.C. 112(e), 114, 801(b)(1).

■ 2. Amend § 383.3 by revising paragraphs (a)(1) and (2) to read as follows:

§ 383.3 Royalty fees for public performances of sound recordings and the making of ephemeral recordings.

(a) * * *

(1) For Stand-Alone Contracts, a monthly payment of $0.0241 per Subscriber to the Service of such Licensee, which is equivalent to the 2025 royalty rate of $0.0234, as adjusted by the annual royalty fee adjustment in paragraph (b) of this section.

(2) For Bundled Contracts, a monthly payment of $0.0401 per Subscriber to the Service of such Licensee, which is equivalent to the 2025 royalty rate of $0.0390, as adjusted by the annual royalty fee adjustment in paragraph (b) of this section.

* * * * *

Dated: March 25, 2026.

Trevor Jefferson,

Interim Chief Copyright Royalty Judge.

[FR Doc. 2026–06055 Filed 3–27–26; 8:45 am]

BILLING CODE 1410–72–P

[1] The CPI–U announced on October 24, 2025, by the Bureau of Labor Statistics in its Consumer Price Index News Release—Consumer Price Index, is available at *https://www.bls.gov/news.release/archives/cpi_10242025.htm.* The Copyright Royalty Judges note that the October 24, 2025, publication is the most recent CPI–U published by the Secretary of Labor before December 1 of the preceding year (*i.e.,* 2026). The Bureau of Labor statistics has explained ''BLS could not collect October 2025 reference period survey data due to a lapse in appropriations.'' *See https://www.bls.gov/bls/2025-lapse-revised-release-dates.htm.*

Proposed Rules

Federal Register
Vol. 91, No. 60
Monday, March 30, 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.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1217

[Doc. No. AMS–SC–25–0023]

Softwood Lumber Board Assessment Rate Clarification and Changes to Membership

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule invites comments on changes to the Softwood Lumber Research, Promotion, Consumer Education and Industry Information Order (Order). These changes include clarifying the assessment rate for softwood lumber imported into the United States and revising the membership of the Softwood Lumber Board (Board or SLB).

DATES: Comments must be received by April 29, 2026.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposed rule. You may send comments to the Federal eRulemaking Portal at *https://www.regulations.gov*. You can access this proposed rule and instructions for submitting public comments by searching for the rule title. Comments may also be mailed to the Docket Clerk, Market Development Division, Specialty Crops Program, Agricultural Marketing Service (AMS), U.S. Department of Agriculture (USDA), 1400 Independence Avenue SW, Room 1406–S, STOP 0244, Washington, DC 20250–0237; or submitted electronically by Email: *SM.USDA.MRP.AMS.MDDComment@usda.gov*. Comments should reference the document number and the date and page number of this issue of the **Federal Register**. All comments will be made available for public inspection in the Office of the Docket Clerk during regular business hours or can be viewed at *https://www.regulations.gov*. Comments submitted in response to this proposed rule will be included in the rulemaking record and will be made available to the public. Please be advised that comments are posted to *regulations.gov* as submitted, without change.

FOR FURTHER INFORMATION CONTACT: Katie Cook, Marketing Specialist, or Alexandra Caryl, Chief, Mid-Atlantic Region Branch, Market Development Division, Specialty Crops Program, AMS, USDA; via telephone: (202) 720–8085 or via email: *Katie.Cook@usda.gov* or *Alexandra.Caryl@usda.gov*.

SUPPLEMENTARY INFORMATION: This proposed rule affecting the Softwood Lumber Research, Promotion, Consumer Education and Industry Information Order (7 CFR part 1217) is authorized by the Commodity Promotion, Research, and Information Act of 1996 (7 U.S.C. 7411–7425) (Act).

Executive Orders 12866

This action is exempt from the Office of Management and Budget (OMB) review process required by Executive Order 12866. This rule amends an existing research and promotion program and is necessary for the continued operation of the Softwood Lumber Research, Promotion, Consumer Education and Industry Information Order. Additionally, this action is exempt from the requirements of Executive Order 14192, ''Unleashing Prosperity Through Deregulation,'' pursuant to section 5(c).

Executive Order 13175

This proposed action was reviewed in accordance with the requirements of Executive Order 13175, ''Consultation and Coordination with Indian Tribal Governments,'' which requires agencies to consider whether their rulemaking actions will have Tribal implications. AMS determined this proposed rule is unlikely to have substantial direct effects on one or more Indian Tribes, or the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes.

Executive Order 12988

This proposed rule was reviewed under Executive Order 12988, ''Civil Justice Reform.'' The Act provides that it shall not affect or preempt any other Federal or State law authorizing promotion or research relating to an agricultural commodity.

Under section 519 of the 1996 Act (7 U.S.C. 7418), a person subject to an order may file a petition with the Secretary of Agriculture (Secretary) stating that the order, any provision of the order, or any obligation imposed in connection with the order, is not established in accordance with the law and requesting a modification of the order or an exemption from the order. Any petition filed challenging the order, any provision of the order, or any obligation imposed in connection with the order, shall be filed within 2 years after the effective date of the order, provision, or obligation subject to challenge in the petition. The petitioner will have the opportunity for a hearing on the petition. Thereafter, the Secretary will issue a ruling on the petition. The Act provides that the district court of the United States for any district in which the petitioner resides or conducts business shall have jurisdiction to review a final ruling on the petition, if the petitioner files a complaint for that purpose not later than 20 days after the date of the entry of the Secretary's final ruling.

Background

The Board administers a nationally coordinated program of research, promotion, and information designed to strengthen the softwood lumber industry. The program is financed by assessments on manufacturers for the U.S. market who manufacture and domestically ship or import softwood lumber. The Board, which is composed of manufacturers for the U.S. market who manufacture and domestically ship or import softwood lumber in the U.S., unanimously recommended these actions at a public meeting on March 12, 2025. This proposal invites comments on changes that would clarify the assessment rate for softwood lumber imported into the U.S. and revise the membership of the Board.

Clarifying Assessment Rate

The assessment rate on softwood lumber is $0.41 per thousand board feet (MBF) for both domestically manufactured and imported softwood lumber. The Order defines a board foot as the unit of measurement of softwood lumber represented by a board 12-inches long, 12-inches wide, and 1-inch thick, or its cubic equivalent. The

definition goes on to say that a board foot calculation for softwood lumber 1-inch or more in thickness is based on its nominal thickness and width and actual length. Nominal size or count is standard for lumber in the U.S., Canada, and Mexico, but lumber from European countries is often measured by its ''net'' size or count. While nominal size is based on the thickness and width of a board when it is first cut prior to drying and planing, net size is the actual size after processing. According to the Board, the difference between net and nominal size of a board is significant. For example, a 2-inch by 4-inch nominal board (8-inch volume) has an actual or net size of 1½-inch x 3½-inch (5¼-inch volume), a volume difference of 2.75-inches. Therefore, when softwood lumber is reported and the assessments calculated with net size, less assessments are paid. This discrepancy in volume measurements has resulted in an imbalance in assessment payments between North American, European, and other importing countries.

Assessments from importers are collected by U.S. Customs and Border Protection (Customs or CBP) when the lumber enters the country. The unit of measurement used for most imported softwood lumber is cubic meters (m^3 mall amount imported in square meters (m^2. The North American wood products industry converts the nominal size into board feet, the measurement commonly used for lumber in the U.S. and Canada. Historically, this has been done using the following calculation: 1,000 m^3 nominal/2.3597 = 423.8 MBF.

In 2021, the Board identified a reporting discrepancy and engaged with AMS. In January 2023, the Forest Economic Advisors (FEA), an independent lumber and wood industry consulting firm, released a study that quantified the impact of net size versus nominal size on imports and provided a calculation to be used for board feet on the net count. To attempt to resolve the issue without rulemaking, in May 2023 the Board worked with AMS and Customs to issue a U.S. Customs and Border Protection Cargo Systems Messaging Service (CSMS) bulletin to all U.S. importers and brokers. Misreporting persisted and Customs advised the Board to revise the Order language to make assessment collection on the nominal size explicit.

FEA's 2023 analysis shows that net volume can be converted to board feet through application of the appropriate factor: 1,000 m^3 net/1.57 = 636.9 MBF. Using this calculation, 1,000 m^3 on a net count equates to 636.9 MBF of softwood lumber, 1.503 times more than when a nominal count is used (636.9 MBF/423.8 MBF = 1.503).

To properly calculate the assessment rate for softwood lumber imported on a net count, the nominal assessment rate of $0.41/MBF must be multiplied by 1.503, which computes to a rate of $0.62/MBF on a net count. The table below demonstrates the different conversion rates.

	$/thousand board feet	$/cubic meter	$/square meter
Nominal	0.41	0.1737	0.004412
Net	0.62	0.2611	0.006631

Therefore, this proposal would add a definition of net size or count, revise section 1217.52(b) and (c) to specify that assessment calculations shall be on the nominal count, add nominal and net calculations to the table in section 1217.52(h), clarify that exemptions from assessment are calculated using the nominal count in section 1217.53(a) and (b), revise section 1217.70(a) to clarify that reports should include information on a nominal count, and lastly, amend 1217.101(d) and (e) to clarify that eligibility to vote in a referendum is calculated using the nominal count.

Changes in Membership

The Board is required to review membership at least every five years to determine if the distribution of members accurately reflects the makeup of the industry. The Board analyzed Customs and industry geographical data from 2022 through 2024 and found the U.S. South's proportion of manufactured lumber increased during the period. The data shows the U.S. South region manufactured almost 22.1 billion board feet, the U.S. West region manufactured over 13.6 billion board feet, the Northeast and Lake States region manufactured 1.6 billion board feet and importers had an average volume at nearly 15.2 billion board feet.

Therefore, this proposed action would add one seat of any size to the U.S. South Region in section 1217.40 to reflect increased production in the geographic region. Industry seats on the Board would increase from 14 to 15, for a total of 16 Board members.

Initial Regulatory Flexibility Analysis

In accordance with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612), AMS is required to examine the impact of this action on small entities. Accordingly, AMS has considered the economic impact of this action on such entities and conducted the following analysis using the most recent data.

The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to the actions so that small businesses will not be disproportionately burdened. The Small Business Administration (SBA) defines, in 13 CFR part 121, small firms which engage in ''Support Activities for Forestry'' (domestic softwood lumber manufacturers and importers) as those having annual receipts of no more than $11.5 million.[1]

According to data from Fastmarkets Random Lengths, the 2022–2024 three-year average framing lumber composite price was $523 per thousand-board-feet. Dividing the $11.5 million threshold that defines a small firm which provides ''Support Activities for Forestry'' by this price results in a maximum threshold of about 22 million board feet (MMBF) of softwood lumber per year that a domestic manufacturer may ship to be considered a small entity for purposes of the RFA. Table 1, based on shipment data from FEA and import data from CBP, shows the number of entities and the amount of volume they represent that may be categorized as small or large based on the SBA definition.

[1] SBA does have a small business size standard for ''Sawmills'' of 550 employees (see *https://www.sba.gov/sites/sbagov/files/2023-06/Table%20of%20Size%20Standards_Effective%20March%2017%2C%202023%20%282%29.pdf*). Based on USDA's understanding of the lumber industry, using this criterion would be impractical as sawmills often use contractors rather than employees to operate and, therefore, many mills would be deemed small businesses under this criterion while being, in reality, a large business. Therefore, USDA used the definition of a small firm which engages in ''Support Activities for Forestry'' as a more appropriate criterion for this analysis.

Table 1. Domestic Manufacturers and Importers by SBA Size Standards Based on 2022-2024 Average Volume			
	SBA Size	Number of Entities	Volume (MMBF)
Domestic Manufacturers	Small *shipments* ≤ 22 *MMBF*	185	1,521
	Large *shipments* > 22 *MMBF*	143	35,744
	Subtotal	328	37,265
Imports	Small *import value* ≤ $11.5 *M*	1,434	1,274
	Large *import value* > $11.5 *M*	118	13,969
	Subtotal	1,552	15,242
Grand Total		1,880	52,508
Data sources: FEA; CBP.			

As illustrated in Table 1, 185 domestic manufacturers, or 56 percent of the total number of domestic manufacturers, were considered small per the SBA size standard. These 185 entities represented a three-year average of 1,521 MMBF in shipments, or 4 percent of total shipments by domestic manufacturers. Small importers accounted for 92 percent of the total number of importers at 1,434 entities. These small importers represented a three-year average of 1,274 MMBF in import volume, or 8 percent of total import volume. In all, small businesses accounted for 86 percent of the grand total of entities, and 5 percent of the grand total of volume. The proposed rule would not disproportionately burden small domestic manufacturers and importers of softwood lumber.

Assessments on Imports Reported in Net Volume

In January 2023, FEA published a report detailing its discovery of and solution for miscalculations of imported lumber volumes from European countries. While the U.S., Canada, and Mexico record lumber volumes in nominal terms, European countries measure lumber volumes in net terms. A piece of lumber that would be recorded by the U.S., Canada, or Mexico as two inches thick by four inches wide would be recorded by European countries as 1.5 inches thick by 3.5 inches wide. This is because North American countries record lumber volume based on unfinished dimensions, while European countries measure lumber volume based on post-milled actual finished size. This discrepancy in volume measurements results in an imbalance in assessment payments between North American and European countries.

Imports of softwood lumber into the U.S. are mostly reported in cubic meters. These are converted to board feet, which is the standard unit of measurement for lumber in the U.S., Canada, and Mexico. The conversion factor in nominal terms is 423.8 MBF to 1,000 cubic meters of lumber. Based on its January 2023 analysis, FEA concludes that the conversion factor for imports from countries who report in net terms should be 636.9 MBF to 1,000 cubic meters of lumber. The FEA conversion rate of net cubic meters to thousand-board-feet shows that volume reported in net terms is about 1.5 times the volume reported in nominal terms (636.943 MBF [from net cubic meters] divided by 423.776 MBF [from nominal cubic meters]), resulting in an imbalance in assessments paid based on these volumes. Therefore, the SLB proposes clarification of the assessment rate for lumber volume reported in net terms, using the conversion factors recommended in the FEA January 2023 report.

The clarification that the assessment rate is based on nominal volume will impact importers who measure softwood lumber based on net volume, as their imports will need to be converted to nominal terms. Importers of softwood lumber from European countries will primarily be affected. Based on data from Customs and Border Protection, there were 388 importers of softwood lumber from European countries between 2022 and 2024. Of these, 27 had average volume exceeding the de minimis quantity of 15 MMBF in nominal terms. Clarifying that the assessment rate is based on nominal volume will add more than $367,000 to the SLB budget.

Board Restructuring

According to FEA data, production of softwood lumber in the U.S. South has increased in recent years; warranting an additional board seat to accurately represent the industry. Table 2 shows the three-year average volume of both softwood lumber produced domestically and imported softwood lumber, further segregated by regions and the number of board seats allocated to these regions as proposed by the SLB. This rule would add one board seat to the U.S. South region, bringing the total number of seats across all regions from its current level of 14 to 15 industry seats, with an additional seat for a public member, for a total of 16 members.

Table 2. Board Seat Restructuring Based on Average Volume					
	2022-2024 Average Volume (MMBF)			Board Seats	
	Regions	Volume (MMBF)	Portion of Grand Total	Tied to Volume portions	Proposed by Board
Domestic Production	U.S. West	13,579	26%	3.9	4
	U.S. South	22,128	42%	6.3	6
	NE & Lake States	1,558	3%	0.4	1
	Subtotal	37,265	71%	10.6	11
Imports	Canada West	6,928	13%	2.0	2
	Canada East	5,502	10%	1.6	1
	Importer (Offshore + Mexico)	2,813	5%	0.8	1
	Subtotal	15,242	29%	4.4	4
Grand Total		52,508	100%	15.0	15
Data sources: FEA; CBP.					

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the information collection and recordkeeping requirements imposed by the Order were approved previously under OMB control number 0581–0093. This proposed rule would not result in a change to the information collection and recordkeeping requirements previously approved and would not impose additional reporting and recordkeeping burden on domestic manufacturers and importers of softwood lumber.

As with all Federal promotion programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies. AMS has not identified any relevant Federal rules that duplicate, overlap, or conflict with this proposed rule.

Regarding alternatives, the Board considered not making changes to the Order in reference to nominal and net sizes, and Board makeup. Leaving it as-is would mean continued imbalance in assessment payments and inaccurate representation of Board members. The Board also considered providing additional education and notice to importers of record on declaring import volumes on a nominal size count. The Board previously worked with AMS and Customs to issue a CSMS bulletin on May 12, 2023. This bulletin had no noticeable effect, positive or negative, on reporting, therefore releasing another CSMS bulletin is not seen as a viable or worthy effort.

Lastly, through AMS, the Board requested Customs enforce assessment collection on a nominal size count. Customs informed the Board that the current regulatory language in the Order was not explicit or specific enough for them to take such action against importers reporting on the incorrect net size. Ultimately, the actions recommended by the Board were to add one member to the Board for the U.S. South Region and to clarify assessments are to be collected on the nominal size.

Regarding outreach efforts, the Board raised the assessment issue in 2021 and had initial conversations with AMS. FEA released their analysis of nominal shipments versus net shipments in January 2023, notifying the industry of the issue. Throughout the remainder of 2023 and all of 2024, the Board discussed the nominal/net issue at every quarterly meeting as well as in quarterly committee meetings. After attempts to solve the issue without rulemaking through a CSMS bulletin, the Board voted in March 2025 to recommend rulemaking to clarify the assessment rate in the Order.

After consideration of all relevant material presented, including the information and recommendations submitted by the Board and other available information, USDA has determined that this proposed rule is consistent with, and will effectuate the purposes of the Act.

A 30-day comment period is provided to allow interested persons to respond to this proposed rule. All written comments received timely will be considered before a final determination is made on this rule.

List of Subjects in 7 CFR Part 1217

Administrative practice and procedure, Advertising, Agricultural research, Confidential business information, Consumer protection, Forests and forest products, Inventions and patents, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, the Agricultural Marketing Service proposes to amend 7 CFR part 1217 as follows:

PART 1217—SOFTWOOD LUMBER RESEARCH, PROMOTION, CONSUMER EDUCATION AND INDUSTRY INFORMATION ORDER

■ 1. The authority citation for part 1217 continues to read as follows:

Authority: 7 U.S.C. 7411–7425; 7 U.S.C. 7401.

§§ 1217.16 through 1217.30 [Redesignated as §§ 1217.17 through 1217.31]

■ 2. Redesignate §§ 1217.16 through 1217.30 as §§ 1217.17 through 1217.31, respectively.

■ 3. Add new § 1217.16 to read as follows:

§ 1217.16 Net size or count.

Net size or count means the volume of softwood lumber based on its actual dimensions. It is used in certain jurisdictions as the quantity by which the softwood lumber is sold. Net size or count differs from the nominal size or count as it is based on the thickness and width of a board after it has been dried and planed.

■ 4. Revise newly designated § 1217.17, including the section title, to read as follows:

§ 1217.17 Nominal size or count.

Nominal size or count means the size by which softwood lumber is known and sold in the marketplace that differs from actual or net size and is based on the thickness and width of a board when it is first cut from a log, or rough cut, prior to drying and planing.

■ 5. Revise and republish § 1217.40(a) and (b)(1) to read as follows:

§ 1217.40 Establishment and membership.

(a) *Establishment of the Board.* There is hereby established a Softwood Lumber Board to administer the terms and provisions of the Order and promote the use of softwood lumber. The Board shall be composed of manufacturers for the U.S. market who manufacture and domestically ship or import 15 million board feet or more of softwood lumber in the United States during a fiscal period. Seats on the Board shall be apportioned based on the volume of softwood lumber production that is manufactured and shipped within the United States by domestic manufacturers and the volume of softwood lumber imported into the United States. Seats on the Board shall also be apportioned based on size of operation within each geographic region, as specified in paragraphs (b)(l) and (2) of this section. For purposes of this section, ''large'' means manufacturers for the U.S. market who account for the top two-thirds of the total annual volume of assessable softwood lumber and ''small'' means those who account for the remaining one-third of the total annual volume of assessable softwood lumber. If there are no eligible nominees for a large or small seat within a region, that seat may be filled by a nominee representing an eligible manufacturer for the U.S. market of any size. Should the size of a manufacturer for the U.S. market change during a member's or alternate's term of office, that member or alternate may serve for the remainder of the term.

(b) *Composition of the Board.* The Board shall be composed of 16 members and four alternates, as follows:

(1) *Domestic manufacturers.* Domestic manufacturers must reside in the United States. Eleven members and two alternates shall represent domestic manufacturers who reside in the following three regions:

(i) Six members and one alternate shall represent manufacturers of softwood lumber in the U.S. South Region, which consists of the states of Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia, and West Virginia. Of these six members, two members must represent large, two members must represent small, and two members may represent domestic manufacturers of any size. The region's alternate may represent domestic manufacturers of any size;

(ii) Four members and one alternate shall represent manufacturers of softwood lumber in the U.S. West Region, which consists of the states of Alaska, Arizona, California, Colorado, Hawaii, Idaho, Montana, Nevada, New Mexico, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming. Of these four members, two members must represent large, one member must represent small, and one member may represent domestic manufacturers of any size. The region's alternate may represent domestic manufacturers of any size; and

(iii) One member shall represent manufacturers of softwood lumber in the Northeast and Lake States Region, which consists of the states of Connecticut, Delaware, Illinois, Indiana, Iowa, Kansas, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Wisconsin and all other parts of the United States not listed in paragraph (b)(1)(i), (ii), or (iii) of this section. This member may represent domestic manufacturers of any size.

* * * * *

■ 6. In § 1217.52:

■ a. Revise and republish paragraphs (b), (c), (h), and table 1 to paragraph (h);

■ b. Redesignate paragraphs (i) through (n) as paragraphs (j) through (o), respectively; and

■ c. Add new paragraph (i).

The revisions and republications and addition read as follows:

§ 1217.52 Assessments.

* * * * *

(b) Subject to the exemptions specified in § 1217.53, each manufacturer for the U.S. market shall pay an assessment to the Board at the rate of $0.41 per thousand board feet of softwood lumber on a nominal count, except that no person shall pay an assessment on the first 15 million board feet of softwood lumber on a nominal count otherwise subject to assessment in a fiscal year. Domestic manufacturers shall pay assessments based on the volume of softwood lumber shipped within the United States and importers shall pay assessments based on the volume of softwood lumber imported to the United States.

(c) At least 24 months after the Order becomes effective and periodically thereafter, the Board shall review and may recommend to the Secretary, upon an affirmative vote by at least a majority of Board members plus two (exclusive of vacant seats), a change in the assessment rate. In no event may the rate be less than $0.35 per thousand board feet on a nominal count nor more than $0.50 per thousand board feet on a nominal count. A change in the assessment rate is subject to rulemaking by the Secretary.

* * * * *

(h) The HTSUS categories and assessment rates on imported softwood lumber are listed in the following table. The current assessment rate is $0.41 per thousand board feet and is based on a nominal count. This equates to $0.62 per thousand board feet based on a net count. For softwood lumber that is imported on a nominal volume, the assessment rates are computed using the following conversion factors: One cubic meter (m^3) equals 0.42377601 thousand board feet, and one square meter (m^2) equals 0.010763104 thousand board feet. For softwood lumber that is imported on a net (actual) volume, one cubic meter (m^3) equals 0.6369 thousand board feet, and one square meter (m^2) equals 0.016175132 thousand board feet. Accordingly, the assessment rates per cubic meter and square meter on a nominal and net volume are as follows.

TABLE 1 TO PARAGRAPH (h)

Softwood lumber (by HTSUS No.)	Assessment—nominal volume			Assessment-net volume		
	$/thousand board feet	$/cubic meter	$/square meter	$/thousand board feet	$/cubic meter	$/square meter
4407.11.00	0.41	0.1737	0.004412	0.62	0.2611	0.006631
4407.12.00	0.41	0.1737	0.004412	0.62	0.2611	0.006631
4407.13.00	0.41	0.1737	0.004412	0.62	0.2611	0.006631
4407.14.00	0.41	0.1737	0.004412	0.62	0.2611	0.006631
4407.19.00	0.41	0.1737	0.004412	0.62	0.2611	0.006631
4409.10.05	0.41	0.1737	0.004412	0.62	0.2611	0.006631
4409.10.10	0.41	0.1737	0.004412	0.62	0.2611	0.006631
4409.10.20	0.41	0.1737	0.004412	0.62	0.2611	0.006631
4409.10.90	0.41	0.1737	0.004412	0.62	0.2611	0.006631
4418.99.10	0.41	0.1737	0.004412	0.62	0.2611	0.006631

(i) If Customs collects excess assessments from an importer, the Board shall issue a refund to the importer given the importer provides appropriate documentation to verify the excess assessments collected.

* * * * *

■ 7. Revise and republish § 1217.53(a) and (b) to read as follows:

§ 1217.53 Exemption from assessment.

(a) *Manufacturers for the U.S. market who domestically ship and/or import less than 15 million board feet on a nominal count annually.* (1) Domestic manufacturers who ship less than 15 million board feet of softwood lumber on a nominal count within the United States in a fiscal year are exempt from paying assessments. Such manufacturers must apply to the Board, on a form provided by the Board, for a certificate of exemption prior to the start of the fiscal year. This is an annual exemption and domestic manufacturers must reapply each year. Such manufacturers shall certify that they will ship less than 15 million board feet of softwood lumber on a nominal count during the fiscal year for which the exemption is claimed. Upon receipt of an application for exemption, the Board shall determine whether an exemption may be granted. The Board may request past shipment data to support the exemption request. The Board will then issue, if deemed appropriate, a certificate of exemption to the eligible domestic manufacturer. It is the responsibility of the domestic manufacturer to retain a copy of the certificate of exemption.

(2) Importers who import into the United States less than 15 million board feet of softwood lumber on a nominal count in a fiscal year are exempt from paying assessments. Such importers must apply to the Board, on a form provided by the Board, for a certificate of exemption prior to the start of the fiscal year. This is an annual exemption, and importers must reapply each year. Such importers shall certify that they will import less than 15 million board feet of softwood lumber on a nominal count during the fiscal year for which the exemption is claimed. Upon receipt of an application for exemption, the Board shall determine whether an exemption is granted. The Board may request past import data to support the exemption request. The Board will then issue, if deemed appropriate, a certificate of exemption to the eligible importer. It is the responsibility of the importer to retain a copy of the certificate of exemption. The importer may be requested to submit a copy of the certificate to Customs. If Customs collects the assessment, the Board shall refund such importers their assessments no later than 60 calendar days after receipt of such assessments by the Board. No interest shall be paid on the assessments collected by Customs.

(3) Domestic manufacturers who did not apply to the Board for an exemption and shipped less than 15 million board feet of softwood lumber on a nominal count within the United States during the fiscal year shall receive a refund from the Board for the applicable assessments within 30 calendar days after the end of the fiscal year. Board staff shall determine the assessments paid and refund the amount due to the domestic manufacturer accordingly.

(4) Importers who did not apply to the Board for an exemption and imported less than 15 million board feet of softwood lumber on a nominal count during the fiscal year shall receive a refund from the Board for the applicable assessments within 30 calendar days after the end of the fiscal year.

(5) If an entity is both a domestic manufacturer and an importer, the sum of such entity's domestic shipments and imports during a fiscal year shall count towards the 15 million board feet exemption on a nominal count.

(6) Domestic manufacturers and importers who received an exemption certificate from the Board but domestically shipped or imported 15 million board feet or more of softwood lumber on a nominal count during the fiscal year shall pay the Board the applicable assessments owed on the domestic shipments or imports over the 15 million board foot-exemption threshold within 30 calendar days after the end of the fiscal year and submit any necessary reports to the Board pursuant to § 1217.70.

(7) The Board may develop additional procedures to administer this exemption as appropriate. Such procedures shall be implemented through rulemaking by the Secretary.

(b) *Manufacturers for the U.S. market who domestically ship and/or import 15 million board feet or more on a nominal count annually.* (1) Domestic manufacturers who domestically ship 15 million board feet or more per fiscal year on a nominal count shall not pay assessments on their first 15 million board feet of softwood lumber on a nominal count shipped during the applicable fiscal year.

(2) Importers who import 15 million board feet or more per fiscal year on a nominal count shall be exempt from paying assessments on their first 15 million board feet of softwood lumber imported during the applicable fiscal year on a nominal count. Such importers shall receive a refund from the Board for the applicable assessments collected by Customs. The Board shall refund such importers their assessments no later than 60 calendar days after receipt by the Board.

* * * * *

■ 8. Revise and republish § 1217.70(a) to read as follows:

§ 1217.70 Reports.

(a) Each manufacturer for the U.S. market will be required to provide periodically to the Board such

information as the Board, with the approval of the Secretary, may require. Such information may include, but not be limited to:

(1) For domestic manufacturers:

(i) The name, address and telephone number of the domestic manufacturer;

(ii) The board feet of softwood lumber on a nominal count shipped within the United States;

(iii) The board feet of softwood lumber on a nominal count for which assessments were paid; and

(iv) The board feet of softwood lumber on a nominal count that was exported.

(2) For importers:

(i) The name, address and telephone number of the importer;

(ii) The board feet of softwood lumber on a nominal count imported;

(iii) The board feet of softwood lumber on a nominal count for which assessments were paid; and

(iv) The country of export.

* * * * *

■ 9. Revise and republish § 1217.101(d) and (e) to read as follows:

§ 1217.101 Definitions.

* * * * *

(d) *Eligible domestic manufacturer* means any person who manufactured and shipped 15 million board feet or more of softwood lumber on a nominal count in the United States during the representative period.

(e) *Eligible importer* means any person who imported 15 million board feet or more of softwood lumber on a nominal count into the United States during the representative period as a principal or as an agent, broker, or consignee of any person who manufactured softwood lumber outside of the United States for sale in the United States, and who is listed as the importer of record for such softwood lumber. Importation occurs when softwood lumber manufactured outside of the United States is released from custody by Customs and introduced into the stream of commerce in the United States. Included are persons who hold title to foreign-manufactured softwood lumber immediately upon release by Customs, as well as any persons who act on behalf of others, as agents or brokers, to secure the release of softwood lumber from Customs when such softwood lumber is entered or withdrawn for use in the United States.

* * * * *

Erin Morris,

Administrator, Agricultural Marketing Service.

[FR Doc. 2026–06103 Filed 3–27–26; 8:45 am]

BILLING CODE P

FINANCIAL STABILITY OVERSIGHT COUNCIL

12 CFR Part 1310

Authority To Require Supervision and Regulation of Certain Nonbank Financial Companies

AGENCY: Financial Stability Oversight Council.

ACTION: Notification of proposed interpretive guidance; request for public comment.

SUMMARY: This proposed interpretive guidance, which would replace the Financial Stability Oversight Council's existing interpretive guidance on nonbank financial company determinations and its analytic framework for financial stability risks, describes the approach the Council intends to take in prioritizing its work to identify and address potential risks to U.S. financial stability using an activities-based approach, and enhancing the Council's analytical rigor and transparency.

DATES: *Comment due date:* May 14, 2026.

ADDRESSES:

Electronic Submission of Comments: You may submit comments electronically through the Federal eRulemaking Portal at *https://www.regulations.gov.* All submissions must refer to the document title and RIN 4030–[XXXX]. Electronic submission of comments allows the commenter maximum time to prepare and submit a comment, ensures timely receipt, and enables the Council to make them available to the public. Comments submitted electronically through the *https://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.

All properly submitted comments will be available for inspection and downloading at *https://www.regulations.gov.*

In general, comments received, including attachments and other supporting materials, are part of the public record and are available to the public. Do not submit any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

FOR FURTHER INFORMATION CONTACT: Eric Froman, Office of the General Counsel, Treasury, at (202) 622–1942, or *FSOCPublicComments@treasury.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Section 111 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (12 U.S.C. 5321) (the ''Dodd-Frank Act'') established the Financial Stability Oversight Council. The purposes of the Council under section 112 of the Dodd-Frank Act (12 U.S.C. 5322) are ''(A) to identify risks to the financial stability of the United States that could arise from the material financial distress or failure, or ongoing activities, of large, interconnected bank holding companies or nonbank financial companies, or that could arise outside the financial services marketplace; (B) to promote market discipline, by eliminating expectations on the part of shareholders, creditors, and counterparties of such companies that the Government will shield them from losses in the event of failure; and (C) to respond to emerging threats to the stability of the United States financial system.''

The Dodd-Frank Act gives the Council broad discretion to determine how to respond to potential threats to U.S. financial stability, including collecting information from regulators, requesting data and analyses from the Office of Financial Research, monitoring the financial services marketplace and financial regulatory developments, facilitating information sharing and coordination among regulators, recommending to the Council member agencies general supervisory priorities and principles, identifying regulatory gaps, making recommendations to the Board of Governors of the Federal Reserve System (''Federal Reserve'') or other primary financial regulatory agencies,[1] and designating certain entities or payment, clearing, and settlement activities for additional regulation.

Section 113 of the Dodd-Frank Act authorizes the Council to determine that a nonbank financial company will be subject to supervision by the Federal Reserve and prudential standards. Under section 165 of the Dodd-Frank Act, the Federal Reserve is responsible for establishing the prudential standards that will be applicable to a nonbank financial company subject to a Council designation [2] under section 113.

The Council has previously issued rules, guidance, and other public statements regarding its process for evaluating nonbank financial companies

[1] ''Primary financial regulatory agency'' is defined in section 2(12) of the Dodd-Frank Act, 12 U.S.C. 5301(12).

[2] Section 113 of the Dodd-Frank Act, 12 U.S.C. 5323, refers to a Council ''determination'' regarding a nonbank financial company. This proposal refers to ''determination'' and ''designation'' interchangeably for ease of reading.

for a potential designation.[3] On April 11, 2012, the Council issued a final rule at 12 CFR 1310.1–23 (the ''2012 Rule'') setting forth certain procedures related to designations under section 113 of the Dodd-Frank Act. Attached to the 2012 Rule as Appendix A was interpretive guidance (the ''2012 Interpretive Guidance'') setting forth additional information regarding the manner in which the Council made determinations under section 113 (together with the 2012 Rule, the ''2012 Rule and Guidance''). On February 4, 2015, the Council adopted supplemental procedures (the ''2015 Supplemental Procedures'') to the 2012 Rule and Guidance.[4] On March 13, 2019, the Council amended the 2012 Rule by adding a new provision at 12 CFR 1310.3.[5] On December 30, 2019, the Council replaced the 2012 Interpretive Guidance with revised interpretive guidance (the ''2019 Interpretive Guidance'').[6] In connection with the adoption of the 2019 Interpretive Guidance, the Council rescinded the 2015 Supplemental Procedures.

On November 14, 2023, the Council approved revised guidance (the ''2023 Interpretive Guidance'')[7] that replaced the 2019 Interpretive Guidance and published an analytic framework to describe the approach that the Council expected to take in identifying, assessing, and responding to certain potential risks to U.S. financial stability (the ''2023 Analytic Framework'').[8]

The Council is proposing this interpretive guidance (the ''Proposed Guidance'') to revise and update the 2023 Interpretive Guidance. If the Council issues final interpretive guidance based on this proposal, the final interpretive guidance will replace the 2023 Interpretive Guidance found at Appendix A to 12 CFR part 1310, in its entirety, but will not modify the rules at 12 CFR 1310.1–23. In addition, if the Council issues final interpretive guidance based on this proposal, it intends to rescind the 2023 Analytic Framework.

II. Overview of Proposed Guidance

The Proposed Guidance would help ensure that the Council's work is clear, transparent, and analytically rigorous, and enhance the Council's engagement with companies, regulators, and other stakeholders. By issuing clear and transparent guidance, the Council seeks to provide the public with sufficient information to understand the Council's concerns regarding risks to U.S. financial stability, while appropriately protecting information submitted by companies and regulators to the Council.

A. Overview of Changes From 2023 Interpretive Guidance

The Proposed Guidance would make a number of key changes and other modifications to the Council's existing procedures. Following are high-level descriptions of several of the most important changes, along with other modifications, which are explained in greater detail below.

First, under the Proposed Guidance, the Council would update its analytic methodologies, including a new list of types of vulnerabilities that most commonly contribute to potential risks to U.S. financial stability. In addition, the Proposed Guidance explains that the Council would consider impediments to economic growth and economic security when identifying potential risks to U.S. financial stability. The Proposed Guidance notes that the Council works with member agencies to consider whether elements of the U.S. financial regulatory framework are fit for purpose or impose undue burdens that could constrain economic growth, thereby posing a potential risk to U.S. financial stability. The Council recognizes that economic growth provides the strongest foundation for financial stability, and that economic security, in turn, supports economic growth. The Council understands economic security as our nation's ability to preserve fiscal capacity, productive dynamism, and access to critical resources and markets.

Second, under the Proposed Guidance, the Council would prioritize its efforts to identify, assess, and respond to potential risks to U.S. financial stability through a process that begins with an activities-based approach. This approach generally reproduces the activities-based approach introduced by the 2019 Interpretive Guidance. It is consistent with the Council's priority of identifying potential risks to U.S. financial stability on a system-wide basis. The Council would pursue entity-specific determinations under section 113 of the Dodd-Frank Act only if a potential risk to U.S. financial stability cannot be, or is not, adequately addressed through an activities-based approach.

Third, under the Proposed Guidance, the Council would merge the descriptions of its nonbank financial company designation process and its analytic methodologies for financial stability risks into a single document, reproducing the structure of the 2019 Interpretive Guidance. If the Council issues final interpretive guidance based on the Proposed Guidance, it intends to rescind the 2023 Analytic Framework.

Fourth, in the event the Council considers a nonbank financial company for a potential determination under section 113, the Council would perform a cost-benefit analysis prior to making a determination, similar to the 2019 Interpretive Guidance. The Council would make a determination under section 113 only if the expected benefits to financial stability from Federal Reserve supervision and prudential standards justify the expected costs that the determination would impose. As part of an assessment of the benefits of a designation, the Council would assess the likelihood of a nonbank financial company's material financial distress, in order to evaluate the extent to which a designation may promote U.S. financial stability, along with the extent to which material financial distress at the nonbank financial company could pose a threat to the financial stability of the United States. This approach reproduces and clarifies the assessment of the likelihood of a nonbank financial company's material financial distress introduced by the 2019 Interpretive Guidance, which was eliminated in the 2023 Interpretive Guidance.

Fifth, the Council would add to the activities-based approach by providing for the Council, in certain cases, to commence a process for Council member agencies to act to address a potential risk to U.S. financial stability. In these cases, the Council would notify an existing financial regulatory agency in writing of the potential risk to U.S. financial stability and would request a written response from the agency within

[3] On May 22, 2012, the Council approved hearing procedures relating to the conduct of hearings before the Council in connection with proposed determinations regarding nonbank financial companies and financial market utilities and related emergency waivers or modifications under sections 113 and 804 of the Dodd-Frank Act, 12 U.S.C. 5323, 5463; 77 FR 31855 (May 30, 2012). The hearing procedures were amended in 2013, 78 FR 22546 (April 16, 2013), and 2018, 83 FR 12010 (March 19, 2018). This proposed guidance would not amend the Council's hearing procedures.

[4] Financial Stability Oversight Council Supplemental Procedures Relating to Nonbank Financial Company Determinations (Feb. 4, 2015), available at *https://home.treasury.gov/system/files/261/Supplemental%20Procedures%20Related%20to%20Nonbank%20Financial%20Company%20Determinations%20%20%28February%204%2C%202015%29.pdf.* In addition, in June 2015, the Council published staff guidance with details regarding certain methodologies used in connection with the determination process under section 113. *See* Council, Staff Guidance Methodologies Relating to Stage 1 Thresholds (June 8, 2015), available at *https://home.treasury.gov/system/files/261/Staff%20Guidance%20Methodologies%20Relating%20to%20Stage%201%20Thresholds.pdf.*

[5] 84 FR 8958 (March 13, 2019).

[6] 84 FR 71740 (Dec. 30, 2019).

[7] 88 FR 80110 (Nov. 17, 2023).

[8] 88 FR 78026 (Nov. 14, 2023).

a specified period regarding the actions the agency proposes to take to address the potential risk.

Sixth, the Council would modify its interpretation of the term ''threat to the financial stability of the United States,'' for purposes of section 113 of the Dodd-Frank Act,[9] to mean, consistent with its interpretation of the term in the 2019 Interpretive Guidance, the threat of an impairment of financial intermediation or of financial market functioning to a degree that would be sufficient to inflict severe damage on the broader U.S. economy. This interpretation would represent a higher threshold than the one set forth in the 2023 Analytic Framework, which interpreted this term to mean ''events or conditions that could 'substantially impair' the financial system's ability to support economic activity.''

Seventh, the Council would add a new procedural step to its administrative process for nonbank financial company determinations. Based on the Council's preliminary evaluation of a nonbank financial company, the Proposed Guidance states that the Council intends to identify steps a nonbank financial company or financial regulatory agencies could take to address a potential threat to U.S. financial stability.

The following sections outline the changes described above in greater detail.

B. Changes to Analytic Methodologies

The Council would update its analytic methodologies, including a new list of types of vulnerabilities that most commonly contribute to potential risks to U.S. financial stability. These changes are intended to improve the effectiveness of the Council's methodologies by making them more analytically rigorous and transparent. The Council would employ these analytic methodologies in both the designation and non-designation contexts.

Under the Proposed Guidance, the Council would consider impediments to economic growth and economic security when identifying potential risks to U.S. financial stability. The Council would work with member agencies to consider whether elements of the U.S. financial regulatory framework are fit for purpose or impose undue burdens that could constrain economic growth, thereby posing a potential risk to U.S. financial stability. The Proposed Guidance notes that the Council may also make recommendations in the Council's annual report, which is required by the Dodd-Frank Act to include recommendations (1) to enhance the integrity, efficiency, competitiveness, and stability of U.S. financial markets; (2) to promote market discipline; and (3) to maintain investor confidence. The Proposed Guidance explains that economic security requires that the U.S. financial system reliably provide the resources necessary to grow the real economy. It notes that economic security and financial stability can both be bolstered by encouraging technological innovation in the financial system and by modernizing financial regulation to ensure it is efficient, effective, and forward-looking.

In addition, the Council would add asset valuations to the list of vulnerabilities that it would consider. The Proposed Guidance notes that sharp reductions in the valuations of particular assets or classes of assets can result in significant losses for financial market participants that hold or are otherwise exposed to those assets, and explains that this risk can be exacerbated by concentrated portfolios, or mitigated by hedging or other risk-management strategies. The Council would remove destabilizing activities, which appeared in the 2023 Analytic Framework, from the list of vulnerabilities that it would consider. The Council proposes to remove destabilizing activities because it believes that this vulnerability was not clearly defined and relied on circular reasoning.

The Proposed Guidance further explains that complexity and opacity of a market, activity, or firm can make it more difficult for regulators, counterparties, and other stakeholders to assess potential risks to U.S. financial stability, which may reduce the effectiveness of market discipline. It states that risks may also be aggravated by obstacles to the rapid and orderly resolution of market participants, and it notes that a risk may be exacerbated if it is conducted without effective risk-management practices, including the absence of appropriate regulatory authority and requirements. In contrast, the Proposed Guidance notes that existing regulatory requirements or market practices may reduce risks by, for example, limiting exposures or leverage, increasing capital and liquidity, enhancing risk-management practices, restricting excessive risk-taking, providing consolidated prudential regulation and supervision, or increasing regulatory or public transparency; the Council would expect to take into account such factors to the extent relevant in its analyses of potential risks to U.S. financial stability.

Questions for Comment

1. What specific factors impacting economic growth and economic security should the Council focus on in an effort to identify potential risks to U.S. financial stability?

2. The Proposed Guidance adds asset valuations to the list of vulnerabilities that the Council would consider when identifying and assessing potential risks to U.S. financial stability, while removing destabilizing activities, a vulnerability that appeared in the 2023 Analytic Framework. Are these changes appropriate, and should additional modifications be made to the list of vulnerabilities that the Council would consider?

C. Activities-Based Approach

The 2019 Interpretive Guidance stated that the Council will prioritize its efforts to identify, assess, and address potential risks and threats to U.S. financial stability through a process that begins with an activities-based approach, and will pursue entity-specific determinations under section 113 of the Dodd-Frank Act only if a potential risk or threat cannot be, or is not, adequately addressed through an activities-based approach. It stated further that the Council anticipates it would consider a nonbank financial company for a potential determination under section 113 only in rare instances, such as if the products, activities, or practices of a company that pose a potential threat to U.S. financial stability are outside the jurisdiction or authority of financial regulatory agencies. The 2019 Interpretive Guidance stated that this approach reflects two priorities: (1) identifying and addressing, in consultation with relevant financial regulatory agencies, potential risks and emerging threats on a system-wide basis and to reduce the potential for competitive distortions among financial companies and in markets that could arise from entity-specific determinations, and (2) allowing relevant financial regulatory agencies, which generally possess greater information and expertise with respect to company, product, and market risks,

[9] Under section 113 of the Dodd-Frank Act, the Council may determine, by a vote of not fewer than two-thirds of the voting members of the Council then serving, including an affirmative vote by the Chairperson of the Council, that a nonbank financial company will be supervised by the Federal Reserve and be subject to prudential standards if the Council determines that (1) material financial distress at the nonbank financial company could pose a threat to the financial stability of the United States or (2) the nature, scope, size, scale, concentration, interconnectedness, or mix of the activities of the nonbank financial company could pose a threat to the financial stability of the United States. *See* Dodd-Frank Act section 113(a)(1), 12 U.S.C. 5323(a)(1).

to address potential risks, rather than subjecting the companies to new regulatory authorities.

The 2023 Interpretive Guidance, by contrast, eliminated the statement in the 2019 Interpretive Guidance that the Council would use an activities-based approach before considering a designation under section 113. The preamble to the 2023 Interpretive Guidance stated that the Council believed that rescinding the prioritization of an activities-based approach will better enable the Council to respond to threats to financial stability irrespective of their source.

The Proposed Guidance generally reproduces the activities-based approach introduced by the 2019 Interpretive Guidance. The Council believes that the prioritization of a process that begins with an activities-based approach would enhance the analytical rigor of the Council's activities and facilitate its efforts to consider impediments to economic growth and economic security when identifying potential risks to U.S. financial stability. The Proposed Guidance notes that the Dodd-Frank Act gives the Council broad discretion in determining how to respond to potential risks to U.S. financial stability. Under the Proposed Guidance, the Council would prioritize its efforts to identify, assess, and respond to potential risks to U.S. financial stability through a process that begins with an activities-based approach. The Council would pursue entity-specific determinations under section 113 of the Dodd-Frank Act only if a potential risk to U.S. financial stability cannot be, or is not, adequately addressed through an activities-based approach.

The Proposed Guidance establishes a two-step process for the Council's activities-based approach. In the first step, in an effort to identify potential risks to U.S. financial stability, the Council intends to monitor, consistent with its statutory purposes, diverse financial markets and market developments on a system-wide basis, in consultation with relevant financial regulatory agencies, to identify products, activities, or practices that could pose risks to financial stability.[10] If the Council's monitoring of markets and market developments identifies a potential risk to U.S. financial stability, the Council would assess the potential risk to determine whether it merits further review or action. The Proposed Guidance considers a ''risk to U.S. financial stability'' to mean the potential for an event, act, or development that could impair financial intermediation or financial market functioning to a degree that would be sufficient to inflict significant damage on the broader U.S. economy. By referencing an ''event, act, or development'' in the interpretation of ''risk to U.S. financial stability,'' the Proposed Guidance seeks to clarify the Council's understanding of the sources of potential risk to U.S. financial stability, distinct from the vulnerabilities through which such risks may propagate. Risks may arise not only from unintentional events and economic and financial developments, but also from deliberate actions by state or non-state actors that affect the functioning of financial markets, institutions, or critical channels. By identifying an ''event, act, or development'' as analytically distinct sources of potential risk, the Proposed Guidance contemplates the diverse types of origins of a risk to U.S. financial stability. This distinction is intended to improve the Council's analytic precision.

The Council's analysis in the first step of the activities-based approach would generally focus on four framing questions, which analyze: (1) what shocks or other developments could trigger the potential risk to U.S. financial stability (for example, sharp reductions in the valuation of particular classes of financial assets or significant credit losses), and what vulnerabilities could be implicated; (2) how adverse effects of the potential risk to U.S. financial stability may be transmitted to financial markets or market participants (for example, through direct or indirect exposures in financial markets to the potential risk or funding or trading pressures that may result from associated declines in asset prices); (3) the effects the potential risk to U.S. financial stability could have on the U.S. financial system (for example, the scale and magnitude of adverse effects on other companies and markets, and whether such effects could be concentrated or diffused among market participants); and (4) whether the adverse effects of the potential risk to U.S. financial stability could impair financial intermediation or financial market functioning to a degree that would be sufficient to inflict significant damage on the broader U.S. economy (for example, through curtailed or interrupted provision of credit to non-financial companies).

If the Council's analysis identifies a potential risk to U.S. financial stability that merits action, the Council generally would work with the relevant financial regulatory agencies at the federal and state levels to respond to the potential risk.[11] The Council would coordinate among its members and member agencies and would follow up on supervisory or regulatory actions to ensure the potential risk is adequately addressed. The goal of this step is for existing regulators to take appropriate action, such as modifying their regulation or supervision of companies or markets under their jurisdiction in order to mitigate potential risks to U.S. financial stability identified by the Council. The Council would seek to take advantage of existing regulators' expertise and regulatory authorities to address the potential risk identified by the Council.

The Council anticipates that appropriate measures it may take to address an identified potential risk would typically take the form of relatively informal actions, such as information sharing among regulators, but as deemed appropriate could also include more formal measures, such as the proposed new process for Council member agencies to act to address potential risks to U.S. financial stability described in section G below, or the Council's public issuance of recommendations to regulators or the public. Such recommendations could be made in the Council's annual report, which includes the Council's recommendations to enhance the integrity, efficiency, competitiveness, and stability of U.S. financial markets, to promote market discipline, and to maintain investor confidence.

The Council expects that much of its initial identification and assessment of risks, and engagement with regulators, would be informal and nonpublic in nature. The staffs of Council members and member agencies would likely be responsible for much of the market monitoring, risk identification, information sharing, and analysis in the activities-based approach. This engagement may yield a range of diverse outcomes, including the sharing of data, research, and analysis among the Council and regulators, or the public

[10] The Council has a statutory duty to monitor the financial services marketplace in order to identify potential threats to U.S. financial stability. *See* Dodd-Frank Act section 112(a)(2)(C), 12 U.S.C. 5322(a)(2)(C).

[11] The Council has a statutory duty to ''recommend to the member agencies general supervisory priorities and principles reflecting the outcome of discussions among the member agencies'' and to ''make recommendations to primary financial regulatory agencies to apply new or heightened standards and safeguards for financial activities or practices that could create or increase risks of significant liquidity, credit, or other problems spreading among bank holding companies, nonbank financial companies, and United States financial markets.'' *See* Dodd-Frank Act section 112(a)(2)(F), (K), 12 U.S.C. 5322(a)(2)(F), (K).

issuance of recommendations by the Council in its annual report. Potential risks that merit further attention may be raised at meetings of the Council members or with other stakeholders, and, as appropriate, may result in public statements or recommendations by the Council, as described above.

Questions for Comment

General Questions:

1. Does the Council's proposal described above to prioritize its efforts to identify, assess, and address potential risks to U.S. financial stability through a process that begins with an activities-based approach, first introduced under the 2019 Interpretive Guidance, enable the Council to achieve its statutory purposes? Should the Council's proposed approach to the activities-based approach be modified for other considerations?

2. When undertaking the activities-based approach, are there specific categories of risks to U.S. financial stability that should be examined by the Council, or specific macroeconomic considerations or metrics that the Council should consider when assessing such risks?

3. Does the Council's approach under the 2023 Interpretive Guidance, in which it stated that it would not prioritize an activities-based approach but instead respond to a particular risk to financial stability depending on the nature of the risk, better enable the Council to respond to threats to U.S. financial stability than prioritizing an activities-based approach as contemplated by the Proposed Guidance?

Step One of the Activities-Based Approach: Identifying and Assessing Potential Risks to U.S. Financial Stability:

1. What specific, consistent analyses should the Council perform to monitor markets generally or specific types of markets?

2. Are the four framing questions described in the Proposed Guidance for evaluating potential risks appropriate?

Step Two of the Activities-Based Approach: Working with Regulators to Respond to Potential Risks to U.S. Financial Stability:

1. Should the Council make any changes to step two of the activities-based approach, as described in the Proposed Guidance?

D. Consolidation of Interpretive Guidance and Analytic Methodologies

As noted above, the Proposed Guidance would merge the descriptions of its nonbank financial company designation process and its analytic methodologies for financial stability risks into a single document, reproducing the structure of the 2019 Interpretive Guidance. The Council believes that consolidating this information in a single document is more administratively efficient and accessible to stakeholders and the public. If the Council issues final interpretive guidance based on the Proposed Guidance, it intends to rescind the 2023 Analytic Framework.

Questions for Comment

1. Will the consolidation of the Council's nonbank financial company designation guidance and analytic methodologies in a single document create a more efficient and accessible document?

E. Cost-Benefit Analysis

The 2019 Interpretive Guidance stated that determining whether the expected benefits of a potential Council determination justify the expected costs is necessary to ensure that the Council's actions are expected to provide a net benefit to U.S. financial stability and are consistent with thoughtful decision-making. It stated further that the Council will make a determination under section 113 only if the expected benefits to financial stability from Federal Reserve supervision and prudential standards justify the expected costs that the determination would impose. The 2023 Interpretive Guidance, by contrast, eliminated the commitment to conduct a cost-benefit analysis.

The Council believes that rigorous cost-benefit analysis is an important element of thoughtful decision-making. The Proposed Guidance therefore generally reproduces the cost-benefit analysis introduced by the 2019 Interpretive Guidance. Under the Proposed Guidance, the Council would perform a cost-benefit analysis before making any designation under section 113. The Council proposes to make a designation under section 113 only if the expected benefits justify the expected costs that the determination would impose. The Council would quantify reasonably estimable benefits and costs (using ranges, as appropriate), and would also consider non-quantified benefits and costs, in assessing the net benefits and costs of a designation. The Council would conduct this analysis in cases where the Council is concluding that the company meets one of the standards for a determination by the Council under section 113 of the Dodd-Frank Act.

Under the Proposed Guidance, the Council would consider the benefits of a designation to the U.S. financial system, long-term economic growth, economic security, and the nonbank financial company. When evaluating potential benefits to the U.S. financial system and the U.S. economy arising from a designation, the Council may consider whether the designation enhances financial stability and improves the functioning of markets by reducing the likelihood or severity of a potential financial crisis, among other factors.

Under the Proposed Guidance, when evaluating the costs of a designation, the Council would consider not only the cost to the nonbank financial company from anticipated new or increased regulatory requirements in connection with a designation, but also costs to the U.S. economy, including potential impacts on economic growth and economic security. When evaluating such costs, the Council will consider both cumulative and marginal costs to the nonbank financial company and to the U.S. economy. Relevant costs to the company could include costs related to risk-management requirements, supervision and examination, and liquidity requirements, and potentially higher capital costs or a negative impact on the company's ability to innovate. When evaluating the costs of a determination to the U.S. economy, the Council would assess the impact of the determination on the availability and cost of credit or financial products in relevant U.S. markets, among other factors.

Questions for Comment

1. Is the proposed framework for assessing the benefits and costs of a potential determination appropriate? How should the Council assess benefits and costs that are difficult to monetize or quantify?

2. Should the Council consider other benefits or costs than those proposed in section IV of the Proposed Guidance?

3. How should the Council estimate the costs of any new regulatory requirements that would result from the Council's designation? What sources should the Council rely upon when estimating such costs?

4. Should the Council consider additional factors when considering the benefits or costs of a designation to the U.S. economy?

5. Should the Council consider any additional benefits to the company subject to a designation, or additional benefits to the U.S. financial system and the U.S. economy arising from a Council designation other than those listed in section IV of the Proposed Guidance? How should the Council quantify any

such benefits? What sources should the Council rely upon when estimating such benefits?

6. How should the Council address uncertainty (for example, using alternate baselines or sensitivity analyses)?

7. Are there additional approaches the Council should consider when measuring potential threats to U.S. financial stability in order to assess any improvement in financial stability following a determination?

F. Likelihood of Material Financial Distress

The 2019 Interpretive Guidance stated that as part of the assessment of the benefits of a Council determination for any company under review under the First Determination Standard (as defined below), the Council will assess the likelihood of the company's material financial distress. It stated that this assessment may rely upon historical examples regarding the characteristics of financial companies that have experienced financial distress, but may also consider other risks that do not have historical precedent. The 2023 Interpretive Guidance, however, removed this ''likelihood assessment'' from the Council's designation procedures.

The Proposed Guidance reproduces the assessment of the likelihood of a nonbank financial company's material financial distress introduced by the 2019 Interpretive Guidance. The Council would therefore assess the likelihood of a company's material financial distress, applying qualitative and quantitative factors, when evaluating the impact of a Council designation for any company under review under the First Determination Standard. To assess the risk of material financial distress, the Council may consider a range of factors, including market-based measures (*e.g.,* distance-to-default measures), accounting-based measures (*e.g.,* statistical models using capital adequacy), and market- and accounting-based measures (*e.g.,* academic models). The Council's analysis of the likelihood of a nonbank financial company's material financial distress would be conducted taking into account a period of overall stress in the financial services industry and a weak macroeconomic environment. When possible, the Council would attempt to quantify the likelihood of material financial distress; as an alternative, when doing so is not possible with respect to a specific firm, the Council would generally consider quantitative and qualitative factors related to the types of market-based or accounting-based measures noted above, and historical examples regarding the characteristics of financial companies that have experienced financial distress. The Council would consult with the company's primary financial regulatory agency (if any) when assessing the company, including regarding the company's resolvability, complexity, and the likelihood of its material financial distress.

The Proposed Guidance also clarifies that in light of the unpredictability of the failure of financial companies, the Council would not seek to determine that a nonbank financial company's material financial distress is reasonably likely, but instead would use this analysis to evaluate the factors that could cause such distress as part of the assessment of benefits of a designation.

Questions for Comment

1. Is the proposed framework for assessing the likelihood of material financial distress, as part of an assessment of the benefits of a designation, appropriate?

2. What metrics or factors should the Council consider when attempting to quantify the likelihood of a company's material financial distress? If such quantification is not possible with respect to a specific company, what additional factors should the Council consider? What are the appropriate methodologies or models (including appropriate time horizons and assumptions) to assess the likelihood of a nonbank financial company's material financial distress?

3. After the Council assesses the likelihood of a company's material financial distress, what should be the threshold for the Council taking further action regarding a potential determination with respect to the company?

G. Process for Member Agencies To Address Potential Risks

Under the Proposed Guidance, the Council would add to the activities-based approach by providing for the Council, in certain cases, to commence a process for Council member agencies to act to address a potential risk to U.S. financial stability. In these cases, the Council would notify an existing financial regulatory agency in writing of the potential risk to U.S. financial stability and would request a written response from the agency within a specified period regarding the actions the agency proposes to take to address the potential risk. The agency would be expected to provide detailed information to the Council regarding its proposed actions, their anticipated effects, and the expected timeline for implementation. While the Council may determine to undertake this new procedure before exercising its authority under section 120,[12] the two approaches are not necessarily sequential, and the Council could determine to undertake either or both in any order.

Question for Comment

1. Will the proposed new process described above for making recommendations to agencies enable the Council to respond to potential risks to U.S. financial stability in a timely and effective manner?

H. Interpretation of Threat to Financial Stability

Under the Proposed Guidance, the Council would modify its interpretation of the term ''threat to the financial stability of the United States,'' a term used in the Dodd-Frank Act but not defined in the statute. The 2023 Analytic Framework interpreted this term to mean ''events or conditions that could 'substantially impair' the financial system's ability to support economic activity.'' For purposes of section 113 of the Dodd-Frank Act, the Council would consider a ''threat to the financial stability of the United States'' to mean, consistent with its interpretation of the term in the 2019 Interpretive Guidance, the threat of an impairment of financial intermediation or of financial market functioning to a degree that would be sufficient to inflict severe damage on the broader U.S. economy. This proposed interpretation would represent a higher threshold than the one established in the 2023 Analytic Framework. The Council believes that this is the appropriate threshold for any potential use of the Council's designation authority, given the number of other authorities and tools available to the Council to respond to potential risks to U.S. financial stability, including the activities-based approach described above.

Question for Comment

1. The Proposed Guidance defines ''threat to the financial stability of the United States'' to mean the threat of an impairment of financial intermediation or of financial market functioning to a degree that would be sufficient to inflict severe damage on the broader U.S. economy. Is this an appropriate

[12] Under section 120, the Council has authority to ''provide for more stringent regulation of a financial activity'' by publicly issuing nonbinding recommendations to primary financial regulatory agencies to apply new or heightened standards and safeguards for a financial activity or practice conducted by certain financial companies. *See* Dodd-Frank Act section 120, 12 U.S.C. 5330.

definition of a ''threat to the financial stability of the United States''? What criteria or metrics should the Council consider when evaluating whether a threat is sufficient to inflict ''severe'' damage on the broader U.S. economy?

I. Administrative Process for Nonbank Financial Company Determinations

With respect to the Council's procedures for nonbank financial company designations and annual reevaluations of designations, the Proposed Guidance would generally remain consistent with the procedures included in the 2019 Interpretive Guidance and the 2023 Interpretive Guidance. Among other things, the Proposed Guidance continues to provide for significant engagement and communication between the Council and a nonbank financial company under review for potential designation, and with the company's primary financial regulatory agency or home-country supervisor. In addition to these existing features, the Council would add a new procedural step to its administrative process for nonbank financial company determinations. Based on the Council's preliminary evaluation of a nonbank financial company, the Proposed Guidance states that the Council intends to identify steps a nonbank financial company or financial regulatory agencies could take to address a potential threat to U.S. financial stability. Subject to any necessary administrative procedures required to remediate the risk, the Council generally expects material risks to U.S. financial stability to be addressed within 180 days. The Council believes that under these procedures, the designation process would be rigorous and transparent.[13]

Questions for Comment

1. Will the new procedural step proposed to be added to the Council's administrative process for nonbank financial company determinations provide a nonbank financial company or financial regulatory agencies sufficient opportunity to undertake steps to address a potential threat to U.S. financial stability?

2. Would any other changes to the designation process be appropriate in helping the Council satisfy its statutory requirements?

3. Should any aspect of the Proposed Guidance described in this section II be modified for other considerations?

III. Legal Authority of Council and Status of Proposed Guidance

The Council has numerous authorities and tools under the Dodd-Frank Act to carry out its statutory purposes.[14] The Council expects that its response to any potential risk or threat to U.S. financial stability would be based on an assessment of the circumstances. As the agency charged by Congress with broad-ranging responsibilities under sections 112 and 113 of the Dodd-Frank Act, the Council has the inherent authority to promulgate interpretive guidance under those provisions that explains and interprets the steps the Council will take when undertaking the determination process.[15] The Council also has authority to issue procedural rules [16] and policy statements.[17] The Proposed Guidance provides transparency to the public as to how the Council intends to exercise its statutory grant of discretionary authority. Except to the extent that the Proposed Guidance sets forth rules of agency organization, procedure, or practice, the Council has concluded that the Proposed Guidance does not have binding effect; does not impose duties on, or alter the rights or interests of, any person; does not change the statutory standards for the Council's decision making; and does not relieve the Council of the need to make entity-specific determinations in accordance with section 113 of the Dodd-Frank Act. The Proposed Guidance also does not limit the ability of the Council to take emergency action under section 113(f) of the Dodd-Frank Act if the Council determines that such action is necessary or appropriate to prevent or mitigate threats posed by a nonbank financial company to U.S. financial stability. As a result, the Council has concluded that the notice and comment requirements of the Administrative Procedure Act would not apply.[18] However, under the Council's rule in 12 CFR 1310.3, the Council voluntarily committed that it would not amend or rescind Appendix A to part 1310 without providing the public with notice and an opportunity to comment in accordance with the procedures applicable to legislative rules under 5 U.S.C. 553.[19] The Council invites interested persons to submit comments regarding the Proposed Guidance.

IV. Paperwork Reduction Act

The Proposed Guidance is not expected to alter the collections of information previously reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) under control number 1505–0244. Nonetheless, the Council provides the estimated burdens of the information collections associated with the Proposed Guidance and invites comments below. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by the Office of Management and Budget.

The collection of information under the Proposed Guidance is found in 12 CFR 1310.20–23.

The hours and costs associated with preparing data, information, and reports for submission to the Council constitute reporting and cost burdens imposed by the collection of information. The estimated total annual reporting burden associated with the collection of information in the Proposed Guidance is 20 hours, based on an estimate of 1 respondent.

In addition, in determining this estimate, the Council considered its obligation under 12 CFR 1310.20(b) to, whenever possible, rely on information available from the Office of Financial Research or any Council member agency or primary financial regulatory agency that regulates a nonbank financial company before requiring the submission of reports from such nonbank financial company. The Council expects that its collection of information under the Proposed Guidance would be performed in a manner that attempts to minimize

[13] In accordance with the Council's bylaws, the Council may delegate authority, including to its Deputies Committee, to implement and take any actions under the guidance, except with respect to actions that are expressly nondelegable under the Dodd-Frank Act, the Council's bylaws, or the guidance.

[14] *See,* for example, Dodd-Frank Act sections 112(a)(2), 113, 115, 120, 804, 12 U.S.C. 5322(a)(2), 5323, 5325, 5330, 5463.

[15] Courts have recognized that ''an agency charged with a duty to enforce or administer a statute has inherent authority to issue interpretive rules informing the public of the procedures and standards it intends to apply in exercising its discretion.'' *See,* for example, *Production Tool* v. *Employment & Training Administration,* 688 F.2d 1161, 1166 (7th Cir. 1982). The Supreme Court has acknowledged that ''whether or not they enjoy any express delegation of authority on a particular question, agencies charged with applying a statute necessarily make all sorts of interpretive choices.'' *See U.S.* v. *Mead,* 533 U.S. 218, 227 (2001).

[16] *See* Dodd-Frank Act section 111(e)(2), 12 U.S.C. 5321(e)(2).

[17] *See Association of Flight Attendants-CWA, AFL–CIO* v. *Huerta,* 785 F.3d 710 (D.C. Cir. 2015).

[18] *See* 5 U.S.C. 553(b)(A); 12 CFR 1310.3.

[19] Section 1310.3 does not apply to the Council's issuance of rules, guidance, procedures, or other documents that do not amend or rescind Appendix A. Thus, other Council materials, and documents that are referred to in but are not a part of the Proposed Guidance, such as the Council's separately issued 2023 Analytic Framework, hearing procedures, bylaws, and committee charters, are not subject to section 1310.3's requirements.

burdens for affected financial companies. The aggregate burden will be subject to the number of financial companies that are evaluated in the determination process, the extent of information regarding such companies that is available to the Council through existing public and regulatory sources, and the amount and types of information that financial companies provide to the Council.

Interested persons are invited to submit comments regarding the estimates provided in this section. Comments on the collection of information should be sent to the Office of Management and Budget, Attn: Desk Officer for the Financial Stability Oversight Council, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies to Dennis Lee, Department of the Treasury, Washington, DC 20220. Comments on the collection of information must be received by May 14, 2026.

Comments are specifically requested concerning:

1. Whether the proposed collection of information is necessary for the proper performance of the functions of the Council, including whether the information will have practical utility;
2. The accuracy of the estimated burden associated with the proposed collection of information;
3. How the quality, utility, and clarity of information to be collected may be enhanced;
4. How the burden of complying with the proposed collection of information may be minimized, including through the application of automated collection techniques or other forms of information technology; and
5. Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

V. Executive Orders 12866, 13563, and 14192

Executive Orders 12866 and 13563 direct certain agencies to assess costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Pursuant to section 3(f) of Executive Order 12866, the Office of Information and Regulatory Affairs within the Office of Management and Budget has determined that the Proposed Guidance is a ''significant regulatory action.'' Accordingly, the Proposed Guidance has been reviewed by the Office of Management and Budget. The Proposed Guidance is anticipated to be a deregulatory action under Executive Order 14192.

A. Baseline for Economic Analysis Under Executive Orders 12866 and 13563

This economic analysis, undertaken in response to Executive Orders 12866 and 13563, addresses the incremental economic rationale for certain key changes discussed in the Proposed Guidance, as compared to the 2023 Interpretive Guidance and 2023 Analytic Framework.

As discussed in section II above, the Proposed Guidance would help ensure that the Council's work is clear, transparent, and analytically rigorous, and enhance the Council's engagement with companies, regulators, and other stakeholders. By issuing clear and transparent guidance, the Council seeks to provide the public with sufficient information to understand the Council's concerns regarding risks to U.S. financial stability, while appropriately protecting information submitted by companies and regulators to the Council.

B. Economic Analysis of Certain Proposed Changes

1. Changes to Analytic Methodologies

Section II.B. above discusses how the Council proposes to update its analytic methodologies, including by considering impediments to economic growth and economic security when identifying potential risks to U.S. financial stability. By proposing to update its analytic methodologies, the Council intends to more effectively implement the goals of financial stability policy, which seeks to reduce the probability and severity of disruptions that can impose large costs on households and businesses, while also recognizing that overly burdensome interventions can impair intermediation, raise the cost of credit, or reduce the availability of financial products. The Proposed Guidance, by proposing a more explicit consideration of these factors, seeks to facilitate a balanced analysis of tradeoffs, and reduce the risk that interventions create fragility by constraining the system's capacity to provide key financial services.

2. Activities-Based Approach

Section II.C. above discusses how the Council would prioritize its efforts to identify, assess, and respond to potential risks to U.S. financial stability through a process that begins with an activities-based approach. The Council believes that this change would improve its ability to respond to such risks when they arise from a systemic externality, in which the private incentives of market participants do not fully account for spillovers to the broader financial system and real economy. An activities-based approach is better positioned to address risks that arise across multiple firms engaging in similar practices, which can reduce risk migration from more to less regulated sectors of the economy and support more uniform application of safeguards to comparable activity.

In addition, the Council believes that an activities-based approach can mitigate competitive distortions by reducing disparate regulatory burdens across firms engaged in comparable activity, particularly where firms offer substitutable products or services. Where similarly situated entities face materially different expected regulatory burdens solely because one firm is evaluated for designation and another is not, market shares and pricing may shift for reasons unrelated to efficiency or product quality. The Council believes that prioritizing system-wide engagement with relevant regulators can help mitigate such distortions and promote efficient risk management by more effectively aligning incentives. A key tradeoff is that, if efforts to address a potential risk would involve coordination among multiple agencies, prioritizing an activities-based approach may be less targeted than an entity-specific approach. Under the Proposed Guidance, the Council would maintain the ability to evaluate a nonbank financial company for potential designation in the event that a potential risk or threat to U.S. financial stability is not adequately addressed through an activities-based approach.

3. Cost-Benefit Analysis and Likelihood of Material Financial Distress

Section II.E. above discusses how the Council would perform a cost-benefit analysis before making any designation under section 113. The Council proposes to make a designation under section 113 only if the expected benefits justify the expected costs that the determination would impose, with the goal of avoiding the imposition of unnecessary costs in circumstances where an activities-based approach or other Council tool could adequately address a potential risk.

Section II.F. above discusses how the Council would assess the likelihood of a company's material financial distress, applying qualitative and quantitative factors, when evaluating the impact of a Council designation for any company

under review under the First Determination Standard. This assessment would improve the accuracy of the designation review process by enabling the Council to better distinguish between scenarios where distress is a plausible pathway for systemic transmission and scenarios where distress is highly remote. At the same time, the Council recognizes that financial crises can arise from combinations of shocks and vulnerabilities without clear historical analogues. By assessing the likelihood of a company's material financial distress, the Council seeks to avoid both over-designation, which can impose costs where benefits are speculative, and under-designation, which can result in a failure to act where probability-weighted harms are substantial.

4. Process for Member Agencies To Address Potential Risks

Section II.G. above discusses how the Council would add to the activities-based approach by providing for the Council, in certain cases, to commence a process for Council member agencies to act to address a potential risk to U.S. financial stability. This proposal is intended to mitigate coordination and collective-action problems that could arise when potential risks span the regulatory jurisdictions of multiple agencies. This structured mechanism is intended to improve the ability of Council member agencies to quickly and efficiently address potential risks, which may reduce the likelihood of more intrusive interventions and the associated higher compliance costs.

5. Interpretation of Threat to Financial Stability

Section II.H. above discusses how the Council would modify its interpretation of the term ''threat to the financial stability of the United States,'' for purposes of section 113 of the Dodd-Frank Act, to mean the threat of an impairment of financial intermediation or of financial market functioning to a degree that would be sufficient to inflict severe damage on the broader U.S. economy. This interpretation would represent a higher threshold than the one set forth in the 2023 Analytic Framework. By raising the threshold for its interpretation of this term, the Council seeks to focus its designation evaluation on situations where the magnitude of potential economic harm is greatest and where the marginal value of applying Federal Reserve supervision and prudential standards is expected to be highest. This proposal is intended to reduce the likelihood that the Council undertakes designation, and imposes related costs, in circumstances where the benefits are uncertain or limited.

6. Administrative Process for Nonbank Financial Company Determinations

Section II.I. above discusses how the Council would add a new procedural step to its administrative process for nonbank financial company determinations. Based on the Council's preliminary evaluation of a nonbank financial company, the Proposed Guidance states that the Council intends to identify steps a nonbank financial company or financial regulatory agencies could take to address a potential threat to U.S. financial stability. By identifying targeted remediation steps at a preliminary stage, the Council seeks to address potential threats without incurring the potentially greater compliance costs and market impacts associated with designation. This proposal may also reduce the potential for market overreaction and lead to less costly pricing of uncertainty. At the same time, the proposal could increase costs if the nonbank financial company does not fully implement remediation steps or if regulatory or administrative actions take longer than anticipated. The Council may take additional steps to address a potential threat to U.S. financial stability if it is not adequately addressed through this proposed procedural step.

C. Alternatives Considered

An alternative to the Proposed Guidance would be to maintain the 2023 Interpretive Guidance and 2023 Analytic Framework. As compared to this alternative, the Proposed Guidance emphasizes system-wide mitigation, improved analytical rigor, and more transparent methodologies and procedural steps that are intended to improve predictability and reduce unnecessary costs, while maintaining the ability of the Council to take additional actions in the event that a potential risk or threat is not adequately addressed.

D. Benefits, Costs, and Uncertainty

The principal anticipated economic benefit of the Proposed Guidance relative to the 2023 Interpretive Guidance and 2023 Analytic Framework is a reduction in the likelihood or severity of financial instability by improving how the Council would identify, prioritize, and address potential risks. The proposal aims to increase the probability that system-wide vulnerabilities are mitigated through appropriately tailored actions; reduce distortions associated with entity-specific actions in circumstances where an activities-based approach would be sufficient; and improve the rigor, transparency, and predictability of any decision to use the Council's designation authority.

The principal anticipated economic cost of the Proposed Guidance relative to the 2023 Interpretive Guidance and 2023 Analytic Framework is that prioritizing an activities-based approach and performing a cost-benefit analysis may delay efforts to address a potential threat to U.S. financial stability that could be addressed more effectively by the designation of a nonbank financial company. A further anticipated economic cost is the additional uncertainty for market participants that may be associated with a change by the Council to its approach to identify and address potential risks to U.S. financial stability.

The Proposed Guidance involves uncertainty arising from the fact that financial stability policy is difficult to quantify because it depends on low-frequency tail events, endogenous behavioral responses, and evolving market structure, among other unpredictable factors.

Considering this analysis, the Council believes that the anticipated economic benefits of the Proposed Guidance would justify the anticipated economic costs.

List of Subjects in 12 CFR Part 1310

Brokers, Investments, Securities.

The Financial Stability Oversight Council proposes to amend 12 CFR part 1310 as follows:

PART 1310—AUTHORITY TO REQUIRE SUPERVISION AND REGULATION OF CERTAIN NONBANK FINANCIAL COMPANIES

■ 1. The authority citation for part 1310 continues to read as follows:

Authority: 12 U.S.C. 5321; 12 U.S.C. 5322; 12 U.S.C. 5323.

Appendix A to 12 CFR Part 1310—Financial Stability Oversight Council Guidance for Nonbank Financial Company Determinations

Introduction

This document describes the approach the Financial Stability Oversight Council (the ''Council'') expects to take in identifying, assessing, and responding to certain potential risks to U.S. financial stability.

The Council's practices set forth in this document are among the methods the Council uses to satisfy its statutory purposes: (1) to identify risks to U.S. financial stability that could arise from the material financial distress or failure, or ongoing activities, of large, interconnected bank holding companies or nonbank financial companies,

or that could arise outside the financial services marketplace; (2) to promote market discipline, by eliminating expectations on the part of shareholders, creditors, and counterparties of such companies that the government will shield them from losses in the event of failure; and (3) to respond to emerging threats to the stability of the U.S. financial system.[1] The Council's specific statutory duties include monitoring the financial services marketplace in order to identify potential threats to U.S. financial stability, identifying gaps in regulation that could pose risks to U.S. financial stability, and recommending to the Council member agencies general supervisory priorities and principles.[2]

Section II of this document describes the Council's analytic approach for identifying and assessing potential risks to U.S. financial stability. Section III describes the approach the Council intends to take in prioritizing its work to identify and respond to potential risks to U.S. financial stability using an activities-based approach, reflecting the Council's priority of identifying potential risks to U.S. financial stability on a system-wide basis. Section IV outlines the Council's approach when determining whether to subject a nonbank financial company to Federal Reserve supervision and prudential standards under section 113 of the Dodd-Frank Act.

This document is not a binding rule, but is intended to help market participants, stakeholders, and other members of the public better understand how the Council expects to perform certain of its duties. The Council may consider factors relevant to the assessment of a potential risk to U.S. financial stability on a case-by-case basis, subject to applicable statutory requirements. If the Council were to depart from the process set forth in this document, it would need to provide a reasoned explanation for its action, which would require acknowledging the change in position.[3]

II. Analytic Methodologies for Identifying and Assessing Potential Risks to U.S. Financial Stability

The Council considers a risk to U.S. financial stability to mean the potential for an event, act, or development that could impair financial intermediation or financial market functioning to a degree that would be sufficient to inflict significant damage on the broader U.S. economy. A risk to U.S. financial stability arises when an event, act, or development interacts with or exploits a vulnerability to transmit stress or dislocations through the financial system. This may take the form of a ''shock,'' which is an event, act, or development—arising from within the financial system or from external sources—the impact of which could impair financial intermediation or financial market functioning. Examples of shocks include a sudden fall in asset prices or market liquidity, or the failure of one or more financial companies that provide critical services to the financial sector. A ''vulnerability'' in the financial system is a characteristic that can amplify the negative impact of a shock. Conversely, the Council considers financial stability to mean the financial system being resilient to risks to U.S. financial stability. To accomplish its statutory purposes and duties, the Council seeks to mitigate vulnerabilities that may increase risks to U.S. financial stability.

Economic growth and economic security are important considerations related to financial stability. The Council works with member agencies to consider whether elements of the U.S. financial regulatory framework are fit for purpose or impose undue burdens that could constrain economic growth, thereby posing a potential risk to U.S. financial stability. Similarly, economic security requires that the U.S. financial system reliably provide the resources necessary to grow the real economy. Thus, economic security and financial stability can both be bolstered by encouraging technological innovation in the financial system and by modernizing financial regulation to ensure it is efficient, effective, and forward-looking.

The evaluation of any potential risk to U.S. financial stability will be highly fact-specific, but the Council has identified certain vulnerabilities that most commonly contribute to such risks. The mere presence of any single vulnerability does not indicate that a risk to U.S. financial stability exists; the Council's analyses will take into account the risk associated with one or more vulnerabilities in the financial system.

- *Leverage.* Leverage can amplify risks by reducing market participants' ability to satisfy their obligations and by increasing the potential for sudden liquidity strains. Leverage can arise from debt, derivatives, off-balance sheet obligations, and other arrangements. Leverage can arise broadly within a market or at a limited number of firms in a market.
- *Liquidity risk and maturity mismatch.* A shortfall of sufficient liquidity to satisfy short-term needs, or reliance on short-term liabilities to finance longer-term assets, can subject market participants to rollover or refinancing risk. These risks may force entities to sell assets rapidly at stressed market prices, which can contribute to broader stresses.
- *Asset valuations.* Sharp reductions in the valuation of particular assets or classes of assets can result in significant losses for financial market participants that hold or are otherwise exposed to those assets. This risk can be exacerbated by concentrated portfolios, or mitigated by hedging or other risk-management strategies.
- *Interconnections.* Direct or indirect financial interconnections, such as exposures of creditors, counterparties, investors, and borrowers, can increase the potential negative effect of dislocations or financial distress.
- *Operational risks.* Risks can arise from the impairment or failure of financial market infrastructures, processes, or systems, including due to cybersecurity vulnerabilities.
- *Concentration.* A risk may be amplified if financial exposures or important services are highly concentrated in a small number of entities, creating a risk of widespread losses or the risk that the service could not be replaced in a timely manner at a similar price and volume if existing providers withdrew from the market.
- *Impediments to economic growth and economic security.* Economic growth and economic security are important considerations related to financial stability. Circumstances or developments that negatively impact economic growth or economic security could undermine financial stability.

In addition, complexity and opacity of a market, activity, or firm can make it more difficult for regulators, counterparties, and other stakeholders to assess potential risks to U.S. financial stability, which may reduce the effectiveness of market discipline. Risks may also be aggravated by obstacles to the rapid and orderly resolution of market participants. In addition, a risk may be exacerbated if it is conducted without effective risk-management practices, including the absence of appropriate regulatory authority and requirements. In contrast, existing regulatory requirements or market practices may reduce risks by, for example, limiting exposures or leverage, increasing capital and liquidity, enhancing risk-management practices, restricting excessive risk-taking, providing consolidated prudential regulation and supervision, or increasing regulatory or public transparency.

The Council considers how the adverse effects of a potential risk to U.S. financial stability could be transmitted to financial markets or market participants and what impact the potential risk could have on the financial system. Such a transmission of risk can occur through various mechanisms, or ''channels.'' The Council has identified four transmission channels that could facilitate the transmission of the negative effects of a risk to U.S. financial stability. These transmission channels are:

- *Exposure transmission channel.* Direct and indirect exposures of creditors, counterparties, investors, and other market participants can result in losses in the event of a default or decreases in asset valuations. In particular, market participants' exposures to a particular financial instrument or asset class, such as equity, debt, derivatives, or securities financing transactions, could impair those market participants if there is a default on or other reduction in the value of the instrument or assets. In evaluating this transmission channel, risks arising from exposures to assets managed by a company on behalf of third parties are distinct from exposures to assets owned by, or liabilities issued by, the company itself. The potential risk to U.S. financial stability will generally be greater if the amounts of exposures are larger; if transaction terms provide less protection for counterparties; if exposures are correlated, concentrated, or interconnected with other instruments or asset classes; or if entities with significant exposures include large financial institutions. The leverage, interconnections, and concentration vulnerabilities described above may be

[1] Dodd-Frank Act Wall Street Reform and Consumer Protection Act (''Dodd-Frank Act'') section 112(a)(1), 12 U.S.C. 5322(a)(1).

[2] Dodd-Frank Act section 112(a)(2), 12 U.S.C. 5322(a)(2).

[3] *See FCC* v. *Fox Television Stations, Inc.,* 556 U.S. 502, 515 (2009).

particularly relevant to this transmission channel.

• *Asset liquidation transmission channel.* A rapid liquidation of financial assets can pose a risk to U.S. financial stability when it causes a significant decrease in asset prices that disrupts trading or funding in key markets or causes losses or funding problems for market participants holding those or related assets. Rapid liquidations can result from a deterioration in asset prices or market functioning that could pressure firms to sell their holdings of affected assets to maintain adequate capital and liquidity, which, in turn, could produce a cycle of asset sales that lead to further market disruptions. This analysis takes into account amounts and types of liabilities that are or could become short-term in nature, amounts of assets that could be rapidly liquidated to satisfy obligations, and the potential effects of a rapid asset liquidation on markets and market participants. The potential risk is greater, for example, if leverage or reliance on short-term funding is higher, if assets are riskier and may experience a reduction in market liquidity in times of broader market stress, and if asset price volatility could lead to significant margin calls. Actions that market participants or financial regulators may take to impose stays on counterparty terminations or withdrawals may reduce the risks of rapid asset liquidations, although such actions could potentially increase risks through the exposures transmission channel if they result in potential losses or delayed payments or through the contagion transmission channel if there is a loss of market confidence. The leverage and liquidity risk and maturity mismatch vulnerabilities described above may be particularly relevant to this transmission channel.

• *Critical function or service transmission channel.* A risk to financial stability can arise if there could be a disruption of a critical function or service that is relied upon by market participants and for which there are no ready substitutes that could provide the function or service at a similar price and quantity. This channel is commonly referred to as ''substitutability.'' Substitutability risks can arise in situations where a small number of entities are the primary or dominant providers of critical services in a market that the Council determines to be essential to U.S. financial stability. Concern about a potential lack of substitutability could be greater if providers of a critical function or service are likely to experience stress at the same time because they are exposed to the same risks. This channel is more prominent when the critical function or service is interconnected or large, when operations are opaque, when the function or service uses or relies on leverage to support its activities, or when risk-management practices related to operational risks are not sufficient. The interconnections, operational risks, and concentration vulnerabilities described above may be particularly relevant to this transmission channel.

• *Contagion transmission channel.* Even without direct or indirect exposures, contagion can arise from the perception of common vulnerabilities or exposures, such as business models or asset holdings that are similar or highly correlated. Such contagion can spread stress quickly and unexpectedly, particularly in circumstances where there is limited transparency into investment risks, correlated markets, or greater operational risks. Contagion can also arise when there is a loss of confidence in financial instruments that are treated as substitutes for money. In these circumstances, market dislocations or fire sales may result in a loss of confidence in other financial market sectors or participants, propagating further market dislocations or fire sales. The interconnections and complexity or opacity vulnerabilities described above may be particularly relevant to this transmission channel.

The Council may consider these vulnerabilities and transmission channels, as well as others that may be relevant, in identifying financial markets, activities, and entities that could pose risks to U.S. financial stability.

The Council may assess potential risks to U.S. financial stability as they could arise in the context of a period of overall stress in the financial services industry and in a weak macroeconomic environment.

Activities-Based Approach

The Dodd-Frank Act gives the Council broad discretion in determining how to respond to potential risks to U.S. financial stability. A determination to subject a nonbank financial company to Federal Reserve supervision and prudential standards under section 113 of the Dodd-Frank Act is only one of several Council authorities for responding to potential risks to U.S. financial stability.[4] The Council will prioritize its efforts to identify, assess, and respond to potential risks to U.S. financial stability through a process that begins with an activities-based approach, applying the analytic methodologies described above, and will pursue entity-specific determinations under section 113 of the Dodd-Frank Act only if a potential risk to U.S. financial stability cannot be, or is not, adequately addressed through an activities-based approach. The Council's activities-based approach is intended to identify and respond to risks to U.S. financial stability using a two-step approach, described below.

[4] For example, the Council has authority to make recommendations to the Federal Reserve concerning the establishment and refinement of prudential standards and reporting and disclosure requirements applicable to nonbank financial companies supervised by the Federal Reserve; make recommendations to primary financial regulatory agencies to apply new or heightened standards and safeguards for a financial activity or practice conducted by certain financial companies if the Council determines that such activity or practice could create or increase certain risks; and designate financial market utilities and payment, clearing, and settlement activities that the Council determines are, or are likely to become, systemically important. Dodd-Frank Act sections 115, 120, 804, 12 U.S.C. 5325, 5330, 5463.

a. Step One of the Activities-Based Approach: Identifying and Assessing Potential Risks to U.S. Financial Stability

Identifying Potential Risks to U.S. Financial Stability

One of the Council's statutory purposes is to identify risks to U.S. financial stability that could arise from within or outside the financial services marketplace.[5] In the first step of the activities-based approach, to enable the Council to identify potential risks to U.S. financial stability, the Council, in consultation with relevant financial regulatory agencies, intends to monitor diverse financial markets and market developments on a system-wide basis to identify products, activities, or practices that could pose risks to U.S. financial stability.[6] When monitoring potential risks to U.S. financial stability, the Council intends to consider the linkages across products, activities, regulations, and practices, their interconnectedness across firms and markets, and their impact on economic growth. The Council's analysis will be consistent with the analytic methodologies described in Section II above.

Assessing Potential Risks to U.S. Financial Stability

If the Council's monitoring of markets and market developments identifies a potential risk to U.S. financial stability, the Council will assess the potential risk to determine whether it merits further action. The Council's work in this step may include efforts such as sharing data, research, and analysis among Council members and member agencies and their staffs; consultations with regulators and other experts regarding the scope of potential risks and factors that may mitigate those risks; and the collaborative development of analyses for consideration by the Council. As part of this work, the Council may also engage with industry participants and other members of the public as it assesses potential risks to U.S. financial stability.

Although the contours of the Council's initial assessment of any potential risk to U.S. financial stability will depend on the type and scope of analysis relevant to the particular risk, the Council's analyses will generally focus on four framing questions:

1. What shocks or other developments could trigger the potential risk to U.S. financial stability, and what vulnerabilities could be implicated? For example, could the potential risk be triggered by sharp reductions in the valuations of particular classes of financial assets? This analysis will be consistent with the analysis of vulnerabilities as described in Section II above.

2. How could the adverse effects of the potential risk to U.S. financial stability be transmitted to financial markets or market

[5] Dodd-Frank Act section 112(a)(1)(A), 12 U.S.C. 5322(a)(1)(A).

[6] *See* Dodd-Frank Act section 2(12), 12 U.S.C. 5301(12). In fulfilling the Council's duties to identify, assess, and respond to potential risks to U.S. financial stability, the Council generally intends to consult with, solicit information from, or coordinate with relevant state or federal financial regulatory agencies.

participants? For example, what are the direct or indirect exposures in financial markets to the potential risk? This analysis will be consistent with the analysis of transmission channels as described in Section II above.

3. What impact could the potential risk to U.S. financial stability have on the U.S. financial system? For example, what could be the scale of its adverse effects on other companies and markets, and would its effects be concentrated or distributed broadly among market participants? This analysis should take into account factors such as existing regulatory requirements or market practices that mitigate potential risks.

4. Could the adverse effects of the potential risk to U.S. financial stability impair financial intermediation or financial market functioning to a degree that would be sufficient to inflict significant damage on the broader U.S. economy?

b. Step Two of the Activities-Based Approach: Working With Regulators To Respond to Potential Risks to U.S. Financial Stability

If the Council's analysis under Section III.a of this appendix identifies a potential risk to U.S. financial stability that merits action, the Council generally will work with the relevant financial regulatory agencies at the federal and state levels to respond to the potential risk. The goal of this step would be for existing regulators to take appropriate action, such as modifying their regulation or supervision of companies or markets under their jurisdiction in order to mitigate potential risks to U.S. financial stability identified by the Council.[7] If such a potential risk identified by the Council relates to a product, activity, or practice arising at a limited number of individual financial companies, the Council may nonetheless prioritize a remedy that addresses the underlying risk at other companies that engage in the relevant activity, as appropriate, taking into account each company's size, complexity, and business profile. The Council's actions will be guided in part by its statutory purposes of promoting market discipline and responding to emerging threats to U.S. financial stability.

In cases where the Council has identified a potential risk to U.S. financial stability that merits action, if existing regulators have adequate authority, the regulators could take actions such as modifying their regulation or supervision of companies or markets under their jurisdiction to mitigate the identified risks. If existing regulators can address a potential risk to U.S. financial stability in a sufficient and timely way, the Council generally will encourage those regulators to do so.

This process may result in recommendations to a financial regulatory agency in the Council's annual report, which is required by the Dodd-Frank Act to include recommendations (1) to enhance the integrity, efficiency, competitiveness, and stability of U.S. financial markets; (2) to promote market discipline; and (3) to maintain investor confidence.[8] After the Council makes recommendations in an annual report, it will work with Council member agencies, as appropriate, regarding steps taken to address the potential risk to U.S. financial stability.

Alternatively, in certain cases, the Council may commence a process for Council member agencies to act to address a potential risk to U.S. financial stability. In these cases, the Council will notify an existing financial regulatory agency in writing of the potential risk to U.S. financial stability. The Council will request a written response from the agency within a specified period regarding the actions the agency proposes to take to address the potential risk. The agency will be expected to provide detailed information to the Council regarding its proposed actions, their anticipated effects, and the expected timeline for implementation.

If, after engaging with relevant financial regulatory agencies, the Council believes those regulators' actions are inadequate to address the potential risk to U.S. financial stability, the Council has authority to make formal public recommendations to primary financial regulatory agencies under section 120 of the Dodd-Frank Act. Under section 120, the Council may provide for more stringent regulation of a financial activity by issuing nonbinding recommendations, following consultation with the primary financial regulatory agency and public notice inviting comments on proposed recommendations, to the primary financial regulatory agency to apply new or heightened standards or safeguards for a financial activity or practice conducted by bank holding companies or nonbank financial companies under their jurisdiction. In addition, in any case in which no primary financial regulatory agency exists for the markets or companies conducting financial activities or practices identified by the Council as posing risks, the Council can consider reporting to Congress on recommendations for legislation that would prevent such activities or practices from threatening U.S. financial stability. The Council intends to make recommendations to an agency under section 120 only to the extent that its recommendations are consistent with the statutory mandate of the primary financial regulatory agency to which the Council is making the recommendation.

The authority to issue recommendations to primary financial regulatory agencies under section 120 is one of the Council's formal tools for responding to potential risks to U.S. financial stability. The Council will make these recommendations only if it determines that the conduct, scope, nature, size, scale, concentration, or interconnectedness of the activity or practice could create or increase the risk of significant liquidity, credit, or other problems spreading among bank holding companies and nonbank financial companies or U.S. financial markets.

In its recommendations under section 120, the Council may suggest broad approaches to address the risks it has identified, or, when appropriate, the Council may make a more specific recommendation. To promote analytical rigor and avoid duplication, before making any recommendation under section 120, the Council will ascertain whether the relevant primary financial regulatory agency would be expected to perform a cost-benefit analysis of the actions it would take in response to the Council's contemplated recommendation. In cases where the primary financial regulatory agency would not be expected to conduct such an analysis, the Council itself will conduct an analysis prior to making a final recommendation, using empirical data, to the extent available, of the benefits and costs of the actions that the primary financial regulatory agency would be expected to take in response to the contemplated recommendation. Where the Council conducts its own such analysis, the specificity of its assessment of benefits and costs would be commensurate with the specificity of the contemplated recommendation. Furthermore, where the Council conducts its own analysis, the Council will make a recommendation under section 120 only if it believes that the results of its assessment of benefits and costs support the recommendation. In every case, prior to issuing a recommendation under section 120, the Council will consult with the relevant primary financial regulatory agency and provide notice to the public and opportunity for comment as required by section 120.

Nonbank Financial Company Determinations

As described in Section III above, the Council will prioritize an activities-based approach for identifying, assessing, and responding to potential risks to U.S. financial stability. If the Council's collaboration and engagement with the relevant financial regulatory agencies during the activities-based approach does not adequately address a potential threat identified by the Council, and if the potential threat identified by the Council is one that could be effectively addressed by a Council determination regarding one or more nonbank financial companies, the Council may evaluate one or more nonbank financial companies for an entity-specific determination under section 113 of the Dodd-Frank Act. This section describes the analysis the Council will conduct in general regarding individual nonbank financial companies that are considered for a potential determination, and the Council's process for those reviews.

Under section 113 of the Dodd-Frank Act, the Council may determine, by a vote of not fewer than two-thirds of the voting members of the Council then serving, including an affirmative vote by the Chairperson of the

[7] The Dodd-Frank Act provides that the Council's duties include recommending to the member agencies general supervisory priorities and principles reflecting the outcome of discussions among the member agencies and to make recommendations to primary financial regulatory agencies to apply new or heightened standards and safeguards for financial activities or practices that could create or increase risks of significant liquidity, credit, or other problems spreading among bank holding companies, nonbank financial companies, and United States financial markets. Dodd-Frank Act sections 112(a)(2)(F), (K), 12 U.S.C. 5322(a)(2)(F), (K).

[8] Dodd-Frank Act section 112(a)(2)(N), 12 U.S.C. 5322(a)(2)(N).

Council, that a nonbank financial company [9] will be supervised by the Federal Reserve and be subject to prudential standards if the Council determines that (1) material financial distress at the nonbank financial company could pose a threat to the financial stability of the United States (''First Determination Standard'') or (2) the nature, scope, size, scale, concentration, interconnectedness, or mix of the activities of the nonbank financial company could pose a threat to the financial stability of the United States (''Second Determination Standard''). The Council has issued a procedural rule regarding its process for considering a nonbank financial company for potential designation under section 113.[10] The Dodd-Frank Act requires the Council to consider 10 specific considerations, including the company's leverage, relationships with other significant financial companies, and existing regulation by primary financial regulatory agencies, when determining whether a nonbank financial company satisfies either of the determination standards.[11] Due to the unique threat that each nonbank financial company could pose to U.S. financial stability and the nature of the inquiry required by the statutory considerations set forth in section 113, the Council expects that its evaluations of nonbank financial companies under section 113 will be firm-specific; however, the analytic methodologies described in Section III above would apply in the context of an analysis under section 113.

For purposes of section 113 of the Dodd-Frank Act, the Council considers a ''threat to the financial stability of the United States'' to mean the threat of an impairment of financial intermediation or of financial market functioning to a degree that would be sufficient to inflict severe damage on the broader U.S. economy.[12] When evaluating a nonbank financial company, the Council may consider the company and its subsidiaries separately or together, to enable the Council to consider potential risks arising across the entire organization, while retaining the ability to make a determination regarding either the parent or any individual nonbank financial company subsidiary (or neither), depending on which entity the Council determines could pose a threat to financial stability.

Assessments of Benefits and Costs

In addition to the Council's analytic methodologies described above in Section II, in the context of potential determinations regarding nonbank financial companies under section 113 of the Dodd-Frank Act, the Council will assess whether the expected benefits of a potential Council determination justify the expected costs. Financial stability benefits may be difficult to quantify, and some of the costs may be difficult to forecast with precision. When possible, the Council will quantify reasonably estimable benefits and costs, using ranges, as appropriate, and based on empirical data when available. If such benefits or costs cannot be quantified in this manner, the Council will explain why such benefits or costs could not be quantified. The Council also expects to consider benefits and costs qualitatively. To the extent feasible, the Council will attempt to assess the relative importance of any such qualitative elements. The Council will make a determination under section 113 only if the expected benefits to financial stability from Federal Reserve supervision and prudential standards justify the expected costs that the determination would impose. As part of this analysis, the Council will assess the likelihood of a firm's material financial distress, as described below, in order to assess the extent to which a determination may promote U.S. financial stability, along with the extent to which material financial distress at the nonbank financial company could pose a threat to the financial stability of the United States.

The Council will conduct this analysis in cases where the Council is concluding that the company meets one of the standards for a determination by the Council under section 113 of the Dodd-Frank Act.

Benefits. With respect to the benefits of a Council determination, the Council will consider the benefits of the determination itself, both to (1) the U.S. financial system, long-term economic growth, and economic security and (2) the nonbank financial company due to additional regulatory requirements resulting from the determination, particularly the prudential standards adopted by the Federal Reserve under section 165 of the Dodd-Frank Act.

One of the Council's statutory purposes is to respond to emerging threats to the stability of the U.S. financial system.[13] The primary intended benefit of a determination under section 113 of the Dodd-Frank Act is a reduction in the likelihood or severity of a financial crisis. Therefore, the Council will consider potential benefits to the U.S. financial system and the U.S. economy arising from a Council determination. To the extent that a Council determination reduces the likelihood or severity of a potential financial crisis, the determination could enhance financial stability and mitigate the severity of economic downturns. The Council may use various measures of systemic risk to assess any improvement in financial stability. Such measures include SRISK (which attempts to quantify the amount of capital a financial firm would need to raise in order to function normally in the event of a severe financial crisis), conditional value at risk, and estimates of fire sale risk, among others. To assess the benefit to the U.S. financial system and the U.S. economy from a determination, the Council may also consider historical analogues to the nonbank financial company under review. In addition, where appropriate, the Council may compare the risks to financial stability posed by a particular nonbank financial company to the risks posed by large bank holding companies, in order to produce an assessment of the relative risks the company may pose. Further, the loss of any implicit ''too big to fail'' subsidy would be considered a benefit to the economy.

Analysis of the benefits of a determination for the relevant nonbank financial company may include those arising directly from the Council's determination as well as any benefits arising from anticipated new or increased requirements resulting from the determination, such as additional supervision and enhanced capital, liquidity, or risk-management requirements. For example, a nonbank financial company subject to a Council determination may benefit from a lower cost of capital or higher credit ratings upon meeting its post-determination regulatory requirements.

Costs. With respect to the costs of a Council determination, the Council will consider the costs of the determination itself, both to (1) the nonbank financial company due to additional regulatory requirements resulting from the determination, including the costs of the prudential standards adopted by the Federal Reserve under section 165 of the Dodd-Frank Act; and (2) the U.S. economy, including potential impacts on economic growth and economic security.

The Council will consider costs to the company arising from anticipated new or increased regulatory requirements resulting from the determination related to:

- Risk-management requirements, such as the costs of capital planning and stress testing.
- Supervision and examination, such as compliance costs to the firm of additional examination and supervision.
- Increased capital requirements, after accounting for offsetting benefits to taxpayers and to the holders of the firm's other liabilities.
- Liquidity requirements, such as the opportunity cost from any requirement to hold additional high-quality liquid assets, relative to the company's current investment portfolio.

Because the Federal Reserve is required to tailor prudential standards to a nonbank financial company subject to a Council determination after the Council has made a determination regarding the company, the new regulatory requirements that result from the Council's determination will not be known to the Council during its analysis of the company. In cases where the nonbank financial company under review primarily engages in bank-like activities, the Council may consider, as a proxy, the costs that

[9] In this context, the Council intends to interpret the term ''company'' to include any corporation, limited liability company, partnership, business trust, association, or similar organization, and ''nonbank financial company supervised by the Board of Governors'' as including any nonbank financial company that acquires, directly or indirectly, a majority of the assets or liabilities of a company that is subject to a Final Determination of the Council. *See* 12 U.S.C. 5311(a)(4) and 12 CFR 1310.2 for the definition of ''nonbank financial company.''

[10] *See* 12 CFR part 1310.

[11] Dodd-Frank Act sections 113(a)(2) and (b)(2), 12 U.S.C. 5323(a)(2) and (b)(2).

[12] This interpretation of a ''threat'' to U.S. financial stability refers to ''severe damage'' to the broader economy, while the definition in section II above of a ''risk'' to U.S. financial stability refers to ''significant damage'' to the broader economy. This approach reflects that these distinct statutory terms, found in sections 112 and 113 of the Dodd-Frank Act, should be given distinct meanings.

[13] Dodd-Frank Act section 112(a)(1)(C), 12 U.S.C. 5322(a)(1)(C).

would be imposed on the nonbank if the Federal Reserve imposed prudential standards similar to those imposed on bank holding companies with at least $250 billion in total consolidated assets under section 165 of the Dodd-Frank Act.[14]

The Council also will consider the cost of a determination under section 113 of the Dodd-Frank Act to the U.S. economy by assessing the impact of the determination on the availability and cost of credit or financial products in relevant U.S. markets. To the extent that the markets in which the relevant nonbank participates have low concentration, the impact that the determination regarding one firm would have on credit conditions would generally be immaterial. However, if the relevant markets are concentrated, a Council determination regarding a significant market participant could have a material impact on credit conditions in that market. As part of this analysis, the Council may also consider the extent to which any reduction in financial services provided by the nonbank financial company under review would be offset by other market participants.

Likelihood of Material Financial Distress. As part of the assessment of the impact of a Council determination for any company under review under the First Determination Standard, the Council will assess the likelihood of the company's material financial distress based on its vulnerability to a range of factors.[15] For example, these factors may include leverage (both on- and off-balance sheet), potential risks associated with asset reevaluations (whether such reevaluations arise from market disruptions or severe macroeconomic conditions), reliance on short-term funding or other fragile funding markets, maturity transformation, and risks from exposures to counterparties or other market participants. This assessment may rely upon historical examples regarding the characteristics of financial companies that have experienced financial distress, but may also consider other risks that do not have historical precedent. The Council's analysis of the likelihood of a nonbank financial company's material financial distress will be conducted taking into account a period of overall stress in the financial services industry and a weak macroeconomic environment. The Council may also consider the results of any stress tests that have previously been conducted by the company or by its primary financial regulatory agency. In light of the unpredictability of the failure of financial companies, the Council will not seek to determine that a nonbank financial company's material financial distress is reasonably likely, but instead will use this analysis to evaluate the factors that could cause such distress as part of the assessment of benefits of a designation as described above.

[14] Dodd-Frank Act section 165, 12 U.S.C. 5365.

[15] The Council intends to interpret the term ''material financial distress'' as a nonbank financial company being in imminent danger of insolvency or defaulting on its financial obligations.

Administrative Process for Nonbank Financial Company Determinations

In the first stage of the process (''Stage 1''), nonbank financial companies identified as potentially posing risks to U.S. financial stability will be notified as described below and subject to a preliminary analysis, based on quantitative and qualitative information available to the Council primarily through public and regulatory sources. During Stage 1, the Council will permit, but not require, the company to submit relevant information. The Council will also consult with the primary financial regulatory agency or home country supervisor, as appropriate. This approach will enable the Council to fulfill its statutory obligation to rely whenever possible on information available through the Office of Financial Research (the ''OFR''), Council member agencies, or the nonbank financial company's primary financial regulatory agencies before requiring the submission of reports from any nonbank financial company.[16]

Following Stage 1, nonbank financial companies that are selected for additional review will receive notice that they are being considered for a proposed determination that the company could pose a threat to U.S. financial stability (a ''Proposed Determination'') and will be subject to in-depth evaluation during the second stage of review (''Stage 2''). Stage 2 will involve the evaluation of additional information collected directly from the nonbank financial company. At the end of Stage 2, the Council may consider whether to make a Proposed Determination with respect to the nonbank financial company. If a Proposed Determination is made by the Council, the nonbank financial company may request a hearing in accordance with section 113(e) of the Dodd-Frank Act and § 1310.21(c) of the Council's rule.[17] After making a Proposed Determination and holding any written or oral hearing if requested, the Council may vote to make a Final Determination.

a. Stage 1: Preliminary Evaluation of Nonbank Financial Companies

Engagement With Company and Regulators in Stage 1

The Council will provide a notice to any nonbank financial company under review in Stage 1 no later than 60 days before the Council votes on whether to evaluate the company in Stage 2. In Stage 1, the Council will consider available public and regulatory information. In order to reduce the burdens of review on the company, the Council will not require the company to submit information during Stage 1; however, a company under review in Stage 1 may submit to the Council any information relevant to the Council's evaluation and may, upon request, meet with staff of Council members and member agencies who are leading the Council's analysis. The Council may request a page-limited summary of the company's submissions. In addition, staff representing the Council will, upon request, provide the company with a list of the primary public sources of information being considered during the Stage 1 analysis, so that the company has an opportunity to understand the information the Council may rely upon during Stage 1. In addition, during discussions in Stage 1 with the company, the Council intends for representatives of the Council to indicate to the company potential risks to U.S. financial stability that have been identified in the analysis. However, any potential risks identified at this stage are preliminary and may continue to develop until the Council makes a Final Determination. Through this engagement, the Council seeks to provide the company under review an opportunity to understand the focus of the Council's analysis, which may enable the company to act to mitigate any risks to U.S. financial stability and thereby potentially avoid becoming subject to a Council determination.

The Council will also consider in Stage 1 information available from relevant existing regulators of the company. Under the Dodd-Frank Act, the Council is required to consult with the primary financial regulatory agency, if any, for each nonbank financial company or subsidiary of a nonbank financial company that is being considered for a determination before the Council makes any Final Determination with respect to such company.[18] For any company under review in Stage 1 that is regulated by a primary financial regulatory agency or home country supervisor, the Council will notify the regulator or supervisor that the company is under review no later than the time the company is notified. The Council will also consult with the primary financial regulatory agency, if any, of each significant subsidiary of the nonbank financial company, to the extent the Council deems appropriate in Stage 1. The Council will actively solicit the regulator's views regarding risks at the company and potential mitigants or aggravating factors. In order to enable the regulator to provide relevant information, the Council will share its preliminary views regarding potential risks at the company, if any and to the extent practicable, and request that the regulator provide information regarding those specific risks, including the extent to which the risks are adequately mitigated by factors such as existing regulation or the company's business practices. During the determination process, the Council will encourage the regulator to address any risks to U.S. financial stability using the regulator's existing authorities; if the Council believes regulators' or the company's actions have adequately addressed the potential risks to U.S. financial stability the Council has identified, the Council may discontinue its consideration of the company for a potential determination under section 113 of the Dodd-Frank Act.

Based on the preliminary evaluation in Stage 1, the Council intends to identify steps a nonbank financial company or financial regulatory agencies could take to address a potential threat to U.S. financial stability. Subject to any necessary administrative procedures required to remediate the risk, the

[16] *See* Dodd-Frank Act section 112(d)(3), 12 U.S.C. 5322(d)(3).

[17] *See* 12 CFR 1310.21(c).

[18] Dodd-Frank Act section 113(g), 12 U.S.C. 5323(g).

Council generally expects material risks to U.S. financial stability to be addressed within 180 days.

At the end of Stage 1, the Council may, on a nondelegable basis, vote to commence a more detailed analysis of the company by advancing the company to Stage 2, or it may decide not to evaluate the company further. If the Council votes not to advance a company that has been reviewed in Stage 1 to Stage 2, the Council will notify the company in writing of the Council's decision. The notice will clarify that a decision not to advance the company from Stage 1 to Stage 2 at that time does not preclude the Council from reinitiating review of the company in Stage 1.

In light of the preliminary nature of a review in Stage 1, the Council expects that not all companies reviewed in Stage 1 will proceed to Stage 2 or a Final Determination.

b. Stage 2: In-Depth Evaluation

Stage 2 involves an in-depth evaluation of a nonbank financial company that the Council has determined merits additional review.

In Stage 2, the Council will review a nonbank financial company using information collected directly from the company, through the OFR, as well as public and regulatory information. The review will focus on whether material financial distress at the nonbank financial company, or the nature, scope, size, scale, concentration, interconnectedness, or mix of the activities of the company, could pose a threat to U.S. financial stability.

Engagement With Company and Regulators in Stage 2

A nonbank financial company to be evaluated in Stage 2 will receive a notice (a ''Notice of Consideration'') that the company is under consideration for a Proposed Determination. The Council also will submit to the company a request that the company provide information that the Council deems relevant to the Council's evaluation, and the nonbank financial company will be provided an opportunity to submit written materials to the Council.[19] This information will generally be collected by the OFR.[20] Before requiring the submission of reports from any nonbank financial company that is regulated by a Council member agency or a primary financial regulatory agency, the Council, acting through the OFR, will coordinate with such agencies and will, whenever possible, rely on information available from the OFR or such agencies. Council members and their agencies and staffs will maintain the confidentiality of such information in accordance with applicable law. During Stage 2, the company may also submit any other information that it deems relevant to the Council's evaluation. Information that may be considered by the Council includes details regarding the company's financial activities, legal structure, liabilities, counterparty exposures, resolvability, and existing regulatory oversight. Information requests likely will involve both qualitative and quantitative information. Information relevant to the Council's analysis may include confidential business information such as detailed information regarding financial assets, terms of funding arrangements, counterparty exposure or position data, strategic plans, and interaffiliate transactions.

The Council will make staff representing Council members available to meet with the representatives of any company that enters Stage 2, to explain the evaluation process and the framework for the Council's analysis. In addition, the Council expects that its Deputies Committee will grant a request to meet with a company in Stage 2 to allow the company to present any information or arguments it deems relevant to the Council's evaluation. If the analysis in Stage 1 has identified specific aspects of the company's operations or activities as the primary focus for the evaluation, staff will notify the company of those specific aspects, although the areas of analytic focus may change based on the ongoing analysis.

During Stage 2, the Council will also seek to continue its consultation with the company's primary financial regulatory agency or home country supervisor in a timely manner before the Council makes a Proposed or Final Determination with respect to the company. The Council will continue to encourage the regulator during the determination process to address any risks to U.S. financial stability using the regulator's existing authorities; as noted above, if the Council believes regulators' or the company's actions adequately address the potential risks to U.S. financial stability the Council has identified, the Council would expect to discontinue its consideration of the company for a potential determination under section 113 of the Dodd-Frank Act.

Before making a Proposed Determination regarding a nonbank financial company, the Council will notify the company when the Council believes that the evidentiary record regarding the company is complete.[21] The Council will notify any nonbank financial company in Stage 2 if the company ceases to be considered for a determination. Any nonbank financial company that ceases to be considered at any time in the Council's determination process may be considered for a potential determination in the future at the Council's discretion, consistent with the processes described above.

c. Proposed and Final Determination

Proposed Determination

Based on the analysis performed in Stage 2, a nonbank financial company may be considered for a Proposed Determination. A Proposed Determination requires a vote, on a nondelegable basis, of two-thirds of the voting members of the Council then serving, including an affirmative vote by the Chairperson of the Council.[22] Following a Proposed Determination, the Council will issue a written notice of the Proposed Determination to the nonbank financial company, which will include an explanation of the basis of the Proposed Determination.[23] Promptly after the Council votes to make a Proposed Determination regarding a company, the Council will provide the company's primary financial regulatory agency or home country supervisor with the nonpublic written explanation of the basis of the Council's Proposed Determination (subject to appropriate protections for confidential information).

Hearing

A nonbank financial company that is subject to a Proposed Determination may request a nonpublic hearing to contest the Proposed Determination in accordance with section 113(e) of the Dodd-Frank Act and § 1310.21(c) of the Council's rule regarding nonbank financial company determinations.[24] If the nonbank financial company requests a hearing in accordance with the procedures set forth in § 1310.21(c), the Council will set a time and place for such hearing. The Council has published hearing procedures on its website.[25] In light of the statutory timeframe for conducting a hearing, and the fact that the purpose of the hearing is to benefit the company, if a company requests that the Council waive the statutory deadline for conducting the hearing, the Council may do so in appropriate circumstances.

Final Determination

After making a Proposed Determination and holding any requested written or oral hearing, the Council, on a nondelegable basis, may, by a vote of not fewer than two-thirds of the voting members of the Council then serving (including an affirmative vote by the Chairperson of the Council), make a Final Determination that the company will be subject to supervision by the Federal Reserve and prudential standards. If the Council makes a Final Determination, it will provide the company with a written notice of the Council's Final Determination, including an explanation of the basis for the Council's decision.[26] The Council will also provide the company's primary financial regulatory agency or home country supervisor with the nonpublic written explanation of the basis of the Council's Final Determination (subject to appropriate protections for confidential information). The Council expects that its explanation of the basis for any Final Determination will highlight the key risks that led to the determination and include guidance regarding the factors that were important in the Council's determination. When practicable and consistent with the purposes of the determination process, the Council will provide a nonbank financial company with notice of a Final Determination at least one business day before publicly announcing the

[19] *See* 12 CFR 1310.21(a).

[20] *See* Dodd-Frank Act section 112(d), 12 U.S.C. 5322(d).

[21] *See* 12 CFR 1310.21(a)(3).

[22] 12 CFR 1310.10(b).

[23] *See* Dodd-Frank Act section 113(e)(1), 12 U.S.C. 5323(e)(1).

[24] *See* 12 CFR 1310.21(c).

[25] Financial Stability Oversight Council Hearing Procedures for Proceedings Under Title I or Title VIII of the Dodd-Frank Wall Street Reform and Consumer Protection Act, available at *https://fsoc.gov.*

[26] Dodd-Frank Act section 113(e)(3), 12 U.S.C. 5323(e)(3); *see also* 12 CFR 1310.21(d)(2) and (e)(2).

determination pursuant to § 1310.21(d)(3), § 1310.21(e)(3), or § 1310.22(d)(3) of the Council's rule.[27] In accordance with the Dodd-Frank Act, a nonbank financial company that is subject to a Final Determination may bring an action in U.S. district court for an order requiring that the determination be rescinded.[28]

The Council does not intend to publicly announce the name of any nonbank financial company that is under evaluation prior to a Final Determination with respect to such company. However, if a company that is under review in Stage 1 or Stage 2 publicly announces the status of its review by the Council, the Council intends, upon the request of a third party, to confirm the status of the company's review. In addition, the Council will publicly release the explanation of the Council's basis for any Final Determination or rescission of a determination, following such an action by the Council. The Council is subject to statutory and regulatory requirements to maintain the confidentiality of certain information submitted to it by a nonbank financial company or its regulators.[29] In light of these confidentiality obligations, such confidential information will be redacted from the materials that the Council makes publicly available, although the Council does not expect to restrict a company's ability to disclose such information.

d. Annual Reevaluations

After the Council makes a Final Determination regarding a nonbank financial company, the Council intends to encourage the company or its regulators to take steps to mitigate the potential risks identified in the Council's written explanation of the basis for its Final Determination. Except in cases where new material risks arise over time, if the potential risks identified in writing by the Council at the time of the Final Determination and in subsequent reevaluations have been adequately addressed, generally the Council would expect to rescind its determination regarding the company.

For any nonbank financial company that is subject to a Final Determination, the Council is required to reevaluate the determination at least annually, and to rescind the determination if the Council determines that the company no longer meets the statutory standards for a determination.[30] The Council may also consider a request from a company for a reevaluation before the next required annual reevaluation, in the case of an extraordinary change that materially affects the Council's analysis.

The Council will apply the same standards of review in its annual reevaluations as the standards for an initial determination regarding a nonbank financial company: either material financial distress at the company, or the nature, scope, size, scale, concentration, interconnectedness, or the mix of the company's activities, could pose a threat to U.S. financial stability. If the Council determines that the company does not meet either of those standards, the Council will rescind its determination.

The Council's annual reevaluations will generally assess whether any material changes since the previous reevaluation and since the Final Determination justify a rescission of the determination. The Council expects that its reevaluation process will focus on whether any material changes that have taken effect—including changes at the company, changes in its markets or its regulation, changes in the impact of relevant factors, or otherwise—result in the company no longer meeting the standards for a determination. In light of the frequent reevaluations, the Council's analyses will generally focus on material changes since the Council's previous review, but the ultimate question the Council will seek to assess is whether changes in the aggregate since the Council's Final Determination regarding the company have caused the company to cease meeting either of the statutory standards for a determination.

During the Council's annual reevaluation of a determination regarding a nonbank financial company, the Council will provide the company with an opportunity to meet with representatives of the Council to discuss the scope and process for the review and to present information regarding any change that may be relevant to the threat the company could pose to financial stability. In addition, during an annual reevaluation, the company may submit any written information to the Council the company deems relevant to the Council's analysis. During annual reevaluations, a company is encouraged to submit information regarding any changes related to the company's risk profile that mitigate the potential risks previously identified by the Council. Such changes could include updates regarding company restructurings, regulatory developments, market changes, or other factors. If the company or its regulators have taken steps to address the potential risks previously identified by the Council, the Council will assess whether the risks have been adequately mitigated to merit a rescission of the determination regarding the company. If the company explains in detail and in a timely manner potential changes it could make to its business to address the potential risks previously identified by the Council, representatives of the Council will endeavor to provide their feedback on the extent to which those changes may address the potential risks.

If a company contests the Council's determination during the Council's annual reevaluation, the Council will vote on whether to rescind the determination and provide the company, its primary financial regulatory agency or home country supervisor, and the primary financial regulatory agency of its significant subsidiaries with a notice explaining the primary basis for any decision not to rescind the determination. If the Council does not rescind the determination, the written notice provided to the company will address the most material factors raised by the company in its submissions to the Council contesting the determination during the annual reevaluation. The written notice from the Council will also explain why the Council did not find that the company no longer met the standard for a determination under section 113 of the Dodd-Frank Act. In general, due to the sensitive, company-specific nature of its analyses in annual reevaluations, the Council generally would not publicly release the written findings that it provides to the company, although the Council does not expect to restrict a company's ability to disclose such information.

Finally, the Council will provide each nonbank financial company subject to a Council determination an opportunity for an oral hearing before the Council once every five years at which the company can contest the determination.

Christina Skinner,

Deputy Assistant Secretary for the Council.

[FR Doc. 2026–06114 Filed 3–27–26; 8:45 am]

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[27] *See* 12 CFR 1310.21(d)(3) and (e)(3) and 1310.22(d)(3).

[28] *See* Dodd-Frank Act section 113(h), 12 U.S.C. 5323(h).

[29] *See* Dodd-Frank Act section 112(d)(5), 12 U.S.C. 5322(d)(5); *see also* 12 CFR 1310.20(e).

[30] Dodd-Frank Act section 113(d), 12 U.S.C. 5323(d).

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2026–2726; Project Identifier AD–2025–00364–T]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for all The Boeing Company Model 737–600, –700, –700C, –800, –900, and –900ER series airplanes. This proposed AD was prompted by a report indicating that adjusting the upper locking hydraulic actuator proximity sensor targets in accordance with certain data in the aircraft maintenance manual (AMM) could result in incorrect upper locking hydraulic actuator indications, which could result in a thrust reverser that indicates 'locked' when it is not locked. This proposed AD would require conducting measurements, tests, and operational checks of the upper locking hydraulic actuator for certain functions, performing applicable on-condition actions, and revising the existing maintenance or inspection program, as applicable, to incorporate certain certification maintenance requirements (CMR). The FAA is proposing this AD

to address the unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by May 14, 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–2026–2726; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, any comments received, and other information. The street address for Docket Operations is listed above.

Material Incorporated by Reference:

- For Boeing material identified in this proposed AD, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; telephone 562–797–1717; website *myboeingfleet.com.*
- You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available at *regulations.gov* under Docket No. FAA–2026–2726.

FOR FURTHER INFORMATION CONTACT: Erica Bayles, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 907–271–5844; email: *erica.e.bayles@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–2026–2726; Project Identifier AD–2025–00364–T'' at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this proposal because of those comments.

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

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to Erica Bayles, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 907–271–5844; email: *erica.e.bayles@faa.gov.* Any commentary that the FAA receives that is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

The FAA has received a report indicating that adjusting the upper locking hydraulic actuator proximity sensor targets in accordance with certain data in the AMM could result in incorrect upper locking hydraulic actuator indications, which could result in a thrust reverser that indicates 'locked' when it is not locked. This condition, if not addressed, could lead to a decrease in safety margins to prevent a possible uncommanded in-flight deployment of the thrust reverser, which could result in loss of control of the airplane.

FAA's Determination

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

Material Incorporated by Reference Under 1 CFR Part 51

The FAA reviewed Boeing Alert Requirements Bulletin 737–78A1099 RB, dated July 8, 2025. This material specifies procedures for the following checks to verify the lock indication function of each upper locking hydraulic actuator of the left and right thrust reverser halves of each engine position and applicable on-condition actions:

- Measurement of manual unlock handle assembly angular free-play.
- Lock integrity test of the upper locking hydraulic actuator.
- Operational check of the manual unlock handle assembly torsion spring.
- Measurement of the clearance between the upper locking hydraulic actuator proximity sensor and proximity sensor target leading edge.
- Measurement of the upper locking hydraulic actuator proximity sensor target.

On-condition actions include replacing the upper locking hydraulic actuator manual unlock handle assembly torsion spring, replacing the upper locking hydraulic actuator proximity sensor target, deactivating the thrust reverser for flight, and replacing the actuator.

This material also specifies procedures for revising the operator's maintenance program to incorporate certain inspections and checks of the engine thrust reverser (CMR items 70–CMR–01 and 78–CMR–01 through 78–CMR–07 of Boeing 737–600/700/700C/800/900/900ER CMR D626A001–9–03, dated September 2023).

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.

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. For information on the procedures and compliance times, see this material at *regulations.gov* under Docket No. FAA–2026–2726.

Terminating Action for Related Rulemaking

The FAA issued AD 2019–18–03, Amendment 39–19730 (84 FR 49005, September 18, 2019) (AD 2019–18–03), for all The Boeing Company Model 737 series airplanes, certificated in any category, excluding Model 737–100,

–200, –200C, –300, –400, and –500 series airplanes. AD 2019–18–03 was prompted by a report indicating that alteration of thrust reverser upper locking actuators in accordance with certain data contained in the Boeing AMM could delay or prevent detection of the failure of the locking mechanism of a thrust reverser upper locking actuator. AD 2019–18–03 requires revising the existing maintenance or inspection program to remove certain text that instructs the maintainers to remove material from or grind or trim the sensor target of the thrust reverser upper locking actuator. For Model 737–600, –700, –700C, –800, –900, and –900ER series airplanes, AD 2019–18–03 also requires repetitive integrity tests of the thrust reverser upper locking actuator.

The FAA has determined that accomplishing the actions required by paragraph (g) of this proposed AD would terminate the actuator integrity test and corrective actions required by paragraphs (i), (j), and (k) of AD 2019–18–03.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 1,805 airplanes of U.S. registry. The FAA estimates the following costs to comply with this proposed AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Measurements, integrity test, and operational check.	18 work-hours × $85 per hour = $1,530	$0	$1,530	$2,761,650

The FAA has determined that revising the maintenance or inspection program takes an average of 90 work-hours per operator, although the agency recognizes that this number may vary from operator to operator. Since operators incorporate maintenance or inspection program changes for their affected fleet(s), the FAA has determined that a per-operator estimate is more accurate than a per-airplane estimate. Therefore, the FAA estimates the average total cost per operator to be $7,650 (90 work-hours × $85 per work-hour).

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

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Actuator replacement	8 work-hours × $85 per hour = $680.	$47,240	$47,920.
Torsion spring replacement	1 work-hour × $85 per hour = $85	$19	$104.
Proximity sensor target replacement.	1 work-hour × $85 per hour = $85	Up to $130	Up to $215.

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:

The Boeing Company: Docket No. FAA–2026–2726; Project Identifier AD–2025–00364–T.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by May 14, 2026.

(b) Affected ADs

This AD affects AD 2019–18–03, Amendment 39–19730 (84 FR 49005, September 18, 2019) (AD 2019–18–03).

(c) Applicability

This AD applies to all The Boeing Company Model 737–600, –700, –700C, –800, –900, and –900ER series airplanes, certificated in any category.

(d) Subject

Air Transport Association (ATA) of America Code 78, Thrust Reverser.

(e) Unsafe Condition

This AD was prompted by a report indicating that adjusting the upper locking hydraulic actuator proximity sensor targets in accordance with certain data in the aircraft maintenance manual (AMM) could result in incorrect upper locking hydraulic actuator indications, which could result in a thrust reverser that indicates 'locked' when it is not locked. The FAA is issuing this AD to address this condition which, if not addressed, could lead to a decrease in safety margins to prevent a possible uncommanded in-flight deployment of the thrust reverser, which could result in loss of control of the airplane.

(f) Compliance

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

(g) Required Actions

Except as specified by paragraph (h) of this AD: At the applicable times specified in the ''Compliance'' paragraph of Boeing Alert Requirements Bulletin 737–78A1099 RB, dated July 8, 2025, do all applicable actions identified in, and in accordance with, the Accomplishment Instructions of Boeing Alert Requirements Bulletin 737–78A1099 RB, dated July 8, 2025.

Note 1 to paragraph (g): Guidance for accomplishing the actions required by this AD can be found in Boeing Alert Service Bulletin 737–78A1099, dated July 8, 2025, which is referred to in Boeing Alert Requirements Bulletin 737–78A1099 RB, dated July 8, 2025.

(h) Exceptions to Requirements Bulletin Specifications

(1) Where the Compliance Time column of the tables in the ''Compliance'' paragraph of Boeing Alert Requirements Bulletin 737–78A1099 RB, dated July 8, 2025, refers to the original issue date of Requirements Bulletin 737–78A1099 RB, this AD requires using the effective date of this AD.

(2) Where note (a) of table 12 of the Compliance paragraph of Boeing Alert Requirements Bulletin 737–78A1099 RB, dated July 8, 2025, specifies ''Boeing recommends operators accomplish the initial inspection required by 78–CMR–07 prior to completing this RB on airplanes with more than 28,000 flight hours. The initial compliance time for accomplishing 78–CMR–07 is prior to the accumulation of 28,000 total flight hours'', this AD requires replacing that text with ''The initial compliance time for accomplishing the initial inspection required by 78–CMR–07 is before further flight after accomplishing any procedure specified in Table 1 or prior to the accumulation of 28,000 total flight hours, whichever occurs later''.

(i) No Alternative Actions or Intervals

After the existing maintenance or inspection program has been revised as required by paragraph (g) of this AD, no alternative actions (*e.g.,* inspections) or intervals may be used unless the actions and intervals are approved as an alternative method of compliance in accordance with the procedures specified in paragraph (k) of this AD.

(j) Terminating Action for Certain Requirements of AD 2019–18–03

Accomplishing the actions required by paragraph (g) of this AD terminates the actuator integrity test and corrective actions required by paragraphs (i), (j), and (k) of AD 2019–18–03.

(k) Alternative Methods of Compliance (AMOCs)

(1) The Manager, AIR–520, Continued Operational Safety Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or responsible Flight Standards Office, as appropriate. If sending information directly to the manager of the Continued Operational Safety Branch, send it to the attention of the person identified in paragraph (l)(1) of this AD. Information may be emailed to: *AMOC@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

(2) An AMOC that provides an acceptable level of safety may be used for any repair, modification, or alteration required by this AD if it is approved by The Boeing Company Organization Designation Authorization (ODA) that has been authorized by the Manager, AIR–520, Continued Operational Safety Branch, FAA, to make those findings. To be approved, the repair method, modification deviation, or alteration deviation must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

(l) Additional Information

(1) For more information about this AD, contact Erica Bayles, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 907–271–5844; email: *erica.e.bayles@faa.gov*.

(2) Material identified in this AD that is not incorporated by reference is available at the address specified in paragraph (m)(3) of this AD.

(m) Material Incorporated by Reference

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

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

(i) Boeing Alert Requirements Bulletin 737–78A1099 RB, dated July 8, 2025.

(ii) [Reserved].

(3) For Boeing material identified in this AD, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; telephone 562–797–1717; website *myboeingfleet.com.*

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

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

Issued on March 24, 2026.

Lona C. Saccomando,

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

[FR Doc. 2026–06067 Filed 3–27–26; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2026–2729; Project Identifier MCAI–2025–00726–T]

RIN 2120–AA64

Airworthiness Directives; Airbus SAS Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain Airbus SAS Model A350–941 airplanes. This proposed AD was prompted by a report of a missing main landing gear (MLG) brake rod center pin nut sub-assembly detected during an inspection. This proposed AD would require, depending on airplane configuration, inspection of the MLG brake rod center pin nut, lock ring, and end plate, inspection of the MLG brake rod center pin and nut, and applicable corrective actions. This proposed AD would also require additional work for certain airplanes. The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by May 14, 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–2026–2729; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The street address for Docket Operations is listed above.

Material Incorporated by Reference:

- For European Union Aviation Safety Agency (EASA) material identified in this proposed AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu.* You may find this material on the EASA website at *ad.easa.europa.eu.* It is also available at *regulations.gov* under Docket No. FAA–2026–2729.
- You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

FOR FURTHER INFORMATION CONTACT: Andrew Younglove, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 206–231–3644; email: *andrew.e.younglove@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–2026–2729; Project Identifier MCAI–2025–00726–T'' at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this proposal because of those comments.

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

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to Andrew Younglove, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 206–231–3644; email: *andrew.e.younglove@faa.gov.* Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2025–0150, dated July 14, 2025 (EASA AD 2025–0150) (also referred to as the MCAI), to correct an unsafe condition for certain Airbus SAS Model A350–941 airplanes. The MCAI states an occurrence was reported of a missing MLG brake rod center pin nut sub-assembly detected during an inspection. Further investigation revealed severe corrosion on the threads and splines of the MLG brake rod center pin and nut sub-assemblies that could have led to the detachment of the MLG brake rod center pin nut sub-assembly. However, the root cause investigation is still ongoing. This condition, if not addressed, could prevent the extension of the MLG, possibly resulting in damage to the airplane and injury to occupants.

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

You may examine the MCAI in the AD docket at *regulations.gov* under Docket No. FAA–2026–2729.

Material Incorporated by Reference Under 1 CFR Part 51

EASA AD 2025–0150 specifies procedures for detailed visual inspection of the right-hand (RH) and left-hand (LH) MLG brake rod center pin nut, lock ring, and end plate for discrepancies (which include damage to the painted surface, the sealant, or the lockwire; gaps or separations in the sealant; or external corrosion) and applicable corrective actions; and detailed visual inspection of the RH and LH MLG brake rod center pin and nut for discrepancies (which include corrosion of the pin or nut threads, damage or distortion of the threads and splines, deep gouges or scratches penetrating the surface protection, exposure of base material, or need for repair of the cadmium plating), and applicable corrective actions. Corrective actions include replacement of the brake rod pin sub-assembly.

EASA AD 2025–0150 introduces additional work for airplanes with any MLG brake rod pin sub-assembly that has been reinstalled without reinstalling lockwire and applying sealant. The additional work is contacting Airbus for instructions and accomplishing those instructions. EASA AD 2025–0150 also specifies reporting the results of the inspections (including no findings) to the manufacturer.

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

FAA's Determination

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

Proposed AD Requirements in This NPRM

This proposed AD would require accomplishing the actions specified in EASA AD 2025–0150 described previously, 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 civil aviation authority (CAA) ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. The FAA has been coordinating this process with manufacturers and CAAs. As a result, the FAA proposes to incorporate EASA AD 2025–0150 by reference in the FAA final rule. This proposed AD would, therefore, require compliance with EASA AD 2025–0150 in its entirety through that incorporation, except for any differences identified as exceptions in the regulatory text of this proposed AD. Using common terms that are the same as the heading of a particular section in EASA AD 2025–0150 does not mean that operators need comply only with that section. For example, where the AD requirement refers to ''all required actions and compliance times,'' compliance with this AD requirement is not limited to the section titled ''Required Action(s) and Compliance Time(s)'' in EASA AD 2025–0150.

Material required by EASA AD 2025–0150 for compliance will be available at *regulations.gov* under Docket No. FAA–2026–2729 after the FAA final rule is published.

Interim Action

The FAA considers that this proposed AD would be an interim action.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 3 airplanes of U.S. registry. The FAA estimates the following costs to comply with this proposed AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Up to 7 work-hours × $85 per hour = $595.	$0	Up to $595	Up to $1,785.

The FAA estimates the following costs to do any necessary on-condition action that would be required based on the results of any required actions. The FAA has no way of determining the number of aircraft that might need this on-condition action:

ESTIMATED COSTS OF ON-CONDITION ACTIONS

Labor cost	Parts cost	Cost per product
20 work-hours × $85 per hour = $1,700	$30,399	$32,099

Paperwork Reduction Act

A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid OMB Control Number. The OMB Control Number for this information collection is 2120–0056. Public reporting for this collection of information is estimated to take approximately 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. All responses to this collection of information are mandatory. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to: Information Collection Clearance Officer, Federal Aviation Administration, 10101 Hillwood Parkway, Fort Worth, TX 76177–1524.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Airbus SAS: Docket No. FAA–2026–2729; Project Identifier MCAI–2025–00726–T.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by May 14, 2026.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Airbus SAS Model A350–941 airplanes, certificated in any category, as identified in European Union Aviation Safety Agency (EASA) AD 2025–0150, dated July 14, 2025 (EASA AD 2025–0150).

(d) Subject

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

(e) Unsafe Condition

This AD was prompted by a report of a missing main landing gear (MLG) brake rod center pin nut sub-assembly detected during an inspection. The FAA is issuing this AD to address discrepancies of the MLG brake rod center pin and nut that could lead to detachment of the MLG brake rod center pin nut sub-assembly. This condition, if not addressed, could prevent the extension of the MLG, possibly resulting in damage to the airplane and injury to occupants.

(f) Compliance

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

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, EASA AD 2025–0150.

(h) Exceptions to EASA AD 2025–0150

(1) Where EASA AD 2025–0150 refers to its effective date, this AD requires using the effective date of this AD.

(2) Where EASA AD 2025–0150 refers to May 9, 2025 (the effective date of EASA AD 2025–0095), this AD requires using the effective date of this AD.

(3) This AD does not adopt the ''Remarks'' section of EASA AD 2025–0150.

(i) Additional AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, AIR–520, Continued Operational Safety Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or responsible Flight Standards Office, as appropriate. If sending information directly to the manager of the Continued Operational Safety Branch, send it to the attention of the person identified in paragraph (j) of this AD and email to: *AMOC@faa.gov*. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain instructions from a manufacturer, the instructions must be accomplished using a method approved by the Manager, AIR–520, Continued Operational Safety Branch, FAA; or EASA; or Airbus SAS's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(3) *Required for Compliance (RC):* Except as required by paragraph (i)(2) of this AD, if any material referenced in EASA AD 2025–0150 contains paragraphs that are labeled as RC, the instructions in RC paragraphs, including subparagraphs under an RC paragraph, must be done to comply with this AD; any paragraphs, including subparagraphs under those paragraphs, that are not identified as RC are recommended. The instructions in paragraphs, including subparagraphs under those paragraphs, not identified as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the instructions identified as RC can be done and the airplane can be put back in an airworthy condition. Any substitutions or changes to instructions identified as RC require approval of an AMOC.

(j) Additional Information

For more information about this AD, contact Andrew Younglove, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 206–231–3644; email: *andrew.e.younglove@faa.gov.*

(k) Material Incorporated by Reference

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

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

(i) European Union Aviation Safety Agency (EASA) AD 2025–0150, dated July 14, 2025.

(ii) Reserved.

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

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

(5) You may view this material 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 March 25, 2026.

Lona C. Saccomando,

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

[FR Doc. 2026–06085 Filed 3–27–26; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 866

[Docket No. FDA–2026–N–2590]

Microbiology Devices; Reclassification of Mycobacterium Tuberculosis Cell-Mediated Immunity Tests and Immune Response Enzyme-Linked Immunospot Tests

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed amendment; proposed order; request for comments.

SUMMARY: The Food and Drug Administration (FDA) is proposing to reclassify *Mycobacterium tuberculosis* cell-mediated immunity tests and *Mycobacterium tuberculosis* cell-mediated immune response enzyme-linked immunospot tests intended for use as an aid in the diagnosis of *Mycobacterium tuberculosis* infection (product codes NCD and OJN, respectively), both of which are postamendments class III devices (premarket approval), into class II (special controls), subject to premarket notification. FDA is also proposing a new device classification regulation along with the special controls that FDA believes are necessary to provide a reasonable assurance of safety and effectiveness for these devices.

DATES: Submit electronic or written comments on the proposed order by May 29, 2026. Please see section X of this document for the proposed effective date when the new requirements would apply and for the proposed effective date of a final order based on this proposed order.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of May 29, 2026. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are received on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

- *Federal Rulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2026–N–2590 for ''Microbiology Devices; Reclassification of *Mycobacterium tuberculosis* Cell-Mediated Immunity Tests and Immune Response Enzyme-Linked Immunospot Tests.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday Eastern Time, 240–402–7500.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' FDA will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents, the plain language summary of the proposed order of not more than 100 words consistent with the ''Providing Accountability Through Transparency Act,'' or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

FOR FURTHER INFORMATION CONTACT: Noel Gerald, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 3114, Silver Spring, MD 20993, 301–796–4695, *Noel.Gerald@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background—Regulatory Authorities

The Federal Food, Drug, and Cosmetic Act (FD&C Act), as amended, establishes a comprehensive system for the regulation of medical devices intended for human use. Section 513 of the FD&C Act (21 U.S.C. 360c) establishes three classes of devices reflecting the regulatory controls needed to provide reasonable assurance of their safety and effectiveness. The three classes of devices are class I (general controls), class II (special controls), and class III (premarket approval).

Section 513(a)(1) of the FD&C Act defines the three classes of devices. Class I devices are those devices for which the general controls of the FD&C Act (controls authorized by or under sections 501, 502, 510, 516, 518, 519, or 520 (21 U.S.C. 351, 352, 360, 360f, 360h, 360i, or 360j) or any combination of such sections) are sufficient to provide reasonable assurance of safety and effectiveness of the device; or those devices for which insufficient information exists to determine that general controls are sufficient to provide reasonable assurance of safety and effectiveness or to establish special controls to provide such assurance, but because the devices are not purported or represented to be for a use in supporting or sustaining human life or for a use which is of substantial importance in preventing impairment of human health, and do not present a potential unreasonable risk of illness or injury, are to be regulated by general controls (section 513(a)(1)(A) of the FD&C Act).

Class II devices are those devices for which general controls by themselves are insufficient to provide reasonable assurance of safety and effectiveness, and for which there is sufficient information to establish special controls to provide such assurance, including the issuance of performance standards, postmarket surveillance, patient registries, development and dissemination of guidelines, recommendations, and other appropriate actions FDA (the Agency or we) deems necessary to provide such assurance (section 513(a)(1)(B) of the FD&C Act).

Class III devices are those devices for which insufficient information exists to determine that general controls and special controls would provide a reasonable assurance of safety and effectiveness, and are purported or represented to be for a use in supporting or sustaining human life or for a use which is of substantial importance in preventing impairment of human health, or present a potential unreasonable risk of illness or injury (section 513(a)(1)(C) of the FD&C Act).

Devices that were not introduced or delivered for introduction into interstate commerce for commercial distribution before May 28, 1976 (generally referred to as ''postamendments devices'') are automatically classified by section 513(f)(1) of the FD&C Act into class III without any FDA action. Those devices remain in class III and require approval of a premarket approval application (PMA), unless, and until: (1) FDA reclassifies the device into class I or II,

or (2) FDA issues an order finding the device to be substantially equivalent, in accordance with section 513(i) of the FD&C Act, to a predicate device that does not require premarket approval. The Agency determines whether new devices are substantially equivalent to predicate devices by means of the premarket notification procedures in section 510(k) of the FD&C Act (21 U.S.C. 360(k)) and part 807, subpart E, of FDA's regulations (21 CFR part 807, subpart E).

A postamendments device that has been initially classified in class III under section 513(f)(1) of the FD&C Act may be reclassified into class I or class II under section 513(f)(3) of the FD&C Act. Section 513(f)(3) of the FD&C Act provides that FDA, acting by administrative order, can reclassify the device into class I or class II on its own initiative, or in response to a petition from the manufacturer or importer of the device. To change the classification of the device, the proposed new class must have sufficient regulatory controls to provide reasonable assurance of the safety and effectiveness of the device for its intended use.[1]

FDA relies upon ''valid scientific evidence'', as stated in section 513(a)(3) of the FD&C Act and defined in 21 CFR 860.7(c)(2), in the classification process to determine the level of regulation for devices.[2] In general, to be considered in the reclassification process, the ''valid scientific evidence'' upon which the Agency relies must be publicly available. Publicly available information excludes trade secret and/or confidential commercial information, *e.g.,* the contents of a pending PMA (see section 520(c) of the FD&C Act). Section 520(h)(4) of the FD&C Act provides that FDA may use, for reclassification of a device, certain information in a PMA 6 years after the application has been approved. This includes information from clinical and preclinical tests or studies that demonstrate the safety and effectiveness of the device, but it does not include the descriptions of methods of manufacture and product composition and other trade secrets.

In accordance with section 513(f)(3) of the FD&C Act, FDA is issuing this proposed order to reclassify *Mycobacterium tuberculosis* cell-mediated immunity tests (product code NCD)[3] and *Mycobacterium tuberculosis* cell-mediated immune response enzyme-linked immunospot tests (product code OJN), both qualitative assays intended for use as an aid in the diagnosis of *Mycobacterium tuberculosis* (TB) infection, hereafter collectively referred to as ''qualitative TB immune response assays,'' which are postamendments class III devices, into class II (special controls), subject to premarket notification, under a new device classification regulation with the name ''Qualitative *Mycobacterium tuberculosis* cell-mediated immune response assay.''

Based upon the PMA data available to FDA in accordance with section 520(h)(4) of the FD&C Act,[4] [5] clinical practice guidelines, deliberations and recommendations from the Microbiology Devices Panel of the Medical Devices Advisory Committee discussions held in 2001, 2011, and 2023, and data available to the Agency demonstrating a lack of significant postmarket safety signals with these assays, FDA believes there is sufficient information to reclassify these devices from class III (premarket approval) into class II (special controls). FDA believes the standard in section 513(a)(1)(B) of the FD&C Act is met as there is sufficient information to establish special controls, which, in addition to general controls, would provide reasonable assurance of the safety and effectiveness of these devices.[6] Therefore, FDA is proposing to establish a new device classification regulation, ''Qualitative *Mycobacterium tuberculosis* cell-mediated immune response assay,'' and classify these devices into class II with the special controls that the Agency believes are necessary to provide a reasonable assurance of the safety and effectiveness for these devices.

Under the FD&C Act, premarket notification (510(k)) submissions are required to reasonably assure the safety and effectiveness of class II devices unless FDA determines that the device type should be exempt from 510(k) requirements under section 510(m) of the FD&C Act.[7] FDA has not made this determination for qualitative *Mycobacterium tuberculosis* cell-mediated immune response assays and therefore, FDA is not proposing that this class II device type be exempt from the 510(k) requirements. If this proposed order is finalized, persons who intend to market this type of device will have to submit to FDA a premarket notification under section 510(k) of the FD&C Act prior to marketing the device.

II. Regulatory History of the Devices

In accordance with section 513(f)(1) of the FD&C Act, qualitative TB immune response assays are automatically classified into class III because they were not introduced or delivered for introduction into interstate commerce for commercial distribution before May 28, 1976, have not been reclassified into

[1] See generally section 513 of the FD&C Act.

[2] See generally id.

[3] FDA's Center for Devices and Radiological Health (CDRH) uses product codes to assist in accurate identification and tracking of current medical devices and to allow for tracking of and easy reference to predicate device types. CDRH and a subset of Center for Biologics Evaluation and Research regulated medical device product codes consist of a three-letter combination which associates a device's type with a product classification designated for the application. There is no definitive meaning for the three-digit classification product codes in CDRH's Product Classification Database. See FDA guidance titled, ''Medical Device Classification Product Codes'' available at *https://www.fda.gov/regulatory-information/search-fda-guidance-documents/medical-device-classification-product-codes-guidance-industry-and-food-and-drug-administration-staff.*

[4] In proposing to reclassify, on its own initiative, qualitative TB immune response assays from class III to class II, FDA is relying on data from PMAs with product codes of NCD or OJN that are available to FDA in accordance with the six-year rule (see section 520(h)(4) of the FD&C Act (21 U.S.C. 360j(h)(4))) (see also, FDA guidance titled ''Guidance on Section 216 of the Food and Drug Administration Modernization Act of 1997—Guidance for Industry and for FDA Reviewers,'' available at *https://www.fda.gov/regulatory-information/search-fda-guidance-documents/guidance-section-216-food-and-drug-administration-modernization-act-1997-guidance-industry-and-fda*). This data was from PMAs approved after November 28, 1990 and before December 1, 2019, for this specific proposed reclassification as noted in section II of this proposed order. See also FDA's premarket approval database, available at *https://www.accessdata.fda.gov/scripts/cdrh/cfdocs/cfPMA/pma.cfm.*

[5] For the purpose of this proposed order, PMA data considered in accordance with section 520(h)(4) includes only that data which was submitted to and therefore considered by FDA at the time the PMA was reviewed and approval was issued.

[6] FDA notes that the ''ACTION'' caption for this proposed order is styled as ''Proposed amendment; proposed order; request for comments,'' rather than ''Proposed order.'' Beginning in December 2019, this editorial change was made to indicate that the document, if finalized, will amend the Code of Federal Regulations. The change was made in accordance with the Office of the Federal Register's (OFR) interpretations of the Federal Register Act (44 U.S.C. chapter 15), its implementing regulations (1 CFR 5.9 and parts 21 and 22), and the Document Drafting Handbook.

[7] In considering whether to exempt class II devices from premarket notification, FDA considers whether premarket notification for the type of device is necessary to provide reasonable assurance of safety and effectiveness of the device. FDA generally considers the factors initially identified in the January 21, 1998, **Federal Register** notice (63 FR 3142) and further explained in FDA's guidance issued on February 19, 1998, titled ''Procedures for Class II Device Exemptions from Premarket Notification, Guidance for Industry and CDRH Staff'', available at *https://www.fda.gov/regulatory-information/search-fda-guidance-documents/procedures-class-ii-device-exemptions-premarket-notification-guidance-industry-and-cdrh-staff,* in determining whether premarket notification is necessary for class II devices. FDA also considers that, even when exempting devices from the 510(k) requirements, these devices would still be subject to certain limitations on exemptions, for example, the general limitations set forth in 21 CFR 866.9.

class I or II, and have not been found substantially equivalent to a device placed in commercial distribution after May 28, 1976, which was subsequently classified or reclassified into class II or class I. Therefore, these devices are subject to the PMA requirements under section 515 of the FD&C Act (21 U.S.C. 360e).

On June 1, 2001, FDA filed an original PMA (P010033) for the QuantiFERON®–TB (Ref. 1). At a meeting on October 12, 2001, the Microbiology Devices Panel (2001 Panel) of the Medical Devices Advisory Committee deliberated and made recommendations on the QuantiFERON–TB PMA (Ref. 2). The 2001 Panel unanimously recommended the PMA be considered Approvable with Conditions, which conditions included, among other items, stratification of the data by risk groups, labeling warnings or limitations, and interpretation of results and recommendations for use of the test provided in the labeling. On November 28, 2001, FDA approved the original PMA for the Cellestis Limited's (now QIAGEN) QuantiFERON–TB, (P010033, product code NCD) for the qualitative measurement of interferon-gamma (IFN-γ) generated by human lymphocytes in whole blood in response to stimulation antigens for use as an aid in the detection of infection with *Mycobacterium tuberculosis,* through its PMA process under section 515 of the FD&C Act (21 U.S.C. 360e) (Ref. 3).

Since the first approval order for a qualitative TB immune response assay issued on November 28, 2001, FDA has approved an additional original PMA, on November 26, 2019, for a qualitative TB immune response assay (product code NCD, DiaSorin, Inc.'s LIAISON QuantiFERON—TB Gold Plus, LIAISON Control QuantiFERON—TB Gold Plus and LIAISON QuantiFERON Software, P180047, collectively ''LIAISON QuantiFERON—TB Gold Plus'') for the detection of IFN-γ generated by human lymphocytes in whole blood in response to stimulation antigens for use as a qualitative indirect test for *Mycobacterium tuberculosis* infection (including disease) (Ref. 4). The QuantiFERON–TB and LIAISON QuantiFERON—TB Gold Plus are prescription devices intended for use as an aid in the detection of infection with *Mycobacterium tuberculosis* and are intended for use in conjunction with risk assessment, radiography, and other medical and diagnostic evaluations to assist the clinician in making individual patient management decisions.

On July 30, 2008, FDA approved a qualitative TB immune response enzyme-linked immunospot assay (product code OJN, Oxford Immunotec, Inc.'s T–SPOT®-*TB,* P070006) for the detection of effector T cells that respond to stimulation by *Mycobacterium tuberculosis* antigens by capturing IFN-γ in the vicinity of T cells in human whole blood for use as an aid in the diagnosis of *Mycobacterium tuberculosis* infection, through its PMA process under section 515 of the FD&C Act (21 U.S.C. 360e) (Ref. 5).

As of the date of issuance of this proposed order, fewer than 6 years have passed since FDA's approval of certain PMA supplements for these three PMAs. Therefore, in accordance with the ''six-year rule'' described in section 520(h)(4) of the FD&C Act (21 U.S.C. 360j(h)(4)), no information from those PMA supplements has been used in support of this proposed order to reclassify qualitative TB immune response assays into class II (see section 520(h)(4) of the FD&C Act (21 U.S.C. 360j(h)(4))).

Since the 2001 Panel discussed the first PMA for this device type, there have been two other panel meetings that have considered reclassification of qualitative TB immune response assays. At a meeting on June 29, 2011, the Microbiology Devices Panel of the Medical Devices Advisory Committee (2011 Panel) discussed the possible reclassification of immunologically-based tests such as interferon gamma release assays (IGRAs) that are intended for the detection of tuberculosis infection by indirect means, and specifically considered appropriate validation, the risks of inaccurate results, and labeling limitations to mitigate risks (Ref. 6). While the overall 2011 Panel agreed that reclassification could be considered, multiple concerns were expressed with down classification, and several members were not in favor. It was noted that then-ongoing studies of existing IGRAs may provide additional information important for identifying appropriate special controls. At the time of the 2011 Panel, FDA had approved the QuantiFERON–TB (P010033) (product code NCD) and the T–SPOT–*TB* (P070006) (product code OJN). However, it was several years after the 2011 Panel that FDA approved the LIAISON QuantiFERON—TB Gold Plus (P180047), the second PMA assigned product code NCD.

On September 7, 2023, the Microbiology Devices Panel of the Medical Devices Advisory Committee (2023 Panel) convened to discuss and make recommendations regarding the reclassification of qualitative *Mycobacterium tuberculosis* (TB) cell mediated immune reactivity/Interferon Gamma Release Assays from class III (premarket approval) to class II (special controls) (Ref. 7). The 2023 Panel members unanimously agreed with down classification from class III to class II for these assays, and that there was sufficient data to proceed with the reclassification (see ''MDP Sept. 7, 2023 Transcript'' and ''MDP Sept. 7, 2023 Summary Minutes'' of the 2023 Panel materials, Ref. 7). The 2023 Panel agreed with the FDA-identified risks (false negative or false positive results, including from incorrectly operating the device and incorrectly interpreting the results) and identified additional risk(s) to include in the overall risk assessment. These additional risks included the higher risks posed by false results for specific populations, such as immunocompromised individuals; risk of an indeterminate result where the clinical interpretation is not clear; risk of inappropriate use of the test for a particular patient; and risk of an incorrect result that leads to treatment delays for other diseases (see ''MDP Sept. 7, 2023 Summary Minutes'' of the 2023 Panel materials, Ref. 7). The 2023 Panel also discussed potential mitigation measure(s)/control(s) FDA should consider for each of the identified risks and recommended that, as part of any reclassification, new devices should be held to the same level of clinical and analytical validation with the same performance criteria as currently approved tests, including adequate validation of the pre-analytical stages of specimen preparation that have the potential to impact the performance of these tests and that labeling should clarify how risks differ depending on the population being tested and the pre-test probability of disease.

A review of data from FDA's Manufacturer and User Facility Device Experience (MAUDE) database, which contains the medical device reports (MDRs) of adverse events using product codes NCD and OJN, indicates that as of October 23, 2025, there were 27 MDRs for qualitative TB immune response assays (all 27 are for product code NCD and there are none identified for OJN). Of these MDRs, approximately half were determined by FDA to be of no known impact or consequence to the patient. Of the events that were reported to have resulted in patient misdiagnosis or inappropriate treatment, a majority were reported due to adverse effects of antibiotic treatment, with a small number of cases reporting worsening of other medical conditions. As of October 23, 2025, there have been two class III recalls, six class II recalls, and no class

I recalls [8] involving qualitative TB immune response assays. The class II recalls occurred in 2013, 2016, and 2022, due to the potential presence of endotoxin or other contamination in assay components, and products being stored at temperatures outside the validated storage conditions. The class III recalls occurred in 2020, due to incorrect expiration dating included in the kit labeling. No patient harm was identified related to the recalls. The issues leading to these recall events were considered and incorporated into the risks to health identified in section V. These facts, coupled with the low number of MDRs that could have caused patient harm, indicate a lack of significant postmarket safety signals for this device class. FDA believes the special controls proposed herein, in addition to general controls, can effectively mitigate the risks to health identified to provide a reasonable assurance of the safety and effectiveness of qualitative TB immune response assays.

Following the meeting of the 2011 Panel, but prior to the meeting of the 2023 Panel, FDA received a petition requesting that the FDA reclassify *Mycobacterium tuberculosis* cell-mediated immunity tests (product code NCD) from class III to class II (FDA–2019–P–1800). As discussed in this proposed order, FDA has considered the information available to the Agency and believes that there is sufficient information available to establish special controls, and that the special controls proposed in section VII, together with general controls, would provide a reasonable assurance of the safety and effectiveness of qualitative TB immune response assays, including qualitative *Mycobacterium tuberculosis* cell-mediated immunity tests (product code NCD). Accordingly, FDA is proposing, on its own initiative, that qualitative *Mycobacterium tuberculosis* cell-mediated immunity tests (product code NCD) and *Mycobacterium tuberculosis* cell-mediated immune response enzyme-linked immunospot tests (product code OJN) be reclassified from class III to class II.

III. Device Description

The qualitative TB immune response assays intended for use as an aid in the diagnosis of *Mycobacterium tuberculosis* infection that are the subject of this proposed order are postamendments prescription in vitro diagnostic devices classified into class III under section 513(f)(1) of the FD&C Act.

The immune response to infection with *Mycobacterium tuberculosis* is predominantly a cell-mediated immune response that results in sensitization of T-cell lymphocytes specific to *Mycobacterium tuberculosis* antigens. A TB immune response assay for the qualitative measurement of IFN-γ generated by human lymphocytes in response to stimulation antigens is a prescription in vitro diagnostic device intended for use as an aid in the diagnosis of *Mycobacterium tuberculosis* infection. A TB immune response enzyme-linked immunospot assay is a prescription in vitro diagnostic device intended for use for the qualitative detection of effector T cells that respond to stimulation by *Mycobacterium tuberculosis* antigens by capturing IFN-γ in the vicinity of the T cell in human whole blood and as an aid in the diagnosis of *Mycobacterium tuberculosis* infection. Qualitative TB immune response assays are intended for use in conjunction with risk assessment, radiography, and other medical and diagnostic evaluations. Diagnosis of TB infection should not be established based on a single test result from a qualitative TB immune response assay.

Currently, qualitative TB immune response assays are used as an aid in the diagnosis of tuberculosis infection, including disease. Qualitative TB immune response assays can be used to assess for latent and active tuberculosis infection, however, such assays cannot differentiate between latent and active tuberculosis. Additional diagnostic testing is necessary to determine if there is active tuberculosis before selecting a treatment regimen. Qualitative TB immune response assays are preferred over the Mantoux tuberculin skin test method when evaluating patients with a history of bacille Calmette-Guérin (BCG) vaccine and in clinical scenarios where a single patient visit is advantageous (Ref. 8). Epidemiological, demographic, and clinical factors should be considered when determining the appropriate patients for testing with a qualitative TB immune response assay and should inform any additional diagnostic workup that may be necessary to guide therapeutic decisions (Ref. 8).

Healthcare professionals may refer to clinical practice guidelines from the American Thoracic Society (Ref. 8), Infectious Disease Society of America (Ref. 8), or Centers for Disease Control and Prevention (Ref. 8) when determining how to use qualitative TB immune response assays to manage patients suspected of latent or active tuberculosis, or patients with risk factors for tuberculosis infection. Since the original FDA approval of the QuantiFERON–TB *Mycobacterium tuberculosis* cell-mediated immune response assay in 2001, qualitative TB immune response assays have become an important part of the management of tuberculosis infection and are one component of a larger diagnostic approach for the evaluation of patients with potential tuberculosis infections (Ref. 8). However, management of tuberculosis should be determined in conjunction with patient-specific clinical and epidemiological risk factors and other diagnostic information, such as supportive radiographic imaging and other laboratory testing (Ref. 9).

FDA is proposing to reclassify qualitative TB immune response assays from class III (premarket approval) to class II (special controls) and to establish a new name for the device type within the classification regulations. FDA proposes to revise 21 CFR part 866 to create a new device classification regulation with the name ''Qualitative *Mycobacterium tuberculosis* cell-mediated immune response assay.'' FDA believes that this name and the proposed identification language most accurately describes this device type.

A qualitative *Mycobacterium tuberculosis* cell-mediated immune response assay is tentatively identified as a prescription in vitro diagnostic device intended to aid in the diagnosis of *Mycobacterium tuberculosis* infection. Qualitative *Mycobacterium tuberculosis* cell-mediated immune response assays measure the production of IFN-γ or other cytokines by human lymphocytes in response to stimulation antigens. The assay is intended for use by a licensed healthcare professional as an aid in the diagnosis of *Mycobacterium tuberculosis* infection in conjunction with risk assessment, radiographic imaging, and other medical and diagnostic evaluations.

IV. Proposed Reclassification and Summary of Reasons for Reclassification

In accordance with section 513(f)(3) of the FD&C Act and 21 CFR part 860, subpart C, FDA is proposing to reclassify the qualitative TB immune response assays that are the subject of this proposed order from class III to class II, subject to premarket notification (510(k)) requirements.

FDA believes that at this time, sufficient data and information exist such that the risks to health identified in section V can be mitigated by establishing special controls, and that

[8] Class I, II, and III recalls are defined in 21 CFR 7.3(m).

these special controls, together with general controls, are necessary to provide a reasonable assurance of the safety and effectiveness of these qualitative TB immune response assays and therefore proposes these devices be reclassified from class III (premarket approval) to class II (special controls). FDA believes that the information available to FDA through the QuantiFERON–TB (P010033), LIAISON QuantiFERON—TB Gold Plus (P180047), and T–SPOT-*TB* (P070006) PMAs [9] (Refs. 3–5) that may be considered under section 520(h)(4) of the FD&C Act, deliberations and recommendations from associated panel discussions held during the 2001 Panel, 2011 Panel, and 2023 Panel, published clinical practice guidelines (Refs. 8–9), and FDA's publicly available MAUDE and the Medical Device Recall databases is sufficient to establish special controls that, together with general controls, effectively mitigate the risks to health identified in section 0. FDA does not believe that the general controls applicable to the devices are sufficient to effectively mitigate the risks to health identified for these devices, and therefore does not believe that the general controls applicable to the devices are sufficient to provide reasonable assurance of the safety and effectiveness of these devices.

FDA is proposing to revise 21 CFR part 866 to create a new device classification regulation with the name ''Qualitative *Mycobacterium tuberculosis* cell-mediated immune response assay.'' If the proposed order is finalized, qualitative *Mycobacterium tuberculosis* cell-mediated immune response assays will be identified as prescription in vitro diagnostic devices. Such devices are subject to the prescription labeling requirements for in vitro diagnostic products (see 21 CFR 809.10(a)(4) and (b)(5)(ii)). In this proposed order, FDA has identified the special controls under section 513(a)(1)(B) of the FD&C Act that it believes, together with general controls, will provide a reasonable assurance of the safety and effectiveness of these assays.

Under the FD&C Act, 510(k) submissions are required to reasonably assure the safety and effectiveness of class II devices unless FDA determines that the device type should be exempt from 510(k) requirements under section 510(m) of the FD&C Act.[10] FDA has not made this determination for these qualitative TB immune response assays, and therefore, FDA is not proposing that this class II device type be exempt from 510(k) requirements. If this proposed order is finalized, persons who intend to market qualitative TB immune response assays will need to submit to FDA a 510(k) and receive clearance prior to marketing the device.

This proposed order, if finalized, will decrease regulatory burden on industry, as manufacturers will no longer have to submit a PMA for this type of device but can instead submit a 510(k) to the Agency for review prior to marketing their device. The 510(k) pathway is less burdensome and generally more cost-effective for industry and FDA than the PMA pathway, the most stringent type of device marketing pathway. A 510(k) typically results in a shorter premarket review timeline compared to a PMA, which ultimately may provide more timely patient access to this type of device. FDA expects that the reclassification of these devices would enable more manufacturers to develop this type of device such that patients would benefit from increased access to appropriately safe and effective tests.

Additionally, manufacturers may wish to use predetermined change control plans (PCCPs) as a way to implement future modifications to their devices without needing to submit a new 510(k) for each significant change or modification [11] while continuing to provide a reasonable assurance of device safety and effectiveness.[12] FDA reviews a PCCP as part of a marketing submission for a device to ensure the continued safety and effectiveness of the device without necessitating additional marketing submissions for implementing each modification described in the PCCP. When used appropriately, PCCPs authorized by FDA are expected to be least burdensome for manufacturers and FDA.[13]

V. Risks to Health

FDA is providing a substantive summary of the valid scientific evidence concerning the public health benefits of the use of qualitative TB immune response assays (see also ''MDP Sept. 7, 2023 FDA Executive Summary'' of the 2023 Panel materials, Ref. 7), and the nature (and if known, the incidence) of the risks to health of the devices (see further discussion of the special controls being proposed to mitigate these risks in section VII of this proposed order). FDA considered data from three PMAs available to FDA under section 520(h)(4) of the FD&C Act, deliberations and recommendations from associated panel discussions held during the 2001 Panel, 2011 Panel, and 2023 Panel (Refs. 2, 6–7), published clinical practice guidelines (Refs. 8–9), and postmarket information regarding qualitative TB immune response assays.

Qualitative TB immune response assays provide a benefit to the public health by aiding in the diagnosis of *Mycobacterium tuberculosis* infection. The incidence of tuberculosis infection varies considerably with epidemiological risk factors such as immigration from a country with high tuberculosis prevalence or close contacts with known active tuberculosis cases (Ref. 8). Certain patients who may be at increased risk of progression from latent to active tuberculosis include young children, individuals with human immunodeficiency virus (HIV) or those receiving immunosuppressive medications (Ref. 8). Individuals considered to be at higher risk for progression to active tuberculosis infection may benefit from testing with a qualitative TB immune response assay. Treatment of latent tuberculosis in high-risk individuals can decrease the risk of developing active tuberculosis and clinicians may assess tuberculosis status using a qualitative TB immune response assay in patients prior to starting immunosuppressive medications, or in patients with other known risk factors for tuberculosis. Distinguishing between latent and active tuberculosis requires additional diagnostic evaluation; however, qualitative TB immune response assays are considered an important part of the diagnostic workup for tuberculosis. Additionally, qualitative TB immune

[9] In accordance with section 520(h)(4) of the FD&C Act, FDA has not relied on information in PMAs and PMA supplements approved within the last 6 years to develop the proposed special controls or to otherwise inform this proposed reclassification action.

[10] See *supra* note 7.

[11] For the purpose of this proposed order reference to ''modification'' means a significant change or modification that would generally require a new premarket notification under 21 CFR 807.81(a)(3).

[12] Section 3308 of the Food and Drug Omnibus Reform Act of 2022, Title III of Division FF of the Consolidated Appropriations Act, 2023, Public Law 117–328 (''FDORA''), enacted on December 29, 2022, added section 515C ''Predetermined Change Control Plans for Devices'' to the FD&C Act. Section 515C has provisions regarding predetermined change control plans (PCCPs) for devices requiring premarket approval or premarket notification. Under section 515C, supplemental applications (section 515C(a)) and new premarket notifications (section 515C(b)) are not required for a change to a device that would otherwise require a premarket approval supplement or new premarket notification if the change is consistent with a PCCP approved or cleared by FDA.

[13] Sections 513 and 515 of the FD&C Act. See also, FDA's guidance ''The Least Burdensome Provisions: Concept and Principles'', available at *https://www.fda.gov/regulatory-information/search-fda-guidance-documents/least-burdensome-provisions-concept-and-principles.*

response assays are preferred in patients with prior BCG vaccination and in patients where a single clinical visit is advantageous (Ref. 8). Qualitative TB immune response assays provide a further benefit to the public health by linking TB infected individuals to appropriate care and potentially reducing the risk of TB transmission. Antibiotic regimens to treat latent TB infection and active TB disease are available.

The probable risks associated with qualitative TB immune response assays, when used as intended, are those related to risks of inaccurate results, including failure to correctly interpret the test results, the risk of false test results, and failure to correctly operate the device causing false results. Factors that may cause an increased rate of inaccurate results include, but are not limited to, incorrect blood sample collection or improper handling of the specimen affecting lymphocyte function, inaccurate lymphocyte quantification, and co-morbid conditions that affect immune functions. Based on FDA's review of data in the PMAs for QuantiFERON–TB (P010033), LIAISON QuantiFERON—TB Gold Plus (P180047), and T–SPOT–*TB* (P070006) available to FDA under section 520(h)(4) of the FD&C Act, deliberations and recommendations from associated panel discussions held during the 2001 Panel, 2011 Panel, and 2023 Panel for the reclassification of these devices (see ''MDP Sept. 7, 2023 Summary Minutes'' and ''MDP Sept. 7, 2023 Transcript'' of the 2023 Panel materials, Ref. 7), postmarket information, and the clinical practice guidelines (Refs. 8–9), FDA has identified the following probable risks to health associated with qualitative TB immune response assays. These risks to health (and the proposed special controls in section VII) incorporate feedback from the 2023 Panel, including the higher risks posed by false results for specific populations, such as immunocompromised individuals; risk of an indeterminate result where the clinical interpretation is not clear; risk of inappropriate use of the test for a particular patient; and risk of an incorrect result that leads to treatment delays for other diseases.

- *Failure to correctly interpret the test results.* Failure to correctly interpret the test results, such as incorrectly interpreting the qualitative TB immune response assay result by a clinician as either a negative or positive result may negatively influence patient management decisions. A positive test result misinterpreted as negative may lead to a non-diagnosis or delay in diagnosis of active or latent TB infection with an associated delay in therapy and potential for progression of active infection or reactivation of latent TB disease, which can contribute to an increased risk of TB-related morbidity or mortality. Additionally, incorrectly interpreting a positive test result as a negative result may facilitate the spread of *Mycobacterium tuberculosis* to other individuals in the community. Incorrectly interpreting the test result as a negative result may represent a missed opportunity for evaluation and subsequent treatment of underlying immunocompromising conditions such as HIV, as well as a missed opportunity to provide antimicrobial therapy for latent tuberculosis infection. Incorrectly interpreting the test result as positive may contribute to improper patient management including unnecessary additional testing and radiologic imaging, patient isolation, public health contact tracing leading to wasted healthcare resources, as well as unnecessary antimicrobial treatment for TB infection with associated drug toxicities, and the risk of delayed treatment for the true cause of disease.
- *False negative/positive result.* A false negative qualitative TB immune response assay result may lead to a non-diagnosis or delay in diagnosis of active or latent TB infection with an associated delay in therapy and potential for progression of active infection or reactivation of latent TB disease, which can contribute to an increased risk of TB-related morbidity or mortality. Additionally, a false negative result may facilitate the spread of *Mycobacterium tuberculosis* to other individuals in the community. A false negative result may represent a missed opportunity for evaluation and subsequent treatment of underlying immunocompromising conditions such as HIV, as well as a missed opportunity to provide antimicrobial therapy for latent tuberculosis infection. A false positive qualitative TB immune response assay result may contribute to improper patient management including unnecessary additional testing and radiologic imaging, patient isolation, public health contact tracing leading to wasted healthcare resources, as well as unnecessary antimicrobial treatment for TB infection with associated drug toxicities, and the risk of delayed treatment for the true cause of disease.
- *Failure to correctly operate the assay.* Failure to correctly operate the qualitative TB immune response assay may cause a false negative or false positive result, which may lead to the risks to health discussed in the preceding bullet.

VI. Summary of Data Upon Which the Reclassification Is Based

The safety and effectiveness of these devices have become well established since the initial approval of the first qualitative TB immune response assay in 2001. FDA believes that qualitative TB immune response assays should be reclassified from class III (premarket approval) into class II (special controls) on the basis that special controls, in addition to general controls, can be established to mitigate the risks to health identified in section V and there is sufficient information to establish special controls, which, in addition to general controls, would provide a reasonable assurance of the safety and effectiveness of these devices. The proposed special controls are identified by FDA in section VII of this proposed order.

Taking into account the available evidence, including the health benefits of the use of these devices and the nature and known incidence of the risks to health of the devices, FDA, on its own initiative, is proposing to reclassify these postamendments class III devices into class II. FDA has considered and analyzed the following information to support this proposed reclassification: (1) clinical practice guidelines from professional organizations and government organizations, such as the Centers for Disease Control and Prevention, the American Thoracic Society, and the Infectious Diseases Society of America (see Refs. 8 and 9), that discuss the appropriate use and interpretation of qualitative TB immune response assays, (2) data from three PMAs for qualitative TB immune response assays available to FDA in accordance with section 520(h)(4) of the FD&C Act, (3) input from the 2001, 2011 and 2023 Panel meetings, and (4) postmarket information regarding qualitative TB immune response assays, including information from FDA's publicly available MAUDE and Medical Device Recall databases. The available evidence demonstrates that there are public health benefits derived from the use of qualitative TB immune response assays indicated for use as an aid in the diagnosis of TB infection. In addition, the nature of the associated risks to health are known, and special controls can be established to sufficiently mitigate these risks.

FDA considered the safety and effectiveness of qualitative TB immune response assays through review of PMA data from the following three original PMAs, in accordance with section 520(h)(4) of the FD&C Act: QIAGEN's QuantiFERON–TB (P010033), DiaSorin,

Inc.'s LIAISON QuantiFERON—TB Gold Plus (P180047), and Oxford Immunotec, Inc.'s T–SPOT–*TB* (P070006) (Refs. 3–5).

As part of the Agency's analysis in proposing to reclassify qualitative TB immune response assays, FDA reviewed and considered information provided within each of these applications, including information available in the Summary of Safety and Effectiveness Data and device labeling for each application, which helped to demonstrate reasonable assurance of safety and effectiveness for the devices. The Agency considered the analytical and clinical studies performed and device performance data demonstrating appropriate performance of the device, which supported each approval, when developing the proposed special controls which FDA believes can effectively mitigate the risks to health identified in section V and, along with general controls, can provide a reasonable assurance of the safety and effectiveness for qualitative TB immune response assays. Additionally, FDA identified the probable adverse effects or risks to health of the devices, consistent with information provided within the applications, to be failure to correctly interpret the test results, false positive/negative results, and failure to correctly operate the device. Consistent with data collected in the corresponding clinical studies submitted in support of the approvals, the adverse event profile for these devices was generally deemed acceptable.

On November 28, 2001, FDA approved the original PMA for the QuantiFERON–TB, the first TB immune response assay approved for the qualitative measurement of IFN-γ generated by human lymphocytes in whole blood in response to stimulation antigens for use as an aid in the detection of infection with *Mycobacterium tuberculosis* (product code NCD) (P010033) (Ref. 3). The Agency considered the submitted studies and data in the original PMA, which demonstrated that the QuantiFERON–TB has acceptable performance in detecting immune responses associated with *Mycobacterium tuberculosis* infection. Such studies included analytical performance studies in addition to clinical studies demonstrating that the QuantiFERON–TB has acceptable performance, including clinical sensitivity and clinical specificity from a number of study subjects including individuals with confirmed active tuberculosis, individuals with no known risk factors for tuberculosis, and individuals with at least one known risk factor for tuberculosis and/or latent tuberculosis. Potential adverse effects of the device included the identified risks of false positive or false negative test results, failure to correctly interpret the test results, and failure to correctly operate the device. FDA's review of the PMA determined that the data generated from these studies was sufficient to demonstrate a reasonable assurance of the safety and effectiveness of this device when used as intended and these studies demonstrated appropriate performance of the device.

Additionally, on July 30, 2008, FDA approved the original PMA for the T–SPOT–*TB,* the second qualitative TB immune response assay and first enzyme-linked immunospot assay approved for the detection of effector T cells that respond to stimulation by *Mycobacterium tuberculosis* antigens by capturing IFN-γ in the vicinity of T cells in human whole blood for use as an aid in the diagnosis of *Mycobacterium tuberculosis* infection (product code OJN) (P070006) (Ref. 5). Analytical and clinical data provided in this PMA supported that there is reasonable assurance of safety and effectiveness of this device for its intended use, including appropriate clinical study data from individuals with nontuberculous mycobacterial infection, individuals who had received the BCG vaccine, and specific populations at high risk of disease, such as immunocompromised individuals. Potential adverse effects of the T–SPOT–*TB* include false positive test results or false negative test results. Conclusions drawn from non-clinical and clinical studies indicated overall acceptable performance including specificity and reproducibility demonstrating that the device is reasonably safe and effective for its intended use and supported PMA approval.

On November 26, 2019, FDA approved through an original PMA, a third TB immune response assay, LIAISON QuantiFERON—TB Gold Plus, which is a qualitative indirect test for *Mycobacterium tuberculosis* infection (including disease) and is intended for use in conjunction with risk assessment, radiography, and other medical and diagnostic evaluations to assist the clinician in making individual patient management decisions (product code NCD) (P180047) (Ref. 4). The Agency considered the submitted studies and data in the original PMA, which demonstrated that the LIAISON QuantiFERON—TB Gold Plus has acceptable performance in detecting immune responses associated with *Mycobacterium tuberculosis* infection. Such studies included analytical performance studies in addition to clinical studies demonstrating that the LIAISON QuantiFERON—TB Gold Plus has acceptable performance, including clinical sensitivity and clinical specificity from a number of study subjects including individuals with confirmed active tuberculosis, individuals with no known risk factors for tuberculosis, and individuals with at least one known risk factor for tuberculosis and/or latent tuberculosis. Potential adverse effects of the device included the identified risks of false positive or false negative test results, failure to correctly interpret the test results, and failure to correctly operate the device. FDA's review of the PMA determined that the data generated from these studies was sufficient to demonstrate a reasonable assurance of the safety and effectiveness of this device when used as intended and these studies demonstrated appropriate performance of the device.

Finally, a search of FDA's publicly available MAUDE database revealed that as of October 23, 2025, there were 27 reported events for qualitative TB immune response assays under the product codes NCD and OJN, and approximately half were determined by FDA to be of no known impact or consequence to the patient. A search of FDA's publicly available Medical Device Recall database revealed that as of October 23, 2025, there have been two class III recalls, six class II recalls, and no class I recalls involving qualitative TB immune response assays; however, none of the recalls were determined to have caused or led to patient harm. This postmarket data demonstrating a low number of reported events indicate a lack of significant postmarket safety signals for these devices (see further discussion of the MDR and recall data in section II of this proposed order).

Based on our review of the information described in this proposed order, FDA has determined that special controls, in addition to general controls, are necessary to provide a reasonable assurance of safety and effectiveness for qualitative TB immune response assays, and that sufficient information exists to establish such special controls. Therefore, FDA, on its own initiative, is proposing to reclassify these postamendment devices from class III (premarket approval) into class II (special controls), subject to premarket notification (510(k)) requirements.

VII. Proposed Special Controls

FDA believes that qualitative TB immune response assays can be

reclassified into class II with the establishment of special controls. FDA believes that the following proposed special controls would mitigate each of the risks to health described in section V and that these special controls, in addition to general controls, would provide a reasonable assurance of safety and effectiveness for qualitative TB immune response assays. Table 1 demonstrates how FDA believes each risk to health described in section V would be mitigated by the proposed special controls.

The risk of inaccurate interpretation of test results can be mitigated by special controls requiring certain labeling, including providing clearly stated warnings and limitations such as directing licensed healthcare professionals to consult appropriate public health authority resources that assist in diagnosing tuberculosis infection, information on principles of operation and procedures in performing the test, a detailed explanation of the interpretation of results including indeterminate results, and a statement that diagnosis of tuberculosis disease and assessment of the probability of latent tuberculosis infection is based on a combination of epidemiological, clinical and diagnostic findings (including historical and medical); certain design verification and validation information including information related to performance studies. Design verification and validation documentation would be required to include a detailed description of the device, all critical reagents, risk analysis demonstrating how risk control measures are implemented to address device hazards, lot release criteria, and stability studies.

Risks associated with false results (*e.g.,* false negative and false positive test results) can be mitigated through a combination of special controls including certain labeling requirements, certain design verification and validation information, including information related to performance studies. Examples of information to be included in the design verification and validation documentation for the device include documentation of analytical studies and device performance data from clinical studies. In addition, design verification and validation documentation would be required to include a detailed description of the device, all critical reagents, a risk analysis demonstrating how risk control measures are implemented to address device hazards, lot release criteria, and stability studies. Required statements in the labeling can aid in mitigating false results, for example by providing a detailed explanation of the interpretation of results including indeterminate results and clearly stated warnings and limitations such as directing licensed healthcare professionals to consult appropriate public health authority resources that assist in diagnosing tuberculosis infection.

Risks associated with the failure to correctly operate the device can be mitigated through labeling information and design verification and validation information, including a detailed description of the device, all critical reagents, a risk analysis demonstrating how risk control measures are implemented to address device hazards, lot release criteria, and stability studies. Required statements in labeling can aid in mitigating the failure to operate the device or interpret the results correctly. For example, a statement that results must be interpreted by licensed healthcare professionals in conjunction with risk assessment, radiographic imaging, and other medical and diagnostic evaluations, clearly stated warnings and limitations such as directing licensed healthcare professionals to consult appropriate public health authority resources that assist in diagnosing tuberculosis infection, and providing a detailed explanation of the interpretation of results including indeterminate results.

TABLE 1—RISKS TO HEALTH AND MITIGATION MEASURES FOR QUALITATIVE MYCOBACTERIUM TUBERCULOSIS CELL-MEDIATED IMMUNE RESPONSE ASSAYS

Identified risks to health	Mitigation measures
Failure to correctly interpret the test results.	Certain labeling information, including warnings, limitations, results interpretation information, and explanation of procedures. Certain design verification and validation information, including certain device description information, critical reagent information, risk analysis strategies, lot release criteria, and stability studies.
False negative/positive result	Certain labeling information, including warnings, limitations, results interpretation information, and explanation of procedures. Certain design verification and validation information, including certain device description information, risk analysis strategies, lot release criteria, stability studies, and performance studies, including analytical studies and clinical studies.
Failure to correctly operate the assay.	Certain labeling information, including warnings, limitations, results interpretation information, and explanation of procedures. Certain design verification and validation information, including certain device description information, critical reagent information, risk analysis strategies, lot release criteria, and stability studies.

If this proposed order is finalized, qualitative TB immune response assays will be identified as prescription in vitro diagnostic (IVD) devices. Therefore, these devices would be subject to the prescription labeling requirements for IVD products (see 21 CFR 809.10(a)(4) and (b)(5)(ii)).

If this proposed order is finalized, qualitative TB immune response assays will be reclassified into class II (special controls) and will be subject to premarket notification requirements under section 510(k) of the FD&C Act. As discussed in this proposed order, the intent is for the reclassification to be codified in 21 CFR 866.3371. If finalized, firms will be required to comply with the particular mitigation measures set forth in the special controls. FDA believes that adherence to the special controls, in addition to the general controls, is necessary to provide a reasonable assurance of safety and effectiveness of qualitative TB immune response assays.

VIII. Analysis of Environmental Impact

We have determined under 21 CFR 25.34(b) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

IX. Paperwork Reduction Act of 1995

While this proposed order contains no new collections of information, it does

refer to previously approved FDA collections of information. The previously approved collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3521). The collections of information in 21 CFR part 820 (Quality Management System Regulation) have been approved under OMB control number 0910–0073; the collections of information in 21 CFR part 807, subpart E (Premarket Notification Procedures), have been approved under OMB control number 0910–0120; and the collections of information in 21 CFR parts 801 and 809 (Device Labeling) have been approved under OMB control number 0910–0485.

X. Proposed Effective Date

FDA proposes that any final order based on this proposed order become effective 30 days after the date of its publication in the **Federal Register**.

XI. Codification of Orders

Under section 513(f)(3) of the FD&C Act, FDA may issue final orders to reclassify devices. FDA will continue to codify classifications and reclassifications in the Code of Federal Regulations (CFR). Changes resulting from final orders will appear in the CFR as newly codified orders. Therefore, under section 513(f)(3) of the FD&C Act, in the proposed order, we are proposing to codify Qualitative *Mycobacterium tuberculosis* Cell-Mediated Immune Response Assay in the new 21 CFR 866.3371, under which these qualitative TB immune response assays would be reclassified from class III into class II.

XII. References

The following references marked with an asterisk (*) are on display at the Dockets Management Staff (see **ADDRESSES**) and are available for viewing by interested persons between 9 a.m. and 4 p.m., Monday through Friday; they also are available electronically at *https://www.regulations.gov.* References without asterisks are not on public display at *https://www.regulations.gov* because they have copyright restriction. Some may be available at the website address, if listed. References without asterisks are available for viewing only at the Dockets Management Staff. Although FDA verified the website addresses in this document, please note that websites are subject to change over time.

* 1. P010033 Approval Order, available at: *https://www.accessdata.fda.gov/scripts/cdrh/cfdocs/cfpma/pma.cfm?id=P010033.*
* 2. October 11–12, 2001: Microbiology Devices Panel Meeting Summary (available at *https://wayback.archive-it.org/7993/20170405192838/https://www.fda.gov/AdvisoryCommittees/CommitteesMeetingMaterials/MedicalDevices/MedicalDevicesAdvisoryCommittee/MicrobiologyDevicesPanel/ucm124771.htm*).
* 3. P010033 Summary of Safety and Effectiveness, available at: *https://www.accessdata.fda.gov/cdrh_docs/pdf/P010033B.pdf.*
* 4. P180047 Summary of Safety and Effectiveness, available at: *https://www.accessdata.fda.gov/cdrh_docs/pdf18/P180047B.pdf.*
* 5. P070006 Summary of Safety and Effectiveness, available at: *https://www.accessdata.fda.gov/cdrh_docs/pdf7/P070006B.pdf.*
* 6. June 29, 2011: Meeting Materials of the Microbiology Devices Panel (available at *https://wayback.archive-it.org/7993/20170403223442/https:/www.fda.gov/AdvisoryCommittees/CommitteesMeetingMaterials/MedicalDevices/MedicalDevicesAdvisoryCommittee/MicrobiologyDevicesPanel/ucm260517.htm*).
* 7. September 7–8, 2023: Microbiology Devices Panel of the Medical Devices Advisory Committee Meeting Announcement (available at *https://www.fda.gov/advisory-committees/advisory-committee-calendar/september-7-8-2023-microbiology-devices-panel-medical-devices-advisory-committee-meeting#event-materials*).
8. Official American Thoracic Society/Infectious Diseases Society of America/Centers for Disease Control and Prevention Clinical Practice Guidelines: Diagnosis of Tuberculosis in Adults and Children | Clinical Infectious Diseases | Oxford Academic *https://academic.oup.com/cid/article/64/2/e1/2629583?login=true. doi.org/10.1093/cid/ciw694.* Accessed March 18, 2026.
9. Official American Thoracic Society/Centers for Disease Control and Prevention/Infectious Diseases Society of America Clinical Practice Guidelines: Treatment of Drug-Susceptible Tuberculosis | Clinical Infectious Diseases | Oxford Academic *https://academic.oup.com/cid/article/63/7/e147/2196792. doi.org/10.1093/cid/ciw376.* Accessed March 18, 2026.

List of Subjects in 21 CFR Part 866

Biologics, Laboratories, Medical devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act, and under authority delegated to the Commissioner of Food and Drugs, it is proposed that 21 CFR part 866 be amended as follows:

PART 866—IMMUNOLOGY AND MICROBIOLOGY DEVICES

■ 1. The authority citation for part 866 continues to read as follows:

Authority: 21 U.S.C. 351, 360, 360c, 360e, 360j, 360*l,* 371.

■ 2. Add § 866.3371 to subpart D to read as follows:

§ 866.3371 Qualitative *Mycobacterium tuberculosis* Cell-Mediated Immune Response Assay.

(a) *Identification.* A qualitative *Mycobacterium tuberculosis* cell-mediated immune response assay is identified as a prescription in vitro diagnostic device intended to aid in the diagnosis of *Mycobacterium tuberculosis* infection. Qualitative *Mycobacterium tuberculosis* cell-mediated immune response assays measure the production of interferon-gamma or other cytokines by human lymphocytes in response to stimulation antigens. The assay is intended for use by a licensed healthcare professional as an aid in the diagnosis of *Mycobacterium tuberculosis* infection in conjunction with risk assessment, radiographic imaging, and other medical and diagnostic evaluations.

(b) *Classification.* Class II (special controls). The special controls for this device are:

(1) The labeling must include:

(i) A prominent statement that the assay is an indirect test for tuberculosis and that results must be interpreted by a licensed healthcare professional in conjunction with risk assessment, radiographic imaging, and other medical and diagnostic evaluations to assist the licensed healthcare professional in making individual patient management decisions.

(ii) A detailed explanation of the interpretation of results, including, as applicable, descriptions of borderline, equivocal, indeterminate, and invalid results.

(iii) Warnings and limitations that include statements that indicate, as applicable:

(A) Diagnosis or exclusion of tuberculosis disease and assessment of the probability of latent tuberculosis infection is based on a combination of epidemiological, clinical, and diagnostic findings.

(B) Licensed healthcare professionals are directed to consult resources from appropriate public health authorities that assist in diagnosing tuberculosis infection.

(C) The species of nontuberculous mycobacterium that may generate false positive results, as applicable.

(D) Negative test results do not exclude the possibility of exposure to, or infection with, *Mycobacterium tuberculosis.* A negative result must be considered with the individual's medical and historical data relevant to probability of *Mycobacterium tuberculosis* infection and potential risk of progression to tuberculosis disease, particularly for individuals with impaired immune function. Negative predictive values may be low for individuals suspected to have *Mycobacterium tuberculosis* disease.

(E) Positive results do not confirm the diagnosis of active tuberculosis disease.

(F) Assay results are qualitative and the magnitude of the measured assay numeric values cannot be correlated to stage or degree of infection, level of immune responsiveness, or likelihood for progression to active disease.

(G) Heterophilic antibodies, circulating interferon gamma, and other circulating factors may cause inaccurate results.

(H) Patient populations in which test performance characteristics have not been established, or patient populations where test performance may be affected.

(2) Design verification and validation must include the following:

(i) A detailed device description, including the computational path from collected raw data to reported result (*e.g.,* how collected raw signals are converted into a reported result), and rationale used to select stimulation antigens.

(ii) Documentation and characterization of all critical reagents (*e.g.,* determination of the identity, supplier, purity, and stability) and protocols for maintaining product integrity.

(iii) Final lot release criteria to be used for manufactured assay lots with appropriate evidence that lots released at the extremes of the specifications will meet the identified analytical and clinical performance characteristics as well as stability.

(iv) Risk analysis and documentation demonstrating how risk control measures are implemented to address device hazards, such as Failure Modes Effects Analysis and/or Hazard Analysis.

(v) Detailed documentation of analytical studies, including reproducibility, precision (including lot-to-lot precision studies, as appropriate), interference, cross reactivity, carryover, hook effect, sample and reagent stability, and other studies relevant to the technology and intended use (*e.g.,* linearity), as applicable.

(vi) Detailed documentation of device performance data from a multisite clinical study in geographically diverse areas with a design and performance that is appropriate for the intended use of the device. The study must be performed on populations consistent with the intended use population and compare the device performance to results obtained from a reference or comparator method that FDA has determined is appropriate. The clinical study must include testing of unique prospective (sequentially collected) samples and may, when determined to be acceptable by FDA, include additional characterized clinical samples. The clinical study must include a cohort of subjects with culture-confirmed or FDA-cleared or approved nucleic acid amplification test confirmed active tuberculosis infection, a cohort of subjects with no known risk factors for tuberculosis infection, and a mixed risk cohort of subjects with at least one known risk factor for tuberculosis and/or risk for latent tuberculosis infection. Enrolled subjects must include individuals who are immunosuppressed, individuals who have received the bacille Calmette-Guérin vaccine, or individuals with nontuberculous mycobacterial infections, as applicable. Documentation from the study must include a detailed study report that contains a study description, a summary of testing results, and results of all statistical analyses.

Grace R. Graham,

Deputy Commissioner for Policy, Legislation, and International Affairs.

[FR Doc. 2026–06064 Filed 3–27–26; 8:45 am]

BILLING CODE 4164–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 716

[EPA–HQ–OPPT–2023–0360; FRL–13162–01–OCSPP]

RIN 2070–AL43

Reporting Deadline Extension for the Health and Safety Data Reporting Rule Under Toxic Substance Control Act (TSCA) Section 8(d)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency is proposing to extend the reporting deadline for the Health and Safety Data Reporting Rule under the Toxic Substance Control Act (TSCA) by one year to May 21, 2027. EPA is seeking public comment on this proposed action, including any considerations or concerns that stakeholders may have regarding the proposed extension of the reporting deadline. The proposed extension is intended to delay compliance with this one-time reporting rule during EPA's ongoing reconsideration of the rule.

DATES: Comments must be received on or before April 29, 2026.

ADDRESSES: Submit your comments for this action, identified by docket identification (ID) number EPA–HQ–OPPT–2023–0360, online at *https://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Additional information on how to comment, along with instructions for visiting the docket in-person, is available at *https://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Lameka Smith, Chemical Information, Prioritization, and Toxics Release Inventory Division (7406M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (202) 564–1629; email address: *smith.lameka@epa.gov.*

For general information contact: The TSCA-Hotline, ABVI-Goodwill of the Finger Lakes, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554–1404; email address: *TSCA-Hotline@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Executive Summary

A. Does this action apply to me?

You may be potentially affected by this action if you manufacture (including import) any of the chemical substances listed in 40 CFR 716.120(d) of the regulatory text of this document. The following list of North American Industrial Classification System (NAICS) codes affected by this rule are those that align with these activities:

- Chemical manufacturers (including importers), (NAICS code 325); and
- Petroleum refineries (NAICS code 324110).

This action applies to manufacturers in these NAICS codes who are currently manufacturing (including importing) a listed chemical substance (or will do so during the chemical's reporting period) or who have manufactured (including imported) or proposed to manufacture (including import) a listed chemical substance within the last 10 years.

B. What action is the Agency taking?

EPA is proposing to extend the reporting deadline for the data submission period for the TSCA section 8(d) Health and Safety Data Reporting Rule.

C. What is the Agency's authority for taking this action?

The Health and Safety Data Reporting rule for the 16 chemical substances is promulgated under TSCA section 8(d) (15 U.S.C. 2607(d)) and codified at 40 CFR part 716. EPA's statutory authority to modify the deadline for the final TSCA section 8(d) rule is the same statutory authority relied upon to promulgate the underlying rule.

The statutory provision, along with administrative agencies' authority to reconsider prior regulations, provides EPA's authority for the targeted amendment to the compliance deadline finalized in this action. Unless provided otherwise by statute, an agency may change existing positions (*e.g.,* reconsider, revise, or rescind prior rules) provided they acknowledge the change in position, offer a reasonable explanation for the change, and take any serious reliance interests into account. *See, e.g., FDA* v. *Wages & White Lion Invs., L.L.C.,* 145 S. Ct. 898, 917 (2025); *Encino Motorcars* v. *Navarro,* 579 U.S. 211, 221 (2016); *FCC* v. *Fox Television Stations, Inc.,* 556 U.S. 502, 515 (2009); *Motor Vehicle Mfrs. Ass'n* v. *State Farm Mut. Auto. Ins. Co.,* 463 U.S. 29 (1983).

D. Why is the Agency taking this action?

EPA promulgated a final rule on December 13, 2024 (89 FR 100756 (FRL–11164–02–OCSPP)), to require manufacturers (including importers) of 16 specific chemical substances to submit copies and lists of certain unpublished health and safety studies to the EPA. The 16 chemical substances were added to 40 CFR 716.120 to support ongoing and upcoming activities under TSCA section 6. On March 13, 2025, EPA extended the submission deadlines from March 13, 2025, to June 11, 2025, for vinyl chloride (CASRN 75–01–4) and from March 13, 2025, to September 9, 2025, for the remaining 15 chemical substances. *See* (90 FR 11899 (FRL–11164.–02–OCSPP). On June 9, 2025, EPA amended the submission deadlines for all 16 chemical substances subject to the rule to May 22, 2026. EPA now recognizes a need to further extend these reporting deadlines as noted below.

EPA is considering a proposal to modify the scope of the TSCA section 8(d) Health and Safety Data Reporting Rule. Such a rulemaking would make infeasible the current reporting deadline of May 22, 2026, (90 FR 24228 June 9, 2025 (FRL–11164.2–02–OCSPP)). EPA is proposing to extend the reporting deadline by one year to May 21, 2027. Should EPA finalize modifications to the TSCA section 8(d) Health and Safety Data Reporting Rule, the Agency's final action on the rule would update the deadline, as appropriate.

EPA is taking this action because it has determined additional time is necessary to alleviate the compliance burdens associated with this one-time reporting rule while EPA considers potential modifications to the regulations, including aligning the rule with Executive Order 14219 ''Ensuring Lawful Governance and Implementing the President's 'Department of Government Efficiency' Deregulatory Initiative'' (90 FR 10583, February 19, 2025) and EPA's Powering the Great American Comeback Initiative Pillar I: Clean Air, Land, and Water for Every American. Rather than requiring businesses to prepare submissions under a rule that is in the process of being revised, this action provides regulatory certainty and prevents duplicative or potentially inconsistent reporting. Once the updated rule is finalized, reporting requirements and timelines will be clearly communicated to ensure a smooth and efficient compliance process. EPA is not reopening or reconsidering provisions of the underlying regulations other than the submission deadline in this rule.

II. Request for Comment

EPA invites comments on all aspects of this proposed action to extend the reporting deadline for the TSCA section 8(d) Health and Safety Data Reporting Rule. Specifically, EPA requests comment on the proposed reporting timeline and is soliciting comments on the nature and extent of any reliance interests that may have arisen from the rule.

III. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at *https://www.epa.gov/laws-regulations/laws-and-executive-orders.*

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulations and Regulatory Review

This action is not a significant regulatory action and was therefore not submitted to the Office of Management and Budget (OMB) for review under Executive Order 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011).

B. Executive Order 14192: Unleashing Prosperity Through Deregulation

This action is an Executive Order 14192 deregulatory action. This proposed rule provides burden reduction by providing relief against existing compliance deadlines.

C. Paperwork Reduction Act (PRA)

This action does not impose any new information collection burden under the PRA, 44 U.S.C. 3501 *et seq.* OMB has previously approved the information collection activity contained in the existing regulation and has assigned OMB control number 2070–0224 (EPA ICR No. 2703.02). This action does not create any new reporting or recordkeeping obligations and does not otherwise change the burden estimates that were approved.

D. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA, 5 U.S.C. 601 *et seq.* In making this determination, the EPA concludes that the impact of concern for this rule is any significant adverse economic impact on small entities and that the agency is certifying that this rule will not have a significant economic impact on a substantial number of small entities because the rule relieves regulatory burden on the small entities subject to the rule. This proposed action would extend compliance dates of one data reporting rule and alleviate compliance burden on small entities subject to those actions. We have therefore concluded that this action will relieve regulatory burden for all directly regulated small entities.

E. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandate of $100 million (adjusted annually for inflation) or more (in 1995 dollars) as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. The action imposes no enforceable duty on any state, local, or tribal governments or the private sector.

F. Executive Order 13132: Federalism

This action does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and

responsibilities among the various levels of government.

G. Executive Orders 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have tribal implications as specified in Executive Order 13175 (65 FR 67249, November 9, 2000) because it will not have substantial direct effects on tribal governments, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes. This action does not impose substantial direct compliance costs on federally recognized Indian tribal governments. Thus, Executive Order 13175 does not apply to this action.

H. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

Although this action does not concern an environmental health or safety risk, the information obtained from the reporting required by this rule will be used to inform the Agency's decision-making process regarding chemical substances to which children may be exposed. This information will also assist the Agency and others in determining whether the chemical substances included in this proposed rule present potential risks, allowing the Agency and others to take appropriate action to investigate and mitigate those risks.

EPA interprets Executive Order 13045 (62 FR 19885, April 23, 1997) as applying only to regulatory actions considered significant under section 3(f)(1) of Executive Order 12866 and that concern environmental health or safety risks that EPA has reason to believe may disproportionately affect children, per the definition of ''covered regulatory action'' in section 2–202 of Executive Order 13045.

Since this is not a ''covered regulatory action,'' E.O. 13045 does not apply. However, the Policy on Children's Health does apply.

I. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This action is not subject to Executive Order 13211 (66 FR 28355, May 22, 2001), because it is not a significant regulatory action under Executive Order 12866.

J. National Technology Transfer and Advancement Act (NTTAA)

This action does not involve technical standards under the NTTAA section 12(d), 15 U.S.C. 272.

List of Subjects in 40 CFR Part 716

Environmental protection, Chemicals, Hazardous substances, Health and safety, Reporting and recordkeeping requirements.

Lee Zeldin,

Administrator.

Therefore, for the reasons stated in the preamble, EPA proposes to amend 40 CFR 716 as follows:

PART 716—HEALTH AND SAFETY DATA REPORTING

■ 1. The authority citation for part 716 continues to read as follows:

Authority: 15 U.S.C. 2607(d).

■ 2. Amend § 716.120 in table 3 to paragraph (d), under the heading ''OPPT 2024 Chemicals'', by revising the entries for ''Acetaldehyde'', ''Acrylonitrile'', ''2-anilino-5-[(4-methylpentan-2-yl)amino]cyclohexa-2,5-diene-1,4-dione (6PPD-quinone)'', ''Benzenamine'', ''Benzene'', ''Bisphenol A'', ''Ethylbenzene'', ''Hydrogen fluoride'', ''4,4-Methylene bis(2-chloraniline)'', ''N-(1,3-Dimethylbutyl)-N′-phenyl-p-phenylenediamine (6PPD)'', ''Naphthalene'', ''Styrene'', ''4-tert-octylphenol(4-(1,1,3,3-Tetramethylbutyl)-phenol)'', ''Tribromomethane (Bromoform)'', ''Triglycidyl isocyanurate''; and ''Vinyl Chloride.''

The revisions read as follows:

§ 716.120 Substances and listed mixtures to which this subpart applies.

* * * * *

(d) * * *

TABLE 3 TO PARAGRAPH (d)

Category	CASRN	Special exemptions	Effective date	Sunset date
* *	*	* *	*	*
OPPT 2024 Chemicals				
Acetaldehyde	75–07–0	§ 716.21(a)(11) applies; § 716.20(a)(9) does not apply.	January 13, 2025	May 21, 2027.
Acrylonitrile	107–13–1	§ 716.21(a)(11) applies; § 716.20(a)(9) does not apply.	January 13, 2025	May 21, 2027.
2-anilino-5-[(4-methylpentan-2-yl) amino]cyclohexa-2,5-diene-1,4-dione (6PPD-quinone).	2754428–18–5	§ 716.21(a)(11) applies; § 716.20(a)(9) does not apply.	January 13, 2025	May 21, 2027.
Benzenamine	62–53–3	§ 716.21(a)(11) applies; § 716.20(a)(9) does not apply applies; § 716.20(a)(9) does not apply.	January 13, 2025	May 21, 2027.
Benzene	71–43–2	§ 716.21(a)(11) applies; § 716.20(a)(9) does not apply.	January 13, 2025	May 21, 2027.
Bisphenol A	80–05–7	§ 716.21(a)(11) applies; § 716.20(a)(9) does not apply.	January 13, 2025	May 21, 2027.
Ethylbenzene	100–41–4	§ 716.21(a)(11) applies; § 716.20(a)(9) does not apply.	January 13, 2025	May 21, 2027.
Hydrogen fluoride	7664–39–3	§ 716.21(a)(11) applies; § 716.20(a)(9) does not apply.	January 13, 2025	May 21, 2027.
4,4-Methylene bis(2-chloraniline)	101–14–4	§ 716.21(a)(11) applies; § 716.20(a)(9) does not apply.	January 13, 2025	May 21, 2027.
N-(1,3-Dimethylbutyl)-N′-phenyl-p-phenylenediamine (6PPD).	793–24–8	§ 716.21(a)(11) applies; § 716.20(a)(9) does not apply.	January 13, 2025	May 21, 2027.

TABLE 3 TO PARAGRAPH (d)—Continued

Category	CASRN	Special exemptions	Effective date	Sunset date
Naphthalene	91–20–3	§ 716.21(a)(11) applies; § 716.20(a)(9) does not apply.	January 13, 2025	May 21, 2027.
Styrene	100–42–5	§ 716.21(a)(11) applies; § 716.20(a)(9) does not apply.	January 13, 2025	May 21, 2027.
4-tert-octylphenol(4-(1,1,3,3-Tetramethylbutyl)-phenol).	140–66–9	§ 716.21(a)(11) applies; § 716.20(a)(9) does not apply.	January 13, 2025	May 21, 2027.
Tribromomethane (Bromoform)	75–25–2	§ 716.21(a)(11) applies; § 716.20(a)(9) does not apply.	January 13, 2025	May 21, 2027.
Triglycidyl isocyanurate	2451–62–9	§ 716.21(a)(11) applies; § 716.20(a)(9) does not apply.	January 13, 2025	May 21, 2027.
Vinyl chloride	75–01–4	§ 716.21(a)(11) applies; § 716.20(a)(9) does not apply.	January 13, 2025	May 21, 2027.
* *	*	* *	*	*

[FR Doc. 2026–06066 Filed 3–27–26; 8:45 am]
BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 260325–0090; RTID 0648–XF172]

Fisheries of the Northeastern United States; Mid-Atlantic Blueline Tilefish and Golden Tilefish Fisheries; 2026 Specifications

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

ACTION: Proposed rule; request for comments.

SUMMARY: In this action, NMFS proposes specifications for the 2026 fishing year for the golden tilefish and blueline tilefish fisheries north of the North Carolina/Virginia border. The proposed action is necessary to establish allowable harvest levels and other management measures to prevent overfishing while allowing optimum yield, consistent with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) and the Tilefish Fishery Management Plan (FMP).

DATES: Comments must be received by April 14, 2026.

ADDRESSES: You may submit comments on this document, identified by NOAA–NMFS–2026–0430, by any of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *https://www.regulations.gov* and enter NOAA–NMFS–2026–0430 in the Search box. Click on the ''Comment'' icon, complete the required fields, and enter or attach your comments.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *https://www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous).

Copies of the supporting documents for these proposed specifications are available from Dr. Christopher M. Moore, Executive Director, Mid-Atlantic Fishery Management Council, 800 North State Street, Suite 201, Dover, DE 19901. These documents are also accessible via the internet at: *https://www.mafmc.org.*

FOR FURTHER INFORMATION CONTACT: Matthew Rigdon, *matthew.rigdon@noaa.gov,* 978–281–9336.

SUPPLEMENTARY INFORMATION:

Background

The golden tilefish and blueline tilefish fisheries north of the North Carolina/Virginia border are managed under the Tilefish FMP, which outlines the process for establishing annual specifications. The Tilefish FMP requires the Mid-Atlantic Fishery Management Council (Mid-Atlantic Council) to recommend acceptable biological catch (ABC), annual catch limit (ACL), annual catch target (ACT), total allowable landings (TAL), and other management measures for the commercial and recreational sectors of the fisheries. The Mid-Atlantic Council's Scientific and Statistical Committee (SSC) provides ABC recommendations for both species to the Council to derive these catch limits. The Mid-Atlantic Council makes recommendations to NMFS that may not exceed the SSC's ABC recommendation. The Mid-Atlantic Council's recommendations must include supporting documentation concerning the environmental, economic, and social impacts of the recommendations. NMFS reviews these recommendations, proposes them for public comment, and, if approved, publishes the final specifications in the **Federal Register**.

Proposed Specifications

Blueline Tilefish

Consistent with recommendations made by the Mid-Atlantic Council, this action proposes specifications for blueline tilefish for fishing year 2026 that would increase the commercial TAL by 426 percent and the recreational TAL by 350 percent. The increased catch limits are primarily due to updated data analyses of fishing effort but may represent some increased fishing opportunity for both the commercial and recreational fisheries. Mid-Atlantic recreational fisheries are valued at approximately $439 million as of 2021. The blueline tilefish recreational fishery represents one component of this value, and the increased recreational TAL for fishing year 2026 could contribute additional value to Mid-Atlantic recreational fisheries. The blueline tilefish commercial fishery was valued at approximately $67,000 in fishing year 2024 based on recent ex-vessel value data. This action would authorize approximately $454,000 in commercial blueline tilefish value due to the increased commercial TAL for fishing year 2026.

The proposed specifications are consistent with recommendations of the

Mid-Atlantic Council and are based upon the recent blueline tilefish assessment (Southeast Data, Assessment, and Review; SEDAR 92) completed by the Southeast Fisheries Science Center in March 2025. The SEDAR 92 assessment updated the analysis used in the prior blueline tilefish assessment (SEDAR 50) using data through 2023. In both assessments, the stock, which ranges across the eastern seaboard, was split at Cape Hatteras, North Carolina. A Data-Limited Model (DLM) Toolkit was used to estimate a TAL for the region north of Cape Hatteras. This includes a portion of the blueline tilefish stock managed by the South Atlantic Fishery Management Council (South Atlantic Council), in addition to the full management unit managed by the Mid-Atlantic Council. A joint subgroup of both Councils' SSCs met to review the SEDAR 92 results and recommend apportionment of the ABC between the two management jurisdictions. Specifically, the subgroup was to apportion the ABC for the stock north of the Virginia/North Carolina border for management by the Mid-Atlantic Council, and an ABC for the stock south of that border for management by the South Atlantic Council.

The joint SSC subgroup recommended that the ABC for the blueline tilefish stock north of Cape Hatteras be set at 646,000 pounds (lb) (293.0 metric tons (mt)). Then, the joint subgroup utilized recent information collected from the fishery independent South Atlantic Deepwater Longline (SADL) survey in order to apportion the ABC across the Mid-Atlantic management unit and the South Atlantic management unit. The subgroup noted that the SADL survey has had more success recently in catching blueline tilefish (1,081 fish total across the 2023 and 2024 surveys) compared to the 2017 pilot survey (75 fish), which was used for apportionment in SEDAR 50. The joint subgroup apportioned 70 percent of the ABC to the Mid-Atlantic, which represents a 14-percent increase to the Mid-Atlantic apportionment relative to the prior assessment. Based on this apportionment, the proposed specifications include an ABC of 452,200 lb (205.1 mt) for blueline tilefish in the Mid-Atlantic management unit for fishing year 2026. This ABC would be an increase of approximately 350 percent compared to fishing year 2025.

The higher ABC primarily reflects the incorporation of updated catch information and life history parameters into the most recent DLM Toolkit that was used in the SEDAR 92 process. Updates were made to commercial discard and private recreational catch data. This updated information included much higher estimates for historical catch in the blueline tilefish fishery than were used in prior assessments. The new assessment reflects best available science, and the resulting increase to the ABC is primarily the result of the higher historical catch used in the model and not an indication of a large increase in the biomass of blueline tilefish. There are no changes being proposed to management measures for the commercial or recreational blueline tilefish fisheries. In the commercial fishery, which is allocated 27 percent of the ABC, the per-trip possession limit will continue to constrain fishing effort similar to prior years. In the recreational fishery, which is allocated 73 percent of the ABC, the season length and bag limits will remain unchanged. As a result, we do not expect a significant change in fishing effort in either the commercial or recreational fisheries.

Preliminary analysis indicates commercial landings exceeded the 2025 ACL by 617 lb (0.3 mt). The regulations require an overage to be deducted in the following year. The resulting proposed specifications recommended are summarized in table 1.

TABLE 1—PROPOSED BLUELINE TILEFISH SPECIFICATIONS FOR FISHING YEAR 2026 WITH 2025 SPECIFICATIONS FOR COMPARISON

Specification	2025	Proposed 2026
ABC—North of NC/VA line	100,520 lb (45.6 mt)	452,200 lb (205.1 mt).
Recreational ACL	73,380 lb (33.3 mt)	330,106 lb (149.7 mt).
Recreational TAL	71,912 lb (32.6 mt)	323,504 lb (146.7 mt).
Commercial ACL	27,140 lb (12.3 mt)	122,094 lb (55.4 mt).
Commercial Overage Adjustment	−5,975 lb (2.7 mt)	−617 lb (0.3 mt).
Adjusted Commercial ACL	21,165 lb (9.6 mt)	121,477 lb (55.1 mt).
Commercial TAL	20,894 lb (9.5 mt)	109,330 lb (49.6 mt).

Golden Tilefish

The directed golden tilefish fishery is managed under an individual fishing quota (IFQ) program, with a small amount of non-IFQ catch allowed under an incidental permit. On April 1, 2025, NMFS proposed 2025 specifications for golden tilefish and announced projected specifications for fishing years 2026 and 2027 based on Mid-Atlantic Council recommendations (90 FR 14350). Public comment on the proposed specifications was accepted through April 16, 2025. A final rule implementing these specifications was published on June 26, 2025 (90 FR 27257). The previously projected 2026 specifications equal those implemented for 2025, resulting in no change to the fishery. In addition, there is no new biological information that would require altering the projected 2026 specifications. Therefore, we are proposing 2026 golden tilefish specifications as previously projected, outlined in table 2.

TABLE 2—PROPOSED GOLDEN TILEFISH SPECIFICATIONS FOR FISHING YEAR 2026

Specification	2026
ABC	1,878,338 lb (852.0 mt).
ACL	1,878,338 lb (852.0 mt).
IFQ ACT	1,733,109 lb (786.1 mt).
Incidental ACT	91,216 lb (41.4 mt).
IFQ TAL	1,728,590 lb (784.1 mt).

TABLE 2—PROPOSED GOLDEN TILEFISH SPECIFICATIONS FOR FISHING YEAR 2026—Continued

Specification	2026
Incidental TAL	68,949 lb (31.3 mt).

This action would not change the landing limits for non-IFQ commercial fisheries. A vessel fishing under a non-IFQ Federal commercial tilefish vessel permit would continue to be prohibited from possessing more than 500 lb (227 kilograms (kg)) of gutted golden tilefish at any time, or 50 percent, by weight, of the total of all species, including golden tilefish, being landed (whichever is less). This landing limit does not apply to a vessel authorized to land golden tilefish under a Tilefish IFQ permit. A vessel fishing under a non-IFQ commercial tilefish permit would also continue to be prohibited from possessing more than 500 lb (227 kg) of gutted blueline tilefish per trip. If 70 percent of the blueline tilefish commercial TAL is landed, the Regional Administrator may reduce the blueline tilefish possession limit to 300 lb (136 kg).

This action would not change the recreational management measures for golden or blueline tilefish. The golden tilefish recreational fishery would continue to be open year-round, and the bag limit would remain 8-fish per person per trip for all vessel types. The blueline tilefish recreational measures would continue to include an open season from May 15 through November 14 and bag limits that vary by vessel type. Private recreational vessels would continue to have a 3-fish limit per person per trip. For-hire vessels which have not been issued a valid U.S. Coast Guard Certification of inspection would continue to have a 5-fish limit per person per trip. For-hire vessels which have been issued a valid U.S. Coast Guard Certification of Inspection would continue to have a 7-fish limit per person per trip. Any vessel used to fish recreationally for golden or blueline tilefish must have the appropriate Federal vessel permit. Boats used to take anglers for hire must have the Charter/Party Tilefish Permit, while private recreational vessels need to have the Private Recreational Tilefish Permit. Both permit types require the submission of vessel trip reports. Additional information about permitting and reporting requirements is available from the Greater Atlantic Regional Fisheries Office's Permits Office at (978) 282–8438 or *NMFS.GAR.Permits@noaa.gov.*

The 2026 fishing year for golden tilefish and blueline tilefish began on January 1, 2026. The regulations include rollover provisions for both species that allow the fisheries to operate under status quo specifications until new specifications are finalized.

Classification

NMFS is issuing this rule pursuant to section 305(d) of the Magnuson Stevens Act (16 U.S.C. 1855(d)). The reason for using this regulatory authority for this action is that, in a previous action taken pursuant to section 304(b) of the Magnuson-Stevens Act (16 U.S.C. 1854(b)), the FMP and implementing regulations created the process by which specifications are developed through a NMFS rulemaking process distinct from that of 304(b) (50 CFR 648.292). As such, NMFS is issuing this rule pursuant to section 305(d). The NMFS Assistant Administrator has determined that this proposed rule is consistent with the Tilefish FMP, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

The Magnuson-Stevens Act requires publication of proposed regulations in the **Federal Register** with a public comment period of 15 to 60 days. NMFS finds that a 15-day comment period for this action provides a reasonable opportunity for public participation in this action pursuant to Administrative Procedure Act section 553(c) (5 U.S.C. 553(c)), while also ensuring that the final specifications are in place as close as possible to the start of the fishing year that began on January 1, 2026. This is a routine specifications action that occurs every year, and stakeholder and industry groups have been involved with the development of this action and have participated in public meetings throughout their development over the past year. A longer comment period would be contrary to the public interest, as it could delay this rulemaking further into the 2026 fishing year, increasing confusion in the tilefish industry around current quotas. The proposed specifications for the golden tilefish fishery are unchanged from what was projected when the 2025 specifications were announced. The proposed blueline tilefish specifications include an increase in TAL compared to prior fishing years. However, that increase is based on higher estimates of historical catch that occurred under the existing management measures. No changes to management measures are being proposed, and therefore, no significant changes to fishing effort are expected. Additionally, we do not expect this large increase to lead to significant increases in fishing effort, nor overfishing, because the specifications are based on the new stock assessment, which informs us of appropriate levels of catch which would not cause overfishing. We do not expect fishing effort to significantly change because the updated stock assessment model incorporated new historical catch information and other input parameters based on newer and best scientific information available. Those updated numbers for historical catch are what caused the assessment model to output larger allowable catch. In other words, the prior stock assessment and associated specifications underestimated the amount of fish being caught, and this updated model provides a clearer picture of what has already been happening.

This action is exempt from review under Executive Order 12866.

This proposed rule is exempt from Executive Order 14192 because this rule is not significant under Executive Order 12866.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. The basis for the certification follows.

For Regulatory Flexibility Act (RFA) purposes, NOAA's National Marine Fisheries Service has established a size standard for small businesses, including their affiliated operations, whose primary industry is commercial fishing (50 CFR 200.2). A business primarily engaged in commercial fishing (North American Industry Classification System (NAICS) code 11411) is classified as small if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has combined annual receipts not in excess of $11 million for all its affiliated operations worldwide. The Small Business Administration has established size standards for all other major industry sectors in the United

States, including defining for-hire fishing firms (NAICS code 487210) as small when their receipts are less than or equal to $8 million.

According to the ownership database, 722 affiliate commercial fishing firms landed blueline tilefish during the 2020–2024 period, with 713 of those business affiliates categorized as small businesses and 9 categorized as large businesses. During this period, 426 primarily for-hire affiliates were identified as potentially affected by this action because they possessed a Federal party/charter permit for tilefish during the 2020–2024 period. All 426 of these for-hire affiliates were categorized as small businesses.

The proposed specifications would result in increased commercial and recreational total allowable landings (TAL) for blueline tilefish. These measures are expected to create some additional opportunities for revenue due to the increased allowable catch being less likely to be fully harvested and forcing the commercial fishery to close early. The increased TAL would allow commercial vessels to either target blueline tilefish or to retain incidental catches of blueline tilefish while targeting other species, during a portion of the year when the fishery has been closed in the past. Significant increases in fishing effort are not expected, as the higher TALs are largely driven by updated catch information used in the most recent stock assessment and not by changes in total biomass of the stock. No changes to management measures are being proposed, and those measures would continue to constrain both the commercial and recreational fishery participants. No negative economic impacts are expected as a result of the proposed specifications, and if anything, the increased TALs could provide a small economic benefit to fishery participants. Therefore, this action will not have a significant economic impact on a substantial number of small entities.

The proposed specifications for golden tilefish are status quo, and no changes are proposed for fishing year 2026. Impacts to small businesses in the golden tilefish fishery were analyzed during the proposed rulemaking announcing the proposed 2025 specifications for blueline and golden tilefish, and projected 2026–2027 specifications for golden tilefish (90 FR 14350; April 1, 2025) and it was determined that the proposed specifications for golden tilefish for fishing years 2025–2027 would not have a significant economic impact on a substantial number of small entities. The Chief Counsel for Regulation of the Department of Commerce certified that conclusion for the 2025 specifications to the Chief Counsel for Advocacy of the Small Business Administration. The factual basis for that determination was published in that proposed rule (90 FR 14350; April 1, 2025) and is not repeated here.

As a result, an initial regulatory flexibility analysis is not required and none has been prepared.

This proposed rule contains no information collection requirements under the Paperwork Reduction Act of 1995.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: March 25, 2026.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

[FR Doc. 2026–06102 Filed 3–27–26; 8:45 am]

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Notices

Federal Register
Vol. 91, No. 60
Monday, March 30, 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

Food Safety and Inspection Service

[Docket No. FSIS–2026–0070]

Overtime and Holiday Inspection Fee Reductions for Small and Very Small Establishments

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

ACTION: Notice.

SUMMARY: This notice provides instructions to small and very small establishments for applying for reduced overtime and holiday inspection fees. It also describes FSIS' procedures for implementing the reduced fees. FSIS is using $20 million in de-obligated funds to temporarily reduce overtime and holiday inspection fees for small and very small official meat, poultry, and egg products establishments for Fiscal Year (FY) 2026. Eligible small establishments that apply will receive a 30 percent reduction and eligible very small establishments that apply will receive a 75 percent reduction. Establishments must submit the FSIS Form 5200–16, Overtime/Holiday Rate Reduction Form for FSIS to determine eligibility.

DATES: Establishments may begin submitting their completed FSIS Form 5200–16, Overtime/Holiday Rate Reduction Forms on March 30, 2026. While funding lasts, all establishments that submit their forms and qualify for a fee reduction will receive a partial refund for overtime and holiday inspection fees paid since October 5, 2025, which was the first day of the pay period following the start of FY 2026. FSIS encourages establishments to submit their forms as soon as possible to ensure consideration for both retroactive and future fee reductions. Retroactive and future fee reductions will be processed in the order in which complete submissions are received, while funds remain available.

ADDRESSES: Small and very small establishments should submit their completed forms to the FSIS inspection personnel assigned to their establishment or, alternatively, email the completed form to the appropriate FSIS District Office, ''Attention Grant Curator.'' Contact information for the FSIS District Offices, including email addresses, is available at: *https://www.fsis.usda.gov/contactus/fsis-offices/office-field-operations-ofo.*

FOR FURTHER INFORMATION CONTACT: April Regonlinski, Assistant Administrator, Office of Policy and Program Development by telephone at (202) 205–0495.

For billing issues and to request refunds contact the FSIS Office of the Chief Financial Officer: (515) 334–2000 or email at *fsis.billing@usda.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

FSIS is responsible for ensuring that meat, poultry, and egg products are safe, wholesome, and properly labeled and packaged. The Agency administers a regulatory program for meat products under the Federal Meat Inspection Act (FMIA) (21 U.S.C. 601 *et seq.*), for poultry products under the Poultry Products Inspection Act (PPIA) (21 U.S.C. 451 *et seq.*), and for egg products under the Egg Products Inspection Act (EPIA) (21 U.S.C. 1031 *et seq.*).

FSIS previously announced that it intends to use $20 million in de-obligated funds from the Meat and Poultry Processing Expansion Program to temporarily reduce overtime and holiday inspection fees for small and very small establishments (90 FR 51638). In that notice, FSIS explained that the Agency previously implemented a similar fee reduction initiative and intends to resume providing for reduced overtime and holiday fees for small and very small establishments (see 86 FR 37276). FSIS intends to temporarily reduce overtime and holiday inspection fees for small establishments by thirty percent and for very small establishments by seventy-five percent for FY 2026, or until all appropriated funds are expended.

II. Eligibility

Only small and very small official meat, poultry, or egg products establishments are eligible to receive overtime and holiday inspection at the reduced rates discussed above. For purposes of determining eligibility, an ''official establishment'' is defined as any entity that slaughters livestock or poultry and/or processes meat (including Siluriformes fish), poultry, or egg products at which inspection is required by the FMIA, PPIA, or EPIA. Facilities that receive voluntary inspection services, establishments that function solely as Official Import Inspection Establishments, or solely as exporting facilities are not eligible for the fee reduction.

''Small establishment'' and ''very small establishment'' will have the meaning given to those terms in FSIS' final rule ''Pathogen Reduction; Hazard Analysis and Critical Control Point (HACCP)'' (PR/HACCP)(61 FR 38806, July 25, 1996). As defined in the PR/HACCP final rule, an establishment is ''small'' if it has 10 or more but fewer than 500 employees, and an establishment is ''very small'' if it has fewer than 10 employees or less than $2.5 million in annual sales (61 FR 38806). Employees mean all individuals employed on a full-time, part-time, temporary, or other basis. FSIS will also consider the number of employees at any affiliated companies when determining whether an establishment meets the thresholds for the small and very small definitions.

III. Overtime/Holiday Rate Reduction Form

FSIS will use FSIS Form 5200–16, Overtime/Holiday Rate Reduction Form to collect information to determine whether an establishment inspected by FSIS qualifies for an overtime and holiday inspection fee reduction and, if so, the amount of the reduction; this is the same form that FSIS used when it previously provided for reduced overtime and holiday inspection fees. FSIS will use this form again because the Agency does not have complete data on establishment size and average annual sales, and the form allows the Agency to collect information to determine whether an establishment is a subsidiary, affiliate, or part of some other business structure that would prevent it from being eligible for a fee reduction. The form also serves as an attestation from the establishment that the data provided are accurate. The form

is optional in that those small and very small establishments that do not use overtime or holiday inspection services, or that are not interested in receiving a fee reduction, are not required to complete it. However, small and very small official establishments that would like to request a fee reduction must complete the form to receive the benefit.

In addition to the definitions for ''official establishment'' and ''employees'' discussed above, the form includes definitions for ''affiliated companies'' and ''company'' for purposes of determining whether an official establishment qualifies for a fee reduction. For purposes of the form, companies are considered affiliated with each other when one controls the other or a third-party controls both. It does not matter whether control is exercised, so long as the power to control exists. For example, a corporate company that owns one or more establishments is affiliated with those establishments, and the establishments are affiliated with the corporate company and each other. Affiliated companies do not typically include entities that perform common administrative services, including human resource support and cleaning services, as defined by the Small Business Administration (SBA) in 13 CFR 121.103. For purposes of the form, a ''company'' is any organization or entity (including an establishment) that buys or sells goods or services. A company may be organized in various forms, including partnerships and corporations, and can be privately held or publicly traded. Affiliation alone does not prevent an establishment from qualifying for a fee reduction. A company may have affiliates, so long as the combined size of the establishment *and* its affiliated companies remains within the applicable thresholds for small or very small establishments.

To complete the form, establishments must answer a series of questions designed to collect data on the total number of employees employed by the establishment and any affiliated companies, as well as the average annual sales for the establishment. As stated in the form, the number of employees is the average number of employees. The average is calculated by summing the number of employees at the end of each pay period over the preceding 52 weeks and dividing by the total number of pay periods. In addition, for purposes of the form, establishments should determine their annual average sales based on their sales over the past five years or, for establishments that have been in business for less than five years, on the number of years they have been in business. This is consistent with the SBA's regulations for calculating a business's annual receipts (13 CFR 121.104). Thus, under this approach, the average annual sales of an establishment that has been in business for five or more completed fiscal years means the establishment's total sales over its most recently completed five fiscal years divided by five. Establishments that have been in business fewer than five years should use the annual sales for their fully completed years in business divided by their number of fully completed fiscal years. Because FSIS intends to use data collected on the form to determine whether an official establishment is qualified for a rate reduction and the amount of the reduction, the establishment must also attest that data provided are accurate. Official establishments that are not affiliated with other companies will only need to report the number of employees employed by the establishment and whether the establishment's average annual sales are less than $2.5 million or $2.5 million or more.

Establishments may obtain an Overtime/Holiday Rate Reduction form from the FSIS inspection personnel assigned to the establishment or may download the form from *https://www.fsis.usda.gov/inspection/inspection-forms.* The form is provided as a fillable PDF that may be signed electronically.

Establishments should submit the completed form to the FSIS frontline supervisor assigned to the establishment. The frontline supervisor will submit the completed form to the District Office for processing. Alternatively, establishments that prefer to submit the form themselves may email the completed form to the appropriate District Office, ''Attention Grant Curator.''

Establishments are encouraged to submit their completed Overtime/Holiday Rate Reduction forms as soon as possible to expedite the process. All establishments that qualify for a fee reduction will receive a partial refund for overtime and holiday inspection fees paid since October 5, 2025, which was the first day of the first pay period in FY 2026. Establishments may request that FSIS provide the refund as a lump sum or as a credit to be applied to future overtime and holiday inspection fees. Establishments may submit the form at any time. If the establishment qualifies for a fee reduction, future fee reductions will begin on the date the form is submitted, provided funds are still available. A partial refund for overtime and holiday inspection fees paid since October 5, 2025, will also be considered once the form is submitted, contingent on the availability of funds. As noted above, to those deemed eligible for reduced rates, FSIS will offer overtime and holiday inspection at the reduced rates in FY 2026, or until all available funds for overtime and holiday inspection are expended.

IV. Determining Establishment Eligibility and Fee Reduction

After an establishment's completed FSIS Form 5200–16, Overtime/Holiday Rate Reduction Form is received by the District Office, the District Office's Grant Curator will review the form to determine whether an official establishment is eligible for an overtime and holiday inspection fee reduction and, if so, whether the establishment qualifies for the small establishment or very small establishment reduced fee.

When reviewing an establishment's form, the Grant Curator will first assess the information to determine whether the establishment is affiliated with other companies, including other establishments. If the establishment is affiliated with other companies and the total number of employees employed by the establishment and its affiliated companies is less than 500, the establishment would qualify for an overtime and holiday inspection fee reduction. If the establishment together with its affiliated companies employ 500 or more employees, the establishment would not qualify for a fee reduction.

If an establishment qualifies for a fee reduction, the Grant Curator will conduct an additional review to determine if the establishment qualifies for the small establishment or very small establishment reduction rate. The amount of the fee reduction will be based on the number of employees or average annual sales for the establishment as a discrete entity without considering employees or average annual sales associated with any affiliated companies. Thus, if the establishment itself employs fewer than 10 employees or has less than $2.5 million in average annual sales, the establishment would qualify as a ''very small establishment'' for purposes of the fee reduction and would receive a 75 percent reduction on overtime and holiday inspection fees. The establishment would qualify for the ''very small establishment'' fee reduction even if the total number of employees employed by all affiliated companies is over 10, but less than 500, and if the average annual sales for all affiliated companies is greater than $2.5 million. If the establishment employs

more than 10 employees but fewer than 500 employees and its annual average sales are greater than $2.5 million, it would qualify as a ''small establishment'' for purposes of the fee reduction and would receive a 30 percent reduction on overtime and holiday inspection fees. This approach will allow FSIS to maintain and update individual establishment HACCP size information in the Public Health Information System (PHIS), while also providing the greatest fee reductions to those establishments that would benefit the most. See Table 1 for an overview of applicant establishments that qualify for a fee reduction and the amount of their reduction.

TABLE 1—OVERTIME AND HOLIDAY INSPECTION RATE REDUCTION: ELIGIBILITY AND FEE REDUCTION

Applicant average # of employees	Applicant + affiliated companies average # of employees	Applicant HACCP size in PHIS	Applicant average annual income	Applicant + affiliated companies average annual income	Applicant eligibility for rate reduction/percentage
≤9	≤9	VS	Any	Any	Yes/75%.
≤9	≥10 and ≤499	VS	Any	Any	Yes/75%.
≥10 and ≤499	≥10 and ≤499	VS	<2.5 million	Any	Yes/75%.
≤9	≥ 500	VS	N/A	N/A	No.
≥10 and ≤499	≥10 and ≤499	S	≥2.5 million	Any	Yes/30%.
≥10 and ≤499	≥500	VS	<2.5 million	N/A	No.
≥10 and ≤499	≥ 500	S	≥2.5 million	N/A	No.
≥500	≥500	L	N/A	N/A	No.

Establishments that have questions regarding their eligibility for a fee reduction should contact their FSIS District Office. Contact information for the FSIS District Offices is available at: *https://www.fsis.usda.gov/contactus/fsis-offices/office-field-operations-ofo.*

An establishment that has a change that would affect its eligibility or the amount of its fee reduction, *e.g.,* a small establishment has a reduction in employees or annual sales such that it qualifies as very small, must submit a new Overtime/Holiday Rate Reduction form to FSIS as close as possible to the time the change occurs so that the Agency may make the associated change to the establishment's fee reduction. FSIS also will apply any new fee reduction to qualified establishments as soon as possible after it is notified of the change.

V. Additional Public Notification

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

VI. USDA Non-Discrimination Statement

In accordance with Federal civil rights law and USDA civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Persons with disabilities who require alternative means of communication for program information (*e.g.,* Braille, large print, audiotape, American Sign Language, etc.) should contact the State or local Agency that administers the program or contact USDA through the Telecommunications Relay Service at 711 (voice and TTY). Additionally, program information may be made available in languages other than English.

To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD–3027, found online at How to File a Program Discrimination Complaint and at any USDA office or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632–9992. Submit your completed form or letter to USDA by: (1) mail: U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue SW, Mail Stop 9410, Washington, DC 20250–9410; (2) fax: (202) 690–7442; or (3) email: *program.intake@usda.gov.*

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Justin Ransom,

Administrator.

[FR Doc. 2026–06071 Filed 3–27–26; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Agency Information Collection Activities: Senior Farmers' Market Nutrition Programs—Reporting and Recordkeeping Burden

AGENCY: Food and Nutrition Service (FNS), USDA.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice invites the general public and other public agencies to comment on this proposed information collection. This collection is a reinstatement and revision of the reporting and recordkeeping information collection burdens associated with the Senior Farmers' Market Nutrition Program (SFMNP).

DATES: Written comments must be received on or before May 29, 2026.

ADDRESSES: The Food and Nutrition Service, USDA, invites interested persons to submit written comment.

- *Preferred Method:* Federal eRulemaking Portal. Go to *http://www.regulations.gov* and follow the online instructions for submitting comments electronically.
- *Mail:* Allison Post, Food and Nutrition Service, U.S. Department of Agriculture, 1320 Braddock Place, Room 328, Alexandria, VA 22302.
- *Email:* Send email to *allison.post@usda.gov.*

All responses to this notice will be summarized and included in the request for Office of Management and Budget (OMB) approval. All comments will be a matter of public record.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this information collection should be directed to Allison Post at *allison.post@usda.gov* or 703–457–7708.

SUPPLEMENTARY INFORMATION: Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions that were used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Title: Senior Farmers' Market Nutrition Program—Reporting and Recordkeeping Burden.

Form Numbers: FNS 683A (under OMB Control Number 0584–0594, expiration date: 9/30/2026) is associated with this collection.

OMB Number: This is a reinstatement and revision of OMB Control Number 0584–0541.

Expiration Date: January 31, 2026 (expired).

Type of Request: Reinstatement and revision of information collection.

Abstract: The purpose of the Senior Farmers' Market Nutrition Program (SFMNP) is to provide resources in the form of fresh, nutritious, unprepared, locally grown fruits, vegetables, herbs, and honey from farmers' markets, roadside stands, and community supported agriculture (CSA) programs to low income seniors; to increase the domestic consumption of agricultural commodities by expanding or aiding in the expansion of domestic farmers' markets, roadside stands, and CSA programs; and to develop or aid in the development of new and additional farmers' markets, roadside stands, and CSA programs. SFMNP is administered by State agencies in 45 States, 8 Indian Tribal Organizations, the District of Columbia, Puerto Rico, and the U.S. Virgin Islands.

SFMNP statute (7 U.S.C. 3007) and regulations (7 CFR part 249) require that certain program-related information be collected and that full and complete records concerning program operations are maintained. The information reporting and recordkeeping requirements are necessary to ensure appropriate and efficient management of the program. The burden activities that are covered by this Information Collection Request (ICR) include requirements that involve the authorization and monitoring of local agencies; the certification of participants; the nutrition education that is provided to participants; farmer, farmers' market, roadside stand, and CSA program authorization, training, monitoring, and management; and financial and participation data.

FNS is requesting to reinstate OMB Control Number 0584–0541, which expired on 1/31/2026. FNS has a continued need to collect SFMNP information under this OMB Control Number. Upon reinstatement and approval of OMB Control Number 0584–0541, FNS will request to discontinue OMB Control Number 0584–0541 and to merge its information collections with OMB Control Number 0584–0447, WIC Farmers' Market Nutrition Program (FMNP) Program Regulations—Reporting and Recordkeeping Burden (expiration date: 8/31/2027). WIC FMNP and SFMNP have near-identical program requirements and are often administered by the same State agency as a ''consolidated'' program. Consolidating the two ICRs will allow FNS to more accurately and clearly capture the two programs' information collection burdens, place both programs on the same cycle of ICR renewals and reduce administrative inefficiencies at FNS.

State Plans are the principal source of information about how each State agency operates SFMNP. Going forward, State Plan submissions will occur through the Waivers and State Plans (WiSP) application, which allows State agencies to directly enter and submit State Plan information to FNS. The reporting and recordkeeping burdens associated with State agencies inputting and storing State Plan information are now covered by the WiSP ICR, which OMB approved on 12/31/2025 (OMB Control Number 0584–0704, expiration date 12/31/2028). FNS expects that, beyond the burdens covered in the WiSP ICR, State agencies will spend additional time collecting information from local agencies and authorized outlets in preparation for their State Plan submissions, and therefore this ICR maintains some State Plan-related reporting burden.

Information from participants and local agencies is collected through State agency-developed forms or Management Information Systems. The information collected is used by FNS to manage, plan, evaluate, make decisions and report on SFMNP operations. Along with State Plans, all State agencies also submit the Federal-State Supplemental Nutrition Programs Agreement (FNS–339), for which the associated reporting and recordkeeping burden is approved under OMB Control Number 0584–0332 (expiration Date: 8/31/2028).

Additionally, SFMNP financial and participation data are collected using the SFMNP Annual Financial and Program Data Report (FNS 683A). This form and its associated reporting burdens are approved under OMB Control Number 0584–0594, Food Programs Reporting System (FPRS) (expiration date: 9/30/2026). The recordkeeping burden associated with form FNS 683A is not approved under OMB Control Number 0584–0594. State agencies must maintain records in order to support data reported in FPRS, and the burden for such record maintenance is captured in this ICR, OMB Control Number 0584–0541.

With this reinstatement, FNS is requesting to revise the burden hours that were previously approved to capture program changes and program adjustments. The most significant program changes reported are due to SFMNP State agencies transitioning from paper coupon systems to electronic benefit systems. Additional program changes include the creation of the WiSP application for SFMNP State agencies to submit State Plans, and corrections to more accurately capture program requirements. The program adjustments account for changes in the number of participants, authorized outlets (farmers, farmers' markets, roadside stands, and CSA programs), and State and local agencies.

The previously approved burden for the SFMNP collection was 1,137,363 hours. FNS estimates 821,356 total burden hours with this reinstatement and revision, which is a decrease of 316,007 hours. The previously approved

number of responses for the SFMNP collection was 2,401,277 total annual responses. FNS estimates 2,679,019 total annual responses with this reinstatement and revision, which is an increase of 277,741 total annual responses.

Affected Public: Individuals/Households, Business or Other for Profit; Not for Profit; State, Local, and Tribal Government. Respondent groups identified include: (1) SFMNP participants who are income-eligible seniors; (2) SFMNP authorized outlets which are farmers, farmers' markets, roadside stands, and CSA programs; (3) non-profit businesses operating as local agencies; and (4) local and State agencies (including geographic States, U.S. Territories, and Indian Tribal Organizations) administering SFMNP.

Estimated Number of Respondents: The total estimated number of respondents is 858,570. This includes 56 SFMNP State agencies, 1,113 SFMNP local agencies (70 percent of which are operated by government entities and 30 percent of which are operated by non-profit businesses), 838,410 SFMNP individuals/households (*i.e.,* participants), and 18,991 authorized SFMNP outlets (farmers, farmers' markets, roadside stands, CSA programs).

Estimated Number of Responses per Respondent: The total estimated number of responses per respondent for this collection is 3.12.

Estimated Total Annual Responses: 2,679,019. The estimated total for reporting is 1,837,761 while the estimated total for recordkeeping is 841,257.

Estimated Time per Response: The estimated time per response averages approximately 19 minutes (0.31 hours) for all respondents. For the reporting burden, the estimated time per response varies from 5 minutes to 40 hours, while the estimated time per response for the recordkeeping burden varies from 1 minute to 40 hours, depending on the requirement.

Estimated Total Annual Burden on Respondents: 821,356 hours. The estimated total reporting burden is 803,374 hours while the estimated total recordkeeping burden is 17,983 hours.

See the table below for estimated total annual burden for each type of respondent.

TABLE 1—ESTIMATE OF THE COLLECTION OF INFORMATION BURDEN TABLE FOR REPORTING

Respondent	Regulatory section	Information collected	Estimated number of respondents	Responses per respondent	Total annual responses	Hours per response	Total annual burden hours
State & Local Agencies	249.3(d)	Local Agency Applications	779.10	0.50	389.55	2.00	779.10
State & Local Agencies	249.4	State Plan	56.00	1.00	56.00	20.00	1,120.00
State & Local Agencies	249.6, 249.10(i)	Participant Certification and Instructions.	56.00	14,971.61	838,410.00	0.25	209,602.50
State & Local Agencies	249.9	Development and Coordination of Nutrition Education.	56.00	1.00	56.00	5.00	280.00
State & Local Agencies	249.10(a)(2)–(3), (b), (c).	Authorization—Review of Outlet Applications (Farmers, Farmers' Markets, Roadside Stands, CSA Programs).	56.00	113.04	6,330.33	0.25	1,582.58
State & Local Agencies	249.10(a)(7), (d)	Development of Annual Training for Authorized Outlets.	56.00	1.00	56.00	8.00	448.00
State & Local Agencies	249.10(a)(7), (d)	Annual Training for Authorized Outlets.	56.00	15.00	840.00	2.00	1,680.00
State & Local Agencies	249.10(b)(8)	Disqualification of Authorized Outlets.	5.00	1.00	5.00	0.0835	0.42
State & Local Agencies	249.10(e)(2)(3), 249.17(c)(1)(i).	Monitoring/Review of Authorized Outlets.	56.00	33.91	1,899.10	1.50	2,848.65
State & Local Agencies	249.10(e)(4), 249.17(c)(1)(ii)–(iii).	Monitoring/Review of Local Agencies.	56.00	9.94	556.50	2.00	1,113.00
State & Local Agencies	249.10(f)	Coupon/CSA Management System	56.00	1.00	56.00	5.00	280.00
State & Local Agencies	249.10(h)	*Coupon reconciliation*					*115.50*
State & Local Agencies	249.10(h)	Paper Coupon Reconciliation	22.00	1.00	22.00	3.00	66.00
State & Local Agencies	249.10(h)	Electronic Benefit Reconciliation	33.00	1.00	33.00	1.50	49.50
State & Local Agencies	249.10(j)	Authorized Outlet and Participant Complaints.	56.00	19.00	1,064.00	1.00	1,064.00
State & Local Agencies	249.10(k)	Authorized Outlet and Participant Sanctions.	56.00	306.21	17,148.02	0.0835	1,431.86
State & Local Agencies	249.11	Financial Management System (Disclosure of Financial Expenditures).	56.00	1.00	56.00	10.00	560.00
State & Local Agencies	249.12(a)(2)	Prior Approval for Cost Items per 2 CFR part 200, subpart E, and 2 CFR parts 400 and 415.	5.00	1.00	5.00	40.00	200.00
State & Local Agencies	249.17(a)	Establishment of Management Evaluation System.	1.00	1.00	1.00	24.00	24.00
State & Local Agencies	249.17(b)(2)(ii)	State Agency Corrective Action Plans.	8.00	1.00	8.00	10.00	80.00
State & Local Agencies	249.17(c)(2)	Special Reports	2.00	1.00	2.00	10.00	20.00
State & Local Agencies	249.18(b)	Audit Responses	1.00	1.00	1.00	15.00	15.00
Subtotal: State & Local Agencies.			835.10	1,038.19	866,994.50	0.26	223,244.61
Individuals/Households	249.6, 249.10(i)	Certification Data and Instructions for Participants.	838,410.00	1.00	838,410.00	0.25	209,602.50
Individuals/Households	249.10(j)	Participant Complaints	578.00	1.00	578.00	0.50	289.00
Individuals/Households	249.16(a)(1)(i)–(ii)	Appeal of Denial	335.36	1.00	335.36	2.00	670.73
Subtotal: Individuals/Households.			838,410.00	1.00	839,323.36	0.25	210,562.23

TABLE 1—ESTIMATE OF THE COLLECTION OF INFORMATION BURDEN TABLE FOR REPORTING—Continued

Respondent	Regulatory section	Information collected	Estimated number of respondents	Responses per respondent	Total annual responses	Hours per response	Total annual burden hours
Authorized Outlets & Non-Profit Businesses.	249.3(d)	Non-Profit Business Local Agency Applications.	333.90	0.50	166.95	2.00	333.90
Authorized Outlets & Non-Profit Businesses.	249.10(b),(c)	Authorized Outlet Agreements	6,330.33	1.00	6,330.33	0.0835	528.58
Authorized Outlets & Non-Profit Businesses.	249.10(b)(8)	Appeal of Denial	1.00	1.00	1.00	2.00	2.00
Authorized Outlets & Non-Profit Businesses.	249.10(d)	Annual Training for Authorized Outlets (New and Returning).	18,991.00	1.00	18,991.00	2.00	37,982.00
Authorized Outlets & Non-Profit Businesses.	*249.10(e)(1)*	*Coupon Reimbursement*					*330,477.31*
Authorized Outlets & Non-Profit Businesses.	249.10(e)(1)	Paper Coupon Reimbursement & Electronic Benefit Mail-In.	8,478.13	9.00	76,303.13	4.00	305,212.50
Authorized Outlets & Non-Profit Businesses.	249.10(e)(1)	Electronic Benefit Reimbursement via Hybrid Processing.	2,373.88	9.00	21,364.88	1.00	21,364.88
Authorized Outlets & Non-Profit Businesses.	249.10(e)(1)	Electronic Benefit Reimbursement via Electronic Processing.	7,799.88	1.00	7,799.88	0.50	3,899.94
Authorized Outlets & Non-Profit Businesses.	249.10(j)	Authorized Outlet Complaints	486.00	1.00	486.00	0.50	243.00
Subtotal: Authorized Outlets & Non-Profit Businesses.			19,324.90	6.80	131,443.16	2.81	369,566.80
Grand Subtotal: Reporting.			858,570.00	2.14	1,837,761.03	0.44	803,093.63

TABLE 2—ESTIMATE OF THE COLLECTION OF INFORMATION BURDEN TABLE FOR RECORDKEEPING

Respondent	Regulatory section	Information collected	Estimated number of respondents	Responses per respondent	Total annual responses	Hours per response	Total annual burden hours
State & Local Agencies	249.4(c)	State Plan Record Maintenance	0.00	0.00	0.00	0.00	0.00
State & Local Agencies	249.9	Nutrition Education Records	56.00	14,971.61	838,410.00	0.0167	14,001.45
State & Local Agencies	249.10(a)(4),(d)	Authorized Outlet Training Records.	56.00	1.00	56.00	2.00	112.00
State & Local Agencies	249.10(b)	Authorized Outlet Agreements	56.00	1.00	56.00	2.00	112.00
State & Local Agencies	248.10(b)(8)	Maintenance of Disqualification and Sanction Records.	56.00	1.00	56.00	0.167	9.35
State & Local Agencies	249.10(e)(2)–(3); 249.17(c)(1)(i).	Monitoring/Review of Authorized Outlets.	56.00	33.91	1,899.10	0.50	949.55
State & Local Agencies	249.10(e)(4); 249.17(c)(1)(ii).	Monitoring/Review of Local Agencies.	56.00	9.94	556.50	0.50	278.25
State & Local Agencies	249.11(c)	Record of Financial Expenditures	56.00	1.00	56.00	2.00	112.00
State & Local Agencies	249.16(a)	Fair Hearings	56.00	1.00	56.00	1.00	56.00
State & Local Agencies	249.17(a)	Maintenance of Management Evaluations.	56.00	1.00	56.00	2.00	112.00
State & Local Agencies	249.23(a)	Records of Program Operations	56.00	1.00	56.00	40.00	2,240.00
Grand Subtotal: Recordkeeping.			56.00	15,022.46	841,257.60	0.02	17,982.60

TABLE 3—SUMMARY TABLE

	Estimated number of respondents	Responses per respondent	Total annual responses	Hours per response	Total annual burden hours
Total Reporting Burden	858,570	2.14	1,837,761	0.44	803,374
Total Recordkeeping Burden	56	15,022.46	841,258	0.02	17,983
Total Burden for #0584–0541	858,570	3.12	2,679,019	0.31	821,356

Patrick A. Penn,

Deputy Under Secretary, Food, Nutrition, and Consumer Services.

[FR Doc. 2026–06062 Filed 3–27–26; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

National Agricultural Statistics Service

Notice of Intent To Request Revision and Extension of a Currently Approved Information Collection

AGENCY: National Agricultural Statistics Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the intent of the National Agricultural Statistics Service (NASS) to request revision and extension of a currently approved information collection, the Livestock Slaughter Survey. Revision to burden hours may be needed due to changes in the size of the target population, sampling design, and/or questionnaire length.

DATES: Comments on this notice must be received by May 29, 2026 to be assured of consideration.

ADDRESSES: You may submit comments, identified by docket number 0535–0005, by any of the following methods:

- *Email: ombofficer@nass.usda.gov*. Include docket number above in the subject line of the message.
- *E-fax:* (855) 838–6382.
- *Mail:* Mail any paper, disk, or CD–ROM submissions to: NASS OMB Clearance Officer, U.S. Department of Agriculture, Room 5336 South Building, 1400 Independence Avenue SW, Washington, DC 20250–2024.
- *Hand Delivery/Courier:* Hand deliver to: NASS OMB Clearance Officer, U.S. Department of Agriculture, Room 5336 South Building, 1400 Independence Avenue SW, Washington, DC 20250–2024.

FOR FURTHER INFORMATION CONTACT: Jody R. McDaniel, Associate Administrator, National Agricultural Statistics Service, U.S. Department of Agriculture, (202) 720–2707. Copies of this information collection and related instructions can be obtained without charge from NASS OMB Clearance Officer, at (202) 720–2206 or at *ombofficer@nass.usda.gov*.

SUPPLEMENTARY INFORMATION:

Title: Livestock Slaughter Survey.

OMB Control Number: 0535–0005.

Expiration Date of Approval: January 31, 2027.

Type of Request: Intent to revise and extend a currently approved information collection for a period of three years.

Abstract: The primary objective of the National Agricultural Statistics Service is to prepare and issue State and national estimates of crop and livestock production, prices, and disposition as well as economic statistics, farm numbers, land values, on-farm pesticide usage, pest crop management practices, as well as the Census of Agriculture. Livestock slaughter data are used to estimate U.S. red meat production and reconcile inventory estimates which provide producers and the rest of the industry with current and future information on market supplies. This data is also used in preparing production, disposition, and income statistics which facilitate more orderly production, marketing, and processing of livestock and livestock products. NASS compiles data from both Federally Inspected and Non-Federally Inspected Slaughter Plants.

Authority: These data will be collected under authority of 7 U.S.C. 2204(a). Individually identifiable data collected under this authority are governed by Section 1770 of the Food Security Act of 1985 as amended, 7 U.S.C. 2276, which requires USDA to afford strict confidentiality to non-aggregated data provided by respondents. This Notice is submitted in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–113) and Office of Management and Budget regulations at 5 CFR part 1320.

All NASS employees and NASS contractors must also fully comply with all provisions of the Confidential Information Protection and Statistical Efficiency Act (CIPSEA) of 2018, Title III of Public Law 115–435, codified in 44 U.S.C. Ch. 35. CIPSEA supports NASS's pledge of confidentiality to all respondents and facilitates the agency's efforts to reduce burden by supporting statistical activities of collaborative agencies through designation of NASS agents, subject to the limitations and penalties described in CIPSEA.

Estimate of Burden: The Livestock Slaughter Survey includes a weekly survey of approximately 1,100 Federally Inspected (FI) slaughter plants and a monthly survey of approximately 1,060 State Inspected (SI) slaughter plants. Slaughter data is compiled by the Federal and State inspectors, therefore NASS does not contact these operations. NASS collects data only from the smaller independent plants and combines this data with the FI and SI data to create a national report. The smaller, independent operations (approximately 600 operations) are contacted either monthly, quarterly, or annually. Public reporting burden for this collection of information is estimated to average 15 minutes per response for an estimated annual burden of 1,050 hours. (The USDA and State inspectors are not included in the calculation of total burden, since they are performing this task as a part of their job functions.)

Respondents: Farmers and custom/state inspected slaughter plants.

Estimated Number of Respondents: 600.

Estimated Total Annual Burden on Respondents: 1,050 hours.

Comments: Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, technological or other forms of information technology collection methods.

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

Signed at Washington, DC, March 9, 2026.

Jody R. McDaniel,

Associate Administrator.

[FR Doc. 2026–06122 Filed 3–27–26; 8:45 am]

BILLING CODE 3410–20–P

DEPARTMENT OF COMMERCE

Bureau of Economic Analysis

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Direct Investment Surveys: BE–605, Quarterly Survey of Foreign Direct Investment in the United States—Transactions of U.S. Affiliate With Foreign Parent

The Department of Commerce will submit the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication

of this notice. We invite the general public and other Federal agencies to comment on proposed, and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. Public comments were previously requested via the **Federal Register** on 1/15/2026 during a 60-day comment period. This notice allows for an additional 30 days for public comments.

Agency: Bureau of Economic Analysis (BEA), Commerce.

Title: Quarterly Survey of Foreign Direct Investment in the United States.

OMB Control Number: 0608–0009.

Form Number: BE–605.

Type of Request: Revision.

Number of Respondents: 2,100 per quarter; 8,400 annually.

Average Hours per Response: 1 hour is the average but may vary considerably among respondents because of differences in company structure and complexity.

Burden Hours: 8,400.

Needs and Uses: The Quarterly Survey of Foreign Direct Investment in the United States (BE–605) obtains quarterly data on transactions and positions between foreign-owned U.S. business enterprises and their ''affiliated foreign groups'' (*i.e.,* their foreign parents and foreign affiliates of their foreign parents). The survey is a sample survey that covers all U.S. affiliates, except for certain private funds, above a size-exemption level. The sample data are used to derive universe estimates of direct investment transactions, positions, and income in nonbenchmark years from similar data reported in the BE–12, Benchmark Survey of Foreign Direct Investment in the United States, which is conducted every five years. The data collected through the BE–605 survey are essential for the preparation of the U.S. international transactions accounts, the national income and product accounts, and the net international investment position accounts of the United States. The data are needed to measure the size and economic significance of foreign direct investment in the United States, measure changes in such investment, and assess its impact on the U.S. economy.

Affected Public: Businesses or other for-profit organizations.

Frequency: Quarterly.

Respondent's Obligation: Mandatory.

Legal Authority: International Investment and Trade in Services Survey Act (Pub. L. 94–472, 22 U.S.C. 3101–3108, as amended).

This information collection request may be viewed at *www.reginfo.gov.* Follow the instructions to view Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function and entering either the title of the collection or the OMB Control Number 0608–0009.

Sheleen Dumas,

Departmental PRA Compliance Officer, Office of the Under Secretary for Economic Affairs, Commerce Department.

[FR Doc. 2026–06040 Filed 3–27–26; 8:45 am]

BILLING CODE 3510–06–P

DEPARTMENT OF COMMERCE

Bureau of Economic Analysis

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Direct Investment Surveys: BE–13, Survey of New Foreign Direct Investment in the United States

The Department of Commerce will submit the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. We invite the general public and other Federal agencies to comment on proposed, and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. Public comments were previously requested via the **Federal Register** on 01/16/2026 during a 60-day comment period. This notice allows for an additional 30 days for public comments.

Agency: Bureau of Economic Analysis (BEA), Commerce.

Title: Survey of New Foreign Direct Investment in the United States.

OMB Control Number: 0608–0035.

Form Number: BE–13.

Type of Request: Regular submission, reinstatement without change.

Number of Respondents: 3,417 annually, of which approximately 402 file BE–13A forms, 74 file BE–13B forms, 49 file BE–13D forms, 165 file BE–13E forms, and 2,727 file BE–13 Claim for Exemption forms.

Average Hours per Response: 0.6 hours is the average but may vary considerably among respondents because of differences in company structure and complexity.

Burden Hours: 2,032.

Needs and Uses: The Survey of New Foreign Direct Investment in the United States (BE–13) collects information on the acquisition and establishment of U.S. business enterprises by foreign investors and on expansions by existing U.S. affiliates of foreign companies. The data collected on the survey are used to measure the amount of new foreign direct investment in the United States, assess the impact on the U.S. economy, and ensure complete coverage of BEA's other foreign direct investment statistics. This mandatory BE–13 survey is required from business enterprises subject to the reporting requirements, whether or not they are contacted by BEA. Business enterprises contacted by BEA that do not meet the reporting requirements are required to respond to indicate that they do not meet the requirements.

Affected Public: Businesses or other for-profit organizations.

Frequency: Forms BE–13A, BE–13B, BE–13D, and BE–13 Claim for Exemption are filed once for a new investment. Form BE–13E is filed annually for up to three years after the year of the establishment or expansion of the U.S. business enterprise.

Respondent's Obligation: Mandatory.

Legal Authority: International Investment and Trade in Services Survey Act (Pub. L. 94–472, 22 U.S.C. 3101–3108, as amended).

This information collection request may be viewed at *www.reginfo.gov.* Follow the instructions to view Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function and entering either the title of the collection or the OMB Control Number 0608–0035.

Sheleen Dumas,

Departmental PRA Compliance Officer, Under Secretary for Economic Affairs, Commerce Department.

[FR Doc. 2026–06039 Filed 3–27–26; 8:45 am]

BILLING CODE 3510–06–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Technology Letter of Explanation

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Notice of information collection, request for comment.

SUMMARY: The Department of Commerce, in accordance with the Paperwork Reduction Act of 1995 (PRA), invites the general public and other Federal agencies to comment on proposed, and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. The purpose of this notice is to allow for 60 days of public comment preceding submission of the collection to OMB.

DATES: To ensure consideration, comments regarding this proposed information collection must be received on or before May 29, 2026.

ADDRESSES: Interested persons are invited to submit comments by email to Nancy Kook, IC Liaison, Bureau of Industry and Security, at *PRA@bis.doc.gov* or to *PRAcomments@doc.gov.* Please reference OMB Control Number 0694–0047 in the subject line of your comments. Do not submit Confidential Business Information or otherwise sensitive or protected information.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or specific questions related to collection activities should be directed to Nancy Kook, Information Collection Liaison, Bureau of Industry and Security, phone 202–482–2440 or by email at *PRA@bis.doc.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

This collection is necessary under section 748.8(o) and Supplement 2 section (o) to Part 748 of the Export Administration Regulations (EAR). Licensing officers must make decisions on licensing the export of United States commodities and technical data to foreign countries. When an export involves certain technical data or know how described in the Export Administration Regulation, additional information is required to fully understand the transaction and make a licensing decision. The Technology Letter of Explanation provides a written description of the technology proposed for export sufficient to allow BIS technical staff to evaluate the impact of licensing the export on United States national security and foreign policy. The letter of assurance puts the consignee on notice that the technology is subject to U.S. export controls and causes the consignee to certify that it will not release the data or the direct product of the data to certain specified country group nationals; thus providing assurance that U.S. national security data will be safeguarded and used only for the stated end use. The additional information is necessary to evaluate technology exports as covered under this collection.

II. Method of Collection

Electronic.

III. Data

OMB Control Number: 0694–0047.

Form Number(s): None.

Type of Review: Regular submission, extension of a current information collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 5,002.

Estimated Time per Response: 30 min to 2 hours.

Estimated Total Annual Burden Hours: 8,945.

Estimated Total Annual Cost to Public: 0.

Respondent's Obligation: Voluntary.

Legal Authority: EAR Section 748.8 and Supp 2 Section (o) to Part 748.

IV. Request for Comments

We are soliciting public comments to permit the Department/Bureau to: (a) Evaluate whether the proposed information collection is necessary for the proper functions of the Department, including whether the information will have practical utility; (b) Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used; (c) Evaluate ways to enhance the quality, utility, and clarity of the information to be collected; and (d) Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this ICR. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you may ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Sheleen Dumas,

Departmental PRA Compliance Officer, Office of the Under Secretary for Economic Affairs, Commerce Department.

[FR Doc. 2026–06120 Filed 3–27–26; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XF124]

Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to the Washington State Parks and Recreation Commission's Marine Facilities Replacement Program in North Puget Sound, Washington

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

ACTION: Notice; receipt of application for Letter of Authorization; request for comments and information.

SUMMARY: NMFS has received a request from the Washington State Parks and Recreation Commission (State Parks) for authorization to take marine mammals incidental to the Marine Facilities Replacement Program (MFRP) in North Puget Sound, Washington, for a period of 5 years from the date of issuance. Pursuant to regulations implementing the Marine Mammal Protection Act (MMPA), NMFS is announcing receipt of the State Parks' request for the development and implementation of regulations governing the incidental taking of marine mammals. NMFS invites the public to provide information, suggestions, and comments on the State Parks' application and request.

DATES: Comments and information must be received no later than April 29, 2026.

ADDRESSES: Comments on the application 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.*

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 received electronically, including all attachments, must not exceed a 25-megabyte file size. Attachments to electronic comments will be accepted in Microsoft Word, Excel, or Adobe PDF file formats only. All comments received are a part of the public record and will generally be posted online at *https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-construction-activities* 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. An electronic copy of the State Parks' application 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 above.

SUPPLEMENTARY INFORMATION:

Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct 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 issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

An incidental take authorization shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant), and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring, and reporting of such takings are set forth.

NMFS has defined ''negligible impact'' in 50 CFR 216.103 as an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.

The MMPA states that the term ''take'' means to harass, hunt, capture, kill, or attempt to harass, hunt, capture, or kill any marine mammal.

Except for certain activities not pertinent here, 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 causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).

Summary of Request

On April 30, 2025, NMFS received an application from the State Parks requesting authorization to take marine mammals incidental to the MFRP, specifically the repair and improvement of six marine facilities in four State Parks within North Puget Sound in Western Washington (the San Juan Islands and Deception Pass). We provided comments on the application, and the State Parks submitted a revised version on July 25, 2025. The application subsequently underwent substantial updates due to project changes, and a final application was received on March 23, 2026. The application was deemed adequate and complete on March 24, 2026. The requested regulations would be valid for 5 years, from August 1, 2026, through July 31, 2031. The State Parks plans to conduct necessary work, including pile driving and removal (vibratory and impact) and rotary drilling (rock socket drilling or down-the-hole (DTH) drilling). Only pile removal and installation associated with in-water construction and maintenance activities of the marine facilities are anticipated to result in takes of marine mammals due to elevated underwater noise. The underwater sound generated by these in-water activities may result in Level A harassment and/or Level B harassment of marine mammal species. Therefore, the State Parks requests authorization to incidentally take marine mammals.

Specified Activities

The purpose of the State Parks' activities is to conduct maintenance and improvement projects at Reid Harbor and Prevost Harbor in Stuart Island Marine State Park, at Fossil Bay in Sucia Island Marine State Park, at Olga Pier at Olga State Park, and at Bowman Bay and Rosario Pier at Deception Pass State Park. The proposed activities would include removing or replacing existing timber piles with aluminum and steel piles and structures to improve piers, ramps, floats, and moorage facilities. Construction activities will last up to 14 hours per day and will occur annually between August 1, 2026, and February 15, 2027, through 2031. The State Parks' application includes mitigation and monitoring measures designed to minimize impacts on marine mammals.

Information Solicited

Interested persons may submit information, suggestions, and comments concerning the State Parks' request (see **ADDRESSES**). NMFS will consider all information, suggestions, and comments related to the request during the development of proposed regulations governing the incidental taking of marine mammals by the State Parks, if appropriate.

Dated: March 25, 2026.

Kim Damon-Randall,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2026–06050 Filed 3–27–26; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Ocean Research Advisory Panel (ORAP)

AGENCY: 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 meeting of the Ocean Research Advisory Panel (ORAP). The members will discuss issues outlined in the section on *Matters to be Considered.*

DATES: The meeting is scheduled for May 21, 2026 from 9:00 a.m. to 1:00 p.m. Eastern Time (ET). These times and the agenda topics described below are subject to change.

For the latest agenda please refer to the ORAP website: *https://www.noaa.gov/ocean-research-advisory-panel/orap-public-meetings.*

ADDRESSES: The May 21, 2026 meeting will be at the AGU Conference Center, 2000 Florida Ave. NW, Washington, DC 20009. The link for the webinar registration will be posted, when available, on the ORAP website: *https://www.noaa.gov/ocean-research-advisory-panel/orap-public-meetings.*

FOR FURTHER INFORMATION CONTACT: Viviane Silva, ORAP Designated Federal

Officer (DFO), SSMC3, Room 11320, 1315 East-West Hwy., Silver Spring, MD 20910; Phone Number: 240–624–0656; Email: *DFO.orap@noaa.gov;* or visit the ORAP website at *https://www.noaa.gov/ocean-research-advisory-panel/orap-public-meetings*.

SUPPLEMENTARY INFORMATION: The Ocean Research Advisory Panel (ORAP) advises the Ocean Policy Committee (OPC) and provides independent recommendations to the Federal Government on matters of ocean policy.

Congress directed the establishment of the ORAP in Section 1055(c) of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021 (Pub. L. 116–283), 10 U.S.C. 8933.

Status: The May 21, 2026 meeting will be open to public participation with a 15-minute public comment period at time allocated on the published agenda. The ORAP 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 minutes. Written comments for the May 21, 2026 meeting should be received by May 8, 2026 by the ORAP DFO (*DFO.orap@noaa.gov*) to provide sufficient time for ORAP review. Written comments received by the ORAP DFO after this date will be distributed to the ORAP, but may not be reviewed prior to the meeting date.

Special Accommodations: These meetings are physically accessible to people with disabilities. Requests for special accommodations may be directed to the ORAP DFO no later than 12:00 p.m. EST on May 1, 2026.

Matters to be Considered: During the ORAP public meeting on December 13–14, 2023, the OPC requested that ORAP provide advice on two key areas. The first was to advise on opportunities for partnerships (such as through the National Oceanic Partnership Program) on the topic of emerging technology (which could include Artificial Intelligence/Machine Learning, eDNA, and similar technology) with ocean industry and other sectors over the next 5–10 years. The second request was for ORAP to self-select another topic for consideration. ORAP members determined that the topic of accessible, interoperable, interdisciplinary, and trusted ocean data is critical to meeting research and user needs and warranted immediate attention. ORAP delivered its first report, ''Toward a National Ocean Data Strategy,'' to the OPC in September 2024. At this meeting on May 21, 2026, ORAP will discuss the draft of its second report, ''Recommendations for Supporting Public-Private Partnerships to Advance Emerging Ocean Technologies,'' and decide if it is ready for approval and submission to the OPC. Additionally, the OPC Co-Chairs will provide an update on OPC priorities.

Meeting materials, including work products, will be made available on the ORAP website: *https://www.noaa.gov/ocean-research-advisory-panel/orap-public-meetings*.

Dated: March 26, 2026.

Nikola Garber,

Deputy Director of Sea Grant, Office of Oceanic and Atmospheric Research, National Oceanic and Atmospheric Administration.

[FR Doc. 2026–06068 Filed 3–27–26; 8:45 am]

BILLING CODE 3510–KD–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XF495]

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to Furie Operating Alaska, LLC Natural Gas Activities in Cook Inlet, Alaska

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

ACTION: Notice; request for comments on proposed renewal incidental harassment authorization.

SUMMARY: NMFS received a request from Furie Operating Alaska, LLC (Furie) for the renewal of their currently active incidental harassment authorization (IHA) to take marine mammals incidental to activities supporting natural gas production in Cook Inlet, Alaska. Furie's activities under the renewal IHA would be identical to a subset of those covered in the current IHA. Pursuant to the Marine Mammal Protection Act (MMPA), prior to issuing the current IHA, NMFS requested comments on two consecutive proposed IHAs (''initial IHAs'') and the potential for a renewal IHA if certain requirements were satisfied. The renewal requirements have been satisfied, and NMFS is now providing an additional 15-day comment period to allow for any additional comments on the proposed renewal of the current IHA not previously submitted during the initial IHA 30-day comment period.

DATES: Comments and information must be received no later than April 14, 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.Davis@noaa.gov.* Electronic copies of the original application, renewal request, and supporting documents (including NMFS' **Federal Register** notices of the original proposed and final authorizations, and the previous IHA), as well as a list of the references cited in this document, may be obtained online at: *https://www.fisheries.noaa.gov/permit/incidental-take-authorizations-under-marine-mammal-protection-act.* 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: Leah Davis, Office of Protected Resources, NMFS, (301) 427–8401.

SUPPLEMENTARY INFORMATION:

Background

The MMPA prohibits the ''take'' of marine mammals, with certain exceptions. Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct 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 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''); and requirements pertaining to the monitoring and reporting of the takings. The definition of all applicable MMPA statutory used above are included in the relevant sections below and can be found in section 3 of the MMPA (16 U.S.C. 1362) and NMFS' implementing regulations at 50 CFR 216.103 *et seq.*

NMFS' regulations implementing the MMPA at 50 CFR 216.107(e) indicate that an IHA may be renewed for an additional period of time not to exceed 1 year. In the **Federal Register** notice of proposed IHA for the initial IHAs (89 FR 51102, June 14, 2024), NMFS described the circumstances under which we would consider issuing a renewal IHA for this activity, and requested public comment on a potential renewal under those circumstances. Specifically, on a case-by-case basis, NMFS may issue a one-time, 1-year renewal of an 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 Detailed Description of Specified Activities section of the initial IHA issuance notice is planned or (2) the activities as described in the Description of the Specified Activities and Anticipated Impacts section of the initial IHA issuance notice would not be completed by the time the initial IHA expires and a renewal would allow for completion of the activities beyond that described in the **DATES** section of the notice of issuance of the initial IHA, provided all of the following conditions are met:

1. 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).

2. The request for renewal must include the following:

- 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); and
- 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.

3. 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.

An additional public comment period of 15 days (for a total of 45 days), with direct notice by email, phone, or postal service to commenters on the initial IHA, is provided to allow for any additional comments on the proposed renewal. A description of the renewal process may be found on our website at: *https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-harassment-authorization-renewals.* Any comments received on the potential renewal, along with relevant comments on the initial IHA, have been considered in the development of this proposed IHA renewal, and a summary of NMFS' responses to applicable comments is included in this notice. NMFS will consider any additional public comments prior to making any final decision on the issuance of the requested renewal, and agency responses will be summarized in the final notice of our decision.

History of Request

On September 12, 2024, NMFS issued two consecutive IHAs to Furie to take marine mammals incidental to activities supporting natural gas production in Cook Inlet Alaska (89 FR 77836, September 24, 2024), effective from September 13, 2024 through September 12, 2025 (initial Year 1) and September 13, 2025 through September 12, 2026 (initial Year 2). On December 23, 2025, NMFS received an application for the renewal of the initial Year 2 IHA. As described in Furie's IHA renewal application, the activities for which incidental take is requested are identical to a subset of those covered in the initial Year 2 IHA. As required, the applicant also provided a preliminary monitoring report which confirms that the applicant has implemented the required mitigation and monitoring, and which also shows that no impacts of a scale or nature not previously analyzed or authorized have occurred as a result of the activities conducted.

Description of the Specified Activities and Anticipated Impacts

Furie is planning to conduct natural gas activities in Middle Cook Inlet, Alaska. Furie proposes to relocate the Enterprise 151 jack-up production rig (Enterprise 151 or rig) to the Allegra Lee Platform (ALP; originally referred to as the JRP in the notice of proposed and final initial IHAs (89 FR 51102, June 14, 2024; 89 FR 77836, September 24, 2024) but since renamed). This activity represents a subset of the initial activity for which NMFS authorized incidental take. Furie proposes to conduct the rig towing activities between April 1 and November 15 each year, but if favorable ice conditions occur outside of that period, it may tow the rig outside of that period. Noise produced by rig towing may result in take, by Level B harassment only, of marine mammals.

The initial Year 2 IHA authorized take, by Level B harassment, of humpback whale (*Megaptera novaeangliae*), minke whale (*Balaenoptera acutorostrata*), gray whale (*Eschrichtius robustus*), fin whale (*Balaenoptera physalus*), killer whale (*Orcinus orca*), beluga whale (*Delphinapterus leucas*), Dall's porpoise (*Phocoenoides dalli*), harbor porpoise (*Phocoena phocoena*), Pacific white-sided dolphin (*Lagenorhynchus obliquidens*), harbor seal (*Phoca vitulina*), Steller sea lion (*Eumetopias jubatus*), and California sea lion (*Zalophus californianus*). The initial Year 2 IHA also authorized Level A harassment of harbor seal. Under the renewal IHA, NMFS proposes to authorize the same number of takes, by Level B harassment, as were authorized under the initial Year 2 IHA. Take by Level A harassment is not proposed for authorization under this renewal IHA, as the take by Level A harassment authorized in the initial Year 2 IHA was anticipated to occur from pile driving, and Furie is not proposing to conduct pile driving under this renewal IHA.

Detailed Description of the Activity

A detailed description of the rig tugging/positioning activities for which authorization of take is proposed here may be found in the notices of the proposed and final IHAs for the initial IHAs (89 FR 51102, June 14, 2024; 89 FR 77836, September 24, 2024). The location, timing, and nature of the activities, including the types of equipment planned for use, are identical to a subset of those described in the previous notices. Furie is proposing to conduct rig towing/positioning under

this proposed renewal IHA. It expects to conduct two rig moves during the requested renewal period between September 13, 2026, and September 12, 2027. The first is expected in late fall 2026 (October or November). The second is anticipated during the early to middle part of the 2027 open-water season, depending on rig availability. Furie is not proposing to conduct pile driving during the renewal IHA period. The proposed renewal would be effective for a period not exceeding 1 year from the date of expiration of the initial Year 2 IHA.

Description of Marine Mammals

A description of the marine mammals in the area of the activities for which authorization of take is proposed here, including information on abundance, status, and distribution, may be found in the notices of the proposed and final initial IHAs (89 FR 51102, June 14, 2024; 89 FR 77836, September 24, 2024). NMFS has reviewed the monitoring data from the initial IHAs, current Stock Assessment Reports, information on relevant Unusual Mortality Events, and other scientific literature. Except as discussed below, we have determined there is no other new information that affects which species or stocks have the potential to be affected or the pertinent information in the Description of the Marine Mammals in the Area of Specified Activities contained in the supporting documents for the initial IHAs. Specifically, since issuance of the initial IHAs, the abundance estimates have been updated for the Eastern North Pacific stock of gray whale (decrease), Cook Inlet beluga whale (increase), and Western stock of Steller sea lion (decrease). See table 1 for additional information.

Potential Effects on Marine Mammals and Their Habitat

A description of the potential effects of the specified activity on marine mammals and their habitat for the activities for which authorization of incidental take is proposed here may be found in the notice of the proposed initial IHAs (89 FR 51102, June 14, 2024). NMFS has reviewed the monitoring data from the initial IHAs, current Stock Assessment Reports, information on relevant Unusual Mortality Events, and other scientific literature, and determined that there is no new information that affects our initial analysis of impacts on marine mammals and their habitat.

Estimated Take

A detailed description of the methods and inputs used to estimate take for the specified activity are found in the notices of the proposed and final initial IHAs (89 FR 51102, June 14, 2024; 89 FR 77836, September 24, 2024).

In its renewal request, Furie provided updated marine mammal densities for all species except Cook Inlet beluga whale, Pacific white-sided dolphin, and California sea lion, incorporating data from Shelden *et al.* (2022) and Goetz *et al.* (2023). Relative to the densities applied in estimating take for the initial Year 2 IHA, the densities of humpback whale, minke whale, killer whale, and harbor seal increased slightly, while the densities for gray whale, fin whale, Dall's porpoise, harbor porpoise, and Steller sea lion decreased slightly. For Cook Inlet beluga whale, Furie's application utilized the density applied in estimating take for the initial Year 2 IHA. Densities were not considered for Pacific white-sided dolphin and California sea lion in the analysis for the initial Year 2 IHA given the extremely low occurrence of these species in the project area.

As stated in the notices of proposed and final initial IHAs (89 FR 51102, June 14, 2024; 89 FR 77836, September 24, 2024), while Shelden *et al.* (2022) and Goetz *et al.* (2023) provide more recent survey data than that incorporated into the density estimate, the surveyed area was not included in either report, therefore NMFS did not incorporate them into the density calculation. For this proposed renewal IHA, NMFS continues to rely upon the density applied in the analysis for the initial Year 2 IHA. For harbor seal, while applying the density Furie proposed in its renewal application would result in an estimated 187 takes by Level B harassment, given that Furie has not observed harbor seals under the Year 1 IHA or to date under the Year 2 IHA, NMFS proposes to authorize 168 takes by Level B harassment of harbor seal under this proposed renewal. This is generally consistent with the initial Year 2 IHA, but does not include take associated with pile driving, as Furie does not propose to pile drive under this renewal IHA. For Steller sea lion, Furie requested, and NMFS is proposing to authorize five takes by Level B harassment.

For all species except for harbor seal and Steller sea lion, applying the densities Furie proposed in its renewal application does not affect the estimated take, as each of these take estimates is lower than assumed average group size, and is therefore rounded up to account for group size (see the notices of proposed and final initial IHAs (89 FR 51102, June 14, 2024; 89 FR 77836, September 24, 2024) for more detailed group size information). NMFS authorized six takes of Dall's porpoise (two groups of three animals) in the initial Year 2 IHA. Furie requested three takes of Dall's porpoise in its renewal request, and given that Furie has not observed Dall's porpoises under the Year 1 IHA or to date under the Year 2 IHA, NMFS proposes to authorize three takes by Level B harassment of Dall's porpoise under this proposed renewal. NMFS authorized 10 takes of killer whale in the initial Year 2 IHA. Furie requested eight takes of killer whale in its renewal request. However, despite the lack of observations of killer whale, NMFS is proposing to authorize 10 takes of killer whale (2 groups of 5 animals), consistent with the initial Year 2 IHA.

The source levels and days of operation applicable to this authorization remain unchanged from the previously issued Year 2 IHA. Similarly, the stocks taken, methods of take, and types of take remain unchanged from the previously issued IHA, as do the number of takes, which are indicated below in Table 1.

TABLE 1—TAKE PROPOSED FOR AUTHORIZATION AS A PERCENTAGE OF STOCK ABUNDANCE

Species	Stock	Abundance (Nbest)	Total take (Level B harassment only)	Take as a percentage of stock abundance
Humpback whale	Hawaii (Hawaii DPS)	11,278	3	<1
	Mexico—North Pacific (Mexico DPS)	[1] UND		N/A
	Western North Pacific	1,084		<1
Minke whale	Alaska	[2] UND	3	N/A
Gray whale	Eastern Pacific	[3] 25,960	3	<1
Fin whale	Northeast Pacific	[4] UND	2	N/A
Killer whale	Eastern North Pacific Alaska Resident	1,920	10	<1

TABLE 1—TAKE PROPOSED FOR AUTHORIZATION AS A PERCENTAGE OF STOCK ABUNDANCE—Continued

Species	Stock	Abundance (Nbest)	Total take (Level B harassment only)	Take as a percentage of stock abundance
	Eastern North Pacific Gulf of Alaska, Aleutian Islands, and Bering Sea Transient.	587	.....	<1
Beluga	Cook Inlet	[5] 331	11	3.3
Dall's porpoise	Alaska	[6] UND	3	N/A
Harbor porpoise	Gulf of Alaska	31,046	12	<1
Pacific white-sided dolphin	North Pacific	26,880	3	<1
Harbor seal	Cook Inlet/Shelikof	28,411	168	<1
Steller sea lion	Western U.S	[7] 49,837	5	<1
California sea lion	U.S	257,606	2	<1

Note: UND = Undetermined.

[1] Abundance estimates are based upon data collected more than 8 years ago and, therefore, current estimates are considered unknown. The most recent minimum population estimates (N_{min}) for this population include an estimate of 2,241 individuals between 2003 and 2006 (Martinez-Aguilar 2011) and 766 individuals between 2004 and 2006 (Wade 2021). Assuming the population has been stable, and that the 3 authorized takes of humpback whale will all be of the Mexico-North Pacific stock, this represents less than 1 percent of the stock abundance given an a N_{min} of 2,241 individuals or 766 individuals.

[2] Reliable population estimates are not available for this stock. The most relevant estimate of partial stock abundance is 1,233 minke whales in coastal waters of the Alaska Peninsula and Aleutian Islands (Zerbini *et al.* 2006).

[3] The abundance estimate used in the analysis for the initial Year 2 IHA was 26,960.

[4] The best available abundance estimate for this stock is not considered representative of the entire stock as surveys were limited to a small portion of the stock's range. The N_{min} is estimated to be 2,554.

[5] The abundance estimate used in the analysis for the initial Year 2 IHA was 279.

[6] The most recent abundance estimate is greater than 8 years old. The minimum population estimate is assumed to correspond to the point estimate of the 2015 vessel-based abundance computed by Rone *et al.* (2017) in the Gulf of Alaska (N = 13,110; CV = 0.22) (Young *et al.* 2024).

[7] The abundance estimate used in the analysis for the initial Year 2 IHA was 49,932. Nest is best estimate of counts, which have not been corrected for animals at sea during abundance surveys.

On October 24, 2024, NMFS published (89 FR 84872) its final Updated Technical Guidance (*https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-acoustic-technical-guidance-other-acoustic-tools*), which includes updated thresholds and weighting functions to inform auditory injury estimates and replaces the 2018 Technical Guidance referenced in the notices of the proposed and final initial IHAs (89 FR 51102, June 14, 2024; 89 FR 77836, September 24, 2024). However, as stated in those notices, take by Level A harassment is not anticipated to occur from rig tugging/positioning, and the Updated Technical Guidance does not change this conclusion.

Description of Proposed Mitigation, Monitoring and Reporting Measures

The proposed mitigation, monitoring, and reporting measures included as requirements in this authorization are identical to those included in the **Federal Register** notice announcing the issuance of the initial IHAs for rig tugging/positioning (the only activity for which Furie has requested take under this proposed renewal IHA), and the discussion of the least practicable adverse impact included in that document remains accurate. The following measures are proposed for this renewal:

- Furie must employ protected species observers (PSOs) and establish monitoring locations as described in the Marine Mammal Monitoring Plan (Monitoring Plan). Furie must monitor the project area to the maximum extent possible based on the required number of PSOs, required monitoring locations, and environmental conditions.
- Furie must coordinate with local Tribes as described in its Stakeholder Engagement Plan, notify the communities of any changes in the operation, and take action to avoid or mitigate impacts to subsistence harvests.
- Furie must establish clearance zones for all marine mammal species. For Cook Inlet beluga whale, Furie must establish a clearance zone that extends as far as PSOs can feasibly observe. For all marine mammal species other than Cook Inlet beluga whale, Furie must establish a clearance zone that extends 1.5 km from the jack-up rig.
- Prior to commencing new operational activities in daylight hours, or if there is a 30-minute lapse in operational activities, two NMFS-approved PSOs must observe the clearance zones for 30 minutes. Transitioning from towing to positioning without shutting down is not considered commencing an operational activity. If no marine mammals are observed within the relevant clearance zone during those 30 minutes, activities may commence. If a non-beluga marine mammal(s) is observed within the relevant clearance zone during those 30 minutes, operations may not commence until the PSO(s) observe that one of the following conditions is met, unless the delay interferes with the safety of working conditions: (1) the non-beluga animal(s) is outside of and on a path away from the clearance zone; or (2) for non-ESA-listed species, 15 minutes have elapsed without observing the marine mammal, or for ESA-listed species, 30 minutes have elapsed without observing the marine mammal. If a beluga whale is observed within the relevant clearance zone during those 30 minutes, operations may not commence until the beluga whale(s) is no longer detected at any range and 30 minutes have elapsed without any observations of beluga whales.
- Prior to commencing new operational activities in nighttime hours, or if there is a 30-minute lapse in operational activities in low/no-light conditions, two NMFS-approved PSOs must observe out to the greatest extent feasible while using night vision devices for 30 minutes (*i.e.,* pre-clearance monitoring). Transitioning from towing to positioning without shutting down is not considered commencing an operational activity. If no marine mammals are observed during those 30 minutes, activities may commence. If a marine mammal(s) is observed during those 30 minutes, operations may not commence until the PSO(s) observe that one of the following conditions is met, unless the delay interferes with the safety of working conditions: (1) the animal(s) is outside of the observable area, or (2) for non-ESA-listed species, 15 minutes have elapsed without observing the marine mammal, or for ESA-listed species, 30 minutes have elapsed without observing the marine mammal.
- All monitoring must continue through 30 minutes post-completion of any operations each day, and after each stoppage of 30 minutes or greater.
- Furie must conduct tug towing rig operations with a favorable tide unless

human safety or equipment integrity are at risk.

- Furie may only conduct tug towing rig activities at night if necessary to accommodate a favorable tide.
- If a species for which authorization has not been granted, or a species for which authorization has been granted but the authorized takes have been reached, is observed approaching or within the clearance zone, tugging activities must be delayed if not already under load. Operations will not commence until the PSO(s) observe that: (1) the non-beluga marine mammal(s) is outside of and on a path away from the clearance zone, or (2) for non-ESA-listed species, 15 minutes have elapsed without observing the marine mammal, or for ESA-listed species, 30 minutes have elapsed without observing the marine mammal. If a beluga whale is observed within the relevant clearance zone during those 30 minutes, operations may not commence until the beluga whale(s) is no longer detected at any range and 30 minutes have elapsed without any observations of beluga whales.
- Furie must maneuver tugs such that they maintain a consistent speed (approximately 4 knots [7 km/hr]) and avoid multiple changes of speed and direction.
- Furie must maintain a distance of at least 2.4 km from the mean lower-low water line of the Sustina River Delta (Beluga River to the Little Sustina River) between April 15 and November 15.
- Helicopters must transit at an altitude of 1,500 feet (457 meters) or higher, to the extent practicable, while adhering to Federal Aviation Administration flight rules (*e.g.,* avoidance of cloud ceiling, *etc.*), excluding takeoffs and landing. If flights must occur at altitudes less than 1,500 feet due to environmental conditions, aircraft must make course adjustments, as needed, to maintain at least a 1,500-foot separation from all observed marine mammals. Helicopters must not hover or circle above marine mammals.

Furie will continue to follow the Stakeholder Engagement Plan, provide notifications before future rig moves, and work with tribal groups if impacts to subsistence activities are identified.

A minimum of two NMFS-approved PSOs will be on-watch during all activities wherein the rig is attached to the tugs for the duration of the project. PSOs will be stationed aboard a tug or the rig during tug towing and positioning and may use a combination of equipment to perform marine mammal observations and to verify the required monitoring distance from the project site, including 7 by 50 binoculars and NMFS approved night vision devices for low light and nighttime operations. A minimum of two NMFS-approved PSOs will be stationed on the ALP at the highest possible vantage point to monitor to the maximum extent possible in all directions during pile driving. PSOs will be independent of the activity contractor (for example, employed by a subcontractor) and have no other assigned tasks during monitoring periods. At least one PSO will have prior experience performing the duties of a PSO during an activity pursuant to a NMFS-issued Incidental Take Authorization or Letter of Concurrence. Other PSOs may substitute other relevant experience (including relevant Alaska Native traditional knowledge), education (degree in biological science or related field), or training for prior experience performing the duties of a PSO. Where a team of three or more PSOs is required, a lead observer or monitoring coordinator must be designated. The lead observer must have prior experience performing the duties of a PSO during an activity pursuant to a NMFS-issued incidental take authorization.

Furie must submit a draft marine mammal monitoring report to NMFS within 90 days after the completion of pile driving activities or 60 calendar days prior to the requested issuance of any subsequent IHA for construction activity at the same location, whichever comes first. A final report must be prepared and submitted within 30 calendar days following receipt of any NMFS comments on the draft report. Additionally, all injured or dead marine mammals must be reported to the Office of Protected Resources (OPR) and to the Alaska regional stranding network.

Comments and Responses

NMFS published a notice of the proposed IHAs (89 FR 51102, June 14, 2024) and solicited public comments on both our proposal to issue the initial IHAs for Furie's activities and on the potential for a renewal of the IHAs, should certain requirements be met. All public comments were addressed in the notice announcing the issuance of the initial IHAs (89 FR 77836, September 24, 2024) and none of the comments specifically pertained to the renewal of the initial Year 2 IHA.

Preliminary Determinations

The proposed activity is identical to a subset of the initial Year 2 IHA. The only change is that anticipated effects from pile driving would not occur, as no pile driving is proposed to occur. The same marine mammals are affected, and the potential effects and estimated take are assumed to remain the same, as described in the *Estimated Take* section of this notice. Mitigation and monitoring remain the same as the initial Year 2 IHA, with the exception of removal of pile driving measures that no longer apply.

NMFS has preliminarily concluded that there is no new information suggesting that our analysis or findings should change from those for the initial Year 2 IHA. This includes consideration of the estimated abundance of Eastern North Pacific stock of gray whale (decrease), Cook Inlet beluga whale (increase), and Western stock of Steller sea lion (decrease). Based on the information and analysis contained here and in the referenced documents, NMFS has preliminarily determined the following: (1) the required mitigation measures will effect the least practicable impact on marine mammal species or stocks and their habitat; (2) the authorized takes will have a negligible impact on the affected marine mammal species or stocks; (3) the authorized takes represent small numbers of marine mammals relative to the affected stock abundances; (4) Furie's activities will not have an unmitigable adverse impact on taking for subsistence purposes as no subsistence uses of marine mammals would be affected by this action, and; (5) appropriate monitoring and reporting requirements are included.

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 216–6A, NMFS must review our proposed action (*i.e.,* the issuance of a renewal IHA) with respect to potential impacts on the human environment.

For the initial IHAs, NMFS prepared an Environmental Assessment (EA) and analyzed the potential impacts to marine mammals that would result from Furie's activities supporting natural gas production. A Finding of No Significant Impact (FONSI) was signed on September 12, 2024. Copies of the EA and FONSI are available at *https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-oil-and-gas.* NMFS is preparing an EA for this action.

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 insure 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.

Four marine mammal species, fin whale, humpback whale (Mexico Distinct Population Segment (DPS)), beluga whale (Cook Inlet), and Steller sea lion (Western DPS) occur in the project area and are listed as threatened or endangered under the ESA. The NMFS Alaska Regional Office issued a Biological Opinion under section 7 of the ESA on the issuance of two IHAs to Furie under section 101(a)(5)(D) of the MMPA by NMFS OPR. The Biological Opinion concluded that the action is not likely to jeopardize the continued existence of these species and is not likely to destroy or adversely modify their critical habitat. This conclusion remains applicable to this proposed renewal IHA.

Proposed Renewal IHA and Request for Public Comment

As a result of these preliminary determinations, NMFS proposes to issue a renewal IHA to Furie for conducting natural gas activities in Cook Inlet, Alaska from September 13, 2026 through September 12, 2027, provided the previously described mitigation, monitoring, and reporting requirements are incorporated. The initial Year 2 IHA can be found at *https://www.fisheries.noaa.gov/permit/incidental-take-authorizations-under-marine-mammal-protection-act.* We request comment on our analyses, the proposed renewal IHA, and any other aspect of this notice. Please include with your comments any supporting data or literature citations to help inform our final decision on the request for this renewal IHA.

Dated: March 26, 2026.

Kimberly Damon-Randall,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2026–06099 Filed 3–27–26; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Solicitation of Nominations for Membership on the Ocean Research Advisory Panel

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

ACTION: Notice of solicitation of nominations for membership on the Ocean Research Advisory Panel.

SUMMARY: The Ocean Research Advisory Panel (ORAP) advises the Ocean Policy Committee (Committee) and provides independent recommendations to the Federal Government on matters of ocean policy. Congress directed the establishment of the ORAP in Section 1055(c) of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021 (Pub. L. 116–283), 10 U.S.C. 8933. The Panel shall consist of not fewer than 10 and not more than 18 members appointed by the Co-Chairs of the Committee, including each of the following: (1) Three members who represent the National Academies of Sciences, Engineering, and Medicine. (2) Members selected from among individuals who represent the views of ocean industries, state, tribal, territorial, or local governments, academia, and such other views as the Committee Co-Chairs consider appropriate. (3) Members selected from among individuals eminent in the fields of marine science, marine technology, marine policy, or related fields. Members are appointed for a term of up to three years, renewable once for up to three years, at the Committee Co-Chairs' discretion. The terms may be consecutive or not but may not exceed two terms. Panel members shall be appointed to serve as Representative members.

DATES: Nominations should be sent to the email address specified below and must be received no more than 45 days after publication of this notice.

ADDRESSES: Nominations and applications should be submitted electronically to the ORAP Designated Federal Officer (DFO), at *DFO.orap@noaa.gov*.

FOR FURTHER INFORMATION CONTACT: Viviane Silva, ORAP Designated Federal Officer (DFO), SSMC3, Room 11320, 1315 East-West Hwy., Silver Spring, MD 20910; Phone Number: 240–624–0656; Email: *DFO.orap@noaa.gov*.

SUPPLEMENTARY INFORMATION:

I. Nominations

Interested persons may nominate themselves or others for membership in the ORAP. An application is required for all candidates, including those nominated by third parties. The application package must include the following: (1) The nominee's full name, title, institutional affiliation, and contact information; (2) The nominee's area of industry perspective (academia, commercial service provider, or end-user); (3) A short description of qualifications relative to the advice solicited in this Notice; and (4) A current resume (maximum of four pages). All nomination information must be provided in a single, complete package, and must be sent to the ORAP DFO at the electronic address provided above with the subject line ''Application for ORAP Membership 2026''.

Nikola Garber,

Deputy Director of Sea Grant, Office of Oceanic and Atmospheric Research, National Oceanic and Atmospheric Administration.

[FR Doc. 2026–06069 Filed 3–27–26; 8:45 am]

BILLING CODE 3510–KD–P

CONSUMER FINANCIAL PROTECTION BUREAU

[Docket No. CFPB–2026–0011]

Agency Information Collection Activities: Comment Request

AGENCY: Consumer Financial Protection Bureau.

ACTION: Notice and request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (PRA), the Consumer Financial Protection Bureau (CFPB or Bureau) requests the Office of Management and Budget's (OMB's) reinstatement of an information collection titled ''Prohibition on Inclusion of Adverse Information in Consumer Reporting in Cases of Human Trafficking (Regulation V)'' approved under OMB Control Number 3170–0002.

DATES: Written comments are encouraged and must be received on or before April 29, 2026 to be assured of consideration.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. In general, all comments received will become public records, including any personal information provided. Sensitive personal information, such as account numbers or Social Security numbers, should not be included.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Anthony May,

Paperwork Reduction Act Officer, at (202) 435–7278, or email: *CFPB_PRA@cfpb.gov.* If you require this document in an alternative electronic format, please contact *CFPB_Accessibility@cfpb.gov.* Please do not submit comments to these email boxes.

SUPPLEMENTARY INFORMATION:

Title of Collection: Prohibition on Inclusion of Adverse Information in Consumer Reporting in Cases of Human Trafficking (Regulation V).

OMB Control Number: 3170–0002.

Type of Review: Reinstatement of an information collection.

Affected Public: Private sector: businesses or other for-profits.

Estimated Number of Respondents: 779,023.

Estimated Total Annual Burden Hours: 6,286,665.

Abstract: The consumer disclosures included in Regulation V are designed to alert consumers that a financial institution furnished negative information about them to a consumer reporting agency, that they have a right to opt out of receiving marketing materials and credit or insurance offers, that their credit report was used in setting the material terms of credit that may be less favorable than the terms offered to consumers with better credit histories, that they maintain certain rights with respect to a theft of their identity that they reported to a consumer reporting agency, that they maintain rights with respect to knowing what is in their consumer reporting agency file, that they can request a free credit report, and that they can report a theft of their identity to the Bureau. Consumers then can use the information provided to consider how and when to check and use their credit reports. It also establishes a method for a victim of trafficking to submit documentation to consumer reporting agencies, including information identifying any adverse item of information about the consumer that resulted from certain types of human trafficking, and prohibit the consumer reporting agencies from furnishing a consumer report containing the adverse item(s) of information.

Request for Comments: The CFPB published a 60-day **Federal Register** notice on December 9, 2025 (90 FR 57036), under Docket Number: CFPB–2025–0047. The CFPB is publishing this notice and soliciting comments on: (a) Whether the collection of information is necessary for the proper performance of the functions of the CFPB, including whether the information will have practical utility; (b) The accuracy of the CFPB's estimate of the burden of the collection of information, including the validity of the methods and the assumptions used; (c) Ways to enhance the quality, utility, and clarity of the information to be collected; and (d) Ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Comments submitted in response to this notice will be reviewed by OMB as part of its review of this request. All comments will become a matter of public record.

Anthony May,

Paperwork Reduction Act Officer, Consumer Financial Protection Bureau.

[FR Doc. 2026–06100 Filed 3–27–26; 8:45 am]

BILLING CODE 4810–AM–P

U.S. INTERNATIONAL DEVELOPMENT FINANCE CORPORATION

[DFC–006]

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. The agencies received no comments in response to the sixty (60) day notice. The purpose of this notice is to allow an additional thirty (30) days for public comments to be submitted. 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 May 29, 2026.

ADDRESSES: Comments and requests for copies of the subject information collection may be sent by any of the following methods:

- *Mail:* Carla Cooper, 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: Carla Cooper, (202) 926–7241.

SUPPLEMENTARY INFORMATION: The agency received no comments in response to the sixty (60) day notice published in **Federal Register** volume 91 page 2750 on January 22, 2026. Upon publication of this notice, DFC will submit to OMB a request for approval of the following information collection.

Summary Form Under Review

Title of Collection: Personal Identification Form.

Type of Review: Extension without change of a currently approved information collection.

Agency Form Number: DFC–006.

OMB Form Number: 3015–0010.

Frequency: Once per party per project.

Affected Public: Business or other for profit; not-for-profit institutions; individuals.

Total Estimated Number of Annual Number of Respondents: 975.

Estimated Time per Respondent: 1 hours.

Total Estimated Number of Annual Burden Hours: 975 hours.

Abstract: The Personal Identification Form is used by the agency in its Know Your Customer procedures. The agency will perform a robust due diligence review on each party that has a significant relationship to the projects the agency supports, and this collection is one aspect of that review.

Eric Styles,

Administrative Counsel, Office of the General Counsel.

[FR Doc. 2026–06119 Filed 3–27–26; 8:45 am]

BILLING CODE 3210–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2026–SCC–0859]

Agency Information Collection Activities; Comment Request; Federal Direct Loan Program Regulations for Forbearance and Loan Rehabilitation

AGENCY: Federal Student Aid (FSA), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act (PRA) of 1995, the Department is proposing an

extension without change of a currently approved information collection request (ICR).

DATES: Interested persons are invited to submit comments on or before May 29, 2026.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use *http://www.regulations.gov* by searching the Docket ID number ED–2026–SCC–0859. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. If the *regulations.gov* site is not available to the public for any reason, the Department will temporarily accept comments at *ICDocketMgr@ed.gov.* Please include the docket ID number and the title of the information collection request when requesting documents or submitting comments. Please note that comments submitted after the comment period will not be accepted. Written requests for information or comments submitted by postal mail or delivery should be addressed to Carolyn Rose, U.S. Department of Education, Federal Student Aid, 400 Maryland Avenue SW, Washington, DC 20202–1200.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Carolyn Rose, (202) 453–5967.

SUPPLEMENTARY INFORMATION: The Department, in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. The Department is soliciting comments on the proposed information collection request (ICR) that is described below. 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: Federal Direct Loan Program Regulations for Forbearance and Loan Rehabilitation.

OMB Control Number: 1845–0119.

Type of Review: Extension without change of a currently approved ICR.

Respondents/Affected Public: Individuals and Households.

Total Estimated Number of Annual Responses: 129,027.

Total Estimated Number of Annual Burden Hours: 35,094.

Abstract: The Department of Education (the Department) is seeking an extension of OMB control number 1845–0119 Federal Direct Loan Program Regulations for Forbearance and Loan Rehabilitation.

The One Big Beautiful Bill Act (OBBBA) signed into law by President Trump on July 4, 2025 includes provisions that affect this collection; specifically, 34 CFR 685.205 Loan Rehabilitation. The Department published a Notice of Proposed Rulemaking on January 30, 2026 (91 FR 4254) and this notice captures burden changes for this requirement. That burden is assigned to 1845–0021 and available for public comment until March 2, 2026. There have been no other regulatory changes in this collection.

Brian Fu,

Program and Management analyst, Office of the Chief Data Officer, Office of Planning, Evaluation and Policy Development.

[FR Doc. 2026–06054 Filed 3–27–26; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2026–SCC–0463]

Agency Information Collection Activities; Comment Request; Targeted Teacher Shortage Areas Data Collection

AGENCY: Office of Postsecondary Education (OPE), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act (PRA) of 1995, the Department is proposing a reinstatement without change of a previously approved information collection request (ICR).

DATES: Interested persons are invited to submit comments on or before May 29, 2026.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use *http://www.regulations.gov* by searching the Docket ID number ED–2026–SCC–0463. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. If the *regulations.gov* site is not available to the public for any reason, the Department will temporarily accept comments at *ICDocketMgr@ed.gov.* Please include the docket ID number and the title of the information collection request when requesting documents or submitting comments. Please note that comments submitted after the comment period will not be accepted. Written requests for information or comments submitted by postal mail or delivery should be addressed to the Office of Postsecondary Education, U.S. Department of Education, 400 Maryland Ave. SW, LBJ, Room 5C175, Washington, DC 20202–1200.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Freddie Cross, 202–502–7489.

SUPPLEMENTARY INFORMATION: The Department, in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. The Department is soliciting comments on the proposed information collection request (ICR) that is described below. 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: Targeted Teacher Shortage Areas Data Collection.

OMB Control Number: 1840–0595.

Type of Review: A reinstatement without change of a previously approved ICR.

Respondents/Affected Public: State, Local, and Tribal Governments.

Total Estimated Number of Annual Responses: 57.

Total Estimated Number of Annual Burden Hours: 6,612.

Abstract: This request is for approval of reporting requirements that are contained in the Federal Family Education Loan Program (FFELP) regulations (34 CFR 682.210) which address the targeted teacher deferment provision of the Higher Education Act of 1965 as amended by the Higher Education Amendment of 1986 sections 427(a)(2)(C)(vi) 428(b)(1)(M)(vi) and 428(b)(4)(A) which provide for the targeted teacher deferment. The FFELP (34 CFR 682.210(q)) Paul Douglas Teacher Scholarship Program (34 CFR 653.50(a)) TEACH Grant Program and Federal Perkins Loan Program (34 CFR 674.53(c)) regulations contain information collection requirements. The Chief State School Officers of each state provide the Secretary annually with a database of proposed teacher shortage areas for each state.

Ross Santy,

Chief Data Officer, Office of Planning, Evaluation and Policy Development.

[FR Doc. 2026–06106 Filed 3–27–26; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2025–SCC–1075]

Agency Information Collection Activities; Comment Request; Financial Report for the Institutional Service Endowment Activities

AGENCY: Office of Postsecondary Education (OPE), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act (PRA) of 1995, the Department is proposing a reinstatement without change of a previously approved information collection request (ICR).

DATES: Interested persons are invited to submit comments on or before May 29, 2026.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use *http://www.regulations.gov* by searching the Docket ID number ED–2025–SCC–1075. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. If the regulations.gov site is not available to the public for any reason, the Department will temporarily accept comments at *ICDocketMgr@ed.gov.* Please include the docket ID number and the title of the information collection request when requesting documents or submitting comments. Please note that comments submitted after the comment period will not be accepted. Written requests for information or comments submitted by postal mail or delivery should be addressed to U.S. Department of Education, Office of Postsecondary Education, 400 Maryland Avenue SW, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Beverly Baker, (202) 453–6162.

SUPPLEMENTARY INFORMATION: The Department, in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. The Department is soliciting comments on the proposed information collection request (ICR) that is described below. 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: Financial Report for the Institutional Service Endowment Activities.

OMB Control Number: 1840–0564.

Type of Review: Reinstatement without change of a previously approved ICR.

Respondents/Affected Public: Private Sector.

Total Estimated Number of Annual Responses: 2,500.

Total Estimated Number of Annual Burden Hours: 3,125.

Abstract: This financial reporting form will be utilized for Title III Part A, Title III Part B and Title V Program Endowment Activities. The purpose of this Financial Report is to have the grantees report annually the kinds of investments that have been made, the income earned and spent, and whether any part of the Endowment Fund Corpus has been spent. This information allows us to give technical assistance and determine whether the grantee has complied with the statutory and regulatory investment requirements.

Ross Santy,

Chief Data Officer, Office of Planning, Evaluation and Policy Development.

[FR Doc. 2026–06058 Filed 3–27–26; 8:45 am]

BILLING CODE 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 and Accounting Request filings:

Filings Instituting Proceedings

Docket Numbers: AC26–28–000.

Applicants: Howard Midstream Energy Partners, LLC.

Description: Howard Midstream Energy Partners, LLC submits request to amend proposed journal entries to reflect the cumulative effects for the period 2018–2024 of the improper treatment for contributions in aid of constructions of carrier property, etc.

Filed Date: 3/24/26.

Accession Number: 20260324–5144.

Comment Date: 5 p.m. ET 3/31/26.

Docket Numbers: AC26–31–000.

Applicants: EPIC Crude Pipeline, LP.

Description: EPIC Crude Pipeline, LP submits proposed journal entries request for Fair Value step-up assets re 10/31/2025 acquisition between Plains All American Pipeline, L.P. and EPIC Crude Holdings, LP.

Filed Date: 3/24/26.

Accession Number: 20260324–5208.

Comment Date: 5 p.m. ET 3/31/26.

Docket Numbers: RP26–670–000.
Applicants: Cheniere Corpus Christi Pipeline, L.P.
Description: Semi-Annual Transportation Retainage Report of Cheniere Corpus Christi Pipeline, L.P.
Filed Date: 3/24/26.
Accession Number: 20260324–5143.
Comment Date: 5 p.m. ET 4/6/26.
Docket Numbers: RP26–671–000.
Applicants: Cheniere Creole Trail Pipeline, L.P.
Description: Annual Transportation Retainage Report of Cheniere Creole Trail Pipeline, L.P.
Filed Date: 3/24/26.
Accession Number: 20260324–5148.
Comment Date: 5 p.m. ET 4/6/26.
Docket Numbers: RP26–672–000.
Applicants: Millennium Pipeline Company, LLC.
Description: 4(d) Rate Filing: Negotiated Rate Amendments Sprague & NRG to be effective 4/1/2026.
Filed Date: 3/24/26.
Accession Number: 20260324–5165.
Comment Date: 5 p.m. ET 4/6/26.
Docket Numbers: RP26–673–000.
Applicants: Iroquois Gas Transmission System, L.P.
Description: 4(d) Rate Filing: 3.25.26 Negotiated Rates—Mercuria Energy America, LLC R–7540–02 to be effective 3/31/2026.
Filed Date: 3/25/26.
Accession Number: 20260325–5026.
Comment Date: 5 p.m. ET 4/6/26.
Docket Numbers: RP26–674–000.
Applicants: Cheniere Creole Trail Pipeline, L.P.
Description: 4(d) Rate Filing: Cheniere Creole Trail Rev to Tariff Section 6.15 to be effective 5/1/2026.
Filed Date: 3/25/26.
Accession Number: 20260325–5076.
Comment Date: 5 p.m. ET 4/6/26.
Docket Numbers: RP26–675–000.
Applicants: Stagecoach Pipeline & Storage Company LLC.
Description: 4(d) Rate Filing: Negotiated Rate Agreement Filing—Emera Energy to be effective 4/1/2026.
Filed Date: 3/25/26.
Accession Number: 20260325–5093.
Comment Date: 5 p.m. ET 4/6/26.
Docket Numbers: RP26–676–000.
Applicants: Natural Gas Pipeline Company of America LLC.
Description: 4(d) Rate Filing: Negotiated Rate Agreements Filing—Macquarie April 1, 2026 to be effective 4/1/2026.
Filed Date: 3/25/26.
Accession Number: 20260325–5107.
Comment Date: 5 p.m. ET 4/6/26.

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.

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: March 25, 2026.

Carlos D. Clay,

Deputy Secretary.

[FR Doc. 2026–06096 Filed 3–27–26; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC26–43–000.
Applicants: Cottonwood Energy Company LP, Entergy Louisiana, LLC.
Description: Response to 02/18/2026, Deficiency Letter of Cottonwood Energy Company LP, et al.
Filed Date: 3/20/26.
Accession Number: 20260320–5415.
Comment Date: 5 p.m. ET 3/30/26.
Docket Numbers: EC26–76–000.
Applicants: Grays Harbor Energy LLC, Hardee Power Partners Limited, Invenergy Cannon Falls LLC, Invenergy Nelson LLC, Invenergy Nelson Expansion LLC, Lackawanna Energy Center LLC, Spindle Hill Energy LLC, Gray Wolf Power, LLC.
Description: Joint Application for Authorization Under Section 203 of the Federal Power Act of Grays Harbor Energy LLC, et al.
Filed Date: 3/24/26.
Accession Number: 20260324–5204.
Comment Date: 5 p.m. ET 5/26/26.
Docket Numbers: EC26–77–000.
Applicants: EEC Skyhawk Lessee LLC, Faraday Solar B LLC, TN Solar 1, LLC, White Creek Wind I, LLC.
Description: Joint Application for Authorization Under Section 203 of the Federal Power Act of EEC Skyhawk Lessee LLC, et al.
Filed Date: 3/24/26.
Accession Number: 20260324–5206.
Comment Date: 5 p.m. ET 4/14/26.
Docket Numbers: EC26–78–000.
Applicants: Great American Gas & Electric, LLC.
Description: Application for Authorization Under Section 203 of the Federal Power Act of Great American Gas & Electric, LLC.
Filed Date: 3/25/26.
Accession Number: 20260325–5179.
Comment Date: 5 p.m. ET 4/15/26.

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG26–183–000.
Applicants: Colleen VA BESS 1 LLC.
Description: Colleen VA BESS 1 LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.
Filed Date: 3/25/26.
Accession Number: 20260325–5138.
Comment Date: 5 p.m. ET 4/15/26.
Docket Numbers: EG26–184–000.
Applicants: Meadow Creek VA BESS 1 LLC.
Description: Meadow Creek VA BESS 1 LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.
Filed Date: 3/25/26.
Accession Number: 20260325–5141.
Comment Date: 5 p.m. ET 4/15/26.
Docket Numbers: EG26–185–000.
Applicants: Piney River VA BESS 1 LLC.
Description: Piney River VA BESS 1 LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.
Filed Date: 3/25/26.
Accession Number: 20260325–5150.
Comment Date: 5 p.m. ET 4/15/26.
Docket Numbers: EG26–186–000.
Applicants: Salem VA BESS 1 LLC.
Description: Salem VA BESS 1 LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.
Filed Date: 3/25/26.
Accession Number: 20260325–5155.
Comment Date: 5 p.m. ET 4/15/26.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER22–871–005; ER22–2925–005; ER22–2926–005.
Applicants: Jicarilla Storage 1 LLC, Jicarilla Solar 1 LLC, Jicarilla Solar 2 LLC.

Description: Triennial Market Power Analysis for Southwest Region of Jicarilla Solar 2 LLC, et al.

Filed Date: 3/24/26.

Accession Number: 20260324–5200.

Comment Date: 5 p.m. ET 5/26/26.

Docket Numbers: ER25–3298–001.

Applicants: Southwest Power Pool, Inc.

Description: Compliance filing: Notice of Eff. Date—Schedule 9 and Att L Tariff Revisions (RRs 630 and 634) to be effective 4/1/2026.

Filed Date: 3/25/26.

Accession Number: 20260325–5081.

Docket Numbers: ER26–699–001.

Applicants: Tri-State Generation and Transmission Association, Inc.

Description: Compliance filing: Compliance Filing Regarding Effective Date for Service Agreement FERC No. 931 to be effective 4/1/2026.

Filed Date: 3/25/26.

Accession Number: 20260325–5113.

Comment Date: 5 p.m. ET 4/15/26.

Docket Numbers: ER26–1445–001.

Applicants: PJM Interconnection, L.L.C.

Description: Tariff Amendment: Amendment to Pending Original NSA No.7922; Project Identifier No. AE1–072 to be effective 4/22/2026.

Filed Date: 3/25/26.

Accession Number: 20260325–5087.

Comment Date: 5 p.m. ET 4/15/26.

Docket Numbers: ER26–1460–001.

Applicants: PJM Interconnection, L.L.C.

Description: Tariff Amendment: Amendment to Pending Original GIA, SA No. 7879; Project Identifier No. AF1–176 to be effective 1/21/2026.

Filed Date: 3/25/26.

Accession Number: 20260325–5121.

Comment Date: 5 p.m. ET 4/15/26.

Docket Numbers: ER26–1908–000.

Applicants: Bartonsville Energy Facility, LLC.

Description: Tariff Amendment: Notice of Cancellation of Transfer of Operational Control Rate Schedule to be effective 3/26/2026.

Filed Date: 3/25/26.

Accession Number: 20260325–5048.

Comment Date: 5 p.m. ET 4/15/26.

Docket Numbers: ER26–1909–000.

Applicants: Calpine Mid Merit, LLC.

Description: Tariff Amendment: Notice of Cancellation and Request for Waiver to be effective 2/19/2026.

Filed Date: 3/25/26.

Accession Number: 20260325–5053.

Comment Date: 5 p.m. ET 4/15/26.

Docket Numbers: ER26–1910–000.

Applicants: Tri-State Generation and Transmission Association, Inc.

Description: 205(d) Rate Filing: Initial Filing of Service Agreement FERC No. 117 to be effective 3/5/2026.

Filed Date: 3/25/26.

Accession Number: 20260325–5064.

Comment Date: 5 p.m. ET 4/15/26.

Docket Numbers: ER26–1911–000.

Applicants: Tri-State Generation and Transmission Association, Inc.

Description: 205(d) Rate Filing: Amendment to Rate Schedule FERC No. 2 to be effective 5/25/2026.

Filed Date: 3/25/26.

Accession Number: 20260325–5070.

Comment Date: 5 p.m. ET 4/15/26.

Docket Numbers: ER26–1912–000.

Applicants: Tri-State Generation and Transmission Association, Inc.

Description: Tariff Amendment: Notice of Cancellation of Service Agreement FERC No. 100 to be effective 3/5/2026.

Filed Date: 3/25/26.

Accession Number: 20260325–5073.

Comment Date: 5 p.m. ET 4/15/26.

Docket Numbers: ER26–1913–000.

Applicants: Northern States Power Company, a Minnesota corporation.

Description: 205(d) Rate Filing: 2026–03–25 HCPD—FSA—Madelia Sub—792 to be effective 3/26/2026.

Filed Date: 3/25/26.

Accession Number: 20260325–5083.

Comment Date: 5 p.m. ET 4/15/26.

Docket Numbers: ER26–1914–000.

Applicants: Calpine Mid-Merit II, LLC.

Description: Tariff Amendment: Notice of Cancellation and Request for Waiver to be effective 2/19/2026.

Filed Date: 3/25/26.

Accession Number: 20260325–5086.

Comment Date: 5 p.m. ET 4/15/26.

Docket Numbers: ER26–1915–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: 205(d) Rate Filing: 2026–03–25_Interconnection Limit Constraint for Co-located Resources to be effective 6/30/2026.

Filed Date: 3/25/26.

Accession Number: 20260325–5090.

Comment Date: 5 p.m. ET 4/15/26.

Docket Numbers: ER26–1916–000.

Applicants: PJM Interconnection, L.L.C.

Description: 205(d) Rate Filing: Amendment to ISA, SA No. 5382; Project Queue #W3–003/AD2–026/AE1–156 to be effective 5/25/2026.

Filed Date: 3/25/26.

Accession Number: 20260325–5100.

Comment Date: 5 p.m. ET 4/15/26.

Docket Numbers: ER26–1917–000.

Applicants: Seneca Generation, LLC.

Description: Seneca Generation, LLC submits a Petition for Limited Waiver of Procedural Requirement contained in PJM Reliability Assurance Agreement, Schedule 9.2, Section B(5).

Filed Date: 3/24/26.

Accession Number: 20260324–5210.

Comment Date: 5 p.m. ET 4/14/26.

Docket Numbers: ER26–1918–000.

Applicants: PJM Interconnection, L.L.C.

Description: 205(d) Rate Filing: Notice of Cancellation of ISA, SA No. 5561; Project Identifier AC1–043/AD1–115 to be effective 4/21/2026.

Filed Date: 3/25/26.

Accession Number: 20260325–5149.

Comment Date: 5 p.m. ET 4/15/26.

Docket Numbers: ER26–1919–000.

Applicants: Tucson Electric Power Company.

Description: 205(d) Rate Filing: Amendment to Service Agreement No. 546 to be effective 3/3/2026.

Filed Date: 3/25/26.

Accession Number: 20260325–5182.

Comment Date: 5 p.m. ET 4/15/26.

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: March 25, 2026.

Carlos D. Clay,

Deputy Secretary.

[FR Doc. 2026–06095 Filed 3–27–26; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP25–552–000]

Algonquin Gas Transmission, LLC; Notice of Revised Schedule for Environmental Review of the Cape Cod Canal Pipeline Relocation Project

This notice identifies the Federal Energy Regulatory Commission staff's revised schedule for the completion of the environmental assessment (EA) for Algonquin Gas Transmission, LLC's (Algonquin) Cape Cod Canal Pipeline Relocation Project.[1] The first notice of schedule, issued on December 8, 2025, identified April 17, 2026, as the EA issuance date. However, Algonquin delayed its filing of the horizontal directional drill assessment report, information critical to a majority of the project, and additional project siting information, which, in turn, has delayed staff's submission of the EA to the cooperating agencies. As a result, staff has revised the schedule for issuance of the EA. The EA will be issued for a 30-day comment period.

Schedule for Environmental Review

Issuance of the EA—May 29, 2026
90-day Federal Authorization Decision Deadline[2]—August 27, 2026

If a schedule change becomes necessary, an additional notice will be provided so that the relevant agencies are kept informed of the project's progress.

Additional Information

In order to receive notification of the issuance of the EA and to keep track of all formal issuances and submittals in specific dockets, the Commission offers a free service called eSubscription. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. Go to *https://www.ferc.gov/ferc-online/overview* to register for eSubscription.

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.*

Additional information about the Project is available from the FERC website (*www.ferc.gov*). Using the ''eLibrary'' link, select ''General Search'' from the eLibrary menu, enter the selected date range and ''Docket Number'' excluding the last three digits (*i.e.,* CP25–552), and follow the instructions. For assistance with access to eLibrary, the helpline can be reached at (866) 208–3676, TTY (202) 502–8659, or at *FERCOnlineSupport@ferc.gov.* The eLibrary link on the FERC website also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rule makings.

(Authority: 18 CFR 2.1.)

Dated: March 25, 2026.

Carlos D. Clay,

Deputy Secretary.

[FR Doc. 2026–06097 Filed 3–27–26; 8:45 am]

BILLING CODE 6717–01–P

[1] For tracking purposes under the National Environmental Policy Act, the unique identification number for documents relating to this environmental review is EAXX–019–20–000–1763050824.

[2] The Commission's deadline applies to the decisions of other federal agencies, and state agencies acting under federally delegated authority, that are responsible for federal authorizations, permits, and other approvals necessary for proposed projects under the Natural Gas Act. Per 18 CFR 157.22(a), the Commission's deadline for other agency's decisions applies unless a schedule is otherwise established by federal law.

EXPORT-IMPORT BANK

[Public Notice: EIB–2026–004]

Application for Final Commitment for a Long-Term Loan or Financial Guarantee in Excess of $100 Million: AP768324

AGENCY: Export-Import Bank of the United States.

ACTION: Notice.

SUMMARY: This Notice is to inform the public that the Export-Import Bank of the United States (''EXIM'') has received an application for final commitment for a long-term loan or financial guarantee in excess of $100 million. Consistent with EXIM's mandate to strengthen U.S. economic competitiveness and national security, the proposed transaction supports the development of critical mineral resources essential to resilient domestic supply chains and advanced manufacturing. Comments received within the comment period specified below will be presented to the EXIM Board of Directors prior to final action on this Transaction.

DATES: Comments must be received on or before April 24, 2026 to be assured of consideration before final consideration of the transaction by the Board of Directors of EXIM.

ADDRESSES: Comments may be submitted through *Regulations.gov* at *www.regulations.gov.* To submit a comment, enter EIB–2026–004 under the heading ''Enter Keyword or ID'' and select Search. Follow the instructions provided at the Submit a Comment screen. Please include your name, company name (if any) and EIB–2026–004 on any attached document.

SUPPLEMENTARY INFORMATION:

Reference: AP768324XX.

Purpose and Use: Brief description of the purpose of the transaction: To finance the redevelopment of gold-antimony-silver-tungsten critical mineral deposits in the Stibnite-Yellow Pine district of central Idaho under EXIM's Make More in America initiative.

This project advances U.S. leadership in critical minerals by expanding domestic resource development for materials that are foundational to defense systems, energy technologies, and advanced manufacturing.

The transaction is expected to enhance supply chain resilience, reduce reliance on foreign sources for strategic minerals—particularly antimony—and support high-quality U.S. jobs.

Brief non-proprietary description of the anticipated use of the items being exported: The financing will be used for domestic purposes and will result in the export of gold doré bars and antimony concentrate to overseas processing facilities. These materials will be refined into gold bullion and processed into antimony metal and derivative products that serve as essential inputs for U.S. industrial and national security applications. Applications for antimony include semiconductors and lead-acid batteries. As domestic antimony processing becomes available, concentrate will be treated domestically.

Parties:

Principal Supplier: Various U.S. Entities.

Obligor: Perpetua Resources Idaho Inc.

Guarantor(s): Perpetua Resources Corp.

Description of Items Being Exported: The items being exported will be gold doré and antimony concentrate.

Information on Decision: Information on the final decision for this transaction will be available in the ''Summary Minutes of Meetings of Board of Directors'' on *https://www.exim.gov/news/meeting-minutes.*

Confidential Information: Please note that this notice does not include confidential or proprietary business information; information which, if disclosed, would violate the Trade Secrets Act; or information which would jeopardize jobs in the United

States by supplying information that competitors could use to compete with companies in the United States.

(Authority: Section 3(c)(10) of the Export-Import Bank Act of 1945, as amended (12 U.S.C. 635a(c)(10)).)

Deidre Hodge,

Assistant Corporate Secretary.

[FR Doc. 2026–06117 Filed 3–27–26; 8:45 am]

BILLING CODE 6690–01–P

FARM CREDIT ADMINISTRATION

Sunshine Act Meetings

TIME AND DATE: 10 a.m., Thursday, April 9, 2026.

PLACE: You may observe this meeting in person at 1501 Farm Credit Drive, McLean, Virginia 22102–5090, or virtually. If you would like to observe, at least 24 hours in advance, visit *FCA.gov,* select ''Newsroom,'' then select ''Events.'' From there, access the linked ''Instructions for board meeting visitors'' and complete the described registration process.

MATTERS TO BE CONSIDERED: The following matters will be considered:

- Approval of March 12, 2026, Minutes
- Quarterly Report on Economic Conditions and Farm Credit System Condition and Performance

CONTACT PERSON FOR MORE INFORMATION: If you need more information or assistance for accessibility reasons, or have questions, contact Ashley Waldron, Secretary to the Board. Telephone: 703–883–4009. TTY: 703–883–4056.

Ashley Waldron,

Secretary to the Board.

[FR Doc. 2026–06124 Filed 3–26–26; 4:15 pm]

BILLING CODE 6705–01–P

FARM CREDIT SYSTEM INSURANCE CORPORATION

Board of Directors Meeting

SUMMARY: Notice of the forthcoming regular meeting of the Board of Directors of the Farm Credit System Insurance Corporation (FCSIC), is hereby given in accordance with the provisions of the Bylaws of the FCSIC.

DATES: 10 a.m., Wednesday, April 8, 2026.

ADDRESSES: You may observe the open portions of this meeting in person at 1501 Farm Credit Drive, McLean, Virginia 22102–5090, or virtually. If you would like to virtually attend, at least 24 hours in advance, visit FCSIC.gov, select ''News & Events,'' then select ''Board Meetings.'' From there, access the linked ''Instructions for board meeting visitors'' and complete the described registration process.

FOR FURTHER INFORMATION CONTACT: If you need more information or assistance for accessibility reasons, or have questions, contact Ashley Waldron, Secretary to the Board. Telephone: 703–883–4009. TTY: 703–883–4056.

SUPPLEMENTARY INFORMATION: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public. The following matters will be considered:

Portions Open to the Public

- Approval of February 11, 2026, Minutes
- Quarterly FCSIC Financial Reports
- Quarterly Report on Insured Obligations
- Quarterly Report on Annual Performance Plan
- Annual Report on Investment Portfolio

Portions Closed to the Public

- Quarterly Report on Insurance Risk
- Presentation of 2025 Audit Results
- Executive Session of the FCSIC Board Audit Committee with the External Auditor

Ashley Waldron,

Secretary to the Board.

[FR Doc. 2026–06123 Filed 3–27–26; 8:45 am]

BILLING CODE 6705–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0633, OMB 3060–0685; FR ID 337309]

Information Collections Being Reviewed by the Federal Communications Commission Under Delegated Authority

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written PRA comments should be submitted on or before May 29, 2026. If you anticipate that you will be submitting comments but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov*.

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0633.

Title: Sections 74.165, 74.432 and 74.832, Filing of Station Licenses.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities, Not-for-profit institutions and State, local or Tribal Government.

Number of Respondents and Responses: 1,000 respondents and 1,000 responses.

Estimated Hours per Response: 0.083 hours.

Frequency of Response: Recordkeeping requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection of information is contained in section 154(i) of the Communications Act of 1934, as amended.

Total Annual Burden: 83 hours.

Total Annual Cost: No cost.

Needs and Uses: The Commission released a Report and Order, Amendment of Parts 0, 1, 5, 73, and 74 of the Commission's Rules Regarding Posting of Station Licenses and Related Information, MB Docket No. 18–121, FCC 18–174, on December 11, 2018. In this Report and Order, the Commission eliminated rule sections 47 CFR

73.1230, 74.564, 74.664, 74.765 and 74.1265 to remove the posting information requirements from the Commission's rules. This collection is being revised to remove these rule sections from this information collection. Also, the posting information requirements are being removed from Sections 74.432 and 74.832 with this revision to the Office of Management and Budget. The remaining information collection requirements for this collection are as follows:

47 CFR 74.165 requires that the instrument of authorization for an experimental broadcast station be available at the transmitter site.

47 CFR 74.432(j) requires that the license of a remote pickup broadcast/low power auxiliary station shall be retained in the licensee's files and the address shown on the authorization.

47 CFR 74.832(j) (low power auxiliary stations) requires that the license shall be retained in the licensee's files at the address shown on the authorization.

OMB Control Number: 3060–0685.

Title: Annual Updating of Maximum Permitted Rates for Regulated Cable Services, FCC Form 1240.

Form Number: FCC Form 1240.

Type of Review: Extension of a currently approved collection

Respondents: Business or other for-profit entities; State, Local or Tribal Government.

Number of Respondents and Responses: 400 respondents; 500 responses.

Estimated Time per Response: 1 hour to 15 hours.

Frequency of Response: Annual reporting requirement; Third party disclosure requirement.

Obligation To Respond: Required to obtain or retain benefits. The statutory authority for this collection is contained in 4(i) and 623 of Communications Act of 1934, as amended.

Total Annual Burden: 3,300 hours.

Total Annual Cost: $412,500.

Needs and Uses: FCC Form 1240 is filed by cable operators seeking to adjust maximum permitted rates for regulated cable services to reflect changes in external costs. Cable operators submit Form 1240 to their respective local franchising authorities (''LFAs'') to justify rates for the basic service tier and related equipment or with the Commission (in situations where the Commission has assumed jurisdiction). Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2026–06024 Filed 3–27–26; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0248; FR ID 337517]

Information Collection Being Reviewed by the Federal Communications Commission Under Delegated

AGENCY: Federal Communications Commission.

ACTION: Notice; request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written PRA comments should be submitted on or before May 29, 2026. If you anticipate that you will be submitting comments but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0248.

Title: Section 74.751, Modification of Transmission Systems.

Form Number: N/A.

Respondents: Businesses or other for-profit entities, Not for-profit institutions and State, local or Tribal Governments.

Type of Review: Extension of a currently approved collection.

Number of Respondents and Responses: 400 respondents and 400 responses.

Estimated Time per Response: 0.50 hours.

Frequency of Response: On occasion reporting requirement; Recordkeeping requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection is contained in Section 154(i) of the Communications Act of 1934, as amended.

Total Annual Burden: 200 hours.

Total Annual Cost: No cost.

Needs and Uses: The Commission adopted on April 17, 2023, the Report and Order (R&O), In the Matter of Amendment of Parts 73 and 74 of the Commission's Rules to Establish Rules for Digital Low Power Television and Television Translator Stations, Update of Parts 74 of the Commission's Rules Related to Low Power Television and Television Translator Stations, MB Docket Nos. 03–185 and 22–261, FCC 23–25. The Report and Order adopted the following revisions to 47 CFR 74.751:

47 CFR 74.751(a) requires licensees of low power TV or TV translator stations to send written notification to the FCC of equipment changes which may be made at licensee's discretion without the use of a formal application.

47 CFR 74.751(b)(4) requires low power TV or TV translator stations to file an application in the Commission's Licensing and Management System (LMS) on FCC Form 2100, Schedule C, requesting authorization for all antenna relocations.

47 CFR 74.751(c) provides that notwithstanding the requirement in 47 CFR 74.751(b)(4), a station may file in LMS a correction of geographic coordinates where the change is 3 seconds or fewer in latitude and/or 3 seconds or fewer in longitude, provided there is no physical change in location and no other licensed parameters are changed. An exhibit should be attached to the application(s) specifying it is a coordinate correction. Stations seeking to correct coordinates by less than 3 seconds of latitude and/or longitude may do so without paying a filing fee.

47 CFR 74.751(d) requires that licensees of low power TV or TV translator stations place in the station records a certification that the installation of new or replacement transmitting equipment complies in all respects with the technical requirements of this section and the station authorization.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2026–06087 Filed 3–27–26; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–1311; FR ID 337545]

Information Collection Being Reviewed by the Federal Communications Commission Under Delegated

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection burden on small business concerns with fewer than 25 employees. The FCC may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written PRA comments should be submitted on or before May 29, 2026. If you anticipate that you will be submitting comments but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–1311.

Title: Sections 74.734, 74.735, and 74.763, Electronic Filings.

Form Number: N/A.

Respondents: Businesses or other for-profit entities, Not for-profit institutions and State, local or Tribal Governments.

Type of Review: Extension of a currently approved collection.

Number of Respondents and Responses: 50 respondents and 250 responses.

Estimated Time per Response: 2 hours.

Frequency of Response: On occasion reporting requirement; Recordkeeping requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection is contained in Section 154(i) of the Communications Act of 1934, as amended.

Total Annual Burden: 500 hours.

Total Annual Cost: $250,000.

Needs and Uses: The Commission adopted on April 17, 2023, the Report and Order (R&O), In the Matter of Amendment of Parts 73 and 74 of the Commission's Rules to Establish Rules for Digital Low Power Television and Television Translator Stations, Update of Parts 74 of the Commission's Rules Related to Low Power Television and Television Translator Stations, MB Docket Nos. 03–185 and 22–261, FCC 23–25. The Report and Order adopted a number of revisions to the Commission's rules to specify electronic rather than paper submission in the following instances:

47 CFR 74.734(a)(4) requires that a notification must be made with the Commission via a Change of Control Point Notice in the Commission's Licensing and Management System (LMS) providing the name, address, and telephone number of person(s) who may be called to secure suspension of operation of a transmitter promptly should the FCC deem such action necessary.

47 CFR 74.735(c)(4) requires that all azimuth plane patterns be plotted in a PDF attachment to the application in LMS in a size sufficient to be easily viewed. 47 CFR 74.735(c)(6) requires that all azimuth plane patterns be plotted in a PDF attachment to the application in LMS in a size sufficient to be easily viewed. 47 CFR 74.735(c)(7) requires that if a matrix pattern is submitted in the LMS application form, similar tabulations must be provided as necessary in the form of a spreadsheet attachment to the application in LMS to accurately represent the pattern.

47 CFR 74.763(b) provides that in the event that causes beyond the control of the low power or translator station licensee make it impossible to continue operating, the licensee may discontinue operation for a period of not more than 30 days without further authority from the FCC. 47 CFR 74.763(b) requires that no later than the tenth day of discontinued operation, notification must be sent electronically via a Suspension of Operations Notice filing in the Commission's LMS database. In the event normal operation is restored before the end of the 30 day period, the licensee must notify the FCC of the date that normal operations resumed by filing a Resumption of Operations Notice filing in LMS. Finally, Section 74.763(b) requires that if causes beyond the control of the licensee make it impossible to comply within the allowed period, a licensee may make a request for Special Temporary Authority via LMS no later than the 30th day for such additional time as may be necessary.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2026–06116 Filed 3–27–26; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–1274; FR ID 337457]

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 April 29, 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: 3060–1274.

Title: Uniendo a Puerto Rico Fund and the Connect USVI Fund Stage 2 Fixed Support.

Form Number: N/A.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit entities, Not-for-profit institutions, and State, Local or Tribal governments.

Number of Respondents and Responses: 3 respondents; 6 responses.

Estimated Time per Response: 2–10 hours.

Frequency of Response: On occasion and annual reporting requirements.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. 151–154, 214, and 254.

Total Annual Burden: 36 hours.

Total Annual Cost: No Cost.

Needs and Uses: On September 30, 2019, the Commission released the *Uniendo a Puerto Rico Fund and Connect USVI Fund Order,* WC Docket No. 18–143 et al., FCC 19–95, which comprehensively reformed the universal service high-cost program to focus support on networks capable of providing advanced, hardened voice and broadband services in Puerto Rico and the U.S. Virgin Islands (collectively, the Territories). As part of the *PR–USVI Order,* the Commission adopted a single-round competitive proposal process to award Stage 2 support for fixed telecommunications networks in the Territories (Stage 2 Competition).

For the Stage 2 Competition, service providers competed to receive high-cost support of up to $504.7 million in Puerto Rico and $186.5 million in the U.S. Virgin Islands over 10 years to offer fixed voice and broadband services to all locations in the Territories in accordance with the framework adopted in the *PR–USVI Order.* The information collection requirements reported under this collection are the result of the competitive proposal process adopted by the *PR–USVI Order* to award support to winning applicants. The Commission adopted various rules regarding the eligibility of service providers and the term of support. In addition, the Commission adopted rules to govern the competitive proposal process, which includes information to be submitted by parties as part of their competitive proposals and information that must be submitted by winning bidders seeking to become authorized to receive Stage 2 fixed support. The Commission concluded, based on its experience with awarding high-cost support and consistent with the record, that this single-stage competitive proposal process balances the need to collect information essential to awarding support and authorizing Stage 2 fixed support with administrative efficiency.

On September 30, 2025, the Commission adopted an order that conducted a comprehensive review of legacy requirements and determined that certain high-cost program rules no longer serve any operational purpose. *Delete, Delete Delete; Removal of Obsolete Regulations;* GN Docket No. 25–133, FCC 25–68 (rel. September 30, 2025) (*Delete, Delete, Delete*). This requested change results from the Commission's decision in that proceeding. The Commission determined that 47 CFR 54.1505 is outdated and obsolete, and unnecessary because all associated proposals using FCC Form 5634 have concluded.

Therefore, the Commission removes the application requirement and retains only the limited ongoing requirements related to the annual maintenance of letters of credit under 47 CFR 54.804(c), 54.1508 and the disaster preparation and response plan under § 54.1515. This information collection addresses the burdens associated with these requirements.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2026–06115 Filed 3–27–26; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The public portions of the applications listed below, as well as

other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank(s) indicated below and at the offices of the Board of Governors. This information may also be obtained on an expedited basis, upon request, by contacting the appropriate Federal Reserve Bank and from the Board's Freedom of Information Office at *https://www.federalreserve.gov/foia/request.htm.* Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)).

Comments received are subject to public disclosure. In general, comments received will be made available without change and will not be modified to remove personal or business information including confidential, contact, or other identifying information. Comments should not include any information such as confidential information that would not be appropriate for public disclosure.

Comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Benjamin W. McDonough, Secretary of the Board, 20th Street and Constitution Avenue NW, Washington DC 20551–0001, not later than April 29, 2026.

A. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414. Comments can also be sent electronically to *Comments.applications@chi.frb.org:*

1. *The North Salem State Bancorporation, North Salem, Indiana;* to acquire 13.08 percent of the voting shares of Tri-County Bancorp., and thereby indirectly acquire voting shares of Tri-County Bank & Trust Company, both of Roachdale, Indiana.

Board of Governors of the Federal Reserve System.

Michele Taylor Fennell,

Associate Secretary of the Board.

[FR Doc. 2026–06101 Filed 3–27–26; 8:45 am]

BILLING CODE P

FEDERAL TRADE COMMISSION

Agency Information Collection Activities; Proposed Collection; Comment Request; Extension

AGENCY: Federal Trade Commission.

ACTION: Notice and request for comment.

SUMMARY: The Federal Trade Commission (FTC or Commission) requests that the Office of Management and Budget (OMB) extend for three years the current Paperwork Reduction Act (PRA) clearance for information collection requirements contained in the FTC's Consumer Product Warranty Rule (Warranty Rule or Rule). The current clearance expires on April 30, 2026.

DATES: Comments must be received by April 29, 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 and its accompanying supporting statement by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. The *reginfo.gov* web link is a United States Government website produced by OMB and the General Services Administration (GSA). Under PRA requirements, OMB's Office of Information and Regulatory Affairs (OIRA) reviews Federal information collections.

FOR FURTHER INFORMATION CONTACT: Sung W. Kim, Attorney, Division of Marketing Practices, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580, (202) 326–2211; *skim6@ftc.gov.*

SUPPLEMENTARY INFORMATION:

Title: Rule Concerning Disclosure of Written Consumer Product Warranty Terms and Conditions, 16 CFR part 701.

OMB Control Number: 3084–0111.

Type of Review: Extension of a currently approved collection.

Abstract: The Warranty Rule is one of three rules [1] that the FTC implemented pursuant to requirements of the Magnuson-Moss Warranty Act, 15 U.S.C. 2301 *et seq.* (Warranty Act or Act).[2] The Warranty Rule specifies the information that must appear in a written warranty on a consumer product [3] costing more than $15. The Rule tracks Section 102(a) of the Warranty Act,[4] specifying information that must appear in the written warranty and, for certain disclosures, mandates the exact language that must be used.[5] Neither the Warranty Rule nor the Act requires that a manufacturer or retailer warrant a consumer product in writing, but if they choose to do so, the warranty must comply with the Rule.

Estimated Annual Hours Burden: 209,048 hours.

Estimated Annual Labor Cost Burden: $28,977,188.

On December 17, 2025, the FTC sought comment on the information collection requirements associated with the Rule. 90 FR 58557. The FTC received three relevant comments, with each appearing to support the renewal of the information collections.[6] Pursuant to OMB regulations, 5 CFR part 1320, that implement the PRA, 44 U.S.C. 3501 *et seq.,* the FTC is providing this second opportunity for public comment while seeking OMB approval to renew the pre-existing clearance for the Rule. For more details about the Rule requirements and the basis for the calculations summarized below, see 90 FR 58557.

Your comment—including your name and your state—will be placed on the public record of this proceeding. Because your comment will be made public, you are solely responsible for making sure that your comment does not include any sensitive personal information, such as anyone's Social Security number; date of birth; driver's license number or other state identification number, or foreign country equivalent; passport number; financial account number; or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, your comment should not include any ''trade secret or any commercial or financial information which . . . is privileged or confidential''—as provided by Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2)—including in particular competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

Josephine Liu,

Assistant General Counsel for Legal Counsel.

[FR Doc. 2026–06059 Filed 3–27–26; 8:45 am]

BILLING CODE 6750–01–P

[1] The other two rules relate to the pre-sale availability of warranty terms and minimum standards for informal dispute settlement mechanisms that are incorporated into a written warranty.

[2] 40 FR 60168 (Dec. 31, 1975).

[3] The definition of *consumer product* excludes products purchased solely for commercial or industrial use. 16 CFR 701.1(b).

[4] 15 U.S.C. 2302(a).

[5] 40 FR 60168, 60169–60170.

[6] Comment ID FTC–2025–0924–0003 (Superjoule), received Dec. 18, 2025; Comment ID FTC–2025–0924–0002 (Aravna Clerveus), received Dec. 17, 2025; and Comment ID FTC–2025–0924–0004 (Aravna Clerveus), received Dec. 18, 2025; all are available at *https://www.regulations.gov/document/FTC-2025-0924-0001/comment.*

FEDERAL TRADE COMMISSION

Agency Information Collection Activities; Proposed Collection; Comment Request; Extension

AGENCY: Federal Trade Commission.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (PRA), the Federal Trade Commission (FTC or Commission) is seeking public comment on its proposal to extend for an additional three years the information collection requirements contained in the agency's Rule Governing Pre-Sale Availability of Written Warranty Terms. The current clearance expires on July 31, 2026.

DATES: Comments must be filed by May 29, 2026.

ADDRESSES: Interested parties may file a comment online or on paper, by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Write ''Paperwork Reduction Act Comment: FTC File No. P044403,'' on your comment, and file your comment online at *https://www.regulations.gov* by following the instructions on the web-based form. If you prefer to file your comment on paper, mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Mail Stop H–144 (Annex E), Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Sung W. Kim, Attorney, Division of Marketing Practices, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580, (202) 326–2211; *skim6@ftc.gov.*

SUPPLEMENTARY INFORMATION:

Title: Pre-Sale Availability of Written Warranty Terms (Pre-Sale Availability Rule or Rule), 16 CFR part 702.

OMB Control Number: 3084–0112.

Type of Review: Extension of a currently approved collection.

Background: The Pre-Sale Availability Rule, 16 CFR part 702, is one of three rules [1] that the FTC issued as required by the Magnuson Moss Warranty Act, 15 U.S.C. 2301 *et seq.* (Warranty Act or Act).[2] The Pre-Sale Availability Rule requires sellers and warrantors to make the text of any written warranty on a consumer product costing more than $15 available to the consumer before sale. Among other things, the Rule requires sellers to make the text of the warranty readily available either by (1) displaying it in close proximity to the product or (2) furnishing it on request and posting signs in prominent locations advising consumers that the warranty is available. The Rule requires warrantors to provide materials to enable sellers to comply with the Rule's requirements and also sets out the methods by which warranty information can be made available before the sale if the product is sold through catalogs, mail order, or door to door sales. In addition, in 2016, the FTC revised the Rule to allow warrantors to post warranty terms on internet websites if they also provide a non-internet based method for consumers to obtain the warranty terms and satisfy certain other conditions.[3] The revised Rule also allows certain sellers to display warranty terms pre-sale in an electronic format if the warrantor has used the online method of disseminating warranty terms.

As required by section 3506(c)(2)(A) of the PRA, 44 U.S.C. 3506(c)(2)(A), the FTC is providing this opportunity for public comment before requesting that OMB extend the existing clearance for the information collection requirements contained in the Pre-Sale Availability Rule.

Burden Statement

Total annual hours burden: 2,611,826.

In its 2023 submission to OMB, FTC staff estimated that the information collection burden of making the disclosures required by the Pre-Sale Availability Rule was approximately 2,764,837 hours per year. Although there has been no change in the Rule's information collection requirements since 2023, staff has adjusted downward its previous estimate of the number of manufacturers subject to the Rule based on recent Census data.[4] Based on that data, staff now estimates that there are approximately 26,131 manufacturers subject to the Rule.[5] In addition, staff has adjusted downward its previous estimate of the number of retailers subject to the Rule based on recent Census data.[6] There are now an estimated 493,621 retailers impacted by the Rule.[7] These estimates likely overstate the number of manufacturers and retailers because some of the included manufacturers and retailers may make and sell products that are not covered by the Rule.

In submissions prior to 2023, FTC staff categorized retailers and manufacturers based on their size, and applied different time estimates for complying with the Rule based on whether the entity was large or small. In its 2023 submission to OMB and again this year, staff applied a single time estimate to all retailers and another to all manufacturers, regardless of size. These estimates are intended to be an average time burden, reflecting the typical burden across the full spectrum of retailers and manufacturers, and taking into account the number of large and small entities from prior years. This approach is consistent with how staff have estimated the time burden for the Warranty Rule, 16 CFR part 701, another rule the FTC issued under the Act.

Staff estimates that retailers spend, on average, 5 hours per year to comply with the Rule. Accordingly, the total annual burden for retailers is approximately 2,468,105 hours (493,621 retailers × 5 burden hours). Staff estimates that manufacturers spend an average of 5.5 hours per year to comply with the Rule. Accordingly, the total annual burden incurred by manufacturers is approximately 143,721 hours (26,131 manufacturers × 5.5 hours).

Thus, the total annual burden for all covered entities is approximately 2,611,826 hours (2,468,105 hours for retailers + 143,721 hours for manufacturers).

Total annual labor cost: $73,131,128.

The work required to comply with the Pre-Sale Availability Rule entails a mix of clerical work and work performed by sales associates. Staff estimates that half of the total burden hours would likely be performed by sales associates. At the manufacturing level, this work would entail ensuring that the written warranty is available for every warranted consumer product. At the retail level, this work would entail ensuring that the written warranty is made available to the consumer prior to sale. The remaining half of the work required to comply with the Pre-Sale Availability Rule is clerical in nature, *e.g.,* shipping or otherwise providing copies of

[1] The other two rules relate to the information that must appear in a written warranty on a consumer product costing more than $15 if a warranty is offered, and minimum standards for informal dispute settlement mechanisms that are incorporated into a written warranty.

[2] 40 FR 60168 (Dec. 31, 1975).

[3] 81 FR 63664–70 (Sept. 15, 2016).

[4] The Number of Firms and Establishments, Employment, and Annual Payroll by State, Industry, and Enterprise Employment Size: 2022, release date: 4/10/2025, *available at https://www.census.gov/data/tables/2022/econ/susb-annual.html.*

[5] The 2023 estimate was that 27,094 manufacturers were subject to the Rule.

[6] Retail Trade: Summary Statistics for the U.S., States, and Selected Geographies: 2022 (EC2244BASIC), available at *https://data.census.gov/table/ECNBASIC2022.EC2244BASIC?q=EC2244BASIC.*

[7] The 2023 estimate was that 523,164 retailers were subject to the Rule.

manufacturer warranties to retailers, along with retailer maintenance of the warranties. Applying a sales associate wage rate of $29/hour to half of the burden hours and a clerical wage rate of $27/hour to half of the burden hours, the total annual labor cost burden is approximately $73,131,128 (1,305,913 hours × $29 per hour) + (1,305,913 hours × $27 per hour).

Total annual capital or other non-labor costs: De minimis.

The vast majority of retailers and warrantors already have developed systems to provide the information the Rule requires. Compliance by retailers typically entails keeping warranties on file electronically, in binders or otherwise, and posting an inexpensive sign indicating warranty availability. Warrantor compliance under the 2016 amendments entails providing retailers, together with the warranted good, a copy of the warranty or the address of the warrantor's internet website where the consumer can review and obtain the warranty terms, along with the contact information where the consumer may use a non-internet based method to obtain a free copy of the warranty terms. Commission staff believes that, in light of the amendments, annual capital or other non-labor costs will remain de minimis.

Request for Comment

Pursuant to section 3506(c)(2)(A) of the PRA, the FTC invites comments on: (1) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will be practically useful; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including whether the methodology and assumptions used are valid; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information.

For the FTC to consider a comment, we must receive it on or before May 29, 2026. Your comment, including your name and your state, will be placed on the public record of this proceeding, including the *https://www.regulations.gov* website.

You can file a comment online or on paper. Due to heightened security screening, postal mail addressed to the Commission will be subject to delay. We encourage you to submit your comments online through the *https://www.regulations.gov* website.

If you file your comment on paper, write ''Paperwork Reduction Act Comment: FTC File No. P044403,'' on your comment and on the envelope, and mail it to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Mail Stop H–144 (Annex E), Washington, DC 20580.

Because your comment will become publicly available at *https://www.regulations.gov,* you are solely responsible for making sure that your comment does not include any sensitive or confidential information. In particular, your comment should not include any sensitive personal information, such as your or anyone else's Social Security number; date of birth; driver's license number or other state identification number, or foreign country equivalent; passport number; financial account number; or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, your comment should not include any ''trade secret or any commercial or financial information which . . . is privileged or confidential''—as provided by Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2)—including, in particular, competitively sensitive information, such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

Comments containing material for which confidential treatment is requested must (1) be filed in paper form, (2) be clearly labeled ''Confidential,'' and (3) comply with FTC Rule 4.9(c). In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request and must identify the specific portions of the comment to be withheld from the public record. *See* FTC Rule 4.9(c). Your comment will be kept confidential only if the General Counsel grants your request in accordance with the law and the public interest. Once your comment has been posted publicly at *www.regulations.gov,* we cannot redact or remove your comment unless you submit a confidentiality request that meets the requirements for such treatment under FTC Rule 4.9(c), and the General Counsel grants that request.

The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before May 29, 2026. For information on the Commission's privacy policy, including routine uses permitted by the Privacy Act, see *https://www.ftc.gov/site-information/privacy-policy.*

Josephine Liu,

Assistant General Counsel for Legal Counsel.

[FR Doc. 2026–06056 Filed 3–27–26; 8:45 am]

BILLING CODE 6750–01–P

FEDERAL TRADE COMMISSION

Agency Information Collection Activities; Proposed Collection; Comment Request; Extension

AGENCY: Federal Trade Commission.

ACTION: Notice and request for comment.

SUMMARY: The Federal Trade Commission (FTC or Commission) requests that the Office of Management and Budget (OMB) extend for three years the current Paperwork Reduction Act (PRA) clearance for information collection requirements of its Affiliate Marketing Rule, which applies to certain motor vehicle dealers, and its shared enforcement with the Consumer Financial Protection Bureau (CFPB) of the provisions (subpart C) of the CFPB's Regulation V regarding other entities (CFPB Rule). The current clearance expires on April 30, 2026.

DATES: Comments must be received by April 29, 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 and its accompanying supporting statement by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. The *reginfo.gov* web link is a United States Government website produced by OMB and the General Services Administration (GSA). Under PRA requirements, OMB's Office of Information and Regulatory Affairs (OIRA) reviews Federal information collections.

FOR FURTHER INFORMATION CONTACT: David Walko, Attorney, Division of Privacy and Identity Protection, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580, (202) 326–2880.

SUPPLEMENTARY INFORMATION:

Title: Affiliate Marketing Rule (16 CFR part 680).

OMB Control Number: 3084–0131.

Type of Review: Extension of currently approved collection.

Affected Public: Businesses and other for-profit entities.

Estimated Annual Burden Hours: 7,880.

Estimated Annual Labor Costs: $429,838.

Estimated Annual Non-Labor Costs: de minimis.

Abstract: The Affiliate Marketing Rule, 16 CFR part 680 (Affiliate Marketing Rule or Rule) requires covered entities to provide consumers with notice and an opportunity to opt out of the use of certain information before sending marketing solicitations. The Rule has no recordkeeping or reporting requirements. On December 23, 2025, the Commission sought comment on the disclosure requirements associated with the Rule. 90 FR 60101. No relevant comments were received. For more details about the Rule requirements, the background behind these information collection provisions, and the basis for these calculations, see 90 FR 60101 (Dec. 23, 2025).

Pursuant to the OMB regulations, 5 CFR part 1320, that implement the PRA, 44 U.S.C. 3501 *et seq.,* the FTC is providing this second opportunity for public comment while seeking OMB approval to renew the pre-existing clearance for those information collection requirements.

Your comment—including your name and your state—will be placed on the public record of this proceeding. Because your comment will be made public, you are solely responsible for making sure that your comment does not include any sensitive personal information, such as anyone's Social Security number; date of birth; driver's license number or other state identification number, or foreign country equivalent; passport number; financial account number; or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, your comment should not include any ''trade secret or any commercial or financial information which . . . is privileged or confidential'' —as provided by Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2)—including in particular competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

Josephine Liu,

Assistant General Counsel for Legal Counsel.

[FR Doc. 2026–06057 Filed 3–27–26; 8:45 am]

BILLING CODE 6750–01–P

OFFICE OF MANAGEMENT AND BUDGET

Office of Federal Procurement Policy

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0161; Docket No. 2025–0121; Sequence No. 1]

Submission for OMB Review; Reporting Purchases From Sources Outside the United States

AGENCY: Office of Federal Procurement Policy (OFPP), Office of Management and Budget (OMB); Department of Defense (DOD); General Services Administration (GSA); and National Aeronautics and Space Administration (NASA).

ACTION: Notice.

SUMMARY: Under the provisions of the Paperwork Reduction Act, the Regulatory Secretariat Division has submitted to OMB a request to review and approve an extension of a previously approved information collection requirement regarding reporting purchases from sources outside the United States.

DATES: Submit comments on or before April 29, 2026.

ADDRESSES: Written comments and recommendations for this information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: *FARPolicy@gsa.gov* or call 202–969–4075.

SUPPLEMENTARY INFORMATION:

A. OMB Control Number, Title, and any Associated Form(s)

9000–0161, Reporting Purchases from Sources Outside the United States.

B. Need and Uses

This clearance covers the information that offerors must submit to comply with the FAR provision 52.225–18, Place of Manufacture. This provision requires offerors of manufactured end products to indicate in response to a solicitation, by checking a box, whether the place of manufacture of the end products it expects to provide is predominantly manufactured in the United States or outside the United States. Contracting officers use the information as the basis for entry into the Federal Procurement Data System for further data on the rationale for purchasing foreign manufactured items. The data is necessary for analysis of the application of the Buy American statute and the trade agreements.

C. Annual Burden

Respondents: 23,134.
Total Annual Responses: 1,295,504.
Total Burden Hours: 12,955.

D. Public Comment

A 60-day notice was published in the **Federal Register** at 90 FR 59122, on December 18, 2025. A respondent provided several comments; however, they did not result in changes to the estimated burden.

Summary of Comments

The respondent supports the extension but expressed concern over the use, quality, and consistency of the collected information. The respondent recommended the following:

- Adopt standardized governmentwide collection of place-of-manufacture data.
- Improve processes by preventing unnecessary duplication in existing Buy American certification frameworks and providing clearer and more consistent definitions.
- Update burden estimates to reflect technological advancements and administrative efficiencies, recognizing the cumulative paperwork impact.

Response: The FAR Council acknowledges the comments received. Regarding the comments addressing duplication in existing Buy American certification frameworks, the respondent will have the opportunity to provide feedback when proposed changes to FAR Part 25 are published for comment as part of FAR Case 2026–004, Revolutionary Federal Acquisition Regulation Overhaul parts 19, 22, 23, and 25.

Obtaining Copies: Requesters may obtain a copy of the information collection documents from the GSA Regulatory Secretariat Division by calling 202–501–4755 or emailing

GSARegSec@gsa.gov. Please cite OMB Control No. 9000–0161, Reporting Purchases from Sources Outside the United States.

Janet Fry,

Director, Federal Acquisition Policy Division, Office of Governmentwide Acquisition Policy, Office of Acquisition Policy, Office of Governmentwide Policy.

[FR Doc. 2026–06072 Filed 3–27–26; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Meeting of the Advisory Board on Radiation and Worker Health, Subcommittee for Procedure Reviews, National Institute for Occupational Safety and Health

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, the Centers for Disease Control and Prevention (CDC) announces the following meeting for the Subcommittee on Procedures Reviews (SPR) of the Advisory Board on Radiation and Worker Health (ABRWH or the Advisory Board). This meeting is open to the public, but without a public comment period. The public is welcome to submit written comments in advance of the meeting, to the contact person below. The public is also welcome to listen to the meeting by joining the audio conference (information below). The audio conference line has 150 ports for callers.

DATES: The meeting will be held on June 5, 2026, from 11 a.m. to 4:30 p.m., EDT.

Written comments must be received on or before May 29, 2026.

ADDRESSES: You may submit comments by mail to: Rashaun Roberts, Ph.D., Designated Federal Officer, National Institute for Occupational Safety and Health, Centers for Disease Control and Prevention, 1090 Tusculum Avenue, Mailstop C–24, Cincinnati, Ohio 45226. Email: *ocas@cdc.gov.*

Written comments received in advance of the meeting will be included in the official record of the meeting.

Meeting Information: Audio Conference Call via FTS Conferencing. The USA toll-free dial-in number is 1–866–659–0537; the passcode is 9933701.

FOR FURTHER INFORMATION CONTACT: Rashaun Roberts, Ph.D., Designated Federal Officer, National Institute for Occupational Safety and Health, Centers for Disease Control and Prevention, 1090 Tusculum Avenue, Mailstop C–24, Cincinnati, Ohio 45226, Telephone: (513) 533–6800, Email: *ocas@cdc.gov.*

SUPPLEMENTARY INFORMATION:

Background: The Advisory Board was established under the Energy Employees Occupational Illness Compensation Program Act of 2000 to advise the President on a variety of policy and technical functions required to implement and effectively manage the compensation program. Key functions of the Advisory Board include providing advice on the development of probability of causation guidelines, which have been promulgated by the Department of Health and Human Services (HHS) as a final rule; advice on methods of dose reconstruction, which have also been promulgated by HHS as a final rule; advice on the scientific validity and quality of dose estimation and reconstruction efforts being performed for purposes of the compensation program; and advice on petitions to add classes of workers to the Special Exposure Cohort (SEC). In December 2000, the President delegated responsibility for funding, staffing, and operating the Advisory Board to HHS, which subsequently delegated this authority to the CDC. NIOSH implements this responsibility for CDC.

The charter was issued on August 3, 2001, renewed at appropriate intervals, and rechartered under Executive Order 14109 (September 29, 2023) on March 22, 2024. Unless continued by the President, the Advisory Board will terminate on September 30, 2027, consistent with Executive Order 14354 of September 29, 2025.

Purpose: The Advisory Board is charged with (a) providing advice to the Secretary, HHS, on the development of guidelines under Executive Order 13179 ; (b) providing advice to the Secretary, HHS, on the scientific validity and quality of dose reconstruction efforts performed for this program; and (c) upon request by the Secretary, HHS, advising the Secretary on whether there is a class of employees at any Department of Energy facility who were exposed to radiation but for whom it is not feasible to estimate their radiation dose, and on whether there is reasonable likelihood that such radiation doses may have endangered the health of members of this class. The ABRWH Subcommittee on Procedure Reviews (SPR) is responsible for overseeing, tracking, and participating in the reviews of all procedures used in the dose reconstruction process by the NIOSH Division of Compensation Analysis and Support (DCAS) and its dose reconstruction contractor (Oak Ridge Associated Universities—ORAU).

Matters to be Considered: The agenda will include discussions on the following:

1. Administrative items, including: a. SPR-approved documents for August Board meeting, b. SC&A revised PER protocol presentation, and c. Updated list of documents awaiting NIOSH responses; 2. Carry-over items from January 28, 2026, SPR Meeting including a. ORAUT–RPRT–0071, rev. 00 ''External Dose Coworker Methodology'' including: i. SC&A memo, ii. BRS update, iii. Closeout discussion, b. DCAS–PER–079 rev. 0 ''Pinellas TBD Revision'' presentation, c.DCAS–PER–036, rev. 0 ''Blockson TBD Revision'' presentation, d. DCAS–PER–039, rev. 0, ''Baker Perkins TBD Revision'' presentation; 3. NIOSH responses to SC&A reviews including: a. Battelle-TIB–5000, rev. 00 ''Default Assumptions and Methods for Atomic Weapons Employer Dose Reconstructions,'' and b. ORAUT–RPRT–0087, rev. 00, ''Applications of Regression in External Dose Reconstruction''; 4. SC&A issued reviews: a. ORAUT–OTIB–0092, rev. 00 ''Correction Factors for Neutron Dose Measured with Nuclear Track Emulsion, Type A Film'' presentation including: i. NIOSH response to OTIB–0092 observation, b. DCAS–PER–090, rev. 0 ''Grand Junction Operations Office'' presentation, c. ORAUT–OTIB–0034, rev. 04 ''Internal Dosimetry Co-Exposure Data for Oak Ridge National Laboratory'' presentation, d. DCAS–PER–069, rev. 0 ''Jessop Steel Company'' presentation, e. DCAS–PER–078, rev. 0 ''Extrusion Plant'' presentation, f. ORAUT–TKBS–0020, rev. 00 ''Technical Basis Document: Basis for the Development of an Exposure Matrix for Tennessee Valley Authority, Muscle Shoals, Alabama, Period of Operations: 1951–1955'' presentation, and g. ORAUT–TKBS–0016–4, rev. 02 ''Mound Plant—Occupational Environmental Dose'' presentation, and h. ORAUT–TKBS–0016–5, rev. 03 ''Mound Plant—Occupational Internal Dose'' presentation; 5. Newly-Issued Guidance and Supplemental Topics. Agenda items are subject to change as priorities dictate. For additional information, please contact Toll Free 1(800) 232–4636.

The Director, Office of Strategic Business Initiatives, Office of the Chief Operating Officer, Centers for Disease Control and Prevention, has been delegated the authority to sign **Federal Register** notices pertaining to

announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Kalwant Smagh,

Director, Office of Strategic Business Initiatives, Office of the Chief Operating Officer, Centers for Disease Control and Prevention.

[FR Doc. 2026–06029 Filed 3–27–26; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Meeting of the Advisory Board on Radiation and Worker Health, National Institute for Occupational Safety and Health

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, the Centers for Disease Control and Prevention (CDC) announces the following meeting of the Advisory Board on Radiation and Worker Health (ABRWH). This is a virtual meeting. It is open to the public, with a public comment period. The public is welcome to submit written comments in advance of the meeting, to the contact person below. The public is also welcome to listen to the meeting by joining the audio conference (information below). The audio conference line has 150 ports for callers.

DATES: The meeting will be held on April 29, 2026, from 10 a.m. to 6:15 p.m., EDT. A public comment session will be held at 5:15 p.m., EDT, and will conclude at 6:15 p.m., EDT, or following the final call for public comment, whichever comes first. Written comments must be received on or before April 15, 2026.

ADDRESSES: You may submit comments by mail to: Rashaun Roberts, Ph.D., Designated Federal Officer, National Institute for Occupational Safety and Health, Centers for Disease Control and Prevention, 1090 Tusculum Avenue, Mailstop C–24, Cincinnati, Ohio 45226. Email: *ocas@cdc.gov.*

Written comments received in advance of the meeting will be included in the official record of the meeting.

Meeting Information: The USA toll-free dial-in numbers are: +1 404–718–3800 (U.S. East Coast); and +1 888–994–4478 (U.S. West Coast). The meeting ID is: 271 742 125 246 45; the Passcode is: 120 759 860; and the Web conference by Teams meeting connection is: *https://teams.microsoft.com/meet/27174212524645?p=J0pOw0phJ3OCS1ssGO.*

FOR FURTHER INFORMATION CONTACT: Rashaun Roberts, Ph.D., Designated Federal Officer, National Institute for Occupational Safety and Health, Centers for Disease Control and Prevention, 1090 Tusculum Avenue, Mailstop C–24, Cincinnati, Ohio 45226, Telephone: (513) 533–6800, Email: *ocas@cdc.gov.*

SUPPLEMENTARY INFORMATION:

Background: The Advisory Board was established under the Energy Employees Occupational Illness Compensation Program Act of 2000 to advise the President on a variety of policy and technical functions required to implement and effectively manage the compensation program. Key functions of the Advisory Board include providing advice on the development of probability of causation guidelines, which have been promulgated by the Department of Health and Human Services (HHS) as a final rule; advice on methods of dose reconstruction, which have also been promulgated by HHS as a final rule; advice on the scientific validity and quality of dose estimation and reconstruction efforts being performed for purposes of the compensation program; and advice on petitions to add classes of workers to the Special Exposure Cohort (SEC). In December 2000, the President delegated responsibility for funding, staffing, and operating the Advisory Board to HHS, which subsequently delegated this authority to the CDC. NIOSH implements this responsibility for CDC.

The charter was issued on August 3, 2001, renewed at appropriate intervals, and rechartered under Executive Order 14109 (September 29, 2023) on March 22, 2024. Unless continued by the President, the Advisory Board will terminate on September 30, 2027, consistent with Executive Order 14354 of September 29, 2025.

Purpose: The Advisory Board is charged with (a) providing advice to the Secretary, HHS, on the development of guidelines under Executive Order 13179; (b) providing advice to the Secretary, HHS, on the scientific validity and quality of dose reconstruction efforts performed for this program; and (c) upon request by the Secretary, HHS, advising the Secretary on whether there is a class of employees at any Department of Energy facility who were exposed to radiation but for whom it is not feasible to estimate their radiation dose, and on whether there is reasonable likelihood that such radiation doses may have endangered the health of members of this class.

Matters to be Considered: The agenda will include discussions on the following: NIOSH program, Department of Labor, Department of Energy, and Special Exposure Cohort (SEC) petitions status updates; Idaho National Lab/Argonne National Lab-West, Savannah River Site, and SEC Issues workgroup updates, procedure reviews finalization/document approvals and, board work session. Agenda items are subject to change as priorities dictate. For additional information, please contact Toll Free 1–800–232–4636.

The Director, Office of Strategic Business Initiatives, Office of the Chief Operating Officer, Centers for Disease Control and Prevention, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Kalwant Smagh,

Director, Office of Strategic Business Initiatives, Office of the Chief Operating Officer, Centers for Disease Control and Prevention.

[FR Doc. 2026–06028 Filed 3–27–26; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[Office of Management and Budget #: 0970–0424]

Proposed Information Collection Activity; National Child Abuse and Neglect Data System

AGENCY: Children's Bureau, Administration for Children and Families, U.S. Department of Health and Human Services.

ACTION: Request for public comments.

SUMMARY: The Administration for Children, Youth and Families in the U.S. Department of Health and Human Services (HHS) is requesting a three-year extension of the National Child Abuse and Neglect Data System (NCANDS) collection (OMB #0970–0424, expiration 07/31/2026). There are no changes requested to this data collection.

DATES: *Comments due* May 29, 2026.

ADDRESSES: In compliance with the requirements of the Paperwork Reduction Act of 1995, ACF is soliciting public comment on the specific aspects of the information collection described above. You can obtain copies of the proposed collection of information and submit comments by emailing *infocollection@acf.hhs.gov*. Identify all requests by the title of the information collection.

SUPPLEMENTARY INFORMATION:

Description: The Child Abuse Prevention and Treatment Act (CAPTA) was amended in 1988 to direct the Secretary of HHS to establish a national data collection and analysis program, which would make available state child abuse and neglect reporting information. HHS responded by establishing NCANDS as a voluntary national reporting system.

During 1996, CAPTA was amended to require all states that receive funds from the Basic State Grant program to work with the Secretary of HHS to provide specific data elements, to the maximum extent practicable, about children who had been maltreated. Subsequent CAPTA reauthorizations and amendments added required data elements. The current list of CAPTA required data elements includes:

(1) The number of children who were reported to the state during the year as victims of child abuse or neglect.

(2) Of the number of children described in paragraph (1), the number with respect to whom such reports were—

(a) Substantiated;

(b) Unsubstantiated; or

(c) Determined to be false.

(3) Of the number of children described in paragraph (2)—

(a) the number that did not receive services during the year under the state program funded under this section or an equivalent state program;

(b) the number that received services during the year under the state program funded under this section or an equivalent state program; and

(c) the number that were removed from their families during the year by disposition of the case.

(4) The number of families that received preventive services, including use of differential response, from the state during the year.

(5) The number of deaths in the state during the year resulting from child abuse or neglect.

(6) Of the number of children described in paragraph (5), the number of such children who were in foster care.

(7)

(a) The number of child protective service personnel responsible for the—

(i.) intake of reports filed in the previous year;

(ii.) screening of such reports;

(iii.) assessment of such reports; and

(iv.) investigation of such reports.

(b) The average caseload for the workers described in subparagraph (A).

(8) The agency response time with respect to each such report with respect to initial investigation of reports of child abuse or neglect.

(9) The response time with respect to the provision of services to families and children where an allegation of child abuse or neglect has been made.

(10) N/A for NCANDS.

(11) The number of children reunited with their families or receiving family preservation services that, within five years, result in subsequent substantiated reports of child abuse or neglect, including the death of the child.

(12) The number of children for whom individuals were appointed by the court to represent the best interests of such children and the average number of out of court contacts between such individuals and children.

(13) N/A for NCANDS.

(14) N/A for NCANDS.

(15) The number of children referred to a child protective services system under subsection (b)(2)(B)(ii).

(16) The number of children determined to be eligible for referral, and the number of children referred, under subsection (b)(2)(B)(xxi), to agencies providing early intervention services under part C of the Individuals with Disabilities Education Act (20 U.S.C. 1431 et seq.).

(17) The number of children determined to be victims described in subsection (b)(2)(B)(xxiv).

(18) The number of infants—

(a) identified under subsection (b)(2)(B)(ii);

(b) for whom a plan of safe care was developed under subsection (b)(2)(B)(iii); and

(c) for whom a referral was made for appropriate services, including services for the affected family or caregiver, under subsection (b)(2)(B)(iii).

The items listed under number (10), (13), and (14) are not collected by NCANDS.

The Children's Bureau proposes to continue collecting the NCANDS data through the two files of the Detailed Case Data Component, the Child File (the case-level component of NCANDS) and the Agency File (additional aggregate data, which cannot be collected at the case level). There are no proposed changes to the NCANDS data collection instruments. Small changes were made to the instructions to provide clarity, streamline the process, and reduce state burden.

Respondents: State governments, the District of Columbia, and the Commonwealth of Puerto Rico.

ANNUAL BURDEN ESTIMATES

Information collection title	Total number of respondents	Annual number of responses per respondent	Average burden hours per response	Annual burden hours
Detailed Case Data Component: (Child File and Agency File) IT Staff	52	1	42.6	2,215
Detailed Case Data Component: (Child File and Agency File) Programmatic Staff	52	1	65.4	3,401
Estimated Annual Burden Total				5,616

Comments: The Department specifically requests comments on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given

to comments and suggestions submitted within 60 days of this publication.

Authority: 42 U.S.C. 5101 *et seq.*

Mary C. Jones,

ACF/OPRE Certifying Officer.

[FR Doc. 2026–06092 Filed 3–27–26; 8:45 am]

BILLING CODE 4184–29–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[Office of Management and Budget #: 0970–0422]

Proposed Information Collection Activity; Adoption and Foster Care Analysis and Reporting System (AFCARS)

AGENCY: Children's Bureau, Administration for Children and Families, U.S. Department of Health and Human Services.

ACTION: Request for public comments.

SUMMARY: The Administration for Children and Families (ACF) is requesting a revision of the Adoption and Foster Care Analysis and Reporting System (AFCARS) (Office of Management and Budget (OMB) #: 0970–0422, expiration June 30, 2026). Sixty-two data elements have been added to AFCARS, per a December 2024 final rule. This has increased the burden for reporting for state child welfare agencies only.

DATES: *Comments due* May 29, 2026.

ADDRESSES: In compliance with the requirements of the Paperwork Reduction Act of 1995, ACF is soliciting public comment on the specific aspects of the information collection described above. You can obtain copies of the proposed collection of information and submit comments by emailing *infocollection@acf.hhs.gov.* Identify all requests by the title of the information collection.

SUPPLEMENTARY INFORMATION:

Description: State and tribal title IV–E agencies are required to report AFCARS case-level information on all children in foster care and children who have been adopted or placed in a guardianship with title IV–E agency involvement. The data includes information about children who enter foster care, their entries and exits, placement details, and foster/adoptive parent information. The data collected will inform policy decisions, program management, and responses to Congressional and Departmental inquiries. Specifically, the data are used for short/long-term budget projections, trend analysis, child and family service reviews, and to target areas for improved technical assistance.

The AFCARS regulation (45 CFR part 1355.40) recently underwent a revision with a final rule in December 2024 (89 FR 96569), which added 62 data elements to require state title IV–E child welfare agency reporting of more detailed information related to the Indian Child Welfare Act's procedural protections. This increased the reporting burden for states only.

This request is for public comment on the burden calculations. It does not seek comment on the data elements that have been through the rulemaking process.

Respondents: Title IV–E State and Tribal Child Welfare Agencies.

In the currently approved information collection, burden was displayed in sum for state and tribal recordkeeping activities. To more clearly document estimated burden per respondent type after the recent addition of elements for states, this request breaks the recordkeeping burden out by respondent. The estimated time per response for tribes remains the same while the estimated time per response for states increased from 8,538 to 9,036 hours per response.

ANNUAL BURDEN ESTIMATES

Instrument	Total number of respondents	Total number of responses per respondent	Average burden hours per response	Annual burden hours
State Recordkeeping	53	2	9,035.97	957,813
Tribe Recordkeeping	17	2	8,538	290,292
Reporting	70	2	17	2,380
Estimated Total Annual Burden Hours				1,250,485

Comments: The Department specifically requests comments on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

(Authority: 42 U.S.C. 679; 45 CFR part 1355.40.)

Mary C. Jones,

ACF/OPRE Certifying Officer.

[FR Doc. 2026–06093 Filed 3–27–26; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2015–D–1580]

Incorporating Voluntary Patient Preference Information Over the Total Product Life Cycle; Guidance for Industry, Food and Drug Administration Staff, and Other Interested Parties; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of a final guidance entitled ''Incorporating Voluntary Patient Preference

Information over the Total Product Life Cycle.'' Patients provide valuable input to FDA in a variety of forms. This guidance describes the principles and concepts that FDA recommends sponsors and other interested parties consider when collecting and submitting patient preference information (PPI), discusses FDA's inclusion of PPI in its decision summaries, and provides recommendations for the inclusion of such information in device labeling for certain devices. PPI can be used in FDA decision making across the total product life cycle, including during review of investigational device exemption (IDE) applications, requests for a Breakthrough Device designation, premarket approval (PMA) applications, humanitarian device exemption (HDE) applications, De Novo classification requests, premarket notifications (510(k)s), or for FDA decisions involving administrative, enforcement, or other actions.

DATES: The announcement of the guidance is published in the **Federal Register** on March 30, 2026.

ADDRESSES: You may submit either electronic or written comments on Agency guidances at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2015–D–1580 for ''Incorporating Voluntary Patient Preference Information over the Total Product Life Cycle.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

An electronic copy of the guidance document is available for download from the internet. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance. Submit written requests for a single hard copy of the guidance document entitled ''Incorporating Voluntary Patient Preference Information over the Total Product Life Cycle'' to the Office of Policy, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 5441, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your request.

FOR FURTHER INFORMATION CONTACT: Erica Takai, Center for Devices and Radiological Health, Food and Drug Administration, 301–796–6353; or Phillip Kurs, Center for Biologics Evaluation and Research, Food and Drug Administration, 240–402–7911.

SUPPLEMENTARY INFORMATION:

I. Background

FDA believes that patients can and should bring their own experiences to bear in helping the Agency to evaluate the benefit-risk profiles of certain devices. This kind of input can be important to consider during FDA's decision making for these devices across the total product life cycle. This guidance updates the recommendations in the 2016 guidance entitled ''Patient Preference Information—Voluntary Submission, Review in Premarket Approval Applications, Humanitarian Device Exemption Applications, and De Novo Requests, and Inclusion in Decision Summaries and Device Labeling'' (''2016 PPI Guidance''). Since the issuance of the 2016 PPI Guidance, there have been many developments in the use of PPI for devices, including an increase in industry-sponsored PPI studies provided to FDA for consideration as part of a benefit-risk assessment, and numerous collaborations between FDA scientists and a variety of interested parties to conduct PPI studies to inform clinical trial design and FDA decision making across a wide range of diseases, conditions, and device areas. FDA has also implemented its benefit-risk framework across the total product life cycle (TPLC), including the submission and review of IDE applications, requests

for a Breakthrough Device designation, PMAs, HDE applications, De Novo requests, and 510(k)s, and other FDA decisions involving administrative, enforcement, and other actions. This update of the 2016 PPI Guidance reflects this TPLC scope as well as developments in the field of health preference research. This final guidance fulfills a commitment in Section V.E. of the Medical Device User Fee Amendments Performance Goals and Procedures, Fiscal Years 2023 Through 2027 (MDUFA V) to update the 2016 PPI Guidance with pragmatic insights and to address common questions for those interested in the use of PPI in regulatory submissions. This guidance supersedes the 2016 PPI Guidance issued on August 24, 2016.

FDA considered the applicability of Executive Order 14192, per Office of Management and Budget (OMB) guidance in M–25–20, and finds this action to be neither regulatory nor deregulatory.

A notice of availability of the draft guidance appeared in the **Federal Register** of September 6, 2024 (89 FR 72856). FDA considered comments received and revised the guidance as appropriate in response to the comments, including clarifying terminology, adding recommendations on when sponsors may find it helpful to meet with FDA, and adding recommendations on when patient engagement during the design and implementation of a study may be beneficial.

This guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The guidance represents the current thinking of FDA on Incorporating Voluntary Patient Preference Information over the Total Product Life Cycle. It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

II. Electronic Access

Persons interested in obtaining a copy of the guidance may do so by downloading an electronic copy from the internet. A search capability for all Center for Devices and Radiological Health guidance documents is available at *https://www.fda.gov/medical-devices/device-advice-comprehensive-regulatory-assistance/guidance-documents-medical-devices-and-radiation-emitting-products.* This guidance document is also available at *https://www.regulations.gov, https://www.fda.gov/regulatory-information/search-fda-guidance-documents,* or *https://www.fda.gov/vaccines-blood-biologics/guidance-compliance-regulatory-information-biologics.* Persons unable to download an electronic copy of ''Incorporating Voluntary Patient Preference Information over the Total Product Life Cycle'' may send an email request to *CDRH-Guidance@fda.hhs.gov* to receive an electronic copy of the document. Please use the document number GUI01500006 and complete title to identify the guidance you are requesting.

III. Paperwork Reduction Act of 1995

While this guidance contains no new collection of information, it does refer to previously approved FDA collections of information. The previously approved collections of information are subject to review by OMB under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521). The collections of information in the following table have been approved by OMB:

21 CFR part; guidance; or FDA form	Topic	OMB Control No.
807, subpart E	Premarket notification	0910–0120
814, subparts A through E	Premarket approval	0910–0231
814, subpart H	Humanitarian Use Devices; Humanitarian Device Exemption	0910–0332
812	Investigational Device Exemption	0910–0078
860, subpart D	De Novo classification process	0910–0844
''Requests for Feedback and Meetings for Medical Device Submissions: The Q-Submission Program''.	Q-submissions and Early Payor Feedback Request Programs for Medical Devices.	0910–0756
800, 801, 809, and 830	Medical Device Labeling Regulations; Unique Device Identification.	0910–0485
50, 56	Protection of Human Subjects and Institutional Review Boards.	0910–0130

Grace R. Graham,

Deputy Commissioner for Policy, Legislation, and International Affairs.

[FR Doc. 2026–06063 Filed 3–27–26; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Career Development Applications in Neuroscience.

Date: April 22, 2026.

Time: 9:30 a.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: Jingshan Chen, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 451–2405, *jingshan.chen@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR Panel: Musculoskeletal, Skin, and Oral Sciences.

Date: April 23, 2026.

Time: 8:00 a.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: Yi-Hsin Liu, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 435–1781, *liuyh@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Program Projects: Alzheimer's Disease, Aging and Neurodegeneration.

Date: April 23–24, 2026.

Time: 8:30 a.m. to 8:00 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: Ana Olariu, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 496–9223, *Ana.Olariu@nih.gov.*

Name of Committee: Brain Disorders and Clinical Neuroscience Integrated Review Group; Clinical Neuroimmunology and Brain Tumors Study Section.

Date: April 23–24, 2026.

Time: 9:00 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: Dario Dieguez, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 827–3101, *dario.dieguez@nih.gov.*

Name of Committee: Digestive, Kidney and Urological Systems Integrated Review Group; Digestive System Host Defense, Microbial Interactions and Immune and Inflammatory Disease Study Section.

Date: April 23–24, 2026.

Time: 9:00 a.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: Aiping Zhao, MD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2188, Bethesda, MD 20892–7818, (301) 435–0682, *zhaoa2@csr.nih.gov.*

Name of Committee: Cardiovascular and Respiratory Sciences Integrated Review Group; Integrative Myocardial Physiology/Pathophysiology A Study Section.

Date: April 23, 2026.

Time: 9:00 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: Abdelouahab Aitouche, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4222, MSC 7814, Bethesda, MD 20892, 301–435–2365, *aitouchea@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR Panel: Integrated Cellular and Molecular Involvements in Studying Alzheimer's Disease and Related Dementias (ADRD).

Date: April 23–24, 2026.

Time: 9:00 a.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: Surojeet Sengupta, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 496–9223, *surojeet.sengupta@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Bioanalytical, Molecular, Cellular Sciences and Technologies.

Date: April 23, 2026.

Time: 9:00 a.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: Katherine Shim, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 496–8683, *katherine.shim@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Neurodevelopment, Oxidative Stress and Synaptic Plasticity.

Date: April 23, 2026.

Time: 9:00 a.m. to 7:00 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: Vanessa S. Boyce, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Rm. 4185, MSC 7850, Bethesda, MD 20892, (301) 402–3726 *boycevs@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Topics in Neuroscience and Neurogenetics.

Date: April 23–24, 2026.

Time: 9:00 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: Gagan Deep Bajaj, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 402–6965, *gagan.bajaj@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR Panel: Implementation Research for Multi-Morbidity Management in the Context of Non-Communicable Diseases in Low- and Middle-Income Countries and U.S. Tribal Populations.

Date: April 23, 2026.

Time: 9:00 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: Shareen Iqbal, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 496–6937, *shareen.iqbal@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Training and Career Development: Kidney, Urology, and Related Disciplines.

Date: April 23, 2026.

Time: 10:00 a.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: Jason D. Hoffert, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20817, (301) 496–9010, *hoffertj@niddk.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: March 25, 2026.

Bruce A. George,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2026–06036 Filed 3–27–26; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Minority Health and Health Disparities; Notice of Partially Closed Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the National Advisory Council on Minority Health and Health Disparities.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting. The open session will be videocast and can be accessed from the NIH Videocasting and

Podcasting website (*http://videocast.nih.gov/*).

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Advisory Council on Minority Health and Health Disparities.

Date: May 19, 2026.

Open: 9:30 a.m. to 5:00 p.m.

Agenda: Opening Remarks, Administrative Matters, Director's Report, Presentations, and Other Business of the Council.

Closed: 3:30 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Meeting Format: Virtual Meeting.

Address: National Institutes of Health, 6707 Democracy Boulevard, Bethesda, MD 20892.

Contact Person: Maines L. Aviles-Santa, M.D., MPH, Director, Division of Clinical and Health Services Research, National Institute on Minority Health and Health Disparities, National Institutes of Health, 6707 Democracy Boulevard, Suite 800 Bethesda, MD 20817, (301) 402–1366, *avilessantal@mail.nih.gov.*

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person. Information is also available on the Institute's/Center's home page: NIMHD: *https://www.nimhd.nih.gov/about/advisory-council/,* where an agenda and any additional information for the meeting will be posted when available.

Dated: March 25, 2026.

David W. Freeman,

Supervisory Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2026–06037 Filed 3–27–26; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[A2407–014–004–065516, #O2509–014–004–125222; LLNM931000]

Filing of Plats of Survey and Supplemental Plat; New Mexico; Oklahoma

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of official filing.

SUMMARY: The plats of survey and the supplemental plat of the following described lands are scheduled to be officially filed in the Bureau of Land Management (BLM) New Mexico State Office, Santa Fe, New Mexico. The surveys and plat announced in this notice are necessary for the management of these lands.

DATES: Protests must be received by the BLM New Mexico State Office prior the scheduled date of official filing, April 29, 2026.

ADDRESSES: A copy of the survey records may be obtained from the Public Room at the BLM New Mexico State Office, 301 Dinosaur Trail, Santa Fe, New Mexico 875081, upon required payment. The plats may be viewed at this location at no cost.

FOR FURTHER INFORMATION CONTACT: Jacob B. Barowsky, BLM Chief Cadastral Surveyor for New Mexico and Oklahoma, by telephone at 505–761–8903, or by email at *jbarowsky@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:

New Mexico Principal Meridian, New Mexico

The dependent resurvey and survey within Township 19 South, Range 27 East, accepted December 17, 2025, for Group No. 1221 New Mexico. This plat was prepared at the request of the BLM, New Mexico State Office, Minerals Division.

Indian Meridian, Oklahoma

The dependent resurvey and survey within Township 19 North, Range 15 West, accepted February 19, 2026, for Group No. 242 Oklahoma. This plat was prepared at the request of the Bureau of Indian Affairs, Southern Plains Region.

The Supplemental Plat of Township 10 North, Range 26 East, accepted January 28, 2026, for Group No. 247 Oklahoma. This plat was prepared at the request of the Bureau of Indian Affairs, Eastern Oklahoma Region.

A person or party who wishes to protest an official filing of a survey or supplemental plat identified above must file a written notice of protest with the BLM State Director for New Mexico, at the address listed in the **ADDRESSES** section of this notice.

The notice of protest must identify the specific plat(s) of survey or supplemental plat that the person or party wishes to protest. The notice of protest must be received in the BLM New Mexico State Office no later than the scheduled date of the proposed official filing of the plat(s) of survey or supplemental plat being protested, see the **DATES** section earlier; if received after regular business hours, a notice of protest will be considered filed the next business day.

A written statement of reasons in support of the protest, if not filed with the notice of protest, must be filed with the BLM State Director for New Mexico within 30 days after the notice of protest is received.

If a notice of protest of the official filing of plat(s) of survey or supplemental plat is received prior to the scheduled date of official filing, the official filing of plat(s) of survey or supplemental plat identified in the notice of protest will be stayed pending consideration of the protest. Plat(s) of survey or the supplemental plat will not be officially filed until the next business day after all timely protests have been dismissed or otherwise resolved.

Before including your address, phone number, email address, or other personally identifiable information in your protest, please be aware that your entire protest, including your personally identifiable information, may be made publicly available at any time. While you can ask the BLM in your comment to withhold your personally identifiable information from public review, we cannot guarantee that we will be able to do so.

(Authority: 43 U.S.C. Chap. 3.)

Jacob B. Barowsky,

Chief Cadastral Surveyor for New Mexico and Oklahoma.

[FR Doc. 2026–06107 Filed 3–27–26; 8:45 am]

BILLING CODE 4331–23–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–VRP–OPH–NPS0042006; OMB Control Number 1024–0289 PPWOVPADH0, PPMPRHS1Y.Y00000]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; NPS Case and Outbreak Investigation Data Collections

AGENCY: National Park Service, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, we, the National Park Service (NPS) are proposing to renew an information collection with revisions.

DATES: Interested persons are invited to submit comments, which NPS must receive on or before April 29, 2026.

ADDRESSES: Written comments and suggestions on the information collection requirements should be submitted by the date specified above in **DATES** to *https://www.reginfo.gov/public/do/PRAMain*. Find this particular information collection by selecting ''Currently under Review—Open for Public Comments'' or by using the search function. Please provide a copy of your comments to the NPS Information Collection Clearance Officer (ADIR–ICCO), 13461 Sunrise Valley Drive, (MS–263) Reston, VA 20191 (mail); or *pponds@ios.doi.gov* (email). Please reference 1024–0289 (EPI) in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: Dr. Amelia Johnson by email at *amelia_johnson@nps.gov* or by telephone at 202–236–6475; or Jennifer Proctor by email at *jennifer_proctor@nps.gov*, or by telephone at 202–513–7237. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point of contact in the United States. You may also view the ICR at *https://www.reginfo.gov/public/do/PRAMain*.

SUPPLEMENTARY INFORMATION: In accordance with the PRA and 5 CFR 1320.8(d)(1), all information collections require approval under the PRA. We may not conduct or sponsor, and you are not required to respond to, a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number.

A **Federal Register** notice with a 60-day public comment period soliciting comments on this collection of information was published on September 11, 2025 (90 FR 44097). We did not receive any comments in response.

As part of our continuing effort to reduce paperwork and respondent burdens, we invite the public and other Federal agencies to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

We are especially interested in public comment addressing the following:

(1) Whether or not the collection of information is necessary for the proper performance of the functions of the agency, including whether or not the information will have practical utility;

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

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

(4) How might the agency minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of response.

Comments that you submit in response to this notice are a matter of public record. 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 can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Abstract: Authorized by the NPS Organic Act, 54 U.S.C. 100101 *et seq.,* and the Public Health Service Act, 42 U.S. Code Chapter 6A, the NPS Office of Public Health (OPH) is called upon by National Park Service leadership and others to conduct disease surveillance, respond to urgent outbreaks, and prevent illnesses within or associated with National Parks. In some areas of the National Park System, state and local health departments may not have jurisdiction; even where state and local health departments do have jurisdiction, they may rely on the NPS for public health response on public lands.

This collection will allow the NPS OPH to conduct epidemiological investigations in response to public health events of concern, including:

- Incidents where three or more visitors, employees, or volunteers have similar symptoms or illnesses
- Single reports of rare or reportable diseases
- Incidents that result in death, cause serious injury or illness, and/or lead to overnight hospitalization
- Wildlife encounters of concern such as bites, scratches, or attacks and wildlife deaths that do not fit known patterns
- Any additional illnesses of public health concern

The information collected will be used to determine the agents, sources, modes of transmission, or risk factors so that effective prevention and control measures can be implemented.

Title of Collection: NPS Case and Outbreak Investigation Data Collections.

OMB Control Number: 1024–0289.

Form Number: 10–867.

Type of Review: Revision of a currently approved collection.

Respondents/Affected Public: Individuals/households, businesses, and governments.

Total Estimated Number of Annual Respondents: 500.

Total Estimated Number of Annual Responses: 500.

Estimated Completion Time per Response: Average 30 minutes.

Total Estimated Number of Annual Burden Hours: 250 hours.

Respondent's Obligation: Voluntary.

Frequency of Collection: On occasion.

Total Estimated Annual Non hour Burden Cost: None.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Phadrea Ponds,

National Park Service Information Collections Clearance Officer.

[FR Doc. 2026–06094 Filed 3–27–26; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–IMR–YELL–NPS0042004; OMB Control Number 1024–0266 PPIMYELL60 POPCF8099.XZ0000 PX.P0315531B.00.1]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Reporting and Recordkeeping for Snow Coaches and Snowmobiles, Yellowstone National Park

AGENCY: National Park Service, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, we,

the National Park Service (NPS) are proposing to renew an information collection without change.

DATES: Interested persons are invited to submit comments on or before April 29, 2026.

ADDRESSES: Written comments and suggestions on the information collection requirements should be submitted by the date specified above in **DATES** to *http://www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under Review—Open for Public Comments'' or by using the search function. Please provide a copy of your comments to the NPS Information Collection Clearance Officer (ADIR–ICCO), 13461 Sunrise Valley Drive, (MS–263) Reston, VA 20191(mail); or *pponds@ios.doi.gov* (email). Please include ''1024–0266'' in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: Becky Wyman, Concessions Management Specialist, PO Box 168 Mammoth Hot Springs Yellowstone National Park, WY 82190–0168; or by email at *becky_wyman@nps.gov;* or by telephone at 307–344–2278. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point of contact in the United States. You may also view the ICR at *https://www.reginfo.gov/public/do/PRAMain.*

SUPPLEMENTARY INFORMATION: In accordance with the Paperwork Reduction Act of 1995 (PRA, 44 U.S.C. 3501 *et seq.*) and 5 CFR 1320.8(d)(1), all information collections require approval under the PRA. We may not conduct, or sponsor, and you are not required to respond to a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number.

A **Federal Register** notice with a 60-day public comment period soliciting comments on this collection of information was published on September 2, 2025 (90 FR 42439). We did not receive any comments in response

As part of our continuing effort to reduce paperwork and respondent burdens, we invite the public and other Federal agencies to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

We are especially interested in public comment addressing the following:

(1) Whether or not the collection of information is necessary for the proper performance of the functions of the agency, including whether or not the information will have practical utility.

(2) The accuracy of our estimate of the burden for this collection of information, including the validity of the methodology and assumptions used.

(3) Ways to enhance the quality, utility, and clarity of the information to be collected.

(4) How might the agency minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of response.

Comments that you submit in response to this notice are a matter of public record. 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 can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Abstract: The National Park Service (NPS) is authorized by regulations codified in 36 CFR 7.13(l), Special Regulations; Areas of the National Park System; Yellowstone National Park; Winter Use, to establish a management framework that allows the public to experience the unique winter resources and recreational opportunities at Yellowstone National Park (YELL). Access to most of the park in the winter is limited by distance and the harsh winter environment which presents challenges to safety and park operations. In response, the NPS provides opportunities for park visitors to experience Yellowstone in the winter via over-snow vehicles (snowmobiles and snow coaches, collectively OSVs). The final rule includes provisions that allow greater flexibility for commercial tour operators, provide mechanisms to make the park cleaner and quieter during the winter seasons, reward OSV innovations and technologies, and allow increases in visitation. All OSVs operating in the park are required to meet air and sound emission standards and be accompanied by a guide. As directed by the regulation, commercial OSV operators must complete the Form 10–650, ''OSV Monthly Use Report'' to:

- Transportation Events (§ 7.13(l)(11)(i)–(iii))
- Emission and Sound Standards (§ 7.13(l)(4)(vii) and (5)) and
- Enhanced Emission Standards (§ 7.13(l)(11)(iv))

Form 10–650, ''OSV Monthly Use Report,'' will be added to Plan Your Visit—Yellowstone National Park U.S. National Park Service upon approval. This form collects information to: (1) ensure that OSVs meet NPS emission standards to operate in the park; (2) evaluate commercial tour operators' compliance with allocated transportation events and daily and seasonal OSV group size limits; (3) ensure that established daily transportation event limits for the park are not exceeded; (4) confirm that commercial tour operators do not run out of authorizations before the end of the season and create a gap when prospective visitors cannot be accommodated; and (5) guarantee compliance with applicable laws and regulations.

Title of Collection: Reporting and Recordkeeping for Snow coaches and Snowmobiles, Yellowstone National Park.

OMB Control Number: 1024–0266.

Form Number: NPS Form 10–650.

Type of Review: Extension of a currently approved collection.

Description of Respondents: Businesses desiring to operate snow coaches and snowmobiles in Yellowstone National Park.

Total Estimated Number of Annual Respondents: 87.

Estimated Completion Time per Response: Varies based on activity: 30 minutes to 2 hours.

Total Estimated Number of Annual Burden Hours: 146 hours.

Respondent's Obligation: Required to obtain or retain a benefit.

Frequency of Collection: On occasion.

Total Estimated Annual Non hour Burden Cost: None.

An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The authority for this

action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Phadrea Ponds,

Information Collection Clearance Officer, National Park Service.

[FR Doc. 2026–06089 Filed 3–27–26; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–NRSS–OSAE–NPS0042003; OMB Control Number 1024–0275 PPMRSNR1Y.NM0000 PPWONRADD3]

Submission to the Office of Management and Budget for Review and Approval; Using Web and Mobile-Based Apps During NPS Citizen Science Events

AGENCY: National Park Service, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, we, the National Park Service (NPS) are proposing to renew an information collection.

DATES: Interested persons are invited to submit comments on or before April 29, 2026.

ADDRESSES: Written comments and suggestions on the information collection requirements should be submitted by the date specified above in **DATES** to *http://www.reginfo.gov/public/do/PRAMain*. Find this particular information collection by selecting ''Currently under Review—Open for Public Comments'' or by using the search function. Please provide a copy of your comments to the NPS Information Collection Clearance Officer (ADIR–ICCO), 13461 Sunrise Valley Drive, (MS–263) Reston, VA 20191.(mail); or *pponds@ios.doi.gov* (email). Please include ''1024–0275'' in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: Bryan Faehner, Stewardship and Science Coordinator, Natural Resource Stewardship and Science Directorate, National Park Service, 1849 C Street NW, Mail stop 2254, Washington, DC 20240 (mail); *bryan_faehner@nps.gov* (email). Please reference OMB Control Number 1024–0275 in the subject line of your comments. 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: In accordance with the Paperwork Reduction Act of 1995 (PRA, 44 U.S.C. 3501*et seq.*) and 5 CFR 1320.8(d)(1), all information collections require approval under the PRA. We may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid OMB control number.

A **Federal Register** notice with a 60-day public comment period soliciting comments on this collection of information was published on December 3, 2025 (90 FR 56180). We did not receive any comments in response.

As part of our continuing effort to reduce paperwork and respondent burdens, we invite the public and other Federal agencies to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

We are especially interested in public comment addressing the following:

(1) Whether or not the collection of information is necessary for the proper performance of the functions of the agency, including whether or not the information will have practical utility.

(2) The accuracy of our estimate of the burden for this collection of information, including the validity of the methodology and assumptions used.

(3) Ways to enhance the quality, utility, and clarity of the information to be collected.

(4) How might the agency minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of response.

Comments that you submit in response to this notice are a matter of public record. 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 can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Abstract: The NPS is authorized by 54 U.S. Code section 100701, Protection, interpretation, and research in System, to collect this information. The NPS is requesting approval to use mobile and web-based apps (*e.g.,* iNaturalist, eBird, Geoforms, PictureThis, Nature ID, etc.) to collect natural history and observational information during NPS sponsored-citizen science events. The information will be used to substantiate the occurrence of plant, wildlife, and invertebrate species within NPS units during these events. By using citizen science apps, information will be immediately available to all parks and others interested in species identification and advancing the knowledge of the natural world. Using mobile and web-based apps will enable parks to increase the understanding of biodiversity within the park systems.

Title of Collection: Using web and mobile-based apps during NPS Citizen Science events.

OMB Control Number: 1024–0275.

Form Number: None.

Type of Review: Extension of a currently approved collection.

Description of Respondents: General public, individual households, and non-federal scientists.

Total Estimated Number of Annual Respondents: 75,000.

Total Estimated Number of Annual Responses: 112,500.

Estimated Completion Time per Response: 5 minutes.

Total Estimated Number of Annual Burden Hours: 9,375 hours.

Respondent's Obligation: Voluntary.

Frequency of Collection: One time.

Total Estimated Annual Nonhour Burden Cost: None.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Phadrea Ponds,

Information Collection Clearance Officer, National Park Service.

[FR Doc. 2026–06090 Filed 3–27–26; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[OMB Control Number 1024–0018 PPWOCRADI0; NPS–WASO–CR–NPS 0040749; PCU00RP15.R50000, 212P104215]

Agency Information Collection Activities; Nomination of Properties for Listing in the National Register of Historic Places

AGENCY: National Park Service, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: : In accordance with the Paperwork Reduction Act of 1995, we, the National Park Service (NPS, we) are proposing to revise a currently approved information collection.

DATES: Interested persons are invited to submit comments, which NPS must receive on or before April 29, 2026.

ADDRESSES: Written comments and suggestions on the information collection requirements should be submitted by the date specified above in **DATES** to *https://www.reginfo.gov/public/do/PRAMain*. Find this particular information collection by selecting ''Currently under Review—Open for Public Comments'' or by using the search function. Please provide a copy of your comments to the NPS Information Collection Clearance Officer (ADIR–ICCO), 13461 Sunrise Valley Drive, (MS–263) Herndon, VA 20191 (mail); or *pponds@ios.doi.gov* (email). Please reference Office of Management and Budget (OMB) Control Number ''1024–0018'' in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: Alexis Abernathy, National Register of Historic Places, at *alexis_abernathy@nps.gov* (email), or by 202 354–2236 (telephone). Please reference OMB Control Number 1024–0018 in the subject line of your comments. 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: In accordance with the Paperwork Reduction Act of 1995 (PRA, 44 U.S.C. 3501et seq.*)* and 5 CFR 1320.8(d)(1), we provide the public and other Federal agencies with an opportunity to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

A **FederalRegister** notice with a 60-day public comment period soliciting comments on this collection of information was published on December 5, 2025 (90 FR 56179). No comments were received.

As part of our continuing effort to reduce paperwork and respondent burdens, we invite the public and other Federal agencies to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

We are especially interested in public comment addressing the following:

(1) Whether or not the collection of information is necessary for the proper performance of the functions of the agency, including whether or not the information will have practical utility.

(2) The accuracy of our estimate of the burden for this collection of information, including the validity of the methodology and assumptions used.

(3) Ways to enhance the quality, utility, and clarity of the information to be collected.

(4) How might the agency minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of response.

Comments that you submit in response to this notice are a matter of public record. 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 can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Abstract: The National Register of Historic Places (NRHP) is the official Federal list of districts, sites, buildings, structures, and objects significant in American history, architecture, archeology, engineering, and culture. National Register properties have significance to the history of communities, States, Tribes, or the Nation. The National Historic Preservation Act of 1966 requires the Secretary of the Interior to maintain and expand the National Register, and to establish criteria and guidelines for including properties on the National Register. National Register properties must be considered in the planning for Federal or federally assisted projects and listing in the National Register is required for eligibility for Federal rehabilitation tax incentives.

The NPS is responsible for administering the National Register. Nominations for listing historic properties come from State Historic Preservation Officers (SHPO), from Federal Preservation Officers (FPO) for properties owned or controlled by the United States Government, and from Tribal Historic Preservation Officers (THPO) for properties on Tribal lands. Private individuals and organizations, local governments, and Tribes often initiate this process and prepare the necessary documentation. Regulations at 36 CFR part 60 and 63 establish the criteria and guidelines for listing and for determining the eligibility of properties.

Title of Collection: Nomination of Properties for Listing in the National Register of Historic Places.

OMB Control Number: 1024–0018.

Form Number: 10–900, 10–900–a, and 10–900–b.

Type of Review: Revision of a currently approved collection.

Respondents/Affected Public: Individuals, Private Sector, Tribes, and Government.

Total Estimated Number of Annual Respondents: 1,751.

Total Estimated Number of Annual Responses: 1,751.

Estimated Completion Time per Response: Varies from 1 hour to 220 hours, depending on respondent and/or activity.

Total Estimated Number of Annual Burden Hours: 307,230 hours.

Respondent's Obligation: Required to obtain or retain a benefit.

Frequency of Collection: On occasion.

Total Estimated Annual Non hour Burden Cost: $500.

An agency may not conduct, or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Phadrea Ponds,

Information Collection Clearance Officer, National Park Service.

[FR Doc. 2026–06091 Filed 3–27–26; 8:45 am]

BILLING CODE 4312–52–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1493]

Certain In-Vehicle Infotainment Systems, Components Thereof, and Products Containing the Same; Notice of Institution of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on February 24, 2026, under section 337 of the Tariff Act of 1930, as amended, on behalf of Zync Inc. of San Francisco, California. A supplement to the complaint was filed on March 3, 2026. The complaint, as supplemented, alleges violations of section 337 based upon the importation and the sale of certain in-vehicle infotainment systems, components thereof, and products containing the same by reason of misappropriation of trade secrets and tortious interference with prospective economic advantage, the threat or effect of which is to destroy or substantially injure an industry in the United States as required by the applicable Federal Statute. The complainant requests that the Commission institute an investigation and, after the investigation, issue a limited exclusion order and cease and desist orders.

ADDRESSES: The complaint, except for any confidential information contained therein, may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.* For help accessing EDIS, please email *EDIS3Help@usitc.gov.* Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at (202) 205–2000. General information concerning the Commission may also be obtained by accessing its internet server at *https://www.usitc.gov.*

FOR FURTHER INFORMATION CONTACT: Pathenia M. Proctor, The Office of Unfair Import Investigations, U.S. International Trade Commission, telephone (202) 205–2560.

SUPPLEMENTARY INFORMATION:

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2025).

Scope of Investigation: Having considered the complaint, the U.S. International Trade Commission, on March 25, 2026, *ordered that*—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(A) of section 337 in the importation into the United States and the sale of certain products identified in paragraph (2) by reason of misappropriation of trade secrets or tortious interference with prospective economic advantage, the threat or effect of which is to destroy or substantially injure an industry in the United States;

(2) Pursuant to section 210.10(b)(1) of the Commission's Rules of Practice and Procedure, 19 CFR 210.10(b)(1), the plain language description of the accused products or category of accused products, which defines the scope of the investigation, is ''infotainment systems designed for use in passenger vehicles, head units used to provide the in-vehicle infotainment system functionality, and passenger vehicles containing infotainment systems with the misappropriated technology'';

(3) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is:

Zync Inc., 595 Pacific Avenue, 4th Floor, San Francisco, California 94133

(b) The respondents are the following entities alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Bayerische Motoren Werke AG, Petuelring 130, D–80788 Munich, Germany

BMW of North America, LLC, 300 Chestnut Ridge Road, Woodcliff Lake, New Jersey 07677

(c) The Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street SW, Suite 401, Washington, DC 20436; and

(4) For the investigation so instituted, the Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(e) and 210.13(a), such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against the respondent.

By order of the Commission.

Issued: March 26, 2026.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2026–06126 Filed 3–27–26; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1479]

Certain Dental Burs and Kits Thereof; Notice of a Commission Determination Not To Review an Initial Determination Amending the Complaint and Notice of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission (''Commission'') has determined not to review an initial determination (''ID'') (Order No. 6) of the presiding administrative law judge (''ALJ''), amending the complaint and notice of investigation to add respondent Research Corporation d/b/a

Research Industries of Sialkot, Pakistan (''Research Industries'').

FOR FURTHER INFORMATION CONTACT: Ronald A. Traud, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–3427. Copies of non-confidential documents filed in connection with this investigation may be viewed on the Commission's electronic docket (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 *https://www.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 instituted this investigation on January 20, 2026, based upon a complaint filed on behalf of Huwais IP Holding LLC of Jackson, Michigan and Versah, LLC of Jackson, Michigan (together, ''Complainants''). 91 FR 2366–67 (Jan. 20, 2026). The original complaint, as supplemented, alleges violations of 19 U.S.C. 1337 (''section 337'') based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain dental burs and kits thereof by reason of the infringement of certain claims of U.S. Patent Nos. 9,326,778 and 11,712,250 and U.S. Trademark Registration Nos. 6,261,888; 6,261,886; and 4,689,471. *Id.* The original complaint also alleges that a domestic industry exists pursuant to subsection (a)(2) of section 337. *Id.* The original notice of investigation named the following respondents: (1) Pawn Move of Sialkot, Pakistan; (2) Raheela Instruments of Dubai Transit, United Arab Emirates; (3) Ali House of Dental of Sialkot, Pakistan; (4) Dental68 of Grapevine, Texas; (5) Mahfooz Instruments of Sialkot, Pakistan; (6) Medsal International of Sialkot, Pakistan; (7) Hamsan International d/b/a Hamsan Surgical of Sialkot, Pakistan; (8) Arck Instruments of Gillingham, United Kingdom; (9) Denshine of Cucamonga, California; (10) DentalBTC of Sialkot, Pakistan; (11) iDentalShop of Grove Village, Illinois; (12) Dyna International of Lahore, Pakistan; (13) Merit Surgical of Ontario, Canada; (14) Skeema Dental Italia of Modena, Italy; (15) Orthodonticdental d/b/a Orthodent of Perth, Australia; and (16) New Med Instruments of Sialkot, Pakistan. The Office of Unfair Import Investigations (''OUII'') is participating in this investigation. *Id.*

On February 23, 2026, Complainants filed a motion under Commission Rule 210.14(b) (19 CFR 210.14(b)) to amend the complaint and notice of investigation to add Research Industries as a respondent. On March 2, 2026, OUII filed a response supporting the motion. No other replies were filed.

On March 3, 2026, the ALJ issued the subject ID (Order No. 6), which granted the motion. The ID finds that good cause exists to amend the complaint and notice of investigation and that the amendment will not prejudice the public interest or the rights of any parties to the investigation. No petitions for review of the ID were filed.

The Commission has determined not to review the subject ID.

The complaint and notice of investigation have been amended to add Research Industries as a respondent.

The Commission vote for this determination took place on March 25, 2026.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in Part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: March 25, 2026.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2026–06033 Filed 3–27–26; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1494]

Certain TOPCon Solar Cells, Modules, Panels, Components Thereof, and Products Containing Same; Institution of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on February 24, 2026, under section 337 of the Tariff Act of 1930, as amended, on behalf of First Solar, Inc. of Phoenix, Arizona. The complaint was supplemented on March 10, 2026. The complaint, as supplemented, alleges violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain TOPCon solar cells, modules, panels, components thereof, and products containing same by reason of the infringement of certain claims of U.S. Patent No. 9,130,074 (''the '074 patent''). The complaint, as supplemented, further alleges that an industry in the United States exists or is in the process of being established as required by the applicable Federal Statute. The complainant requests that the Commission institute an investigation and, after the investigation, issue a general exclusion order, or in the alternative a limited exclusion order, and cease and desist orders.

ADDRESSES: The complaint, except for any confidential information contained therein, may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov*. For help accessing EDIS, please email *EDIS3Help@usitc.gov*. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at (202) 205–2000. General information concerning the Commission may also be obtained by accessing its internet server at *https://www.usitc.gov*.

FOR FURTHER INFORMATION CONTACT: Pathenia M. Proctor, The Office of Unfair Import Investigations, U.S. International Trade Commission, telephone 205–2560.

SUPPLEMENTARY INFORMATION:

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2025).

Scope of Investigation: Having considered the complaint, the U.S. International Trade Commission, on March 25, 2026, *ordered that*—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain products identified in paragraph (2) by reason of infringement of one or more of claims 1, 2, 4, and 8 of the '074 patent, and whether an industry in the United States exists or is in the process of being

established as required by subsection (a)(2) of section 337;

(2) Pursuant to section 210.10(b)(1) of the Commission's Rules of Practice and Procedure, 19 CFR 210.10(b)(1), the plain language description of the accused products or category of accused products, which defines the scope of the investigation, is ''Tunnel Oxide Passivated Contact ('TOPCon') solar cells, as well as solar modules and solar panels that include TOPCon solar cells'';

(3) Pursuant to Commission Rule 210.50(b)(l), 19 CFR 210.50(b)(1), the presiding administrative law judge shall take evidence or other information and hear arguments from the parties or other interested persons with respect to the public interest in this investigation, as appropriate, and provide the Commission with findings of fact and a recommended determination on this issue, which shall be limited to the statutory public interest factors set forth in 19 U.S.C. l337(d)(l), (f)(1), (g)(1);

(3) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is:

First Solar, Inc., 4300 E. Camelback Road, Suite 220, Phoenix, Arizona 85018

(b) The respondents are the following entities alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

AXITEC, LLC, 150 N. Radnor Chester Road, Suite F–200, Radnor, PA 19087.

AXITEC Energy GmbH & Co. KG, Otto-Lilienthal-Strasse 5, D—71034 Böblingen, Germany

AXITEC SOLAR, LLC, 262 Chapman Road, Suite 240, Newark, DE 19702

Canadian Solar Inc., 4273 King Street East, Suite 102, Kitchener, Ontario, Canada N2P 2E9

CSI Solar Co., Ltd., 199 Lushan Road, Suzhou National & Hi-Tech Industrial, Development Zone, Suzhou, Jiangsu Province, China, 215129

Canadian Solar (USA) Inc., 1350 Treat Blvd., Suite 500, Walnut Creek, CA 94597

Canadian Solar Manufacturing (Thailand) Co., Ltd., 168, Bo Win, Si Racha District, Chon Buri 20230, Thailand

Canadian Solar US Module Manufacturing Corporation, 3000 Skyline Drive, Mesquite, TX 75149

Canadian Solar International Ltd., Unit 1520, 15/F, Tower 2, Grand, Century Place, 193 Prince Edward Road West, Kowloon, Hong Kong

JA Solar Technology Co., Ltd., Bldg. 8, Automobile Museum East Rd., Courtyard No. 1 Nord Center, Beijing 100160, China

JA Solar USA, Inc., 2570 North First Street, Suite 360, San Jose, CA 95131

JA Solar AZ, LLC, 1975 South 99th Avenue, Phoenix, AZ 85353

JA Solar International, Ltd., Room D 10/F, Billion Ctr Tower A, 1 Wang Kwong Road, Kowloon Bay, Kowloon, Hong Kong 999077

JA Solar Vietnam Co., Ltd., Lot G, Quang Chau Industrial Zone, Quang Chau Ward, Viet Yen, Township, Bac Giang, Vietnam

JinkoSolar Holding Co., Ltd., 1 Yingbin Road, Shangrao Economic Development Zone, Jiangxi Province, China 334100

Jinko Solar Co., Ltd., 1 Yingbin Road, Shangrao Economic Development Zone, Jiangxi Province, China 334100

Jinko Solar (Vietnam) Industries Co. Ltd., CN XL 06 11, Song Khoai Industrial Zone, Song Khoai Ward, Quang Yen Town, Quang Ninh, Vietnam

Jinko Solar Technology Sdn. Bhd., 2522 Lorong Perusahaan 4, 31721, Kawasan Perusahaan Bebas Perai, 13600 Perai, Pulau Pinang, Malaysia

Zhejiang Jinko Solar Co., Ltd., 58 Yuan Xi Road, Yuan Hua Town, Haining, Zhejiang Province, China

JinkoSolar (U.S.) Inc., 1901 S. Bascom Avenue, Suite 350, Campbell, CA 95008

JinkoSolar (U.S.) Manufacturing Inc., 8 The Green, Suite A, Dover, DE 19901

JinkoSolar (U.S.) Industries Inc., 4660 POW–MIA Memorial Parkway, Suite 200, Jacksonville, FL 32221

Mundra Solar PV Limited, Survey No. 180/P & Others, Village Tunda Vandh, Taluka Mundra, Kutch 370 435, Gujarat, India

Mundra Solar Energy Ltd., Adani Corporate House, Shantigram, SG Highway, Ahmedabad 382421, Gujarat, India

Adani Green Energy Ltd., Adani Corporate House, Shantigram, SG Highway, Ahmedabad 382421, Gujarat, India

Philadelphia Solar LLC, Al Qastal Industrial Area, Amman, Jordan 11814

Philadelphia Solar USA Inc., 1820 Gateway Drive, Suite 170, San Mateo, California 94404

Hanwha Q CELLS USA Inc., 300–310 Nexus Drive, Dalton, GA 30721

Hanwha Q CELLS America Inc., 300 Spectrum Center Drive, Suite 500, Irvine, CA 92618

Hanwha Q CELLS USA Corp., 300 Spectrum Center Drive, Suite 500, Irvine, CA 92618

Hanwha Solutions Corporation, 24F, 86, Cheonggyecheon-ro, Jung-gu, Seoul, Korea 04541

Jiangsu Runergy New Energy Technology Co., Ltd., No. 58 Xiangjiang Road, Economic & Technological, Development Zone, Yancheng City,, Jiangsu Province, China 22400

Runergy USA Inc., 6200 Stoneridge Mall Road, Suite 300, Pleasanton, CA 94588

Runergy Alabama Inc., 4905 Moores Mill Road, Huntsville, AL 35811

Runergy USA Trading LLC, 8 The Green, Dover, DE 19901

Runergy PV Technology (Thailand) Co., Ltd., 7/559 M.6, Mapyangpho, Pluak Daeng, Rayong, 21140, Thailand

Trina Solar Co., Ltd., No. 2 Tianhe Road, Trina PV Industrial Park, Xinbei District, Jiangsu Province,, China, 213031

Trina Solar (U.S.), Inc., 7100 Stevenson Blvd., Fremont, CA 94538

Trina Solar Energy Development Co., Ltd., Lot Cn 14, Yen Binh Industrial Zone Hong Tien Commune,, Pho Yen Town, Thai Nguyen Province, Vietnam

Changzhou Trina Solar Energy Co., Ltd., 801 Longqi Road, Suxi Town, Yiwu, Zhejiang, China 322009

Trina Solar Yiwu Technology Co., Ltd., 801 Longqi Road, Suxi Town, Yiwu, Zhejiang, China 322009

T1 Energy, Inc., 1211 E 4th Street, Austin, TX 78702

T1 G1 Dallas Solar Module LLC, Tradepoint 45 West, 1200 Sunrise Road, Wilmer, TX 75172

Vietnam Sunergy Joint Stock Company, Lot III—Dong Vang, Dinh Tram Industrial Park, Nenh Ward, Viet Yen Town, Bac Giang Province, Vietnam

VSUN Solar USA Inc., 909 Corporate Way, Fremont, CA 94539

Toyo Co., Ltd., Tennoz First Tower 16F, 2–2–4,, Higashi-shinagawa, Shinagawa-ku, Tokyo, Japan 140–0002

Toyo Solar Texas, LLC, 6115 Greens Rd, Humble, TX 77396

(c) The Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street SW, Suite 401, Washington, DC 20436; and

(4) For the investigation so instituted, the Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to

19 CFR 201.16(e) and 210.13(a), such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against the respondent.

By order of the Commission.

Issued: March 26, 2026.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2026–06121 Filed 3–27–26; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1492]

Certain NAND and DRAM Memory Chips; Institution of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on February 17, 2026, under section 337 of the Tariff Act of 1930, as amended, on behalf of MonolithIC 3D Inc. of Allen, Texas. Supplements to the complaint were filed on February 25, 2026, and March 16, 2026. The complaint, as supplemented, alleges violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain NAND and DRAM memory chips by reason of the infringement of certain claims of U.S. Patent No. 12,035,531 (''the '531 patent''); U.S. Patent No. 12,125,737 (''the '1–737 patent''); U.S. Patent No.12,243,765 (''the '765 patent''); U.S. Patent No. 11,342,214 (''the '214 patent''); U.S. Patent No. 11,476,181 (''the '181 patent''); U.S. Patent No. 11,594,473 (''the '473 patent''); U.S. Patent No. 11,862,503 (''the '503 patent''); and U.S. Patent No. 12,225,737 (''the '2–737 patent''). The complaint further alleges that an industry in the United States exists or is in the process of being established as required by the applicable Federal Statute. The complainant requests that the Commission institute an investigation and, after the investigation, issue a limited exclusion order and cease and desist orders.

ADDRESSES: The complaint, except for any confidential information contained therein, may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.* For help accessing EDIS, please email *EDIS3Help@usitc.gov.* Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at (202) 205–2000. General information concerning the Commission may also be obtained by accessing its internet server at *https://www.usitc.gov.*

FOR FURTHER INFORMATION CONTACT: Pathenia M. Proctor, The Office of Unfair Import Investigations, U.S. International Trade Commission, telephone (202) 205–2560.

SUPPLEMENTARY INFORMATION:

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2025).

Scope of Investigation: Having considered the complaint, the U.S. International Trade Commission, on March 25, 2026, *ordered that*—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain products identified in paragraph (2) by reason of infringement of one or more of claims 8–10, 13–15, and 20 of the '531 patent; claims 1–2, 4–5, 7, 15–18, and 20 of the '1–737 patent; claims 1–2, 4–5, 7, 15–18, and 20 of the '765 patent; claims 1–5, 7, 15–18, and 20 of the '214 patent; claims 1–2, 4–9, and 11–15 of the '181 patent; claims 1–3, 5–7, 9, 11–13, and 15–16 of the '473 patent; claims 1–6 and 15–19 of the '503 patent; and claims 1–3, 6–7, and 15–20 of the '2–737 patent, and whether an industry in the United States exists or is in the process of being established as required by subsection (a)(2) of section 337;

(2) Pursuant to section 210.10(b)(1) of the Commission's Rules of Practice and Procedure, 19 CFR 210.10(b)(1), the plain language description of the accused products or category of accused products, which defines the scope of the investigation, is ''3D NAND memory chips and high bandwidth memory ('HBM') DRAM chips'';

(3) Pursuant to Commission Rule 210.50(b)(l), 19 CFR 210.50(b)(1), the presiding administrative law judge shall take evidence or other information and hear arguments from the parties or other interested persons with respect to the public interest in this investigation, as appropriate, and provide the Commission with findings of fact and a recommended determination on this issue, which shall be limited to the statutory public interest factors set forth in 19 U.S.C. l337(d)(l), (f)(1), (g)(1);

(4) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is:

MonolithIC 3D Inc., 825 Watter's Creek Blvd., Building M, Suite 250, Allen, TX 75013

(b) The respondents are the following entities alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

KIOXIA Holdings Corporation, 3–1–21, Shibaura, Minato-ku, Tokyo 108–0023, Japan

KIOXIA Corporation, 3–1–21, Shibaura, Minato-ku, Tokyo 108–0023, Japan

KIOXIA America, Inc., 2610 Orchard Pkwy., San Jose, CA 95134

KIOXIA Engineering Corporation, Nagoya Fushimi K Square Building, 6th Floor, 14–19 Nishiki 2-chome, Naka-ku, Nagoya 460–0003, Japan

KIOXIA Iwate Corporation, 5–29 Kita Kogyo-Danchi, Kitakami-shi, Iwate, Japan

KIOXIA Systems Co., Ltd., STE Building, 2–5–1 Kasama, Sakae-ku, Yokohama, Kanagawa Prefecture, 247–8585, Japan

KIOXIA Semiconductor Taiwan Corporation, 3 F–5, No. 168, Sec. 3, Nanjing Rd., Zhongshan District, Taipei City 104105, Taiwan

SK hynix Inc., 2091 Gyeongchung-daero, Bubal-eup, Icheon, Gyeonggi-do, Republic of Korea

SK hynix America Inc., 3103 N 1st St., San Jose, CA 95134

SK hynix Memory Solutions America Inc., 3103 North First St., San Jose, CA 95134

(c) The Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street SW, Suite 401, Washington, DC 20436; and

(5) For the investigation so instituted, the Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR. 201.16(e) and 210.13(a), such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against the respondent.

By order of the Commission.

Issued: March 26, 2026.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2026–06113 Filed 3–27–26; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1435]

Certain Electrolyte Containing Beverages and Labeling and Packaging Thereof (II); Notice of a Commission Determination Finding a Violation of Section 337; Issuance of a General Exclusion Order; Termination of the Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission (''Commission'') has determined to affirm, with supplemental findings and modified reasoning, an initial determination (''ID'') (Order No. 18) of the presiding administrative law judge (''ALJ'') granting a motion for summary determination of violation. The Commission has determined to issue a general exclusion order (''GEO'') prohibiting the importation of electrolyte containing beverages and labeling and packaging thereof that infringe one or more of U.S. Trademark Registration No. 4,222,726; U.S. Trademark Registration No. 4,833,885; U.S. Trademark Registration No. 4,717,350; and U.S. Trademark Registration No. 4,717,232 (collectively, the ''Asserted Trademarks''). The investigation is terminated.

FOR FURTHER INFORMATION CONTACT: Edward S. Jou, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–3316. Copies of non-confidential documents filed in connection with this investigation may be viewed on the Commission's electronic docket (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 *https://www.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 instituted this investigation on February 3, 2025, based upon a complaint, as supplemented (the ''Complaint''), filed on behalf of CAB Enterprises, Inc. of Houston, Texas; Sueros y Bebidas Rehidratantes, S.A. de C.V. of Guadalajara, Mexico; Brazos River Ventures LLC of Albany, New York; and Electrolit Manufacturing USA Inc. of Albany, New York (collectively, ''Complainants''). 90 FR 8811–12 (Feb. 3, 2025). The complaint, as supplemented, alleges violations of section 337 of the Tariff Act of 1930, as amended (''section 337'') based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain electrolyte containing beverages and labeling and packaging thereof by reason of infringement of one or more of U.S. Trademark Registration No. 4,222,726; U.S. Trademark Registration No. 4,833,885; U.S. Trademark Registration No. 4,717,350; and U.S. Trademark Registration No. 4,717,232. *Id.* The Complaint further alleges that an industry in the United States exists or is in the process of being established as required by subsection (a)(2) of section 337. *Id.* at 8811.

The Commission's notice of investigation named eight respondents: Empacadora Torres Mora, S. de R.L. de C.V. of Monterrey, Mexico; Version Expotaciones, S.R.L. de C.V. of Tijuana, Mexico; Mabed Distribuciones, S.A. de C.V. of Matamoros, Mexico; Salfe International Trade, S. de R.L. de C.V. (''Salfe'') of Garza Garcia, Mexico; Exportadora de Abarrotes del Pacifico, S.A. de C.V. (''Pacifico'') of Torreon, Mexico; Centro de Distribucion de Carbon Allende, S.A. de C.V. of Allende, Mexico; Wenceslao Colunga Ruiz (''Ruiz'') of Camargo, Mexico; and Distribuidora de Productos Heres, S.A. de C.V. (''Heres'') of Allende, Mexico. *Id.* at 8812. The Office of Unfair Import Investigations (''OUII'') is also a party to this investigation. *Id.*

The investigation was terminated with respect to respondents Ruiz and Heres based on withdrawal of the complaint. Order No. 7 (Mar. 11, 2025), *unreviewed by* Comm'n Notice (Apr. 9, 2025).

On April 18, 2025, the ALJ issued an order requiring the remaining respondents in the investigation to show cause why they should not be found in default for failure to respond to the complaint and notice of investigation. Order No. 9 (Apr. 18, 2025). Respondent Pacifico filed an answer to the Complaint on May 1, 2025, and the investigation was subsequently terminated with respect to Pacifico based on a consent order. Order No. 10 (May 23, 2025), *unreviewed by* Comm'n Notice (June 17, 2025). The investigation was also terminated with respect to respondent Salfe based on a consent order. Order No. 12 (June 25, 2025), *unreviewed by* Comm'n Notice (July 14, 2025). The remaining four

respondents (''Defaulted Respondents'') did not file any response to the complaint and notice of investigation or to the order to show cause for failure to do so.

On July 21, 2025, Complainants filed a motion for summary determination of violation, and on July 22, 2025, Complainants filed a motion for leave for acceptance of a corrected motion for summary determination, which was granted pursuant to Order No. 15 (July 22, 2025). On August 4, 2025, OUII filed a response in support of Complainants' motion.

On September 10, 2025, the ALJ issued the subject ID granting the motion for summary determination of violation and finding the remaining four respondents in default. The ID also included a recommended determination on remedy and bonding. No petitions for review of the ID were filed.

On December 15, 2025, the Commission determined to review the ID's findings with respect to the economic prong of the domestic industry requirement. 90 FR 59203–04. The Commission determined not to review the other findings in the ID. *Id.* The Commission requested briefing from the parties regarding the allocation of certain domestic industry expenditures and the foreign respondents' alleged domestic inventories and operations. *Id.*

On January 5, 2026, Complainants and OUII filed initial submissions in response to the Commission's notice. On January 12, 2026, OUII filed a reply submission.

Having reviewed the record of the investigation, including the ID, the pleadings, and the parties' submissions, the Commission has determined to affirm the ID's finding that the economic prong of the domestic industry requirement has been satisfied with supplemental findings and modified reasoning. Accordingly, as set forth in the Commission's opinion, the Commission finds a violation of section 337 has occurred.

The Commission has determined that the appropriate remedy is a GEO prohibiting the unlicensed entry of electrolyte containing beverages and labeling and packaging thereof that infringe one or more of the Asserted Trademarks.

Chair Karpel would issue both the GEO and CDOs directed to the Defaulted Respondents pursuant to section 337(g)(1) because all of the criteria of subsection 337(g)(1)(A)–(E) are met. The four Defaulted Respondents were named in the Complaint and served with the Complaint and notice of investigation. *See* Order No. 9 (Apr. 18, 2025). The ALJ issued a show cause order ordering these respondents to show cause why they should not be held in default for failing to respond to the Complaint and notice of investigation. *Id.* None of those respondents filed a response to the show cause orders. *See* Order No. 18 at 4, *unreviewed in pertinent part by* Notice, 90 FR at 59203–04. These findings satisfy subsections 337(g)(1)(A)–(D). Complainants requested CDOs limited to each of these Defaulted Respondents (*Id.* at 58 (citing SD Mem. at 67), thus satisfying subsection 337(g)(1)(E). Given that subsections 337(g)(1)(A)–(E) are satisfied with respect to the Defaulted Respondents and Complainants requested CDOs directed to these Defaulted Respondents, the statute directs the Commission to issue the requested CDOs, subject to consideration of the public interest. Chair Karpel finds that the public interest factors as detailed in Part V(B) of the Opinion do not support a finding that the requested GEO and CDOs would be contrary to the public interest. Accordingly, in addition to the GEO, Chair Karpel would issue CDOs against the Defaulted Respondents under section 337(g)(1).

The Commission has determined that the public interest factors enumerated in subsections (d)(1), (f), and (g)(1) of section 337 do not preclude the issuance of the GEO. The Commission has further determined that the bond during the period of Presidential review pursuant to section 337(j) (19 U.S.C. 1337(j)) shall be set in the amount of one hundred percent (100%) of the entered value of the articles that are subject to the GEO. The Commission's remedial orders were delivered to the President and to the United States Trade Representative on the day of their issuance. The investigation is hereby terminated.

The Commission vote for this determination took place on March 26, 2026.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in Part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: March 26, 2026.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2026–06125 Filed 3–27–26; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–1691]

Bulk Manufacturer of Controlled Substances Application: Chemtos, LLC

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of application.

SUMMARY: Chemtos, LLC has applied to be registered as a bulk manufacturer of basic class(es) of controlled substance(s). Refer to **SUPPLEMENTARY INFORMATION** listed below for further drug information.

DATES: Registered bulk manufacturers of the affected basic class(es), and applicants, therefore, may submit electronic comments on or objections to the issuance of the proposed registration on or before May 29, 2026. Such persons may also file a written request for a hearing on the application on or before May 29, 2026.

ADDRESSES: The Drug Enforcement Administration requires that all comments be submitted electronically through the Federal eRulemaking Portal, which provides the ability to type short comments directly into the comment field on the web page or attach a file for lengthier comments. Please go to *https://www.regulations.gov* and follow the online instructions at that site for submitting comments. Upon submission of your comment, you will receive a Comment Tracking Number. Please be aware that submitted comments are not instantaneously available for public view on *https://www.regulations.gov.* If you have received a Comment Tracking Number, your comment has been successfully submitted and there is no need to resubmit the same comment.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.33(a), this is notice that on February 13, 2026, Chemtos, LLC, 16713 Picadilly Court, Round Rock, Texas 78664–8544, applied to be registered as a bulk manufacturer of the following basic class(es) of controlled substance(s):

Controlled substance	Drug code	Schedule
4-Chloromethcathinone	1239	I

Controlled substance	Drug code	Schedule
1-(4-methoxyphenyl)-N-methylpropan-2-amine	1245	I
4,4′-Dimethylaminorex	1595	I
4F-MDMB-BINACA (4F-MDMB-BUTINACA or methyl 2-(1-(4-fluorobutyl)-1H-indazole-3-carboxamido)-3,3-dimethylbutanoate).	7043	I
MDMB-4en-PINACA (methyl 3,3-dimethyl-2-(1-(pent-4- en-1-yl)-1H-indazole-3-carboxamido)butanoate)	7090	I
2-(Ethylamino)-2-(3-methoxyphenyl)cyclohexan-1-one (methoxetamine)	7286	I
Alpha-Pyrrolidinoheptaphenone (PV8)	7548	I
1-(1,3-Benzodioxol-5-yl)-2-(dimethylamino)pentan-1-one	7552	I
Butonitazene (2-(2-(4-butoxybenzyl)-5-nitro-1H-benzimidazol-1-yl)-N,N-diethylethan-1-amine)	9751	I
Flunitazene (N,N-diethyl-2-(2-(4-fluorobenzyl)-5-nitro-1H-benzimidazol-1-yl)ethan-1-amine)	9756	I
Metonitazene (N,N-diethyl-2-(2-(4-methoxybenzyl)-5- nitro-1H-benzimidazol-1-yl)ethan-1-amine)	9757	I
N-Pyrrolidino etonitazene (2-(4-ethoxybenzyl)-5-nitro-1- (2-(pyrrolidin-1-yl)ethyl)-1H-benzimidazole)	9758	I
Protonitazene (N,N-diethyl-2-(5-nitro-2-(4- propoxybenzyl)-1H-benzimidazol-1-yl)ethan-1-amine)	9759	I
2-(4-Methoxybenzyl)-5-nitro-1-(2-(pyrrolidin-1-yl)ethyl)- 1H-benzimidazole (N-pyrrolidino metonitazene)	9762	I
5-Nitro-2-(4-propoxybenzyl)-1-(2-(pyrrolidin-1-yl)ethyl)- 1H-benzimidazole (N-pyrrolidino protonitazene)	9763	I
Metodesnitazene (N,N-diethyl-2-(2-(4-methoxybenzyl)- 1H-benzimidazol-1-yl)ethan-1-amine)	9764	I
Etodesnitazene; etazene (2-(2-(4-ethoxybenzyl)-1H-benzimidazol-1-yl)-N,N-diethylethan-1-amine)	9765	I
2-(2-(Benzodioxol-5-ylmethyl)-5-nitro-1H-benzimidazol-1-yl)-N,N-diethylethan-1-amine	9766	I
2-(2-(4-Ethoxybenzyl)-5-methyl-1H-benzimidazol-1-yl)- N,N-diethylethan-1-amine	9767	I
2-(2-(4-Ethoxybenzyl)-5-nitro-1H-benzimidazol-1-yl)-N-ethylethan-1-amine	9768	I
N-Ethyl-2-(5-nitro-2-(4-propoxybenzyl)-1H-benzimidazol-1-yl)ethan-1-amine	9769	I
2-(2-((2,3-Dihydrobenzofuran-5-yl)methyl)-5-nitro-1H-benzimidazol-1-yl)-N,N-diethylethan-1-amine	9770	I
2-(2-(4-Ethoxybenzyl)-5-nitro-1H-benzimidazol-1-yl)- N,N-dimethylethan-1-amine	9771	I
2-(4-Isopropoxybenzyl)-5-nitro-1-(2-(pyrrolidin-1- yl)ethyl)-1H-benzimidazole	9772	I

The company plan to bulk manufacture the listed controlled substances for distribution as reference standards to its customers. No other activities for these drug codes are authorized for this registration.

Thomas Prevoznik,

Deputy Assistant Administrator.

[FR Doc. 2026–06052 Filed 3–27–26; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–1690]

Importer of Controlled Substances Application: Usona Institute

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of application.

SUMMARY: Usona Institute. has applied to be registered as an importer of basic class(es) of controlled substance(s). Refer to **SUPPLEMENTARY INFORMATION** listed below for further drug information.

DATES: Registered bulk manufacturers of the affected basic class(es), and applicants, therefore, may submit electronic comments on, or objections to the issuance of the proposed registration on or before April 29, 2026. Such persons may also file a written request for a hearing on the application on or before April 29, 2026.

ADDRESSES: The Drug Enforcement Administration requires that all comments be submitted electronically through the Federal eRulemaking Portal, which provides the ability to type short comments directly into the comment field on the web page or attach a file for lengthier comments. Please go to *https://www.regulations.gov* and follow the online instructions at that site for submitting comments. Upon submission of your comment, you will receive a Comment Tracking Number. Please be aware that submitted comments are not instantaneously available for public view on *https://www.regulations.gov.* If you have received a Comment Tracking Number, your comment has been successfully submitted and there is no need to resubmit the same comment. All requests for a hearing must be sent to: (1) Drug Enforcement Administration, Attn: Hearing Clerk/OALJ, 8701 Morrissette Drive, Springfield, Virginia 22152; and (2) Drug Enforcement Administration, Attn: DEA Federal Register Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for a hearing should also be sent to: Drug Enforcement Administration, Attn: Administrator, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.34(a), this is notice that on March 2, 2026, Usona Institute, 2780 Woods Hollow Road, Room 2412–2413, Fitchburg, Wisconsin, 53711–5370, applied to be registered as an importer of the following basic class(es) of controlled substance(s):

Controlled substance	Drug code	Schedule
Mescaline	7381	I
5-Methoxy-N-N-dimethyltryptamine.	7431	I
Dimethyltryptamine	7435	I
Psilocybin	7437	I
Psilocyn	7438	I

The company plans to import the listed controlled substances for research and analytical purposes. The materials will not be used for clinical trials or human consumption. No other activities for these drug codes are authorized for this registration.

Approval of permit applications will occur only when the registrant's business activity is consistent with what is authorized under 21 U.S.C. 952(a)(2). Authorization will not extend to the import of Food and Drug Administration-approved or non-approved finished dosage forms for commercial sale.

Thomas Prevoznik,

Deputy Assistant Administrator.

[FR Doc. 2026–06051 Filed 3–27–26; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–1692]

Importer of Controlled Substances Application: Pharmaron Manufacturing Services (US) LLC

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of application.

SUMMARY: Pharmaron Manufacturing Services (US) LLC has applied to be registered as an importer of basic class(es) of controlled substance(s). Refer to **SUPPLEMENTARY INFORMATION** listed below for further drug information.

DATES: Registered bulk manufacturers of the affected basic class(es), and applicants, therefore, may submit electronic comments on or objections to the issuance of the proposed registration on or before April 29, 2026. Such persons may also file a written request for a hearing on the application on or before April 29, 2026.

ADDRESSES: The Drug Enforcement Administration requires that all comments be submitted electronically through the Federal eRulemaking Portal, which provides the ability to type short comments directly into the comment field on the web page or attach a file for lengthier comments. Please go to *https://www.regulations.gov* and follow the online instructions at that site for submitting comments. Upon submission of your comment, you will receive a Comment Tracking Number. Please be aware that submitted comments are not instantaneously available for public view on *https://www.regulations.gov.* If you have received a Comment Tracking Number, your comment has been successfully submitted and there is no need to resubmit the same comment. All requests for a hearing must be sent to: (1) Drug Enforcement Administration, Attn: Hearing Clerk/OALJ, 8701 Morrissette Drive, Springfield, Virginia 22152; and (2) Drug Enforcement Administration, Attn: DEA Federal Register Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for a hearing should also be sent to: Drug Enforcement Administration, Attn: Administrator, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.34(a), this is notice that on February 10, 2026, Pharmaron Manufacturing Services (US) LLC, 498 Washington Street, Coventry, Rhode Island 02816, applied to be registered as an importer of the following basic class(es) of controlled substance(s):

Controlled substance	Drug code	Schedule
Poppy Straw Concentrate.	9670	II

The company plans to import bulk substances to manufacture commercial bulk Active Pharmaceutical Ingredients as well as for the purpose of analytical technology transfer and analytical development. No other activity for this drug code is authorized for this registration.

Approval of permit applications will occur only when the registrant's business activity is consistent with what is authorized under 21 U.S.C. 952(a)(2). Authorization will not extend to the import of Food and Drug Administration-approved or non-approved finished dosage forms for commercial sale.

Thomas Prevoznik,

Deputy Assistant Administrator.

[FR Doc. 2026–06053 Filed 3–27–26; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

[OMB Number 1121–0149]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Reinstatement, With Change, of a Previously Approved Collection for Which Approval Has Expired: Census of Prosecutor Offices

AGENCY: Bureau of Justice Statistics, Department of Justice.

ACTION: 60-Day notice.

SUMMARY: The Department of Justice (DOJ), Bureau of Justice Statistics, will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: Comments are encouraged and will be accepted for 60 days until May 29, 2026.

FOR FURTHER INFORMATION CONTACT: If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact George Browne, Statistician, Judicial Statistics Unit, Bureau of Justice Statistics, 999 N Capitol St. NE, Washington, DC 20531, *bjspra.comments@ojp.usdoj.gov;* telephone: 202–307–0765.

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Bureau of Justice Statistics, including whether the information will have practical utility;
—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
—Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and
—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

1. *Type of Information Collection:* Reinstatement with change, of a previously approved collection for which approval has expired: Census of Prosecutor Offices.

2. *The Title of the Form/Collection:* 2025 Census of Prosecutor Offices (CPO).

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* Form number(s): The instrument is CPO–25. The applicable component within the Department of Justice is the Bureau of Justice Statistics (Judicial Statistics Unit), in the Office of Justice Programs.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:* Respondents will be leaders of prosecutor offices and delegated staff. The Census of Prosecutor Offices (CPO, OMB Number 1121–0149) is the only national data collection identifying and surveying all prosecutor offices in the U.S. BJS has collected data from state court prosecutors through a survey or census since 1990. For the purposes of this project, prosecutor offices are eligible for inclusion if they handle felony cases in courts of general jurisdiction in the 50 states and District of Columbia. The last census was conducted in 2007, and the last survey was conducted in 2020.

After locating all state prosecutor offices in the U.S., the CPO–25 will gather important metrics on these offices. Developed in consultation with chief prosecutors, the survey includes sections addressing staffing, office expenditures, and caseloads.

The 2025 instrument is a combination of questions from the 2007 census, the 2020 National Survey of Prosecutors, and new or updated questions. Retaining historical questions will allow for trend analysis while the newer questions will provide informative data useful for practitioners, researchers and policymakers. Some examples of information that will be provided by the 2025 CPO include:

- Staff sizes and roles
- Demographics of chief prosecutor and staff attorneys
- Caseloads
- Expenditures
- Use of case management systems

BJS will use the information gathered in CPO in published reports and statistics. The reports will be made available to the U.S. Congress, Executive Office of the President, practitioners, researchers, students, the media, others interested in criminal justice statistics, and the general public via the BJS website.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* BJS will send the survey to 2,349 prosecutor offices in 50 states and the District of Columbia. The obligation to respond is voluntary. The expected burden placed on each respondent is about 45 minutes. This includes 15 minutes to review initial outreach and participate in data quality follow up, as well as 30 minutes to complete the survey.

6. *An estimate of the total public burden (in hours) associated with the collection:* The total respondent burden is about 1,762 hours for all offices included in the census.

	Total annual responses	Participation time (min)	Total burden (hours)	Hourly rate *	Monetized value of respondent time
Data collection	2,349	30	1,175	$63.60	$74,730
Outreach and data quality follow-up	2,349	15	587	63.60	37,333
Total	2,349	45	1,762		112,063

7. *An estimate of the total annual cost burden associated with the collection, if applicable:* No costs other than the cost of the hour burden exist for this data collection.

If additional information is required, contact: Darwin Arceo, Department Clearance Officer, Enterprise Portfolio Management, Justice Management Division, United States Department of Justice, Two Constitution Square, 145 N Street NE, 3E.206, Washington, DC 20530.

Dated: March 26, 2026.

Darwin Arceo,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2026–06118 Filed 3–27–26; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF LABOR

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Asbestos in Shipyards Standard

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 April 29, 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 requires employers to train workers about the hazards of asbestos, to monitor worker exposure, to provide medical surveillance, and maintain accurate records of worker exposure to asbestos. These records will be used by employers, workers, and the Government to ensure that workers are not harmed by exposure to asbestos in the workplace. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on May 20, 2025 (90 FR 21512).

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: Asbestos in Shipyards Standard.

OMB Control Number: 1218–0195.

Affected Public: Private Sector—Businesses or other for-profits.

Total Estimated Number of Respondents: 242.

Total Estimated Number of Responses: 3,288.

Total Estimated Annual Time Burden: 976 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. 2026–06026 Filed 3–27–26; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2009–0025]

UL LLC: 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 UL LLC as a Nationally Recognized Testing Laboratory (NRTL).

DATES: The expansion of the scope of recognition becomes effective on March 30, 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, phone: (202) 693–1911 or email: *robinson.kevin@dol.gov.*

SUPPLEMENTARY INFORMATION:

I. Notice of Final Decision

OSHA hereby gives notice of the expansion of the scope of recognition of UL LLC (UL), as a NRTL. UL's expansion covers the addition of one test 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, as well as for an expansion or renewal of 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 the preliminary finding. In the second notice, the agency provides the 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 UL, which details that NRTL's scope of recognition. These pages are available from the OSHA website at *http://www.osha.gov/dts/otpca/nrtl/index.html.*

UL submitted an application, dated October 6, 2023 (OSHA–2009–0025–0077), to expand recognition as a NRTL to include one additional test site located at: 4322 New Energy Way, Auburn Hills, Michigan 48326. OSHA staff performed a review of UL's testing facilities at UL Auburn Hills on February 24–25, 2025, in which assessors found some nonconformances with the requirements of 29 CFR 1910.7. UL has addressed these issues sufficiently, and OSHA staff has preliminarily determined that OSHA should grant the application.

OSHA published the preliminary notice announcing UL's expansion application in the **Federal Register** on February 18, 2026 (91 FR 7532). The agency requested comments by March 5, 2026, but it received no comments in response to this notice. OSHA is now proceeding with this notice to grant expansion to UL's scope of recognition.

To obtain or review copies of all public documents pertaining to the UL expansion application, go to *www.regulations.gov* or contact the Docket Office (202) 693–2350 (TTY (877) 889–5627. Docket No. OSHA–2009–0025 contains all materials in the record containing UL's recognition.

II. Final Decision and Order

OSHA staff examined UL's expansion application, conducted a detailed on-site assessment, and examined other pertinent information. Based on review of this evidence, OSHA finds that UL 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 UL's scope of recognition. OSHA limits the expansion of UL's recognition to include the site at Auburn Hills, Michigan as listed above. OSHA's recognition of the site limits UL 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 UL's scope of recognition. This limitation is consistent with the recognition that OSHA grants to other NRTLs that operate multiple sites.

A. Conditions

In addition to those conditions already required by 29 CFR 1910.7, UL also must abide by the following conditions of the recognition:

1. UL 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. UL must meet all the terms of its recognition and comply with all OSHA policies pertaining to this recognition; and

3. UL must continue to meet the requirements for recognition, including all previously published conditions on UL's scope of recognition, in all areas for which it has recognition.

OSHA hereby expands the NRTL scope of recognition for UL to include one additional test site in Auburn Hills, Michigan.

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 March 23, 2026.

Amanda Laihow,

Principal Deputy Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2026–06030 Filed 3–27–26; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2012–0026]

Regulations Containing Procedures for the Handling of Retaliation Complaints; Extension of the Office of Management and Budget's (OMB) Approval of Information Collection (Paperwork) Requirements

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Request for public comments.

SUMMARY: OSHA solicits public comments concerning its proposal to extend the Office of Management and Budget (OMB) approval of the information collection requirements specified in the Regulations Containing Procedures for the Handling of Retaliation Complaints.

DATES: Comments must be submitted (postmarked, sent, or received) by May 29, 2026.

ADDRESSES:

Electronically: You may submit comments and attachments electronically at *https://www.regulations.gov,* which is the Federal eRulemaking Portal. Follow the instructions online for submitting comments.

Docket: To read or download comments or other material in the docket, go to *https://www.regulations.gov.* Documents in the docket are listed in the *https://www.regulations.gov* index; however, some information (*e.g.,* copyrighted material) is not publicly available to read or download through the websites. 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.

Instructions: All submissions must include the agency name and OSHA docket number (OSHA–2012–0026) for the Information Collection Request (ICR). OSHA will place all comments, including any personal information, in the public docket, which may be made available online. Therefore, OSHA cautions interested parties about submitting personal information such as social security numbers and birth dates.

For further information on submitting comments, see the ''Public Participation'' heading in the section of this notice titled **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Belinda Cannon, Directorate of Standards and Guidance, OSHA, U.S. Department of Labor; telephone (202) 693–2222.

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Labor, as part of its continuing effort to reduce paperwork and respondent (*e.g.,* an employee filing a retaliation complaint) burden, conducts a preclearance consultation program to provide the public with an opportunity to comment on proposed and continuing collections of information in accord with the Paperwork Reduction Act of 1995 (PRA–95) (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, reporting burden (time and costs) is minimal, collection instruments are clearly understood, and OSHA's estimate of the information collection burden is accurate.

The Agency is responsible for investigating alleged violations of ''whistleblower'' provisions contained in a number of statutes. These whistleblower provisions generally prohibit retaliation by employers against employees who report alleged violations of certain laws or regulations. These provisions prohibit an employer from discharging or taking any other retaliatory action against an employee because the employee engages in any of the protected activities specified in the whistleblower provisions of the following statutes. These statutes are covered under the following regulations: 29 CFR part 24, Procedures for the Handling of Retaliation Complaints under the Employee Protection Provisions of Six Environmental Statutes and Section 211 of the Energy Reorganization Act of 1974, (29 CFR part 24 covers the: Safe Drinking Water Act, 42 U.S.C. 300j–9(i); Federal Water Pollution Control Act, 33 U.S.C. 1367; Toxic Substances Control Act, 15 U.S.C. 2622; Solid Waste Disposal Act, 42 U.S.C. 6971; Clean Air Act, 42 U.S.C. 7622; Energy Reorganization Act of 1974, 42 U.S.C. 5851; and Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. 9610); 29 CFR part 1977, Discrimination Against Employees Exercising Rights under the Williams-Steiger Occupational Safety and Health Act (29 CFR part 1977 covers the: Occupational Safety and Health Act, 29 U.S.C. 660; Asbestos Hazard Emergency Response Act, 15 U.S.C. 2651; and International Safe Container Act, 46 U.S.C. 80507); 29 CFR part 1978, Procedures for the Handling of Retaliation Complaints under the Employee Protection Provision of the Surface Transportation Assistance Act; 29 CFR part 1979, Procedures for Handling Discrimination Complaints Under the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century; 29 CFR part 1980, Procedures for Handling of Discrimination Complaints Under Section 806 of the Corporate and Criminal Fraud Accountability Act of 2002 (Title VIII of the Sarbanes-Oxley Act of 2002); 29 CFR part 1981, Procedures for the Handling of Discrimination Complaints under Section 6 of the Pipeline Safety Improvement Act of 2002; 29 CFR part 1982, Procedures for the Handling of Retaliation Complaints Under the National Transit Systems Security Act and the Federal Railroad Safety Act; 29 CFR part 1983, Procedures for the Handling of Retaliation Complaints Under Section 219 of the Consumer Product Safety Improvement Act of 2008; 29 CFR part 1984, Procedures for the Handling of Retaliation Complaints Under Section 1558 of the Affordable Care Act; 29 CFR part 1985, Procedures for Handling Retaliation Complaints Under the Employee Protection Provision of the Consumer Financial Protection Act of 2010; 29 CFR part 1986, Procedures for the Handling of Retaliation Complaints Under the Employee Protection Provision of the Seaman's Protection Act (SPA); 29 CFR part 1987, Procedures for Handling Retaliation Complaints Under Section 402 of the FDA Food Safety Modernization Act; 29 CFR part 1988, Procedures for Handling Retaliation Complaints Under Section 31307 of the Moving Ahead for Progress in the 21st Century Act (MAP–21); 29 CFR part 1989, Procedures for the Handling of Retaliation Complaints Under the Taxpayer First Act (TFA); 29 CFR part 1991, Procedures for the Handling of Retaliation Complaints Under the Criminal Antitrust Anti-Retaliation Act (CAARA); and 29 CFR part 1992, Procedures for the Handling of Retaliation Complaints Under the Anti-Money Laundering Act (AMLA). Collections of information contained in future regulations promulgated by the Agency with respect to a whistleblower provision of any other Federal law, except those that are assigned to another DOL agency, will be added to this information collection.

OSHA's whistleblower regulations specify the procedures that an employee must use to file a complaint alleging that their employer violated a whistleblower provision for which the Agency has investigative responsibility.

Any employee who believes that such a violation occurred may file a complaint, or have the complaint filed on their behalf. Two of these regulations, 29 CFR parts 1979 and 1981, state that complaints must be filed in writing and should include a full statement of the acts and omissions, with pertinent dates, that the employee believes constitute the violation. The other regulations, 29 CFR parts 24, 1977, 1978, 1980, 1982, 1983, 1984, 1985, 1986, 1987, 1988, 1989, 1991 and 1992 require no particular form for filing complaints. However, it is OSHA's policy to accept complaints in any form (*i.e.,* orally or in writing) under all statutes. This policy helps ensure that employees of all circumstances and education levels will have equal access to the complaint filing process.

II. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

- Whether the proposed information collection requirements are necessary for the proper performance of the agency's functions to protect workers, including whether the information is useful;
- The accuracy of OSHA's estimate of the burden (time and costs) of the information collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply; for example, by using automated or other technological information, and transmission techniques.

III. Proposed Actions

OSHA is requesting that OMB extend the approval of the information collection requirements contained in the Regulation Containing Procedures for the Handling of Retaliation Complaints. The agency is seeking an adjustment decrease in burden of 2,396 going from 17,387 to 14,991 hours.

OSHA will summarize the comments submitted in response to this notice and will include this summary in the request to OMB to extend the approval of the information collection requirements.

Type of Review: Extension of a currently approved data collection.

Title: Regulations Containing Procedures for the Handling of Retaliation Complaints.

OMB Control Number: 1218–0236

Affected Public: Business or other for-profits; Federal Government; State, Local, or Tribal Government.

Number of Respondents: 14,991.

Number of Responses: 14,991.

Frequency of Responses: On occasion

Average Time per Response: Varies.

Estimated Total Burden Hours: 14,991.

Estimated Cost (Operation and Maintenance): $0.

IV. Public Participation—Submission of Comments on This Notice and Internet Access to Comments and Submissions

You may submit comments in response to this document as follows: (1) electronically at *https://www.regulations.gov,* which is the Federal eRulemaking Portal; or (2) by facsimile (fax), if your comments, including attachments, are not longer than 10 pages you may fax them to the OSHA Docket Office at 202–693–1648. All comments, attachments, and other material must identify the agency name and the OSHA docket number for the ICR (OSHA–2012–0026). You may supplement electronic submission by uploading document files electronically.

Comments and submissions are posted without change at *https://www.regulations.gov.* Therefore, OSHA cautions commenters about submitting personal information such as social security numbers and dates of birth. Although all submissions are listed in the *https://www.regulations.gov* index, some information (*e.g.,* copyrighted material) is not publicly available to read or download from this website. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. Information on using the *https://www.regulations.gov* website to submit comments and access the docket is available at the website's ''User Tips'' link. Contact the OSHA Docket Office at (202) 693–2350, (TTY (877) 889–5627) for information about materials not available from the website, and for assistance in using the internet to locate docket submissions.

V. Authority and Signature

Amanda Laihow, Principal Deputy Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506 *et seq.*) and Secretary of Labor's Order No. 7–2025 (90 FR 27878).

Signed at Washington, DC, on March 23, 2026.

Amanda Laihow,

Principal Deputy Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2026–06032 Filed 3–27–26; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Wage and Hour Division

Agency Information Collection Activities; Comment Request; Information Collections: The Family and Medical Leave Act of 1993, as Amended

AGENCY: Wage and Hour Division, Department of Labor.

ACTION: Notice.

SUMMARY: The Department of Labor (Department) is soliciting comments concerning a proposed extension of the information collection request titled, ''The Family and Medical Leave Act of 1993, as Amended.'' 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). The Department proposes to extend the approval of this existing information collection without change to existing requirements.

The PRA program 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. A copy of the proposed information request can be obtained by contacting the office listed below in the **FOR FURTHER INFORMATION CONTACT** section of this Notice.

DATES: Written comments must be submitted to the office listed in the **ADDRESSES** section below on or before May 29, 2026.

ADDRESSES: You may submit comments identified by Control Number 1235–0003, by either one of the following methods:

- *Email: WHDPRAComments@dol.gov;*
- *Mail, Hand Delivery, Courier:* Division of Regulations, Legislation, and Interpretation, Wage and Hour, U.S. Department of Labor, Room S–3502, 200 Constitution Avenue NW, Washington, DC 20210.

Instructions: Please submit one copy of your comments by only one method. All submissions received must include the agency name and Control Number identified above for this information collection. Commenters are strongly encouraged to transmit their comments electronically via email or to submit them by mail early. Comments, including any personal information provided, become a matter of public record. They will also be summarized

and/or included in the request for Office of Management and Budget (OMB) approval of the information collection request.

FOR FURTHER INFORMATION CONTACT: Daniel Navarrete, Division of Regulations, Legislation, and Interpretation, Wage and Hour Division, U.S. Department of Labor, Room S–3502, 200 Constitution Avenue NW, Washington, DC 20210; telephone: (202) 693–0406 (this is not a toll-free number). Alternative formats are available upon request by calling 1–866–487–9243. If you are deaf, hard of hearing, or have a speech disability, please dial 7–1–1 to access telecommunications relay services.

SUPPLEMENTARY INFORMATION:

I. Background

The Family and Medical Leave Act of 1993 (FMLA), 29 U.S.C. 2601, and its regulations at 29 CFR part 825 require private sector employers that employ 50 or more employees, all public and private elementary schools, and all public agencies to provide up to 12 weeks of unpaid, job-protected leave during any 12-month period to eligible employees for certain family and medical reasons. Qualifying reasons for leave include birth of a child and to bond with the newborn child; placement with the employee of a child for adoption or foster care; to care for the employee's spouse, child, or parent who has a serious health condition; a serious health condition that makes the employee unable to perform the functions of the employee's job; qualifying exigencies arising out of the deployment of the employee's spouse, son, daughter, or parent to covered active duty in the military, and up to 26 weeks of unpaid, job protected leave during a single 12-month period to care for a covered current servicemember or veteran with a serious injury or illness who is the spouse, son, daughter, parent, or next of kin to the employee.

The Wage Hour Division (WHD) created optional use forms for this information collection. The Certification of Health Care Provider for Employee's Serious Health Condition (Form WH–380–E) allows an employee requesting FMLA leave for their own serious health condition to satisfy the statutory requirement to furnish, upon the employer's request, appropriate certification (including a second or third opinion and recertification) to support the need for leave for the employee's own serious health condition. *See* § 825.305(a). The Certification of Health Care Provider for Family Member's Serious Health Condition (Form WH–380–F) allows an employee requesting FMLA leave for a qualifying family member's serious health condition to satisfy the statutory requirement to furnish, upon the employer's request, appropriate certification (including a second or third opinion and recertification) to support the need for leave for the family member's serious health condition. *See* § 825.305(a). Notice of Eligibility & Rights and Responsibilities (Form WH–381) allows an employer to satisfy the regulatory requirement to provide an employee who potentially qualifies to take FMLA leave with a notice of whether the employee is eligible as defined in § 825.110, and written notice detailing specific expectations and obligations of the employee and explaining any consequences of a failure to meet these obligations. *See* § 825.300(b) and (c). Designation Notice (Form WH–382) provides a format an employer may use to meet its obligation to designate leave as FMLA leave. *See* § 825.301(a). Certification of Military Family Leave for Qualifying Exigency (Form WH–384) allows an employee requesting FMLA leave based on a qualifying exigency to satisfy the statutory requirement to furnish, upon the employer's request, appropriate certification to support leave for a qualifying exigency. *See* § 825.309. Certification for Serious Injury or Illness of a Current Servicemember for Military Caregiver Leave (Form WH–385) allows an employee requesting FMLA leave based on an active duty covered servicemember's serious injury or illness to satisfy the statutory requirement to furnish, upon the employer's request, a medical certification from an authorized health care provider. *See* § 825.310. Finally, Certification for Serious Injury or Illness of a Veteran for Military Caregiver Leave (Form WH–385–V) allows an employee requesting leave based on a veteran's serious injury or illness to satisfy the statutory requirement to furnish, upon the employer's request, a medical certification from an authorized health care provider. *See* § 825.310.

II. Review Focus

The Department of Labor is particularly interested in comments which:

- 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;
- Enhance the quality, utility, and clarity of the information to be collected;
- 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; and
- Provide information that could help minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

III. Current Actions

The Department of Labor seeks an approval for the extension of this information collection to ensure effective administration of the Family and Medical Leave Act of 1993, as Amended.

Type of Review: Extension.

Agency: Wage and Hour Division.

Title: The Family and Medical Leave Act of 1993, as Amended.

OMB Control Number: 1235–0003.

Agency Numbers: Forms WH–380–E, WH–380–F, WH–381, WH–382, WH–384, WH–385, WH–385–V.

Affected Public: Private sector, business or other for-profit, not-for-profit institutions; State, local, or Tribal governments; Federal Government.

Total Respondents: 20,589,984.

Total Annual Responses: 76,927,146.

Estimated Total Burden Hours: 9,062,984.

Estimated Time per Response: Varies with type of request (1.25–20 minutes).

Frequency: On occasion.

Total Burden Cost: $505,752,631.

Total Burden Cost (Operations/Maintenance): $218,048,850.

Dated: March 23, 2026.

Daniel Navarrete,

Director, Division of Regulations, Legislation, and Interpretation.

[FR Doc. 2026–06031 Filed 3–27–26; 8:45 am]

BILLING CODE 4510–27–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[NASA Document Number: 26–017]

Name of Information Collection: NASA Complaint of Discrimination Form 1355P

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Revision of a previously approved information collection.

SUMMARY: NASA, as part of its continuing effort to reduce paperwork

and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995 (PRA).

DATES: Comments are due by May 29, 2026.

ADDRESSES: Written comments and recommendations for this information collection should be sent within 60 days of publication of this notice at *http://www.regulations.gov* and search for NASA Docket 2026–0035.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to NASA PRA Clearance Officer, Stayce Hoult, NASA Headquarters, 300 E Street SW, JC0000, Washington, DC 20546, phone 256–714–8575, or email *hq-ocio-pra-program@mail.nasa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

Federal agencies are required by statute not to engage in discrimination on the bases of race, color, religion, sex, national origin, age, disability, pregnancy, childbirth, or related medical conditions, genetic information, or retaliation. A federal employee, former employee, or job applicant who believes s/he was discriminated against has a right to file a complaint with the agency's office responsible for its Equal Employment Opportunity (EEO) programs. Federal agencies must offer pre-complaint counseling or EEO alternative dispute resolution (EEO ADR) to individuals who allege that they were discriminated against by the agency. If pre-complaint counseling or EEO ADR does not resolve the dispute(s), the individual can file a formal discrimination complaint with the agency's EEO office.

NASA is committed to effectively performing the Agency's communication function in accordance with the Space Act Section 203 (a)(3) to ''provide for the widest practicable and appropriate dissemination of information concerning its activities and the results thereof,'' and to enhance public understanding of, and participation in, the nation's aeronautical and space program in accordance with the NASA Strategic Plan.

II. Methods of Collection

Title 29 of the Code of Federal Regulations (CFR) Part 1614 Section 104 requires agencies to establish procedures for processing individual and class complaints of discrimination that include the provisions contained in 29 CFR 1614.105 through 1614.110 and in § 1614.204, which are consistent with all other applicable Federal EEO regulations and complaint processing requirements contained in the Equal Employment Opportunity Commission (EEOC) Management Directives (MD).

When an individual decides to pursue the formal discrimination complaint process, EEOC MD 110 requires that the formal complaint must be:

- In writing;
- Specific with regard to the claim(s) that the individual raised in pre-complaint counseling and that the person wishes to pursue;
- Signed by the individual and/or his or her representative; and
- Filed within fifteen (15) calendar days from the date s/he receives the Notice of Right to File a Discrimination Complaint.

Consequently, NASA established NF–1355 form to ensure the individual who wishes to utilize the EEO process complies with the requirements listed above

III. Data

Title: NASA Complaint of Discrimination Form 1355.

OMB Number: 2700–0163.

Type of Review: Revision of a previously approved information collection.

Affected Public: Individuals who wish to file a formal discrimination complaint against NASA.

Estimated Annual Number of Activities: 60.

Estimated Number of Respondents per Activity: 1.

Annual Responses: 60.

Estimated Time per Response: 30 minutes.

Estimated Total Annual Burden Hours: 30 hours.

IV. Request for Comments

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of NASA, including whether the information collected has practical utility; (2) the accuracy of NASA's estimate of the burden (including hours and cost) 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 automated collection techniques or the use of other forms of information technology.

Comments submitted in response to this notice will be summarized and included in the request for OMB approval of this information collection. They will also become a matter of public record.

Stayce Hoult,

PRA Clearance Officer, National Aeronautics and Space Administration.

[FR Doc. 2026–06104 Filed 3–27–26; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[NASA Document Number: 26–016; NASA Docket Number: NASA–2026–0067]

Name of Information Collection: Software Catalog

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Renewal of existing information collection.

SUMMARY: NASA, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995 (PRA).

DATES: Comments are due by May 29, 2026.

ADDRESSES: Written comments and recommendations for this information collection should be sent within 60 days of publication of this notice at *http://www.regulations.gov* and search for NASA Docket [2026–0067].

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to NASA PRA Clearance Officer, Stayce Hoult, NASA Headquarters, 300 E Street SW, JC0000, Washington, DC 20546, phone 256–714–8575, or email *hq-ocio-pra-program@mail.nasa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

The information submitted by government entities, companies, academic institutions, and individuals is a software request form who wish to obtain a Software Usage Agreement (SUA) for a released NASA software technology. At a minimum, all software requestors must submit the intended use of the software and the requestor's citizenship, country of residence, phone number, and address. The collected information is used by NASA to ensure that the software requestor meets the

qualifications to receive the NASA software technology.

II. Methods of Collection

Electronic.

III. Data

Title: Software Catalog.
OMB Number: 2700–0193.
Type of Review: Renewal of a previously approved collection.
Affected Public: Government entities, companies, academic institutions, and individuals.
Estimated Annual Number of Activities: 1.
Estimated Number of Respondents per Activity: 7,000.
Annual Responses: 7,000.
Estimated Time per Response: 1 hour.
Estimated Total Annual Burden Hours: 7,000.

IV. Request for Comments

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of NASA, including whether the information collected has practical utility; (2) the accuracy of NASA's estimate of the burden (including hours and cost) 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 automated collection techniques or the use of other forms of information technology.

Comments submitted in response to this notice will be summarized and included in the request for OMB approval of this information collection. They will also become a matter of public record.

Stayce Hoult,

PRA Clearance Officer, National Aeronautics and Space Administration.

[FR Doc. 2026–06105 Filed 3–27–26; 8:45 am]

BILLING CODE 7510–13–P

NUCLEAR REGULATORY COMMISSION

[NRC–2026–0001]

Sunshine Act Meetings

TIME AND DATE: Weeks of March 30, April 6, 13, 20, 27, and May 4, 2026. The schedule for Commission meetings is subject to change on short notice. The NRC Commission Meeting Schedule can be found on the internet at: *https://www.nrc.gov/public-involve/public-meetings/schedule.html.*

PLACE: The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings or need this meeting notice or the transcript or other information from the public meetings in another format (*e.g.,* braille, large print), please contact the Reasonable Accommodations Resource by email at *Reasonable_Accommodations.Resource@nrc.gov.* Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

STATUS: Public.

Members of the public may request to receive the information in these notices electronically. If you would like to be added to the distribution, please contact the Nuclear Regulatory Commission, Office of the Secretary, Washington, DC 20555, at 301–415–1969, or by email at *Betty.Thweatt@nrc.gov* or *Samantha.Miklaszewski@nrc.gov.*

MATTERS TO BE CONSIDERED:

Week of March 30, 2026

There are no meetings scheduled for the week of March 30, 2026.

Week of April 6, 2026—Tentative

There are no meetings scheduled for the week of April 6, 2026.

Week of April 13, 2026—Tentative

There are no meetings scheduled for the week of April 13, 2026.

Week of April 20, 2026—Tentative

Tuesday, April 21, 2026

10:00 a.m. Meeting with the Advisory Committee on the Medical Uses of Isotopes (Public Meeting) (Contact: Ally Mara: 301–415–2509)

Additional Information: The meeting will be held in the Commissioners' Hearing Room, 11555 Rockville Pike, Rockville, Maryland. The public is invited to attend the Commission's meeting in person or watch live via webcast at the Web address—https://video.nrc.gov/.

Week of April 27, 2026—Tentative

There are no meetings scheduled for the week of April 27, 2026.

Week of May 4, 2026—Tentative

Tuesday, May 5, 2026

10:00 a.m. Briefing on Human Capital and Equal Employment Opportunity (Public Meeting) (Contact: Erin Deeds: 301–415–2887)

Additional Information: The meeting will be held in the Commissioners' Hearing Room, 11555 Rockville Pike, Rockville, Maryland. The public is invited to attend the Commission's meeting in person or watch live via webcast at the Web address—https://video.nrc.gov/.

Thursday, May 7, 2026

9:00 a.m. Strategic Programmatic Overview of the Fuel Facilities and Spent Fuel Storage and Transportation Business Lines (Public Meeting) (Contact: Annie Ramirez: 301–415–6780)

Additional Information: The meeting will be held in the Commissioners' Hearing Room, 11555 Rockville Pike, Rockville, Maryland. The public is invited to attend the Commission's meeting in person or watch live via webcast at the Web address—https://video.nrc.gov/.

CONTACT PERSON FOR MORE INFORMATION: For more information or to verify the status of meetings, contact Wesley Held at 301–287–3591 or via email at *Wesley.Held@nrc.gov.*

The NRC is holding the meetings under the authority of the Government in the Sunshine Act, 5 U.S.C. 552b.

Dated: March 26, 2026.

For the Nuclear Regulatory Commission.

Wesley W. Held,

Policy Coordinator,Office of the Secretary.

[FR Doc. 2026–06132 Filed 3–26–26; 4:15 pm]

BILLING CODE 7590–01–P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2026–174 and K2026–174]

New Postal Products

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing for the Commission's consideration concerning a negotiated service agreement. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* April 2, 2026.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *https://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction

II. Public Proceeding(s)
III. Summary Proceeding(s)

I. Introduction

Pursuant to 39 CFR 3041.405, the Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to Competitive negotiated service agreement(s). The request(s) may propose the addition of a negotiated service agreement from the Competitive product list or the modification of an existing product currently appearing on the Competitive product list.

The public portions of the Postal Service's request(s) can be accessed via the Commission's website (*http://www.prc.gov*). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3011.301.[1]

Section II identifies the docket number(s) associated with each Postal Service request, if any, that will be reviewed in a public proceeding as defined by 39 CFR 3010.101(p), the title of each such request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each such request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 and 39 CFR 3000.114 (Public Representative). The Public Representative does not represent any individual person, entity or particular point of view, and, when Commission attorneys are appointed, no attorney-client relationship is established. Section II also establishes comment deadline(s) pertaining to each such request.

The Commission invites comments on whether the Postal Service's request(s) identified in Section II, if any, are consistent with the policies of title 39. Applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3035, and 39 CFR part 3041. Comment deadline(s) for each such request, if any, appear in Section II.

Section III identifies the docket number(s) associated with each Postal Service request, if any, to add a standardized distinct product to the Competitive product list or to amend a standardized distinct product, the title of each such request, the request's acceptance date, and the authority cited by the Postal Service for each request. Standardized distinct products are negotiated service agreements that are variations of one or more Competitive products, and for which financial models, minimum rates, and classification criteria have undergone advance Commission review. *See* 39 CFR 3041.110(n); 39 CFR 3041.205(a). Such requests are reviewed in summary proceedings pursuant to 39 CFR 3041.325(c)(2) and 39 CFR 3041.505(f)(1). Pursuant to 39 CFR 3041.405(c)–(d), the Commission does not appoint a Public Representative or request public comment in proceedings to review such requests.

II. Public Proceeding(s)

1. *Docket No(s).:* MC2026–174 and K2026–174; *Filing Title:* USPS Request to Add Priority Mail Express, Priority Mail & USPS Ground Advantage Contract 1493 to the Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* March 25, 2026; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3035.105, and 39 CFR 3041.310; *Public Representative:* Christopher Mohr; *Comments Due:* April 2, 2026.

III. Summary Proceeding(s)

None. See Section II for public proceedings.

This Notice will be published in the **Federal Register**.

Danielle LeFlore,

Legal Assistant.

[FR Doc. 2026–06084 Filed 3–27–26; 8:45 am]

BILLING CODE 7710–FW–P

[1] *See* Docket No. RM2018–3, Order Adopting Final Rules Relating to Non-Public Information, June 27, 2018, Attachment A at 19–22 (Order No. 4679).

POSTAL SERVICE

Sunshine Act Meetings

TIME AND DATE: Tuesday March 24, 2026, at 3:30 p.m. EST.

PLACE: Washington, DC, at U.S. Postal Service Headquarters, 475 L'Enfant Plaza, SW.

STATUS: Closed.

MATTERS CONSIDERED: On March 24, 2026, the members of the Board of Governors of the United States Postal Service voted unanimously to hold and to close to public observation a special meeting in Washington, DC The Board determined that no earlier public notice was practicable. The Board considered the below matters.

1. Administrative Matters.
2. Strategic Matters.

GENERAL COUNSEL CERTIFICATION: The General Counsel of the United States Postal Service has certified that the meeting may be closed under the Government in the Sunshine Act, 5 U.S.C. 552b.

CONTACT PERSON FOR MORE INFORMATION: Lucy C. Trout, Secretary of the Board of Governors, U.S. Postal Service, 475 L'Enfant Plaza SW, Washington, DC 20260–1000. Telephone: (202) 268–4800.

Lucy C. Trout,

Secretary.

[FR Doc. 2026–06038 Filed 3–26–26; 11:15 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Change in Rates of General Applicability for Competitive Products

AGENCY: Postal Service.

ACTION: Notice of a change in rates of general applicability for competitive products.

SUMMARY: This notice sets forth time-limited changes in rates of general applicability for competitive products.

DATES: *Effective date:* April 26, 2026.

FOR FURTHER INFORMATION CONTACT: Elizabeth Reed, 202–268–3179.

SUPPLEMENTARY INFORMATION: On March 24, 2026, pursuant to their authority under 39 U.S.C. 3632, the Governors of the Postal Service established time-limited price changes for competitive products. The Governors' Decision and the record of proceedings in connection with such decision are reprinted below in accordance with section 3632(b)(2). Mail Classification Schedule language containing the new prices can be found at *www.prc.gov*.

Jeffrey Boblick,

Attorney, Ethics and Legal Compliance.

Decision of the Governors of the United States Postal Service on Changes in Rates of General Applicability for Competitive Products (Governors' Decision No. 26–1)

March 24, 2026

Statement of Explanation and Justification

Pursuant to authority under section 3632 of title 39, as amended by the Postal Accountability and Enhancement Act of 2006 (''PAEA''), we establish new prices of general applicability for certain domestic shipping services (competitive products), and concurrent classification changes to effectuate the new prices. These prices shall be in effect at 12:00 a.m. CDT on April 26, 2026, until 12:00 a.m. CST on January 17, 2027, at which time prices will be restored to approved levels. The changes are described generally below, with a detailed description of the changes in the attachment. The attachment includes

the draft Mail Classification Schedule sections with the new prices that will take effect on April 26 displayed in the price charts, as well as the Mail Classification Schedule sections with the prices that will be restored on January 17, 2027, unless the Governors take further action to adjust prices.

As shown in the nonpublic annex being filed under seal herewith, the changes we establish should enable each competitive product to cover its attributable costs (39 U.S.C. 3633(a)(2)) and should result in competitive products as a whole complying with 39 U.S.C. 3633(a)(3), which, as implemented by 39 CFR 3035.107(c), requires competitive products collectively to contribute a minimum of 8.0 percent to the Postal Service's institutional costs. Accordingly, no issue of subsidization of competitive products by market dominant products should arise (39 U.S.C. 3633(a)(1)). We therefore find that the new prices are in accordance with 39 U.S.C. 3632–3633 and 39 CFR 3035.102.

I. Domestic Products

A. Priority Mail Express

Overall, the Priority Mail Express price change represents a 8.0 percent increase. The existing structure of zoned Retail and Commercial price categories is maintained. Retail prices will increase 8.0 percent on average, while the Commercial price category will increase 8.0 percent on average.

B. Priority Mail

On average, Priority Mail prices will be increased by 8.0 percent. The existing structure of zoned Retail and Commercial price categories is maintained. Retail prices will increase 8.0 percent on average, while the Commercial price category will increase 8.0 percent on average.

C. USPS Ground Advantage

USPS Ground Advantage, introduced in July 2024, is the Postal Service's flagship ground package product. USPS Ground Advantage prices will increase 8.0 percent on average. The existing structure of zoned Retail and Commercial price categories is maintained. Retail prices will increase 8.0 percent on average, while the Commercial price category will increase 8.0 percent on average. The Alaska Limited Overland Routes (LOR) price category will see a 8.0 percent increase.

D. Parcel Select

On average, Parcel Select prices will increase overall by 8.0 percent, with different percentages allocated across weight classes.

No price changes are being made to Special Services or International competitive products.

Order

The changes in prices set forth herein shall be effective at 12:00 a.m. on April 26, 2026, and will be rolled back to approved levels at 12:00 a.m. on January 17, 2027. We direct the Secretary of the Board of Governors to have this decision published in the **Federal Register** in accordance with 39 U.S.C. 3632(b)(2), and direct management to file with the Postal Regulatory Commission appropriate notice of these changes.

By The Governors.

/s/

Amber F. McReynolds,

Chair, Board of Governors.

UNITED STATES POSTAL SERVICE OFFICE OF THE BOARD OF GOVERNORS

Certification Of Governors' Vote on Governors' Decision No. 26–1

Consistent with 39 U.S.C. 3632(a), I hereby certify that, on March 24, 2026, the Governors voted on adopting Governors' Decision No. 26–1, and that a majority of the Governors then holding office voted in favor of that Decision.

/s/

Date: March 24, 2026.

Lucy C. Trout,

Secretary of the Board of Governors.

[FR Doc. 2026–06025 Filed 3–27–26; 8:45 am]

BILLING CODE 7710–12–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–105078; File No. SR–SAPPHIRE–2026–11]

Self-Regulatory Organizations; MIAX Sapphire, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the MIAX Sapphire Options Exchange Fee Schedule for Non-Transaction Fee Waivers

March 25, 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 March 18, 2026, MIAX Sapphire, LLC (''MIAX Sapphire'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') a 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 a proposal to amend the MIAX Sapphire Options Exchange Fee Schedule (the ''Fee Schedule'') to update certain non-transaction fee waivers and remove text regarding fee waivers that expired at the end of February 2026.

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 Sapphire'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 commenced Trading Floor [3] operations in September 2025.[4] Ahead of the launch of the Trading Floor for equity options trading, the Exchange filed to amend the Fee Schedule to establish Section 9, Trading Floor Non-Transaction Fees, and the following subsections, including fee structures and amounts: (1) one-time

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The terms ''Trading Floor'' or ''Floor'' means the physical trading floor of the Exchange located in Miami, Florida. The Trading Floor shall consist of one ''Crowd Area'' or ''Pit'' where Floor Participants will be located and option contracts will be traded. The Crowd Area or Pit shall be marked with specific visible boundaries on the Trading Floor, as determined by the Exchange. A Floor Broker must represent all orders in an ''open outcry'' fashion in the Crowd Area. *See* the Definitions section of the Fee Schedule and Exchange Rule 100.

[4] *See* News Alert, MIAX Sapphire, Miami International Holdings Launches Next-Generation Options Trading Floor in Miami, dated September 16, 2025, *available at https://www.miaxglobal.com/alert/2025/09/16/miami-international-holdings-launches-next-generation-options-trading-floor.*

application and initiation fees; (2) participant fees; (3) Trading Permit [5] fees; (4) desk and badge fees; (5) remote services fees; (6) shipping and storage fee; and (7) data center hosting fees.[6] In that filing, the Exchange waived certain non-transaction fees for the Initial Waiver Period [7] in order to attract Trading Floor membership and compete for order flow. In particular, the Exchange waived the following fees for the Initial Waiver Period: (1) one-time application and initiation fees; (2) participant fees; (3) desk and badge fees; and (4) data center hosting fees.[8] The Exchange also waived Trading Permit fees for each Floor Broker [9] (on a per-firm basis) or Floor Market Maker [10] that executed at least 100 contracts average daily volume (''ADV'') in Qualified Floor Orders (''QFOs'') [11] and Complex Qualified Floor Orders (''cQFOs'') [12] in each relevant month throughout September, October, November and December 2025, and January and February 2026.[13] Since the Exchange launched Trading Floor operations in mid-September 2025, the Initial Waiver Period automatically expired at the end of February 2026 (*i.e.,* the initial effectiveness of the fees, which were filed mid-September,[14] plus five full calendar months thereafter). The Exchange now proposes to amend the Fee Schedule to update certain Trading Floor non-transaction fee waivers and remove text regarding the Initial Waiver Period, which automatically expired at the end of February 2026.

The Exchange initially filed this proposal on February 27, 2026.[15] On March 18, 2026, the Exchange withdrew SR–SAPPHIRE–2026–09 and refiled this proposal.[16]

Definitions Section

First, the Exchange proposes to amend the Definitions section of the Fee Schedule to delete the term ''Initial Waiver Period'' as the Initial Waiver Period automatically expired at the end of February 2026. Pursuant to this filing, the Exchange plans to update certain non-transaction fee waivers with respect to certain Floor Participants; [17] however, the nature and extent of the proposed fee waivers will vary by the type of fee and type of member. The Exchange will identify the updated fee waiver, if applicable, in each relevant section of the Fee Schedule. Accordingly, the Exchange proposes to delete the term ''Initial Waiver Period'' from the Definitions section of the Fee Schedule to provide clarity to market participants that effective March 1, 2026, that particular fee waiver expired and certain Trading Floor non-transaction fees will now be assessed as originally provided for in the Exchange's initial non-transaction fee filing.[18]

Application and Initiation Fee (One-Time)

Next, the Exchange proposes to amend Section 9)a) of the Fee Schedule to update the fee waiver for the one-time application and initiation fee. The one-time application and initiation fee for Floor Brokers and Floor Market Makers was waived for the Initial Waiver Period. The Exchange now proposes to remove the reference to Initial Waiver Period and insert text to specify that the one-time application and initiation fee will be waived for new Floor Broker applications beginning March 1, 2026. Since the application and initiation fee will be assessed on an individual basis (*i.e.,* per Floor Broker or per Floor Market Maker), firms that already have active Floor Brokers on the Trading Floor will be able to have additional individuals apply for Floor Broker status and have the application and initiation fee waived along with new firms that do not currently have active Floor Brokers on the Trading Floor. With the proposed changes, consistent with the existing Fee Schedule, all new Floor Market Maker applications will be assessed the $2,000 one-time application and initiation fee. The Exchange will continue to assess the one time application and initiation fee per Floor Market Maker on the earlier of (i) the date the applicant is certified in the membership system, (ii) provided access to the Trading Floor and/or Trading Floor data center, or (iii) once an application for Trading Floor membership is finally denied.[19]

The purpose of waiving this fee for all new Floor Broker applications is to continue to provide an incentive for market participants interested in becoming Floor Brokers to submit applications and become Floor Brokers sooner, which may result in increased order flow and liquidity to the benefit of all Floor Participants. Since the Exchange launched Trading Floor operations, all current Floor Broker and Floor Market Maker application and initiation fees were waived. Waiving certain fees is how exchanges have historically attracted membership and competed for order flow soon after launching operations.[20] Even though the Exchange proposes to waive these particular one-time fees for new Floor Broker applications, the overall structure of the fee and amount is already outlined in the Fee Schedule so that there is general awareness that the Exchange intends to assess such fees for Floor Broker applications in the future.

Participant Fees

The Exchange proposes to amend Section 9)b) of the Fee Schedule to

[5] The term ''Trading Permit'' means a permit issued by the Exchange that confers the ability to transact on the Exchange. *See* Exchange Rule 100.

[6] *See* Securities Exchange Act Release No. 104002 (September 18, 2025), 90 FR 45840 (September 23, 2025) (SR–SAPPHIRE–2025–37).

[7] The term ''Initial Waiver Period'' means, for each applicable fee, the period of time from the initial effectiveness of the fee for the remainder of the partial month once the Trading Floor begins to operate, plus an additional five (5) full calendar months after the completion of the partial month, if applicable, of the launch of Trading Floor operations. *See* the Definitions section of the Fee Schedule.

[8] *See supra* note 6.

[9] A Floor Broker is an individual who is registered with the Exchange for the purpose, while on the Trading/Floor, of accepting and handling options orders. A Floor Broker must be registered as a Floor Participant prior to registering as a Floor Broker. A Floor Broker may take into his own account, and subsequently liquidate, any position that results from an error made while attempting to execute, as Floor Broker, an order. *See* Exchange Rule 2015.

[10] A Floor Market Maker is a Floor Participant of the Exchange located on the Trading Floor who has received permission from the Exchange to trade in options for his own account. *See* Exchange Rule 2105(b).

[11] *See* Exchange Rule 2040.

[12] *See id.*

[13] *See supra* note 6.

[14] *See supra* note 6.

[15] *See* Securities Exchange Act Release No. 104967 (March 11, 2026), 91 FR 12637 (March 16, 2026) (SR–SAPPHIRE–2026–09).

[16] The Exchange notes that certain references to the Initial Waiver Period being ''set to expire'' have been updated in this filing to reflect the fact that the Initial Waiver Period expired at the end of February 2026.

[17] The term ''Floor Participant'' means Floor Brokers as defined in Rule 2015 and Floor Market Makers as defined in Rule 2105(b). *See* Exchange Rule 100.

[18] *See supra* note 6.

[19] *See* Fee Schedule, Section 9)a).

[20] *See, e.g.,* Securities Exchange Act Release Nos. 104002 (September 18, 2025), 90 FR 45840 (September 23, 2025) (SR–SAPPHIRE–2025–37) (waiving application and initiation fees, participant fees, trading permit fees, desk and badge fees, and data center hosting fees for an initial waiver period in order to attract membership and order flow upon launching trading floor operations); 100752 (August 16, 2024), 89 FR 67986 (August 22, 2024) (SR–SAPPHIRE–2024–20) (waiving one-time membership application fees, among others, for the Exchange's electronic equity options trading platform for an initial waiver period in order to attract membership and order flow upon launching operations); 85393 (March 21, 2019), 84 FR 11599 (March 27, 2019) (SR–EMERALD–2019–15) (waiving one-time membership application fees, trading permit fees, and testing and certification fees, among others, for an initial waiver period in order to attract membership and order flow upon launching operations); *and* 97893 (July 13, 2023), 88 FR 46285 (July 19, 2023) (SR–MEMX–2023–13) (waiving membership fees for an initial waiver period of approximately six months upon launch of MEMX's options exchange).

update the fee waiver for participant fees. The participant fee for Floor Brokers (to be assessed on a per-firm basis) and Floor Market Makers (to be assessed on a per-firm basis) was waived for the Initial Waiver Period. The Exchange now proposes to remove the reference to Initial Waiver Period and insert text to specify that for new Floor Brokers (on a per-firm basis), the participant fee will be waived for the initial partial month plus an additional three (3) full calendar months thereafter once the Floor Broker maintains a physical presence on the Trading Floor (*i.e.,* the Floor Broker is certified in the membership system, provided access to the Trading Floor, and has a designated desk to be able to begin trading operations).[21] With the proposed changes, current firms with Floor Brokers or Floor Market Makers will begin being assessed the monthly fee of $1,250 (on a per-firm basis) effective for March 2026.[22] As proposed, any new firms that do not have a registered Floor Broker on the Trading Floor will have their participant fee waived for the initial partial month (*i.e.,* after the first day of the month) plus three (3) full calendar months thereafter once the Floor Broker maintains a physical presence on the Trading Floor. Any new Floor Market Makers (firm) that become registered as such after March 1, 2026 will be assessed the monthly participant fee of $1,250 (on a per-firm basis).

The purpose of waiving this fee for all new firms that register and have Floor Brokers with an active presence on the Trading Floor is to continue to provide an incentive for market participants interested in becoming Floor Brokers to submit applications and begin Floor Broker operations, which may result in increased order flow and liquidity to the benefit of all Floor Participants. Since the Exchange launched Trading Floor operations, all current firms with Floor Brokers or Floor Market Makers had their monthly participant fees waived. Waiving certain fees is how exchanges have historically attracted membership and competed for order flow soon after launching operations.[23] Even though the Exchange proposes to waive these particular fees for new firms that register Floor Brokers, the overall structure of the fees and amounts is already outlined in the Fee Schedule so that there is general awareness that the Exchange will assess such fees to Floor Brokers (on a per-firm basis) upon the expiration of the defined term of this particular fee waiver, which is based upon the date that a new firm has a Floor Broker with a physical presence on the Trading Floor.

Trading Permit Fees

The Exchange proposes to amend Section 9)c) of the Fee Schedule to update the fee waiver for Trading Permit fees. Since the Exchange launched Trading Floor operations, the monthly Trading Permit fees for Floor Brokers (on a per-firm basis) and Floor Market Makers were waived if the Floor Broker (on a per-firm basis) or Floor Market Maker executed at least 100 contracts ADV in QFOs or cQFOs, as the case may be, in each relevant month throughout September, October, November and December 2025, as well as January and February 2026.

The Exchange now proposes to remove the references to Initial Waiver Period, the text regarding certain months in 2025 and 2026, and Floor Market Maker fee waivers. The Exchange proposes to insert text to specify that for registered Floor Brokers as of February 28, 2026, the monthly Trading Permit fee will be waived if the Floor Broker (on a per-firm basis) executes at least 100 contracts ADV in QFOs or cQFOs in each relevant month thereafter, with no defined sunset for this particular fee waiver.[24] The purpose of this conditional fee waiver is to continue to provide a low enough volume threshold that most, if not all, current Floor Brokers should be able to achieve in order to have their monthly Trading Permit fees waived, while also promoting order flow and liquidity as the Trading Floor operations continue to ramp up. The Exchange proposes that for new firms that register Floor Brokers beginning March 1, 2026 or later, the monthly Trading Permit fee will be waived for the initial partial month the Floor Broker becomes registered with the Exchange and the three (3) full calendar months thereafter, with no volume requirement attached to the fee waiver for new Floor Brokers during that particular period. Further, the Exchange proposes to specify that for new firms that register Floor Brokers beginning March 1, 2026 or later, upon the expiration of the monthly Trading Permit fee waiver for the initial partial month and three (3) full calendar months after initial registration (as proposed in the immediately preceding sentence), the Exchange will continue to waive the monthly Trading Permit fee if the Floor Broker (on a per-firm basis) executes at least 100 contracts ADV in QFOs or cQFOs in each relevant month thereafter.

The purpose of this proposal is to incentivize market participants that are not Floor Participants to apply and become registered with the Exchange and begin Floor Broker operations, which should promote additional order flow and liquidity, benefiting all current Floor Participants. With the proposed changes, all new and current Floor Market Makers (on an individual basis) will be assessed the $5,350 monthly Trading Permit fee as stated in the Fee Schedule.[25]

Waiving certain fees is how exchanges have historically attracted membership and competed for order flow soon after launching operations.[26] The Exchange also believes that incentivizing order flow for certain market participants, like Floor Brokers, or reducing certain membership or trading permit fees, is historically how other exchanges have competed.[27] Even though the Exchange proposes to waive these particular fees if a current Floor Broker achieves a certain ADV in the relevant month, as well as for new Floor Brokers regardless of ADV for the initial partial month and three full calendar months thereafter,

[21] The Exchange proposes to update the language in the table in Section 9)b) of the Fee Schedule to make it clearer that the participant fee is assessed on a per-firm basis to both Floor Brokers (upon expiration of the proposed new fee waiver) and Floor Market Makers.

[22] *See* Fee Schedule, Section 9)b).

[23] *See supra* note 20.

[24] The Exchange proposes to update the language in the table in Section 9)c) of the Fee Schedule to make it clearer that the Trading Permit fee for Floor Brokers will be assessed on a per-firm basis (upon expiration of the proposed fee waiver for new Floor Brokers or in the event that a current Floor Broker does not meet the ADV requirement in a particular month).

[25] *See* Fee Schedule, Section 9)c). As discussed in the Exchange's prior filing, the Exchange determined to charge Floor Brokers on a per firm basis but not Floor Market Makers because the Trading Floor is not an unlimited space. Each on-Floor person is required to have a desk, which physically takes up space. The Exchange determined to charge Floor Brokers on a per firm basis and allocate more space for Floor Brokers to encourage Floor Brokers to bring QFO and cQFO volume to the Trading Floor. The Exchange continues to believe this will encourage the role performed by Floor Brokers in facilitating the execution of orders on the Trading Floor, a function that the Exchange wishes to support for the benefit of all market participants. The Exchange continues to believe that this updated fee structure will incentivize Floor Broker liquidity while balancing and recognizing the importance of Floor Market Makers to make markets on the Exchange's Trading Floor and interact with the orders brought to the Trading Floor for execution by Floor Brokers. More liquidity should benefit all Floor Participants by providing more trading opportunities, offering a more competitive venue for order execution, thus improving market quality for all market participants. *See* Securities Exchange Act Release No. 104002 (September 18, 2025), 90 FR 45840 (September 23, 2025) (SR–SAPPHIRE–2025–37).

[26] *See supra* note 20.

[27] *See, e.g.,* BOX Fee Schedule, Section I.D., Trading Floor Participant Fees (providing that any Floor Broker that executes a trade on 50% or more of the trading days in a given month will receive a $5,000 trading floor credit).

the Exchange believes that it is appropriate to provide market participants with the overall structure of the fees by outlining the structure and amounts in the Fee Schedule so that there is general awareness that the Exchange intends to assess such fees. For current Floor Brokers, the Exchange would assess such fee if the ADV threshold is not met, as well as in the future for new firms with Floor Brokers upon the expiration of defined term of this particular fee waiver, which is based upon the date that the new Floor Broker becomes registered with the Exchange.

The Exchange also proposes to amend Section 9)c) of the Fee Schedule to establish a fee for Floor Market Maker Alternates. The Exchange's Floor Participant Application provides several categories of permits that the applicant may choose from, which includes the following permit types: (a) Floor Broker, (b) Floor Market Maker, (c) Floor Broker Alternate, (d) Floor Market Maker Alternate, and (e) Clerk.[28] The Floor Broker Alternate permit allows that designated individual to act as a substitute and fill in for the primary Floor Broker of the same firm when the primary Floor Broker is not active on the Trading Floor on a particular trading day or number of trading days. Similarly, the Floor Market Maker Alternate permit allows that designated individual to act as a substitute and fill in for the primary Floor Market Maker of the same firm when the primary Floor Market Maker is not active on the Trading Floor on a particular trading day or number of trading days.

For example, if the primary Floor Market Maker is away on vacation or out of office due to illness, the Floor Market Maker Alternate would be able to substitute in for that primary Floor Market Maker and carry out its duties without incurring the monthly Trading Permit fee, desk fee or an additional badge fee. In particular, the Exchange proposes to assess a monthly fee of $500 per designated Floor Market Maker Alternate for firms that register and designate Floor Market Maker Alternates on the MIAX Sapphire Options Exchange Floor Participant Application. Further, the Exchange proposes to provide that the Floor Market Maker Alternate substitutes into the position of a registered Floor Market Maker for the specified trading days the registered Floor Market Maker is not on the Trading Floor and uses the desk(s) of the registered Floor Market Maker (*i.e.,* they are not assessed a separate desk fee from the primary Floor Market Maker). The Exchange proposes to describe this fee under the Trading Permit fee table in Section 9)c) of the Fee Schedule.

The purpose of this fee is to provide firms with a convenient means to substitute Floor Market Makers where the primary Floor Market Maker individual is unable to be active on the Trading Floor for any number of reasons, while balancing the interests of the Exchange to ensure that all active trading personnel are properly accounted for on each trading day. The Exchange notes that other exchanges with trading floors provide for similar fees for ''inactive'' or ''reserve'' participants.[29] Although the Exchange's proposed monthly fee for Floor Market Maker Alternates appears to be higher than the similar fee charged by PHLX or NYSE American, the Exchange will not impose additional charges for a desk or badge for Floor Market Maker Alternates.

Desk and Badge Fees

The Exchange proposes to amend Section 9)d) of the Fee Schedule to remove text regarding the Initial Waiver Period. Currently, all registered on-Floor persons (*i.e.,* Clerks [30]) employed by or associated with a Floor Market Maker or Floor Broker must have a desk and badge.[31] The Exchange waived desk and badge fees for Trading Floor participants for the Initial Waiver Period.[32] The Exchange now proposes to remove the reference to the Initial Waiver Period as the Initial Waiver Period automatically expired at the end of February 2026. The Exchange originally waived these fees to encourage prospective Floor Participants to complete all necessary on-boarding requirements as close as possible to the launch of the Trading Floor (or sooner), which included selecting desk space, registering all on-Floor personnel and acquiring badges. The Exchange believes the Initial Waiver Period for these fees accomplished this purpose; accordingly, the Exchange proposes to remove the text for the Initial Waiver Period from Section 9)d) of the Fee Schedule.

The Exchange also proposes to amend Section 9)d) of the Fee Schedule to add a clarifying sentence that the Exchange will assess the desk fee for each additional desk requested by a Floor Participant in excess of the desk allotment provided pursuant to Section 9)c) of the Fee Schedule (*i.e.,* paying for a Trading Permit entitles a firm to receive an unlimited number of Trading Permits for its Floor Brokers where each Floor Broker will receive one Trading Permit, badge, and desk; and paying for a Trading Permit entitles each Floor Market Maker to receive one Trading Permit, badge and desk). The purpose of this change is to add clarity to the Fee Schedule and does not change the manner in which the Exchange will assess the desk fee as originally established.

Data Center Hosting Fees

The Exchange proposes to amend Section 9)g) of the Fee Schedule to remove text regarding the Initial Waiver Period. The Exchange waived the data center hosting fees [33] for Floor Participants for the Initial Waiver Period.[34] The Exchange now proposes to remove the reference to the Initial Waiver Period as the Initial Waiver Period automatically expired at the end of February 2026. The Exchange originally waived these fees to incentivize market participants interested in becoming Floor Participants to set up their servers and network equipment in the 545Wyn Data Center prior to or near launch of the Trading Floor.

The Exchange believes the Initial Waiver Period for these fees accomplished this purpose; accordingly, the Exchange proposes to remove the

[28] *See* MIAX Sapphire Options Exchange Floor Participant Application, v1.9, Section 5 (modified 5/2025), *available at https://www.miaxglobal.com/miax_sapphire_floor_participant_application.pdf.*

[29] *See* Nasdaq PHLX LLC (''PHLX''), Options 7: Pricing Schedule, Section 8.A. (assessing an inactive nominee fee of $600 for six months plus a ''clerk fee'' of $100 per month) *and* NYSE American LLC (''NYSE American'') Options Fee Schedule, Section III.A. (assessing a Reserve Floor Market Maker ATP monthly fee of $175 per ATP).

[30] The term ''Clerk'' means any registered on-Floor person employed by or associated with a Floor Broker or Floor Market Maker and who is not eligible to effect transactions on the Trading Floor as a Floor Market Maker or Floor Broker. *See* Exchange Rule 2055(a).

[31] *See* Fee Schedule, Section 9)d).

[32] *See supra* note 6.

[33] Located in the same building as the Trading Floor is a small data center provided by the Exchange solely to help support the trading activities of Floor Brokers and Floor Market Makers (the ''545Wyn Data Center''). The data center hosting service does not provide dedicated or ''co-located'' access to the MIAX Sapphire trading system infrastructure, nor does it provide any access or other latency advantage for Floor Participants. Floor Brokers and Floor Market Makers may purchase dedicated space in the 545Wyn Data Center to install their firms' hardware and software necessary to support their Trading Floor activities. The 545Wyn Data Center is intended to provide a secure environment to facilitate communication between a firm's desk on the Trading Floor and their back-office (located outside of Miami) that will ultimately enter the QFO or cQFO that originated from the Trading Floor. The Exchange notes, however, that firms are not required to purchase space in the 545Wyn Data Center. A firm may use a separate service provider to route their messages from the Trading Floor to their back-office. *See supra* note 6.

[34] *See supra* note 6.

text for the Initial Waiver Period from Section 9)g) of the Fee Schedule. With the proposed changes, effective March 1, 2026, the Exchange will begin to assess an initial one-time fee of $500 per 9-rack [35] unit bay setup and all current and new Floor Participants and non-Members the monthly fee of $1,500 per 9-rack unit bay for those that want to house servers and other network equipment in the 545Wyn Data Center.

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On February 25, 2026, the Exchange issued an alert to announce the proposed updates and amendments to the Trading Floor non-transaction fee waivers.[36]

2. Statutory Basis

The Exchange believes that the proposed changes are consistent with Section 6(b) of the Act [37] in general, and furthers the objectives of Section 6(b)(4) of the Act [38] in particular, in that the proposal provides for the equitable allocation of reasonable dues, fees and other charges among Floor Participants, non-Members and other persons using the Trading Floor or any facility or system thereof, which the Exchange operates or controls. The Exchange also believes the proposed changes further the objectives of Section 6(b)(5) of the Act [39] in that they are designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general protect investors and the public interest and are not designed to permit unfair discrimination between customers, issuers, brokers and dealers.

Definitions Section

The Exchange believes its proposal to amend the Definitions section of the Fee Schedule to delete the term ''Initial Waiver Period'' removes impediments to and perfects the mechanism of a free and open market because this change will remove text regarding Trading Floor non-transaction fee waivers from the Fee Schedule and provide clarity to market participants that the Exchange intends to assess such fees, unless otherwise provided for in the Fee Schedule. The Initial Waiver Period was established with an automatic sunset date, which was the end of February 2026. Accordingly, it is in the public interest for the Fee Schedule to be accurate and clear, which will be accomplished by removing expired fee waiver language.

Application and Initiation Fee (One-Time)

The Exchange believes its proposal to amend Section 9)a) of the Fee Schedule to remove the reference to Initial Waiver Period and insert text to specify that the one-time application and initiation fee will be waived for new Floor Broker applications beginning March 1, 2026 is reasonable, equitable and not unfairly discriminatory. The Exchange believes this change is reasonable, equitable and not unfairly discriminatory because firms that already have active Floor Brokers on the Trading Floor will be able to have additional individuals apply for Floor Broker status and have this fee waived along with new firms that do not currently have active Floor Brokers on the Trading Floor. The Exchange believes it is reasonable to waive this fee for all new Floor Broker applications in order to continue to provide an incentive for market participants interested in becoming Floor Brokers to submit applications and become Floor Brokers sooner, which may result in increased order flow and liquidity to the benefit of all Floor Participants.

The Exchange believes its proposal to not extend the fee waiver for new Floor Market Maker applications is reasonable, equitable and not unfairly discriminatory because the Exchange originally established the Initial Waiver Period with an automatic sunset date for the end of February 2026; accordingly, market participants that were interested in becoming Floor Market Makers were aware since September 2025 that the Exchange intended to assess the application and initiation fee upon the expiration of the Initial Waiver Period. Further, all current Floor Market Makers already applied for Trading Floor membership and had their application and initiation fees waived. At the completion of the Initial Waiver Period, the majority of Floor Participants already completed their applications and on-boarding as new Floor Participants, all of whom did not pay the one-time application and initiation fees. This means that the Exchange will likely not collect the majority of Floor Participant application and initiation fees.

Participant Fees

The Exchange believes its proposal to amend Section 9)b) of the Fee Schedule to remove the reference to Initial Waiver Period and insert text to specify that new Floor Brokers (on a per-firm basis) will have their participant fees waived for the initial partial month plus an additional three (3) full calendar months thereafter once the Floor Broker maintains a physical presence on the Trading Floor is reasonable, equitable and not unfairly discriminatory. The Exchange believes this change is reasonable, equitable and not unfairly discriminatory because the Exchange originally established the Initial Waiver Period with an automatic sunset date for the end of February 2026; accordingly, current Floor Brokers and Floor Market Makers were aware since September 2025 that the Exchange intended to assess the participant fees upon the expiration of the Initial Waiver Period. The Exchange believes its proposal to waive the participant fee for a defined period of time for new Floor Brokers is reasonable, equitable and not unfairly discriminatory because the Exchange believes this waiver will continue to provide an incentive for market participants interested in becoming Floor Brokers to submit applications and begin Floor Broker operations, which may result in increased order flow and liquidity to the benefit of all Floor Participants.

Although the Exchange proposes to waive the participant fee for a defined period of time for new Floor Brokers, the Exchange previously established the fee structure and amount in the Fee Schedule in order to communicate its intent to charge such fees to Floor Participants in the future. The waiver is also a protection to new Floor Brokers. Prior to the expiration of the defined waiver period (*i.e.,* the initial partial month plus three calendar months from when a new Floor Broker maintains a physical presence on the Trading Floor), if prospective Floor Brokers are initiated to trade on the Trading Floor but subsequently decide that they do not want to continue trading on the MIAX Sapphire Trading Floor, they can cancel their Trading Floor membership without having incurred any participant fees prior to the end of the new fee waiver term.

Trading Permit Fees

The Exchange believes its proposal to amend Section 9)c) of the Fee Schedule to remove the references to Initial Waiver Period, certain described

[35] A data center rack (also referred to as a ''cabinet'') is a vertical framework used to house and organize servers, network equipment and other IT hardware. *See, generally, https://www.equinix.com/products/data-center-services/colocation/cages-cabinets* (last visited February 25, 2026).

[36] *See* Alert, MIAX Sapphire Options Exchange—Reminder for March 1, 2026 Trading Floor Non-Transaction Fee Waivers and Updates, *available at https://www.miaxglobal.com/alert/2026/02/25/miax-sapphire-options-exchange-reminder-march-1-2026-trading-floor-non.*

[37] 15 U.S.C. 78f(b).

[38] 15 U.S.C. 78f(b)(4).

[39] 15 U.S.C. 78f(b)(5).

months in 2025 and 2026, and Floor Market Maker fee waivers and insert text to specify that for registered Floor Brokers as of February 28, 2026, the monthly Trading Permit fee will be waived if the Floor Broker (on a per-firm basis) executes at least 100 contracts ADV in QFOs or cQFOs in each relevant month thereafter, with no defined sunset for this particular fee waiver, is reasonable, equitable and not unfairly discriminatory. This change is designed to continue to provide a conditional fee waiver with a low enough volume threshold that most, if not all, current Floor Brokers should be able to achieve in order to have their monthly Trading Permit fees waived, while also promoting order flow and liquidity as the Trading Floor operations continue to ramp up. Further, the Exchange believes its proposal to waive Trading Permit fees for new firms that register Floor Brokers beginning March 1, 2026 or later for the initial partial month the Floor Broker becomes registered with the Exchange and the three (3) full calendar months thereafter, with no volume requirement during that period, is reasonable because this should incentivize market participants that are not Floor Participants to apply and become registered with the Exchange and begin Floor Broker operations. In turn, the Exchange believes this will promote additional order flow and liquidity to the benefit of all current Floor Participants. After the initial fee waiver period for new Floor Brokers, the Exchange's proposal contemplates that these new Floor Brokers will become subject to the same conditional fee waiver for monthly Trading Permit fees (*i.e.,* the 100 ADV requirement), which means all Floor Brokers will be subject to the same requirements in order to have their Trading Permit fees waived each month. As such, the Exchange believes this proposal is reasonable, equitable and not unfairly discriminatory.

The Exchange believes its proposal to include the current volume requirement in order for current Floor Brokers to receive the Trading Permit fee waiver as compared to new Floor Brokers is reasonable, equitable and not unfairly discriminatory because current Floor Brokers have had the past five and half months to set up Trading Floor operations and interact with all Floor Participants. New Floor Brokers will likely need time to ramp up operations to meet such a volume requirement, which will come into effect once the fee waiver for the initial partial month and three full calendar months thereafter expires.

The Exchange believes its proposal to not extend the fee waiver for current and new Floor Market Makers is reasonable, equitable and not unfairly discriminatory because the Exchange originally established the Initial Waiver Period with an automatic sunset date for the end of February 2026; accordingly, market participants that were interested in becoming Floor Market Makers were aware since September 2025 that the Exchange intended to assess the monthly Trading Permit fee upon the expiration of the Initial Waiver Period.

The Exchange believes its proposal to establish a low monthly fee for Floor Market Maker Alternates is reasonable, equitable and not unfairly discriminatory because Floor Market Maker Alternates do not regularly trade on the Trading Floor and will only fill in for the primary Floor Market Maker of the same firm when the primary Floor Market Maker is not active on a particular trading day or number of trading days. The Exchange believes this proposed fee is reasonable in relation to the service being provided, where a firm can prepare a Floor Market Maker as an alternate in the event that its primary Floor Market Maker is unable to be active on the Trading Floor for any number of foreseen and unforeseen circumstances. This provides firms with a convenient means to substitute Floor Market Makers where the primary individual is unable to be active on the Trading Floor for any number of reasons, while balancing the interests of the Exchange to ensure that all active trading personnel are properly accounted for on each trading day. The Exchange believes the proposed fee is reasonable when compared to similar fees for ''inactive'' or ''reserve'' participants of other exchanges.[40]

Desk and Badge Fees

The Exchange believes its proposal to amend Section 9)d) of the Fee Schedule to remove the reference to Initial Waiver Period in connection with desk and badge fees is reasonable, equitable and not unfairly discriminatory because the Exchange originally established the Initial Waiver Period with an automatic sunset date for the end of February 2026; accordingly, market participants were aware since September 2025 that the Exchange intended to assess the desk and badge fees upon the expiration of the Initial Waiver Period. The Exchange believes its proposal to add a clarifying sentence that the Exchange will assess the desk fee for each additional desk requested by a Floor Participant in excess of the desk allotment provided pursuant to Section 9)c) of the Fee Schedule promotes just and equitable principles of trade and removes impediments to a free and open market because this will add clarity to the Fee Schedule regarding the assessment of desk fees. This change also promotes just and equitable principles of trade and removes impediments to a free and open market by removing expired fee waiver text from the Fee Schedule. It is in the public interest for the Fee Schedule to be accurate and clear.

Further, this proposed added text does not change the manner in which the Exchange will assess the desk fee as originally established (*i.e.,* paying for a Trading Permit entitles a firm to receive an unlimited number of Trading Permits for its Floor Brokers where each Floor Broker will receive one Trading Permit, badge, and desk; paying for a Trading Permit entitles each Floor Market Maker to receive one Trading Permit, badge and desk; and all additional desk requests will be assessed the monthly fee of $350 per desk). The purpose of this change is to add clarity to the Fee Schedule and does not change the manner in which the Exchange will assess the desk fee as originally established. The Exchange notes that Floor Market Maker Alternates will not be subject to additional desk or badge fees as the Floor Market Maker Alternate substitutes into the position of the primary Floor Market Maker, including the desk or desks being utilized by the primary Floor Market Maker (who would also be responsible for paying for any desks in excess of the one that is provided for free pursuant to the Floor Market Maker Trading Permit in Section 9)c) of the Fee Schedule).

Data Center Hosting Fees

The Exchange believes its proposal to amend Section 9)g) of the Fee Schedule to remove the reference to Initial Waiver Period in connection with the data center hosting fees is reasonable, equitable and not unfairly discriminatory because the Exchange originally established the Initial Waiver Period with an automatic sunset date for the end of February 2026; accordingly, market participants were aware since September 2025 that the Exchange intended to assess the data center hosting fees upon the expiration of the Initial Waiver Period. This change also promotes just and equitable principles of trade and removes impediments to a free and open market by removing expired fee waiver text from the Fee Schedule. It is in the public interest for the Fee Schedule to be accurate and clear.

[40] *See supra* note 29.

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.

Intra-Market Competition

Definitions Section

The Exchange believes the proposal to remove the definition for ''Initial Waiver Period'' will not result in any burden on intra-market competition that is not necessary or appropriate in furtherance of the purposes of the Act because this change is not intended to impact competition among market participants; rather, it is intended to provide clarity in the Fee Schedule that the Initial Waiver Period is no longer in effect since it automatically expired at the end of February 2026.

One-Time Application and Initiation Fees

The Exchange believes the proposal to remove the reference to Initial Waiver Period and insert text to specify that the one-time application and initiation fee will be waived for new Floor Broker applications beginning March 1, 2026 will not result in any burden on intra-market competition that is not necessary or appropriate in furtherance of the purposes of the Act. Firms that already have active Floor Brokers on the Trading Floor will be able to have additional individuals apply for Floor Broker status and have this fee waived along with new firms that do not currently have active Floor Brokers on the Trading Floor. The Exchange believes its proposal to not extend the fee waiver for new Floor Market Maker applications will not result in any burden on intra-market competition because the Exchange originally established the Initial Waiver Period with an automatic sunset date for the end of February 2026; accordingly, market participants that were interested in becoming Floor Market Makers were aware since September 2025 that the Exchange intended to assess the application and initiation fee upon the expiration of the Initial Waiver Period. Further, all current Floor Market Makers already applied for Trading Floor membership and had their application and initiation fees waived.

Participant Fees

The Exchange believes the proposal to remove the reference to Initial Waiver Period and insert text to specify that new Floor Brokers (on a per-firm basis) will have their participant fees waived for the initial partial month plus an additional three (3) full calendar months thereafter once the Floor Broker maintains a physical presence on the Trading Floor will not result in any burden on intra-market competition that is not necessary or appropriate in furtherance of the purposes of the Act. This is because the Exchange originally established the Initial Waiver Period with an automatic sunset date for the end of February 2026; accordingly, current Floor Brokers and Floor Market Makers were aware since September 2025 that the Exchange intended to assess the participant fees upon the expiration of the Initial Waiver Period. The Exchange believes its proposal to waive the participant fee for a defined period of time for new Floor Brokers will not result in any burden on intra-market competition that is not necessary or appropriate in furtherance of the purposes of the Act because the Exchange believes this waiver will promote competition by providing an incentive for market participants interested in becoming Floor Brokers to submit applications and begin Floor Broker operations, which may result in increased order flow and liquidity to the benefit of all Floor Participants.

Trading Permit Fees

The Exchange believes its proposal to remove the references to Initial Waiver Period, certain months in 2025 and 2026, and Floor Market Maker fee waivers and insert text to specify that for registered Floor Brokers as of February 28, 2026, the monthly Trading Permit fee will be waived if the Floor Broker (on a per-firm basis) executes at least 100 contracts ADV in QFOs or cQFOs in each relevant month thereafter, with no defined sunset for this particular fee waiver, does not impose any burden on intra-market competition that is not necessary or appropriate in furtherance of the purposes of the Act. This change is designed to continue to provide a conditional fee waiver with a low enough volume threshold that most, if not all, current Floor Brokers should be able to achieve in order to have their Trading Permit fees waived, which should promote competition by encouraging order flow and liquidity. Further, the Exchange believes its proposal to waive Trading Permit fees for new firms that register Floor Brokers beginning March 1, 2026 or later for the initial partial month the Floor Broker becomes registered with the Exchange and the three (3) full calendar months thereafter, with no volume requirement during that period, does not impose any burden on intra-market competition that is not necessary or appropriate in furtherance of the purposes of the Act because this should also incentivize market participants that are not Floor Participants to apply and become registered with the Exchange and begin Floor Broker operations. In turn, the Exchange believes this will promote additional order flow and liquidity to the benefit of all current Floor Participants. The Exchange believes its proposal to include the current volume requirement in order for current Floor Brokers to receive the Trading Permit fee waiver as compared to new Floor Brokers does not impose any burden on intra-market competition because current Floor Brokers have had the past five and half months to set up Trading Floor operations and interact with all Floor Participants, while new Floor Brokers will likely need time to ramp up operations to meet such a volume requirement.

The Exchange believes its proposal to not extend the fee waiver for current and new Floor Market Makers does not impose any burden on intra-market competition because the Exchange originally established the Initial Waiver Period with an automatic sunset date for the end of February 2026; accordingly, market participants that were interested in becoming Floor Market Makers were aware since September 2025 that the Exchange intended to assess the monthly Trading Permit fee upon the expiration of the Initial Waiver Period.

The Exchange believes its proposal to establish a low monthly fee for Floor Market Maker Alternates does not impose any burden on intra-market competition that is not necessary or appropriate in furtherance of the purposes of the Act because all Floor Market Makers may designate and register a Floor Market Maker Alternate and pay the same corresponding fee. This change is not intended to be competitive; rather, it is designed to provide firms with a convenient means to substitute Floor Market Makers where the primary individual is unable to be active on the Trading Floor for any number of reasons.

Desk and Badge Fees

The Exchange believes that the proposal to remove the reference to the Initial Waiver Period for desk and badge fees will not result in any burden on intra-market competition that is not necessary or appropriate in furtherance of the purposes of the Act because the Exchange originally established the Initial Waiver Period with an automatic sunset date for the end of February 2026. As such, market participants were aware since September 2025 that the

Exchange intended to assess the desk and badge fees upon the expiration of the Initial Waiver Period. Pursuant to Section 9)c) of the Fee Schedule, Floor Participants that purchase a Trading Permit will receive a desk and badge included in their Trading Permit fee and all Floor Participants will be subject to the same desk fee for each additional requested desk.

Data Center Hosting Fees

The Exchange believes that the proposal to remove the reference to the Initial Waiver Period for data center hosting fees will not result in any burden on intra-market competition that is not necessary or appropriate in furtherance of the purposes of the Act because the Exchange originally established the Initial Waiver Period with an automatic sunset date for the end of February 2026. As such, market participants were aware since September 2025 that the Exchange intended to assess the data center hosting fees upon the expiration of the Initial Waiver Period and all current and new Floor Participants that choose to install their own equipment within the 545Wyn Data Center will be subject to the same initial and on-going fees.

Inter-Market Competition

The Exchange believes that the proposed changes will not result in any burden on inter-market competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that market participants have the choice to trade on the Exchange's Trading Floor, electronic platform, or not trade on the Exchange at all. The Exchange believes that all of the proposed changes will not cause any burden on inter-market competition because none of the proposed fee waivers are intended to impact the ability to compete of other exchanges' that offer a trading floor for equity options.

Accordingly, the Exchange does not believe its proposed fee changes 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

Written comments were neither solicited nor received.

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,[41] and Rule 19b–4(f)(2)[42] 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 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–SAPPHIRE–2026–11 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–SAPPHIRE–2026–11. 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–SAPPHIRE–2026–11 and should be submitted on or before April 20, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[43]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026–06042 Filed 3–27–26; 8:45 am]

BILLING CODE 8011–01–P

[41] 15 U.S.C. 78s(b)(3)(A)(ii).

[42] 17 CFR 240.19b–4(f)(2).

[43] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[OMB Control No. 3235–0748]

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Extension: Ombudsman Matter Management System (OMMS) Form

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. § 3501 *et seq.*), the Securities and Exchange Commission (SEC or ''Commission'') is submitting to the Office of Management and Budget (OMB) this request for extension without change of the proposed collection of information.

Section 4(g)(8) of the Securities Exchange Act of 1934 (Exchange Act), 15 U.S.C. 78d(g)(8) requires the SEC Ombuds to (i) act as a liaison between the Commission and any retail investor in resolving problems that retail investors may have with the Commission or with self-regulatory organizations (''SROs''); (ii) review and make recommendations regarding policies and procedures to encourage persons to present questions to the Investor Advocate regarding compliance with the securities laws; and (iii) establish safeguards to maintain the confidentiality of communications between the persons described in clause (ii) and the Ombuds. In addition, Section 4(g)(8) of the Securities Exchange Act of 1934 (Exchange Act), 15 U.S.C. 78d(g)(8) requires the Ombuds to submit a semi-annual report to the Investor Advocate describing the activities and evaluating the effectiveness of the Ombuds during the preceding year.

Each year, the Commission's Office of the Investor Advocate, Office of the Ombuds (''Ombuds'') receives over 2,500 contacts from investors who have complaints or questions about the SEC or any of the self-regulatory organizations that it oversees. To make it easier for the public to contact the

Ombuds, the Ombuds created an electronic form (Ombudsman Matter Management System Submission Form) that provides drop down options to choose from in order to categorize the investor's complaint or question, and may also provide the investor with automated information about their issue. The Ombudsman Matter Management System (OMMS) Submission Form asks investors to provide information concerning, among other things, their names, how they can be reached, the names of the individuals or entities involved, the nature of their complaint or tip, what documents they can provide, and what, if any, actions they have taken. Use of the OMMS Submission Form is voluntary. Absent the forms, the public still has several ways to contact the Ombuds, including telephone, letters, and email. Investors can access the OMMS Submission Form through the Ombuds web page at the web address *https://www.sec.gov/ombuds* or directly at the web address *https://omms.sec.gov.*

The dual purpose of the OMMS Submission Form is to make it easier for the public to contact the agency with complaints, questions, tips, or other feedback and to streamline the workflow of Ombuds staff that record, process, and respond to investor contacts. Investors who submit complaints, ask questions, or provide tips do so voluntarily. Although the OMMS Submission Form provides a structured format for incoming investor correspondence, the Commission does not require that investors use any particular form or format when contacting the Ombuds. Investors who choose not to use the OMMS Submission Form will receive the same level of service as those who do.

The Ombuds receives approximately 1,500 contacts each year through the Ombudsman Matter Management System Submission Form. The Ombudsman uses the information that investors supply on the Ombudsman Matter Management System Submission Form to review and process the contact (which may, in turn, involve responding to questions, processing complaints, or, as appropriate, referring matters to enforcement or examinations for potential investigations), to maintain a record of contacts, to track the volume of investor complaints, and to analyze trends.

The staff of the Commission estimates that the total reporting burden for using the Ombudsman Matter Management System Submission Form is 750 hours. The calculation of this estimate depends on the number of investors who use the forms each year and the estimated time it takes to complete the forms: 1,500 respondents × 30 minutes = 750 burden hours.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB Control Number.

The public may view and comment on this information collection request at: *https://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=202601-3532-008* or email comment to *MBX.OMB.OIRA.SEC_desk_officer@omb.eop.gov* within 30 days of the day after publication of this notice, by April 30, 2026.

Dated: March 25, 2026.

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026–06034 Filed 3–27–26; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–105083; File No. SR–CBOE–2026–026]

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Introduce an Exchange Clock Service

March 25, 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 March 16, 2026, Cboe Exchange, Inc. (the ''Exchange'' or ''Cboe'') filed with the Securities and Exchange Commission (''SEC'' or ''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 introduce a new service called the Clock Service. 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/options/regulation/rule_filings/bzx/* [sic]), and at the principal office of the Exchange.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

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 introduce a new service called the Clock Service.[3] The Clock Service is an optional product[4] available to Members and non-Members alike. In sum, a subscriber would be able to utilize the proposed Clock Service to synchronize their time recording systems to those of the Exchange for highly correlated latency measurements between the Exchange's and the subscriber's systems time measurements related to the same message or order. Time synchronization services are well established in the U.S. and utilized in many areas of the U.S. economy and infrastructure. The proposed Clock Service is not novel to the securities markets and it is similar to the network time synchronization service currently offered by MIAX Emerald, LLC (''MIAX Emerald'').[5] The Exchange proposes to provide the Clock Service in response to participant demand for more precise and more accurate clock synchronization options with the Exchange's network.

The U.S. Government's Global Positioning System(''GPS'') clock[6] time

[3] The Exchange also proposes to amend the title of Rule 21.15 from ''Exchange Data Products'' to ''Exchange Data Products and Services.''

[4] A firm that chooses to subscribe to the proposed Clock Service may discontinue the Clock Service at any time if that firm determines that it is no longer useful or that alternatives better meet their business or system needs. The Exchange intends to submit a separate filing with the Commission pursuant to Section 19(b)(1) to propose fees for the Clock Service.

[5] *See* Securities Exchange Act Release No. 94915 (May16, 2022), 87 FR 31022 (May 20, 2022) (SR–EMERALD–2022–16).

[6] For a description of the GPS clock, see Official U.S. Government Information About the Global Positioning System (GPS) and Related Topic, available at *https://www.gps.gov/applications/timing/* (providing that ''[i]n addition to longitude,

Continued

signal is the benchmark by which the Exchange and most, if not all, Members and non-Members use to synchronize their internal primary clock devices.[7] Using the U.S. Government provided GPS time signals publicly available through the GPS network is a de facto standard for high precision time synchronization across geographically diverse locations. Typically, a GPS receiver connected to an antenna serves as a time signal source which feeds the Coordinated Universal Time (referred to as ''UTC'') to synchronize other clocks using Precision Time Protocol (''PTP'').[8]

The Exchange's primary clock [9] is the time source used to synchronize the Exchange's System,[10] as well as its affiliated options and equities exchanges trading systems (collectively, the ''Cboe Trading System'') and feeds a time signal to the Exchange's timestamping devices and servers within the Exchange's own network using White Rabbit [11] and PTP. These capture devices are used to timestamp orders and messages as they travel through the Exchange's System.

Time synchronization services are well established in the U.S. and utilized in many areas of the U.S. economy and infrastructure. Today, the Exchange understands many participants attempt to sync their primary clock devices to the U.S. Government provided GPS network. By getting the GPS signal through a GPS capable antenna, participants can synchronize their primary clock device to the GPS network time to within an accuracy of approximately 30 nanoseconds. From there, by using a PTP time synchronization protocol, participants can synchronize their internal devices to their primary clock devices.

Because the Exchange and participants independently access time signals from the U.S. government provided GPS network to synchronize their own primary clock devices, measurement times of market events by the Exchange and a participant may vary. This may, in turn, lead to incorrect latency measurements that may cause a participant's time calculations of how long it took for their order or message to leave their systems and reach the trading center to which it was sent to. This may impair the participant's ability to fully understand latencies within their own systems and whether they need to adjust their systems or trading models.

Under the proposed Clock Service, participants would be able to synchronize their own primary clock devices to the Exchange's primary clock device, by receiving White Rabbit time signals from the Exchange via a 1 gigabit per second (''Gbps'') Physical Port. The proposed Clock Service simply provides participants with the Exchange's time signal at a more granular level, and, as part of the Clock Service, participants will receive a 1 Gbps Physical Port offered by the Exchange in order to connect.[12] The improved time signal would tell the participant the Exchange's time at a more granular level at a particular point in time. The subscribing participant may then use that time signal to synchronize their own primary clock to the Exchange's primary clock.

Some participants may currently have a White Rabbit clock synchronization [13] device within their own network. This device is not provided by the Exchange. Other participants that do not currently utilize White Rabbit clock synchronization device and optics would need to acquire one from a third-party vendor, of which there are several providers.[14]

Participants may use the proposed Clock Service for numerous purposes. For one, the proposed Clock Service would allow participants to more precisely measure latency between their network and that of the Exchange. The proposed Clock Service would allow them to better understand the times at which their order or message reached certain points when traveling from their network to the Exchange.

Participants may use the proposed Clock Service to analyze the efficiency of their network and connections when not only routing orders to the Exchange, but also when receiving messages back from the Exchange. These messages include communications regarding whether their order was accepted, rejected, or executed. Participants may measure message traversal times by comparing their message's (*e.g.,* order, quote, cancellation, etc.) timestamp to the Exchange's matching engine timestamp from the Exchange-generated acknowledgement messages (*e.g.,* order acknowledgment, quote acknowledgment, cancellation acknowledgment, etc.).[15] Participants may then enhance their own systems to ensure that they are receiving such communications in a timelier manner and to verify that their systems are working as intended. Participants may then utilize these enhanced latency measurements to better analyze latencies within their own systems and use this analysis to optimize their network, models and trading patterns to potentially improve their interactions with the Exchange. In particular, participants may use these metrics to better assess the health of their network and that their systems are working as intended. For example, a participant may use this information when analyzing the efficacy of their various connections and whether a connection is performing as expected or experiencing a delay. A subscriber may

latitude, and altitude, the Global Positioning System (GPS) provides a critical fourth dimension—time. Each GPS satellite contains multiple atomic clocks that contribute very precise time data to the GPS signals. GPS receivers decode these signals, effectively synchronizing each receiver to the atomic clocks. This enables users to determine the time to within 100 billionths of a second, without the cost of owning and operating atomic clocks.'')

[7] *See* An Evaluation of Dependencies of Critical Infrastructure Timing Systems on the Global Positioning System (GPS), noting that ''the primary time synchronization sources for these systems are signals broadcast by Global Positioning System (GPS) satellites . . .''

[8] A primary clock device is a precision parent clock that provides timing signals to synchronized secondary child clocks as part of a standalone clock network. The term ''Coordinated Universal Time'' is defined as the ''international standard of time that is kept by atomic clocks around the world.'' See Merriam-Webster Dictionary, available at *https://www.merriam-webster.com/dictionary/Coordinated%20Universal%20Time* (last visited November 10, 2021). Coordinated Universal Time is the primary time standard by which the world regulates clocks and time. See *https://www.timeanddate.com/time/aboututc.html.* ''Precision Time Protocol'' is a method used to synchronize clocks through a computer network. See also ''IEEE–1588 Standard for a Precision Clock Synchronization Protocol for Networked Measurement and Control Systems'' available at *https://www.nist.gov/system/files/documents/el/isd/ieee/tutorial-basic.pdf.*

[9] The Exchange's primary clock ordinarily derives its time from the primary Exchange-managed GPS receiver; however, in certain failover or impairment scenarios, the system may temporarily synchronize to an external time service to maintain continuity.

[10] The term ''System'' shall mean the electronic communications and trading facility designated by the Board through which securities orders of Users are consolidated for ranking, execution and, when applicable, routing away. See Rule 1.5(aa).

[11] White Rabbit is a high-precision time synchronization technology that combines PTP with synchronous ethernet to achieve up to sub-nanosecond accuracy.

[12] The Exchange notes that MIAX Emerald, LLC similarly requires a 1 Gbps connection in order to utilize its respective clock service.

[13] A White Rabbit clock synchronization device has the technological ability to capture time and coordinate time synchronization within a network up to a sub-nanosecond level.

[14] The Exchange notes that participants are responsible for procuring the applicable license(s) as needed.

[15] The Exchange sends Members an acknowledgement message that their order or message was received by the Exchange. This acknowledgement includes the time of receipt at a microsecond level; however, the Exchange intends to update the time of receipt to be at a nanosecond by the end of March. The Exchange further notes that participants who subscribe to any one of the optional reports offered by Cboe Timestamping Services (see Rule 21.15(b)(7)) will have additional timestamps to analyze.

then decide to rebalance the amount of orders and/or messages over its various connections to ensure each connection is operating with maximum efficiency. Subscribers may also use the proposed Clock Service for other purposes, such as trade surveillance. Subscribers may also utilize time synchronization to assist them in evaluating compliance with certain clock synchronization requirements.

The Exchange does not propose to provide a new connectivity option to receive time signals via the proposed Clock Service; rather, dedicated 1 Gbps Physical Ports available will be included as part of this Clock Service.[16] The proposed Clock Service provides enhanced time synchronization that may be utilized by subscribing participants to adjust their own systems. The Exchange does not propose to include additional connectivity options or modify existing connectivity options as part of this proposal. Participants may continue to use their existing methods to connect to and send orders to the Exchange. The proposed Clock Service will not include any trading data regarding the subscriber's activity on the Exchange or include any data from other trading activity on the Exchange.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[17] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [18] 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) [19] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

Trading technology in the U.S. market is constantly evolving and providing market participants with tools to increase speed and reduced latency opportunities. Today, the Exchange provides participants timestamp information in microseconds.[20] The Exchange and its participants independently access time signals from GPS and use those time signals to synchronize their own primary clock devices. Even though both the Exchange and participants synchronize to GPS, differences among GPS receivers may vary by about 30 nanoseconds, with the potential for further deviation based on a participant's infrastructure. In today's market, such a potential inaccuracy in a subscriber's latency measurements is meaningful and potentially impactful to the performance of their trading strategies.

The proposed Clock Service addresses this issue by enabling subscribers to synchronize their primary clock device with the Exchange's by utilizing technology that allows up to a sub-nanosecond level. For example, the proposed Clock Service would allow subscribers to timestamp a quote sent from their system to the very same quote timestamped by the Exchange and have confidence that the time delta between timestamps is attributable to latency and not due to a potential offset in their primary clocks as discussed above. The Exchange, therefore, believes the proposed Clock Service promotes just and equitable principles of trade, removes impediments to and perfects the mechanism of a free and open market because it would allow latency sensitive subscribers to measure latency in a manner consistent with their trading behavior and the evolving pace of trading and technology in today's markets. Time synchronization removes impediments to and perfects the mechanism of a free and open market because it would provide Members with a tool to assess and re-calibrate their systems at a more acute level that is in line with the increasing speeds at which today's markets operate.

The proposed Clock Service provides participants with the Exchange's time signal. The time signal provided by the proposed Service could be beneficial in multiple areas, one of which is enabling subscribers to more precisely measure latency between their network and that of the Exchange by utilizing technology that allows up to a sub-nanosecond level. The proposed Clock Service would allow them to better understand the times at which their order or message reached certain points when traveling from their network to the Exchange through more granular latency measurements. The proposed Clock Service is, therefore, consistent with Section 6(b)(5) of the Act because a more granular latency measurement would enable latency sensitive subscribers to more precisely calculate and thus better understand and manage their own latency.

Subscribers may utilize these enhanced latency measurements to better analyze latencies within their own systems and use this analysis to optimize their network, models and trading patterns to potentially improve their interactions with the Exchange. The ability to more precisely measure network efficiency could provide subscribers with a set of metrics that allow them to better assess the health of their network and that their systems are working as intended. The Exchange anticipates that most, if not all, subscribers to the proposed Clock Service would be those whose trading models are latency sensitive; however, managed service providers may also subscribe in order to redistribute the Cboe Clock to their downstream clients.

The Exchange believes providing this optional clock synchronization service to interested subscribers is, therefore, consistent with facilitating transactions in securities, removing impediments to and perfecting the mechanism of a free and open market and a national market system, and, in general, protecting investors and the public interest.

As noted above, MIAX Emerald currently offers a clock service that has been reviewed and approved by the Commission.[21] MIAX Emerald's clock service is substantially similar to the proposed Clock Service as both offerings synchronize a subscriber's time recording systems to those of the exchange at a more granular level for highly correlated latency measurements between the exchange's and the subscriber system's time measurements related to the same message or order. Both offerings allow subscribers to synchronize their own primary clock devices to the exchange's primary clock

[16] The Exchange notes that the 1 Gbps Physical Port that a participant shall receive as part of this Service shall be used solely for the purposes of the Clock Service and will not be able to be used for any other purpose (*e.g.,* order routing).

[17] 15 U.S.C. 78f(b).

[18] 15 U.S.C. 78f(b)(5).

[19] *Id.*

[20] The Exchange intends to provide this information in nanoseconds by the end of March.

[21] *See* Securities Exchange Act Release No. 94335 (March 1, 2022), 87 FR 12756 (March 7, 2022) (SR–EMERALD–2021–38) (Notice of Filing of Amendment No. 1 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 1, To Amend Exchange Rule 531 To Provide for a New Service Called the High Precision Network Time Signal Service) (''Approval Order'').

device, by receiving time signals from the 1 Gbps connection.

One key distinction between the Exchange's proposed Clock Service and MIAX Emerald's similar offering is that the Exchange includes a 1 Gbps Physical Port as part of its offering for this Clock Service.[22] Similar to MIAX Emerald, this 1 Gbps Physical Port will be used solely for the Clock Service offering.[23] However, a participant that purchases the Exchange's Clock Service will only need one 1 Gbps Physical Port to receive this service for the Exchange and its affiliated equities and options exchanges.[24]

Additionally, MIAX Emerald's offering also utilizes White Rabbit technology.[25] with both services synchronizing a subscriber's time recording systems to those of the respective exchange at a more granular level for highly correlated latency measurements between the respective exchange's and the subscriber system's time measurements related to the same message or order.

The proposed Clock Service also protects investors and the public interest because subscribers may use the Clock Service for determining compliance with trade surveillance and to assist them in evaluating compliance with certain clock synchronization requirements.[26]

Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[27] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers as it will be available to all Members and non-Members who choose to subscribe. Use of the proposed Clock Service would be voluntary and no Member or non-Member would be required to subscribe to the proposed Clock Service.[28] The Exchange notes that the proposed Clock Service would be an additional, optional tool for participants and some participants may not find it useful based on their business needs and trading activity. Participants that choose not to subscribe to the proposed Clock Service are free to utilize other time synchronization methods or services that may assist them in time synchronization of their systems at a more granular level. The proposed Clock Service may not provide utility to all participants based on their business model, use of existing time synchronization methods, or reliance on other methods to test their system's performance to ensure it is operating as intended. For example, certain participants employ business models that are not latency sensitive, such as those that only enter resting liquidity.

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 instance, the proposed rule change to offer the optional Clock Service is in response to participant interest and requests for tools that would enable them to better measure traversal times between their network and that of the Exchange at a more granular level.

Intra-Market Competition

The Exchange does not believe the proposed Clock Service will have an inappropriate burden on intra-market competition between participants that choose to subscribe to the Clock Service and those participants that do not. The proposed Clock Service would provide participants with the ability to synchronize their primary clock devices with the Exchange's primary clock device by utilizing technology that allows up to a sub-nanosecond level, which they may then use to measure their network's efficiency to determine whether their systems are performing as expected.

The Exchange notes that the proposed Clock Service would be an additional, optional tool for participants and some participants may not find it useful based on their business needs and trading activity. The proposed Clock Service may not provide utility to all participants based on their business model, use of existing time synchronization methods, or reliance on other methods to test their system's performance to ensure it is operating as intended.

Additionally, some participants may be able to enhance their own traversal time calculations without subscribing to the proposed Clock Service by using other time synchronization methods or utilize some other services that may assist them in time synchronization of their systems. Participants may also prefer to utilize or develop other methods that would enable them to determine whether their own primary clock device is recording time in close proximity to the primary clock devices of other market participants. Participants may view these alternatives as more in line with their business needs or choose an alternative that is more compatible with their existing technology.

Inter-Market Competition

The Exchange does not believe the proposed Clock Service will have an inappropriate burden on inter-market competition. The proposed Clock Service will further enhance inter-market competition between exchanges by allowing the Exchange to expand its product offerings. As previously noted, MIAX Emerald provides a clock service to its Members. The proposed Clock Service would provide subscribers with a tool to assist them in recalibrating their own models and trading strategies to improve their overall experience on the Exchange, thereby potentially improving execution and order fill rates. This may improve the Exchange's overall market quality through increased liquidity and improved execution opportunities for resting orders, enhancing the Exchange's overall competitive position. The proposed rule change should enhance competition by promoting further initiatives and innovation among market centers and market participants as it concerns time measurements and synchronization among trading platforms.

Lastly, if the proposed Clock Service is unattractive to participants, participants will opt not to subscribe to it. Accordingly, the Exchange does not believe that the proposed change will impair the ability of participants or competing order execution venues to maintain their competitive standing in the financial market.

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 Exchange has filed the proposed rule change pursuant to Section

[22] As noted above, MIAX also requires a 1 Gbps connection.

[23] *See* Securities Exchange Act Release No. 94915 (May 16, 2022), 87 FR 31002 (May 20, 2022) (SR–EMERALD–2022–16).

[24] MIAX Emerald's affiliates do not offer this service, thus the 1 Gbps connection is only used for the MIAX Emerald clock service while the Exchange's proposed offering allows for the Clock Service to be used for the Exchange and its affiliated options and equities exchanges.

[25] *See MIAX_Emerald_Options_EnhancedPTP_WhiteRabbit_08302021.pdf,* noting the White Rabbit technology that is used for this service offering.

[26] *See* Rule 4.6.

[27] 15 U.S.C. 78f(b)(5).

[28] The Exchange intends to submit a separate filing with the Commission pursuant to Section 19(b)(1) to propose fees for the Clock Service.

19(b)(3)(A)[29] of the Act and Rule 19b–4(f)(6)[30] thereunder. 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 prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act[31] and Rule 19b–4(f)(6) thereunder.[32]

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 under Section 19(b)(2)(B)[33] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include file number SR–CBOE–2026–026 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–CBOE–2026–026. 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–CBOE–2026–026 and should be submitted on or before April 20, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[34]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026–06047 Filed 3–27–26; 8:45 am]

BILLING CODE 8011–01–P

[29] 15 U.S.C. 78s(b)(3)(A).

[30] 17 CFR 240.19b–4(f)(6).

[31] 15 U.S.C. 78s(b)(3)(A)(iii).

[32] 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.

[33] 15 U.S.C. 78s(b)(2)(B).

[34] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–105077; File No. SR–CBOE–2026–016]

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Designation of a Longer Period for Commission Action on a Proposed Rule Change To Amend Its Rules Relating to Designated Primary Market-Makers (''DPMs'') and DPM Appointments in Global Trading Hours and Curb Sessions

March 25, 2026.

On January 30, 2026, Cboe Exchange, Inc. 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 (1) allow the Exchange to appoint Designated Primary Market-Makers (''DPMs'') to Global Trading Hours (''GTH'') and Curb Trading Hours (''Curb'') sessions, which DPMs may be the same across multiple trading sessions or different (or no DPM) for an option class in Regular Trading Hours, GTH, and/or Curb sessions; (2) provide that DPM obligations and participation entitlements will apply to GTH and Curb sessions; and (3) make certain administrative changes. The proposed rule change was published for comment in the **Federal Register** on February 13, 2026.[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 March 30, 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 May 14, 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–CBOE–2026–016).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[6]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026–06041 Filed 3–27–26; 8:45 am]

BILLING CODE 8011–01–P

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 104807 (Feb. 10, 2026), 91 FR 6966. The Commission has received no comment letters on the proposed rule change.

[4] 15 U.S.C. 78s(b)(2).

[5] 15 U.S.C. 78s(b)(2).

[6] 17 CFR 200.30–3(a)(31).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–105082; File No. SR–C2–2026–005]

Self-Regulatory Organizations; Cboe C2 Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Introduce an Exchange Clock Service

March 25, 2026.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2]

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

notice is hereby given that on March 17, 2026, Cboe C2 Exchange, Inc. (the ''Exchange'' or ''C2'') filed with the Securities and Exchange Commission (''SEC'' or ''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 introduce a new service called the Clock Service. 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/options/regulation/rule_filings/bzx/* [sic]), 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 proposes to introduce a new service called the Clock Service. The Clock Service is an optional product [3] available to TPHs and non-TPHs alike. In sum, a subscriber would be able to utilize the proposed Clock Service to synchronize their time recording systems to those of the Exchange for highly correlated latency measurements between the Exchange's and the subscriber's systems time measurements related to the same message or order. Time synchronization services are well established in the U.S. and utilized in many areas of the U.S. economy and infrastructure. The proposed Clock Service is not novel to the securities markets and it is similar to the network time synchronization service currently offered by MIAX Emerald, LLC (''MIAX Emerald'').[4] The Exchange proposes to provide the Clock Service in response to participant demand for more precise and more accurate clock synchronization options with the Exchange's network.

The U.S. Government's Global Positioning System(''GPS'') clock [5] time signal is the benchmark by which the Exchange and most, if not all, TPHs and non-TPHs use to synchronize their internal primary clock devices.[6] Using the U.S. Government provided GPS time signals publicly available through the GPS network is a de facto standard for high precision time synchronization across geographically diverse locations. Typically, a GPS receiver connected to an antenna serves as a time signal source which feeds the Coordinated Universal Time (referred to as ''UTC'') to synchronize other clocks using Precision Time Protocol (''PTP'').[7]

The Exchange's primary clock [8] is the time source used to synchronize the Exchange's System,[9] as well as its affiliated options and equities exchanges trading systems (collectively, the ''Cboe Trading System'') and feeds a time signal to the Exchange's timestamping devices and servers within the Exchange's own network using White Rabbit [10] and PTP. These capture devices are used to timestamp orders and messages as they travel through the Exchange's System.

Time synchronization services are well established in the U.S. and utilized in many areas of the U.S. economy and infrastructure. Today, the Exchange understands many participants attempt to sync their primary clock devices to the U.S. Government provided GPS network. By getting the GPS signal through a GPS capable antenna, participants can synchronize their primary clock device to the GPS network time to within an accuracy of approximately 30 nanoseconds. From there, by using a PTP time synchronization protocol, participants can synchronize their internal devices to their primary clock devices.

Because the Exchange and participants independently access time signals from the U.S. government provided GPS network to synchronize their own primary clock devices, measurement times of market events by the Exchange and a participant may vary. This may, in turn, lead to incorrect latency measurements that may cause a participant's time calculations of how long it took for their order or message to leave their systems and reach the trading center to which it was sent to. This may impair the participant's ability to fully understand latencies within their own systems and whether they need to adjust their systems or trading models.

Under the proposed Clock Service, participants would be able to synchronize their own primary clock devices to the Exchange's primary clock device, by receiving White Rabbit time signals from the Exchange via a 1 gigabit per second (''Gbps'') Physical Port. The proposed Clock Service simply provides participants with the Exchange's time signal at a more granular level, and, as part of the Clock Service, participants will receive a 1 Gbps Physical Port offered by the Exchange in order to

[3] A firm that chooses to subscribe to the proposed Clock Service may discontinue the Clock Service at any time if that firm determines that it is no longer useful or that alternatives better meet their business or system needs. The Exchange intends to submit a separate filing with the Commission pursuant to Section 19(b)(1) to propose fees for the Clock Service.

[4] *See* Securities Exchange Act Release No. 94915 (May16, 2022), 87 FR 31022 (May 20, 2022) (SR–EMERALD–2022–16).

[5] For a description of the GPS clock, see Official U.S. Government Information About the Global Positioning System (GPS) and Related Topic, available at *https://www.gps.gov/applications/timing/* (providing that ''[i]n addition to longitude, latitude, and altitude, the Global Positioning System (GPS) provides a critical fourth dimension—time. Each GPS satellite contains multiple atomic clocks that contribute very precise time data to the GPS signals. GPS receivers decode these signals, effectively synchronizing each receiver to the atomic clocks. This enables users to determine the time to within 100 billionths of a second, without the cost of owning and operating atomic clocks.'')

[6] *See* An Evaluation of Dependencies of Critical Infrastructure Timing Systems on the Global Positioning System (GPS), noting that ''the primary time synchronization sources for these systems are signals broadcast by Global Positioning System (GPS) satellites . . .''

[7] A primary clock device is a precision parent clock that provides timing signals to synchronized secondary child clocks as part of a standalone clock network. The term ''Coordinated Universal Time'' is defined as the ''international standard of time that is kept by atomic clocks around the world.'' See Merriam-Webster Dictionary, available at *https://www.merriam-webster.com/dictionary/Coordinated%20Universal%20Time* (last visited November 10, 2021). Coordinated Universal Time is the primary time standard by which the world regulates clocks and time. See *https://www.timeanddate.com/time/aboututc.html.* ''Precision Time Protocol'' is a method used to synchronize clocks through a computer network. See also ''IEEE–1588 Standard for a Precision Clock Synchronization Protocol for Networked Measurement and Control Systems'' available at *https://www.nist.gov/system/files/documents/el/isd/ieee/tutorial-basic.pdf.*

[8] The Exchange's primary clock ordinarily derives its time from the primary Exchange-managed GPS receiver; however, in certain failover or impairment scenarios, the system may temporarily synchronize to an external time service to maintain continuity.

[9] The term ''System'' means the automated trading system the Exchange uses for the Trading of Options contracts. See Rule 1.1.

[10] White Rabbit is a high-precision time synchronization technology that combines PTP with synchronous ethernet to achieve up to sub-nanosecond accuracy.

connect.[11] The improved time signal would tell the participant the Exchange's time at a more granular level at a particular point in time. The subscribing participant may then use that time signal to synchronize their own primary clock to the Exchange's primary clock.

Some participants may currently have a White Rabbit clock synchronization [12] device within their own network. This device is not provided by the Exchange. Other participants that do not currently utilize White Rabbit clock synchronization device and optics would need to acquire one from a third-party vendor, of which there are several providers.[13]

Participants may use the proposed Clock Service for numerous purposes. For one, the proposed Clock Service would allow participants to more precisely measure latency between their network and that of the Exchange. The proposed Clock Service would allow them to better understand the times at which their order or message reached certain points when traveling from their network to the Exchange.

Participants may use the proposed Clock Service to analyze the efficiency of their network and connections when not only routing orders to the Exchange, but also when receiving messages back from the Exchange. These messages include communications regarding whether their order was accepted, rejected, or executed. Participants may measure message traversal times by comparing their message's (*e.g.,* order, quote, cancellation, etc.) timestamp to the Exchange's matching engine timestamp from the Exchange-generated acknowledgement messages (*e.g.,* order acknowledgment, quote acknowledgment, cancellation acknowledgment, etc.).[14] Participants may then enhance their own systems to ensure that they are receiving such communications in a timelier manner and to verify that their systems are working as intended. Participants may then utilize these enhanced latency measurements to better analyze latencies within their own systems and use this analysis to optimize their network, models and trading patterns to potentially improve their interactions with the Exchange. In particular, participants may use these metrics to better assess the health of their network and that their systems are working as intended. For example, a participant may use this information when analyzing the efficacy of their various connections and whether a connection is performing as expected or experiencing a delay. A subscriber may then decide to rebalance the amount of orders and/or messages over its various connections to ensure each connection is operating with maximum efficiency. Subscribers may also use the proposed Clock Service for other purposes, such as trade surveillance. Subscribers may also utilize time synchronization to assist them in evaluating compliance with certain clock synchronization requirements.

The Exchange does not propose to provide a new connectivity option to receive time signals via the proposed Clock Service; rather, dedicated 1 Gbps Physical Ports available will be included as part of this Clock Service.[15] The proposed Clock Service provides enhanced time synchronization that may be utilized by subscribing participants to adjust their own systems. The Exchange does not propose to include additional connectivity options or modify existing connectivity options as part of this proposal. Participants may continue to use their existing methods to connect to and send orders to the Exchange. The proposed Clock Service will not include any trading data regarding the subscriber's activity on the Exchange or include any data from other trading activity on the Exchange.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[16] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [17] 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) [18] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

Trading technology in the U.S. market is constantly evolving and providing market participants with tools to increase speed and reduced latency opportunities. Today, the Exchange provides participants timestamp information in nanoseconds. The Exchange and its participants independently access time signals from GPS and use those time signals to synchronize their own primary clock devices. Even though both the Exchange and participants synchronize to GPS, differences among GPS receivers may vary by about 30 nanoseconds, with the potential for further deviation based on a participant's infrastructure. In today's market, such a potential inaccuracy in a subscriber's latency measurements is meaningful and potentially impactful to the performance of their trading strategies.

The proposed Clock Service addresses this issue by enabling subscribers to synchronize their primary clock device with the Exchange's by utilizing technology that allows up to a sub-nanosecond level. For example, the proposed Clock Service would allow subscribers to timestamp a quote sent from their system to the very same quote timestamped by the Exchange and have confidence that the time delta between timestamps is attributable to latency and not due to a potential offset in their primary clocks as discussed above. The Exchange, therefore, believes the proposed Clock Service promotes just and equitable principles of trade, removes impediments to and perfects the mechanism of a free and open market because it would allow latency sensitive subscribers to measure latency in a manner consistent with their trading behavior and the evolving pace of trading and technology in today's markets. Time synchronization removes impediments to and perfects the mechanism of a free and open market

[11] The Exchange notes that MIAX Emerald, LLC similarly requires a 1 Gbps connection in order to utilize its respective clock service.

[12] A White Rabbit clock synchronization device has the technological ability to capture time and coordinate time synchronization within a network up to a sub-nanosecond level.

[13] The Exchange notes that participants are responsible for procuring the applicable license(s) as needed.

[14] The Exchange sends TPHs an acknowledgement message that their order or message was received by the Exchange. This acknowledgement includes the time of receipt at a nanosecond level. The Exchange further notes that participants who subscribe to any one of the optional reports offered by Cboe Timestamping Services will have additional timestamps to analyze.

[15] The Exchange notes that the 1 Gbps Physical Port that a participant shall receive as part of this Service shall be used solely for the purposes of the Clock Service and will not be able to be used for any other purpose (*e.g.,* order routing).

[16] 15 U.S.C. 78f(b).

[17] 15 U.S.C. 78f(b)(5).

[18] *Id.*

because it would provide subscribers with a tool to assess and re-calibrate their systems at a more acute level that is in line with the increasing speeds at which today's markets operate.

The proposed Clock Service provides participants with the Exchange's time signal. The time signal provided by the proposed Service could be beneficial in multiple areas, one of which is enabling subscribers to more precisely measure latency between their network and that of the Exchange by utilizing technology that allows up to a sub-nanosecond level. The proposed Clock Service would allow them to better understand the times at which their order or message reached certain points when traveling from their network to the Exchange through more granular latency measurements. The proposed Clock Service is, therefore, consistent with Section 6(b)(5) of the Act because a more granular latency measurement would enable latency sensitive subscribers to more precisely calculate and thus better understand and manage their own latency.

Subscribers may utilize these enhanced latency measurements to better analyze latencies within their own systems and use this analysis to optimize their network, models and trading patterns to potentially improve their interactions with the Exchange. The ability to more precisely measure network efficiency could provide subscribers with a set of metrics that allow them to better assess the health of their network and that their systems are working as intended. The Exchange anticipates that most, if not all, subscribers to the proposed Clock Service would be those whose trading models are latency sensitive; however, managed service providers may also subscribe in order to redistribute the Cboe Clock to their downstream clients.

The Exchange believes providing this optional clock synchronization service to interested subscribers is, therefore, consistent with facilitating transactions in securities, removing impediments to and perfecting the mechanism of a free and open market and a national market system, and, in general, protecting investors and the public interest.

As noted above, MIAX Emerald currently offers a clock service that has been reviewed and approved by the Commission.[19] MIAX Emerald's clock service is substantially similar to the proposed Clock Service as both offerings synchronize a subscriber's time recording systems to those of the exchange at a more granular level for highly correlated latency measurements between the exchange's and the subscriber system's time measurements related to the same message or order. Both offerings allow subscribers to synchronize their own primary clock devices to the exchange's primary clock device, by receiving time signals from the 1 Gbps connection.

One key distinction between the Exchange's proposed Clock Service and MIAX Emerald's similar offering is that the Exchange includes a 1 Gbps Physical Port as part of its offering for this Clock Service.[20] Similar to MIAX Emerald, this 1 Gbps Physical Port will be used solely for the Clock Service offering.[21] However, a participant that purchases the Exchange's Clock Service will only need one 1 Gbps Physical Port to receive this service for the Exchange and its affiliated equities and options exchanges.[22]

Additionally, MIAX Emerald's offering also utilizes White Rabbit technology.[23] with both services synchronizing a subscriber's time recording systems to those of the respective exchange at a more granular level for highly correlated latency measurements between the respective exchange's and the subscriber system's time measurements related to the same message or order.

The proposed Clock Service also protects investors and the public interest because subscribers may use the Clock Service for determining compliance with trade surveillance and to assist them in evaluating compliance with certain clock synchronization requirements.[24]

Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[25] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers as it will be available to all TPHs and non-TPHs who choose to subscribe. Use of the proposed Clock Service would be voluntary and no TPH or non-TPH would be required to subscribe to the proposed Clock Service.[26] The Exchange notes that the proposed Clock Service would be an additional, optional tool for participants and some participants may not find it useful based on their business needs and trading activity. Participants that choose not to subscribe to the proposed Clock Service are free to utilize other time synchronization methods or services that may assist them in time synchronization of their systems at a more granular level. The proposed Clock Service may not provide utility to all participants based on their business model, use of existing time synchronization methods, or reliance on other methods to test their system's performance to ensure it is operating as intended. For example, certain participants employ business models that are not latency sensitive, such as those that only enter resting liquidity

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 instance, the proposed rule change to offer the optional Clock Service is in response to participant interest and requests for tools that would enable them to better measure traversal times between their network and that of the Exchange at a more granular level.

Intra-Market Competition

The Exchange does not believe the proposed Clock Service will have an inappropriate burden on intra-market competition between participants that choose to subscribe to the Clock Service and those participants that do not. The proposed Clock Service would provide participants with the ability to synchronize their primary clock devices with the Exchange's primary clock device by utilizing technology that allows up to a sub-nanosecond level, which they may then use to measure their network's efficiency to determine whether their systems are performing as expected.

[19] *See* Securities Exchange Act Release No. 94335 (March 1, 2022), 87 FR 12756 (March 7, 2022) (SR–EMERALD–2021–38) (Notice of Filing of Amendment No. 1 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 1, To Amend Exchange Rule 531 To Provide for a New Service Called the High Precision Network Time Signal Service) (''Approval Order'').

[20] As noted above, MIAX also requires a 1 Gbps connection.

[21] *See* Securities Exchange Act Release No. 94915 (May 16, 2022), 87 FR 31002 (May 20, 2022) (SR–EMERALD–2022–16).

[22] MIAX Emerald's affiliates do not offer this service, thus the 1 Gbps connection is only used for the MIAX Emerald clock service while the Exchange's proposed offering allows for the Clock Service to be used for the Exchange and its affiliated options and equities exchanges.

[23] *See MIAX_Emerald_Options_EnhancedPTP_WhiteRabbit_08302021.pdf*, noting the White Rabbit technology that is used for this service offering.

[24] *See* Cboe Rule 7.21 (incorporated by reference under Exchange Chapter 7. Regulatory Records, Reports, and Audits, Section B. Consolidated Audit Trail Compliance Rule).

[25] 15 U.S.C. 78f(b)(5).

[26] The Exchange intends to submit a separate filing with the Commission pursuant to Section 19(b)(1) to propose fees for the Clock Service.

The Exchange notes that the proposed Clock Service would be an additional, optional tool for participants and some participants may not find it useful based on their business needs and trading activity. The proposed Clock Service may not provide utility to all participants based on their business model, use of existing time synchronization methods, or reliance on other methods to test their system's performance to ensure it is operating as intended.

Additionally, some participants may be able to enhance their own traversal time calculations without subscribing to the proposed Clock Service by using other time synchronization methods or utilize some other services that may assist them in time synchronization of their systems. Participants may also prefer to utilize or develop other methods that would enable them to determine whether their own primary clock device is recording time in close proximity to the primary clock devices of other market participants. Participants may view these alternatives as more in line with their business needs or choose an alternative that is more compatible with their existing technology.

Inter-Market Competition

The Exchange does not believe the proposed Clock Service will have an inappropriate burden on inter-market competition. The proposed Clock Service will further enhance inter-market competition between exchanges by allowing the Exchange to expand its product offerings. As previously noted, MIAX Emerald provides a clock service to its Members.[27] The proposed Clock Service would provide subscribers with a tool to assist them in recalibrating their own models and trading strategies to improve their overall experience on the Exchange, thereby potentially improving execution and order fill rates. This may improve the Exchange's overall market quality through increased liquidity and improved execution opportunities for resting orders, enhancing the Exchange's overall competitive position. The proposed rule change should enhance competition by promoting further initiatives and innovation among market centers and market participants as it concerns time measurements and synchronization among trading platforms.

Lastly, if the proposed Clock Service is unattractive to participants, participants will opt not to subscribe to it. Accordingly, the Exchange does not believe that the proposed change will impair the ability of participants or competing order execution venues to maintain their competitive standing in the financial market.

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 Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)[28] of the Act and Rule 19b–4(f)(6)[29] thereunder. 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 prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act[30] and Rule 19b–4(f)(6) thereunder.[31]

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 under Section 19(b)(2)(B)[32] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act.

Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include file number SR–C2–2026–005 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–C2–2026–005. 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–C2–2026–005 and should be submitted on or before April 20, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[33]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026–06046 Filed 3–27–26; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–105080; File No. SR–CBOE–2025–074]

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing of Amendment No. 1 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified and Superseded by Amendment No. 1, To Amend Functionality Relating to the Processing of Auction Responses

March 25, 2026.

I. Introduction

On September 30, 2025, Cboe Exchange, Inc. (''Exchange'' or ''Cboe'')

[27] *See* MIAX Emerald Fee Schedule, Section 8, Services.

[28] 15 U.S.C. 78s(b)(3)(A).

[29] 17 CFR 240.19b–4(f)(6).

[30] 15 U.S.C. 78s(b)(3)(A)(iii).

[31] 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.

[32] 15 U.S.C. 78s(b)(2)(B).

[33] 17 CFR 200.30–3(a)(12).

filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (''Act'') [2] and Rule 19b–4 thereunder,[3] a proposed rule change to amend the maximum amount of time permitted for processing auction responses in non-FLEX classes. The proposed rule change was published for comment in the **Federal Register** on October 3, 2025.[4] On November 3, 2025, pursuant to Section 19(b)(2)(A)(ii)(I) of the Act,[5] the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change.[6] On December 17, 2025, the Commission instituted proceedings under Section 19(b)(2)(B) of the Act [7] to determine whether to approve or disapprove the proposed rule change.[8] On March 18, 2026, the Exchange submitted Amendment No. 1 to the proposed rule change, which amended and superseded the proposed rule change in its entirety.[9] The Commission has not received any comments on the proposal. The Commission is publishing this Notice and Order to solicit comment on Amendment No. 1 in Sections II and III below, which sections are being published verbatim as filed by the Exchange, and to approve the proposed rule change, as modified and superseded by Amendment No. 1, on an accelerated basis.

II. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its functionality relating to the processing of auction responses. The Exchange initially submitted this rule filing SR–CBOE–2025–074 to the Securities and Exchange Commission (the ''Commission'') on September 30, 2025 (the ''Initial Rule Filing''). This Amendment No. 1 supersedes the Initial Rule Filing and replaces it in its entirety. This Amendment No. 1 provides additional support for the proposal and makes minor changes to the rule text [10] but makes no substantive changes to the proposal. 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/options/regulation/rule_filings/bzx/*), and at the principal office of the Exchange.

III. 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 V 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 currently offers a variety of auction mechanisms which provide price improvement opportunities for eligible orders. Particularly, the Exchange offers the following auction mechanisms: Complex Order Auction (''COA''),[11] Step Up Mechanism (''SUM''),[12] Automated Improvement Mechanism (''AIM''),[13] Complex AIM (''C–AIM''),[14] Solicitation Auction Mechanism (''SAM''),[15] Complex SAM (''C–SAM''),[16] FLEX Auction process,[17] FLEX AIM,[18] and FLEX SAM.[19] The Exchange notes that eligible orders (''auctioned orders'') are electronically exposed for an Exchange-determined period (collectively referred to herein as ''auction response period'') in accordance with the applicable Exchange Rule, during which time Users may submit responses (collectively referred to herein as ''auction responses'' or ''auction response messages'') to an auction message.

By way of background, Trading Permit Holders (''TPHs'') may submit auction responses via logical port connectivity.[20] Each logical port corresponds to a single running order handler application.[21] Each order handler application processes the messages it receives from the connected TPH. This processing includes determining whether the message contains the required information to enter the System and where to send that message within the System (*i.e.,* to which matching engine). Messages are sent from an order handler application to a matching engine via User Datagram Protocol (''UDP''). The Exchange has multiple matching engines, each of which controls the book for one or more classes of options listed for trading on the Exchange. The Exchange may run multiple matching engine applications on a single server. Once at a matching engine, the message is received at a server Network Interface Card (''NIC''), which timestamps each message upon arrival and places it in a queue. Currently, each matching engine processes all messages it receives from a single queue from the NIC and prioritizes the processing of all message traffic, including auction responses, in the order in which the NIC receives each message (*i.e.,* in time priority).

Auction response messages wait in the same queue as all other order and quote message traffic. As such, if an auction response is submitted at a time where there is a deep queue of other message traffic, such as mass cancellation messages or other orders and quotes, it is possible that the auction response may not be ''processed'' by the System in sufficient

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] *See* Securities Exchange Act Release No. 104159 (September 30, 2025), 90 FR 48094 (''Notice'').

[5] *See* 15 U.S.C. 78s(b)(2)(A)(ii)(I).

[6] *See* Securities Exchange Act Release No. 104173, 90 FR 51424 (November 17, 2025). The Commission designated January 1, 2026, as the date by which the Commission shall approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change.

[7] 15 U.S.C. 78s(b)(2)(B).

[8] *See* Securities Exchange Act Release No. 104440, 90 FR 59928 (December 22, 2025) (''OIP''). The Commission designated April 1, 2026, as the date by which the Commission shall approve or disapprove the proposed rule change.

[9] Amendment No. 1 to the proposed rule change is available at: *https://www.sec.gov/rules-regulations/public-comments/sr-cboe-2025-074*.

[10] Specifically, this Amendment No. 1 moved the term ''non-FLEX'' to directly before the phrase ''auction mechanisms'' for grammatical purposes, but this did not change the substance of the proposal, which was to exclude FLEX auctions from the auction response processing time period. Additionally, this Amendment No. 1 moved the word ''and'' from before Solicitation Auction Mechanism (''SAM'') to before Complex SAM (''C–SAM''), as C–SAM is the last item in the list.

[11] *See* Rule 5.33(d).

[12] *See* Rule 5.35.

[13] *See* Rule 5.37.

[14] *See* Rule 5.38.

[15] *See* Rule 5.39.

[16] *See* Rule 5.40.

[17] *See* Rule 5.72(c).

[18] *See* Rule 5.73.

[19] *See* Rule 5.74.

[20] A User connects to the Exchange using a logical port available through an API, such as the industry-standard FIX or BOE protocol. Logical ports represent a technical port established by the Exchange within the Exchange's trading system for the delivery and/or receipt of trading messages, including orders, cancels, and auction responses.

[21] The Exchange has numerous order handlers and uses an algorithm to determine at random which ports connect to which order handlers. This algorithm attempts to spread out a single TPH's ports across order handlers as well as balance the number of ports that connect to a single order handler.

time (*i.e.,* prior to the end of the auction response period).[22] Particularly, the queued auction response may not be able to participate in the applicable auction mechanism because the System had unprocessed (queued) messages at the time of the auction execution despite the fact that the User submitted the auction response prior to the end of the auction response period. Auctioned orders may therefore be missing out on potential price improvement that may have otherwise resulted if queued timely auction response(s) were able to participate in the auction.

To address the issue of missed auction responses, in June 2023, the Exchange adopted new functionality that applies across all of its auction mechanisms to increase the likelihood that timely submitted auction responses may participate in the applicable auction, even during periods of high message traffic in orders, and thus potentially provide customers with additional opportunities for price improvement.[23] Under this functionality, at the time an auction response period ends, the System continues to process its inbound queue for any messages that were received by the System before the end of the auction period (including auction responses) for up to an Exchange-determined period of time, not to exceed 100 milliseconds (which the Exchange may determine on a class-by-class basis which would apply to all auction mechanisms and which would be announced with reasonable advanced notice via Exchange Notice). That is, any auction responses that were in the queue before the conclusion of the auction (as identified by the NIC timestamp on the message) would be processed as long as the Exchange-determined time on a class-by-class basis (not to exceed 100 milliseconds) is not exceeded. Only auction responses received prior to the execution of the applicable auction are eligible to be processed for that auction. The applicable auction will execute once all messages, including auction responses, received before the end time of the auction response period have been processed or the Exchange-determined maximum time limit of up to 100 milliseconds has elapsed, whichever occurs first. This continuation of processing the queue for an additional amount of time for messages that were received before the end of the auction allows for auction responses that would otherwise have been canceled due to the conclusion of the auction response period to still have an opportunity to participate in the auction.

In May 2025, the Exchange increased the permissible maximum length of this Exchange-determined time period for SPX options.[24] Specifically, with respect to SPX options, this Exchange-determined period of time for this continuation of auction response processing plus the length of the auction response or exposure period, as applicable,[25] may not exceed 1000 milliseconds (which the Exchange announces with reasonable advance notice via Exchange Notice).[26] The Exchange increased the additional processing time so that more auction responses could be executed in SPX auctions, particularly in times of high message traffic. This increase in processing time is currently in place until June 30, 2026 [27] and applies to non-FLEX SPX options only.

Presently, all classes have the benefit of the additional auction response processing time following auctions (900 milliseconds for non-SPX options and 100 milliseconds for all other classes). Therefore, after TPHs may submit auction responses via logical port connectivity, as described above, the applicable order handler application for that logical port processes those messages and sends them to the appropriate matching engine for the class identified in the auction response. The NIC at the matching engine then timestamps each message upon arrival and places it in a queue in time priority. As noted above, auction response messages wait in the same queue as all other order and quote message traffic. At the end of an auction response period, the System continues to process its inbound queue for any messages, including auction responses, the System received before the end of the auction period based on the messages' NIC timestamp, for up to 100 milliseconds (up to 900 milliseconds for non-FLEX SPX options).[28] In other words, the System processes any auction responses that were in the queue with a NIC timestamp earlier than the time of the conclusion during this additional processing time. The applicable auction will execute once all messages, including auction responses, with NIC timestamps earlier than the end time of the auction response period have been processed or the additional auction response processing time has lapsed, whichever occurs first. The Exchange has observed the benefits of a longer auction processing time in non-FLEX SPX option auctions, namely that nearly all auction responses that are received (based on NIC timestamp) by the System prior to the end of the application auction have opportunities to participate in the auction, as opposed to being canceled (as further discussed below). In other non-FLEX classes, the Exchange has observed at times (particularly in higher volume classes and during times of volatility or higher market activity) auction responses continue to be cancelled, because the System is unable to process all timely received auction responses before the end of the auction and 100 milliseconds auction response processing time. The Exchange believes auctions in these classes would benefit from a longer auction response processing time in the same way non-FLEX SPX options have benefitted.

Therefore, the proposed rule change makes a longer auction response processing time available to all non-FLEX classes (the proposed exclusion of FLEX classes is further discussed below) and makes the longer auction response processing time available to non-FLEX SPX options on a permanent basis. Specifically, the Exchange proposes to amend Rule 5.25(c) to provide that the Exchange-determined period of time [29] during which the System will, at the conclusion of an auction response or exposure period, continue to process any messages in its inbound queue that

[22] For example, it takes the Exchange's system approximately 10 microseconds to process a single order/quote or auction response message and, on average, approximately 190 microseconds to process a mass cancel message. As such, under the current system, an auction response that is entered after a mass cancel message is more likely to be detrimentally delayed as compared to a mass cancel message that is entered after an auction response (*i.e.,* a 190 microsecond ''wait time'' versus a 10 microsecond ''wait time'').

[23] *See* Rule 5.25(c); *see also* Securities Exchange Act Release No. 97738 (June 15, 2023), 88 FR 40878 (June 22, 2023) (SR–CBOE–2022–051). This functionality applies to COA, SUM, AIM, SAM, C–AIM, C–SAM, FLEX Auction Process, FLEX AIM, and FLEX SAM.

[24] *See* Securities Exchange Act Release No. 102966 (May 1, 2025), 90 FR 19330 (May 7, 2025) (SR–CBOE–2025–031); *see also* Cboe Exchange Notice C2025042903, *available at https://www.cboe.com/notices/content/?id=54332.*

[25] Current lengths of auction response and exposure periods are available at *cboe_options_product_configurations.xlsx.*

[26] The auction response processing time is currently set to 900 milliseconds (with auction timers set to 100 milliseconds) for S&P 500 Index options (''SPX options'').

[27] The Exchange extended this sunset date from December 31, 2025, to June 30, 2026. *See* Securities Exchange Act Release No. 104525 (December 30, 2025), 91 FR 303 (January 5, 2026) (SR–CBOE–2025–095).

[28] As noted above, the auction response processing time is currently set to 900 milliseconds for SPX options and 100 milliseconds for all other classes. *See* Cboe Exchange Notices C2025042903, *available at https://www.cboe.com/notices/content/?id=54332;* and C2024111903, *available at https://www.cboe.com/notices/content/?id=51420.*

[29] The Exchange may determine this time period on a class-by-class basis. *See* Rule 5.25(c).

were received by the System before the end of the auction response or exposure period (as identified by each message's NIC timestamp), plus the length of the auction response or exposure period, as applicable, may not exceed 1000 milliseconds. The Exchange believes the proposed maximum amount of additional time for processing will result in more auction responses being executed in all non-FLEX classes, particularly in times of high message traffic.

Additionally, as noted above, the proposed rule change removes the applicability of the auction response processing time to FLEX auctions (*i.e.,* FLEX Auction Process, FLEX AIM, and FLEX SAM). The Exchange believes the additional processing time is unnecessary for FLEX auctions given lower liquidity levels in the FLEX market and longer FLEX auction response periods. As a result, unlike in non-FLEX classes, the Exchange has not observed missed auction responses in FLEX auctions.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[30] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [31] 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) [32] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the Exchange believes the proposed rule change will remove impediments to a free and open market, as it will allow the Exchange's System to potentially process more, if not all, timely submitted auction responses in all non-FLEX classes (rather than just non-FLEX SPX options), particularly in times of volatility and high message traffic, which may ultimately provide further opportunities for auctioned orders to receive price improvement to the benefit of investors. The Exchange believes the proposed rule change will continue to appropriately balance providing investors with timely processing of their options quote and order messages and providing investors who submit orders that are auctioned with additional liquidity. Indeed, the proposed rule change may allow more investors additional opportunities to receive price improvement through an auction mechanism. Additionally, because the proposed functionality may provide liquidity providers that submit auction responses with additional execution opportunities in auctions, the Exchange believes liquidity providers may be further encouraged to submit more auction responses, which may contribute to a deeper, more liquid auction process that provides investors with additional price improvement opportunities. The Exchange believes the proposal will continue to allow the Exchange to set each auction response period or exposure time to an amount of time that provides TPHs submitting responses with sufficient time to respond to, compete for, and provide price improvement for orders, but also continues to provide auctioned orders with improved execution opportunities and minimal impact on market and execution risk.

The Exchange believes the proposed rule change will result in increased execution opportunities for liquidity providers that submit auction responses and enhance the potential for price improvement for orders submitted to each mechanism to the benefit of investors and public interest. The proposed rule change will permit the Exchange to set a longer time period in all non-FLEX classes in which the System may process auction responses the System receives before the end of an auction response or exposure period (as identified by each auction response message's NIC timestamp). The Exchange believes the proposed increase in maximum time will increase the possibility that timely submitted auction responses are processed by the Exchange and have an opportunity for execution in the applicable auction mechanism, even if there is a deep pending message queue. The Exchange believes the proposed maximum amount of additional time for processing will permit the Exchange to respond to times of high message traffic. The Exchange generally experiences significant increases in volumes and messages traffic when the market experiences volatility. As a result, the Exchange has observed deeper pending message queues, which results in an increased number of timely received auction responses not being processed as part of the execution at the conclusion of an auction. Based on these observations, the Exchange believes the proposed maximum time may increase the number of timely received auction responses that may execute against an auction order.[33]

The Exchange believes the proposed rule change will 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 because of the adaptability of the auction response processing time functionality, pursuant to which the System uses only the additional processing time it needs. This generally relates to the amount of message activity (and thus the length of the message queue) at the time of an auction occurs unlike an auction response or exposure period, which must run in its entirety. For example, if the System is ''caught up'' and processes all auction responses received prior to the completion of a 100-millisecond auction response period within 50 milliseconds after the end of the auction period, the total processing time would be 150 milliseconds. The System only uses the portion of the auction response processing time it needs to process responses timestamped prior to the end of the auction period. The Exchange believes this is preferable to extending the auction response or exposure period, which must run in its entirety. For example, if an auction response period is extended to 200 milliseconds with no additional processing time, the total processing time would always be 200 milliseconds regardless of the message queue.

The sunset period permitted the Exchange to evaluate whether a longer

[30] 15 U.S.C. 78f(b).

[31] 15 U.S.C. 78f(b)(5).

[32] *Id.*

[33] The Exchange has undertaken various steps to improve the performance (including to reduce latency) of the matching engine on which SPX trades. For example, the Exchange made hardware and software upgrades. *See https://www.cboe.com/notices/content/?id=53830.* Additionally, the Exchange adopted an excessive mass cancel and purge charge to encourage efficient use of network and system capacity and reduce the incentive for market participants to engage in excessive mass cancellation and purge activity, which may create latency and impact other market participants' ability to receive timely executions. *See* Securities Exchange Act Release No. 103040 (May 14, 2025), 90 FR 21525 (May 20, 2025) (SR–CBOE–2025–033). The Exchange regularly evaluates other potential means that may improve performance and reduce latency for all options.

auction response processing time would continue to be appropriate in times of high volatility. For example, in 2025 prior to May 12 (the date on which the Exchange implemented the longer auction processing response time for SPX options), the percentage of auction responses in SPX that were received by the System before the end of the auction period (*i.e.,* had received a NIC timestamp) but were rejected because the Exchange could not process them before the end of the auction response or exposure period, as applicable, plus shorter buffer time, reached over 20% on several occasions and averaged approximately 7.64%. Between May 12 and September 5, 2025, this percentage was nearly 0. The Exchange notes during that time period of having the maximum auction response processing time be 900 milliseconds, the average length of that time period used since that time was only about 14 milliseconds. While this is a relatively small amount of auction response processing time being used on average, between May 12, 2025 and February 27, 2026, the maximum 900 milliseconds of auction response processing time was used on 178 of 214, or 83% of, trading days. This data demonstrates the benefits of the dynamic nature of the auction response processing time, as the System uses only the additional processing time based on the message queue at the time.

For example, suppose an auction begins at 10:00:00:000 a.m. one day with an auction response period of 100 milliseconds. The auction response period ends at 10:00:00:100 a.m., but there is a message queue requiring an additional 14 milliseconds to process all timely received responses. Therefore, executions for the auction occur at 10:00:00:114 a.m. and consider all timely auction responses, despite the fact that the maximum response processing time was set to 900 milliseconds. Now suppose a major news event occurred at 2:00 p.m. that same day, causing market activity (and the System's message queue) to increase. An auction is then initiated at 2:30:00:000 p.m. that same day. The auction response period ends at 2:30:00:100 p.m., but there is a message queue requiring an additional 824 milliseconds to process all timely received auction responses. Therefore, executions for the auction occur at 2:30:00:924 p.m. and consider all timely received auction responses.[34]

Currently, only non-FLEX SPX options have the benefit of having this longer auction response processing time, while other non-FLEX classes have the benefit of only an additional 100 milliseconds of processing time. However, across all classes trading on the Exchange, between May 12, 2025 and February 27, 2026, the Exchange has observed that each matching engine has experienced delays in message queues that have resulted in auctions not being able to process all timely received (based on NIC timestamp) auction messages within the 100 milliseconds of additional response processing time at least once per trading day. In other words, at least once per trading day during that time period, the System cancelled timely received auction responses because the System was unable to ''catch up'' in the message queue on each matching engine within 100 milliseconds after the end of the auction. Therefore, at least once per trading on each matching engine, auctioned orders missed potential execution and price opportunities. The Exchange also observed instances in certain classes when the System needed more than 400 milliseconds to process all timely received auction responses but could only had 100 milliseconds available under the current Rule.

Pursuant to the proposed rule change, the Exchange could set the auction response processing time for any non-FLEX class up to 900 milliseconds, which, based on current data, would result in the processing of all timely received auction responses in all classes. While no non-FLEX class other than SPX options currently needs 900 milliseconds to process all timely received auction responses, even if the Exchange set this buffer amount to 900 milliseconds, as described above, the System would only use the time it needed to catch up, so there is no harm or impact in providing a maximum of 900 milliseconds of auction response processing time even if a class only needs 50 milliseconds or 450 milliseconds.[35] Additionally, applying a longer auction response processing time can account for changes in volumes and market activity, as well as times of higher volatility. Options volumes continue to increase across the industry, and the market can become volatile at any moment. Therefore, while classes may currently not need more than 450 milliseconds of additional auction response processing time, it is possible certain classes may need more time in the future because volume in the class has significantly increased or volatility has become more extreme.

The proposed rule change will result in the System being able to process timely auction responses if volume increases and volatility spikes result in longer queue times than those that have occurred to date without having to reject responses and potentially reduce execution and price improvement opportunities. This would have no impact on current trading because any ''excess'' time permitted by the rule is ultimately unused and executions would occur after an auction as soon as the System is caught up (it would not need to wait for the entire maximum auction response processing time to elapse). The Exchange believes this is preferable to increasing the length of the auction response or exposure period, as executions after an auction would always have to wait for the end of that longer auction response or exposure period to occur. For example, if the Exchange increases the length of the auction response time to one second, executions would always occur one second after the initiation of the auction (and auction responses may still not be concerned if there is queue), compared to executions occurring after the amount additional processing time necessary after the conclusion of a shorter auction response or exposure period. The application of a flexible buffer time as proposed permits the System to only use the time it needs and permits executions as timely as possible while still considering all timely received auction responses. During times of higher market activity, including when the markets are more volatile, there is generally more message traffic in general. The longer maximum buffer time may be necessary during those times, even if less frequent, to account for longer message queues when those market conditions exist. However, the majority of the time, the System may only need a small portion of this buffer time to get caught up, regardless of how long the maximum auction response processing time is set.

This data demonstrates the effectiveness of the longer auction response processing time for SPX options. The proposed rule change would permit the Exchange to retain this longer auction response period for SPX and thus retain these benefits, as well as extend these benefits to other classes traded on the Exchange. Given that times of high volatility are unpredictable, and impact all classes, having the longer auction response

[34] For comparison, if the Exchange instead maximized the auction response period to 1 second, executions for the first auction would have occurred at 10:00:01 a.m., and executions for the second auction would have occurred at 2:30:01 p.m.

[35] As demonstrated above, this generally results in auction executions occurring more quickly than if the Exchange instead lengthened auction response or exposure times.

processing time available at all times will permit the Exchange to continue to achieve these results when volatile times do occur. Additionally, given the continued increase in options volumes across the industry (and thus all classes), the Exchange believes all classes could benefit from the additional processing times.

While the proposed increase is significant, the Exchange notes that the combined maximum length of the auction response or exposure period plus the auction response processing period is the same length as the maximum permissible auction response or exposure period for certain auctions.[36] Therefore, the Commission has already determined that letting a executions after a price improvement auction occur up to 1000 milliseconds is consistent with the Act (which would permit the combined maximum auction response period plus maximum auction response processing time to be 1000 milliseconds for auctions). Given that the current length of the non-FLEX auctions is 100 milliseconds (except for SUM auctions, for which the exposure period is 50 milliseconds), and the auction response processing time is 100 milliseconds (except for SPX, for which it is 900 milliseconds pursuant to the current temporary rule), the proposed rule change would increase the total maximum processing time (auction response period plus response processing) for all non-FLEX classes other than SPX by 800 milliseconds (850 milliseconds for SUM auctions) and would keep the maximum processing time for non-FLEX SPX options the same. The proposed rule change provides the Exchange with flexibility to increase the number of auction responses that can participate in an auction without increasing the length of an auction (and may permit the Exchange to reduce the length of an auction). While the Exchange may increase the length of auction response periods to accommodate more auction responses, the Exchange believes shifting some of the already permissible auction response or exposure period time to the auction response processing time that may occur after the conclusion of the auction response or exposure period better addresses the issue of missed auction responses. Particularly, the Exchange believes the proposed rule change will accommodate more auction responses while also mitigating market risk that may accompany a longer auction period by setting the length of an auction response period to a timeframe that both allows an adequate amount of time for TPHs to respond to an auction message and provides the auctioned order with fast executions.

Additionally, the Exchange understands some TPHs choose to submit auction responses towards the end of an auction response period to better ensure the response is at a price that the market participant is willing to trade given the market at the time the auction response period concludes. For example, from October 1, 2025 through February 28, 2026, nearly one-quarter of AIM responses and approximately 13% of COA responses were submitted within the last 20 milliseconds of the applicable auctions, which represent meaningful amounts of liquidity submitted into these auctions. This is particularly true during times of higher volatility, which times generally result in higher message traffic and thus make it more likely these auction responses will not participate in the auction. As such, extending the auction response or exposure period in each auction would not prevent auction responses from continuing to miss the auction notwithstanding being submitted timely. Therefore, the Exchange believes extending the auction response processing time is preferable to extending the auction response or exposure period, which the Exchange believes would not prevent auction responses from continuing to miss the auction notwithstanding being submitted timely.

The Exchange believes the proposed increase in maximum auction response processing time for all options will provide an adequate amount of time to provide pending auction responses with execution opportunities in times of high message traffic and will continue to have a de minimis impact on other message traffic. Even in times of high message traffic, auction responses continue to represent a small percentage of volume on the Exchange. Auction responses account for a small fraction of message traffic submitted to the Exchange. The Exchange believes the processing of such a small amount of message traffic, even after the conclusion of an auction response period, would therefore continue to have de minimis, if any, impact on the processing of non-auction response messages waiting in the queue, even if that processing occurs over a longer timeframe. The Exchange also notes that all messages are currently processed one at a time by the System. Therefore, the System still needs to ''process'' all pending auction responses, regardless of whether that processing involves canceling the pending auction response because it wasn't processed in time to participate in the auction or actually processing the response to participate in the auction. Either way, the non-auction response messages will still have to wait for processing of any pending responses ahead of it, regardless of the length of the auction response processing time. Further, updates to prices in the market will still be processed in the same order, and thus executions of the responses at the end of the auction response processing time will not trade through the market at that time. The Exchange notes the proposed rule change makes no changes to how the auction response processing functionality will work (or how any auctions work). Additionally, all message traffic (including auction responses) will continue to be processed in time-priority. Therefore, the Exchange believes any impact of processing additional auction responses for inclusion in an auction rather than cancelling those responses will have minimal impact on message traffic behind them.

The Exchange continues to believe in the vast majority of cases, the additional time needed after the conclusion of an auction response period, if any, to process all pending auction responses will be shorter than the proposed maximum (and possibly zero). As discussed above, this is a further benefit of being able to increase the length of the auction response processing time rather than the length of an auction response period. To the extent the Exchange determines a lesser amount of time would be sufficient, the Exchange could implement an additional amount of time for processing auction responses that is less than the combined time of 1000 milliseconds, which time would be announced with reasonable advance notice to market participants via Exchange Notice.[37] However, as demonstrated above, there is no impact if the Exchange designates an amount of processing time that is ''too long,'' as that extra time just goes unused. Additionally, in practice, the Exchange generally discusses with market participants potential changes to the length of auction response or exposure periods and to the auction response processing timer. Further, given the

[36] *See* Rule 5.33(d)(3), 5.35(b)(1), 5.37(c)(3), and 5.38(c)(3), 5.39(c)(3), and 5.40(c)(3) (which permit the Exchange to set the length of the COA, SUM, AIM, C–AIM, SAM, and C–SAM exposure and auction response periods, as applicable, up to one second). Current lengths of auction response and exposure periods are available at cboe_options_product_configurations.xlsx.

[37] The Exchange generally gives notice one to two weeks in advance of implementation for changes such as this; however, shorter notice may be provided if the Exchange believes it is necessary to maintain fair and orderly markets.

Exchange will provide advanced notice of any change, market participants may contact the Exchange to discuss any proposed changes.

The markets experience periods of high volatility, which generally results in increased market traffic. The Exchange has observed during these higher market traffic times an increase in the number of auction responses not being able to participate in auctions, notwithstanding being submitted timely within the auction response period, except recently in SPX given the longer auction processing time during the current sunset period. This higher traffic generally occurs across all classes. The Exchange believes permitting an increased auction response processing time in all classes would better provide market participants with additional opportunities for price improvements with very little, if any, impact to non-auction response message traffic, thereby removing impediments to a free and open market and ultimately protecting and benefiting investors. Additionally, because the proposed rule change may provide liquidity providers that submit auction responses with additional execution opportunities in auctions, the Exchange believes they may be further encouraged to submit more auction responses, which may contribute to a deeper, more liquid auction process that provides investors with additional price improvement opportunities

Given the current maximum auction response processing time in classes other than SPX (and if the current higher time applicable to SPX were to sunset), investors may miss out on opportunities to receive price improvement through the Exchange's auction mechanisms, even if such responses were submitted timely but not processed due to the System being otherwise occupied processing messages in queue ahead of it. The Exchange, therefore, believes its proposal will make it more likely that the System processes timely submitted auction responses and includes them in applicable auctions during periods of high message traffic, thus providing them with more opportunities to execute against auctioned orders.

The Exchange does not believe the proposed functionality raises any novel legal or regulatory issues as the proposed maximum auction response processing time is significantly shorter than the longest maximum auction response or exposure period permissible in the Exchange's Rules.[38] As discussed above, the proposed rule change effectively only increases the permissible response processing time by no more than 850 milliseconds. The Exchange notes the proposed rule change makes no changes to how the auction response processing functionality will work (or how any auctions work). Additionally, all message traffic (including auction responses) will continue to be processed in time-priority, including market price updates, and thus the System is designed to prevent trade-throughs. Further, as noted above, the auction response or exposure period for all non-FLEX auctions on the Exchange permitted by Rules that have been previously filed with the Commission as being consistent with the Act may be no longer than one second. Even if the System uses the maximum buffer time, that means execution following an auction would occur one second following the beginning of an auction. Therefore, the proposed rule change is consistent with the length of time in the Rules that an auction may occur. The proposed rule change merely shifts some of the permissible auction response or exposure period time to the auction response processing time that may occur after the conclusion of the auction response or exposure period. As described above, the Exchange believes being able to have more time available as auction response processing time rather than increased auction response or exposure period time is beneficial due to the dynamic nature of the auction response processing time. This is because the Exchange can then set a shorter auction response or exposure period time, such as 100 milliseconds, and only use additional time when necessary, rather than for all auctions, which is what occurs if the Exchange were to lengthen the auction response or exposure period time. The Exchange believes, therefore, the proposed rule change promotes just and equitable principles of trade, removes impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protects investors and the public interest, because it will provide investors in all non-FLEX classes with additional execution and price improvement opportunities while processing investors' quote and order messages in a timely manner.

The proposed rule change excludes FLEX auctions from the rule that increases the auction response processing time. The terms of FLEX options are customized by users, and liquidity providers generally need additional time to consider these non-standard terms of a FLEX-auctioned order to price and manage associated risk of the auction option before submitting a response. This is reflected by the much longer lengths of FLEX auctions, which may last three seconds to five minutes,[39] compared to non-FLEX Auctions (which may last no more than one second) that are intended to result in nearly instantaneous matching of auctioned orders and responses. As a result of the customized nature of the FLEX market, as well as lack of book with resting quotes that Market-Makers continuously update, there is generally less liquidity and volume in FLEX options. As a result, FLEX auctions generally do not receive significant numbers of responses as can occur in auctions for non-FLEX auctions for options with standardized terms. Therefore, the Exchange believes additional auction response processing time is unnecessary for FLEX auctions.

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 that the proposed changes will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act, as the proposed rule change would apply equally to TPHs that submit auction responses. The proposed rule change would permit a longer auction response processing time for all non-FLEX classes on the Exchange (rather than just one as is the case today), and thus market participants in all classes would be able to benefit from this increased processing time, including reducing the likelihood that their auction responses are rejected. Additionally, as noted above, the Exchange believes the proposed increase in the maximum auction response processing time will have little to no impact on non-auction response message traffic and continues to be designed to prevent trade-throughs given all messages, including market

[38] *See* Rules 5.33(d)(3), 5.37(c)(3), and 5.38(c)(3) (which permits the Exchange to set the length of the COA, AIM, and C–AIM, respectively, auction response periods up to three seconds). Given that the auction response processing time plus the length of the auction response or exposure period may not exceed 1000 milliseconds, the maximum auction response processing time will be significantly less than the maximum auction response time currently permissible under the Exchange's Rules.

[39] *See* Rules 5.72(c)(1)(F), 5.73(c)(3), and 5.74(c)(3).

price updates, will continue to be processed in time priority. The Exchange does not believe the proposed rule change will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act, as the proposed change affects how the System processes auction responses that may only participate in auctions that occur on the Exchange.

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 written comments on the proposed rule change.

IV. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule change, as modified and superseded by Amendment No. 1 (''Amended Proposal''), is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[40] In particular, the Commission finds that the Amended Proposal is consistent with Section 6(b)(5) of the Act,[41] which requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, 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.

As discussed above, currently, at the conclusion of an auction response or exposure period, the Exchange-determined period of additional processing time for timely-received auction messages may not exceed 100 milliseconds; except that, with respect to non-FLEX SPX options, this Exchange-determined period of additional processing time plus the length of the auction response or exposure period, as applicable, may not exceed 1000 milliseconds (''1000 millisecond maximum processing time'').[42] The Amended Proposal would apply to all non-FLEX classes the 1000 millisecond maximum processing time currently applicable to non-FLEX SPX options, make the 1000 millisecond maximum processing time permanent for non-FLEX SPX options, and eliminate additional auction message processing time for FLEX auctions.[43]

In the OIP, the Commission expressed concern that the Initial Rule Filing did not set forth data directly supporting the proposed increase in the maximum processing time for non-FLEX classes other than SPX, or support for the proposed removal of additional auction response processing times for FLEX auctions.[44] The Commission believes that the Amended Proposal addresses these concerns, and is reasonably designed to remove impediments to and perfect the mechanism of a free and open market and a national market system.

The Amended Proposal demonstrates that the 100 milliseconds of additional auction message processing time currently available for non-FLEX classes other than SPX can be insufficient to allow the Exchange to process all timely-received auction responses. The Exchange states that between May 12, 2025 and February 27, 2026, at least once per trading day, each of its matching engines experienced delays in message queues that resulted in the Exchange not being able to process all timely-received auction messages within the 100 milliseconds of additional response processing time currently available.[45] As a result, according to the Exchange, this meant that, at least once per trading day during that time period, auctioned orders missed potential execution and price improvement opportunities.[46] The Exchange also states that there have been instances in certain classes when it needed more than 400 milliseconds to process all timely-received auction responses but only had 100 milliseconds available.[47]

The Commission believes that the Amended Proposal, by applying the 1000 millisecond maximum processing time to all non-FLEX classes, is reasonably designed to improve the Exchange's ability to process all timely-received auction responses and provide enhanced opportunities for executions, potentially with price improvement, through an auction mechanism. The Commission also believes that it is appropriate and consistent with the Act for the Exchange to apply to all non-FLEX classes the same 1000 millisecond maximum processing time that it currently applies to non-FLEX SPX classes, in light of the Exchange's experience with non-FLEX SPX classes. In this vein, the Exchange states that, for a time period before it implemented the 1000 millisecond maximum processing time for non-FLEX SPX options, the Exchange cancelled, on average, 7.64% of timely-received auction responses—and on some occasions over 20% of timely-received auction responses—because the Exchange could not process them before the end of the then-applicable maximum processing time period.[48] But according to the Exchange, this percentage became nearly zero after the Exchange implemented the 1000 millisecond maximum processing time for non-FLEX SPX classes.[49]

In addition, the Commission believes the Amended Proposal is consistent with the Act insofar as it designed to be tailored to the Exchange's processing needs, which may vary depending on the amount of message activity and length of the message queue at the time of an auction.[50] As the Exchange has stated, it uses only the portion of the processing time that it needs to process responses timestamped prior to the end of the auction period.[51] In other words, the 1000 millisecond maximum processing time is a ceiling but not a floor, such that the Exchange will use less than the full 1000 milliseconds of additional processing time when doing so is conducive to processing all timely-received auction messages.[52] While, according to the Exchange, no non-FLEX class other than SPX currently needs 900 milliseconds to process all timely-received auction responses, the portion of the 1000 millisecond maximum processing time that is not needed for a particular auction would go unused and the auction would occur once the Exchange has processed all timely-received messages.[53] At the same time, the 1000 millisecond maximum processing time would provide the Exchange with flexibility to process longer auction message queues than those experienced to date in non-FLEX classes other than SPX, which could

[40] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[41] 15 U.S.C. 78f(b)(5).

[42] *See* Rule 5.25. This aspect of auction response processing for non-FLEX SPX options is set to expire on June 30, 2026. *Id.* With auction timers set to 100 milliseconds for non-FLEX auctions (except for SUM auctions, for which the exposure period is 50 milliseconds), the 1000 millisecond maximum processing time provides 900 milliseconds of additional auction response processing time after the auction response or exposure period concludes. *See* Amendment No. 1, *supra* note 9, at 7 n. 17, 42–43.

[43] *See* proposed Rule 5.25; *see also* Amendment No. 1, *supra* note 9, at 34.

[44] *See* OIP, *supra* note 8, 90 FR at 59930.

[45] *See* Amendment No. 1, *supra* note 9, at 15.

[46] *Id.*

[47] *Id.*

[48] *Id.* at 13.

[49] *Id.*

[50] *Id.*

[51] *Id.*

[52] The Amended Proposal sets forth examples of this Exchange behavior. *Id.* at 13–14.

[53] *Id.* at 16.

occur as a result of increases in volume or volatility.[54]

Broadly, the Commission believes that the application of the 1000 millisecond maximum processing time to all non-FLEX classes could incentivize competition in the Exchange's auctions by increasing the likelihood of all timely-submitted responses participating in an execution at the end of an auction, especially during periods of high message traffic. Increasing the number of competitive responses in an auction could also increase price improvement opportunities for any order submitted into an auction. Additionally, all message traffic (including auction responses) will continue to be processed in time-priority. The Commission emphasizes that the extension of processing time is only available to TPHs that have submitted an auction response within the response period for each auction.

Finally, the Commission believes that the proposed removal of additional auction response processing times for FLEX auctions is adequately supported by the Amended Proposal and reasonably designed to remove impediments to and perfect the mechanism of a free and open market and a national market system. Specifically, the Amended Proposal identifies attributes of FLEX options and auctions that demonstrate that additional processing time for the Exchange's FLEX auctions does not meaningfully enhance the Exchange's ability to process timely-submitted FLEX auction messages. These attributes include: (i) FLEX options have customized terms and liquidity providers generally need additional time to consider these non-standard terms to price and manage associated risk of the auction option before submitting a response; [55] (ii) there is no book with resting quotes for FLEX options that market makers continuously update; [56] (iii) FLEX auctions are much longer (ranging from three seconds to five minutes) than non-FLEX auctions; [57] and (iv) FLEX auctions generally do not receive a significant number of responses as compared to auctions for options with standardized terms.[58]

Accordingly, the Commission finds that the Amended Proposal is consistent with Section 6(b)(5) of the Act.[59]

[54] *Id.* at 18.

[55] *Id.* at 24.

[56] *Id.*

[57] *Id.*

[58] *Id.*

[59] 15 U.S.C. 78f(b)(5).

V. Solicitation of Comments on Amendment No. 1 to the Proposed Rule Change

Interested persons are invited to submit written data, views, and arguments concerning whether Amendment No. 1 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–CBOE–2025–074 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–CBOE–2025–074. 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–CBOE–2025–074 and should be submitted on or before April 20, 2026.

VI. Accelerated Approval of the Proposed Rule Change, as Modified and Superseded by Amendment No. 1

The Commission finds good cause to approve the Amended Proposal prior to the thirtieth day after the date of publication of notice of the filing of Amendment No. 1 in the **Federal Register**. Amendment No. 1 provides additional detail regarding the processing of auction responses, further justification for the proposal, and additional data with respect to the time of submission of responses into certain auctions and the duration of auction response processing periods. Amendment No. 1 also makes non-substantive changes that update current rule text and correct grammar. Amendment No. 1, without altering the purpose of the Initial Rule Filing, strengthens the Initial Rule Filing by providing additional clarity, support, and data, as explained above and set forth fully in Sections II and III above.

The Commission therefore finds that Amendment No. 1 raises no novel regulatory issues that have not previously been subject to comment and is reasonably 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. Accordingly, the Commission finds good cause, pursuant to Section 19(b)(2) of the Act,[60] to approve the Amended Proposal on an accelerated basis prior to the 30th day after publication of notice of the filing of Amendment No. 1 in the **Federal Register**.

VII. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[61] that the proposed rule change (SR–CBOE–2025–074), as modified and superseded by Amendment No. 1, be, and hereby is, approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[62]

Sherry R. Haywood,

Assistant Secretary.

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[60] 15 U.S.C. 78s(b)(2).

[61] *Id.*

[62] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–105079; File No. SR–NSCC–2026–005]

Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing of Proposed Rule Change Concerning a New Customer Net Margin Account Option for Agent Clearing Members in the Securities Financing Transaction Clearing Service

March 25, 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 March 20, 2026, National Securities Clearing Corporation (''NSCC'') 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

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

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 consists of amendments to the NSCC Rules & Procedures (''NSCC Rules'') to offer a new net margin account option for Agent Clearing Members in NSCC's securities financing transaction (''SFT'') clearing service (''SFT Clearing Service'').[3]

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 modify the NSCC Rules to offer a new net margin account option for Agent Clearing Members in NSCC's SFT Clearing Service. The proposed rule change is discussed in detail below.

Background

SFT Clearing Service

In 2022, NSCC introduced its SFT Clearing Service to provide central clearing for SFTs.[4] SFTs are, broadly speaking, transactions where the parties exchange equity securities against cash and simultaneously agree to exchange the same securities and cash, plus or minus a rate payment, on a future date. The SFT Clearing Service established new membership categories and requirements for (i) Sponsoring Members and Sponsored Members whereby existing Members would be permitted to sponsor certain institutional firms into membership[5] and (ii) Agent Clearing Members whereby existing Members would be permitted to submit, on behalf of their customers, transactions to NSCC for novation.[6] The SFT Clearing service is available for SFTs entered into between (i) a Member and another Member; (ii) a Sponsoring Member and its Sponsored Member (''Sponsored Member Transaction''); and (iii) an Agent Clearing Member acting on behalf of a Customer and either (x) a Member or (y) the same or another Agent Clearing Member acting on behalf of a Customer (''Agent Clearing Member Transaction'').[7] An Agent Clearing Member's clearing of Agent Clearing Member Transactions for Customers is also referred to in the NSCC Rules as the Customer Clearing Service.[8]

Agent Clearing Member/Customer Clearing Service

The Customer Clearing Service allows Members (in their capacity as Agent Clearing Members) to play the role of agent and credit intermediary for their institutional firm clients in clearing SFTs at NSCC. Under the Customer Clearing Service, Agent Clearing Members may submit to NSCC for novation Agent Clearing Member Transactions on behalf of one or more of their Customers. An Agent Clearing Member acts solely as agent of its Customers in connection with the clearing of Agent Clearing Member Transactions; however, the Agent Clearing Member remains fully liable for the performance of all obligations to NSCC arising in connection with Agent Clearing Member Transactions.

The Customer Clearing Service was primarily designed to accommodate agent-style trading, in which agent lenders are typically approved to transact in securities lending transactions on behalf of their institutional firm clients. For example, an Agent Clearing Member may submit SFTs executed by it as agent on behalf of its institutional firm clients (with each such client referred to as a ''Customer'') with a Member participating in the SFT Clearing Service, which could include a Member acting in a proprietary capacity within the SFT Clearing Service as well as an Agent Clearing Member.

An Agent Clearing Member may establish one or more Agent Clearing Member Customer Omnibus Accounts at NSCC for its Customers' positions in the name of the Agent Clearing Member for the benefit of its Customers.[9] SFT Accounts are generally margined in accordance with Procedure XV (Clearing Fund Formula and Methodology) of the NSCC Rules, subject to certain adjustments discussed in Section 12(b) of NSCC Rule 56 (Securities Financing Transaction Clearing Service).[10] However, each Agent Clearing Member Customer Omnibus Account may contain only activity where the Agent Clearing Member is acting either as Transferor on behalf of its Customers, or as Transferee on behalf of its Customers, but not both.[11] An Agent Clearing Member wishing to act as both Transferee and Transferor on behalf of its Customers currently must establish separate borrowing and lending Agent Clearing Member Customer Omnibus Accounts. As a result, the activity within any Agent Clearing Member Customer Omnibus Account contains only ''long'' or ''short'' positions, and there is no offset or netting for margin and Clearing Fund purposes. The Agent Clearing Member Customer Omnibus Accounts are therefore effectively margined on a ''gross'' basis.

NSCC proposes to amend the NSCC Rules to adopt a new Agent Clearing Member ''net margin'' account option for Agent Clearing Members in the SFT Clearing Service (as proposed, the ''Agent Clearing Member Customer Net Margin Account''), which would contain activity where the Agent Clearing Member may be acting both as Transferor on behalf of its Customers and as Transferee on behalf of its Customers. The proposed Agent Clearing Member Customer Net Margin Accounts would also be margined in accordance with Procedure XV and Section 12(b) of Rule 56 of the NSCC Rules. However, unlike the current Agent Clearing Member Customer Omnibus Accounts, the proposed Agent Clearing Member Customer Net Margin Accounts would allow for the offset and

[3] Capitalized terms not defined herein shall have the meaning assigned to such terms in the NSCC Rules, *available at www.dtcc.com/legal/rules-and-procedures.*

[4] *See* Securities Exchange Act Release No. 95011 (May 31, 2022), 87 FR 34339 (June 6, 2022) (SR–NSCC–2022–003) (Order Approving Proposed Rule Change to Introduce Central Clearing for Securities Financing Transaction Clearing Service). NSCC also filed the proposal as advance notice SR–NSCC–2022–801. *See* Securities Exchange Act Release No. 94998 (May 27, 2022), 87 FR 33528 (June 2, 2022) (SR–NSCC–2022–801) (Notice of No Objection to Advance Notice to Introduce Central Clearing for Securities Financing Transaction Clearing Service).

[5] *See id.* and NSCC Rule 2C (Sponsoring Members and Sponsored Members), *supra* note 3.

[6] *See supra* note 4 and NSCC Rule 2D (Agent Clearing Members), *supra* note 3.

[7] *See supra* note 4 and Section 1 of NSCC Rule 56 (Securities Financing Transaction Clearing Service), *supra* note 3.

[8] *See* NSCC Rule 1 (Definitions and Descriptions), *supra* note 3.

[9] *See* Section 5(b) of NSCC Rule 2D (Agent Clearing Members) and Section 16(b) of NSCC Rule 56 (Securities Financing Transaction Clearing Service), *supra* note 3.

[10] *See* Section 12 of NSCC Rule 56 (Securities Financing Transaction Clearing Service) and Procedure XV (Clearing Fund Formula and Methodology) of the NSCC Rules, *supra* note 3.

[11] *See* Section 16(b) of NSCC Rule 56 (Securities Financing Transaction Clearing Service), *supra* note 3.

netting of positions for margin and Clearing Fund purposes, resulting in reduced margin requirements that would be more similar to the margin requirements of the SFT Accounts maintained by Members for their own proprietary activity. The Agent Clearing Member would, however, remain fully liable for the performance of all obligations to NSCC arising in connection with Agent Clearing Member Transactions as with the existing Agent Clearing Member Customer Omnibus Accounts.

Proposed Changes

NSCC proposes to amend the NSCC Rules to adopt new Agent Clearing Member Customer Net Margin Accounts for its SFT Clearing Service. NSCC Members and other market participants have expressed interest in NSCC offering a net margin account option for SFT Members and their Customers that is similar to the Agent Clearing Service offered by NSCC's affiliate clearing agency, Fixed Income Clearing Corporation (''FICC'').[12] The proposed rule change would provide an additional way for Agent Clearing Members and their Customers to access NSCC's SFT Clearing Service while providing enhanced margin and capital efficiency for users of the service, similar to the benefits offered by FICC's Agent Clearing Service. The proposed rule change would further promote the alignment of buyside access models across central counterparties (''CCPs'') and facilitate broader access to clearance and settlement services for Members and their Customers.

The proposed Agent Clearing Member Customer Net Margin Accounts would be offered in addition to, but would not replace, NSCC's existing Agent Clearing Member Customer Omnibus Accounts, which do not allow for netting within or across accounts and are margined on a gross basis for margin and Clearing Fund purposes (hereinafter referred to as ''Agent Clearing Member Customer Gross Margin Accounts'').[13]

The proposed Agent Clearing Member Customer Net Margin Accounts would be governed by NSCC's existing Rules for Agent Clearing Members (NSCC Rule 2D) and the SFT Clearing Service (NSCC Rule 56) and would be margined and risk managed in the same manner as a Member's proprietary SFT Account activity at NSCC. However, NSCC would make several modifications and clarifications to the NSCC Rules to (i) reflect the establishment and maintenance of the new accounts; (ii) clarify requirements for the submission of Agent Clearing Member Transactions; and (iii) clarify the netting and close-out treatment of the new Agent Clearing Member Customer Net Margin Accounts as compared to NSCC's existing Agent Clearing Member Customer Omnibus Accounts. The proposed rule change is discussed in detail below.

Proposed Changes to Definitions and Descriptions

NSCC proposes to add new defined terms to NSCC Rule 1 (Definitions and Descriptions) to reflect the adoption of the proposed Agent Clearing Member Customer Net Margin Accounts. Specifically, NSCC would add a new defined term ''Agent Clearing Member Customer Net Margin Account'' to mean an Agent Clearing Member Customer Omnibus Account that may contain activity where the Agent Clearing Member is acting both as Transferor and as Transferee on behalf of its Customers. NSCC would also add a new defined term ''Agent Clearing Member Customer Gross Margin Account'' to mean an Agent Clearing Member Customer Omnibus Account that may only contain activity where the Agent Clearing Member is acting as Transferor on behalf of its Customers, or as Transferee on behalf of its Customers, but not both.[14]

Additionally, NSCC would modify the definition of the existing term ''Agent Clearing Member Customer Omnibus Account'' to clarify that, as proposed, an Agent Clearing Member Customer Omnibus Account may be maintained as either an Agent Clearing Member Customer Gross Margin Account or an Agent Clearing Member Customer Net Margin Account.

Proposed Changes Related to Submission of Agent Clearing Member Transactions

NSCC proposes to modify the NSCC Rules to provide additional clarity regarding the requirements for submitting Agent Clearing Member Transaction data for Agent Clearing Member Customer Omnibus Accounts, including both Agent Clearing Member Customer Gross Margin Accounts and the proposed Agent Clearing Member Customer Net Margin Accounts.

NSCC would modify Section 5(a) of NSCC Rule 2D (Agent Clearing Members) to clarify that Agent Clearing Members would be permitted to submit for novation Agent Clearing Member Transactions entered into by one or more Customers on whose behalf the Agent Clearing Member is acting as agent. Currently, Section 5(a) of NSCC Rule 2D provides that an Agent Clearing Member may submit transactions ''entered into by the Agent Clearing Member as agent on behalf of one or more Customers.'' The proposed rule change would clarify that NSCC would accept for novation any Agent Clearing Member Transactions, regardless of whether such transactions are entered into by (i) the Agent Clearing Member on behalf of a Customer or (ii) by the Customer itself. In either case, however, the SFT trade data would be submitted for clearing to NSCC by an Approved SFT Submitter acting on behalf of the Agent Clearing Member.

In addition, NSCC would update Section 5(b) of NSCC Rule 2D to clarify that an Agent Clearing Member may elect to maintain one or more Agent Clearing Member Customer Gross Margin Accounts or Agent Clearing Member Customer Net Margin Accounts. The proposed rule change would conform with the proposed changes to the definition of Agent Clearing Member Customer Omnibus Account, as discussed above.

NSCC also proposes to add new Section 4(g) of Rule 56 concerning the submission of Agent Clearing Member Transactions. The proposed rule change would require that, when submitting an SFT to NSCC, the SFT transaction data shall designate the account in which the SFT shall be recorded, and that any such designation shall constitute a representation by the Agent Clearing Member to NSCC that the SFT is of a type that may be recorded in such account in accordance with the NSCC Rules. NSCC notes that an account designation is already a required input for the submission of SFT transaction data. The proposed rule change would clarify this requirement and help to ensure that Members are submitting appropriate SFT activity into their designated account types.

Proposed Changes Related to Netting, Close-Out and Default Management

Finally, NSCC proposes to update the NSCC Rules to clarify the netting and close-out treatment of Agent Clearing Member Customer Omnibus Accounts in the event of an Agent Clearing Member default and, in particular, the

[12] *See* Securities Exchange Act Release No. 101694 (Nov. 21, 2024), 89 FR 93784 (Nov. 27, 2024) (SR–FICC–2024–005) (Order Approving a Proposed Rule Change, as Modified by Partial Amendment No. 1, to Modify the GSD Rules to Facilitate Access to Clearance and Settlement of All Eligible Secondary Market Transactions in U.S. Treasury Securities).

[13] *See supra* note 11 and associated text.

[14] The proposed definition would reflect the current description of activity maintained in Agent Clearing Member Customer Omnibus Accounts in Section 16(b) of NSCC Rule 56 (Securities Financing Transaction Clearing Service). *See supra* note 11.

netting and close-out of activity in the proposed Agent Clearing Member Customer Net Margin Accounts.

First, NSCC proposes to update Sections 9(c) and 10(b) of NSCC Rule 2D to clarify that, when NSCC ceases to act for an Agent Clearing Member in its capacity as an Agent Clearing Member, NSCC would terminate the ability of such Agent Clearing Member to submit Agent Clearing Member Transactions for all of its Customers; however, any Agent Clearing Member Transactions which have been novated by NSCC shall continue to be processed by NSCC. NSCC notes that under Sections 9(c) and 10(b) of NSCC Rule 2D, NSCC has existing authority to decline to accept or process data from the Agent Clearing Member, including Agent Clearing Member Transactions, in the event of a cease to act scenario. The proposed rule change would simply further clarify actions that NSCC may take in such a scenario.

In addition, the proposed rule change would provide that, in the event of a cease to act, NSCC, in its sole discretion, would determine whether to (i) close out open Agent Clearing Member Transactions or (ii) permit such Agent Clearing Member Transactions to be settled.[15] Currently, the NSCC Rules discuss only NSCC's ability to close out open Agent Clearing Member Transactions. NSCC believes that having the option to permit such Agent Clearing Member Transactions to settle would enhance its default management processes by allowing for the settlement of Agent Clearing Member Transactions, rather than requiring NSCC to take market action to close out such positions, if circumstances permit.

NSCC would also modify Section 14(b) of NSCC Rule 56 concerning cease to act procedures for SFT Members with open SFTs to clarify the profit and loss (''P&L'') netting treatment for the proposed Agent Clearing Member Customer Net Margin Accounts and related treatment for Agent Clearing Member Customer Gross Margin Accounts and Sponsored Member Sub-Accounts. Specifically, NSCC would add new rule text to Section 14(b) of NSCC Rule 56 providing that, in determining NSCC's loss or profit resulting from the close-out of SFT Positions established in any Sponsored Member Sub-Account or Agent Clearing Member Customer Omnibus Account, NSCC may (i) in the case of a Sponsored Member Sub-Account, net the SFT Positions in such Sponsored Member Sub-Account; (ii) in the case of an Agent Clearing Member Customer Net Margin Account, net the positions in such account as well as the positions in any other Agent Clearing Member Customer Net Margin Account; and (iii) in the case of an Agent Clearing Member Customer Gross Margin Account, not net the positions in the account. NSCC notes that these proposed changes concerning Sponsored Members and Sponsored Member Sub-accounts are clarifying and organizational in nature and are not intended to substantively change any rights, requirements or obligations associated with such accounts.

NSCC also proposes to clarify its general authority to close out offsetting SFT Long and Short Positions in the same SFT Security without taking market action to close such positions. The proposed rule change would provide that, without limiting NSCC's rights in the NSCC Rules, NSCC may decline to take market action to the extent that both SFT Long Position(s) and SFT Short Position(s) are established in respect of the same SFT Security in relation to a Defaulting SFT Member or its Sponsored Members or Customers, as applicable. In such a situation, the proposed rule would provide that NSCC may determine loss or profit resulting from the close-out of such SFT Positions through its other market actions or by reference to market data. In such circumstances, the proposed rule change would allow NSCC to avoid incurring the costs or risks of market action with respect to offsetting SFT Positions when closing out the positions of a Defaulting SFT Member or its Sponsored Members or Customers.

The proposed rule change is primarily intended to clarify the netting and close-out actions that NSCC may take in the event of an Agent Clearing Member default. Specifically, the proposed rule change would clarify that for purposes of determining P&L in a close-out, NSCC would net any positions in the new proposed Agent Clearing Member Customer Net Margin Account within such account as well as with the positions in any other Agent Clearing Member Customer Net Margin Account. However, NSCC would not net positions in any Agent Clearing Member Customer Gross Margin Account, either within the account or across accounts, to preserve the ''gross'' vs. ''net'' nature of the Agent Clearing Member Customer Gross Margin Account. The proposed rule change would also provide additional clarification within Section 14(b) of NSCC Rule 56 concerning existing netting treatment in the NSCC Rules for Sponsored Member Sub-Accounts.

Finally, NSCC would make other drafting improvements and clarifications in Section 14 of NSCC Rule 56, which do not materially affect the substance of the NSCC Rules. For example, the proposed rule change would further clarify in Section 14 of NSCC Rule 56 that any Sponsored Member Transactions or Agent Clearing Member Transactions for which a Defaulting SFT Member is the Sponsoring Member or Agent Clearing Member, respectively, and which have been novated to NSCC shall continue to be processed by NSCC. It would also further clarify, as described above, that NSCC would have discretion to determine whether to close out the SFT Positions established in an SFT Member's Sponsored Member Sub-Account and Agent Clearing Member Customer Omnibus Account (if any) or permit the relevant Sponsored Member Transactions or Agent Clearing Member Transactions to be settled.

2. Statutory Basis

NSCC believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a registered clearing agency. Specifically, NSCC believes that the proposed rule change is consistent with Section 17A(b)(3)(F) of the Act[16] and Rules 17ad–22(e)(6), (13), (19), (21) and (23) thereunder[17] for the reasons set forth below.

Consistency With Section 17A(b)(3)(F)

Section 17A(b)(3)(F) of Act[18] requires, in part, that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions, and to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible. The proposed rule change would adopt a new Agent Clearing Member Customer Net Margin Account option for Agent Clearing Members in the SFT Clearing Service. The proposed Agent Clearing Member Customer Net Margin Accounts would be governed by the existing NSCC Rules for Agent Clearing Members (NSCC Rule 2D) and the SFT Clearing Service (NSCC Rule 56), with certain modifications to the NSCC Rules to (i) reflect the establishment and

[15] NSCC would also make related, conforming changes to Section 14(b)(iii) and (iv) of NSCC Rule 56 (Securities Financing Transaction Clearing Service), which are discussed in further detail below.

[16] 15 U.S.C. 78q–1(b)(3)(F).

[17] 17 CFR 240.17ad–22(e)(6), (13), (19), (21) and (23).

[18] 15 U.S.C. 78q–1(b)(3)(F).

maintenance of the new accounts; (ii) clarify requirements for the submission of Agent Clearing Member Transactions; and (iii) clarify the netting and close-out treatment of the new Agent Clearing Member Customer Net Margin Accounts as compared to NSCC's existing Agent Clearing Member Customer Omnibus Accounts.

The proposed rule change is designed to encourage and facilitate the utilization of NSCC's SFT Clearing Service by a greater number of market participants. The proposed changes are intended to extend the benefits of central clearing to a broader segment of the SFT market, particularly to firms that would offer or participate through NSCC's SFT Customer Clearing Service using the proposed Agent Clearing Member Customer Net Margin Accounts. The proposed rule change would promote the central clearing and settlement of SFTs by providing an additional way for Agent Clearing Members and their Customers to access NSCC's SFT Clearing Service that would provide enhanced margin and capital efficiency for users of the service. Bringing more SFTs into central clearing would promote the prompt and accurate clearance and settlement of such transactions and provide benefits to NSCC's participants and the broader market, such as a reduction in the amount of counterparty credit risk in the SFT market through the application of NSCC's guaranty, risk management and default management rules and procedures.

The proposed rule change would incorporate the new Agent Clearing Member Customer Net Margin Accounts into NSCC's existing risk management framework. The Agent Clearing Member Transactions submitted within the proposed Agent Clearing Member Customer Net Margin Accounts would be margined in accordance with Procedure XV and Section 12(b) of Rule 56 of the NSCC Rules, in the same manner as a Member's proprietary SFT Account activity at NSCC, and would be subject to the same trade acceptance, novation, risk management and operational rules and safeguards as SFT transactions submitted within other account types under NSCC's SFT Clearing Service.[19] Furthermore, Agent Clearing Members utilizing the proposed Agent Clearing Member Customer Net Margin Accounts would be subject to the same existing membership standards and member monitoring requirements that are currently applicable to Agent Clearing Members under the NSCC Rules. The proposed rule changes would, therefore, help to assure the safeguarding of securities and funds which are in the custody and control of NSCC or for which it is responsible, by minimizing the potential for an Agent Clearing Member default or, in the event of a default, any associated default losses, thereby reducing potential risk and losses to NSCC and non-defaulting Members.

NSCC therefore believes the proposed rule change is designed to promote the prompt and accurate clearance and settlement of securities transactions, and to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible, in accordance with Section 17A(b)(3)(F) of Act.

Consistency With Rule 17ad–22(e)(6)

Rule 17ad–22(e)(6)(i)[20] under the Act requires that each covered clearing agency that provides CCP services 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, among other things, considers, and produces margin levels commensurate with, the risks and particular attributes of each relevant product, portfolio, and market. As discussed above, the Agent Clearing Member Transactions submitted within the proposed Agent Clearing Member Customer Net Margin Accounts would be margined in accordance with Procedure XV and Section 12(b) of Rule 56 of the NSCC Rules and would be margined in the same manner as a Member's proprietary SFT Account activity at NSCC. NSCC uses a risk-based Clearing Fund formula that accounts for a variety of risk factors through the application of a number of components, each described in Procedure XV and Section 12 of Rule 56 of the NSCC Rules. NSCC's margin methodology is designed to consider, and produce margin levels commensurate with, the risks and particular attributes of each relevant product, including SFTs cleared by NSCC. As a result, NSCC believes that the proposed changes are reasonably designed to allow NSCC to consider, and produce margin levels commensurate with, the risks and particular attributes of relevant products, portfolios, and markets, in accordance with Rule 17ad–22(e)(6)(i) under the Act.

Consistency With Rule 17ad–22(e)(13)

Rule 17ad–22(e)(13)[21] under the Act requires that each covered clearing agency establish, implement, maintain, and enforce written policies and procedures reasonably designed to, among other things, ensure the covered clearing agency has the authority and operational capacity to take timely action to contain losses and liquidity demands and continue to meet its obligations. The proposed Agent Clearing Member Customer Net Margin Accounts would be subject to NSCC's existing default management rules and procedures, with certain modifications designed to (i) clarify the P&L netting treatment of proposed Agent Clearing Member Customer Net Margin Accounts in a Member default; (ii) enhance NSCC's default management processes for the Customer Clearing Service by allowing for the settlement of Agent Clearing Member Transactions, rather than requiring NSCC to take market action to close out such positions, if circumstances permit; and (iii) clarifying NSCC's general authority to close out offsetting SFT Long and Short Positions in the same SFT Security without taking market action. NSCC believes that its current default management rules and procedures, as modified by the proposed rule change, are designed to ensure that NSCC has the authority and operational capacity to take timely action to contain losses and liquidity demands and continue to meet its obligations in the event of an SFT Member default (and particularly, an Agent Clearing Member default). NSCC therefore believes the proposed rule change is reasonably designed to comply with the requirements of Rule 17ad–22(e)(13) under the Act.

Consistency With Rule 17ad–22(e)(19)

Rule 17ad–22(e)(19)[22] under the Act requires that each covered clearing agency establish, implement, maintain, and enforce written policies and procedures reasonably designed to identify, monitor, and manage the material risks to the covered clearing agency arising from arrangements in which firms that are indirect participants in the covered clearing agency rely on the services provided by direct participants to access the covered clearing agency's payment, clearing, or settlement facilities. As discussed above, Agent Clearing Members wishing to utilize the proposed Agent Clearing

[19] *See* Section 12 of NSCC Rule 56 (Securities Financing Transaction Clearing Service) and Procedure XV (Clearing Fund Formula and Methodology) of the NSCC Rules, *supra* note 3.

[20] 17 CFR 240.17ad–22(e)(6)(i).

[21] 17 CFR 240.17ad–22(e)(13).

[22] 17 CFR 240.17ad–22(e)(19).

Member Customer Net Margin Accounts would be subject to the same existing membership standards and member monitoring requirements that are currently applicable to Agent Clearing Members under the NSCC Rules. Additionally, the proposed Agent Clearing Member Customer Net Margin Accounts would be margined and risk managed in the same manner as a Member's proprietary SFT Account activity at NSCC and would be subject to the same trade acceptance, novation, risk management and operational rules and safeguards as SFT transactions submitted within other account types under NSCC's existing SFT Clearing Service (including the Agent Clearing Member and Sponsoring/Sponsored Member services). Accordingly, NSCC believes that its existing Rules related to the Customer Clearing Service, along with the proposed modifications discussed herein, would continue to be reasonably designed to identify, monitor, and manage the material risks to NSCC from clearing Customer activity on a net margin basis within its Customer Clearing Service, in accordance with Rule 17ad–22(e)(19) under the Act.

Consistency With Rule 17ad–22(e)(21)

Rule 17ad–22(e)(21)[23] under the Act requires that each covered clearing agency establish, implement, maintain, and enforce written policies and procedures reasonably designed to, among other things, be efficient and effective in meeting the requirements of its participants and the markets it serves. As discussed above, NSCC Members and other market participants have expressed interest in NSCC offering a net margin account option for SFT Members and their Customers that is similar to the Agent Clearing Service offered by NSCC's affiliate clearing agency, FICC, which would provide enhanced margin and capital efficiency for users of the SFT Clearing Service.[24] The proposed rule change would offer a new way for Agent Clearing Members and their Customers to access NSCC's SFT Clearing Service through the use of Agent Clearing Member Customer Net Margin Accounts in response to this feedback. NSCC therefore believes the proposed rule change is reasonably designed to meet the requirements of NSCC's participants and the markets it serves, consistent with the requirements of Rule 17ad–22(e)(21) under the Act.

Consistency With Rule 17ad–22(e)(23)

Rule 17ad–22(e)(23)(i)[25] under the Act requires that each covered clearing agency establish, implement, maintain, and enforce written policies and procedures reasonably designed to publicly disclose all relevant rules and material procedures, including key aspects of its default rules and procedures. As noted above, the proposed Agent Clearing Member Customer Net Margin Accounts would be subject to NSCC's existing default management rules and procedures, with certain modifications designed to (i) clarify the P&L netting treatment of proposed Agent Clearing Member Customer Net Margin Accounts in an Agent Clearing Member default; (ii) enhance NSCC's default management processes for the Customer Clearing Service by allowing for the settlement of Agent Clearing Member Transactions; and (iii) clarify NSCC's general authority to close out offsetting SFT Long and Short Positions in the same SFT Security without taking market action. These key aspects of NSCC's default management rules and procedures would be publicly set forth in the NSCC Rules. NSCC therefore believes the proposed rule change is reasonably designed to publicly disclose all relevant rules and material procedures, including key aspects of its default rules and procedures, in accordance with the requirements of Rule 17ad–22(e)(23)(i) under the Act.

For the reasons set forth above, NSCC believes the proposed rule change is consistent with Section 17A(b)(3)(F) of the Act and Rules 17ad–22(e)(6), (13), (19), (21) and (23) thereunder.

(B) Clearing Agency's Statement on Burden on Competition

Section 17A(b)(3)(I) of Act[26] requires that the rules of a clearing agency do not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. NSCC does not believe the proposed rule change would present any burden or have any impact on competition. The proposed rule change would adopt a new net margin account option for Agent Clearing Members in NSCC's SFT Clearing Service. The proposed Agent Clearing Member Customer Net Margin Accounts would be available to all Agent Clearing Members and their customers that wish to use such accounts. The proposed Agent Clearing Member Customer Net Margin Accounts would be offered in addition to, and would not replace, the existing ''gross margin'' account option, which would also continue to be available to Agent Clearing Members and their customers. NSCC therefore believes that the proposed rule change would promote competition by expanding access types and account models available to users of its SFT Clearing Service. The proposed rule change would not disadvantage or favor any particular Member in relationship to another Member or unfairly inhibit access to NSCC's services. As a result, NSCC does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

NSCC has not received or solicited any written comments relating to this 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.

NSCC 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:

[23] 17 CFR 240.17ad–22(e)(21).

[24] *See supra* note 12.

[25] 17 CFR 240.17ad–22(e)(23)(i).

[26] 15 U.S.C. 78q–1(b)(3)(I).

(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–NSCC–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–NSCC–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 (*http://www.sec.gov/rules/sro.shtml*). Copies of the filing will be available for inspection and copying at the principal office of NSCC and on DTCC's website (*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–NSCC–2026–005 and should be submitted on or before April 20, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[27]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026–06043 Filed 3–27–26; 8:45 am]

BILLING CODE 8011–01–P

[27] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[OMB Control No. 3235–0670]

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Extension: Rule 201 and Rule 200(g) of Regulation SHO

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (SEC or ''Commission'') is submitting to the Office of Management and Budget (''OMB'') this request for extension of the proposed collection of information provided for in Rule 201 (17 CFR 242.201) and Rule 200(g) (17 CFR 242.200(g)) under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*).

Rule 201 is a short sale-related circuit breaker rule that, if triggered, imposes a restriction on the prices at which securities may be sold short. Rule 200(g) provides that a broker-dealer may mark certain qualifying sell orders ''short exempt.'' The information collected under Rule 201's written policies and procedures requirement applicable to trading centers, the written policies and procedures requirement of the broker-dealer provision of Rule 201(c), the written policies and procedures requirement of the riskless principal provision of Rule 201(d)(6), and the ''short exempt'' marking requirement of Rule 200(g) enable the Commission and self-regulatory organizations (''SROs'') to examine and monitor for compliance with the requirements of Rule 201 and Rule 200(g).

In addition, the information collected under Rule 201's written policies and procedures requirement applicable to trading centers helps ensure that trading centers do not execute or display any impermissibly priced short sale orders, unless an order is marked ''short exempt,'' in accordance with the Rule's requirements. Similarly, the information collected under the written policies and procedures requirement of the broker-dealer provision of Rule 201(c) and the riskless principal provision of Rule 201(d)(6) helps to ensure that broker-dealers comply with the requirements of these provisions. The information collected pursuant to the ''short exempt'' marking requirement of Rule 200(g) also provides an indication to a trading center when it must execute or display a short sale order without regard to whether the short sale order is at a price that is less than or equal to the current national best bid.

It is estimated that SRO and non-SRO respondents registered with the Commission and subject to the collection of information requirements of Rule 201 and Rule 200(g) incur an aggregate annual burden of 1,446,553 hours to comply with the Rules and an aggregate annual external cost of $248,000.

Any records generated in connection with Rule 201's requirements that trading centers and broker-dealers (with respect to the broker-dealer and riskless principal provisions) establish written policies and procedures must be preserved in accordance with, and for the periods specified in, Exchange Act Rules 17a–1 for SRO trading centers and 17a–4(e)(7) for non-SRO trading centers and registered broker-dealers. The amendments to Rule 200(g) and Rule 200(g)(2) do not contain any new record retention requirements. All registered broker-dealers that are subject to the amendments are currently required to retain records in accordance with Rule 17a–4(e)(7) under the Exchange Act.

Compliance with Rule 201 and Rule 200(g) is mandatory. We expect that the information collected pursuant to Rule 201's required policies and procedures for trading centers will be communicated to the members, subscribers, and employees (as applicable) of all trading centers. In addition, the information collected pursuant to Rule 201's required policies and procedures for trading centers will be retained by the trading centers and will be available to the Commission and SRO examiners upon request, but not subject to public availability. The information collected pursuant to Rule 201's broker-dealer provision and the riskless principal exception will be retained by the broker-dealers and will be available to the Commission and SRO examiners upon request, but not subject to public availability. The information collected pursuant to the ''short exempt'' marking requirements in Rule 200(g) and Rule 200(g)(2) will be submitted to trading centers and will be available to the Commission and SRO examiners upon request. The information collected pursuant to the ''short exempt'' marking requirement may be publicly available because it may be published, in a form that would not identify individual broker-dealers, by SROs that publish on their internet websites aggregate short selling volume data in each individual equity security for that day and, on a one-month

delayed basis, information regarding individual short sale transactions in all exchange-listed equity securities.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB Control Number.

The public may view and comment on this information collection request at: *https://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=202601-3235-011* or email comment to *MBX.OMB.OIRA.SEC_desk_officer@omb.eop.gov* within 30 days of the day after publication of this notice, by April 30, 2026.

Dated: March 25, 2026.

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026–06035 Filed 3–27–26; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 36070]

Multi-Class ETF Fund Exemptive Relief Under the Investment Company Act of 1940

March 25, 2026.

AGENCY: Securities and Exchange Commission (''Commission'' or ''SEC'').

ACTION: Notice.

Notice of applications under section 6(c) of the Investment Company Act of 1940 (''Act''), each for an exemption from sections 2(a)(32), 5(a)(1), 18(f)(1), 18(i), 22(d) and 22(e) of the Act and rule 22c–1 under the Act and under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and 17(a)(2) of the Act.

SUMMARY OF APPLICATIONS: In each case, the Applicants listed in the relevant paragraph below request an order (''Order'') that would permit a registered open-end management investment company to offer one class of exchange-traded shares that operates as an exchange-traded fund (an ''ETF Class,'' and such shares, ''ETF Shares'') and one or more classes of shares that are not exchange-traded (each such class, a ''Mutual Fund Class,'' and such shares, ''Mutual Fund Shares,'' and each such fund, a ''Multi-Class ETF Fund''). Each Order would provide Multi-Class ETF Funds with two broad categories of relief: (i) the relief necessary to permit standard exchange-traded fund (''ETF'') operations consistent with Rule 6c–11 under the Act (''ETF Operational Relief'') and (ii) the relief necessary for a fund to offer an ETF Class and one or more Mutual Fund Classes (''ETF Class Relief'').

HEARING OR NOTIFICATION OF HEARING: An order granting the relevant application referenced below will be issued unless the SEC orders a hearing on that application. Interested persons may request a hearing on any application by emailing the SEC's Secretary at *Secretarys-Office@sec.gov* and serving the relevant applicant with a copy of the request by email, if an email address is listed for the relevant applicant below, or personally or by mail, if a physical address is listed for the relevant applicant below. The email should include the file number referenced below. Hearing requests should be received by the SEC by 5:30 p.m., Eastern time, on April 20, 2026, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Pursuant to Rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary at *Secretarys-Office@sec.gov*.

ADDRESSES: The Commission: *Secretarys-Office@sec.gov*.

FOR FURTHER INFORMATION CONTACT: The relevant person listed under each application below, at (202) 551–6825 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: For Applicants' representations, legal analysis, and conditions, please refer to Applicants' application, which may be obtained via the Commission's website by searching for the applicable file number listed below, or for an applicant using the Company name search field, on the SEC's EDGAR system. The SEC's EDGAR system may be searched at *https://www.sec.gov/search-filings.* You may also call the SEC's Office of Investor Education and Advocacy at (202) 551–8090.

Advisors Series Trust, et al. [File No. 812–15841]

Applicants: Advisors Series Trust and Pzena Investment Management, LLC.

Filing Dates: The application was filed on June 27, 2025 and amended on October 14, 2025.

Addresses: Geoff Bauer, Pzena Investment Management, LLC, *bauer@pzena.com;* Michael W. Mundt, Esq., Stradley Ronon Stevens & Young, LLP, *mmundt@stradley.com.*

For Further Information Contact: Deepak T. Pai, Senior Counsel, or Kaitlin C. Bottock, Assistant Chief Counsel.

Axonic Funds, et al. [File No. 812–15934]

Applicants: Axonic Capital LLC and Axonic Funds.

Filing Date: The application was filed on November 4, 2025.

Addresses: Stephen T. Cohen, Esq. and Adam T. Teufel, Esq., Dechert LLP, *stephen.cohen@dechert.com* and *adam.teufel@dechert.com;* Jeffrey Skinner, Esq., Kilpatrick Townsen & Stockton, LLP, *JSkinner@ktslaw.com.*

For Further Information Contact: Asaf Barouk, Senior Counsel, or Trace W. Rakestraw, Senior Special Counsel.

Cantor Select Portfolios Trust, et al. [File No. 812–15933]

Applicants: Cantor Select Portfolios Trust and Cantor Fitzgerald Investment Advisors, L.P.

Filing Date: The application was filed on November 4, 2025 and amended on March 13, 2026.

Addresses: Tanya L. Boyle, Esq. and Terrence O. Davis, Esq., DLA Piper LLP (US), *tanya.boyle@us.dlapiper.com* and *terrence.davis@us.dlapiper.com.*

For Further Information Contact: Asaf Barouk, Senior Counsel, or Trace W. Rakestraw, Senior Special Counsel.

Columbia Funds Series Trust, et al. [File No. 812–15804]

Applicants: Columbia Funds Series Trust, Columbia Funds Series Trust I, Columbia Funds Series Trust II, Columbia Acorn Trust, Columbia ETF Trust I, Columbia ETF Trust II and Columbia Management Investment Advisers, LLC.

Filing Dates: The application was filed on May 19, 2025 and amended on June 26, 2025, and October 24, 2025.

Addresses: Marc Zeitoun, Ryan C. Larrenaga, Esq. and Joseph D'Alessandro, Esq., 290 Congress Street, Boston, MA 02210; and Brian D. McCabe, Esq., Ropes & Gray LLP, *Brian.McCabe@ropesgray.com.*

For Further Information Contact: Laura L. Solomon, Senior Counsel, Trace W. Rakestraw, Senior Special Counsel.

Delaware Group Adviser Funds, et al. [File No. 812–15918]

Applicants: Delaware Group Adviser Funds, Delaware Group Cash Reserve, Delaware Group Equity Funds II, Delaware Group Equity Funds IV, Delaware Group Equity Funds V, Delaware Group Global & International Funds, Delaware Group Government

Fund, Delaware Group Income Funds, Delaware Group Limited-Term Government Funds, Delaware Group State Tax-Free Income Trust, Delaware Group Tax Free Fund, Delaware Pooled Trust, Ivy Funds, Voyageur Insured Funds, Voyageur Mutual Funds, Voyageur Mutual Funds II, Voyageur Tax Free Funds, Macquarie ETF Trust, and Delaware Management Company.

Filing Date: The application was filed on October 16, 2025.

Addresses: David F. Connor, Esq., Macquarie Asset Management, 100 Independence, 610 Market Street, Philadelphia, PA 19106–2354; Bruce G. Leto, Esq. and Michael W. Mundt, Esq., Stradley Ronon Stevens & Young, LLP, *BLeto@stradley.com* and *MMundt@stradley.com;* and Sean Graber, Morgan, Lewis & Bockius LLP, *sean.graber@morganlewis.com.*

For Further Information Contact: Asaf Barouk, Senior Counsel, or Kaitlin C. Bottock, Assistant Chief Counsel.

Diamond Hill Funds, et al. [File No. 812–15909]

Applicants: Diamond Hill Funds and Diamond Hill Capital Management, Inc.

Filing Dates: The application was filed on September 30, 2025 and amended on March 5, 2026.

Addresses: Thomas E. Line, Diamond Hill Funds, 325 John H. McConnell Boulevard, Suite 200, Columbus, OH 43215; Michael V. Wible, Esq., Thompson Hine LLP, *Michael.Wible@ThompsonHine.com.*

For Further Information Contact: Laura L. Solomon, Senior Counsel, or Kaitlin C. Bottock, Assistant Chief Counsel.

Franklin Templeton ETF Trust, et al. [File No. 812–15588]

Applicants: Legg Mason Global Asset Management Trust, Legg Mason Partners Investment Trust, Franklin ETF Trust, Franklin Templeton ETF Trust, Franklin Alternative Strategies Funds, Franklin Mutual Series Funds, Franklin Value Investors Trust, Putnam California Tax Exempt Income Fund, Putnam Convertible Securities Fund, Putnam Diversified Income Trust, Putnam Asset Allocation Funds, Putnam ETF Trust, Putnam Funds Trust, Putnam Focused International Equity Fund, George Putnam Balanced Fund, Putnam Global Health Care Fund, Putnam Global Income Trust, Putnam High Yield Fund, Putnam Income Fund, Putnam International Equity Fund, Putnam Investment Funds, Putnam Large Cap Value Fund, Putnam Massachusetts Tax Exempt Income Fund, Putnam Minnesota Tax Exempt Income Fund, Putnam Mortgage Securities Fund, Putnam New Jersey Tax Exempt Income Fund, Putnam New York Tax Exempt Income Fund, Putnam Ohio Tax Exempt Income Fund, Putnam Pennsylvania Tax Exempt Income Fund, Putnam Sustainable Leaders Fund, Putnam Target Date Funds, Putnam Tax Exempt Income Fund, Putnam Tax-Free Income Trust, Franklin California Tax Free Trust, Franklin California Tax-Free Income Fund, Franklin Custodian Funds, Franklin Federal Tax-Free Income Fund, Franklin Fund Allocator Series, Franklin Global Trust, Franklin Gold & Precious Metals Fund, Franklin High Income Trust, Franklin Investors Securities Trust, Franklin Managed Trust, Franklin Municipal Securities Trust, Franklin New York Tax-Free Income Fund, Franklin New York Tax Free Trust, Franklin Real Estate Securities Trust, Franklin Strategic Series, Franklin Tax-Free Trust, Institutional Fiduciary Trust, Templeton Developing Markets Trust, Templeton Funds, Templeton Global Investment Trust, Templeton Global Smaller Companies Fund, Templeton Growth Fund, Inc., Templeton Income Trust, Templeton Institutional Funds, Western Asset Funds, Inc., Legg Mason Partners Income Trust and Legg Mason Partners Institutional Trust, Franklin Templeton Fund Adviser, LLC, Franklin Advisers, Inc., Franklin Advisory Services, LLC, Franklin Templeton Investment Management Limited, Franklin Mutual Advisers, LLC, K2/D&S Management Co., L.L.C., Franklin Templeton Institutional, LLC, Franklin Templeton Investments Corp., Templeton Asset Management Ltd., Templeton Investment Counsel, LLC, Templeton Global Advisors Limited, Putnam Investment Management, LLC and ClearBridge Investments, LLC.

Filing Dates: The application was filed on June 13, 2024 and amended on July 24, 2025, and October 10, 2025.

Addresses: Alison E. Baur, Franklin Templeton Fund Adviser, LLC, One Franklin Parkway, San Mateo, CA 94403–1906; Bryan Chegwidden, Esq. and Adam M. Schlichtmann, Esq., Ropes & Gray LLP, 1211 Avenue of the Americas, New York, New York 10036.

For Further Information Contact: Christopher D. Carlson, Senior Counsel or Kaitlin C. Bottock, Assistant Chief Counsel.

Goldman Sachs Trust, et al. [File No. 812–15762]

Applicants: Goldman Sachs Trust, Goldman Sachs Trust II, Goldman Sachs ETF Trust, Goldman Sachs ETF Trust II, Goldman Sachs Asset Management, L.P.

Filing Dates: The application was filed on April 23, 2025 and amended on October 15, 2025.

Addresses: Robert Griffith, Esq., Goldman Sachs & Co. LLC, *robert.griffith@gs.com;* Stephen H. Bier, Esq., and Allison M. Fumai, Esq., Dechert LLP, *stephen.bier@dechert.com* and *allison.fumai@dechert.com.*

For Further Information Contact: Christopher D. Carlson, Senior Counsel, or Trace W. Rakestraw, Senior Special Counsel.

Hotchkis and Wiley Funds, et al. [File No. 812–15686]

Applicants: Hotchkis and Wiley Funds and Hotchkis & Wiley Capital Management, LLC.

Filing Dates: The application was filed on January 7, 2025 and amended on April 23, 2025, July 28, 2025, July 29, 2025 and October 15, 2025.

Addresses: Anna Marie Lopez, Hotchkis & Wiley Capital Management, LLC, *anna.marie.lopez@hwcm.com;* and Joseph M. Mannon, Esq., and Nathaniel Segal, Esq., Vedder Price P.C., *jmannon@vedderprice.com* and *nsegal@vedderprice.com.*

For Further Information Contact: Laura L. Solomon, Senior Counsel, and Trace W. Rakestraw, Senior Special Counsel.

Investment Managers Series Trust, et al. [File No. 812–15926]

Applicants: Investment Managers Series Trust and Euro Pacific Asset Management, LLC.

Filing Date: The application was filed on October 27, 2025.

Addresses: Diane Drake, Esq., Investment Managers Series Trust, 235 West Galena Street, Milwaukee, WI 53212, *diane.drake@mfac-ca.com;* Laurie A. Dee, Morgan, Lewis & Bockius LLP, *laurie.dee@morganlewis.com.*

For Further Information Contact: Asaf Barouk, Senior Counsel, or Kaitlin C. Bottock, Assistant Chief Counsel.

Litman Gregory Funds Trust, et al. [File No. 812–15914]

Applicants: IM Global Partner Fund Management, LLC and Litman Gregory Funds Trust.

Filing Date: The application was filed on October 8, 2025, and amended on March 17, 2026.

Addresses: David Hearth, Paul Hastings, LLP, 101 California Street, 48th Floor, San Francisco, CA 94111, *davidhearth@paulhastings.com.*

For Further Information Contact: Asaf Barouk, Senior Counsel, or Kaitlin C. Bottock, Assistant Chief Counsel.

Madison Funds, et al. [File No. 812–15727]

Applicants: Madison Funds, Madison ETFs Trust, and Madison Asset Management, LLC.

Filing Dates: The application was filed on March 21, 2025, and amended on April 18, 2025, June 24, 2025, and October 31, 2025.

Addresses: Steve J. Fredricks, Esq., Madison Funds, Madison ETFs Trust, Madison Asset Management, LLC, 550 Science Drive, Madison, WI 53711; Pamela M. Krill, Esq., Godfrey & Kahn, S.C., *pkrill@gklaw.com.*

For Further Information Contact: Deepak T. Pai, Senior Counsel, or Kaitlin C. Bottock, Assistant Chief Counsel.

Mutual Fund Series Trust, et al. [File No. 812–15852]

Applicants: Mutual Fund Series Trust, Mutual Fund and Variable Insurance Trust, Catalyst Capital Advisors LLC, AlphaCentric Advisors LLC, and Rational Advisors, Inc.

Filing Dates: The application was filed on July 11, 2025 and amended on November 12, 2025 and March 19, 2026.

Addresses: Jennifer Bailey, Mutual Fund Series Trust, Mutual Fund and Variable Insurance Trust, 36 North New York Avenue, Huntington, NY 11743; Parker D. Bridgeport, Esq., Thompson Hine LLP, 41 S High St., Seventeenth Floor, Columbus, Ohio 43215.

For Further Information Contact: Deepak T. Pai, Senior Counsel, or Kaitlin C. Bottock, Assistant Chief Counsel.

Nationwide Mutual Funds, et al. [File No. 812–15920]

Applicants: Nationwide Mutual Funds and Nationwide Fund Advisors.

Filing Date: The application was filed on October 23, 2025.

Addresses: Stephen R. Rimes, Esq., Senior Vice president and Secretary of Nationwide Mutual Funds, One Nationwide Plaza, 1–18–102, Columbus, OH 43215; Prufesh Modhera, Esq., and Michael W. Mundt, Esq., Stradley Ronon Stevens & Young, LLP, *pmodhera@stradley.com* and *mmundt@stradley.com.*

For Further Information Contact: Asaf Barouk, Senior Counsel, or Trace W. Rakestraw, Senior Special Counsel.

Northern Funds, et al. [File No. 812–15573]

Applicants: Northern Funds and Northern Trust Investments, Inc.

Filing Dates: The application was filed on May 14, 2024 and amended on May 2, 2025, July 7, 2025, and October 17, 2025.

Addresses: Michael Mundt, Esq. and Sara Crovitz, Esq., Stradley Ronon Stevens & Young, LLP, *mmundt@stradley.com* and *scrovitz@stradley.com;* Jose J. Del Real, Esq., Northern Trust Investments, Inc., 50 South LaSalle Street, Chicago, Illinois 60603.

For Further Information Contact: Deepak T. Pai, Senior Counsel, or Kaitlin C. Bottock, Assistant Chief Counsel.

Palmer Square Funds Trust, et al. [File No. 812–15677]

Applicants: Palmer Square Funds Trust and Palmer Square Capital Management, LLC.

Filing Dates: The application was filed on December 19, 2024 and amended on April 22, 2025, July 24, 2025, and October 16, 2025.

Addresses: Scott Betz, c/o Palmer Square Capital Management, LLC, *Scott@palmersquarecap.com;* and Joseph M. Mannon and Nathaniel Segal, Vedder Price P.C., *jmannon@vedderprice.com* and *nsegal@vedderprice.com.*

For Further Information Contact: Laura L. Solomon, Senior Counsel, or Kaitlin C. Bottock, Assistant Chief Counsel.

PGIM Investments LLC, et al. [File No. 812–15567]

Applicants: PGIM Investments LLC, The Prudential Investment Portfolios, Inc., Prudential Investment Portfolios 2, Prudential Investment Portfolios 3, Prudential Investment Portfolios 4, Prudential Investment Portfolios 5, Prudential Investment Portfolios 6, Prudential Investment Portfolios 7, Prudential Investment Portfolios 8, Prudential Investment Portfolios 9, Prudential Investment Portfolios, Inc. 10, Prudential Investment Portfolios 12, Prudential Investment Portfolios, Inc. 14, Prudential Investment Portfolios, Inc. 15, Prudential Investment Portfolios 16, Prudential Investment Portfolios, Inc. 17, Prudential Investment Portfolios 18, Prudential Global Total Return Fund, Inc., Prudential Jennison Blend Fund, Inc., Prudential Jennison Mid-Cap Growth Fund, Inc., Prudential Jennison Natural Resources Fund, Inc., Prudential Jennison Small Company Fund, Inc., Prudential National Muni Fund, Inc., Prudential Sector Funds, Inc., Prudential Short-Term Corporate Bond Fund, Inc., Prudential World Fund, Inc., and The Target Portfolio Trust.

Filing Dates: The application was filed on April 19, 2024 and amended on April 17, 2025, June 25, 2025, October 14, 2025, and March 12, 2026.

Addresses: Claudia DiGiacomo, Esq., Chief Legal Officer, PGIM Investments LLC, *claudia.digiacomo@prudential.com;* Jay Spinola, Esq., Willkie Farr & Gallagher LLP, *jspinola@willkie.com.*

For Further Information Contact: Kris Easter Guidroz, Senior Counsel, or Trace W. Rakestraw, Senior Special Counsel.

Principal Funds, Inc., et al. [File No. 812–15592]

Applicants: Principal Funds, Inc., Principal Exchange-Traded Funds, and Principal Global Investors, LLC.

Filing Dates: The application was filed on June 20, 2024 and amended on April 30, 2025, June 27, 2025, October 9, 2025 and October 14, 2025.

Addresses: Adam U. Shaikh, Principal Funds, Inc., 711 High Street, Des Moines, Iowa 50392.

For Further Information Contact: Kris Easter Guidroz, Senior Counsel, or Kaitlin C. Bottock, Assistant Chief Counsel.

RMB Investors Trust, et al. [File No. 812–15851]

Applicants: RMB Investors Trust and Curi Capital, LLC.

Filing Dates: The application was filed on July 11, 2025 and amended on October 17, 2025 and March 3, 2026.

Addresses: Christopher M. Graff, RMB Investors Trust and Curi Capital, LLC, One North Wacker Drive, Suite 3500, Chicago, Illinois 60606; Joseph M. Mannon and Mark A. Quade, Vedder Price P.C., *jmannon@vedderprice.com* and *mquade@vedderprice.com.*

For Further Information Contact: Deepak T. Pai, Senior Counsel, or Kaitlin C. Bottock, Assistant Chief Counsel.

Starboard Investment Trust, et al. [File No. 812–15927]

Applicants: Starboard Investment Trust and Deschutes Portfolio Strategy, LLC d/b/a Matisse Capital.

Filing Dates: The application was filed on October 27, 2025, and amended on March 13, 2026.

Addresses: Tracie Coop, Esq., Starboard Investment Trust, 116 South Franklin Street, Rocky Mount, NC 27804; Terrence Davis, Esq. and Tanya Boyle, Esq., DLA Piper LLP, *terrence.davis@us.dlapiper.com* and *tanya.boyle@us.dlapiper.com.*

For Further Information Contact: Asaf Barouk, Senior Counsel, or Trace W. Rakestraw, Senior Special Counsel.

T. Rowe Price Associates, Inc., et al. [File No. 812–15613]

Applicants: T. Rowe Price Associates, Inc., T. Rowe Price Index Trust, Inc., T.

Rowe Price Integrated Equity Funds, Inc., and T. Rowe Price Exchange-Traded Funds, Inc.

Filing Dates: The application was filed on August 14, 2024 and amended on April 11, 2025, June 20, 2025, October 14, 2025, and February 26, 2026.

Addresses: Sonia P. Kurian, Esq. and Leah Greenstein, T. Rowe Price Associates, Inc., *Sonia.Kurian@troweprice.com* and *Leah.Greenstein@troweprice.com;* Adam T. Teufel, Esq., Dechert LLP, *adam.teufel@dechert.com.*

For Further Information Contact: Deepak T. Pai, Senior Counsel, or Trace W. Rakestraw, Senior Special Counsel.

Tidal Trust I, et al. [File No. 812–15643]

Applicants: Tidal Trust I, Tidal Trust II, Tidal Trust III, Tidal Trust IV, Tidal Trust V, and Tidal Investments LLC.

Filing Dates: The application was filed on October 16, 2024 and amended on April 24, 2025, June 25, 2025, and October 14, 2025.

Addresses: Michael Pellegrino, General Counsel, Tidal Investments LLC, 234 West Florida Street, Suite 203, Milwaukee, WI 53204; Domenick Pugliese, Sullivan & Worcester LLP, *dpugliese@sullivanlaw.com.*

For Further Information Contact: Kris Easter Guidroz, Senior Counsel, or Trace W. Rakestraw, Senior Special Counsel.

Transamerica Funds, et al. [File No. 812–15898]

Applicants: Transamerica Funds and Transamerica Asset Management, Inc.

Filing Dates: The application was filed on September 15, 2025, and amended on October 17, 2025, and March 6, 2026.

Addresses: Dennis Gallagher, Esq. and James Goundrey, Esq., Transamerica Asset Management, Inc., *dennis.gallagher@transamerica.com* and *james.goundrey@transamerica.com;* Paul Raymond, Esq., Morgan Lewis & Bockius, LLP, *paul.raymond@morganlewis.com.*

For Further Information Contact: Asaf Barouk, Senior Counsel, or Kaitlin C. Bottock, Assistant Chief Counsel.

For the Commission, by the Division of Investment Management, under delegated authority.

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026–06021 Filed 3–27–26; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–105081; File No. SR–NasdaqTX–2026–010]

Self-Regulatory Organizations; Nasdaq Texas, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Establish Dual Listing Fees for the Exchange

March 25, 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 March 23, 2026, Nasdaq Texas, LLC (''Nasdaq Texas'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to establish dual listing fees for the Exchange, as described further below. The text of the proposed rule change is available on the Exchange's website at *https://listingcenter.nasdaq.com/rulebook/nasdaqtx/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 Statutory Basis for, the Proposed Rule Change

1. Purpose

On February 27, 2026, the Commission approved Nasdaq Texas' removal of its existing listing rules and establishment of new listing standards.[3] In conjunction with the adopted rules, Nasdaq Texas initially will dually list companies and therefore is proposing to establish listing fees for companies that dually list one of more classes of securities on Nasdaq Texas. Specifically, the Exchange proposes to establish Rule 5920 for dual listing fees.

Proposed Rule 5920(a) will require each company dually listing one or more classes of securities on Nasdaq Texas to pay a single entry fee of $10,000, regardless of the number of classes listed. The Exchange proposes to waive this fee for any company listing on or before December 31, 2026. Any company that is dually listed on Nasdaq Texas during the waiver period and continues to maintain dual listing status on or after January 1, 2027, will be exempt from paying the proposed single entry fee of $10,000 in any subsequent year. Proposed Rule 5920(b) will require a company with one or more classes of securities dually listed on Nasdaq Texas to pay a single annual fee of $2,500, regardless of the number of classes listed, assessed on January 1st of each year. If a company is listed on January 1st, the company will owe the annual listing fee for the entire year, even if the company delists all its classes of securities or is removed before the company is billed or pays the fee for that year. In the first year of a company's listing of one or more classes of securities, this fee will be prorated based on the month of listing. The Exchange is also proposing to waive this fee until December 31, 2026. All companies dually listed on Nasdaq Texas, including companies listed during the waiver period will be subject to the annual fee on or after January 1, 2027. The Exchange's costs to service these listings include conducting the required associated regulatory oversight, and Nasdaq Texas' advocacy efforts on behalf of the public company model. In establishing these fees, Nasdaq Texas also considered the competitive atmosphere in which the Exchange operates. The Exchange believes that the benefits issuers will receive from their affiliation with Nasdaq Texas through a dual listing are consistent with the proposed fees. The Exchange hopes that by waiving the proposed fees until December 31, 2026, it will incentivize companies to dually list their securities on the recently established Nasdaq Texas.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 104907 (Feb. 27, 2026), 91 FR 10657 (March 4, 2026) (approving SR–BX–2026–004).

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[4] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[5] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

As a preliminary matter, Nasdaq Texas notes that the Exchange operates in a highly competitive marketplace for the listing of companies.[6] The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. The Exchange believes that the ever-shifting market share among exchanges with respect to new listings and the transfer of existing listings between competitor exchanges demonstrates that issuers can choose different listing markets in response to fee changes. Moreover, new competitors can enter the space, including existing exchanges without listing programs.[7] Accordingly, competitive forces constrain the Exchange's listing fees which can have a direct effect on the ability of Nasdaq Texas to compete for new listings.

Nasdaq Texas believes that proposed Listing Rule 5920 establishing dual listing fees as set forth above are reasonable, equitable and not unfairly discriminatory because the fees are in line with other dual listing exchanges and will apply equally to all listed companies dually listed on Nasdaq Texas.[8] Additionally, Nasdaq Texas notes that it incurs general costs to support listed companies and conduct the required associated regulatory oversight. The Exchange also believes that it is reasonable, equitable and not unfairly discriminatory to waive the dual listing fees until December 31, 2026 because the Exchange hopes that by waiving the proposed fees for the remainder of the year, it will incentivize companies to dually list their securities and the waiver will apply equally to all listed companies. Companies that list on Nasdaq Texas by December 31, 2026 will not have to pay an entry fee on January 1.

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 market for listing services is extremely competitive and listed companies may freely choose alternative venues, both within the U.S. and internationally. For this reason, Nasdaq Texas does not believe that the proposed rule change will result in any burden on competition for dual listings. The Exchange also does not believe that the proposed rule change will have any meaningful impact on competition among dually listed companies because all similarly situated companies will be charged the same fee.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.[9] 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: (i) necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) 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–NasdaqTX–2026–010 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–NasdaqTX–2026–010. 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–NasdaqTX–2026–010 and should be submitted on or before April 20, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026–06045 Filed 3–27–26; 8:45 am]

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[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(4) and (5).

[6] The Justice Department has noted the intense competitive environment for exchange listings. See ''NASDAQ OMX Group Inc. and Intercontinental Exchange Inc. Abandon Their Proposed Acquisition of NYSE Euronext After Justice Department Threatens Lawsuit'' (May 16, 2011), available at *http://www.justice.gov/atr/public/press_releases/2011/271214.htm.*

[7] In that regard, Nasdaq Texas notes that NYSE Chicago was recently rebranded as NYSE Texas and instituted a dual listing program. *See* Securities Exchange Act Release No. 102507 (Feb. 28, 2025), 90 FR 11445 (March 6, 2025) (SR–NYSECHX–2025–001). Similarly, the Texas Stock Exchange announced its plans to be a fully electronic national securities exchange providing a venue to list and trade public companies and the exchange-traded products. *See https://www.txse.com/about-us.*

[8] For example, NYSE Texas charges an entry fee of $15k and a variable annual fee between $1,250 and $5,000 per class of securities and Nasdaq Texas is charging a flat fee regardless of the number of classes of securities that a company lists. *See* Article 22, Rule 2 of the Rules of NYSE Texas, Inc.

[9] 15 U.S.C. 78s(b)(3)(A)(ii).

[10] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 36071; File No. 812–15816]

Lord Abbett Private Credit Fund, et al.

March 25, 2026.

AGENCY: Securities and Exchange Commission (''Commission'' or ''SEC'').

ACTION: Notice.

Notice of application for an order under sections 17(d) and 57(i) of the Investment Company Act of 1940 (the ''Act'') and rule 17d–1 under the Act to permit certain joint transactions otherwise prohibited by sections 17(d) and 57(a)(4) of the Act and rule 17d–1 under the Act.

SUMMARY OF APPLICATION: Applicants request an order to permit certain business development companies (''BDCs'') and closed-end management investment companies to co-invest in portfolio companies with each other and with certain affiliated investment entities.

APPLICANTS: Lord Abbett Private Credit Fund; Lord Abbett Private Credit Fund S; Lord, Abbett & Co. LLC; Lord Abbett Private Credit Advisor LLC; SBLA Private Credit LLC; SBLA Private Credit II LLC; Lord Abbett Flexible Income Fund; Lord Abbett FIF Advisor LLC; Lord Abbett Credit Opportunities Fund; Lord Abbett Municipal Opportunities Fund; Lord Abbett Corporate Opportunities Fund; Lord Abbett Institutional Bank Loan Trust; Lord Abbett Short Duration Credit Trust; Lord Abbett Institutional Core Plus Total Return Trust; Lord Abbett Institutional Core Fixed Income Trust; Lord Abbett Committed Capital Management—Custom Liquidity Credit Trust; and Lord Abbett Institutional High Yield Trust.

FILING DATES: The application was filed on May 28, 2025, and amended on September 29, 2025, December 17, 2025, and February 5, 2026.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing on any application by emailing the SEC's Secretary at *Secretarys-Office@sec.gov* and serving the Applicants with a copy of the request by email, if an email address is listed for the relevant Applicant below, or personally or by mail, if a physical address is listed for the relevant Applicant below. The email should include the file number referenced above. Hearing requests should be received by the Commission by 5:30 p.m., Eastern time, on April 21, 2026, and should be accompanied by proof of service on the Applicants, in the form of an affidavit or, for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by emailing the Commission's Secretary at *Secretarys-Office@sec.gov.*

ADDRESSES: The Commission: *Secretarys-Office@sec.gov.* Applicants: Randolph A. Stuzin, 30 Hudson Street, Jersey City, New Jersey 07302–4804, with copies to Richard Horowitz, Esq., William J. Bielefeld, Cynthia R. Beyea, and Matthew Barsamian, Dechert LLP, at *richard.horowitz@dechert.com, william.bielefeld@dechert.com, cynthia.beyea@dechert.com,* and *matthew.barsamian@dechert.com,* respectively.

FOR FURTHER INFORMATION CONTACT: Kieran G. Brown, Senior Counsel, or Thomas Ahmadifar, Branch Chief, at (202) 551–6825 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: For Applicants' representations, legal analysis, and conditions, please refer to Applicants' third amended and restated application, filed February 5, 2026, which may be obtained via the Commission's website by searching for the file number at the top of this document, or for an Applicant using the Company name search field, on the SEC's EDGAR system.

The SEC's EDGAR system may be searched at *https://www.sec.gov/search-filings.* You may also call the SEC's Office of Investor Education and Advocacy at (202) 551–8090.

For the Commission, by the Division of Investment Management, under delegated authority.

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026–06022 Filed 3–27–26; 8:45 am]

BILLING CODE 8011–01–P

SMALL BUSINESS ADMINISTRATION

Interest Rates

The Small Business Administration publishes an interest rate called the Optional Peg Rate (13 CFR 120.214) on a quarterly basis. This rate is a weighted average cost of money to the government for maturities similar to the average SBA direct loan. This rate may be used as a base rate for guaranteed fluctuating interest rate SBA loans. This rate will be 4.50 percent for the April–June quarter of FY 2026.

Pursuant to 13 CFR 120.921(b), the maximum legal interest rate for any Third Party Lender's commercial loan which funds any portion of the cost of a 504 project (see 13 CFR 120.801) shall be 6% over the New York Prime rate or, if that exceeds the maximum interest rate permitted by the constitution or laws of a given State, the maximum interest rate will be the rate permitted by the constitution or laws of the given State.

Daniel J. Pische,

Director, Office of Financial Assistance.

[FR Doc. 2026–06098 Filed 3–27–26; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA–2025–5202]

Agency Information Collection Activities: Requests for Comments; Clearance of a Renewed Approval of Information Collection: Certified Training Centers—Simulator Rule

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on January 29, 2026. The collection involves Certificated Training Centers. Operators pay Certificated Training Centers to provide training to their employees, typically pilots, on different types of equipment if training is not done in house. The information to be collected is necessary because it allows aviation safety inspectors (operations) to review and to provide surveillance to training centers to ensure compliance with airman training, testing, and certification requirements specified in other parts of the regulations. If the information were not collected, inspectors would not be able to determine if airmen who are clients are being trained, checked or tested to meet the safety standards established in other parts of the regulations. To date, FAA inspectors have used the information collected to determine and assess regulatory compliance during routine program surveillance.

DATES: Written comments should be submitted by April 29, 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: Näleé D. Romero by email at: *Nalee.Romero@faa.gov;* phone: (202) 267–4702.

SUPPLEMENTARY INFORMATION:

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information.

OMB Control Number: 2120–0570.

Title: Certified Training Centers—Simulator Rule.

Form Numbers: None.

Type of Review: Renewal of an information collection.

Background: The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on January 29, 2026, (91 FR 3974). Part 142 Flight Schools are subject to several collection requirements. 14 CFR part 142 is one of several Federal Regulation parts that implement the Public Law. Section 142.11 provides that application for a training center certificate and training specifications shall be made in a form and manner prescribed by the Administrator, shall provide specific information about each management, instructor position, and evaluator position, and contain certain other administrative information.

Section 142.37 provides that application for approval of training programs must be in a form and manner acceptable to the Administrator and must provide specific information about curriculum and courses of the training program.

Chapter 447, Section 44701 of Title 49, United States Code, provides, in pertinent part, that the Administrator may find, after investigation, that a person found to possess proper qualifications for a position as an airman may be issued such certificate. That certificate shall contain such terms, conditions, and limitations as to duration thereof, as well as periodic or special examinations, and other matters as the Administrator may determine to be necessary to assure safety in air commerce.

Section 142.73 requires that training centers maintain records for a period of one year to show trainee qualifications for training, testing, or checking, training attempts, training checking, and testing results, and for one year following termination of employment the qualification of instructors and evaluators providing those services.

The respondents may be the Part 142 schools, Part 121 or 135 air carriers who utilize these schools or new applicants seeking Part 142 certification. The information may be collected in electronic forms. No specific forms are required. Information reporting may be done in accordance with the individual FAA office.

Respondents: Part 142 schools, Part 121 and 135 carriers and new certifications.

Frequency: Once for a new submission or revision of plan.

Estimated Average Burden per Response: 20 hours for a new plan, 2 hours for a revision.

Estimated Total Annual Burden: $3,868.

Issued in Washington, DC, on March 26, 2026.

Sandra L. Ray,

Aviation Safety Inspector, AFS–940.

[FR Doc. 2026–06060 Filed 3–27–26; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA–2026–2719]

Notice of Intent To Designate as Abandoned Air Mods NW Supplemental Type Certificates

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to designate supplemental type certificate as abandoned; request for comments.

SUMMARY: This notice announces the FAA's intent to designate Air Mods NW Supplemental Type Certificate (STC) Nos. SA991NW, SA1009NW, SA1012NW, SA2129NM, SA3326NM, SA3344NM, SA3841NM, SA4135NNM, SA4136NM, SA4387NM, SA4708NM, and SA4722NM as abandoned and make the related engineering data available upon request. The FAA has received a request to provide engineering data concerning these STCs. The FAA has been unsuccessful in contacting Air Mods NW concerning these STCs. This action is intended to enhance aviation safety.

DATES: The FAA must receive all comments by September 28, 2026.

ADDRESSES: You may send comments on this notice by any of the following methods:

- *Federal eRulemaking Portal:* Go to *regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Ed Mills, AIR–771, Federal Aviation Administration, West Certification Branch, 2200 South 216th St., Des Moines, WA, 98189.
- *Email: Ed.Mills@faa.gov.* Include ''Docket No. FAA–2026–2719'' in the subject line of the message.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Ed Mills, Program Manager, AIR–771, FAA, West Certification Branch; 2200 South 216th St., Des Moines, WA 98189; telephone: 206–231–3515; email: Ed *Mills@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites interested parties to provide comments, written data, views, or arguments relating to this notice. Send your comments using a method listed under the **ADDRESSES** section. Include ''Docket No. FAA–2026–2719'' at the beginning of your comments. The FAA will consider all comments received on or before the closing date. All comments received will be available in the docket for examination by interested persons.

Background

The FAA is posting this notice to inform the public that the FAA intends to designate Air Mods NW STC Nos. SA991NW, SA1009NW, SA1012NW, SA2129NM, SA3326NM, SA3344NM, SA3841NM, SA4135NNM, SA4136NM, SA4387NM, SA4708NM, and SA4722NM, as abandoned and subsequently release the related engineering data. Air Mods NW STC No. SA991NW is for the installation of model AA–5A engine mount, cowling, and carburetor air box in accordance with Kennis G Blackman instructions number KB1010. STC No. SA1009NW is for the installation of a dorsal fin having part number (P/N) 5302040–1 and associated assemblies in accordance with Kennis G Blackman Installation Instructions No. KB 1040. STC No. SA1012NW is for the installation of auxiliary fuel tank models 2 TAFTA and 4 TAFTA and increased gross weight in accordance with Weston M. Howard and A1–E. Smith Installation Instructions No. HS101. STC No. SA2129NM is for the installation of a Lycoming 0–302–E2G, AA–5A engine mount, cowling, air induction and a McCauley 1C172/SBTM/7359 propeller in accordance with, per Ameromod

Corporation photographs 1 through 3. STC No. SA3326NM is for the installation of Sensenich Corp. Propeller, model 76EM8S10–0 series propeller (60'' to 63'' pitch, inclusive) and Gulfstream Aerospace Corp. spinner assembly, Kit Part Number SK143–2 (Complete Service Kit or components equal to this assembly) in accordance with Air Mods NW Installation Instructions No. KD110. STC No. SA3344NM is for the Relocation of oil cooler in accordance with Kennis G. Blackman photos 1 through 6, dated March 27, 1986. STC No. SA3841NM is for the installation of Lycoming 0–360–F1A6 engine and McCauley B2D34C propeller in accordance with Air Mods NW photos 1 through 16, dated May 1, 1987, and sketches 1 and 2, dated May 1, 1987. STC No. SA4135NNM is for the installation of a Lycoming 0–235–L2C/L2A(M) engine (modified per STC SE792NW) and Sensenich 72CK–0–52/57 propeller, in accordance with Air Mods NW Installation Instructions KD238, dated September 16, 1987. STC No. SA4136NM is for the installation of one of the optional oil coolers: Stewart Warner 10578B, Stewart Warner 10568A (C), Stewart Warner 8406R, Harrison 8526250, in accordance with Air Mods NW Installation Instructions KD138, dated September 13, 1987. STC No. SA4387NM is for the Installation of a Lycoming 0–320–A, C or E series engine and Sensenich 74DM6–0–58/64 or 74DM7–0–58/64 propeller, in accordance with drawing list no, KD–320–DL, dated January 20, 1989, or later FAA approved revision, together with a 5% increase in takeoff gross weight for each model aircraft. STC No. SA4708NM is for the installation of bolts to strengthen the nose gear torque tube assembly in accordance with Air Mods NW drawings No. KDF325MD–1 and KD325MD–2, or later FAA approved revision. STC No. SA4722NM is for the installation of a hat shelf in the aft baggage compartment in accordance with Air Mods NW drawing list No. KD330–DL–1, or later FAA approved revision.

The FAA has received a third-party request for the release of the aforementioned engineering data under the provisions of the Freedom of Information Act (FOIA), 5 U.S.C. 552. The FAA cannot release commercial or financial information under FOIA without the permission of the data owner. However, in accordance with title 49 of the United States Code § 44704(a)(5), the FAA can provide STC ''engineering data'' it possesses for STC maintenance or improvement, upon request, if the following conditions are met:

1. The FAA determines the STC has been inactive for 3 years or more;

2. Using due diligence, the FAA is unable to locate the owner of record or the owner of record's heir; and

3. The availability of such data will enhance aviation safety.

There has been no activity on these STCs for more than 3 years.

On July 30, 2025, the FAA sent a certified letter to Air Mods NW, to the attention of Mr. Grant Blackman at his last known address: Air Mods NW, 1424 Ridge Ave., Snohomish, WA 998290. The letter was returned, unclaimed, and unable to be forwarded. The letter informed Mr. Grant Blackman that the FAA had received a request for engineering data related to STC No. SA3841NM and was conducting a due diligence search to determine whether this STC and 11 others were inactive and may be considered abandoned. The letter further requested that Mr. Grant Blackman respond in writing within 60 days and state whether he is the holder of this STC and 11 others. The FAA also attempted to make contact with Mr. Grant Blackman by other means, including telephone communication, without success.

Information Requested

If you are the owner or heir or a transferee of STC Nos. SA991NW, SA1009NW, SA1012NW, SA2129NM, SA3326NM, SA3344NM, SA3841NM, SA4135NNM, SA4136NM, SA4387NM, SA4708NM, or SA4722NM, or have any knowledge regarding who may now hold any of these STCs, please contact Ed Mills using a method described in this notice under **FOR FURTHER INFORMATION CONTACT**. If you are the heir of the owner, or the owner by transfer, of any of these STCs, you must provide a notarized copy of your government-issued identification with a letter and background establishing your ownership of any of these STCs and, if applicable, your relationship as the heir to the deceased holder of the STCs.

Conclusion

If the FAA does not receive any response by September 28, 2026, the FAA will consider Air Mods NW STC Nos. SA991NW, SA1009NW, SA1012NW, SA2129NM, SA3326NM, SA3344NM, SA3841NM, SA4135NNM, SA4136NM, SA4387NM, SA4708NM, and SA4722NM as abandoned, and the FAA will proceed with the release of the requested data. This action is for the purpose of maintaining the airworthiness of an aircraft and enhancing aviation safety.

(Authority: 49 U.S.C. 44704(a)(5))

Issued on March 26, 2026.

Steven W. Thompson,

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

[FR Doc. 2026–06083 Filed 3–27–26; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA–2022–0913]

Agency Information Collection Activities: Requests for Comments; Clearance of a Renewed Approval of Information Collection: Helicopter Air Ambulance, Commercial Helicopter, and Part 91 Helicopter Operations

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on January 29, 2026. The collection involves information related to rules governing Helicopter Air Ambulance, Commercial Helicopter, and Part 91 Helicopter Operations. The information to be collected supports the Department of Transportation's strategic goal of safety. Specifically, the goal is to promote the public health and safety by working toward the elimination of transportation-related deaths and injuries.

DATES: Written comments should be submitted by April 29, 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: Näleé D. Romero by email at: *Nalee.Romero@faa.gov;* phone: 202–267–4702.

SUPPLEMENTARY INFORMATION:

Public Comments Invited: You are asked to comment on any aspect of this

information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information.

OMB Control Number: 2120–0756.

Title: Helicopter Air Ambulance, Commercial Helicopter, and Part 91 Helicopter Operations.

Form Numbers: 2120–0756, Helicopter Air Ambulance Mandatory Flight Information Report.

Type of Review: Renewal of an information collection.

Background: The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on January 29, 2026, (91 FR 3975). The requirements in part 135 are addressed specifically to helicopter air ambulances, often referred to as emergency medical services (EMS), and to on-demand operations including overwater operations. The National Transportation Safety Board recommended several changes following accident investigations. The FAA aims to improve the safety record of helicopter air ambulances through better oversight of their operations. The FAA will use the information it collects and reviews to ensure compliance and adherence with regulations and, if necessary, to take enforcement action on violators of the regulations.

Under the authority of Title 49 CFR, Section 44701, Title 14 CFR prescribes the terms, conditions, and limitations as are necessary to ensure safety in air transportation. Title 14 CFR parts 91 and 135 prescribes the requirements governing helicopter air ambulance, commercial helicopter, and Part 91 helicopter operations. The information collected is used to determine air operators' compliance with the minimum safety standards and the applicants' eligibility for air operations certification. Each operator which seeks to obtain, or is in possession of an operating certificate, must comply with the requirements of part 91 or 135, as applicable, which include maintaining data which is used to determine if the air carrier is operating in accordance with minimum safety standards.

Respondents: Part 135 Helicopter Air Ambulance Operators, Part 135 Helicopter Commercial Operators, or Part 91 Helicopter Operators.

Frequency: The frequency of submission depends on the individual requirements. Some requirements are one time requirements and some are per each individual flight.

Estimated Average Burden per Response: 7 Minutes.

Estimated Total Annual Burden: 115,979 Hours.

Issued in Washington, DC, on March 26, 2026.

Sandra L. Ray,

Aviation Safety Inspector, AFS–940.

[FR Doc. 2026–06065 Filed 3–27–26; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA–2025–3090]

Agency Information Collection Activities: Requests for Comments; Clearance of a Renewed Approval of Information Collection: Employee Assault Prevention and Response Plan

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on January 29, 2026. The collection involves submission of Employee Assault Prevention and Response Plans (EAPRP), for customer service agents of certificate holders conducting operations. The certificate holders will submit the information to be collected to the FAA for review and acceptance as required by the FAA Reauthorization Act of 2018 and 2024.

DATES: Written comments should be submitted by April 29, 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: Näleé D. Romero by email at: *Nalee.Romero@faa.gov;* phone: 202–267–4702.

SUPPLEMENTARY INFORMATION:

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information.

OMB Control Number: 2120–0787.

Title: Employee Assault Prevention and Response Plan.

Form Numbers: There are no forms associated with this collection.

Type of Review: Renewal of an information collection.

Background: The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on January 29, 2026, (91 FR 3976). On October 5, 2018, Congress enacted Public Law 115–254, the FAA Reauthorization Act of 2018 (''the Act''). Section 551 of the Act required air carriers operating under 14 CFR part 121 to submit to the FAA for review and acceptance an Employee Assault Prevention and Response Plan (EAPRP) related to the customer service agents of the air carrier that is developed in consultation with the labor union representing such agents. Section 551(b) of the Act contains the required contents of the EAPRP, including reporting protocols for air carrier customer service agents who have been the victim of a verbal or physical assault.

On May 16, 2024, Congress enacted Public Law 118–63. In the 2024 reauthorization act, section 434, states the requirement for air carriers operating under part 121 to submit a plan pursuant to 2018 reauthorization act, section 551. It then goes on to say, ''any air carrier formed after the date of enactment of this Act should develop and implement an Employee Assault Prevention and Response Plan.''

Respondents: 9 Part 121 Air Carriers.

Frequency: Once for a new submission or revision of plan.

Estimated Average Burden per Response: 20 hours for a new plan, 2 hours for a revision.

Estimated Total Annual Burden: $3,868.

Issued in Washington, DC, on March 26, 2026.

Sandra L. Ray,

Aviation Safety Inspector, AFS–940.

[FR Doc. 2026–06061 Filed 3–27–26; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2026–0430]

Request Notice: Use of Foreign-Built Small Passenger Vessel in United States Coastwise Trade, M/V SCOUT

AGENCY: Maritime Administration (MARAD), U.S. Department of Transportation (DOT).

ACTION: Notice and request for comments.

SUMMARY: The Secretary of Transportation, as represented by MARAD, is authorized to make determinations regarding the coastwise use of foreign built; certain U.S. built; and U.S. and foreign rebuilt vessels that solely carry no more than twelve passengers for hire. MARAD has received such a determination request and is publishing this notice to solicit comments to assist with determining whether the proposed use of the vessel set forth in the request would have an adverse effect on U.S. vessel builders or U.S. coastwise trade businesses that use U.S.-built vessels in those businesses. Information about the requestor's vessel, including a description of the proposed service, is in the **SUPPLEMENTARY INFORMATION** section below.

DATES: Submit comments on or before April 29, 2026.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2026–0430 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *https://www.regulations.gov*. Search the above DOT Docket Number and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include the DOT Docket Number, your name and a mailing address, an email address or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific DOT Docket Number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: Patricia Hagerty, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue, SE, Mail Stop 2, MAR–620, Washington, DC 20590. Telephone: (202) 366–5400. *Email: smallvessels@dot.gov*.

SUPPLEMENTARY INFORMATION: Pursuant to 46 U.S.C. 12121(b), the U.S. Coast Guard may issue a certificate of documentation with a coastwise trade endorsement for eligible, small passenger vessels authorized to carry no more than 12 passengers for hire if MARAD, after notice and an opportunity for public comment, determines the use of the small passenger vessel in the coastwise trade will not adversely affect United States vessel builders or the coastwise trade business of any person that employs vessels built in the United States in that business.[1]

MARAD has received an eligibility determination request. Further details about the requester's vessel and its proposed operations may be found in the determination request posted in the DOT Docket Number listed in the **ADDRESSES** section above at *https://www.regulations.gov.* Interested parties may comment on the undue adverse effect this action may have on U.S. vessel builders or coastwise trade businesses in the U.S. that employ U.S.-built vessels in those businesses. Comments should refer to the vessel name, state the commenter's interest in the request, and demonstrate, with supporting documentation, the undue adverse effect on U.S. vessel builders and coastwise trade businesses.

Public Participation

How do I submit comments?

Please submit comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. It may take a few hours or even days for comments to be reflected on the docket. Comments must be written in English. Provide concise comments and attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

The docket online is located at *https://www.regulations.gov,* keyword search the DOT Docket Number list in the **ADDRESSES** section above or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). Please periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

You may request that MARAD treat your comments as commercially confidential by submitting them to *SmallVessels@dot.gov*. Include in the email subject heading ''Contains Confidential Commercial Information'' or ''Contains CCI'' and state in your submission, with specificity, the basis for any such confidential treatment highlighting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

If MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

Privacy Act

Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). For information on DOT's compliance with the Privacy Act, please visit *https://www.transportation.gov/privacy*.

(Authority: 46 U.S.C. 12121, 49 CFR 1.93(a))

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2026–06081 Filed 3–27–26; 8:45 am]

BILLING CODE 4910–81–P

[1] The U.S. Coast Guard and MARAD have authority under 46 U.S.C. 12121(b) through the Secretary of the Department of Homeland Security and the Secretary of the Department of Transportation, respectively.

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2026–0464]

Request for Comments on the Renewal of a Previously Approved Information Collection: Capital Construction Fund and Exhibits

AGENCY: Maritime Administration (MARAD), U.S. Department of Transportation (DOT).

ACTION: Notice and request for comments.

SUMMARY: MARAD invites public comments on its intention to request Office of Management and Budget (OMB) approval to renew an information collection in accordance with the Paperwork Reduction Act of 1995. The proposed collection OMB 2133–0027 (Capital Construction Fund and Exhibits) is necessary for MARAD to determine an applicant's eligibility to enter a Capital Construction Fund (CCF) Agreement, and their compliance with the requirements of this program. Since the last renewal, there was a reduction in the total respondents, responses, and burden hours for this collection. MARAD is required to publish this notice in the **Federal Register** to obtain comments from the public and affected agencies.

DATES: Comments must be submitted on or before May 29, 2026.

ADDRESSES: You may submit comments identified by Docket No. MARAD–2026–0464 through one of the following methods:

- *Federal eRulemaking Portal: www.regulations.gov.* Search using the above DOT docket number and follow the online instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Instructions: All submissions must include the agency name and docket number for this rulemaking.

NOTE: All comments received will be posted without change to *www.regulations.gov* including any personal information provided.

Comments are invited on: (a) whether the proposed collection of information is reasonable for the Department's performance; (b) the accuracy of the estimated burden; (c) ways for the Department to enhance the quality, utility, and clarity of the information collection; and (d) ways that the burden could be lessened without reducing the quality of the collected information. The agency will summarize or include your comments in the request for OMB's clearance of this information collection.

FOR FURTHER INFORMATION CONTACT: David M. Gilmore, Director, 202–366–5737, Office of Marine Financing, Maritime Administration, U.S. Department of Transportation, 1200 New Jersey Avenue SE, Room W21–308, Washington, DC 20590. Email: *marinefinancing@dot.gov.*

SUPPLEMENTARY INFORMATION:

Title: Capital Construction Fund and Exhibits.

OMB Control Number: 2133–0027.

Type of Request: Extension without change of a currently approved collection.

Abstract: This information collection consists of an application for a Capital Construction Fund (CCF) agreement under 46 United States Code (U.S.C.) chapter 535 and annual submissions of appropriate schedules and exhibits. The CCF is a tax-deferred ship construction fund that was created to assist owners and operators of U.S.-flag vessels in accumulating the large amount of capital necessary for the modernization and expansion of the U.S. merchant marine. The program encourages construction, reconstruction, or acquisition of vessels through the deferment of Federal income taxes on certain deposits of money or other property placed into a CCF.

Respondents: U.S. citizens who own or lease one or more eligible vessels and who have or desire to establish a program to provide for the acquisition, construction, or reconstruction of a qualified vessel.

Affected Public: Individuals and businesses.

Estimated Number of Respondents: 160.

Estimated Number of Responses: 160.

Estimated Hours per Response: Between 1 and 12.5.

Annual Estimated Total Annual Burden Hours: 2,160.

Frequency of Response: Annually.

(Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.49.)

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2026–06109 Filed 3–27–26; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2026–0431]

Request Notice: Use of Foreign-Built Small Passenger Vessel in United States Coastwise Trade, M/V RIPTIDE

AGENCY: Maritime Administration (MARAD), U.S. Department of Transportation (DOT).

ACTION: Notice and request for comments.

SUMMARY: The Secretary of Transportation, as represented by MARAD, is authorized to make determinations regarding the coastwise use of foreign built; certain U.S. built; and U.S. and foreign rebuilt vessels that solely carry no more than twelve passengers for hire. MARAD has received such a determination request and is publishing this notice to solicit comments to assist with determining whether the proposed use of the vessel set forth in the request would have an adverse effect on U.S. vessel builders or U.S. coastwise trade businesses that use U.S.-built vessels in those businesses. Information about the requestor's vessel, including a description of the proposed service, is in the **SUPPLEMENTARY INFORMATION** section below.

DATES: Submit comments on or before April 29, 2026.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2026–0431 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *https://www.regulations.gov.* Search the above DOT Docket Number and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include the DOT Docket Number, your name and a mailing address, an email address or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific DOT Docket Number. All comments received will be posted

without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: Patricia Hagerty, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Mail Stop 2, MAR–620, Washington, DC 20590. Telephone: (202) 366–5400. Email: *smallvessels@dot.gov*.

SUPPLEMENTARY INFORMATION: Pursuant to 46 U.S.C. 12121(b), the U.S. Coast Guard may issue a certificate of documentation with a coastwise trade endorsement for eligible, small passenger vessels authorized to carry no more than 12 passengers for hire if MARAD, after notice and an opportunity for public comment, determines the use of the small passenger vessel in the coastwise trade will not adversely affect United States vessel builders or the coastwise trade business of any person that employs vessels built in the United States in that business.[1]

MARAD has received an eligibility determination request. Further details about the requester's vessel and its proposed operations may be found in the determination request posted in the DOT Docket Number listed in the **ADDRESSES** section above at *https://www.regulations.gov*. Interested parties may comment on the undue adverse effect this action may have on U.S. vessel builders or coastwise trade businesses in the U.S. that employ U.S.-built vessels in those businesses. Comments should refer to the vessel name, state the commenter's interest in the request, and demonstrate, with supporting documentation, the undue adverse effect on U.S. vessel builders and coastwise trade businesses.

Public Participation

How do I submit comments?

Please submit comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. It may take a few hours or even days for comments to be reflected on the docket. Comments must be written in English. Provide concise comments and attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

The docket online is located at *https://www.regulations.gov,* keyword search the DOT Docket Number list in the **ADDRESSES** section above or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). Please periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

You may request that MARAD treat your comments as commercially confidential by submitting them to *SmallVessels@dot.gov*. Include in the email subject heading ''Contains Confidential Commercial Information'' or ''Contains CCI'' and state in your submission, with specificity, the basis for any such confidential treatment highlighting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

If MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

Privacy Act

Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). For information on DOT's compliance with the Privacy Act, please visit *https://www.transportation.gov/privacy*.

(Authority: 46 U.S.C. 12121, 49 CFR 1.93(a))

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2026–06082 Filed 3–27–26; 8:45 am]

BILLING CODE 4910–81–P

[1] The U.S. Coast Guard and MARAD have authority under 46 U.S.C. 12121(b) through the Secretary of the Department of Homeland Security and the Secretary of the Department of Transportation, respectively.

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2026–0463]

Request for Comments on the Renewal of a Previously Approved Information Collection: Eligibility of US-Flag Vessels of 100 Feet or Greater in Registered Length To Obtain a Fishery Endorsement

AGENCY: Maritime Administration (MARAD), U.S. Department of Transportation (DOT).

ACTION: Notice and request for comments.

SUMMARY: MARAD invites public comments on its intention to request Office of Management and Budget (OMB) approval to renew an information collection in accordance with the Paperwork Reduction Act of 1995. The proposed collection OMB 2133–0530 (Eligibility of US-flag Vessels of 100 Feet or Greater in Registered Length to Obtain a Fishery Endorsement), is necessary for MARAD to determine if a particular vessel is owned and controlled by United States citizens and is eligible to receive a fishery endorsement to its documentation. MARAD is required to publish this notice in the **Federal Register** to obtain comments from the public and affected agencies.

DATES: Comments must be submitted on or before May 29, 2026.

ADDRESSES: You may submit comments identified by Docket No. MARAD–2026–0463 through one of the following methods:

- *Federal eRulemaking Portal: www.regulations.gov.* Search using the above DOT docket number and follow the online instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Instructions: All submissions must include the agency name and docket number for this rulemaking.

Note: All comments received will be posted without change to *www.regulations.gov* including any personal information provided.

Comments are invited on: (a) whether the proposed collection of information is reasonable for the Department's performance; (b) the accuracy of the estimated burden; (c) ways for the Department to enhance the quality,

utility, and clarity of the information collection; and (d) ways that the burden could be lessened without reducing the quality of the collected information. The agency will summarize or include your comments in the request for OMB's clearance of this information collection.

FOR FURTHER INFORMATION CONTACT: Michael C. Pucci, 202–366–5167, Division of Maritime Programs, Maritime Administration, 1200 New Jersey Avenue SE, Washington, DC 20590, Email: *michael.pucci@dot.gov.*

SUPPLEMENTARY INFORMATION:

Title: Requirements for Eligibility of U.S.-Flag Vessels of 100 Feet or Greater in Registered Length to Obtain a Fishery Endorsement.

OMB Control Number: 2133–0530.

Type of Request: Extension without change of a currently approved collection.

Abstract: The parties subject to this information collection include vessel owners, charterers, preferred mortgagees, mortgage trustees, vessel managers, and parties involved in long-term contracts for the sale of all or a significant portion of a vessel's catch. The information collected will be used by MARAD to determine if a vessel is owned and controlled by U.S. citizens, in accordance with the requirements of the American Fisheries Act (AFA), and is eligible to be documented with a fishery endorsement to its documentation. The information collected in the Affidavit of United States Citizenship and other supporting documentation may also be used by MARAD to determine whether the vessel owner, charterer, processor, or other entity has violated harvesting and processing caps imposed under Section 210(e)(1) and (2) of the AFA. In addition, the information may be used to determine whether there is a conflict with an international treaty or agreement, that would result in an exemption from the requirements of the rule for a particular vessel owner or mortgagee.

Respondents: Certain vessel owners, vessel operators, mortgagees, and financial institutions.

Affected Public: Vessel owners, charterers, mortgagees, mortgage trustees and managers of vessels of 100 feet or greater, who seek a fishery endorsement for the vessel.

Estimated Number of Respondents: 500.

Estimated Number of Responses: 500.

Estimated Hours per Response: 5–6.

Annual Estimated Total Annual Burden Hours: 2,950.

Frequency of Response: Annually.

(Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.49.)

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2026–06110 Filed 3–27–26; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2026–0562]

Denial of Motor Vehicle Defect Petition

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Defect petition DP23001 has been denied.

SUMMARY: This notice sets forth the reasons for the denial of a defect petition submitted by Costas Lakafossis (''Petitioner'') to NHTSA's Office of Defects Investigation (ODI) requesting that the Agency recall all Tesla vehicle models produced from 2013 to the present due to what the Petitioner considers to be the increased likelihood of pedal misapplication. According to Petitioner, the differences in the operator controls between the subject Tesla vehicles and internal combustion engine (ICE) powered vehicles promote driver pedal misapplication, leading to sudden unintended acceleration (SUA) incidents. Having reviewed the information submitted by Petitioner and Tesla, as well as data within its own files, NHTSA has denied the petition because the conditions described therein do not indicate the presence of a safety defect in the subject vehicles.

FOR FURTHER INFORMATION CONTACT: Matthew Martens, Vehicle Defects Division—D, Office of Defects Investigation, NHTSA, 1200 New Jersey Ave. SE, Washington, DC 20590. Email: *matthew.martens@dot.gov*.

SUPPLEMENTARY INFORMATION:

1.0 Introduction

Interested persons may petition NHTSA requesting that the Agency initiate an investigation to determine whether a motor vehicle or an item of replacement equipment does not comply with an applicable motor vehicle safety standard or contains a defect that relates to motor vehicle safety. 49 U.S.C. 30162(a)(2); 49 CFR part 552. Upon receipt of a properly-filed petition, the Agency conducts a technical review of the petition. 49 U.S.C. 30162(a)(2); 49 CFR 552.6. The technical review may consist solely of a review of information already in the possession of the Agency or it may include the collection of information from the motor vehicle manufacturer and other sources. After conducting the technical review and considering appropriate factors, which may include, but are not limited to, the nature of the complaint, allocation of Agency resources, Agency priorities, the likelihood of uncovering sufficient evidence to establish the existence of a defect and the likelihood of success in any necessary enforcement litigation, the Agency will grant or deny the petition. *See* 49 U.S.C. 30162(a)(2); 49 CFR 552.8.

2.0 Background Information

The Petition, dated March 21, 2023, requests the recall of all Tesla vehicles produced from 2013 to the present because of a ''missing'' interlock that requires a brake pedal application by the driver in order to shift from Drive to Reverse. Attached to the Petition is a technical paper authored by Petitioner.[1]

NHTSA's technical review included assessments of the Petition and supporting technical paper, Tesla's response to ODI's Information Request (IR), and additional data available to NHTSA.

3.0 DP23001 Petition

The Petition requests a safety recall of all Tesla vehicle models produced from 2013 to the present, ''due to a missing critical interlock feature and specific Autopilot features that contribute to increased likelihood of driver errors in the form of Pedal Misapplication.'' According to Petitioner, drivers habituated to driving ICE vehicles adapt to ''one-pedal'' driving afforded by the subject vehicles' regenerative braking but may mistakenly apply the accelerator pedal in emergency situations when they intend to apply the brakes, leading to increased unintended acceleration incident rates. The Petition further proposes a remedy: the ''add[ition of] a software interlock to [relevant vehicles'] control system, requiring the driver to press the brake pedal before allowing the car to fully stop and reverse gear to engage.''

In support of his petition, Petitioner describes a collision in Greece that he investigated in which the driver

[1] The Petition and supporting paper, ''Self-driving cars and SUA accidents: a very clear understanding of the factors that increase the likelihood of serious accidents in technologically advanced cars,'' are designated ODI ID 11515119 and can be found at *https://static.nhtsa.gov/complaints/11515119/11515119-0003.pdf.*

admitted to parking without the use of the brake pedal, and has submitted a technical paper that he authored.

Petitioner describes the ''mechanism behind'' the alleged pedal misapplication or SUA events supposedly caused by the alleged defect as follows:

- The subject vehicles' regenerative braking capabilities permit a driver to decelerate the vehicle by substituting reduced accelerator pedal application for a brake pedal application when the driver wishes to decelerate with ''one-pedal'' driving.
- In certain circumstances, a driver may mistake the vehicle deceleration and (accelerator) pedal contact for a brake pedal application.
- At times, a driver may recognize a need for greater deceleration and inadvertently revert to prior muscle memory established while driving ICE vehicles without one-pedal driving capabilities and press harder on the accelerator pedal, mistaking it for the brake pedal, leading to an SUA incident.

According to the Petitioner, the subject vehicles should, therefore, be equipped with measures that require: (i) occasional removal of the driver's foot from the pedals; and (ii) application of the brake pedal before fully stopping the vehicle. Petitioner likens these measures to the application of BTSI to automatic transmission-equipped vehicles, which, Petitioner states, eliminated pedal misapplication at vehicle startup and trained drivers to index their foot positions.

The Petition hypothesizes that the application of an interlock requiring driver brake application when shifting from Drive to Reverse may reduce the pedal misapplication at issue.

4.0 ODI's IR and Tesla's Assessment

On May 13, 2023, ODI sent an IR to Tesla requesting relevant field incident reporting, information about its regenerative braking options, copies of internal assessments of one-pedal driving, pedal misapplication mitigation strategies, and its assessment of the alleged defect as proposed by the Petition. In its response, Tesla maintained that the relevant vehicles appropriately responded to driver inputs and, therefore, that there were not any SUA events responsive to ODI's inquiries. In support of this conclusion, Tesla explained the operation of the subject vehicles' regenerative braking systems, the creep/hold functions, and the formerly called ''Pedal Misapplication Mitigation (PMM)'' strategy, now referred to as ''Obstacle-Aware Acceleration (OAA),'' [2] and Tesla's overall assessment of the Petition.

5.0 ODI Analysis

ODI's analysis included assessments of the Petition and supporting technical paper, Tesla's response to ODI's Information Request (IR), and additional data available to NHTSA.

5.1 Scoping and Assumptions

Based on the Petition's emphasis on the human-machine interface with regenerative braking systems and conditions existing at the transition between Drive and Reverse at the end of a drive cycle, ODI restricted its analysis to manually-driven circumstances and the performance of regenerative braking in subject vehicles shifting from Drive to Reverse.

5.2 Regenerative Braking and One-Pedal Driving Across the Industry

As is relevant here, regenerative braking is the primary vehicle-based differentiator between ICE models and the subject Battery Electric Vehicle (BEV) models. Regenerative braking converts excess kinetic energy from a moving BEV into electric current, which recharges its battery and slows the vehicle. Depending on the particular vehicle model and user settings, regenerative braking may be set strongly enough to enable ''one-pedal'' driving where the driver primarily uses the accelerator during the drive cycle and may decelerate the vehicle with a reduced level of accelerator application (instead of a brake application). One-pedal driving furnishes substantially higher levels of deceleration than coasting deceleration in ICE-powered vehicles.[3]

One-pedal driving capability is not limited to the subject vehicles. ODI conducted a review of the usage of one-pedal driving across the light vehicle industry. The ability to use regenerative braking through the accelerator pedal exists across 21 light vehicle manufacturers and 64 models, from 2008 through 2023 (the date of the petition), with several models capable of generating deceleration rates comparable to those of the subject vehicle and capable of bringing the vehicle to a complete stop without the application of the brake pedal.

5.3 Evaluation of Pedal Misapplication-Involved Collisions

ODI used vehicle data that Tesla submitted in response to ODI's information requests pertinent to DP23001 and additional Tesla pedal misapplication incidents falling outside the particular scenario posited by the Petitioner. Through this search, ODI was able to identify only a handful of collisions potentially within the scope of the alleged defect. Moreover, corresponding vehicle data demonstrated that the subject vehicles responded appropriately to control inputs by their drivers. Additionally, ODI is unaware of any evidence to suggest that Petitioner's proposed interlock [4] would have prevented either the particular collisions furnished in Tesla's IR response or in pedal misapplication collisions more generally known to the Agency.

6.0 Conclusion

Having reviewed all relevant and available information, ODI has not found evidence of a safety defect in Tesla vehicles as described in the Petition. The use of regenerative braking controlled by the accelerator pedal, or one-pedal driving, is common across most light vehicle manufacturers of electric vehicles and Tesla vehicles are not unique in this respect. ODI has not identified evidence that would support opening a defect investigation into pedal misapplication on the subject vehicles based on an analysis of vehicle behavior or incidents known to the agency. Accordingly, the Agency is denying the petition. As with all potential motor vehicle safety risks, NHTSA will continue to review any new information or incidents as they are submitted to the Agency.

[2] According to the Tesla Owner's Manual, Obstacle-Aware Acceleration is designed to reduce the impact of a collision by reducing motor torque and in some cases applying the brakes, if Model 3 detects an object in its driving path. The touchscreen displays a visual warning and sounds a chime when the brakes are automatically applied. For example, Model 3, while parked in front of a closed garage door with Drive engaged, detects that you have pressed hard on the accelerator pedal. Although Model 3 still accelerates and hits the garage door, the reduced torque may result in less damage.

[3] Vigil, C., Kaayal, O., and Szepelak, A., ''Quantifying the Deceleration of Various Electric Vehicles Utilizing Regenerative Braking,'' SAE Technical Paper 2023–01–0623, 2023, *https://doi.org/10.4271/2023-01-0623*.

[4] It is also worth noting that the vehicle manufacturer determines the remedy for any safety defect; NHTSA does not prescribe a specific remedy. *See* 49 U.S.C. 30120(a).

(Authority: 49 U.S.C. 30162(d) and 49 CFR part 552; delegations of authority at 49 CFR 1.95(a).) [5]

Eileen Sullivan,

Associate Administrator, Enforcement.

[FR Doc. 2026–06023 Filed 3–27–26; 8:45 am]

BILLING CODE 4910–59–P

UNIFIED CARRIER REGISTRATION PLAN

Sunshine Act Meetings

TIME AND DATE: March 26, 2026, 10:00 a.m. to 1:00 p.m., Eastern Time.

PLACE: This meeting will take place at the Omni Boston Hotel at the Seaport, 450 Summer Street, Boston, MA 02210. The meeting will also be accessible via conference call and via Zoom Meeting and Screenshare. Any interested person may call (i) 1–929–205–6099 (US Toll) or 1–669–900–6833 (US Toll), Meeting ID: 922 9242 2998, to listen and participate in this meeting. The website to participate via Zoom Meeting and Screenshare is *https://kellen.zoom.us/meeting/register/rCKwYNUOQcWtN3M_CixSIg.*

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED: The Unified Carrier Registration Plan Board of Directors (the ''Board'') will continue its work in developing and implementing the Unified Carrier Registration Plan and Agreement. The subject matter of this meeting will include:

Proposed Agenda

I. Welcome and Call to Order—UCR Board Chair

The UCR Board Chair will welcome attendees, call the meeting to order, call roll for the Board, confirm the presence of a quorum, and facilitate self-introductions.

II. Verification of Publication of Meeting Notice—UCR Executive Director

The UCR Executive Director will verify publication of the meeting notice on the UCR website and distribution to the UCR contact list via email, followed by subsequent publication of the notice in the **Federal Register**.

III. Review and Approval of Board Agenda—UCR Board Chair

For Discussion and Possible Board Action

The proposed Agenda will be reviewed. The Board will consider action to adopt.

Ground Rules

➢ Board actions taken only in designated areas on the agenda

IV. Approval of Minutes of the February 5, 2026, UCR Board Meeting—UCR Board Chair

For Discussion and Possible Board Action

Draft Minutes from the February 5, 2026, UCR Board meeting will be reviewed. The Board will consider action to approve.

V. Report of FMCSA—FMCSA Representative

A Federal Motor Carrier Safety Administrator (FMCSA) Representative will introduce to the UCR Plan Board. The FMCSA will provide a report on any relevant agency activity.

VI. Introduction of Staci Rubin, Commissioner of the Massachusetts Department of Public Utilities—

The UCR Board Chair will introduce Staci Rubin, Commissioner of the Massachusetts Department of Public Utilities who is the delegated Commissioner overseeing all transportation safety matters and allow for Ms. Rubin to give remarks.

VII. Letter Requesting Each Participating UCR Plan State To Demonstrate Their Use of UCR Plan Entitlement Revenue in Accordance With 49 U.S.C. 14504a(e)(1)(B)—UCR Chief Legal Officer and UCR Executive Director

For Discussion and Possible Board Action

The UCR Chief Legal Officer and UCR Executive Director will present a letter to the Board requesting all UCR Plan participating states to demonstrate that participating states use entitlement revenue in accordance with 49 U.S.C. 14504a(e)(1)(B), specifically, that participating states use an amount at least equal to the revenue derived from the Unified Carrier Registration Agreement for motor carrier safety programs, enforcement, or the administration of the UCR plan and UCR agreement. The Board may take action to adopt a letter requesting each participating state demonstrate their use of UCR Plan entitlement revenue in accordance with 49 U.S.C. 14504a(e)(1)(B).

VIII. Proposal To Correct Inconsistent Guidance Given to Leasing Companies in the UCR Handbook—UCR Board Member Mike Hoeme and UCR Executive Director

For Discussion and Possible Board Action

UCR Board Member Mike Hoeme and the UCR Executive Director will identify the inconsistent guidance given to leasing companies on page 10 and page 28 of the UCR Plan Handbook and present a proposal that eliminates the inconsistency. The UCR Plan Board may take action to eliminate the inconsistency as proposed.

IX. Presentation of Letters of Engagement Between the UCR Plan and the Bradley Law Firm—UCR Executive Director

For Discussion and Possible Board Action

The UCR Executive Director will present proposed Letters of Engagement between the UCR Plan and Bradley Law Firm for the 2026 calendar year. The Board may take action to approve the engagement letters.

X. Subcommittee Reports

Audit Subcommittee—UCR Audit Subcommittee Chair

The UCR Audit Subcommittee Chair will present the following Compliance Summary Reports to the Board; 2025 and 2026 FARs, 2025 Retreat Audit, 2025 Inspection Audit, 2025 Unregistered 4, 5 and 6 and the 2025 and 2026 Registration reports to the Board.

The UCR Audit Subcommittee Chair will also review 2026 compliance summaries along with the requirement initiatives that States are evaluated on. To receive a qualifying status, States are required to have met or exceeded the minimum percentages in at least three of the four initiatives.

Dispute Resolution Subcommittee—UCR Dispute Resolution Subcommittee Chair

No report.

Education and Training Subcommittee—UCR Education and Training Subcommittee Chair

The UCR Education and Training Subcommittee Chair will provide an update on key projects and initiatives, including the ongoing development of the learning management program and training modules, awareness and engagement efforts for various

[5] The authority to determine whether to approve or deny defect petitions under 49 U.S.C. 30162(d) and 49 CFR part 552 has been further delegated to the Associate Administrator for Enforcement.

stakeholders, and the optimization of the website and newsletter.

Enforcement Subcommittee—UCR Enforcement Subcommittee Chair and Vice-Chair

The UCR Enforcement Subcommittee Chair and Vice-Chair will provide an update on current and planned initiatives, including efforts to enhance UCR enforcement efficiency, and recognition of states and inspectors.

Finance Subcommittee—UCR Finance Subcommittee Chair and UCR Depository Manager

A. 2024 External Financial Audit Update—UCR Finance Subcommittee Chair and UCR Depository Manager

The UCR Finance Subcommittee Chair and UCR Depository Manager will provide an update on the UCR Plan's 2024 External Financial Audit.

B. Revenues From 2024, 2025, and 2026 Registration Fees—UCR Depository Manager

The UCR Depository Manager will review the revenues received from the 2024, 2025, and 2026 plan year registration fees

C. Management Report—UCR Finance Subcommittee Chair and UCR Depository Manager

The UCR Finance Subcommittee Chair and UCR Depository Manager will provide an update on UCR finances and related topics.

Industry Advisory Subcommittee—UCR Industry Advisory Subcommittee Chair

No report.

Governance Task Force—UCR Governance Task Force Chair

The UCR Governance Task Force Chair will provide an update on topics to include the UCR agreement, motor carrier regulatory review requirements and other related governance topics.

XI. Contractor Reports—UCR Board Chair

UCR Executive Director Update

The UCR Executive Director will provide a report covering his recent activity on behalf of the UCR Plan.

UCR Administrator Update (Kellen)

No substantive updates from the UCR Chief of Staff beyond the Management, Depository, Operations, and Communication reports provided.

DSL Transportation Services, Inc.

DSL Transportation Services, Inc. will report on the latest data from the FARs program, Tier 5 and 6 unregistered motor carriers, and other matters.

Seikosoft

Seikosoft will provide an update on its recent/new activity related to the UCR's National Registration System.

XII. Chief Legal Officer Report—UCR Chief Legal Officer

The UCR Chief Legal Officer will provide a report covering the status of the Petition For Review filed by the Small Business in Transportation Coalition, Inc. in the United States Court of Appeals for the District of Columbia Circuit involving the UCR Plan.

XIII. Other Business—UCR Board Chair

The UCR Board Chair will call for any other business, old or new, from the floor.

XIV. Adjournment—UCR Board Chair

The UCR Board Chair will adjourn the meeting.

The agenda will be available no later than 5:00 p.m. Eastern daylight time, March 18, 2026, at: *https://plan.ucr.gov.*

CONTACT PERSON FOR MORE INFORMATION: Elizabeth Leaman, Chair, Unified Carrier Registration Plan Board of Directors, (617) 305–3783, *eleaman@board.ucr.gov.*

Alex B. Leath,

Chief Legal Officer, Unified Carrier Registration Plan.

[FR Doc. 2026–06108 Filed 3–26–26; 4:15 pm]

BILLING CODE 4910–YL–P

DEPARTMENT OF VETERANS AFFAIRS

Advisory Committee on Former Prisoners of War, Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under the Federal Advisory Committee Act, 5 U.S.C. Ch. 10., that the Advisory Committee on Former Prisoners of War (Committee or FPOW) will conduct a virtual meeting on April 21, 2026. Public participation will commence as follows:

Date	Time	Location	Open session
April 21, 2026	11:00 a.m.–4:00 p.m. Eastern Standard Time (EST).	Cisco Webex Link and Call-in Information Below.	Yes.

The meeting session is open to the public.

The purpose of the Committee is to advise the Secretary of Veterans Affairs on the administration of benefits under title 38 U.S.C., for Veterans who are former prisoners of war (FPOW), and the needs of these Veterans, in the areas of compensation, health care, and rehabilitation.

The Committee will convene in an open session for discussion and briefings from VA Central Office and Veterans Benefits Administration officials who will provide updates on issues impacting FPOW Veterans and their families.

Time will be allocated at this session to receive oral presentations from the public. Any member of the public may submit a 1–2-page commentary for the Committee's review no later than April 6, 2026.

On April 21, 2026, the public comment period will be open for 30 minutes from 3:10 p.m. to 3:40 p.m. EST. The comment period may end sooner, if there are no comments presented or they are exhausted before the end time. Any member of the public wishing to virtually attend the meeting or seeking additional information should contact: Julian Wright, Designated Federal Officer, Department of Veterans Affairs, Advisory Committee on Former Prisoners of War at *Julian.Wright2@va.gov*.

Join on Your Computer or Mobile App: https://veteransaffairs.webex.com/veteransaffairs/j.php?MTID=mc6cf5cb7d9119dc25f35cc7a3c9972f6.

You can dial 1–404–397–1596 USA Toll Number and enter the access code below.

Access code: 2829 528 2171#.

Dated: March 25, 2026.

Jelessa M. Burney,

Federal Advisory Committee Management Officer.

[FR Doc. 2026–06020 Filed 3–27–26; 8:45 am]

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Part II

Nuclear Regulatory Commission

10 CFR Parts 1, 2, et al.
Risk-Informed, Technology-Inclusive Regulatory Framework for Advanced Reactors; Final Rule

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 1, 2, 10, 11, 19, 20, 21, 25, 26, 30, 40, 50, 51, 53, 70, 72, 73, 74, 75, 95, 140, 150, 170, and 171

[NRC–2019–0062]

RIN 3150–AK31

Risk-Informed, Technology-Inclusive Regulatory Framework for Advanced Reactors

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is amending its regulations by adding a risk-informed, performance-based, and technology-inclusive regulatory framework for commercial nuclear plants in response to the Nuclear Energy Innovation and Modernization Act (NEIMA). The current application and licensing requirements were primarily developed to address license requests concerning light water-cooled reactors and operational requirements for those types of reactors. This final rule responds to NEIMA by creating an alternative, technology-inclusive regulatory framework to accommodate licensing of future commercial nuclear plants, including advanced reactor designs that may not employ light-water technology.

DATES: This final rule is effective on April 29, 2026.

ADDRESSES: Please refer to Docket ID NRC–2019–0062 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–2019–0062. Address questions about NRC dockets to Helen Chang; telephone: 301–415–3228; email: *Helen.Chang@nrc.gov*. For technical questions, contact the individuals 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 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.* For the convenience of the reader, instructions about obtaining materials referenced in this document are provided in the ''Availability of Documents'' section.
- *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, Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Nicole Fields, Office of Nuclear Material Safety and Safeguards, telephone: 630–829–9570, email: *Nicole.Fields@nrc.gov* and Anders Gilbertson, Office of Nuclear Reactor Regulation, telephone: 301–415–1541, email: *Anders.Gilbertson@nrc.gov.* Both are staff of the U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION: This rulemaking is separate from the NRC's comprehensive review and reform of its regulations, including those governing transportation, in accordance with Executive Order (E.O.) 14300, ''Ordering the Reform of the Nuclear Regulatory Commission'' (90 FR 22587; May 29, 2025). The rulemakings associated with that effort will comprehensively reexamine NRC requirements. While there could be additional revisions to part 53, ''Risk-Informed, Technology-Inclusive Regulatory Framework for Commercial Nuclear Plants,'' of title 10 of the *Code of Federal Regulations* (10 CFR) as a result of these future rulemakings, the NRC is moving forward with publication of this final rule at this time because it is a deregulatory action of high interest for stakeholders that was in progress before the issuance of E.O. 14300.

Executive Summary

A. Need for the Regulatory Action

On January 14, 2019, the President signed the NEIMA into law (Pub. L. 115–439). NEIMA section 103(a)(4) directs the NRC to ''complete a rulemaking to establish a technology-inclusive, regulatory framework for optional use by commercial advanced nuclear reactor applicants for new reactor license applications.'' NEIMA defines a ''technology-inclusive regulatory framework'' as one that is ''developed using methods of evaluation that are flexible and practicable for application to a variety of reactor technologies, including, where appropriate, the use of risk-informed and performance-based techniques.'' NEIMA, as further amended by the Accelerating Deployment of Versatile, Advanced Nuclear for Clean Energy Act of 2024 (ADVANCE Act), defines the term ''advanced nuclear reactor'' as ''a nuclear fission reactor or fusion machine, including a prototype plant (as defined in sections 50.2 and 52.1 of title 10 of the *Code of Federal Regulations* (10 CFR) (as in effect on the date of enactment of [NEIMA])), with significant improvements compared to commercial nuclear reactors under construction as of the date of enactment of [NEIMA].''

The NRC initially considered establishing the scope of 10 CFR part 53 as being for ''advanced nuclear plants'' consisting of one or more ''advanced nuclear reactors'' as defined in NEIMA. Based on public discussions on the use of the term, the NRC determined that the NEIMA definition, although broad, did not define ''significant improvements'' with enough specificity to implement in NRC regulations. Additionally, a number of stakeholders suggested that the descriptor, ''advanced,'' implied enhanced safety, while the NEIMA definition includes ''significant improvements'' in areas other than safety enhancements. In response to this feedback, and to be technology-inclusive, the NRC determined that the broader term ''commercial nuclear plant'' is preferable.

The current application and licensing requirements in 10 CFR part 50, ''Domestic Licensing of Production and Utilization Facilities,'' and 10 CFR part 52, ''Licenses, Certifications, and Approvals for Nuclear Power Plants,'' were primarily developed to address license requests concerning light water-cooled reactors and operational requirements for those types of reactors. This final rule responds to NEIMA by creating an alternative, technology-inclusive regulatory framework to accommodate licensing of future commercial nuclear plants, including advanced reactor designs that may not employ light-water technology. The new alternative requirements and implementing guidance adopt technology-inclusive approaches and use risk-informed and performance-based techniques to ensure an equivalent level of safety to that of operating commercial nuclear plants while providing optionality and flexibility for licensing and regulating a variety of technologies and designs for commercial nuclear reactors.

B. Major Provisions

Major provisions of this final rule, supported by accompanying guidance, include the following:

- A new alternative technology-inclusive, risk-informed, performance-based framework that includes requirements for licensing and regulating nuclear plants during the various stages of their life cycles.
- A new alternative technology-inclusive, risk-informed, and performance-based framework in 10 CFR part 26, ''Fitness for Duty Programs,'' developed from existing requirements in subpart K, ''FFD Programs for Construction,'' of part 26.
- A new alternative technology-inclusive and performance-based security framework in 10 CFR part 73, ''Physical Protection of Plants and Materials,'' that includes requirements for protection of licensed activities at commercial nuclear plants.

C. Costs and Benefits

The NRC prepared a final regulatory analysis to determine the expected quantitative costs and benefits of this final rule and associated guidance as well as qualitative factors to be considered in the NRC's rulemaking decision. The conclusion from the analysis is that this final rule and associated guidance would result in net averted costs to the industry and the NRC of $152 million using a 7-percent discount rate and $203 million using a 3-percent discount rate. The annualized averted costs at a 7-percent discount rate are approximately $1.64 million per year to the NRC and $9.1 million per year to industry, or net annualized averted costs of approximately $10.7 million, over the 66-year analysis period. The number of future applicants was chosen conservatively, based on information known to the NRC; with each additional applicant beyond those included in the regulatory analysis, this final rule becomes even more cost-beneficial.

The final regulatory analysis also considers qualitative factors such as greater regulatory stability, predictability, and clarity to the licensing process. These benefits would result, for example, from incorporating advances in probabilistic risk assessment (PRA) and other risk-informed analyses into the regulatory framework. Another qualitative factor is promoting a performance-based regulatory framework that specifies requirements to be met and provides flexibility to an applicant or licensee regarding the information or approach needed to satisfy those requirements.

For more information, please see the final regulatory analysis (available in the NRC's Agencywide Documents Access and Management System (ADAMS) Accession No. ML26042A230).

Table of Contents

I. Background
NRC Advanced Reactor Readiness
II. Discussion
A. Objective and Applicability
B. Need for Changes to the Existing Regulatory Framework
C. 10 CFR Part 53 Framework
III. Part 53 Framework
Subpart A—General Provisions
A. Discussion of Definitions in Part 53
B. Other General Provisions
Subpart B—Technology-Inclusive Safety Requirements
Subpart C—Design and Analysis Requirements
Subpart D—Siting Requirements
Subpart E—Construction and Manufacturing Requirements
Subpart F—Requirements for Operation
Subpart G—Decommissioning Requirements
Subpart H—Licenses, Certifications, and Approvals
Subpart I—Maintaining and Revising Licensing-Basis Information
Subpart J—Reporting and Other Administrative Requirements
Subpart M—Enforcement
IV. Changes to Other Parts of 10 CFR Chapter I
10 CFR Part 26
A. Introduction
B. Changes to Part 26, Subparts A Through E and I
C. Requirements for Part 26, Subpart M
D. Changes to Part 26, Subpart N
E. Changes to Part 26, Subpart O
10 CFR Part 50
A. Section 50.160: Emergency Preparedness for Small Modular Reactors, Non-Light-Water Reactors, and Non-Power Production or Utilization Facilities
B. Appendix B to Part 50: Quality Assurance Criteria for Nuclear Power Plants and Fuel Reprocessing Plants
C. Appendix E to Part 50: Emergency Planning and Preparedness for Production and Utilization Facilities
10 CFR Part 73
A. Section 73.100: Technology-Inclusive Requirements for Physical Protection of Licensed Activities at Commercial Nuclear Plants Against Radiological Sabotage
B. Section 73.110: Technology-Inclusive Requirements for Protection of Digital Computer and Communication Systems and Networks
C. Section 73.120: Access Authorization Program for Commercial Nuclear Plants
V. Opportunities for Public Participation
VI. Public Comment Analysis
VII. Regulatory Flexibility Certification
VIII. Regulatory Analysis
IX. Backfitting and Issue Finality
X. Cumulative Effects of Regulation
XI. Plain Writing
XII. Environmental Assessment and Final Finding of No Significant Environmental Impact
XIII. Paperwork Reduction Act
XIV. Executive Orders
A. Executive Order 12866: Regulatory Planning and Review (as Amended by Executive Order 14215: Ensuring Accountability for All Agencies)
B. Executive Order 14154: Unleashing American Energy
C. Executive Order 14192: Unleashing Prosperity Through Deregulation
D. Executive Order 14270: Zero-Based Regulatory Budgeting To Unleash American Energy
XV. Congressional Review Act
XVI. Criminal Penalties
XVII. Voluntary Consensus Standards
XVIII. Availability of Guidance
XIX. Availability of Documents

I. Background

The NRC is amending its regulations by adding an alternative risk-informed, performance-based, and technology-inclusive regulatory framework as an option for the licensing and regulation of future commercial nuclear plants. This section discusses previous activities that have led to the development of this final rule.

NRC Advanced Reactor Readiness

In its ''Policy Statement on the Regulation of Advanced Nuclear Power Plants,'' dated July 8, 1986, the Commission stated that it considered the term ''advanced'' to apply to reactors that are significantly different from current (*i.e.,* current in 1986) generation light-water reactors (LWRs) then under construction or in operation, and that ''advanced'' includes reactors that provide enhanced margins of safety or utilize simplified inherent or other innovative means to accomplish their safety functions. At the time, certain high temperature gas-cooled reactors, liquid metal reactors, and LWRs of innovative design were considered to be ''advanced.'' The 1986 policy statement provided the Commission's policy regarding the review of, and desired characteristics associated with, advanced reactors. The NRC updated this statement in the ''Policy Statement on the Regulation of Advanced Reactors,'' dated October 14, 2008 (Advanced Reactor Policy Statement).

The agency has undertaken many activities related to advanced reactors, including issuing an advance notice of proposed rulemaking titled ''Approaches to Risk-Informed and Performance-Based Requirements for Nuclear Power Reactors,'' dated May 4, 2006 (71 FR 26267). These efforts were often done in parallel, and sometimes interwoven, with the NRC's efforts to

improve risk-informed and performance-based approaches within the agency (*e.g.,* the Commission's PRA policy statement, ''Use of Probabilistic Risk Assessment Methods in Nuclear Regulatory Activities,'' dated August 16, 1995 (60 FR 42622)).

In 2016, the NRC issued ''NRC Vision and Strategy: Safely Achieving Effective and Efficient Non-Light Water Mission Readiness'' (Advanced Reactor Vision and Strategy Document), in response to increasing interest in advanced reactor designs. The NRC considered the Department of Energy's (DOE's) advanced reactor deployment goals in developing the Advanced Reactor Vision and Strategy Document. Since publication of the document, the NRC continues to manage its activities to support the DOE's deployment goals. The Advanced Reactor Vision and Strategy Document identified initiating and developing a new risk-informed and performance-based regulatory framework as a possible long-term goal. However, the NRC staff's initial efforts were focused on resolving policy issues and developing guidance for licensing non-LWR technologies under the existing regulatory frameworks (parts 50 and 52). The NRC staff issues annual Commission papers on the status and progress of the NRC staff's activities related to advanced reactors (*e.g.,* SECY–24–0020, ''Advanced Reactor Program Status,'' dated February 27, 2024). These Commission papers provide status updates for advanced reactor activities undertaken both prior to and after initiation of this rulemaking.

In 2017, the NRC staff prioritized activities to support the development of technology-inclusive, risk-informed, and performance-based licensing approaches that could be implemented under the existing regulatory framework in parts 50 and 52. These activities leveraged previous work described in NUREG–1860, ''Feasibility Study for a Risk-Informed and Performance-Based Regulatory Structure for Future Plant Licensing,'' published in 2007. One key element of these efforts was the Licensing Modernization Project (LMP), a cost-shared initiative led by nuclear utilities and supported by DOE. The LMP methodology is a technology-inclusive, risk-informed, and performance-based methodology developed for non-LWR designs. The LMP methodology provides a systematic and reproducible process for licensing-basis event (LBE) selection and evaluation; classification of structures, systems, and components (SSCs); and assessment of defense in depth. The LMP methodology refined the DOE's Next Generation Nuclear Plant Program methodologies to reflect interactions with the NRC, to address feedback from industry, and to broaden the scope of the approach to ensure applicability to various non-LWR technologies. The LMP methodology activities led to the publication and submittal of Nuclear Energy Institute (NEI) 18–04, Revision 1, ''Risk-Informed Performance-Based Technology-Inclusive Guidance for Non-Light Water Reactor Licensing Basis Development,'' issued August 2019. The document indicates that controlling the frequencies and potential consequences of a wide spectrum of events is the primary focus of the LMP methodology.

The NRC endorsed the principles and methodology in NEI 18–04, with clarifications, in RG 1.233, ''Guidance for a Technology-Inclusive, Risk-Informed, and Performance-Based Methodology to Inform the Licensing Basis and Content of Applications for Licenses, Certifications, and Approvals for Non-Light-Water Reactors.'' The NRC staff sought Commission approval of the use of the LMP methodology and NEI 18–04 in SECY–19–0117, ''Technology-Inclusive, Risk-Informed, and Performance-Based Methodology to Inform the Licensing Basis and Content of Applications for Licenses, Certifications, and Approvals for Non-Light-Water Reactors,'' dated December 2, 2019. In that paper, the staff described the relationship between the LMP methodology and NEI 18–04 and previous relevant Commission decisions, including those described in SECY–93–092, ''Issues Pertaining to the Advanced Reactor (PRISM, MHTGR, and PIUS) and CANDU 3 Designs and their Relationship to Current Regulatory Requirements,'' dated April 8, 1993. The Commission approved the use of the LMP methodology and NEI 18–04 as a reasonable approach for establishing key parts of the licensing basis and content of applications for licenses, certifications, and approvals for non-LWRs in Staff Requirements Memorandum (SRM) SRM–SECY–19–0117, dated May 26, 2020. Although the LMP methodology is technology-inclusive, the industry and NRC staff initially focused the LMP methodology's applicability on non-LWRs, both for efficiency and to support near-term non-LWR applications under the existing regulatory framework, such as the Advanced Reactor Demonstration Projects supported by DOE.

As stated in the part 53 rulemaking plan, SECY–20–0032, dated April 13, 2020, the NRC staff developed part 53 by building upon recent and ongoing activities such as the LMP methodology described in SECY–19–0117. Such an approach supports implementing the NEIMA direction to establish a technology-inclusive framework as well as the requirement to use, where appropriate, risk-informed and performance-based techniques, and it also capitalizes on previous initiatives by the industry, DOE, and the NRC. The LMP methodology highlights the role of PRA in risk-informed and performance-based approaches to identifying enhanced safety margins that can be used to justify operational flexibilities. The part 53 framework is largely based on the methodology described in SECY–19–0117 and includes a prominent role for PRA, other systematic risk evaluations (SREs), or a combination thereof.

II. Discussion

A. Objective and Applicability

The NRC is adding a new, alternative part to its regulations that sets out a risk-informed, technology-inclusive framework for the licensing and regulation of commercial nuclear plants. This new approach achieves the following: (1) continue to provide reasonable assurance of adequate protection of public health and safety and the common defense and security; (2) promote regulatory stability, predictability, and clarity; (3) reduce requests for exemptions from the current requirements in parts 50 and 52; (4) establish new requirements to address non-LWR technologies; (5) recognize technological advancements in reactor design; and (6) credit the possible response of some designs of commercial nuclear plants to postulated accidents, including slower transient response times and relatively small and slow release of fission products. This final rule adds 10 CFR part 53; subpart M, ''Fitness-for-Duty Programs for Facilities Licensed Under 10 CFR part 53,'' to part 26; § 73.100, ''Technology-inclusive requirements for physical protection of licensed activities at commercial nuclear plants against radiological sabotage,'' § 73.110, ''Technology-inclusive requirements for protection of digital computer and communication systems and networks,'' and § 73.120, ''Access authorization program for commercial nuclear plants,'' as well as makes conforming changes throughout 10 CFR chapter I, ''Nuclear Regulatory Commission.''

B. Need for Changes to the Existing Regulatory Framework

The NRC has long recognized that the licensing and regulation of a variety of nuclear reactor technologies presents

challenges because the existing regulatory framework has evolved primarily to address the LWR designs that compose the current operating fleet. The NRC has had many interactions with designers of various reactor technologies under development, sometimes collectively referred to as advanced reactors. The interactions have informed the development of policies and guidance to support the potential licensing of new and different types of reactor facilities, some of which may not utilize LWR designs. The NRC issued its Advanced Reactor Policy Statement to provide all interested parties, including the public, with the Commission's views concerning the desired characteristics of advanced reactor designs. The NRC further described its early efforts to establish a technology-inclusive approach to the regulation of nuclear reactors in the advance notice of proposed rulemaking published in 2006. The NRC acknowledged in its ''Report to Congress: Advanced Reactor Licensing,'' issued August 2012, that ''while the safety philosophy inherent in the current regulations applies to all reactor technologies, the specific and prescriptive aspects of those regulations clearly focus on the current fleet of LWR facilities.''

Congress similarly recognized the potential benefits of developing a regulatory infrastructure to support the development and commercialization of advanced nuclear reactors. Consequently, Congress passed NEIMA in late 2018, and the President signed it into law in January 2019. NEIMA directed the NRC to undertake a rulemaking to establish a technology-inclusive regulatory framework for optional use by applicants for new commercial advanced nuclear reactor licenses. In addition, on July 9, 2024, the President signed into law the Accelerating Deployment of Versatile, Advanced Nuclear for Clean Energy Act of 2024, also referred to as the ADVANCE Act. The NRC has evaluated the ADVANCE Act, including how NRC regulations, such as part 53 or future revisions to it, could be used to address provisions in the ADVANCE Act. The ADVANCE Act contains provisions on a variety of nuclear-related topics, such as microreactors, nuclear reactor license application reviews, and nuclear fuel. Finally, in 2025, the President signed E.O. 14300, ''Ordering the Reform of the Nuclear Regulatory Commission,'' which builds on the provisions in the ADVANCE Act. E.O. 14300 will complement this rulemaking by providing additional mechanisms for streamlining the agency's efforts to provide an efficient licensing pathway for advanced reactors.

The requirements in part 53 support a wide variety of potential commercial nuclear reactor technologies. The current regulatory framework in parts 50 and 52 evolved in the context of the current operating reactor fleet dominated by LWRs and as a result includes provisions specific to LWR technologies. While the NRC can license other reactor technologies under the current framework by using existing regulatory flexibilities and the exemption process, there is significant interest in developing a regulatory framework that is flexible enough to accommodate multiple technologies and robust enough to ensure a level of safety equivalent to parts 50 and 52, consistent with the Commission's Advanced Reactor Policy Statements. The Commission reiterated its safety expectations for new reactors in the SRM for SECY–10–0121, ''Modifying the Risk-Informed Regulatory Guidance for New Reactors,'' dated March 2, 2011:

> Because new plant designs incorporate operating experience from current generation reactors, severe accident research, and risk insights from design probabilistic risk assessments, the Commission expects that the advanced technologies incorporated in new reactors will result in enhanced margins of safety. However, the Commission continues to expect (consistent with the 2008 Advanced Reactor Policy Statement), as a minimum, at least the same degree of protection of the public and the environment that is required for current-generation light-water reactors. New reactors with these enhanced margins and safety features should have greater operational flexibility than current reactors.

However, developing a regulatory framework that can accommodate a wide range of technologies while maintaining an acceptable level of safety presents significant regulatory challenges. The existing regulations have been developed over the course of decades and reflect changes to address events discovered through operating experience. As a result, the existing regulations have benefited from a focused and tailored treatment of safety issues as issues arose and evolved. In contrast, part 53 is being developed to accommodate technologies that, in some cases, lack significant operating experience. This lack of operating experience makes it challenging to develop technology-inclusive regulatory requirements when it is less well-known which issues may be more or less important to safety for any given set of technologies. To address these challenges, the NRC drew on well-developed approaches to licensing to produce a technology-neutral and robust regulatory framework. The regulatory framework uses PRAs, other SREs, or a combination thereof, to assess risks and focus on the issues most important to safety, help establish technical requirements, and manage operations. The framework builds on the LMP methodology, which is a technology-inclusive approach to licensing that leverages risk insights to provide applicants with significant design and operation flexibilities.

C. 10 CFR Part 53 Framework

This final rule consists of several major components, including a new part 53, to be added to 10 CFR chapter I, revisions for part 26, part 50, and part 73, and conforming changes throughout 10 CFR chapter I. The major features of this final rule include the following:

(1) *Technology-inclusiveness.* This rule provides a broad and flexible regulatory framework that can be used for any reactor technology, any size reactor, and any reactor end use.

(2) *Risk-informed framework to support safety-focused decision-making.* Part 53 provides a holistic, risk-informed framework that offers substantial flexibility in leveraging safety margins and focusing on design features and programmatic controls important to protecting public health and safety. The framework allows for explicit consideration of risk through the use of PRAs or other SRE techniques, or a combination thereof, to generate risk insights, and to assess and manage those risks. This approach departs from traditional deterministic methods, notably the use of the single-failure criterion, by enabling applicants to propose comprehensive risk metrics and associated risk performance objectives, appropriate systematic risk assessment techniques, and to demonstrate how their design and associated programmatic controls protect public health and safety.

(3) *Performance-based approach.* Part 53 is a performance-based framework that provides flexibility in establishing appropriate high-level safety objectives and demonstrating how a reactor design or specific commercial nuclear plant meets those objectives. Rather than prescribing specific methods or processes, the performance-based approach in part 53 promotes efficiency and innovation by allowing applicants to propose design features to meet safety objectives and achieve safety outcomes. This will support novel concepts such as leveraging functional containment concepts, alternative siting criteria for commercial nuclear reactors in relation to population centers, reduced staffing

levels, and remote operations, while eliminating traditional, prescriptive requirements, such as general design criteria and aircraft impact assessments.

(4) *Licensing pathways that accommodate a broad spectrum of design maturities and deployment models.* Part 53 provides several licensing options for applicants to choose from to meet their deployment model or business case needs, including the licenses, certifications, and approvals provided by parts 50 and 52. This final rule provides additional flexibility for manufacturing licenses (MLs), including the possible factory loading of fuel into manufactured reactors with appropriate features to prevent criticality for deployment to another location for operation.

(5) *Operator licensing.* Part 53 introduces the concept of self-reliant-mitigation facilities and the use of generally licensed reactor operators (GLROs) for those facilities. The allowance for GLROs provides flexibility for the types and locations of staffing needed under part 53.

(6) *Efficiency.* Part 53 provides opportunities to improve regulatory efficiency by including provisions for licensing first-of-a-kind proposals as well as provisions that benefit those proposing standardized and repetitious applications. Part 53 provides finality to designs for which an operating license has been issued to improve its incorporation into a standardized design approval or certification. Part 53 also provides for a risk-informed approach for managing plant equipment and programmatic controls that reduce the future need for regulatory approvals.

(7) *Codes and standards.* Part 53 does not incorporate by reference specific codes and standards as is done in § 50.55a, ''Codes and standards.'' Instead, part 53 allows the use of generally accepted codes and standards to be tailored to the assessed safety significance of SSCs, such as the use of non-nuclear codes and standards for SSCs composed of commercial grade components.

Part 53 is comprised of subparts A through M. These provisions are organized to provide high-level performance criteria and to specify requirements to demonstrate compliance with those performance criteria throughout major stages of the life cycle of commercial nuclear plants. This organization reflects a systems-engineering style approach to the design, licensing, operation, and ultimately decommissioning of future commercial nuclear plants. Organizing requirements in this manner also supports performance-based approaches. Required programs (*e.g.,* radiation protection) and monitoring (*e.g.,* technical specification (TS) surveillance) during the operations phase that are similar to those required by part 50 complement the design and analysis requirements in subpart C. The performance-based approach adopted in part 53 also includes regulatory requirements that allow applicants to use a flexible and graded approach to the performance of safety functions based on the role of a particular SSC, human action, or program in limiting the overall risks to the public below accepted standards through balanced measures to prevent and mitigate possible events.

Subpart M of part 26 is new and is largely consistent with the objective-based fitness-for-duty (FFD) requirements in current subpart K, ''FFD Programs for Construction,'' of part 26 supplemented by select requirements from subparts A through I, N, and O of part 26. Subpart M of part 26 is designed to ensure program effectiveness, maintain protections afforded to individuals subject to the FFD program, and align with FFD program implementation by parts 50 and 52 licensees. The requirements are not entirely equivalent because current subpart K of part 26 only applies during construction of the commercial nuclear plant, whereas subpart M of part 26 applies during construction, operation, and decommissioning. Furthermore, subpart M of part 26 allows the use of a variety of biological specimens for drug testing as well as innovative technologies for drug and alcohol screening and testing that are not described or allowed by the requirements in subparts A through K, N, and O of part 26, except under limited conditions.

Revisions to part 73 establish a new technology-inclusive, consequence-based approach for a range of security areas, including physical security, cybersecurity, and access authorization (AA) for commercial nuclear reactors. The NRC used operating experience to include additional regulatory flexibility for a part 53 licensee's implementation of security requirements.

In addition, this final rule makes conforming changes throughout 10 CFR chapter I, by adding ''and part 53'' where appropriate to account for the addition of part 53.

III. Part 53 Framework

Subpart A—General Provisions

Subpart A provides the general provisions applicable to all applicants and licensees that are established in part 53 for the issuance, amendment, and termination of licenses, permits, certifications, and approvals for commercial nuclear plants licensed under section 103 of the Atomic Energy Act of 1954, as amended (the AEA) and title II of the Energy Reorganization Act of 1974 (88 Stat. 1242). Subpart A includes purpose, scope, definitions, written communications, employee protections, completeness and accuracy of information, exemptions, standards for review, jurisdictional limits, consideration of attacks and destructive acts by enemies of the United States, and information collection requirements.

The requirements in subpart A are largely equivalent to the general requirements in part 50 that are applicable to all part 50 applicants and licensees (specifically, §§ 50.1 through 50.13) but reference the corresponding regulations in part 53 in place of references to part 50.

A. Discussion of Definitions in Part 53

This final rule includes a definition section in § 53.020. The definitions of most terms in § 53.020 are equivalent to the corresponding terms defined in: (1) §§ 50.2, 52.1, and other NRC regulations; (2) NEI 18–04, as endorsed by RG 1.233; or (3) American Society of Mechanical Engineers (ASME)/American Nuclear Society Risk Assessment Standard (RA–S)-1.4–2021, as endorsed for trial use by RG 1.247, ''Acceptability of Probabilistic Risk Assessment Results for Non-Light-Water Reactor Risk-Informed Activities.'' This is intended to provide clarity and consistency in terminology where possible and to utilize past and ongoing NRC initiatives to support the licensing of new reactors. Specific deviations from existing definitions are further explained in the following paragraphs.

Regarding the definition of ''*Commercial nuclear plant*'' and ''*Commercial nuclear reactor*'' in § 53.020, as noted previously, the NRC initially considered establishing the scope of part 53 as being for ''advanced nuclear plants.'' The preliminary proposed rule language defined ''advanced nuclear plant'' as ''a utilization facility consisting of one or more advanced nuclear reactors'' as defined in NEIMA. NEIMA defines the term ''advanced nuclear reactor'' as ''a nuclear fission reactor or fusion machine, including a prototype plant (as defined in sections 50.2 and 52.1 of 10 CFR (as in effect on the date of enactment of this Act)), with significant improvements compared to commercial nuclear reactors under construction as of the date of enactment of this Act,

including improvements such as—(A) additional inherent safety features; (B) significantly lower levelized cost of electricity; (C) lower waste yields; (D) greater fuel utilization; (E) enhanced reliability; (F) increased proliferation resistance; (G) increased thermal efficiency; or (H) ability to integrate into electric and nonelectric applications.''

Based on public discussions on the use of the term, the NRC determined that the NEIMA definition, although broad, did not define ''significant improvements'' with enough specificity to implement in NRC regulations. Additionally, a number of stakeholders suggested that the descriptor ''advanced'' implied enhanced safety, while the NEIMA definition includes ''significant improvements'' in areas other than safety enhancements. In response to this feedback, and to be technology-inclusive, the NRC determined that the broader term ''commercial nuclear plant'' is preferable. The NEIMA definition of advanced nuclear reactor also includes fusion technologies. Fusion energy systems have not been included in the scope of part 53 but are the subject of a separate rulemaking activity, ''Regulatory Framework for Fusion Systems.'' See NRC docket ID NRC–2023–0017 on the Federal rulemaking website *https://www.regulations.gov.*

The NRC allows the use of part 53 by any ''commercial nuclear plant.'' The use of the term ''plant'' versus ''reactor,'' as used in existing regulations (*i.e.,* § 50.2), recognizes that co-located support facilities and radionuclide sources need to be considered in the licensing of a facility. The phrase ''commercial purposes,'' as used in the definition of ''commercial nuclear plant,'' includes purposes such as providing process heat for a variety of industrial applications (*e.g.,* desalination, oil refining, hydrogen production). The NRC has not compiled a complete list of such commercial purposes. The definition of ''*Commercial nuclear plant*'' refers to a ''*Commercial nuclear reactor,*'' which is defined based on the definition of ''*Nuclear reactor*'' in § 50.2. However, the phrase ''in a self-supporting chain reaction'' is not included in the definition of *Commercial nuclear plant* to enable applying part 53 to accelerator driven systems that use special nuclear material (SNM) but that do not involve self-sustaining chain reactions. Relatedly, ''*Utilization facility*'' is also defined in § 53.020 based on the definition of that term in § 50.2 and refers to a ''*Commercial nuclear plant*'' as defined in § 53.020.

The definition of ''*Construction*'' is different from the definition in § 50.10. Because the regulatory framework in part 53 uses risk-informed, less prescriptive, and performance-based requirements as compared to part 50, the part 53 definition takes a different approach in determining what activities are prohibited without an NRC license. Under the part 53 approach, the definition of ''*Construction*'' specifies a variety of activities that are applicable to safety-related (SR) and non-safety-related but safety-significant (NSRSS) SSCs and are credited or relied upon for demonstrating compliance with safety criteria defined in subpart B of part 53 as well as SSCs necessary to comply with part 73 and onsite emergency facilities necessary to comply with § 53.855. By listing the activities for SR and NSRSS SSCs that are credited or relied upon for demonstrating compliance with safety criteria defined in subpart B, this definition describes activities related to SSCs subject to some sort of special treatment, as that term is defined in § 53.020. These special treatment requirements, which include quality assurance, design criteria, and programmatic controls, apply to safety-related SSCs and the set of non-safety-related SSCs for which a license is required to authorize construction activities. The latter category includes a facility's NSRSS SSCs. The non-safety-significant SSCs not subject to special treatment and NSRSS SSCs for which special treatments are limited to operational controls are, in general, identified as ''commercial grade'' and may be designed, procured, and installed in accordance with the usual practices employed for industrial plants. Importantly, under the part 53 definition, an SSC that falls outside the definition of construction may still be subject to the NRC's statutory authority during operations. In view of the foregoing, the definition of ''*Construction*'' in § 53.020 is consistent with the provisions of the AEA related to construction permits, while simultaneously allowing activities related to SSCs that are commercial grade but which could still be subject to the NRC's jurisdiction during operations. This definition also includes the listed activities which are for SSCs necessary to comply with part 73 or onsite emergency facilities necessary to comply with § 53.855. The inclusion of the listed activities which are for these SSCs is consistent with § 50.10(a)(1)(v) and (vii), which include activities for corresponding SSCs. Including these activities in the definition of ''*Construction*'' is appropriate because, in both instances, part 53 points back to the relevant existing frameworks in part 73 and the relevant part 50 requirements, respectively, rather than creating an entirely new framework. Section 53.020 also adds definitions for terms related to event selection (LBEs, design-basis accidents (DBAs), anticipated event sequences, unlikely event sequences, and very unlikely event sequences); equipment classifications (SR, NSRSS, and non-safety-significant SSCs); performance metrics (*e.g.,* safety criteria and functional design criteria); and special treatment.

The regulation defines ''*Safety criteria*'' in terms of the plant-level performance-based metrics that are provided in §§ 53.210 and 53.220. The term ''*Functional design criteria*'' is defined as metrics for the performance of specific SSCs that are determined from the role of the SSC in meeting the safety criteria. These are new terms that have not previously been defined or used in NRC regulation.

The term ''*Safety-related SSCs*'' refers to those SSCs needed to meet the safety criteria in § 53.210. The term ''*Non-safety-related but safety-significant SSCs*'' means those SSCs that are not SR because they are not relied upon to perform any function necessary to demonstrate compliance with § 53.210 but warrant special treatment because they are relied on to achieve adequate defense in depth or perform risk-significant functions. The term ''*Non-safety-significant SSCs*'' means those SSCs that are not SR or NSRSS.

The term ''*Programmatic controls*'' means administrative measures that govern human action in implementing programs and operating, monitoring, and maintaining SSCs and equipment of a commercial nuclear plant.

The terms ''*Design-basis accidents,*'' ''*Anticipated event sequences,*'' ''*Unlikely event sequences,*'' and ''*Very unlikely event sequences*'' are defined to be different types of ''*Licensing-basis events*'' and are also largely equivalent to the LMP methodology's definitions of DBAs, anticipated operational occurrences (AOOs), design-basis events (DBEs), and beyond-design-basis events, respectively. The term ''*Design-basis accidents*'' is defined as postulated event sequences that are used to set functional design criteria and performance objectives for the design of SR SSCs through deterministic analyses. Design-basis accidents are derived from the unlikely event sequences from the PRA, a type of SRE, other SREs, or a combination thereof, and then analyzed in a conservative approach by

prescriptively assuming that only SR SSCs are available to mitigate postulated accident scenarios. Within the LMP methodology, event sequences with mean frequencies of 1×10^{-2}/plant-year and greater are classified as anticipated event sequences. Within the LMP methodology, infrequent event sequences with mean frequencies of 1×10^{-4}/plant-year to 1×10^{-2}/plant-year are classified as unlikely event sequences. ''*Very unlikely event sequences*'' are less likely to occur than unlikely event sequences. Within the LMP methodology, rare event sequences with frequencies of 5×10^{-7}/plant-year to 1×10^{-4}/plant-year are classified as very unlikely event sequences. While the terminology for these event sequences creates some differences between part 53 and the LMP methodology, part 53 uses new terms for these event sequences specifically to avoid conflicts with terms already used within part 50 and part 52 to represent different concepts. Further, because some stakeholder comments demonstrated confusion related to the history of beyond-design-basis accidents terminology, these definitions seek to clarify the event categories in part 53. Finally, although the term ''event sequence'' is often used in the context of a PRA, that term is used generically in part 53 and does not imply the use of a specific type of SRE, such as a PRA. The sections of this preamble related to subparts B and C provide additional discussion of LBEs.

Section 53.020 includes a definition of ''*Special treatment*'' to explain that it means those requirements, such as quality assurance (QA), design criteria, and programmatic controls, that are taken beyond the procurement, installation, and maintenance of commercial grade products. Routine commercial practices may include the use of selected consensus codes and standards that are cited in applications to support the identification of special treatments that may go beyond what would otherwise be required by those selected commercial codes and standards. The special treatments increase confidence that SR and NSRSS SSCs will provide defense in depth, or perform risk-significant functions, under service conditions and with SSC reliabilities that are consistent with the analysis required in subpart C. Structures, systems, and components designated as SR also contribute to defense in depth and risk-significant functions and may warrant special treatments beyond those defined for the SR functions needed for compliance with § 53.210.

To maintain alignment with definitions in part 52, the NRC has added a definition of early site permit (ESP). The NRC proposed definitions for ''Consensus code or standard'' and ''probabilistic risk assessment'' but is not including a definition for these terms in this final rule because these terms were determined not to be essential for the framework and including the definitions could introduce issues with consistency given alternative definitions developed by other organizations.

B. Other General Provisions

Section 53.040 governs written communications and how applications and other required information must be submitted to the NRC. These requirements are equivalent to those in § 50.4.

Section 53.050 establishes requirements for enforcement action to which a licensee, an applicant, or a licensee's or applicant's contractor or subcontractor, or an employee of any of them may be subject for engaging in deliberate misconduct. These requirements are equivalent to those in § 50.5.

Section 53.060 prohibits discrimination against an employee of a holder or applicant for an NRC license, permit, design certification (DC), or design approval, or a contractor or subcontractor of a holder or applicant for an NRC license, permit, DC, or design approval for engaging in certain protected activities. Section 53.060 also prescribes a procedure for seeking a remedy for employees who believe they have been discriminated against for engaging in such protected activities. These requirements are equivalent to those in §§ 50.7 and 52.5.

Section 53.070 governs the completeness and accuracy of information provided to the NRC. These requirements are equivalent to those in §§ 50.9 and 52.6.

Section 53.080 governs exemptions from the requirements of the regulations in part 53. These requirements are equivalent to those in §§ 50.12 and 52.7.

Paragraphs (a) through (d) of § 53.090 establish requirements for standards that the NRC will consider in determining whether a construction permit (CP), operating license (OL), ESP, combined license, or ML under part 53 will be issued to an applicant. These requirements are equivalent to those in §§ 50.40, 50.42, 50.43 and 50.22, respectively. Requirements equivalent to those in §§ 50.41 and 50.21 are not included in part 53 because they apply to Class 104 licenses, and part 53 does not apply to those licenses.

Section 53.100 requires that no license issued under part 53 may cover activities that are not under or within the jurisdiction of the United States. These requirements are equivalent to those in § 50.53.

Section 53.110 states that licensees and applicants are not required to provide design features or other measures for the specific purpose of protection against the effects of attacks and destructive acts by enemies of the United States directed against the facility or deployment of weapons incident to U.S. defense activities. These requirements are equivalent to those in § 50.13.

Section 53.115 establishes requirements for rights related to SNM. These requirements are equivalent to those in § 50.54(b) and (c).

Section 53.117 establishes requirements for license suspension and rights of recapture of the material or control of the facility in a state of war or national emergency declared by Congress. These requirements are equivalent to those in § 50.54(d).

Section 53.120 establishes requirements for information collection requirements that have received Office of Management and Budget (OMB) approval. These requirements are equivalent to those in § 50.8.

Subpart B—Technology-Inclusive Safety Requirements

Subpart B, ''Technology-Inclusive Safety Requirements,'' provides technology-inclusive safety criteria that serve as performance standards for the subsequent performance-based requirements used throughout part 53. Subsequent subparts define how specific activities during various stages of the life cycle of a commercial nuclear plant contribute to satisfying these high-level performance standards. The performance standards in subpart B also establish a means to determine appropriate regulatory controls for SSCs, human actions, and programs in the following subparts. For example, the classification of SR SSCs is built upon the safety criteria in § 53.210, ''Safety criteria for design-basis accidents.'' The more detailed requirements for those SSCs are then further defined in the design and analysis requirements in subpart C, ''Design and Analysis Requirements.'' The activities for manufacturing, constructing, and maintaining the SR SSCs are governed by subpart E, ''Construction and Manufacturing Requirements,'' and subpart F, ''Requirements for Operation.''

Requirements for NSRSS SSCs warranting special treatment are

likewise determined under § 53.220, ''Safety criteria for licensing-basis events other than design-basis accidents,'' in subpart B and § 53.460, ''Safety categorization and special treatment,'' in subpart C. Regulatory requirements related to the NSRSS SSCs are distinguished from the regulatory requirements for SR SSCs throughout part 53. Part 53 affords more flexibility to applicants and licensees regarding how NSRSS SSCs are used in the design and maintained during plant operations, as compared to SR SSCs.

The collective set of performance-based requirements in part 53 are sufficient, if met, for the NRC to make the findings required to grant an application for a utilization facility under section 182 of the AEA that the utilization of SNM will be in accord with the common defense and security and will provide adequate protection to the health and safety of the public. This construct is similar to existing NRC regulations, which the Commission has said on many occasions do not specifically define ''adequate protection.'' However, compliance with NRC regulations may be presumed to assure adequate protection at a minimum. The requirements throughout part 53 that support demonstrating compliance with § 53.220 are similar to current regulations that both contribute to assuring adequate protection of public health and safety and are desirable to promote the common defense and security or to protect health or to minimize danger to life or property under section 161 of the AEA.

Consistent with historical practice, sections 182 and 161 of the AEA are cited as authorizing legislation within this final rule. However, specific language from the AEA is not incorporated into the safety objectives or safety criteria in part 53. This is because, again consistent with historical practice, the NRC is not defining ''adequate protection'' through the individual safety requirements in part 53. Rather, part 53 enables the NRC to make its required findings under the AEA by providing sufficient performance standards, safety criteria, and related requirements on how applicants must demonstrate compliance with subpart B and other subparts.

Section 53.210 provides safety criteria for DBAs that are required to be identified under § 53.240 and analyzed under § 53.450(f) in subpart C of part 53. Subsequent sections in part 53 require that the SSCs relied upon to demonstrate compliance with the criteria in § 53.210 be classified as SR. The use of SR SSCs and the 25 rem reference values for potential radiological consequences aligns with traditional deterministic approaches for LWRs from §§ 50.34, 52.79, and 100.11 for evaluating the effectiveness of plant design features with respect to postulated reactor accidents. A footnote similar to that included in § 50.34(a)(1)(ii)(D)(*1*) and § 52.79(a)(1)(vi)(A) is included in § 53.210 to explain that the use of the 25 rem value is not intended to imply that this number constitutes an acceptable limit for an emergency dose to the public under accident conditions. Rather, this dose value has been set forth in this section as a reference value that is used in the evaluation of plant design features with respect to DBAs to verify that the proposed designs would provide assurance of low risk of public exposure to radiation in the event of an accident. The inclusion of the safety criteria for DBAs in subpart B provides a logical structure supporting the identification and treatment of SR SSCs and establishing the corresponding functional design criteria for those SSCs.

Section 53.220 provides safety criteria for LBEs other than DBAs that are required to be identified under § 53.240 and analyzed under § 53.450(e) in subpart C. Whereas § 53.210 and the related requirements for SR SSCs provide that a defined success path exists for DBAs, the safety criteria for LBEs other than DBAs establish the connections between SSC design, human actions, and programmatic controls and a broader set of potential internal and external hazards. These safety criteria also address defense-in-depth matters such as a balanced consideration of prevention and mitigation.

The safety criterion in § 53.220(b) includes a requirement to use a comprehensive risk metric or set of metrics and associated risk performance objectives against which calculated values of the risk metrics are compared. The comprehensive risk metrics or set of metrics and associated risk performance objectives support a performance-based approach to developing an appropriate combination of design features and programmatic controls to prevent or mitigate LBEs other than DBAs. The applicant must propose the comprehensive risk metric or set of metrics and associated risk performance objectives, and the comprehensive risk metric or set of metrics and associated risk performance objectives must provide an appropriate level of safety. Comprehensive risk metrics should consist of a proposed plant risk metric or set of proposed risk metrics that approximate the total, overall risk from the facility and that address the range of possible plant configurations and associated internal and external hazards to the extent practicable. The associated risk performance objectives are pre-established, indicative values of the comprehensive risk metrics that are used as part of risk-informed decision-making. The methodology for developing and using proposed comprehensive risk metrics and associated risk performance objectives is defined by the requirements for analyses in § 53.450. Therefore, the application must include a description of that methodology and, among other things, should explain the initial conditions, boundary conditions, and key assumptions used to develop and calculate the risk metrics. Screening tools and bounding or simplified methods may be used for any mode or hazard, provided that the applicant provides an acceptable technical basis. As with all risk-informed methodologies, treatment of uncertainties must be addressed.

The risk performance objectives established under this methodology are likely to involve assessing and averaging the risks over a period of time (*e.g.,* plant year) and do not constitute a real-time requirement that must be continuously demonstrated by the licensee. The use of a comprehensive risk metric or set of risk metrics and risk performance objectives that reflect an average risk to establish performance goals for SR and NSRSS SSCs is consistent with current practices that use other risk assessment techniques to address short-term plant configurations during plant maintenance activities.

It is worth noting that the evaluation of plant risks, as represented by a comparison of analysis results to acceptable risk performance objectives for comprehensive risk metrics, is one of several performance standards used in subpart B. The use of multiple performance standards, including deterministic criteria and defense-in-depth measures, reflects an integrated decision-making process similar to that described in RG 1.174, ''An Approach for Using Probabilistic Risk Assessment in Risk-Informed Decisions on Plant-Specific Changes to the Licensing Basis,'' Revision 3. The NRC's approval of using a comprehensive risk metric or set of metrics with associated risk performance objectives is not, by itself, an indicator of adequate protection. Rather, the comparison of comprehensive risk metrics to associated risk performance objectives that are acceptable to the NRC is part of a suite of regulatory requirements that,

when considered holistically, form the basis for the NRC's decision-making. This is analogous to the approach used for plants licensed under part 50 and part 52, where no single regulatory requirement governs whether a plant is ''safe enough.''

The RG 1.233, ''Guidance for a Technology-Inclusive, Risk-Informed, and Performance-Based Methodology to Inform the Licensing Basis and Content of Applications for Licenses, Certifications, and Approvals for Non-Light-Water Reactors,'' describes an example of an acceptable approach for identifying and analyzing LBEs under part 50 and part 52, including the use of the quantitative health objectives (QHOs) stated in the NRC's policy statement, ''Safety Goals for Nuclear Power Plant Operation,'' dated August 4, 1986 (51 FR 28044), as corrected and republished August 21, 1986 (51 FR 30028) (Safety Goals Policy Statement), as acceptable performance objectives for comprehensive risk metrics. The use of comprehensive risk metrics, such as the individual early fatality risk (IEFR) and the individual latent cancer fatality risk (ILCFR), and associated risk performance objectives, such as the QHOs, from the Safety Goals Policy Statement, could form the basis for one approach to meet § 53.220(b). The requirement for comprehensive risk metrics, in combination with the other requirements in subparts B and C, brings the approach endorsed in RG 1.233 for parts 50 and 52 into part 53. Additionally, the use of comprehensive risk metrics and associated risk performance objectives provides a logical performance objective to support the risk management approaches in the various subparts comprising part 53.

The Commission stated in the introduction of the Safety Goals Policy Statement that improvements to then-current regulatory practices could lead to a more coherent and consistent regulation of nuclear power plants, a more predictable regulatory process, a better public understanding of the regulatory criteria that the NRC applies, and public confidence in the safety of operating plants. Accordingly, the Commission announced the safety goals with a focus on the risks to the public from nuclear power plant operation. Following the issuance of the Safety Goals Policy Statement, the NRC has used the comprehensive risk metrics and performance objectives provided in the safety goals within the criteria for many decisions involving safety judgments during the licensing and regulation of operating reactors and proposed nuclear reactor designs. Consistent with NUREG–0880, the proposed comprehensive risk metrics and associated risk performance objectives required under § 53.220(b) can be expressed in terms of a biologically average individual in terms of age and other risk factors. Although some comprehensive risk objectives such as the IEFR and ILCFR are defined in terms of fatality risks, the Commission continues to make clear that no death attributable to nuclear power plant operation will ever be ''acceptable'' in the sense that the Commission would regard it as a routine or permissible event. Comprehensive risk metrics and associated risk performance objectives as used in this final rule establish acceptable risks, not acceptable deaths.

Applicants under part 53 may choose to develop and seek NRC approval of comprehensive risk metrics or sets of risk metrics and associated risk performance objectives beyond those previously discussed, including the use of surrogate measures for use in specific analyses to satisfy the requirements in § 53.220(b). Such surrogate measures for comprehensive risk metrics and associated risk performance objectives could be used in a manner similar to the use of core damage frequency and conditional containment failure probability for LWRs within the safety goal evaluation process in NUREG/BR–0058, ''Regulatory Analysis Guidelines of the U.S. Nuclear Regulatory Commission,'' and other assessments of LWRs using the NRC's safety goals. The NRC will, as appropriate, review novel approaches for comprehensive risk metrics and associated risk performance objectives proposed by applicants, industry organizations, or standard development organizations and will engage stakeholders during the development of the related regulatory guidance or specific licensing actions.

Section 53.230 requires safety functions needed to ensure that the safety criteria under §§ 53.210 and 53.220 can be met if an assumed LBE were to occur at a commercial nuclear plant. Section 53.230 specifies that limiting the release of radioactive materials from the facility is the primary safety function, and therefore, limiting potential offsite consequences (*i.e.,* dose to a hypothetical individual) can be used as the primary performance metric throughout part 53. The additional or subsidiary safety functions needed to limit the release of radionuclides may include, without limitation, controlling processes related to reactivity, heat generation, heat removal, and chemical interactions. This final rule provides flexibility to applicants and licensees in identifying, implementing, and maintaining the safety functions supporting retention of radionuclides for commercial nuclear plants of varying sizes and technologies.

Section 53.240 requires applicants to identify and address LBEs. LBEs are unplanned events, resulting from both internal and external hazards, that are used in the design and analyses required under part 53 for licensing commercial nuclear plants. This ensures estimates of offsite consequences from analyses performed under § 53.450 are below the safety criteria identified under §§ 53.210 and 53.220 and that SSCs, personnel, and programs address the safety functions from § 53.230. Including a high-level performance requirement related to the identification of LBEs to address appropriate risk-informed combinations of malfunctions of plant SSCs, human errors, facility hazards, and the effects of external hazards and analysis thereof in subpart B reflects the historical and continuing importance of evaluating unplanned events as part of the licensing of commercial nuclear plants. Section 53.240 requires identification and analysis of LBEs under § 53.450 using a PRA, other SREs, or a combination thereof. An example of acceptable methods of using PRAs to identify and assess LBEs is the methodology in RG 1.233, as discussed in RG 1.254, ''Technology-Inclusive Identification of Licensing Events for Commercial Nuclear Plants.''

Section 53.250 establishes defense-in-depth requirements based on the longstanding philosophy of providing defense in depth to address uncertainties about the design, operation, and performance of commercial nuclear plants. For example, parts 50 and 52 address defense in depth through layered prescriptive technical requirements (*e.g.,* fuel performance, cladding integrity, reactor coolant system integrity, containment performance) for LWRs. In contrast, the flexibility afforded to applicants in how they propose to demonstrate compliance with the high-level safety criteria within part 53 necessitates this specific requirement to ensure defense in depth is provided. The requirements in this section state that no single engineered design feature, human action, or programmatic control, no matter how robust, should be exclusively relied upon to address the range of LBEs other than DBAs. The requirement under § 53.250(c) is different from the single failure criterion described in appendix A to part 50. The § 53.250(c) requirement does not allow the safety analysis to exclusively rely upon a

single engineered design feature, human action, or programmatic control to address the range of LBEs other than DBAs (*i.e.,* ranging from very unlikely event sequences to anticipated event sequences). In contrast, the single failure criterion under appendix A to part 50 relates, in part, to the failure of a component to perform its intended safety function, regardless of whether that component was exclusively relied upon to address the range of LBEs. This means the requirement under § 53.250(c) does not strictly disallow single failures, as defined in appendix A to part 50, because a component could experience such a single failure and, if it is not otherwise exclusively relied upon to address the range of LBEs other than DBAs, its failure alone does not preclude being able to satisfy § 53.250(c). In that regard, § 53.250 allows for greater flexibility such that other measures could be taken to ensure appropriate defense in depth without needing to accommodate single failures, as defined in appendix A to part 50. The phrase ''engineered design feature'' does not preclude the possible crediting of inherent characteristics within the design and analysis for commercial nuclear reactors. While defense in depth is only assessed for LBEs other than DBAs, the need to ensure dedicated success paths for DBAs contributes to the overall defense in depth for each commercial nuclear plant under part 53.

Section 53.260 governs normal operations and establishes a level of safety based on requirements in 10 CFR part 20, ''Standards for Protection Against Radiation,'' which limit doses to members of the public and dose rates in unrestricted areas.

Section 53.270 provides for the protection of plant workers and establishes a level of safety based on requirements in 10 CFR part 20, which limit occupational dose.

Subpart C—Design and Analysis Requirements

This subpart provides requirements for the design of commercial nuclear plants and the supporting analyses, including the analyses of LBEs, to demonstrate that the performance standards in subpart B can be satisfied. The sections within subpart C reflect the overall hierarchy throughout part 53, which covers: (1) plant-level safety criteria (§§ 53.210 and 53.220); (2) safety functions (§ 53.230) needed to demonstrate compliance with the safety criteria; (3) design features (§ 53.400), human actions, and programmatic controls needed to fulfill the safety functions; and (4) functional design criteria (§§ 53.410 and 53.420) that must be defined for each design feature relied upon to demonstrate the safety criteria (§§ 53.210 and 53.220) are met. Subpart C also contributes to the logic and structure of part 53 by distinguishing between SR SSCs and NSRSS SSCs and licensee-controlled programs that address LBEs other than DBAs. Specifically, SR SSCs, human actions, and programmatic controls needed to protect against DBAs are used to satisfy the safety criteria in § 53.210. NSRSS SSCs, human actions, and licensee-controlled programs that address LBEs other than DBAs generally contribute to the appropriate measures considering potential risks to public health and safety.

Section 53.400 establishes a requirement that design features be provided for each commercial nuclear plant to satisfy the safety criteria and fulfill safety functions from subpart B during LBEs. Other sections in subpart C, in turn, further address the necessary capabilities and reliabilities for SSCs by establishing functional design criteria, fulfilling design requirements, performing analyses of LBEs, performing other supporting analyses, and categorizing SSCs based on their roles in preventing or mitigating LBEs.

Section 53.410 requires that functional design criteria be defined for safety-related design features relied upon to demonstrate that the consequences from DBAs would be below the criteria in § 53.210 through analyses performed under § 53.450(f), which includes insights from both PRAs and deterministic analyses. Other sections within part 53 establish appropriate controls on these design features (*e.g.,* safety classification, protection from external hazards, quality assurance, and TS) to ensure the functional design criteria are satisfied. The performance requirements for the SSCs needed to address DBAs and the consideration of human actions and programmatic controls in the identification of special treatments associated with the design of SR SSCs will contribute to ensuring that a commercial nuclear plant licensed under part 53 would meet the safety criteria in § 53.210.

Section 53.415 requires that SR SSCs be protected against or designed to withstand the effects of natural phenomena (*e.g.,* earthquakes, tornadoes, hurricanes, floods, tsunami, and seiches) and constructed hazards (*e.g.,* from dams, transportation routes, and military or industrial facilities). Specifically, § 53.415 requires that SR SSCs remain capable of performing the safety functions stated in § 53.230 for which they are credited up to the design-basis external hazard levels as determined under § 53.510. As used in § 53.415 and subpart D of part 53, a hazard level refers to such things as the magnitude and recurrence rate of an earthquake and the resultant ground motions, the height of a flood, the force of hurricane winds, or the concentrations of chemicals resulting from a release from a nearby facility. These requirements will support either traditional deterministic approaches for determining and protecting against external hazards or probabilistic approaches that are being developed for seismic and some other external hazards.

Section 53.420 requires that functional design criteria be defined for design features that play a significant role in demonstrating that the safety criteria for LBEs other than DBAs are satisfied. The analyses required for this demonstration are described in § 53.450(e), which requires that those events be identified and assessed using a PRA, other SREs, or a combination thereof, together with other generally accepted approaches for systematically evaluating engineered systems. The SSCs determined to be safety significant (*i.e.,* either SR or NSRSS) will have associated special treatment requirements as specified in § 53.460. Special treatment is defined in subpart A of part 53 and generally refers to measures (*e.g.,* quality assurance, testing, monitoring) taken beyond normal commercial practices related to the procurement, installation, and maintenance of commercial grade products to provide confidence that SR and NSRSS SSCs will perform under the service conditions and with the reliability assumed in the analysis under § 53.450(e) and will comply with the applicable functional design criteria. Such normal commercial practices include the use of consensus codes and standards, as identified in an application, to support the identification of special treatments that include measures that may go beyond the use of commercial codes and standards. The inclusion of a systematic approach to identifying the functional design criteria for SSCs and tailoring the special treatments to specific LBEs and safety functions is an important contributor to satisfy the safety criteria in subpart B. Therefore, designers and licensees for commercial nuclear plants are provided flexibility on how LBEs other than DBAs are either prevented or mitigated and how the calculated comprehensive plant risks satisfy the safety criterion established under § 53.220(b).

Section 53.425 establishes requirements for design features and related functional design criteria limiting doses to members of the public during normal operations to satisfy the criteria in part 20. Section 53.430 provides similar requirements for design features and related functional design criteria for protection of plant workers to meet the safety criteria in part 20. Section 53.425 provides applicants and licensees flexibility to define design objectives for design features related to controlling liquid, gaseous, and solid wastes as required under part 20. The design objective will assist designers, applicants, and licensees in performing the evaluations of possible reductions in public dose from routine effluents when considering costs and other factors.

The requirements in §§ 53.425 and 53.430 for design features and functional design criteria to support radiation protection activities have parallels in existing regulations such as § 50.34(a) and (b)(3), which require in part that the means be provided for meeting the requirements of part 20 and General Design Criterion 60, 61, 63, and 64 in appendix A to part 50, which provide radiation protection related design criteria.

Section 53.440 addresses various design requirements that warrant specific mention to ensure that the design features required by § 53.400 comply with the functional design criteria required by §§ 53.410 and 53.420. These requirements will be met through design practices, consideration of testing and operating experience, and various assessments of LBEs and other potential challenges to commercial nuclear plants. Discussion of some of the key design requirements included in section 53.440 follow.

(1) *§ 53.440(a):* An essential element to ensuring a proposed design can comply with the performance criteria in part 53 is that the ability of design features to fulfill their safety functions is demonstrated by a combination of analyses, test programs, prototype testing, and operating experience. This requirement closely aligns with the language in § 50.43(e) and is included in part 53 as the same foundational requirement. In addition, § 53.440(a) requires the design processes for SSCs under this section to include administrative procedures for evaluating operating, design, and construction experience for considering applicable important industry experiences in the design of those SSCs. This requirement corresponds to the existing requirement under § 50.34(f)(3)(i) that was developed in response to the 1979 accident at Three Mile Island Nuclear Generating Station.

(2) *§ 53.440(b):* The design and licensing of commercial nuclear plants should use generally accepted consensus codes and standards for design features classified as safety-related. Such codes and standards ensure sufficient testing and qualification of materials and equipment and provide defined processes, specifications, and acceptance criteria for use by designers and suppliers. The NRC will indicate acceptance of consensus codes and standards used in the design and licensing of a specific commercial nuclear plant either through the NRC's generic endorsement of a code or standard (*i.e.,* through regulatory guidance), including any limitations or conditions, that can be referenced within an application, or through the review of a referenced code or standard as part of the review of a specific application.

(3) *§ 53.440(c):* The design requirements in subpart C require the materials used for SR and NSRSS SSCs to be qualified for their service conditions over the design life of the SSC as appropriate to satisfy the special treatments established for the SSC under § 53.460.

(4) *§ 53.440(d):* The requirements in § 53.440 include the need to consider possible degradation mechanisms for materials and equipment to inform both the design process and the development of integrity assessment programs to be executed during plant operations in accordance with subpart F of part 53. The inclusion of requirements related to designing and monitoring for possible degradation mechanisms reflects important lessons learned from the history of LWRs as well as operating experience with structures and systems in countless other engineering endeavors.

(5) *§ 53.440(e) and (f):* The design requirements in subpart C state specific design requirements similar to existing requirements in parts 50, 52, and 73 for protections against fires and explosions and consideration of safety and security together in the design process. Under § 53.440(f), safety and security must be considered together in the design process such that, where possible, security issues are effectively resolved through design and engineered security features. This approach ensures considerations are given for safety and security together throughout the plant's lifetime, including the design process and prior to implementing changes to plant configurations, to ensure risks are effectively managed. The implementation of a security strategy and design features early in the design process has the potential to be more efficient and cost-effective rather than implementing these features after the plant has been designed and constructed.

(6) *§ 53.440(g) and (h):* Specific design requirements will ensure that commercial nuclear reactors under part 53 have the capability to achieve and maintain subcriticality and long-term cooling. The requirements are included to address the potential that some reactor designs may be able to achieve a stable end state for the purpose of event analyses but might need further actions to completely shut down and service the facility.

(7) *§ 53.440(i):* The design, analysis, and development of programmatic controls under part 53 will consider the number of reactor units and other significant inventories of radioactive materials contributing to the risks to public health and safety. This reflects the definition of ''*Commercial nuclear plant*'' in subpart A and reinforces that the evaluation of LBEs is performed on a plant-wide basis. This aspect of part 53 is different from parts 50 and 52, which generally define safety requirements on the assumption of events involving only individual reactor units.

(8) *§ 53.440(k):* The inclusion of a specific requirement for design features and related functional design criteria, including associated programmatic controls or a combination thereof, to address the risks to public health from potential chemical hazards of licensed material is appropriate given the diversity of reactor technologies and designs that might be licensed under part 53. The requirement in part 53 is similar to the existing requirements in 10 CFR part 70, ''Domestic Licensing of Special Nuclear Material,'' that address both potential radiological and chemical hazards for licensed materials at fuel cycle facilities.

(9) *§ 53.440(l):* These provisions require that measures be taken during the design of commercial nuclear plants to minimize contamination of the facility and the environment, facilitate eventual decommissioning, and minimize the generation of radioactive waste in accordance with § 20.1406.

(10) *§ 53.440(m):* This design requirement provides a technology-inclusive equivalent to the requirements in § 50.68 by including options for commercial nuclear plants to either have a monitoring system capable of detecting a criticality as described in § 70.24 or to have restrictions on SNM

handling and storage that would prevent inadvertent criticality events.

(11) *§ 53.440(n):* The design needs to reflect state-of-the-art human factors principles for safe and reliable performance in all settings that human activities are expected for performing or supporting the continued availability of plant safety or emergency response functions.

One notable exclusion from the design requirements in the part 53 proposed rule is an explicit requirement to consider and address the potential impact of a large, commercial aircraft, as is currently required of parts 50 and 52 applicants under § 50.150, ''Aircraft impact assessment.'' When the Commission promulgated the aircraft impact final rule on June 12, 2009 (74 FR 28112), it noted that ''the impact of a large aircraft on the nuclear power plant is regarded as a beyond-design-basis event'' and it was ''the NRC's view that effective mitigation of the effects of events causing large fires and explosions (including the impact of a large, commercial aircraft) can be provided through operational actions,'' which were covered by other requirements. In light of this view, the Commission stated that ''the mitigation of the effects of aircraft impacts through design should be regarded as a safety enhancement which is not necessary for adequate protection.'' In the Regulatory Analysis that accompanied the aircraft impact rule, the NRC quantified the costs of the rule, but did not quantify the benefits of the rule, stating that the ''benefits of the final rule can be evaluated only on a qualitative basis.'' The NRC concluded that the key benefit of the rule was ''improvement in knowledge.'' The Commission acknowledged that ''it is difficult to quantify the safety enhancement gained through implementation of the aircraft impact rule,'' but stated that ''the NRC nevertheless believes that the cost of performing the assessment and incorporating the results into the design . . . is justified in view of the increased safety provided by implementation of the aircraft impact rule.''

It has been over 15 years since the promulgation of the aircraft impact rule in 2009. Events like the terrorist attacks of September 11, 2001, are now much less likely due to significant increases in security at commercial aviation facilities as well as hardened access to aircraft cockpits. In addition, it is not clear that the Commission's previous belief that the cost of implementation of the aircraft impact rule was justified by the increase in safety provided by the rule would hold true for future reactors licensed under part 53. As stated previously, the NRC concluded that the key benefit of the rule was ''improvement in knowledge'' achieved by performing the aircraft impact assessment. It's worth noting that licenses issued under parts 50 and 52 were largely based on deterministic analyses of the safety of the facility relying on the General Design Criteria. The technical requirements in part 50 were supplemented over the years to address specific beyond-design-basis events, such as the loss of large areas of the plant due to fires and explosions. In contrast, under part 53, applicants will be required to perform a comprehensive assessment of their reactor design to identify potential failures, susceptibility to internal and external hazards, and other contributing factors that could pose a risk to public health and safety. The spectrum of events and hazards considered will include those that have traditionally been considered design-basis events and those that have been considered beyond-design-basis events. Although part 53 does not include prescriptive requirements to assess a licensing-basis event comprising an intentional act that could cause large fires or explosions, it does require applicants to assess a full spectrum of unplanned events, to include anticipated events, unlikely events, and very unlikely events. The NRC believes that the systematic evaluations of internal hazards, external hazards, and security threats under part 53 and part 73 sufficiently address the potential loss of large areas of the plant due to explosions or fire currently addressed under § 50.155(b)(2).

Therefore, part 53 applicants will have considered how to mitigate the broader potential plant impacts that may result from an event such as the impact of a large aircraft. As a result, applicants and licensees under part 53 will have substantially more information about the design of their facilities than applicants and licensees did before the promulgation of the aircraft impact rule. Accordingly, the ''improvement in knowledge'' to be gained by requiring a separate assessment of the impact of a large commercial aircraft under part 53 is expected to be significantly less than the improvements in knowledge for part 50 or 52 applicants the Commission estimated when it promulgated the aircraft impact rule. Because the potential impact of beyond-design-basis events are considered in other ways under part 53, the NRC concludes that the cost of performing a separate aircraft impact assessment and incorporating the results into the design of a commercial nuclear plant licensed under part 53 would not be justified. For these reasons, this final rule does not contain requirements for applicants to assess the impact of a large, commercial aircraft on the design of the facility.

Section 53.450 establishes analysis requirements and centers upon the use of a PRA, other SREs, or a combination thereof with other generally accepted approaches for systematically evaluating engineered systems. The use of PRA, other SREs, or a combination thereof as a key component in the analysis requirements for part 53 reflects the decades of improvements in the use of such methodologies and their increasing use in the design, licensing, and oversight of both operating and future nuclear reactors. Part of the Commission's PRA Policy Statement is that the use of PRA technology should be increased in all regulatory matters to the extent supported by the state-of-the-art in PRA methods and data and in a manner that complements the NRC's deterministic approach and supports the NRC's traditional defense-in-depth philosophy. This policy statement also acknowledges the variability in the characteristics of events considered and the associated complexity of engineered systems related to different regulatory activities and that risk-informed analysis techniques of varying complexity may be employed to yield meaningful insights and results. In that regard, the use of PRA, other SREs, or a combination thereof under part 53 needs to be commensurate with the complexity of the analyzed systems and their behaviors, with consideration of all aspects of operations. The need to supplement PRA insights with other engineering approaches and judgments reflects the NRC's longstanding policy described in the SRM to SECY–98–144, ''Staff Requirements—SECY–98–144—White Paper on Risk-Informed and Performance-Based Regulations,'' dated February 24, 1999, for regulatory decision-making to be risk-informed but not solely based on numerical results of a risk assessment (*i.e.,* not a risk-based approach). Part 53 maintains a role for NRC's traditional deterministic approaches (particularly for DBAs) and defense-in-depth philosophy by including specific requirements utilizing these regulatory tools in subparts B and C.

PRA, other SREs, or a combination thereof will be used together with other techniques in part 53 to identify and categorize LBEs, classify SSCs, evaluate defense in depth, and inform the appropriate special treatments for SSCs. This increased role for PRA and SREs

necessitates that they be developed, performed, and maintained in accordance with NRC approved standards and practices (see § 53.450(c) and (d)). The computer codes used to model the plant response and the behavior of the barriers to the release of radionuclides must be qualified for the range of conditions being simulated across a wide range of unplanned events. These analyses must use realistic approaches and address uncertainties associated with states of knowledge, modeling, and performance of SSCs.

While industry consensus PRA standards and PRA peer review processes endorsed in RGs 1.200 and 1.247 remain acceptable for developing a PRA, they are not regulatory requirements and an application under part 53 need not follow every aspect of the applicable consensus PRA standard. Existing processes for defining the scope and capability of a PRA supporting an application offer flexibility in determining the degree to which the PRA needs to be developed and may be informed by other factors such as design complexity and the needed degree of realism and level of detail, consistent with the use of the PRA with SREs and the substance of the application. Such processes are currently available for appropriately defining the scope of the PRA and determining applicability of supporting requirements in consensus PRA standards needed to satisfy the regulatory requirements for the specific uses of analyses under § 53.450(b). The specific uses of analyses in § 53.450(b) are to inform LBE selection; inform classification of SSCs according to safety significance; evaluate adequacy of defense in depth; identify and assess all plant operating states with a potential for uncontrolled release of radioactivity to the environment; identify and assess events that challenge plant control and safety systems whose failure could lead to the uncontrolled release of radioactive material to the environment; and inform the establishment and updating of appropriate measures for plant operations, including availability controls, to ensure configurations and special treatments for SR SSCs and NSRSS SSCs provide the capabilities, availability, and reliability consistent with satisfying the high-level safety criteria in § 53.220.

Likewise, NRC determinations of the acceptability of such PRAs would include consideration of the appropriateness of the applicant-defined scope as part of determining the applicability of and conformance to consensus PRA standard supporting requirements consistent with the current state of practice. In addition, these determinations would include consideration of other aspects of the development of the PRA, such as PRA peer reviews. An NRC determination of the acceptability of a PRA includes but is not limited to assessing the initial and boundary conditions and key assumptions used in the analysis, treatment of uncertainties, and the use of screening tools and bounding or simplified methods for any mode or hazard, provided the use of those tools and methods is justified by an acceptable technical basis. In that regard, the consensus PRA standards would not be applied by the NRC as a strict checklist of requirements for part 53 PRA acceptability determinations.

For risk contributors that are excluded from PRA logic models or PRA screening processes and are otherwise analyzed by an SRE—also referred to as supplementary analyses—the NRC plans to develop guidance for determining the acceptability of such SREs.

Section 53.450(c) requires periodic maintenance and upgrading of the PRA, other SREs, or a combination thereof to maintain an alignment between the supporting analyses and the design and performance of plant equipment, programs and procedures, and other factors associated with meeting the safety criteria of § 53.220 and the evaluation criteria of § 53.450(e)(2). The periodic maintenance of the PRA, other SREs, or a combination thereof is also a means to consider new or revised information related to external hazards, industry operating experience, performance issues with or degradation of SSCs, and other contributors to the frequency and potential consequences of various event sequences. The periodic assessments performed by licensees to support the maintenance of the PRA, other SREs, or a combination thereof and other requirements in part 53 will be complemented by NRC inspections and programs to assess new or revised information related to topics such as natural hazards, operating experience, and potential generic safety issues.

Section 53.450(d) provides requirements for the qualification of the analytical codes used in modeling the physical behavior of plant systems and that those codes must be qualified for the range of conditions for which they are to be used.

The categories of LBEs used in part 53 include anticipated event sequences, unlikely event sequences, and very unlikely event sequences. The unlikely event sequences include those events with estimated frequencies well below the frequency of events expected to occur during the lifetime of a commercial nuclear plant. An important aspect of the analysis requirements is that, under § 53.450(e), the analyses of LBEs other than DBAs will be used not only to show the performance criteria of § 53.220 are satisfied but also to show that evaluation criteria defined for each LBE or category of LBEs are satisfied. Such evaluation criteria for specific LBEs or categories of LBEs are defined in terms of limits on the release of radionuclides or maintaining the integrity of one or more barriers used to limit the release of radionuclides and reflect a graded approach of allowing lesser potential consequences from more frequent events. An example of such evaluation criteria for a range of LBEs that could likely be expanded for part 53 is provided in RG 1.233. An applicant's or licensee's defining of evaluation criteria under § 53.450(e) and the risk performance objectives under § 53.220(b) are also part of the integrated approach within part 53 where the analyses from subpart C are used for decisions on design, siting, and operations. As an example, an applicant or licensee could propose to justify siting proposals by defining their evaluation criteria such that the calculated consequences for an individual at the exclusion area boundary are less than the total effective dose equivalent (TEDE) values used in graded approaches to assessing population densities under subpart D. Another requirement for the § 53.450(e) analyses is that the methodology must include a means to identify event sequences deemed risk-significant such that those event sequences can be given special attention within other sections of part 53.

Part 53 maintains an important role for a deterministic analysis of DBAs in the performance criteria of § 53.210 and the related analytical requirements in § 53.450(f). The analysis of DBAs will be required to address event sequences drawn from those with estimated frequencies below the expected lifetime of a generation of reactors (*e.g.,* event sequences with frequencies as low as one in ten thousand years). As set forth in this section, DBAs must be analyzed using deterministic methods and ensure a safe, stable end state with reliance upon only SR SSCs and human actions, if needed, to be performed by operators licensed under the provisions of §§ 53.760 through 53.795.

While the DBAs analyzed under part 53 are similar to the traditional DBAs analyzed under parts 50 and 52, there are important distinctions between the overall role of DBA analyses in part 50 and part 53. In part 53, the role of the

DBA analysis is more narrowly focused on selecting SR SSCs and determining functional design criteria for those SSCs to ensure the commercial nuclear plant meets the safety criteria in § 53.210. The overall control of risks posed by commercial nuclear plants under part 53 is provided by the analyses of and measures taken for both DBAs and other LBEs, including very unlikely event sequences. This contrasts with the traditional deterministic approach in part 50 wherein the analyses of DBEs such as DBAs were used to provide bounding assessments, to incorporate standard design rules such as assumptions related to single failures, and to define conservative performance requirements for SR SSCs. Limitations related to the traditional deterministic approach were addressed in part 50 through case-by-case assessments and specific actions for beyond-design-basis events such as anticipated transients without scram and station blackout.

Section 53.450(g) includes provisions to ensure that analyses are performed to support the design requirements of § 53.440(e) on fire protection and § 53.425 on using design features and plant programs to control doses to members of the public from routine effluents and direct radiation from contained sources. The analysis requirements related to fire protection support either a traditional, deterministic approach or a more risk-informed approach where the risks from fires are addressed within the identification and analyses of LBEs.

Section 53.460 establishes criteria for the safety classification of SSCs and determination of appropriate special treatments. As noted in subpart A, the term ''*Special treatments*'' is defined to mean those items, such as measures taken to satisfy functional design criteria, quality assurance, and programmatic controls, that provide assurance that certain SSCs will provide defense in depth or perform risk-significant functions. These requirements also provide confidence that the SSCs will perform under the service conditions and with the reliability credited in the analysis performed in accordance with § 53.450 to satisfy the safety criteria in §§ 53.210 and 53.220. The terminology used in part 53 includes the following categories for SSC classification: (1) SR; (2) NSRSS; and (3) non-safety significant. Requirements for SR SSCs are defined in other sections of part 53 and include using TSs for controls during operation and the application of quality assurance requirements from appendix B to part 50.

Requirements for NSRSS SSCs include the need to identify necessary special treatments such as performance measures on reliability. Licensees will generally be afforded flexibility in maintaining and changing special treatments for SSCs categorized as NSRSS. Non-safety-significant SSCs will be addressed under normal licensee programs for commercial grade equipment and typical industry practices for general plant design and maintenance. Safety-related SSCs also contribute to defense in depth and risk-significant functions and may warrant special treatments beyond those defined for their SR functions to reflect their role in meeting the safety criteria in § 53.220 and the evaluation criteria in § 53.450(e).

Section 53.480 establishes seismic design considerations. This section relates to the safety criteria in subpart B, the analytical requirements related to external hazards in § 53.450, and subpart D, ''Siting Requirements.'' For licenses issued under part 53, this section in subpart C will support a variety of approaches to seismic design. For example, a design for a commercial nuclear plant could show that SSCs are able to withstand the effects of earthquakes by adopting an approach similar to that in appendix S to part 50. Alternatively, an applicant could follow the more recent risk-informed alternatives afforded by standards development organizations (*e.g.,* American Society of Civil Engineers (ASCE)/Structural Engineering Institute (SEI) 43–19, ''Seismic Design Criteria for Structures, Systems, and Components in Nuclear Facilities''). Because the agency has not endorsed ASCE/SEI–43–19, an applicant can propose to use ASCE/SEI 43–19 on an application-specific basis to meet § 53.480 and the NRC would evaluate the adequacy of the standard as applied in that application. The design could also be done with the full integration of seismic PRAs into the design and licensing of a particular commercial nuclear plant. This section has been developed to accommodate a variety of potential risk-informed, performance-based seismic design approaches. The analyses required by § 53.450 must address seismic hazards as well as other external hazards. The expected responses of SSCs to a range of seismic events must be included in the analyses when ensuring that the safety criteria defined under § 53.220 will be met. The potential SSC responses to seismic hazards could be addressed in the analyses using a fragility model (conditional probability of its failure at a given hazard input level), a high confidence of low probability of failure value, or other method endorsed or otherwise found acceptable by the NRC.

Subpart D—Siting Requirements

Subpart D in part 53 states requirements for the siting of commercial nuclear plants and serves the role provided by 10 CFR part 100, ''Reactor Site Criteria,'' for nuclear reactors licensed under parts 50 and 52. As reflected in § 53.500, the reason for establishing siting requirements remains the same as it has been historically, which is to ensure that licensees and applicants assess what impact the site environs may have on a commercial nuclear plant (*e.g.,* external hazards) and, conversely, what potential adverse health and safety impacts a commercial nuclear plant may have on nearby populations in view of the site characteristics.

Section 53.510 requires that design-basis external hazard levels be identified and characterized based on site-specific assessments of natural and constructed hazards with the potential to adversely affect plant functions. The site-specific assessments are used in § 53.415, which requires that SR SSCs be designed to withstand the effects of natural phenomena and constructed hazards of levels or severities up to design-basis external hazard levels. The design-basis levels for external hazards relevant to a site need to account for uncertainties and variabilities in data, models, and methods used to characterize those hazards. Existing approaches can be used to demonstrate compliance with this requirement. The historical importance of assessing seismic events as risks to commercial nuclear plants and the associated development of risk-informed approaches to address seismic events are reflected in § 53.480, ''Earthquake engineering,'' and specific requirements in subpart C. The NRC is developing a graded approach for seismic design by grouping SSCs into different seismic design categories (SDCs) based on their risk significance. While the agency has not endorsed ASCE/SEI–43–19, an applicant can propose to use ASCE/SEI 43–19 on an application-specific basis to meet § 53.480 and the NRC will evaluate the adequacy of the standard as applied in that application. The NRC staff will continue to review ASCE/SEI–43–19 as part of its efforts to further develop guidance in this area. The approach described in RG 1.208, ''A Performance-Based Approach to Define the Site-Specific Earthquake Ground Motion,'' is an acceptable way to develop site-specific ground motion

response spectra for SSCs under appendix S to part 50, which corresponds to SSCs that are categorized as the highest SDC (SDC–5) in ASCE/SEI 43–19.

The evaluation of seismic hazards under subpart D needs to be sufficient to inform a site-specific design (*e.g.,* a CP or custom combined license (COL)) or confirm the use of a standard design for a commercial nuclear plant under § 53.480 and other sections of subpart C. A risk-informed approach can use several design-basis ground motions (DBGMs) to assess SSCs in various SDCs (*i.e.,* one DBGM per SDC). Section 53.510(d) states that geologic and seismic siting factors must also include related hazards such as seismically induced flooding and volcanic activity that may affect the design and operation of a proposed commercial nuclear plant for the proposed site.

Section 53.520 requires applicants to identify and assess site characteristics related to topics that include meteorology, geology, hydrology, or other areas in the design and analyses required under subpart C.

Section 53.530 sets requirements for population-related considerations and largely maintains requirements and definitions similar to those currently in part 100 for an exclusion area, low population zone, and population center distance. The NRC recognizes that some applicants may propose to essentially collapse the exclusion area and low population zone to the site boundary. This approach would rest on a demonstration that the calculated consequences of DBAs remain below the dose guidelines used in § 53.210, which are the same as those in the existing regulations in parts 50, 52, and 100. The definitions in § 53.020 allow such configurations, assuming they were justified by the design and analyses from subpart C. This approach should provide flexibility to justify alternative exclusion areas and low population zones without foreclosing the option for an applicant to define more conventional exclusion areas and low population zones outside of a defined site boundary. The NRC's long-standing preference for siting reactors in areas of low population density is maintained in part 53 by using the current language from part 100 as one option under § 53.530(c). The NRC revised guidance related to population densities surrounding a commercial nuclear plant in Revision 4 to RG 4.7, ''General Site Suitability Criteria for Nuclear Power Stations'' to reflect Commission direction in SRM–SECY–20–0045, ''Population Related Siting Considerations for Advanced Reactors.'' The NRC recognizes that safety, environmental, economic, or other factors may justify siting commercial nuclear plants in areas with higher population densities or within a densely populated center containing more than about 25,000 residents. Therefore, an option is included within § 53.530 for such sites to be proposed using assessments of additional societal risks associated with siting a reactor in areas of higher population density (*e.g.,* potential increases in population dose or economic consequences from reactor accidents) in comparison to the societal benefits of a specific site (*e.g.,* ability to use existing infrastructure for a retired fossil fuel power plant). Site-related requirements in part 20 (restricted area) and part 73 (protected and owner-controlled areas) remain applicable to commercial nuclear plants licensed under part 53.

Section 53.540 requires that site characteristics be appropriately considered in other activities such as the design and analysis performed under subpart D of part 53 and the emergency planning and security programs under subpart F of part 53.

Subpart E—Construction and Manufacturing Requirements

The part 53 language establishes construction and manufacturing requirements in subpart E. The language for construction-related activities largely reflects current requirements in part 50 without any fundamental changes. Limited changes were made in several places, as described in the following paragraphs, to be technology-neutral and for consistency with the organization and language of part 53. The language for requirements for manufacturing activities largely mirrors those for construction-related activities. However, the manufacturing requirements have been updated from the current requirements in subpart F of part 52 to better accommodate the possible factory fabrication of manufactured reactors. The manufacturing of specific components outside the scope of an ML is not addressed by these subparts.

Section 53.600 establishes the overall construction and manufacturing requirements for CPs, OLs, COLs, MLs, and limited work authorizations (LWAs). This section connects the construction and manufacturing requirements to the safety criteria, quality assurance requirements, and other requirements located in other subparts. These requirements require that construction and manufacturing activities be managed and conducted such that when combined with associated design features and programmatic controls, the constructed plant will satisfy the relevant requirements in subpart B.

Section 53.605 establishes requirements for the reporting of defects and instances of noncompliance during construction. This section provides equivalent requirements to those in § 50.55(e).

Section 53.610(a) establishes the requirement to have in place a well-defined command and control structure to manage construction activities. The requirements generally reflect current requirements, with an emphasis on the quality assurance programs for complying with the requirements in appendix B to part 50. Section 53.610(a)(6) requires programmatic controls for implementing special treatment for NSRSS SSCs to align with requirements in other subparts in part 53. The section also refers to other NRC regulations to address matters such as requirements to have an FFD program, a radiation protection program if radioactive materials are brought onto the site, and security programs to protect sensitive information and protect against cyber threats.

Section 53.610(b) provides requirements governing construction activities, including the equivalent of the requirement in § 50.10(e) that prohibits starting construction until the NRC has authorized the activities by issuing a CP, COL, ESP, or LWA. Section 53.610(b)(1)(iii) requires procedures to be in place prior to beginning construction to ensure that construction-related activities do not undermine important features such as slope stability and that construction-related activities such as backfilling of excavated portions of the site appropriately address potential pre-construction activities such as the emplacement of retaining walls or drainage systems. Other requirements in these paragraphs are equivalent to requirements in parts 50 and 52 with appropriate references to other parts for items such as possession of byproduct material or SNM, protecting operating units from construction activities for commercial nuclear plants with multiple reactor units, and having a redress plan in case LWA activities are terminated.

Section 53.610(c) addresses inspection and acceptance activities by including requirements in part 53 equivalent to specific quality assurance criteria in appendix B to part 50 and inspections, tests, analyses, and acceptance criteria (ITAAC) in part 52 for COLs.

Section 53.620(a) includes requirements covering the activities performed under an ML issued under part 53. Provisions related to MLs were first adopted by the NRC in 1973 through the addition of appendix M to part 50. The regulation supported the manufacture of a nuclear power reactor to be incorporated into a commercial nuclear plant under a CP and operated under an OL at a different location from the place of manufacture.[1] The regulations and processes for MLs were changed substantially in the part 52 rulemaking in 2007 (72 FR 49352). The most important shift in the ML concept in that rulemaking was that a final reactor design, which would be equivalent to that required for a standard DC under part 52 or an OL under part 50, must be submitted and approved before issuance of an ML. The rationale for that change was that approval of a final design ensures early consideration and resolution of technical matters before there is any substantial commitment of resources associated with the actual manufacture of the reactor, which greatly enhances regulatory stability and predictability.

The part 53 sections in subpart E for manufacturing and in subpart H for licensing matters maintain requirements largely equivalent to those in part 52 for MLs. The NRC approval of a standard design and related manufacturing processes, coupled with a stable workforce and established procedures, has the potential for maintaining and even improving the quality and consistency of manufacturing, as compared to the traditional method of constructing reactors onsite by a variety of contractors and subcontractors.

Subpart E includes requirements that apply to portions of a manufactured reactor in recognition that some activities covered by an ML may occur at different fabrication facilities. As with the preceding sections on construction, § 53.620 establishes the requirements to have in place programs, procedures, and a well-defined command and control structure to manage manufacturing-related activities.

Section 53.620(b) in subpart E includes requirements for executing the manufacturing activities following receipt of an ML under part 53. Information about the design and manufacturing processes should be provided by the applicant. The importance of the ML is reflected in several of the requirements in § 53.620(b) that refer to complying with the ML, including conducting manufacturing processes within facilities for which the license holder can control activities. The essential role of post-manufacturing inspections is also incorporated into this section by requiring the holder of the ML to perform inspections and have acceptance processes for manufactured reactors or portions of a manufactured reactor.

Section 53.620(c) provides requirements for the control of radioactive materials if the holder of an ML plans to possess and use source, byproduct, or SNM as part of the manufacturing process. By and large, subpart E refers to NRC regulations in 10 CFR part 30, ''Rules of General Applicability to Domestic Licensing of Byproduct Material,'' 10 CFR part 40, ''Domestic Licensing of Source Material,'' and part 70 for the requirements on controlling radioactive materials. Several specific requirements to address the potential hazards of radioactive materials are included in areas such as having a fire protection program, an emergency plan, training programs, and procedures to minimize contamination.

The most significant change for MLs in part 53 as compared to MLs under part 52 relates to § 53.620(d) in subpart E and the associated licensing provisions in subpart H. These provisions allow and establish requirements for the loading of fuel into a manufactured reactor at the manufacturing site for subsequent transport to a commercial nuclear facility that will operate pursuant to a COL or OL. The first requirement in § 53.620(d) establishes limitations on when a license under part 70 would authorize the loading of fuel into a reactor manufactured under an ML. The regulation requires the manufactured reactor to be configured during its loading, storage, and transport with features to prevent criticality and that those features be specified in the ML. The requirement provides flexibility because of the potential variety of reactor designs, the variety of possible measures to prevent criticality, and the range of possible conditions associated with the loading, storage, and transport of manufactured reactors. For example, the features to prevent criticality that could be considered individually and collectively to address possible adverse conditions include the reactivity control systems in place to support operations, inherent features of the fuel and materials within a manufactured reactor, and temporary measures or physical mechanisms (*e.g.,* neutron poisons) for specific circumstances and conditions, such as during transport. This requirement contributes to the NRC's longstanding practice of requiring defense in depth for preventing accidents in any facility dealing with SNM, including requirements in § 70.64 for certain part 70 licensees to adhere to the ''double contingency principle.''

The requirements to have in place features to prevent criticality could likewise support meeting other provisions in subpart H to part 70, such as those related to having a safety program and integrated safety assessment. The features to prevent criticality in the part 53 requirements will reasonably ensure that a manufactured reactor does not become critical over a range of possible conditions. With the requirements for features to prevent criticality under part 53 and all criticality safety controls required by 10 CFR part 70 in place, the presence of fuel in the manufactured reactor would not create a nuclear hazard different than the hazard from the presence of the same fuel in a storage location or container licensed under 10 CFR part 70. Collectively, these measures will reasonably ensure that the manufactured reactor is not capable of operations, thereby obviating the need for a COL under §§ 53.1416 and 53.1440 to authorize fuel loading. Additionally, this approach focuses the ML application and its review on the design, manufacture, and deployment of the manufactured reactor.

The activities involving SNM within the manufacturing facility, including the loading of fuel, will be regulated primarily under the part 70 license. The reference to the requirements in subpart H of part 70 in § 53.620(d) assures that the activities involving the receipt, storage, and loading of a variety of possible fuel forms and enrichments at the manufacturing facility will be analyzed in a systematic manner and appropriate protection will be provided against equipment malfunctions, human errors, external hazards, and other adverse conditions. The regulations in 10 CFR part 51, ''Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions,'' provide a flexible approach for environmental review to address the range of regulated activities under part 70. The flexibility in part 51 will enable the NRC to determine the appropriate type of environmental review based on the circumstances associated with the loading of fuel into a specific manufactured reactor.

Section 53.620(d) cites the requirements in parts 70, 71, and 73 to ensure important features and programs

[1] On December 17, 1982, the NRC issued ''Manufacturing License ML–1 to Offshore Power Systems for the manufacture of a maximum of eight floating nuclear plants,'' dated September 30, 1982, but the project was subsequently canceled.

are in place prior to the receipt of SNM. The features and programs required to be in place prior to receipt of SNM include (1) radiation monitoring instrumentation and alarms; (2) measures to detect potential criticality accidents; (3) appropriate procedures, equipment, and personnel qualified for the fuel loading; (4) programs for physical security and cybersecurity; and (5) material control and accounting (MC&A) programs. Section 53.620(d)(2)(i) includes requirements to address security programs for any ML authorizing possession of a manufactured reactor into which fuel has been loaded at the manufacturing facility. Currently, for category II SNM, security measures may be required in addition to requirements included in § 73.67, ''Licensee fixed site and in-transit requirements for the physical protection of special nuclear material of moderate and low strategic significance,'' on a case-by-case basis. Including appropriate security measures in the part 53 regulations will provide additional openness and transparency for applicants applying for an ML who seek to load fuel into manufactured reactors at a manufacturing site.

Currently, § 73.67 only requires a security plan for licensees who possess, use, transport, or deliver to a carrier for transport SNM of moderate strategic significance, or 10 kg or more of SNM of low strategic significance. However, the physical security program for fueled manufactured reactors requires a security plan for any ML authorizing possession of a manufactured reactor into which fuel has been loaded at the manufacturing facility, regardless of fuel type, enrichment, and quantity. This is consistent with other controls for MLs, including reactivity and criticality controls.

The requirements also require a holder of an ML and part 70 license to address cybersecurity to ensure a cyberattack would not adversely impact the functions performed by digital assets necessary for physical security, radiation monitoring, or criticality prevention.

The regulations in part 53 covering the activities related to the storage, movement, and loading of fresh fuel into a manufactured reactor in the manufacturing facility likewise refer to the applicable regulations in part 70. Section 53.620(d) also requires the loading or unloading of unirradiated fuel into or from a manufactured reactor and any changes to the configuration of reactivity-related systems to be performed by a certified fuel handler meeting the requirements in subpart F. The NRC is aware of proposals to introduce reprocessing of existing or future spent nuclear fuel into the fuel cycle for some potential commercial nuclear plants. This final rule does not address the loading of spent nuclear fuel or fuel resulting from reprocessing of spent nuclear fuel into a manufactured reactor.

Section 53.620(e) only allows the transport or removal of a manufactured reactor or portions of a manufactured reactor for either (1) delivery to a domestic site for which the Commission has issued a COL or CP authorizing the construction of a commercial nuclear plant using a manufactured reactor under the specific ML, or (2) export in accordance with 10 CFR part 110, ''Export and Import of Nuclear Equipment and Material.'' This requirement is similar to the limitations in § 52.153. An additional paragraph in § 53.620(e) provides requirements for protecting fueled manufactured reactors during transport to the site of the commercial nuclear plant by referencing the transportation and security requirements in 10 CFR part 71, ''Packaging and Transportation of Radioactive Material,'' and part 73. As noted previously, § 53.620(e) includes an additional provision that allows a manufactured reactor or portions of a manufactured reactor to be removed from the place of manufacture for export in accordance with part 110, which represents another difference from the similar provision in § 52.153.

Section 53.620(f) includes requirements for the acceptance and installation of a manufactured reactor at the site of a commercial nuclear plant. The requirements reference the construction requirements in § 53.610 to govern the integration of the manufactured reactor into the construction of a commercial nuclear plant. Other requirements in the section address required receipt inspections and verification that interface requirements between the manufactured reactor and the balance of the commercial nuclear plant have been met.

Subpart F—Requirements for Operation

Subpart F provides the requirements for the operations phase of a commercial nuclear plant to ensure that the safety criteria in subpart B are satisfied throughout the plant's lifetime and during all modes of normal operation and unplanned events. Section 53.700 provides the general organization and overall objectives of subpart F, which are to establish requirements during operations for (1) plant SSCs; (2) personnel; and (3) plant programs.

Section 53.710 provides the requirements for maintaining capabilities, availability, and reliability of SSCs to demonstrate compliance with the safety criteria and design requirements for unplanned events that are described in subparts B and C. The basic structure of this section is that measures for SR SSCs are provided by TS and measures for NSRSS SSCs are required to be addressed with licensee-controlled documents and procedures.

The general content and control of TS under part 53 are similar to the requirements in part 50. The requirements for TS include limits on the inventories of radioactive materials, plant operating limits, and specific requirements for each SR SSC, including limiting conditions for operation (LCO) and required surveillances. The requirements for TS also include a section on important design elements, which is similar to design features in § 50.36, and a section for administrative controls. A provision addressing the development and submittal of TS to address decommissioning activities is also included in subpart G.

The requirements for TS under part 53 do not carry over safety limits or associated limiting safety system settings from § 50.36, which contains TS requirements for operating reactors under parts 50 and 52. As discussed in SECY–18–0096, systematic assessments and more mechanistic approaches to evaluating source terms support an alternative approach to establishing barrier-based safety limits. An example provided in that paper is a comparison of: (1) the traditional specified acceptable fuel design limits (SAFDL) that support protecting a specific barrier from potential failure mechanisms (*e.g.,* departure from nucleate boiling to protect fuel cladding); and (2) the specified acceptable system radionuclide release design limit (SARRDL) concept, which limits the possible increase in circulating radionuclide inventory during normal operations or an AOO as part of an integrated or ''functional containment'' approach. Additional discussion of the use of SARRDL in the design and licensing of advanced reactors is provided in RG 1.232. The SARRDL could be addressed as an operating limit within this construct of requirements for TS. In cases, such as LWRs, where a SAFDL approach might be used as part of a mechanistic approach to meeting the design and analysis requirements in subpart C, the associated functional design criteria in § 53.410 and TS under § 53.710(a) define similar requirements as those provided by the safety limit and limiting safety system setting requirements in § 50.36.

The requirements for TS under part 53 do not include specific criteria for identifying when LCOs must be established (*i.e.,* do not include an equivalent to § 50.36(c)(2)(ii)). Instead, consistent with subparts B and C, the TS requirements in subpart F of part 53 define TS LCOs as providing limits on SR SSCs. The SR SSCs protect against DBAs to demonstrate compliance with the safety criteria in § 53.210. In the construct for part 53, risk-significant SSCs are addressed through a combination of TS for SR SSCs and establishment and monitoring of performance standards for NSRSS SSCs.

In addition to addressing TS for SR SSCs, § 53.710 requires appropriate control measures be developed and implemented for NSRSS SSCs. Examples include appropriate surveillances and controls established through reliability assurance programs. Configuration management and other special treatments provide that the capabilities, availabilities, and reliabilities of NSRSS SSCs are maintained consistent with the underlying risk assessments while providing flexibility to licensees through maintaining the management functions within licensee-controlled programs. Controls on NSRSS SSCs are appropriate as part of the overall performance-based approach within part 53. Special treatments beyond those defined for their SR functions may also be warranted for SR SSCs to reflect their role in meeting the safety criteria in § 53.220 and the evaluation criteria in § 53.450(e). The performance objectives for NSRSS SSCs reflect that the comprehensive risk metrics and related risk performance objectives established under § 53.220 may involve assessing and averaging the risks over a defined period (*e.g.,* plant year) and do not constitute a real-time requirement that must be continuously demonstrated by the licensee. The controls under § 53.710(b) justify changes in part 53 from the traditional or deterministic approaches in parts 50 and 52 in areas such as replacing the single-failure criterion with a probabilistic reliability criterion (see SRM–SECY–03–0047, ''Policy Issues Related to Licensing Non-Light-Water Reactor Designs,'' dated June 26, 2003). This approach can also support the incorporation of risk insights and analytical margins to gain operational flexibilities in areas such as siting and staffing requirements described in subsequent sections of subpart F.

Section 53.715 provides the requirements for developing and implementing a program to do the following: (1) control maintenance activities; (2) take appropriate corrective action when performance issues are identified; (3) conduct routine evaluations of effectiveness; and (4) assess and manage risks resulting from maintenance activities. These requirements are similar to those included in § 50.65 (maintenance rule), including the need to assess and manage the increase in risk that may result from the maintenance activities. While, for the maintenance rule, specific criteria must be developed to capture both SR and non-SR but otherwise important SSCs, § 53.715 covers SR SSCs and NSRSS consistent with other subparts in part 53.

Section 53.720 provides the requirements for responding to a seismic event during the operating phase of the life cycle of a commercial nuclear plant and is equivalent to the requirements in paragraph IV(a)(3) of appendix S, ''Earthquake Engineering Criteria for Nuclear Power Plants,'' to part 50.

Part 53 includes provisions to address staffing, training, personnel qualifications, and human factors engineering (HFE) in a manner that is risk-informed, technology-inclusive, performance-based, and flexible in nature. During the development of part 53, the staff prepared a draft white paper on ''Risk-Informed and Performance-Based Human-System Considerations for Advanced Reactors,'' to support interactions with stakeholders and the Advisory Committee on Reactor Safeguards (ACRS). Key considerations include the recognition that staffing, operator qualifications, and HFE are interconnected areas that must be approached in an integrated manner and, furthermore, that safety functions, including the means by which they are fulfilled, provide an effective method for informing technology-inclusive requirements.

The requirements associated with this approach are in §§ 53.725 through 53.830. Section 53.725 discusses applicability and defines specific terms. Some definitions draw from those in § 55.4. Several new definitions are introduced for use within the context of subpart F. These new definitions are the following: ''*Automation,*'' ''*Auxiliary operator,*'' ''*Generally licensed reactor operator,*'' ''*Interaction-dependent-mitigation facility,*'' ''*Load following,*'' and ''*Self-reliant-mitigation facility*.''

Sections 53.725 through 53.830 are divided into four portions that cover general operational requirements, operator and senior operator licensing requirements, GLRO requirements, and general training requirements for plant staff. The NRC intends to provide guidance addressing the review of operator staffing plans; the review of operator, senior operator, and GLRO examination programs; and the implementation of scalable HFE reviews. Licensees will be required to use GLROs upon demonstrating compliance with the criteria in § 53.800.

Certain routine communications are necessary to facilitate the operator licensing process. The NRC adapts the requirements of §§ 55.5 and 50.74 to § 53.726 to accomplish this.

Specific information must be collected in order to facilitate the initial issuance of operator licenses, as well as to allow for license renewals and required updates thereafter. Such information collection activities must also be approved by the OMB. The NRC adapts the requirements of § 55.8, to include any needed updates in OMB approval information, to § 53.120 to accomplish this.

The information used within the regulatory processes of the NRC must be free from omissions and inaccuracies to facilitate effective regulation. Consistent with this, the NRC adapts the requirements of § 55.9 to § 53.728 to require the completeness and accuracy of material information provided by individual applicants and license holders.

Section 53.730 provides performance-based and technology-inclusive requirements for assessing the role of personnel in facility safety, applying human system considerations within facility design, and incorporating operational approaches that are consistent with design-specific safety considerations. Most of these requirements are adapted from portions of §§ 50.34(f) and 50.54 and 10 CFR part 55, ''Operators' Licenses,'' with considerable modification in order to reflect the introduction of new technologies and possible changes in the roles of personnel in preventing and mitigating events. The NRC intends that these technical requirements will, together, serve as a component of the required content of applications for OLs and COLs under part 53. Additionally, the NRC intends that the specific technical requirements associated with HFE, human-system interface design, concept of operations, functional requirements analysis, and function allocation will serve as a component of the required content of applications for standard DCs, standard design approvals, MLs, and CPs, as well.

Human factors engineering is essential to facilitate the role of personnel in facility safety in a manner that is both effective and reliable. The

NRC adapts § 53.730(a) from the HFE design requirements of § 50.34(f)(2)(iii). A key difference is that the requirement is now focused on settings where personnel fulfill their safety or emergency response roles wherever they may occur. The NRC additionally includes within the scope of this requirement activities for assuring the continued availability of plant equipment that is needed for safety, and the NRC envisions that these activities may encompass relevant maintenance, inspections, and testing as well. This requirement is associated with the staff guidance for conducting scalable reviews of HFE in DRO–ISG–2023–03, ''Development of Scalable HFE Review Plans'' that accompanies part 53.

Human-system interfaces provide vital information to operators across a spectrum of operating conditions that can range from normal operations through severe accident conditions. The specific types of information that must be available to support operations staff during such conditions include, in part, those associated with safety function parameters, safety system status, possible core damage states, barrier integrity, and radioactive leakage. Due to the importance of such information, the NRC requires under § 53.730(b) such human-system interface design features for all facilities, irrespective of other flexibilities under part 53. Therefore, the NRC adapts specific post-Three Mile Island requirements of § 50.34(f) in a technology-inclusive manner as detailed in the following:

- Paragraph (b)(1) is adapted from § 50.34(f)(2)(iv).
- Paragraph (b)(2) is adapted from § 50.34(f)(2)(v).
- Paragraph (b)(3) is adapted from § 50.34(f)(2)(xi), 50.34(f)(2)(xii), and 50.34(f)(2)(xxi).
- Paragraph (b)(4) is adapted from § 50.34(f)(2)(xvii), 50.34(f)(2)(xviii), 50.34(f)(2)(xix), and 50.34(f)(2)(xxiv).
- Paragraph (b)(5) is adapted from § 50.34(f)(2)(xxvi).
- Paragraph (b)(6) is adapted from § 50.34(f)(2)(xxvii).

In addition to the requirements of § 53.730(b)(1) through (6), a further set of human-system interface design requirements applicable only to those facilities that will be staffed by GLROs is provided under § 53.730(b)(7). This prescriptive set of design requirements for those facilities that demonstrate compliance with the criteria of § 53.800 recognizes that the application of HFE under § 53.730(a) is anticipated to be significantly streamlined at such facilities in the absence of an expected operator role for the fulfillment of safety functions. However, it should be noted that the capability for an immediately initiated, manual reactor shutdown is conservatively mandated irrespective of any other design considerations for both interaction-dependent and self-reliant mitigation facilities, as required under § 53.730(b)(8).

The NRC requires under § 53.730(c) the submittal of a concept of operations that is of sufficient scope and detail to appropriately inform the staff. The development of a concept of operations can facilitate a clear understanding on the part of the NRC for potential novel operating concepts. Additionally, such information is likely to reduce the degree of resources and interactions needed for the NRC to obtain the understanding necessary to enable flexible requirements in areas such as staffing, operator qualifications, and HFE.

The NRC requires under § 53.730(d) the submittal of both a Functional Requirements Analysis and a Function Allocation. The identification of design-specific safety functions and how they are fulfilled serves as a primary means for achieving technology-inclusive requirements within areas such as staffing, operator qualifications, and HFE. The Functional Requirements Analysis and Function Allocation processes (which are both HFE methods derived from systems engineering principles), provide an effective means to identify both how safety functions will be satisfied and how to characterize any associated operator role in doing so. A Functional Requirements Analysis shows what features, systems, and human actions are relied upon to demonstrate safety (*i.e.,* fulfill safety functions). A Function Allocation then describes how safety functions are assigned to both personnel and automatic systems. However, an important adaptation of the Function Allocation for use under this final rule is the further need not only to describe allocations of safety functions to human action and automation, but also to identify allocations made to active safety features, passive safety features, or inherent safety characteristics as well.

Operating experience provides an important source of information by which to inform various aspects of facility design and operations. Accordingly, the NRC adapts in § 53.730(e) the requirements of § 50.34(f)(3)(i) for requiring an operating experience program.

New technologies may involve concepts of operations that are more conducive to customizable licensed operator staffing requirements than the prescriptive requirements of § 50.54(m). Analyses and assessments that are based on HFE principles provide a performance-based means of determining licensed operator and senior operator staffing needed to support safe operations. In contrast, for those facilities required to be staffed by GLROs, the NRC anticipates that the operator staffing plans will reflect a simpler approach of showing that a continuity of responsibility will be maintained for facility operations throughout the operating phase, with at least one GLRO providing continuous oversight and remaining immediately available when any units are fueled. Additionally, a revised approach to the traditional position of the shift technical advisor that focuses on the availability of engineering expertise as a means of addressing uncertainties and abnormal circumstances is more suitable within the context of part 53 and is intended to be applicable to all facilities, irrespective of other design and staffing considerations.

Consistent with this approach, the NRC requires under § 53.730(f) the submittal of a staffing plan that details operations staffing, how engineering expertise will be provided, and what staffing will be available to provide other needed support functions. The staffing plan description of how engineering expertise will be provided should include details of the position, such as location, expected response time, access to plant status information, and methods of communication. The staffing plan description should contain information on how the described response time has been or will be determined to be adequate based on the facility design. This requirement is associated with the staff guidance for reviewing operations staffing plans in DRO–ISG–2023–02, ''Interim Staff Guidance Augmenting NUREG–1791, 'Guidance for Assessing Exemption Requests from the Nuclear Power Plant Licensed Operator Staffing Requirements Specified in 10 CFR 50.54(m),' for Licensing Commercial Nuclear Plants under 10 CFR part 53'' that accompanies part 53. Following NRC approval of the OL or COL, the staffing plan will become a condition of the facility license.

The NRC intends that, at a minimum, the approved licensed operator and senior operator (or, if applicable, GLRO) staffing, positions, and personnel locations will be incorporated into corresponding requirements within the facility TS and that a license amendment would therefore be required for any subsequent changes.

Operator training and qualification programs provide an essential

component of supporting human performance in implementing tasks with safety implications. Such programs must include components that cover the stages of initial training, examination, and continuing training. Additionally, recognizing the potential for varying concepts of operations to affect traditional, prescriptive approaches to operator proficiency, under part 53 the NRC allows facilities to develop operator proficiency programs based on facility-specific considerations.

Therefore, the NRC requires in § 53.730(g)(1), as part of its approval of the OL or COL, approval of the programs that will be used for the initial training, initial examination, requalification training and examination, and proficiency of both licensed operators and senior operators. In a corresponding manner, the NRC requires in § 53.730(g)(2) approval of the programs that will be used for the GLRO equivalents of each of these programs for facilities with such staffing. The NRC intends that examination program requirements will be associated with staff guidance for the review of tailored examination processes that are planned to accompany part 53. Following the completion of an initial training program, continuing training programs provide an important means of sustaining the knowledge and abilities of individuals. The NRC adapts the requirements of § 50.54(i–1) in § 53.730(g)(3) to require that operator continuing training programs be in effect to support operator performance. Under part 53, the NRC requires these programs to be in effect concurrent with when the initial operator examinations first commence, in effect putting the programs in place only when they are needed. This represents a modification of the comparable requirement of § 50.54(i–1), which links the commencement of these programs to a timeline driven by the licensing of the facility.

The authorization to manipulate controls of the facility that directly affect reactivity or power level is restricted to individuals who are either licensed operators, licensed senior operators, or GLROs. However, for practical purposes, situations in which an individual is participating in an approved training program or reestablishing proficiency may also call for them to operate the controls of the facility under the cognizance of a licensed individual. The NRC adapts the requirements of § 55.13 in § 53.735 to accomplish this, with a notable difference being the incorporation of GLROs.

Section 53.740 provides requirements for OL and COL holders under part 53. Portions of § 53.740 are adapted from the conditions of § 50.54. In general, the conditions for operations staffing under part 53 reflect considerations for potential technological differences and varying concepts of operation that are expected among part 53 facility licensees. Additionally, certain requirements are specific to the operating phase while others remain in effect following the permanent cessation of facility operations during the decommissioning phase.

All commercial nuclear plants licensed under part 53 require some form of licensed operator staffing, whether it be by specifically or generally licensed operators. Consistent with this, the NRC requires under § 53.740(a) that facility licensees demonstrate compliance with the programmatic requirements for either specifically licensed operators and senior operators or for GLROs, as applicable to the facility.

The NRC recognizes that technology-inclusive facility staffing will need to account for a potentially wide range of concepts of operations; for this reason, flexible and performance-based approaches for establishing required facility staffing are appropriate. However, once the appropriate facility staffing has been determined and approved by the NRC, such staffing must be maintained to ensure that the appropriately qualified individuals will be available when needed to support the safe operation of the facility. Therefore, the NRC requires under § 53.740(b) that the staffing described within the approved facility staffing plan be maintained as a condition of the facility license as opposed to prescriptive staffing requirements like those of § 50.54(k) and (m).

Because operation of facility controls directly affects reactivity or power level, only those individuals who possess appropriate levels of qualification and authorization are permitted to operate those controls. The NRC adapts the requirements of § 50.54(i) in § 53.740(c) to require that only specifically licensed operators and senior operators or, alternatively, GLROs, may operate facility controls, with allowance for specified exceptions for the purposes of operator training or proficiency.

Senior operators, by virtue of their license level, are qualified and authorized both to perform certain important responsibilities and to direct the licensed activities of licensed operators. Therefore, facilities that are required to be staffed by specifically licensed operators must also include senior operators within their staffing. In contrast, facilities staffed with GLROs only have a single license level available and, therefore, there is no equivalent provision for such facilities. The NRC adapts the requirements of § 50.54(l) in § 53.740(d) to require the licensing and designation of senior operators at facilities staffed by specifically licensed operators.

In contrast with control manipulations that directly affect reactor power and reactivity (*e.g.,* control rod movement, control drum rotation, recirculation pump speed adjustment, reactor coolant system boration or dilution, etc.) and are therefore restricted to performance only by licensed operators, other types of plant operations that may result in reactor power and reactivity changes via means that are indirect in nature (*e.g.,* electrical generation changes, turbine bypass valve operation, steam usage by process heat applications, etc.) may be implemented by non-licensed personnel. However, due to the potential influence of such operations on reactor power and reactivity, the continuous oversight of reactor parameters by a licensed operator is necessary during these operations. The NRC therefore adapts the requirements of § 50.54(j) in § 53.740(e) to require appropriate oversight of operations, other than those associated with the controls themselves, that may affect reactivity or power level.

Load following where plant output automatically changes in response to externally originated instructions or signals is not permitted under the existing regulations of § 50.54. However, new technological considerations and concepts of operation may justify such an operational approach under appropriate circumstances. The NRC recognizes that, beyond electrical power generation, load following may also affect other applications of plant output, such as hydrogen production, desalination, or district heating. For load following to be permissible, measures must be in place to provide assurance that plant output considerations are not permitted to lead to challenges to safe reactor operations. These measures may consist of automated control systems, automatic protective features, or the continuous oversight and immediate intervention capability of an appropriately qualified and authorized individual. Section 53.740(f) allows for load following, provided that appropriate measures are in place. In considering the acceptability of the measures associated with load following, the NRC expects that any automatic protection relied

upon would be separate from that credited for reactor protection purposes and would employ setpoints that are set so as to prevent actuation of the reactor protection system while accomplishing its functions to the extent practical.

Core alterations such as refueling are associated with specific considerations that warrant limiting the oversight of such operations to appropriately qualified and authorized individuals. Unlike other types of fuel handling operations, core alterations occur within the confines of a reactor vessel that is specifically designed to support and sustain nuclear criticality, thereby justifying the imposition of higher qualification levels within such contexts. The NRC adapts the requirements of § 50.54(m)(2)(iv) in § 53.740(g) to require the supervision of core alterations by either a specifically licensed senior operator, a specifically licensed senior operator whose license is limited to fuel handling, or by a GLRO, as applicable to the facility. Because certain commercial reactor designs may be capable of refueling while at power and, in any event, overall facility oversight will already be required by either a specifically licensed senior operator or by a GLRO, the NRC omits this requirement as redundant during periods where core alterations occur while the plant is operating.

It is impossible to predict every possible scenario that a commercial nuclear plant might potentially encounter. Therefore, it is prudent to grant the authority for appropriately qualified individuals to depart from facility license conditions when emergency circumstances dictate that doing so is in the interest of public health and safety. The NRC adapts the requirements of § 50.54(x) and (y) in § 53.740(h) to permit specific individuals to authorize departures from facility license conditions or TSs when emergency conditions warrant doing so for the protection of the public health and safety. Recognizing that certain facilities licensed under part 53 may be staffed by GLROs in lieu of specifically licensed senior operators, the NRC extends this authority to GLROs. While it is not anticipated that GLROs will have a role in the fulfillment of safety functions at self-reliant-mitigation facilities, nor is it anticipated that operators at such facilities would be in a position by which to significantly influence radiological safety outcomes, the very nature of the § 50.54(x) and (y) and § 53.740(h) provisions concern situations that are unanticipated and, therefore, unforeseeable. Thus, it is appropriate to grant GLROs a comparable authority to that of senior licensed operators and certified fuel handlers as it relates to invoking this provision under emergency conditions as a means of accounting for such possibilities.

Due to the unique authorities and responsibilities of both specifically and generally licensed reactor operators, it is essential that any individual fulfilling such a role demonstrate compliance with the regulatory requirements for operator licensing. Section 107 of the AEA authorizes the Commission to prescribe conditions for the licensing of operators and to issue licenses consistent with those conditions. The NRC adapts the requirements of § 55.3 in § 53.745 to require that any person performing the function of an operator, senior operator, or GLRO must be authorized by a license issued by the Commission.

The NRC will license individuals as operators under both specific and general licensing frameworks. Specific licenses will be for licensed operators (*i.e.,* reactor operators) and senior operators (*i.e.,* senior reactor operators) and will be issued to a named person upon approval by the Commission of an application for that named person. In contrast, GLROs will perform duties under the provisions of a general license that is effective without the filing of an application with the Commission or the issuance of licensing documents to a particular person. The NRC sets forth requirements for the use of a specific licensing process for licensed operators and senior operators under §§ 53.760 through 53.795, with § 53.760 addressing applicability.

Medical fitness is an important component of the overall process of specifically licensing operators because it provides assurance that operators will be able to carry out important duties without being precluded from doing so by health-related issues. Medical fitness also provides assurance that such issues will not adversely affect the performance of assigned job duties or cause operational errors that endanger public health and safety. In addition to a requirement for medical fitness, a medical examination by a physician to confirm compliance with this requirement is necessary. The NRC adapts the requirements of §§ 55.21, 55.23, and 55.27 under § 53.765 to require medical fitness, examinations by physicians, and medical certification for specifically licensed operators and senior operators. In recognition of the fact that GLROs are not expected to have a role in the fulfillment of safety functions at the facilities at which they are licensed, the NRC does not extend a comparable medical requirement to GLROs.

The NRC also adapts the requirements of §§ 55.25 and 50.74(c) in § 53.770 to require that timely notifications be made to the NRC if a specifically licensed operator or senior operator develops a permanent physical or mental condition that adversely affects the performance of assigned operator job duties or could cause operational errors endangering public health and safety. Notwithstanding this requirement related to permanent medical conditions, the NRC continues to recognize that it is appropriate for facility licenses to impose administrative restrictions and conditions upon specifically licensed operators and senior operators in response to temporary medical conditions.

The process of specifically licensing individuals as licensed operators or senior operators requires the submittal of applications to the NRC for review. These applications must detail certain elements associated with licensing, including the demonstration of compliance with examination, experience, and medical requirements. The NRC adapts the requirements of §§ 55.31 through 55.35 in § 53.775 to include requirements for the applications associated with the specific licensing of licensed operators and senior operators at commercial nuclear plants licensed under part 53. In contrast with the part 55 requirements, the NRC provides additional flexibility by locating certain details associated with the preparation and submittal of these applications within guidance in lieu of placement within this final rule itself.

The NRC includes overall programmatic requirements for specifically licensed operator and senior operator training, examination, and proficiency in § 53.780. In general, the requirements are adapted from those in part 55, with several additional flexibilities being incorporated to better account for potential variations in reactor technologies and concepts of operations. The requirements in § 53.780 cover, in part, the initial training, initial examination, requalification training, requalification examination, and proficiency of specifically licensed operators and senior operators.

The initial training process provides individuals with the knowledge and abilities needed to subsequently fulfill assigned duties as licensed operators or senior operators in a safe and reliable manner. The use of a systems approach to training (SAT) ensures that the

training program is based upon job requirements in a manner that can be adapted to account for differences in plant technology, concepts of operations, and operator roles in the fulfillment of design-specific safety functions. The NRC requires under § 53.780(a) that facility licensees implement a SAT-based training program for the initial training of licensed operator and senior operator applicants. The program must be adequate to ensure that applicants will be capable of performing the duties necessary both to protect public health and safety and to maintain plant safety functions. The NRC further requires that such programs be subject to NRC approval and subsequent change control processes of an appropriate nature.

Examinations provide a means of assessing that individuals have achieved a degree of knowledge and ability that is sufficient to carry out assigned duties as licensed operators or senior operators in a manner that is safe and reliable. The NRC adapts the requirements of §§ 55.40, 55.41, 55.43, and 55.45 in § 53.780(b) to require that facilities establish and implement an initial examination program. However, a key difference from the comparable requirements of part 55 is that facilities have the flexibility to propose, subject to NRC approval, the examination methods and criteria to be used in assessing satisfactory applicant performance. Such examination programs (including those used within the scope of requalification training) must provide for acceptable levels of both test validity and test reliability in order to be considered acceptable. The NRC intends that staff guidance will be available to facilitate the review of licensing examination programs that are proposed by facility licensees and that, following NRC approval, initial examination programs will be subject to an appropriate change control process. Furthermore, the NRC provides holders of licenses to operate commercial nuclear plants under part 53 the alternative of administering their own approved licensing examinations. The NRC will continue to exercise appropriate oversight of the program, make operator licensing decisions based upon the examination results, and reserve the right to administer the examinations in lieu of permitting the facility to do so. However, irrespective of the provided flexibilities in examination format and structure, at a minimum, topics from the following general categories of knowledge and abilities should be sampled in such examinations:

- Reactor Theory, Thermodynamics, and Chemical Interactions
- Plant Systems and Components
- Reactivity Management and Manipulations
- Radiation Control and Safety
- Emergency, Abnormal, and Normal Operations
- Administrative Requirements and Conditions of the Facility License

Requalification training programs provide for the continuing training and examination of specifically licensed operators and senior operators to ensure that they maintain the knowledge and abilities needed to support the safe and reliable performance of job duties following the completion of an initial training and examination program. The NRC adapts the requirements of § 55.59 in § 53.780(c) to require that facilities implement both a SAT-based requalification training program and a biennial requalification examination program. However, a notable difference from the biennial requalification examinations required under part 55 is that distinct annual operating test and biennial written examination components are not mandated, with the facility licensee instead proposing the examination methods and criteria to be used in assessing satisfactory performance. The NRC intends that guidance will be available to facilitate the review of the requalification examination programs that are proposed by facility licensees and that, following NRC approval, requalification examination programs will be subject to an appropriate change control process.

For examinations to provide valid assessments of the knowledge and abilities of individuals, the examinations must remain free from compromises that could affect their underlying integrity. The NRC adapts the requirements of § 55.49 in § 53.780(d) to require that examinations and related activities remain free from any compromise that might affect the integrity of the examination process.

Simulators provide a valuable means of training and evaluating plant operators, and the NRC is specifically authorized under the Nuclear Waste Policy Act of 1982, as amended (NWPA), section 306 (42 U.S.C. 10226) to establish regulations for the use of simulators within such context. The NRC adapts the requirements of § 55.46 in § 53.780(e) to address the use of simulation facilities for training, examinations, and applicant experience requirements, as well as to address the maintenance of simulator fidelity. However, the requirements of part 53 do not mandate that full scope, plant-referenced simulators be used and will allow the use of alternative simulation facilities consisting of, for example, partial scope simulators or the plant itself, provided that all associated requirements can be demonstrated to be met using alternative approaches and methods. Additionally, in allowing for the possibility that an applicant or licensee might demonstrate compliance with training, examination, or experience requirements using the plant itself, the NRC is not allowing the initiation of transients on the actual plant. Consistent with this, aside from controlled reactivity manipulations that are conducted for the purposes of demonstrating compliance with experience requirements, actual plant components may not be operated for these purposes. Rather, the NRC perspective is that the use of the plant for training and examination purposes should be restricted to techniques such as walkthroughs, job performance measures, simulated tasks, use of augmented reality technology, and similar approaches that provide training and examination value while avoiding the operation of actual plant components.

There may be situations in which applicants for operator or senior operator licenses have previous training and experience that justifies waiving some, or all, of the initial examination requirements. The NRC adapts the requirements of § 55.47 in § 53.780(f) to allow for consideration of requests for waivers of examinations requirements. In contrast with the part 55 requirements, the NRC locates certain details associated with such waiver requests within guidance documentation in lieu of placement within this final rule itself.

For licensed operators and senior operators to perform their assigned duties safely and reliably, it is essential that they perform those duties frequently enough so as to maintain a sufficient degree of proficiency. The NRC adapts the requirements of § 55.53(e) and (f) in § 53.780(g) to require that specifically licensed operators and senior operators maintain proficiency and, if proficiency is not maintained, regain proficiency prior to resuming licensed duties. However, in recognition of the fact that varying concepts of operations are possible for advanced reactor facilities, the NRC, in contrast with the requirements of part 55, is allowing facility licensees to establish their own programs for operator proficiency, subject to NRC approval.

As the holders of specific licenses, licensed operators and senior operators

must be subject to license conditions on an individual basis to ensure that the basis upon which the licenses were issued remains valid. The NRC adapts the requirements of § 55.53 in § 53.785 to require appropriate conditions of licenses for specifically licensed operators and senior operators. However, in contrast with the requirements of § 55.53(e) and (f), the NRC is allowing certain aspects of operator proficiency to be addressed by an NRC-approved facility proficiency program.

Licenses for specifically licensed operators and senior operators are issued by the NRC and must remain subject to modification or revocation. The NRC adapts the requirements of §§ 55.51 and 55.61 in § 53.790 to address the issuance, modification, and revocation of licenses issued to specifically licensed operators and senior operators.

The licenses issued to specifically licensed operators and senior operators are valid for a period of 6 years, after which they expire, unless otherwise renewed. The NRC adapts the requirements of §§ 55.55 and 55.57 in § 53.795 to address the expiration and renewal of licenses issued to specifically licensed operators and senior operators.

In developing this final rule, the NRC has discussed with stakeholders the considerations that might justify the omission of the specifically licensed operators and senior operators. However, even for an inherently safe reactor with autonomous operation features, certain important administrative functions (*e.g.,* compliance with TS, operability determinations, NRC notifications, emergency declarations, risk assessment, maintenance oversight, and radiological release limit compliance) would still need to be accomplished by appropriately qualified and authorized individuals. Additionally, the NRC recognized that manual manipulations of facility reactivity controls must only be performed by individuals who have been appropriately licensed by the Commission. The NRC therefore establishes under § 53.800 a new class of facility (defined as a self-reliant-mitigation facility), according to the criteria contained in § 53.800 for part 53. These facilities will employ GLROs rather than specifically licensed operators and senior operators. The GLRO regulations offer enhanced flexibilities and targeted relaxations in a manner that is commensurate with the modified role of such operators to ensure the safe operation of the associated facilities. In contrast, those facilities not meeting the criteria of § 53.800 will instead be considered interaction-dependent-mitigation facilities and will require staffing by specifically licensed operators and senior operators. The terminology used to designate these facility types reflects differences in how operators are anticipated to need to interact with their plant systems in mitigating events and achieving safe outcomes; such systems may either need operators to interact with them in some manner (*i.e.,* be interaction-dependent) or may instead be able to rely fully upon their own capabilities independent of operator interaction (*i.e.,* be self-reliant).

Generally licensed reactor operators differ from specifically licensed operators because the latter will be directly and independently evaluated by the NRC as part of their licensing process. This direct and independent evaluation remains appropriate when operators may reasonably be expected to exert a significant influence on public health and safety outcomes. Therefore, a key determinant as to whether generally licensed reactor operators can be utilized in facility staffing is the assessment of the operator's role in maintaining and fulfilling safety functions at the facility, such as through the performance of credited actions for the mitigation of plant events.

The criteria in § 53.800 designate self-reliant-mitigation facilities. These criteria are derived from the following set of considerations:

- no human action needed to satisfy radiological consequence criteria;
- no human action needed to address LBEs;
- safety functions not allocated to human action;
- reliance upon robust and highly reliable safety features; and
- appropriate defense in depth achieved without reliance on important human action.

It should be noted that those facilities not meeting the criteria in § 53.800 will instead be classified as interaction-dependent-mitigation facilities and will require staffing by specifically licensed operators and senior operators instead.

Generally licensed reactor operators will perform duties under the provisions of a general license that is effective without the filing of an application with the Commission or the issuance of licensing documents to a particular person. The NRC sets forth requirements for the general licensing process for GLROs under §§ 53.805 through 53.820. The requirements for GLROs parallel those for senior operators in regard to their comparable administrative responsibilities. Nonetheless, the requirements for GLROs are relaxed and incorporate greater flexibilities compared to the requirements for specifically licensed operators in a manner that is consistent with the GLRO's role in safety at self-reliant-mitigation facilities.

In order to use GLROs in lieu of specifically licensed operators and senior operators, a OL/COL applicant must demonstrate that its proposed facility is a self-reliant-mitigation facility, *i.e.,* that it will comply with the following requirements on an ongoing basis: maintaining GLRO qualifications for the performance of important functions and tasks; incorporating relevant programmatic controls into TS; administering the related programs for training, examination, and proficiency; and ensuring that the relevant provisions of parts 26 and 73 are met. Additionally, to provide for an accurate accounting of what individuals are licensed under the general license, facility licensees are required to report the identities of all generally licensed reactor operators to the NRC on an annual basis. Furthermore, a facility licensee must ensure that the facility design and performance continue to meet the technological criteria to be classified as a self-reliant-mitigation facility (*i.e.,* the criteria of § 53.800) on a continual basis during the operating phase, as the relaxations afforded to such facilities in the areas of operator licensing, staffing, and HFE are predicated on this assumption. The NRC therefore establishes under § 53.805 requirements for facility licensees that address issues such as these. Finally, the failure of a self-reliant-mitigation facility to subsequently meet the criteria of § 53.800 after the issuance of an OL or COL will constitute a reportable event (*i.e.,* an unanalyzed condition that significantly degrades plant safety) under the provisions of § 53.1630.

The NRC sets forth the general license for GLROs under § 53.810. GLROs will be licensed as a class of individuals under the provision of § 53.810(a) and will be subject to the conditions specified in § 53.810(b) through (g). Portions of these conditions are adapted from § 55.53 and from those conditions currently included in the licenses issued to specifically licensed operators and senior operators. The NRC retains the ability to suspend or prohibit individuals from operating under the general license should such action be warranted.

The NRC includes overall programmatic requirements for GLRO training, examination, and proficiency under § 53.815. In general, these

requirements are adapted from those of part 55 and parallel those also included for specifically licensed senior operators in § 53.780. These requirements include increased flexibilities and several targeted relaxations that reflect the limited role of GLROs in facility safety. The requirements under § 53.815 cover, in part, the initial training, initial examination, continuing training, requalification examination, and proficiency of GLROs. Section 53.805 requires the facility licensee to develop, implement, and maintain these programs. Section 53.810, in turn, prescribes that the requirements of § 53.805 must be met as a requirement of the general license. The implication of this structure is that the facility licensee must implement these programs for training, examination, and proficiency, and GLROs must participate in these programs to demonstrate compliance with the requirements of the general license.

The initial training process provides GLROs with the knowledge and abilities needed to fulfill assigned duties as GLROs. The use of an SAT serves to ensure that the training program is based upon job requirements in a manner that can be adapted to account for differences in plant technology and concepts of operations. The NRC requires under § 53.815(b) that facility licensees implement a SAT-based training program for the initial training of GLROs that is adequate to ensure that they have the necessary knowledge, skills, and abilities to perform their duties. The NRC further requires that such programs be subject to NRC approval, oversight, and appropriate change control processes. The training program must ensure that GLROs maintain the necessary knowledge, skills, and abilities.

Examinations provide a means of assessing that individuals have achieved a degree of knowledge and ability that will be sufficient to enable them to carry out assigned duties as GLROs in a manner that is both safe and reliable. The NRC adapts the requirements of §§ 55.40, 55.41, 55.43, and 55.45 in § 53.815(b) to require that facility licensees establish and implement an initial examination program. A key difference from the comparable requirements of part 55 is that facility licensees are afforded the flexibility to propose, subject to NRC approval, the examination methods and criteria to be used in assessing satisfactory individual performance. Such examination programs (including those used within the scope of continuing training) must provide for acceptable levels of both test validity and test reliability in order to be considered acceptable. The NRC intends that staff guidance will be available to facilitate the review of initial examination programs that are proposed by facility licensees and that approved initial examination programs will be subject to an appropriate change control process. In contrast with both the requirements of part 55 and the requirements of § 53.780, the NRC does not intend to administer or evaluate these initial examinations. However, the examination processes themselves will continue to be subject to ongoing NRC oversight. Irrespective of the provided flexibilities in examination format and structure, topics from the following general categories of knowledge and abilities should be sampled in such examinations:

- Reactor Theory, Thermodynamics, and Chemical Interactions
- Plant Systems and Components
- Reactivity Management and Manipulations
- Radiation Control and Safety
- Emergency, Abnormal, and Normal Operations
- Administrative Requirements and Conditions of the Facility License

Continuing training programs provide the ongoing training and examination of GLROs to ensure that they maintain the knowledge and abilities needed to support the safe and reliable performance of job duties following the completion of an initial training and examination program. The NRC adapts the requirements of § 55.59 in § 53.815(b) to require that facility licensees implement both an SAT-based continuing training program and a requalification examination program. However, a notable difference from the examinations required under part 55 is that distinct annual operating test and biennial written examination components are not mandated. The facility licensee will instead propose examination methods and criteria to be used in assessing satisfactory performance. Furthermore, unlike the comparable requirements of part 55 and those for specifically licensed operators and senior operators, a biennial periodicity for requalification examinations is not prescribed. However, adequate justification for the proposed periodicity of requalification examinations is required. The NRC intends that staff guidance will be available to facilitate the review of the requalification examination programs that are proposed by facility licensees. Approved requalification examination programs will be subject to an appropriate change control process.

For examinations to provide for valid assessments of the knowledge and abilities of individuals, the examinations must remain free from compromises that could affect their underlying integrity. The NRC adapts the requirements of § 55.49 in § 53.815(d) to require that examinations and related activities remain free from any compromise that might affect the integrity of the examination process.

Simulators provide a valuable means of training and evaluating plant operators and the NRC is specifically authorized under the NWPA, section 306 (42 U.S.C. 10226) to establish regulations for the use of simulators within such context. The NRC adapts the requirements of § 55.46 in § 53.815(e) to address the use of simulation facilities for training and examinations, and experience requirements, as well as to address the maintenance of simulator fidelity. The use of full scope, plant-referenced simulators is not mandated. The potential use of alternative simulation facilities consisting of, for example, partial scope simulators or the plant itself, is allowed provided that all associated requirements are demonstrated to be met using alternative approaches and methods. Additionally, in allowing for the possibility that an applicant or licensee might demonstrate compliance with training and examination requirements using the plant itself, the NRC is not allowing the initiation of transients on the actual plant. Consistent with this, aside from controlled reactivity manipulations that are conducted for the purposes of demonstrating compliance with experience requirements, actual plant components may not be operated for these purposes. Rather, the use of the plant for training and examination purposes should be restricted to techniques such as walkthroughs, job performance measures, simulated tasks, use of augmented reality technology, and similar approaches that provide training and examination value while avoiding the operation of actual plant components.

There may be situations in which GLROs have previous training and experience that justifies waiving some, or all, of the initial examination. Therefore, under § 53.815(f) the NRC allows facility licensees to waive some, or all, portions of initial examinations provided that such waivers are consistent with a program that has been approved by the NRC.

For GLROs to safely and reliably perform their assigned duties, it is essential that they perform those duties frequently enough so as to maintain a sufficient degree of proficiency.

However, the NRC recognizes that facilities that utilize GLROs may have concepts of operation that warrant unique proficiency considerations. Therefore, the NRC requires in § 53.815(g) that facility licensees develop, implement, and maintain programs to maintain and reestablish, if needed, the proficiency of GLROs. This could occur, for example, if an individual's extended absence from watch standing has rendered proficiency requirements unmet.

The general license should remain in effect for an individual only while that individual remains employed in a position that may call for the individual to manipulate the reactivity controls of the facility. The NRC requires under § 53.820 that the general license ceases to be applicable on an individual basis when an individual's employment status becomes such that this is no longer the case. However, the NRC recognizes that for some types of self-reliant-mitigation facilities, very long periods may elapse between circumstances that necessitate manual manipulation of reactivity controls. Therefore, the general license remains in effect for an individual as long as the individual's current position could potentially require that individual to manipulate reactivity controls at some point within the course of the individual's assigned job duties.

The NWPA, section 306 (42 U.S.C. 10226) authorizes and directs the NRC to, in part, issue regulations and guidance that address the training and qualifications of civilian nuclear power plant operators, supervisors, technicians, and other appropriate operating personnel. The NRC implements this in part 50 through the requirements of § 50.120, ''Training and qualification of nuclear power plant personnel.'' The NRC adapts under § 53.830, with modifications, the requirements of § 50.120 for use in part 53 to provide more flexible personnel training and qualification requirements than those in § 50.120 and better reflect diverse concepts of operations.

The NRC recognizes that the categories of nuclear power plant personnel in § 50.120 may not be needed for the diverse concepts of operations, staffing models, and non-traditional personnel roles and responsibilities anticipated under part 53; conversely, and for the same reasons, additional categories of personnel may need to be covered by part 53. The NRC also recognizes that the timeframe prescribed in § 50.120 for the establishment of training programs may not be aligned with the schedules associated with the startup of certain types of commercial nuclear plant facilities. However, the NRC also recognizes that the SAT-based training required under § 50.120 remains an appropriate means by which training programs should continue to be developed and implemented. Therefore, the approach taken by the NRC in addressing the training of certain plant staff under part 53 reflects greater flexibilities in personnel categories and programmatic timeframes, while still retaining the requirement that such training programs be based on SAT.

The NRC requires under § 53.830 SAT-based training programs with the timeframe for when such programs are required being based upon when the associated personnel are needed to support facility-specific needs. The training programs will cover the training and qualification of personnel in the general categories of supervisors, technicians, and other appropriate operating personnel. Regarding the category of supervisors, this is intended to reflect on-shift supervisors for the licensed operators, similar to the current classification in § 50.120(b)(2)(iii), but § 53.830 uses language that is less specific to account for different conduct of operations and organizational structures for commercial nuclear plants which may require greater regulatory flexibility. The licensee is not required to seek NRC approval of a training program prior to usage. However, the licensee is required to accommodate NRC inspection of the training program. The NRC intends to develop guidance to facilitate the inspection of these training programs but does not intend for such guidance to preclude the potential for the training programs to be maintained by a separate, NRC-approved accreditation process.

Section 53.845 requires programs to be developed, implemented, and maintained to help ensure that design features and human actions have the capabilities and reliabilities necessary to demonstrate compliance with the safety criteria in subpart B throughout the operating life of each commercial nuclear plant. The programmatic requirements in subpart F also address areas such as radiation protection needed to control routine effluents during normal operations. Sections 53.850 through 53.910 require programs to support specific activities needed to ensure the prevention or mitigation of unplanned events or to support normal operations for any reactor design. However, each holder of an OL or COL is required to assess whether additional programs are needed for the specific reactor design and location of the commercial nuclear plant. Licensees are able to combine, separate, and otherwise organize programs and related documents as appropriate for the technologies and organizations associated with the commercial nuclear plant.

Section 53.850 requires a radiation protection program associated with the requirements in subparts B and C for public doses resulting from normal operations and the protection of plant workers. The requirements related to doses from normal operations, including routine effluents, are similar to those specified in § 50.36a, ''Technical specifications on effluents from nuclear power reactors,'' and related requirements in standard TS for offsite dose calculation manuals. While the section includes requirements that are technically and programmatically similar to part 50, § 53.850 does not include a requirement for effluent-related TS as is required in § 50.36a. A requirement similar to that found in the administrative controls section of TS for operating reactors licensed under parts 50 and 52 is included for programmatic controls of solid wastes to complement the design requirements in § 53.425.

Section 53.855 requires an emergency response plan that demonstrates compliance with the requirements in appendix E to part 50 and § 50.47(b) or § 50.160. The regulations in § 50.47 stating that the NRC will not issue certain licenses unless it finds that there is reasonable assurance that adequate protective measures can and will be taken to protect public health and safety in the event of a radiological emergency apply equally to applications under part 53 complying with the applicable standards set forth in either § 50.160 or the requirements in appendix E to part 50 and § 50.47(b).

In its 2008 Advanced Reactor Policy Statement, the Commission stated their expectation that ''the safety features of advanced reactor designs will be complemented by the operational program for Emergency Planning (EP). This EP operational program, in turn, must be demonstrated by inspections, tests, analyses, and acceptance criteria to ensure effective implementation of established measures.'' Consistent with this policy statement, emergency plans and emergency planning zones are not safety features in the design. In SECY–97–020, ''Results of Evaluation of Emergency Planning for Evolutionary and Advanced Reactors,'' dated January 27, 1997, the staff indicated that the rationale upon which EP for current reactor designs is based, that is, potential consequences from a spectrum of accidents, is appropriate for use as the basis for EP for evolutionary and

passive advanced LWR designs and is consistent with the Commission's defense-in-depth safety philosophy. Also, in its Safety Goals Policy Statement the Commission stated that: ''A defense-in-depth approach has been mandated in order to prevent accidents from happening and to mitigate their consequences. Siting in less populated areas is emphasized. Furthermore, emergency response capabilities are mandated to provide additional defense-in-depth protection to the surrounding population.'' Consistent with this policy statement, § 53.855 contributes an additional independent layer of defense in depth for commercial nuclear plants. Therefore, the emergency plans and emergency planning zones under § 53.855 are not used to demonstrate compliance with subpart B and subpart C of part 53. Rather, compliance with the requirements in § 53.855 provides reasonable assurance that adequate protective measures can and will be taken to protect public health and safety in the event of a radiological emergency.

Section 53.860 identifies the applicable regulations for part 53 applicants related to the programs for physical security, cybersecurity, FFD, AA, and information security. These programs are discussed in more detail in section IV, ''Changes to Other Parts of 10 CFR,'' of this document.

Section 53.860(a) requires licensees to develop, implement, and maintain a physical protection program that meets either § 73.55 or § 73.100, and includes physical protection of SNM and Category 1 and Category 2 radioactive material, if applicable.

Section 53.860(b) requires licensees to establish, implement, and maintain an FFD program under part 26. Section 53.860(c) requires licensees to establish, implement, and maintain an AA program in accordance with either § 73.56 or § 73.120, as appropriate. Section 53.860(d) requires licensees to establish, implement, and maintain a cybersecurity program in accordance with either § 73.54 or § 73.110. Section 53.860(e) requires licensees to establish, implement, and maintain an information protection system that complies with the requirements of §§ 73.21, 73.22, and 73.23, as applicable.

Section 53.865 establishes requirements for quality assurance and refers to appendix B to part 50 for the part 53 requirements for SR design features. Requirements related to evaluating and reporting changes to the quality assurance program are included in subpart I and are equivalent to those found in § 50.54.

Section 53.870 requires licensees to actively assess possible degradation of SSCs from the effects of aging, fatigue, and environmental conditions. The inclusion of requirements related to designing and monitoring for possible degradation mechanisms reflects important lessons learned from the history of LWRs and the likely introduction of new design features and materials in future commercial nuclear plants. The allowable combinations of design features, operating experience, testing, and monitoring during operations support performance-based approaches to the initial licensing of new technologies. The performance-based approach to integrity assessment programs also allows for the subsequent consideration of operating experience and appropriate corrective actions or allowable relaxations for ensuring that design features comply with the functional design criteria of §§ 53.410 and 53.420. The program is based upon a comprehensive and integrated evaluation of the aging and other degradation mechanisms applicable to the design; identification of the affected SSCs; the allowances provided in the design of the SSCs for degradation; and schedules and procedures for determining if and at what rate degradation is occurring, as well as its cause. Risk insights can be used to prioritize the monitoring, evaluation, and management of degradation based upon the importance of the SSC to safety and the time frame for when the effects of degradation could be of concern.

Section 53.875 establishes requirements for a fire protection program supporting operations similar to § 50.48. The fire protection program during operations will work in concert with specific fire protection requirements in subpart C for design and analyses and in subpart E for construction and manufacturing.

Section 53.880 establishes requirements for an inservice inspection (ISI) and inservice testing (IST) program, which are historically important activities conducted in accordance with ASME codes and regulations in § 50.55a. While part 53 does not incorporate specific consensus codes and standards into the regulations, § 53.880 allows for the use of generally accepted codes and standards. The requirement for an ISI and IST program reinforces the need to develop monitoring programs to be conducted during a plant's operations phase to complement the design process and address inherent uncertainties. The NRC encourages the continued use of consensus codes and standards supporting design, testing, and inspections to support integrated and performance-based approaches in demonstrating compliance with the requirements in part 53.

Section 53.910 establishes requirements for developing, implementing, and maintaining procedures (*e.g.,* operations and emergency operating procedures) and guidelines (*e.g.,* accident management guidelines). The programmatic requirements for many of the procedures listed in this section are similar to the requirements found in the administrative controls section of TS for plants licensed under parts 50 and 52. The inclusion, where appropriate, of accident management guidelines in these requirements is intended to ensure that an integrated set of procedures and guidelines is established by licensees to ensure command and control across the spectrum of possible event sequences. The required procedures also include those needed to complement the design requirements in § 53.440(m) related to criticality alarms and the equivalent of the procedures required in § 50.54(hh) to address notifications of potential aircraft threats.

Subpart G—Decommissioning Requirements

Subpart G provides the regulatory requirements for the decommissioning phase of the life cycle of a commercial nuclear plant. The requirements in subpart G for the decommissioning of a commercial nuclear plant are adapted from the current regulations in § 50.75, ''Reporting and recordkeeping for decommissioning planning,'' § 50.82, ''Termination of license,'' and § 50.83, ''Release of part of a power reactor facility or site for unrestricted use.'' Although the requirements from those sections of part 50 have been copied into subpart G with relatively few changes, the requirements are reorganized to fit within the part 53 structure. The few changes made were primarily to make the requirements more technology-inclusive by adding alternatives within sections, whereas some requirements in part 50 were developed specifically for LWRs.

As an example, § 50.75 provides minimum amounts of decommissioning funds required to demonstrate reasonable assurance of funds for decommissioning LWRs. Such generic amounts have not been developed for all reactor technologies that may be licensed under part 53. Therefore, a requirement is included in § 53.1020, ''Cost estimates for decommissioning,'' for site-specific cost estimates for decommissioning to be developed

considering costs in such areas as engineering, labor, and waste disposal. The derivation of the generic cost estimates for LWRs in § 50.75 is provided in NUREG/CR–5884, ''Revised Analyses of Decommissioning for the Reference Pressurized Water Reactor Power Station,'' and NUREG/CR–6187, ''Revised Analyses of Decommissioning for the Reference Boiling Water Reactor Power Station.'' Similar to part 50, a provision for an annual adjustment of decommissioning cost estimates is included in § 53.1030.

The NRC is currently pursuing another rulemaking, ''Regulatory Improvements for Production and Utilization Facilities Transitioning to Decommissioning,'' which was published as a proposed rule for public comment on March 3, 2022 (87 FR 12254). As these rulemakings progress, the NRC will consider revisions to part 53 to align the two rulemaking efforts. For example, § 53.1075 could be expanded to include or reference requirements for decommissioning in areas such as EP and security in addition to the decommissioning fire protection plans that provide an equivalent to § 50.48(f).

Subpart H—Licenses, Certifications, and Approvals

Subpart H provides requirements related to applications under part 53 for NRC licenses, certifications, or approvals for commercial nuclear plants.

Subpart H specifies requirements applicable to all part 53 applications as well as requirements specific to part 53 applications for LWAs, ESPs, standard design approvals, standard DCs, MLs, CPs, OLs, and COLs. Subpart H is equivalent to and includes all existing licensing, certification, and approval processes currently covered under parts 50 and 52, with the exception of the process for early review of site suitability issues. Interactions with external stakeholders during the development of the proposed rule did not identify significant interest in or need for including the process for early review of site suitability issues in part 53.

Much of the subpart H regulatory text is identical to the corresponding language in parts 50 and 52, with minor changes to account for cross-references in part 53, to make language technology neutral, or to reflect the unique analytical approach in part 53. In these instances, this preamble discussion will describe the language as ''equivalent'' to the existing corresponding requirement in part 50 or part 52 and will describe any deviations, where applicable.

Because part 53 carries over the majority of the licensing options from parts 50 and 52, there are several sections in subpart H that are similar to existing regulations in parts 50 and 52. Section 53.1100 addresses filing of applications for licenses, certifications, or approvals under oath or affirmation and is equivalent to § 50.30. Section 53.1100 does not include the current requirement in § 50.30(a)(2) that the applicant maintain the capability to generate additional copies, because it is unnecessary in the age of electronic submissions. In addition, the existing requirement on applications for OLs in § 50.30(d) is included in § 53.1124(g)(2), ''Relationship between sections,'' covering OLs, rather than in § 53.1100. Section 53.1100(a)(1) also includes filing requirements equivalent to those in §§ 52.15, 52.45, 52.135, and 52.151. Section 53.1101 lays out activities requiring an NRC license and is equivalent to § 50.10(b). Section 53.1103 addresses combining applications and is equivalent to §§ 50.31, 50.52, and 52.8. Section 53.1103(b) continues the Commission's practice of combining multiple authorizations for a facility under parts 30, 40, 50, 52, and 70 into one license based on the Commission's authority under section 161h of the AEA to combine NRC licenses. Section 53.1106 addresses elimination of repetition and is equivalent to § 50.32.

Section 53.1109 provides general information requirements for the content of applications submitted to the NRC under part 53 and is equivalent to § 50.33, with the exception of § 50.33(f) on financial qualifications, which is covered in subpart J, and § 50.33(h) on earliest and latest dates for completion of construction, which is covered in § 53.1306 of subpart H. Each application must include information to address the items in § 53.1109 as cited in the appropriate section of subpart H for the application type.

One change from current requirements can be found in § 53.1109(i), which is not limited to electricity generation as it is currently in part 50. Some prospective NRC applicants are considering development of nuclear plants for other commercial ventures, such as process heat generation or hydrogen production. In addition, § 53.1109(j), which requires applications containing classified information to separate that information from the unclassified information in the application, refers to ''Restricted Data or classified National Security Information'' instead of the term used in the corresponding provision in § 50.33(j), ''Restricted Data or other defense information.'' This change was made to use the defined term in 10 CFR part 95, ''Facility Security Clearance and Safeguarding of National Security Information and Restricted Data,'' rather than ''defense information'' as used in § 50.33(j). The usage in § 50.33(j) dates back to the Atomic Energy Commission amendment of that section on January 19, 1956 (21 FR 355, 357), and was not changed with the issuance of part 95 (45 FR 14476; March 5, 1980) after the establishment of the NRC and the 1975 reissuance of the former Atomic Energy Commission regulations. The revised terminology also aligns with its usage in § 53.1115.

Section 53.1112 addresses environmental conditions and is equivalent to § 50.36b. Section 53.1115 addresses requirements for agreements limiting access to classified information and is equivalent to § 50.37.

Section 53.1118 addresses ineligibility of certain applicants and is similar to § 50.38 but has been revised consistent with section 301 of the ADVANCE Act. That section of the ADVANCE Act designates certain exceptions from the foreign ownership, control, or domination (FOCD) provision set forth in the AEA. Specifically, section 301 states that if the Commission determines that issuance of the applicable license to that entity is not inimical to the common defense and security or public health and safety, then the FOCD restriction shall not apply to an entity that is owned, controlled, or dominated by: (1) the government of a country that is a member of the Organisation for Economic Co-operation and Development or the Republic of India; (2) a corporation that is incorporated in one of those countries; or (3) a citizen or national of one of those countries, subject to some additional exclusions. Those additional exclusions are based on whether any members of the excepted countries were on certain sanctions lists on the ADVANCE Act's date of enactment.

Section 53.1120 addresses exceptions and exemptions from licensing requirements for Department of Defense and DOE facilities and is equivalent to § 50.11. Section 53.1121 addresses public inspection of applications and is equivalent to § 50.39.

Section 53.1124 addresses the relationship between the various licenses, certifications, and approvals provided in this subpart, and the requirements are equivalent to a number of similar provisions in parts 50 and 52, including §§ 50.10, 52.13, 52.43, 52.73, 52.133, and 52.153. New provisions are provided in § 53.1124(c) and (d) that allow an application for either a

standard design approval or a standard DC under part 53 to reference applicable licensing-basis information that supported issuance of an OL or COL under part 53. These provisions will offer additional flexibility beyond what is currently allowed under parts 50 or 52 for an applicant who may wish to license a first-of-a-kind reactor for operation prior to seeking generic approval or certification of the standard design.

Section 53.1124(e) addresses the limitation that a manufactured reactor may only be transported domestically to a site with a COL or CP and is generally equivalent to § 52.153. The NRC has not included specific requirements within part 53 directing how a CP application referencing an ML must be structured, including how the ITAAC required for an ML under § 53.1282 is to be addressed by a CP applicant. Instead, part 53 leaves the matter open to possible approaches to be addressed in future regulatory guidance or proposed by future applicants. Section 53.1124(e) includes an additional statement to make it clear that a manufactured reactor may be exported in accordance with part 110.

Section 53.1130 addresses LWAs and is equivalent to § 50.10.

Sections 53.1140 through 53.1188 address applications for, issuance of, and other provisions related to ESPs under part 53. Section 53.1140 describes how the contents of §§ 53.1140 through 53.1188 address ESPs and is equivalent to § 52.12. Section 53.1144 addresses general information requirements for the content of applications and is equivalent to § 52.16.

Section 53.1146 specifies requirements for the technical contents of applications and is equivalent to § 52.17. Section 53.1146(b)(2) provides applicants for ESPs a regulatory option to propose major features of the emergency plans or complete integrated emergency plans in accordance with either the requirements in § 50.160 of this chapter, or the requirements in appendix E to part 50 of this chapter and § 50.47(b) of this chapter, as applicable.

Section 53.1149 addresses standards for review of ESP applications and administrative review of applications, including hearings, and is equivalent to §§ 52.18 and 52.21. Section 53.1155 addresses referral to the ACRS and is equivalent to § 52.23. Section 53.1158 addresses issuance of ESPs and is equivalent to § 52.24. Section 53.1161 addresses the extent of activities permitted and is equivalent to § 52.25. Section 53.1164 addresses the duration of an ESP and is equivalent to § 52.26. Section 53.1167 addresses provisions for requesting an LWA after issuance of an ESP and is equivalent to § 52.27. Section 53.1170 addresses transfers of ESPs and is equivalent to § 52.28. Section 53.1173 addresses applications for ESP renewals and is equivalent to § 52.29, although the final rule removes the requirement to refer the renewal to the ACRS consistent with current agency practice. Section 53.1176 addresses criteria for renewal of an ESP and is equivalent to § 52.31. Section 53.1179 addresses the duration of an ESP renewal and is equivalent to § 52.33. Section 53.1182 addresses the use of a site for purposes other than those described in the permit and is equivalent to § 52.35. Section 53.1188 addresses finality of ESP determinations and is equivalent to § 52.39.

Sections 53.1200 through 53.1221 address applications for, issuance of, and other provisions related to standard design approvals under part 53. Section 53.1200 describes how the contents of §§ 53.1200 through 53.1221 address standard design approvals and is equivalent to § 52.131. Section 53.1206 addresses general information requirements for the content of applications and is equivalent to § 52.136.

Section 53.1209 addresses requirements for the technical content of applications and is largely equivalent to § 52.137. In § 53.1209(a), the NRC includes text that expands the discussion of a ''major portion'' of standard design approvals. Additional discussion regarding standard design approvals for a major portion of a standard design can be found in the NRC's ''A Regulatory Review Roadmap for Non-Light Water Reactors,'' which considers the Nuclear Innovation Alliance report ''Clarifying 'Major Portions' of a Reactor Design in Support of a Standard Design Approval.'' Section 53.1209(b) outlines the required content of the Final Safety Analysis Report (FSAR). Requirements in § 53.1209(b)(2) for portions of the application addressing design information state that the application must include design information equivalent to that required for a standard DC. This reference to the pertinent DC requirements (specifically, those in § 53.1239(a)(2) through (27)) is an efficiency that prevents the need to repeat many of the same requirements for the content of a standard design approval application.

Section 53.1210 addresses requirements for the content of a standard design approval application other than the FSAR. Section 53.1210(a) requires the inclusion of a description of availability controls that are not included in the FSAR.

Section 53.1212 addresses standards for review of applications and is equivalent to § 52.139. Section 53.1215 addresses referral to the ACRS and is equivalent to § 52.141. Section 53.1218 addresses staff approval of designs and duration of design approvals and is equivalent to §§ 52.143 and 52.147. Section 53.1221 addresses finality of standard design approvals and information requests and is equivalent to § 52.145 with the exception that it extends such finality to a standard approval referenced in a DC application. Standard design approvals issued to date under part 52 have been issued during the NRC's review of the standard DC application and have relied on the same application content. However, a future scenario could arise where the DC application is not submitted until after a design approval has been granted. The NRC would apply the same finality provisions in this situation as in the situation where a standard design approval is referenced in a COL application.

There is no equivalent to § 53.1221(d) in part 52 for standard design approvals. This provision states that the Commission will require, before granting a CP, COL, OL, or ML that references a standard design approval, that information normally contained in engineering documents be completed and available for audit. A similar provision is included in part 52 in relation to a standard DC; and the NRC would require that design and analysis information needed for the Commission to make its safety determination be complete and available for any application the NRC is reviewing. Making this explicit provides increased clarity to future standard design approval applicants under part 53.

Sections 53.1230 through 53.1263 address applications for, issuance of, and other provisions related to standard DCs under part 53. Section 53.1230 addresses general provisions for standard DCs and is equivalent to § 52.41. Section 53.1236 addresses general information requirements for the content of applications and is equivalent to § 52.46. Section 53.1239 addresses requirements for the technical content of applications and is equivalent to § 52.47(a). The requirements in § 53.1239 have been modified from the analogous requirements in § 52.47(a) to align with the technical requirements in part 53.

Section 53.1241 addresses requirements for the content of a standard DC application other than the

FSAR and is equivalent to § 52.47(b) and (d).

Section 53.1242 addresses review of applications and is equivalent to §§ 52.48 and 52.51. Section 53.1242(c) includes a provision that allows a DC applicant to reference applicable licensing-basis information for an OL or COL issued under part 53. As explained previously, this provision explicitly allows flexibility for an applicant who may wish to license a first-of-a-kind reactor for operation prior to seeking certification of the generic reactor design. For NRC findings on a reactor design in an OL or COL proceeding, this provision provides finality in a subsequent DC application that references information on the OL or COL proceeding's docket. This finality accorded to the OL or COL findings would bind the NRC staff and the ACRS but would not bind members of the public or the Commission. (To the extent an Atomic Safety and Licensing Board (ASLB) might have a role in a DC rulemaking, the OL or COL findings would not bind the ASLB either.) Specifically, members of the public would have the opportunity to comment on a proposed DC rule under well-established NRC practice. The rationale for binding the NRC staff and ACRS is similar to the rationale for a COL applicant referencing a standard design approval under part 52.

Section 53.1245 addresses referral to the ACRS and is equivalent to § 52.53. Section 53.1248 addresses issuance of standard DCs and is equivalent to § 52.54. Section 53.1251 addresses duration of certifications and is equivalent to § 52.55. Section 53.1254 addresses application for renewal and is equivalent to § 52.57, although the final rule removes the requirement to refer the renewal to the ACRS consistent with current agency practice. Section 53.1257 addresses criteria for renewal and is equivalent to § 52.59. Section 53.1260 addresses duration of renewals and is equivalent to § 52.61. Section 53.1263 addresses finality of standard DCs and is equivalent to § 52.63.

Sections 53.1270 through 53.1291 address applications for, issuance of, and other provisions related to MLs covering manufacturing activities at one or more licensee facilities under part 53. Section 53.1270 addresses the scope of these sections and is equivalent to § 52.151.

Section 53.1276 addresses general information requirements for the content of ML applications and is equivalent to § 52.156, with one exception. Section 53.1276 requires each application for an ML to also include the information required by § 53.1109(e). This information includes the type of license applied for, the use to which the facility will be put, the period of time for which the license is sought, and a list of other licenses, except operator's licenses, issued or applied for in connection with the proposed facility to address the potential variations in how MLs might be formulated under part 53.

Section 53.1279 addresses requirements for the technical content of applications for MLs to be included in the FSAR and is equivalent to § 52.157. In addition, the requirements in § 53.1279(a) and (b) have been modified from the analogous requirements in § 52.157 to align with the technical requirements in part 53. Section 53.1279(a)(2) outlines the required content of the application addressing design information and states that the application must include design information equivalent to that required for a standard DC. This reference to the pertinent DC requirements is an efficiency that prevents the need to repeat the same requirements for the content of an ML application.

Section 53.1279(c) provides application requirements related to the deployment of the completed manufactured reactor. Section 53.1279(c)(1) requires inclusion of information related to the procedures governing the preparation of the manufactured reactor for shipping to the site where it is to be operated, the conduct of shipping, and the verification of the condition of the shipped items upon receipt at the site. Section 53.1279(c)(2) requires that the application include information on the interaction of the design, manufacture, and installation of a manufactured reactor within the applicant's organization and the manner by which the applicant will ensure close integration between the designer, contractors, and any licensee of a facility in which the manufactured reactor is to be installed. Finally, § 53.1279(c)(3) requires that the application include a description of the measures used for the control of interfaces between the holder of the ML and the holder of the COL or CP for the commercial nuclear plant at which the manufactured reactor is to be installed. This information is necessary for the NRC to determine whether the applicant has appropriate controls in place to ensure coordination between parties involved in the design, manufacture, and eventual operation of any reactor manufactured under an ML.

Section 53.1279(d) includes additional requirements for application content for applicants seeking an ML for manufactured reactors that will be fueled at the factory under a part 70 license, consistent with the requirements in § 53.620(d). These provisions require the application to include information related to loading fuel and the required features to prevent criticality and to otherwise provide assurance that the fueled manufactured reactor can be successfully transported, installed, and operated at a site for which the Commission has issued a COL or CP and OL that authorizes construction and operation of a commercial nuclear plant using the manufactured reactor.

Section 53.1282 provides requirements for other application content for MLs and is equivalent to § 52.158. Section 53.1282(a)(1) provides requirements to include in the ML application the ITAAC within the scope of the ML that the COL or CP holder referencing the ML must satisfy. Section 53.1282(a)(2) requires that the ITAAC from a referenced standard design apply to the portions of the ML design within the scope of the referenced standard design. Section 53.1282(a)(3) states that a COL application may include a notification that required referenced standard DC ITAAC have been satisfied at the manufacturing facility.

Section 53.1282(b) requires an ML application to include an environmental report and, consistent with existing requirements, § 53.1282(b)(2) notes that if the ML application references a standard DC, the environmental report need not contain a discussion of severe accident mitigation design alternatives for the manufactured reactor as used in a commercial nuclear plant.

Section 53.1285 provides standards for review of applications and administrative review of applications for MLs, including hearings, and is equivalent to §§ 52.159 and 52.163.

Section 53.1286 addresses referral of applications to the ACRS and is equivalent to § 52.165. Section 53.1287 addresses issuance of an ML and is equivalent to § 52.167.

Section 53.1288 addresses finality of MLs and is equivalent to § 52.171, except that part 53 does not include the constraint that the Commission may only grant a request for a departure from an ML for an applicant who references or uses a manufactured reactor if special circumstances outweigh any decrease in safety that may result from the reduction in standardization caused by the departure. This is consistent with the differences in the allowance for changes to a manufactured reactor in part 53 (as noted in the discussion of §§ 53.1530 and 53.1550 in this

document) as compared to part 52. Section 53.1291 provides for a 40-year duration for an ML, consistent with the duration provided for a DC under § 53.1251. Section 53.1293 addresses the transfer of MLs and is equivalent to § 52.175. Section 53.1295 addresses the renewal of MLs and is equivalent to §§ 52.177, 52.179 and 52.181, with minor exceptions.

Section 53.1295(a)(3) states that an ML for which a timely application for renewal has been filed remains in effect until the Commission has made a final determination on the renewal application. However, this provision omits a limitation from the equivalent provision in § 52.177 which prohibits the holder of an ML from beginning the manufacture of a manufactured reactor less than 3 years before the expiration of the license. This limitation was omitted in part 53 because future reactor applicants may present smaller, simpler designs, to include microreactor designs, in ML applications than those that were envisioned when the existing requirements were written. Eliminating the 3-year constraint in this provision will provide greater flexibility for ML holders related to manufactured reactors being produced close to the time when the ML expires. Additionally, § 53.1295(c) provides for a 40-year term for a renewed ML, consistent with the term for an initial ML under § 53.1291. Finally, the final rule removes the requirement to refer the renewal to the ACRS consistent with current agency practice.

Sections 53.1300 through 53.1348 address applications for, issuance of, and other provisions related to CPs under part 53. Section 53.1300 sets out general requirements for CPs and is equivalent to § 50.23. Section 53.1306 addresses the general information requirements for the content of applications for CPs and is similar to § 50.33(f) and (h). However, the requirements for demonstrating financial qualification are different for part 53 applicants than the existing requirements for applicants under part 50 or 52. The part 53 requirements do not include the existing requirements under part 50 or 52 for an applicant to provide information to demonstrate that it ''possesses or has reasonable assurance of obtaining'' the funds necessary for construction and operation along with associated financing details. Instead, part 53 replaces that requirement with a requirement to provide information that demonstrates that the applicant ''appears to be financially qualified,'' similar to the standard used in § 70.23(a)(5).

Section 53.1309 addresses requirements for the technical content of applications for CPs and includes the requirement to submit a Preliminary Safety Analysis Report (PSAR) that describes the facility and presents a preliminary safety analysis of the facility as a whole. This is in contrast to an OL application, which is required to include an FSAR that describes the facility and presents a final safety analysis of the facility as a whole. Section 53.1309 is equivalent to § 52.17(a)(1)(iv) through (a)(1)(x) and 52.17(b), with two exceptions. First, § 53.1309 replaces the analysis of the dose criteria required by § 52.17(a)(1)(ix) with analysis to demonstrate compliance with the safety criteria defined in §§ 53.210 and 53.220. Second, § 53.1309(a)(2) adds a requirement for a CP application to include several categories of detailed design information, although § 53.1309(a)(2)(ii) allows certain relaxations of this requirement in view of aspects of a design that may not yet be fully developed. Section 53.1309 references the requirements for the content of an ESP application to address application requirements related to siting and references the requirements for the content of a DC application to address application requirements related to design of the commercial nuclear plant. Section 53.1309(a)(2)(ii) addresses the treatment of preliminary design information and notes that information provided in the application may include some aspects of the design that are not fully developed. This provision requires that the completed design, including any changes during construction, be described in the FSAR in an application for an OL. This includes the requirement for a description of the PRA, other SREs, or a combination thereof required by § 53.450(a) and its results. Probabilistic risk assessments, other SREs, or a combination thereof developed for commercial nuclear plants prior to construction are based on the design and other information available at the time of the CP application. PRAs performed in early design stages or prior to construction may be inherently less detailed and may include projected information that will be subsequently verified or revised when the plant is built. Section 53.1309(a)(4) addresses preliminary description of the plans for coping with emergencies.

Section 53.1312 addresses other application content for CPs. Section 53.1312(a)(1) is equivalent to § 52.80(b) but is adapted for a CP application. Section 53.1312(a)(2) is equivalent to § 52.80(c) but is adapted for a CP application. Section 53.1312(b)(1) is equivalent to § 52.79(b), (c), and (d) but is adapted for a CP application. Section 53.1312(b)(2) is equivalent to portions of §§ 52.63(b)(1), 52.79(b)(1) through (b)(3), (c), and (d)(1) and (d)(3), 52.80, and 52.93(b) but is adapted for a CP application. Guidance for equivalent requirements in parts 50 and 52 is also addressed in RG 1.206, ''Applications for Nuclear Power Plants,'' Revision 1, section C.1.7.

Section 53.1315 addresses standards for review of applications and administrative review of applications, including hearings, and is equivalent to §§ 52.81 and 52.85 but is adapted for a CP application.

Section 53.1318 addresses finality of NRC approvals, licenses, and certifications referenced in a CP application and is equivalent to § 52.83(a) but is adapted for a CP application.

Section 53.1324 addresses referral to the ACRS and is equivalent to § 50.58(a) and to § 52.87 but is adapted for a CP application.

Section 53.1327 addresses authorization to conduct LWA activities and is equivalent to § 52.91 but is adapted for a CP application. Section 53.1327(a) is equivalent to § 52.91(a) but is adapted for a CP application. Section 53.1327(b) is equivalent to § 52.91(b) but is adapted for a CP application. Section 53.1330 addresses exemptions, departures, and variances for CP applicants.

Section 53.1333 addresses issuance of CPs. Section 53.1333(a) is equivalent to § 50.35(a). Section 53.1333(b) is equivalent to § 50.35(b) and to § 52.97(c) but is adapted for a CP application. Section 53.1336 addresses the effect of CPs and is equivalent to § 50.35(b). Section 53.1342 addresses the duration of CPs. Section 53.1342(a) is equivalent to § 50.55(a). Section 53.1342(b) is equivalent to § 50.55(b). Section 53.1345 addresses the transfer, assignment, and disposal of CPs and is equivalent to § 50.80. Section 53.1348 addresses the termination of CPs and is equivalent to §§ 52.3(b)(8) and 52.110(a)(1) but is adapted for a CP application.

Sections 53.1360 through 53.1405 address applications for, issuance of and other provisions related to OLs under part 53.

Section 53.1366 addresses requirements for the general content of applications for OLs. It refers to general content requirements in § 53.1109 and requires supplemental information. Section 53.1366 is similar to § 50.33(f). However, the requirements for demonstrating financial qualification

are different for part 53 applicants than the existing requirements for applicants under part 50 or 52. The part 53 requirements do not include the existing requirements for an applicant to provide information to demonstrate that it ''possesses or has reasonable assurance of obtaining'' the funds necessary for construction and operation along with associated financing details. Instead, part 53 replaces that requirement with a requirement to provide information that demonstrates that the applicant ''appears to be financially qualified,'' similar to the standard used in § 70.23(a)(5).

Section 53.1369 provides requirements for the technical content of applications for OLs to be included in the FSAR and is equivalent to § 50.34(b) but has been modified to align with the technical requirements in part 53. It requires that the FSAR include and, as needed, update information provided in the PSAR that was submitted and reviewed to support the associated CP application.

Similar to the requirements for the content of CP applications, § 53.1369(a) references the requirements for the content of an ESP application to address application requirements related to the site. Section 53.1369(b) references the requirements for the content of a DC application to address some of the application requirements related to design of the commercial nuclear plant.

Section 53.1369(d) requires a description of the Integrity Assessment Program that is required by § 53.870. Section 53.1369(e) is equivalent to § 50.34(e). Section 53.1369(g) provides requirements for OL application content to support § 53.730 related to the role of personnel in the operation of the commercial nuclear plant and is adapted from requirements in part 55 and § 50.34(f). Likewise, § 53.1369(h) provides requirements for OL application content related to training programs to support §§ 53.730(g) and 53.830 and includes requirements equivalent to § 50.34(b)(8), § 52.79(a)(33), and part 55. Section 53.1369(i) provides requirements for OL application content related to emergency plans to support § 53.855 and is equivalent to § 50.34(b)(6)(v).

Section 53.1369(j) provides requirements for OL application content related to the applicant's organizational structure and is equivalent to § 50.34(b)(6)(i). Section 53.1369(k) provides requirements for OL application content related to the applicant's proposed maintenance program to support § 53.715 and is equivalent to § 50.34(b)(6)(iv). Section 53.1369(l) provides requirements for OL application content related to the applicant's quality assurance program to support § 53.865 and is equivalent to § 50.34(b)(6)(ii). Section 53.1369(m) provides requirements for OL application content related to the applicant's proposed radiation protection program to support § 53.850 and is equivalent to § 50.34(b)(3).

Sections 53.1369(n) through (p) provide requirements for OL application content related to the applicant's proposed physical security program to support § 53.860(a) and are equivalent to § 50.34(c) and (d). Section 53.1369(q) provides requirements for OL application content related to the applicant's proposed cybersecurity plan to support § 53.860(d) and is equivalent to §§ 52.79(a)(36)(iv) and 73.54. Section 53.1369(r) provides requirements for OL application content related to the implementation of proposed security, safeguards, and cybersecurity plans to support § 53.860 and is equivalent to § 52.79(a)(35)(ii) and 52.79(a)(36)(iv) and (v).

Section 53.1369(s) provides requirements for OL application content related to the applicant's proposed fire protection program to support § 53.875 and is equivalent to § 52.79(a)(40). Section 53.1369(t) provides requirements for OL application content related to the applicant's proposed ISI and IST program to support § 53.880 and is equivalent to part of § 52.79(a)(11). Section 53.1369(w) provides requirements for OL application content related to the applicant's general employee training program to support § 53.830 and is equivalent to § 52.79(a)(33). Section 53.1369(x) provides requirements for OL application content related to the applicant's FFD program to support part 26 and is equivalent to § 52.79(a)(44). Section 53.1369(y) provides requirements for OL applicants' programs to demonstrate that any safety questions identified at the CP stage have been resolved and is equivalent to § 50.34(b)(5). Section 53.1369(z) provides requirements for OL applicants to describe how the performance of each safety design feature has been demonstrated capable of fulfilling functional design criteria considering interdependent effects through either analysis, appropriate test programs, prototype testing, operating experience, or a combination thereof to support § 53.440(a). It is largely equivalent to §§ 50.34(b)(5) and 50.43(e). Section 53.1369(aa) provides requirements for OL application content related to the applicant's proposed TS to support § 53.710(a) and is equivalent to § 50.34(b)(6)(vi).

Section 53.1372 addresses requirements for the content of OL applications other than the FSAR. Section 53.1372(a) requires submission of an environmental report and is equivalent to § 50.30(f) and § 51.53(b). Section 53.1372(b) does not have a direct parallel in parts 50 and 52 and requires the inclusion of a description of availability controls that are not included in the FSAR to support § 53.710(b).

Section 53.1375 addresses standards for review of OL applications and the administrative review of applications, including hearings, and is equivalent to §§ 52.81 and 52.85, except that the NRC has omitted 10 CFR part 54, ''Requirements for Renewal of Operating Licenses for Nuclear Power Plants,'' from the list of standards in § 53.1375(a). Part 53 does not include detailed requirements related to renewal of licenses, although a general provision and possible placeholder for future requirements has been included as § 53.1595. The NRC will decide after the part 53 final rule is published whether this section will be retained in part 53 to address license renewal or whether the agency will take another approach to address license renewal for part 53 licensees, such as amending part 54 to address part 53 licensees.

Section 53.1381 addresses referral to the ACRS and is equivalent to §§ 50.58 and 52.87. Section 53.1384 addresses exemptions, departures, and variances for OL applicants. Section 53.1384(a) is equivalent to § 52.93 but is adapted for OLs. Section 53.1384(b) is equivalent to §§ 52.39(d) (with respect to ESPs) and 52.93 but is adapted for OLs.

Section 53.1387 addresses issuance of OLs. The introductory paragraph is equivalent to § 50.56. Section 53.1387(a)(1)(i) is equivalent to §§ 50.50 and 50.57(a)(1). Section 53.1387(a)(1)(ii) is equivalent to § 50.50. Section 53.1387(a)(1)(iii) is equivalent to § 50.57(a)(2). Section 53.1387(a)(1)(iv) is equivalent to § 50.57(a)(3). Section 53.1387(a)(1)(v) is equivalent to § 50.57(a)(4). Section 53.1387(a)(1)(vi) is equivalent to § 50.57(a)(6). Section 53.1387(a)(1)(vii) is equivalent to § 50.57(a)(5). Section 53.1387(a)(1)(viii) is equivalent to § 52.97(a)(1)(vi) but is adapted for OLs. Section 53.1387(c) is equivalent to § 50.57(b). Section 53.1387(d) is equivalent to §§ 50.36(b) and 50.50.

Section 53.1390 addresses backfitting of OLs and is equivalent to § 52.98(a) but adapted for an OL application. Section 53.1396 addresses duration of an OL and is equivalent to § 50.51(a) and § 52.104. Section 53.1399 addresses transfer, assignment, and other

disposition of an OL and is equivalent to § 50.80. Section 53.1402 addresses applications for renewal of an OL and refers to § 53.1595. Section 53.1405 addresses continuation of an OL and is equivalent to § 52.109 but is adapted to address an OL.

Sections 53.1410 through 53.1461 address applications for, issuance of, and other provisions related to COLs under part 53. Section 53.1410 describes the contents of §§ 53.1410 through 53.1461 and is equivalent to § 52.71. Section 53.1413 addresses general information requirements for the content of applications for COLs and is equivalent to § 52.77, which references § 50.33. Most of the provisions from § 50.33 applicable to COLs are restated in § 53.1109. However, the requirements for demonstrating financial qualification are different for part 53 applicants than the existing requirements for applicants under part 50 or 52. The part 53 requirements do not include the existing requirements under part 50 or 52 for an applicant to provide information to demonstrate that it ''possesses or has reasonable assurance of obtaining'' the funds necessary for construction and operation along with associated financing details. Instead, part 53 replaces that requirement with a requirement to provide information that demonstrates that the applicant ''appears to be financially qualified,'' similar to the standard used in § 70.23(a)(5).

Section 53.1416 addresses the technical content to be included in an FSAR for an application for a COL and is equivalent to § 52.79 except as modified to reflect the technical requirements in part 53 and with one addition. Section 53.1416 includes the statement that the Commission will require, before issuance of a COL, that information normally contained in engineering documents, such as analyses, drawings, procurement specifications, or construction and installation specifications, be completed and available for audit if the more detailed information is necessary for the Commission to verify the information in the application and make its safety determination. This statement is equivalent to DC application requirements in § 52.47 and is included in § 53.1416 for clarity.

Similar to the requirements for the content of OL applications, § 53.1416(a)(1) references the requirements for the content of an ESP application to address application requirements related to siting. Section 53.1416(a)(2) references the requirements for the content of a DC application to address some of the application requirements related to design of the commercial nuclear plant. The remaining items under § 53.1416(a) are likewise similar to the required content for OL applications under § 53.1369(a). Section 53.1416(b) requires COL applicants to provide a report documenting the resolution of any safety questions for SSCs for which research and development was necessary to confirm the adequacy of their design and is equivalent to § 50.34(b)(5). Section 53.1416(c) provides requirements for COL applicants to describe how the performance of each safety design feature has been demonstrated capable of fulfilling functional design criteria considering interdependent effects through either analysis, appropriate test programs, prototype testing, operating experience, or a combination thereof to support § 53.440(a). It is largely equivalent to §§ 52.79(a)(24) and 50.43(e). Section 53.1416(d) addresses the content of COL applications referencing an ESP. Section 53.1416(e) addresses the content of COL applications referencing a standard design approval. Section 53.1416(f) addresses the content of COL applications referencing a standard DC. Section 53.1416(g) addresses the content of COL applications referencing an ML.

Section 53.1419 addresses other application content for COLs and is equivalent to § 52.80. Section 53.1419(a)(2) is new and requires the inclusion of a description of availability controls that are not required to be included in the FSAR.

Section 53.1422 addresses standards for review of applications and the administrative review of applications, including hearings, and is equivalent to §§ 52.81 and 52.85. The NRC has removed part 54 from the list of standards in § 53.1422(a). Part 53 does not include requirements related to renewal of licenses, in relation to §§ 53.1422 and 53.1595.

Section 53.1425 addresses the finality of NRC approvals referenced in a COL application and is equivalent to § 52.83(a). Section 53.1431 addresses the referral of COL applications to the ACRS for review and is equivalent to § 52.87. Section 53.1434 addresses the authorization to conduct LWA activities and is equivalent to § 52.91. Section 53.1437 addresses exemptions, departures, and variances and is equivalent to § 52.93. Section 53.1440 addresses issuance of COLs and is equivalent to § 52.97. Section 53.1443 addresses finality of COLs and is equivalent to § 52.98.

Section 53.1449 addresses inspection during construction and is equivalent to § 52.99. Section 53.1452 addresses operation under a COL and is equivalent to § 52.103. Paragraph § 53.1452(a) includes footnotes to provide that, for licensees installing fueled manufactured reactors under a COL, (1) the COL holder will notify the NRC of its scheduled date for initiating the removal of the features to prevent criticality required under § 53.620(d)(1) rather than its scheduled date for the initial loading of fuel, and (2) the NRC will time its publication of the notice of intended operation based on the COL holder's schedule for initiating the removal of the features to prevent criticality required under § 53.620(d)(1) rather than the COL holder's scheduled date for the initial loading of fuel. These footnotes are consistent with the provisions of § 53.620(d)(1)(iv), which state that, upon initiating the removal of the features to prevent criticality in the manufactured reactor's place of operation, the fueled manufactured reactor has commenced operation. For reactors without the features to prevent criticality under § 53.620(d)(1), operation begins with initial fuel load. In both cases, removal of the physical features to prevent criticality (for reactors with such features) and initial fuel load (for reactors without such features) put a fully constructed utilization facility in a position to sustain a nuclear chain reaction, and in both cases, the utilization facility cannot sustain a nuclear chain reaction (for lack of sufficient reactivity) until the action takes place. Therefore, the NRC believes that initiating the removal of the features to prevent criticality is the best analogue to initial loading of fuel for reactors without such features.

The footnote in § 53.1452(a) regarding timing of the notice of intended operation for fueled manufactured reactors with features to prevent criticality also addresses the requirements of section 189a.(1)(B)(i) of the AEA. This section requires, in part, that ''[n]ot less than 180 days before the date scheduled for initial loading of fuel into a plant by a licensee that has been issued a combined construction permit and operating license under section 185b., the Commission shall publish in the **Federal Register** notice of intended operation.'' That section further requires that this notice provide a 60-day period in which to request a hearing ''on whether the facility as constructed complies, or on completion will comply, with the acceptance criteria of the license.'' In the case where a fueled manufactured reactor arrives at the site where it is to be operated by a COL holder, the manufacturer would have

loaded fuel at the factory under its part 70 license. Therefore, at the site of operation, there would not be ''initial loading of fuel into a plant *by a licensee that has been issued a combined construction permit and operating license*'' (emphasis added). Under a literal reading of the entry condition in Act section 189a.(1)(B)(i), this situation would not trigger its requirements. However, the purpose of the provision is to offer the hearing opportunity at least 180 days prior to when the fuel is loaded and ready for use at its authorized location. It would be contrary to that purpose if, in this situation, the Commission did not publish the notice of intended operation and opportunity for the public to request a hearing on conformance with the acceptance criteria in the COL for the site of operation. To fulfill the underlying purpose of the law, the NRC is timing the notice of intended operation based on the COL holder's schedule for initiating the removal of the features to prevent criticality required under § 53.620(d)(1). This action by the COL holder is the best analogue to initial fuel load by the COL holder for the reasons stated previously. This analogue is adopted in other sections of part 53 and related sections in parts 50 and 73 that use initial fuel loading to identify a transition point for the applicability of regulatory requirements. To address the possible loading of fuel into a manufactured reactor for subsequent transport to and use at a commercial nuclear plant, multiple sections that determine the applicability of regulations have been developed or revised to allow for either initial fuel load or initiating the removal of the features to prevent criticality required under § 53.620(d)(1) for a fueled manufactured reactor to determine the applicability of the requirement, as appropriate.

Section 53.1455 addresses duration of COL and is equivalent to § 52.104. Section 53.1456 addresses the transfer of a COL and is equivalent to § 52.105. Section 53.1458 addresses application for renewal and is equivalent to § 52.107. Section 53.1461 addresses continuation of COL and is equivalent to § 52.109.

Section 53.1470 addresses standardization of commercial nuclear plant designs and licenses to construct and operate commercial power reactors of identical design at multiple sites and is equivalent to appendix N to part 52, with one exception. Paragraph § 53.1470(b) provides flexibility regarding the timing of the applications to be treated together under § 53.1470. Each application can either list the other applications or specify that such other applications will be submitted to the NRC within 12 months of submittal of the first application. This section sets out the particular requirements and provisions applicable to situations in which applications for CPs and subsequent OLs, or COLs, under this part are filed by one or more applicants for licenses to construct and operate nuclear power reactors of identical design (''common design'') to be located at multiple sites. Additional information related to this section is provided in the final rule to revise part 52 (72 FR 49352; August 28, 2007).

Subpart I—Maintaining and Revising Licensing-Basis Information

Part 53 establishes requirements for the maintenance of licensing-basis information in subpart I.

Section 53.1500 describes the purpose of the subpart in terms of the definition of licensing-basis information in subpart A. Subpart I is closely tied to the requirements in subpart H, which provides the requirements for contents of applications for the various types of licenses issued under part 53. Subpart I is generally organized into sections dealing with: (1) licensing-basis information that licensees are not authorized to change without NRC approval (*e.g.,* licenses, regulations); and (2) licensing-basis documents that licensees may change provided specified criteria are satisfied (*e.g.,* FSAR, program descriptions). The subpart also captures certain general conditions on licenses and changes to the licenses related to the transfer and termination of licenses.

Section 53.1502 defines specific terms and conditions of licenses. These terms and conditions are equivalent to the regulations in: (1) § 50.54(h) stating that each license is subject to the provisions of the AEA and requirements issued by the Commission; (2) § 50.54(s) stating the actions the Commission will take if it makes a finding that there is not reasonable assurance that adequate protective measures can and will be taken in the event of a radiological emergency; (3) § 50.54(aa) stating that each license is subject to the specified sections of the Federal Water Pollution Control Act; and (4) § 50.54(dd) stating that a holder of an OL or COL may take reasonable actions that depart from the license in a national security emergency.

Section 53.1505(a) serves as an introduction to and overview of the sections that follow on changes to licensing-basis information requiring prior NRC approval, namely the elements of licensing-basis information defined by licenses, orders, and regulations. The related sections within these subparts primarily deal with the process of how a licensee requests and the NRC issues an amendment to a license or issues an order that modifies a license. Another important element of licensing-basis information that a part 53 licensee is not able to change or deviate from without NRC approval is the NRC regulations themselves. Section 53.1505(b) refers to § 53.080 in subpart A that provides the criteria for a licensee or other party to satisfy when requesting an exemption from NRC regulations.

Section 53.1510 is equivalent to § 50.90 and requires that a licensee submit an application to request an amendment to a license. The required assessments that are included within an application to amend a license under part 53 must address the safety criteria and analysis requirements of subparts B and C. As with parts 50 and 52, licensees must include in their applications an analysis of whether the amendment involves no significant hazards consideration using the standards in § 53.1520, which are equivalent to the standards in § 50.92. Although this rulemaking provided an opportunity to revise the terminology related to no significant hazards consideration determinations, which dates to the early 1960s when applications were supported by final hazard summary reports, the NRC is maintaining the same terminology used in part 50 to minimize the need for associated changes in other regulations, guidance, and public notices.

Section 53.1515 establishes requirements for public notices and state consultations associated with the NRC's processing of a license amendment request. This section is equivalent to § 50.91 for the NRC's processes related to applications to amend an OL or COL. Section 50.91(b) stipulates that the Commission will make available to the licensee the name of the appropriate State official designated to receive such amendments. While the Commission intends to continue following this practice, the Commission has not included this administrative matter in part 53. Section 53.1515(b)(3) contains some modifications compared to § 50.91(b)(3) for clarity; these revisions are not intended to revise the substance of the provisions in part 53 compared to part 50.

Section 53.1520 is based on § 50.92. The section continues to use the criteria in § 50.92 for determining that a proposed amendment involves no significant hazards consideration.

Although more specific terms such as event sequence are used throughout part 53, § 53.1520 uses the term ''accident'' to maintain consistency with the long history of making no significant hazards consideration determinations under part 50.

Section 53.1525 provides requirements for holders of an OL or COL requesting to revise information from a DC rule that was referenced in the initial license application and included in or incorporated by reference into the facility FSAR. In keeping with the current requirements in part 52, the portion of the part 53 facility licensing-basis information obtained from the certified design is divided into two categories. The most significant design information and the ITAAC are certified by rule and designated as ''certification information.'' The remaining information, which makes up the majority of the design information approved as part of the DC, is not certified by rule and is not considered ''certification information.'' Part 52 refers to these categories of information as Tier 1 and Tier 2 information, respectively, and refers to a change made to that information on a plant-specific basis as a departure. Under part 52, a departure from Tier 1 information requires an exemption and, for information incorporated into the license, a license amendment.

Part 53 dispenses with the Tier 1 and Tier 2 terminology. Rather, § 53.1525 uses the term ''certification information'' in place of Tier 1, and a plant-specific departure from the certification information requires both a request for an exemption from the associated DC rule and, for information such as ITAAC incorporated into the license, a license amendment. However, as provided in § 53.1525(c), a plant-specific departure from the information approved by the NRC as part of the DC rule but that is not certification information (*i.e.,* Tier 2 information under part 52) will be assessed using the process and criteria defined in § 53.1550 for changes to a FSAR. An applicant or licensee must identify such a change as a departure from the referenced standard design in the updated FSAR. The process for making a generic change to a certified design is described in the associated section in subpart H.

Section 53.1530 allows the holder of an ML to make changes to the design of the manufactured reactor or procedures as described in a FSAR associated with the ML without requesting a license amendment from the NRC if the change satisfies the criteria in § 53.1550(a)(1) and (2). This section is different than the provisions in §§ 52.98 and 52.171 that do not allow any changes to the design of a manufactured reactor without requesting a license amendment. A COL or OL holder who references or uses a manufactured reactor may make changes to the facility or procedures described in an FSAR, including those portions incorporated by reference from the FSAR associated with the ML, using § 53.1550 to determine if a license amendment is required.

Section 53.1535 establishes requirements for license amendments during construction. The section provides the equivalent options and requirements for the holders of a CP as those in § 50.35(b). The regulations allow but do not require the holder of a CP or LWA to request an amendment under § 53.1510 if the licensee desires to obtain NRC approval of a specific design feature or specification. The requirements for obtaining an amendment to a COL to address changes during construction are also provided in § 53.1535. The process differs from the current requirements in part 52 by adopting a requirement that explicitly supports a change process like that described in RG 1.237, ''Guidance for Changes During Construction for New Nuclear Power Plants Being Constructed Under a Combined License Referencing a Certified Design Under 10 CFR part 52.'' Section 53.1535 allows the holder of a COL to proceed at its own risk in making a change during the construction process and requires that licensee to submit a license amendment request no later than 45 days from the date the licensee begins to implement the change or departure requiring NRC approval.

Section 53.1540 serves as an introduction to the sections that follow on changes to licensing-basis information that are primarily under the control of a licensee but for which evaluations are made to determine if a submittal to the NRC requesting approval is required. The section also includes definitions that are applicable when using the processes in §§ 53.1545 through 53.1565. The definitions are largely equivalent to those in § 50.59(a) but include some revision to reflect the structure and terminology in other subparts in part 53. For example, the definition of ''*Change*'' in § 53.1540(b) addresses a ''design feature or related functional design criteria'' rather than a ''design function,'' because the former are defined terms in part 53. Similarly, in § 53.1540(b), the phrase ''design bases'' from § 50.59(a)(2) is replaced with functional design criteria for SR SSCs.

Section 53.1545 provides the requirements for updating of FSARs. While the process-related requirements under § 53.1545 are largely the same as those in § 50.71, the specifics of information to be updated differ due to the role of PRA, other SREs, or a combination thereof in satisfying the requirements in subparts B and C. Additionally, the use of the risk-informed approach in subpart C will result in some but not all information related to PRA, other SREs, or a combination thereof being in the FSAR or another licensing-basis document and therefore a separate update requirement for PRA, other SREs, or a combination thereof similar to § 50.71(h) is not included in subpart I. Section 53.1545(e) addresses updating of FSARs associated with MLs and includes periodic updates to reflect the added flexibility for ML holders to revise the FSAR associated with the ML under § 53.1530.

Section 53.1239(a)(18) in subpart H and the related references to this requirement for the holders of OLs and COLs requires a description of the PRA, other SREs, or a combination thereof required by § 53.450(a) and its results to be included in FSARs. However, guidance documents are planned to clarify the division of information related to PRA, other SREs, or a combination thereof that must be in the FSAR, in other possible licensing-basis documents, and controlled as plant records subject to inspections and audits. At a minimum, the information from the PRA, other SREs, or a combination thereof that is needed to show compliance with subpart C will be included in the FSAR (*e.g.,* summary of PRA, other SREs, or a combination thereof and analytical results for LBEs). The submittal of voluminous PRA information was initially required under part 52, but that proved to be impractical and was revised in the 2007 revision of part 52. Guidance is being developed to ensure sufficient information is submitted to the NRC to support the licensing process and the NRC's regulatory findings under part 53 or similar applications using the LMP methodology under parts 50 or 52.

Section 53.1545(a)(3) and (4) are based on the inclusion of at least a summary of the results of the PRA, other SREs, or a combination thereof and the related margins to safety criteria in the FSAR and require updates to that information. The routine reporting of these margins also informs application of the criteria for allowing changes without an amendment in the following section (§ 53.1550) in subpart I.

Section 53.1550 establishes requirements for evaluating changes to a facility as described in its FSAR. This section provides the equivalent of the requirements in § 50.59 for evaluating changes to an FSAR (as updated) and determining if a license amendment is required to implement a change to a facility or procedures. The evaluation criteria in § 53.1550 reflect the role of the PRA, other SREs, or a combination thereof in the safety analyses under part 53 and include several measures related to the changes in plant risk resulting from a change in the plant design or plant procedures. Examples include criteria that rely on the identification of risk-significant event sequences in accordance with the analysis requirements of § 53.450; exceeding the LBE evaluation criteria as defined in § 53.450; the consideration of potential changes in estimated comprehensive risk metrics that exceed the associated risk performance objectives in the safety criteria in § 53.220; changes to the safety classification of SSCs; and consideration of reductions in defense in depth.

Section 53.1550 includes certain concepts taken from existing guidance for § 50.59 in the criteria related to DBAs and aligns with recently developed industry guidance in NEI 22–05, Revision 0, ''Technology Inclusive Risk Informed Change Evaluation (TIRICE).'' Specifically, criterion (iv) for changes made to a method of evaluation of DBAs under § 53.450(f) is equivalent to a change in a method of evaluation under § 50.59, and criterion (viii) on assessing if a change creates a possibility for an accident of a different type than previously analyzed in the FSAR is similar to the § 50.59 criterion (v). Criterion (v) in § 53.1550 differs from the corresponding criterion in NEI 22–05 in that it does not include changes to safety classification of SSCs from non-safety related or NSRSS to SR because plant changes introducing new SR SSCs would require a change to technical specifications under § 53.710. Guidance documents will be prepared to address the content of applications for information related to PRA, other SREs, or a combination thereof under part 53, and this guidance will also influence how potential changes in the evaluation of LBEs other than DBAs analyzed under § 53.450(e) are evaluated and reported under criterion (iv).

Sections 53.1560 through 53.1565 in subpart I define the processes for a licensee to evaluate changes to the program documents included in the licensing-basis information submitted to the NRC and to modify such programs without NRC prior approval.

Section 53.1560 includes the requirements for updating program documents included in licensing-basis information and provides the equivalent of FSAR updates for key program documents. The requirements in these sections provide a uniform approach for updating program documents, which correspond to the programs required under subpart F.

Section 53.1565 provides a process for licensees to make changes to program documents included in licensing-basis information without obtaining prior NRC approval. The requirements include several generic criteria that, if not satisfied, will prompt the need for NRC approval of a change to a program document. These generic criteria include whether a change will comply with TS and NRC regulations. Another criterion for evaluating changes to program documents is conforming with program-specific requirements, including NRC-approved program documents with more specific criteria for a particular program, regulations, administrative controls sections of TS, and NRC-approved program documents.

Section 53.1565(d) includes specific criteria for evaluating changes to several program documents that have well established change processes and guidance for licensees under parts 50 and 52. The program documents specifically addressed in the section include quality assurance programs that are equivalent to § 50.54(a), an emergency preparedness program that is equivalent to § 50.54(q), and the security program that is equivalent to § 50.54(p).

Section 53.1570 establishes requirements for the transfer of commercial nuclear plant licenses by providing the equivalent requirements of § 50.80 for the possible transfer of an ESP, CP, OL, or COL. Likewise, § 53.1575 establishes requirements for the termination of an OL or COL by providing the equivalent requirements of § 50.82. Other requirements related to decommissioning and license termination are included in subpart G.

Section 53.1580 establishes requirements for information requests the NRC may send to the various types of licensees and provides requirements that are equivalent to requirements in § 50.54(f). Section 53.1585 provides the requirements that are equivalent to requirements in § 50.100 to address revocation, suspension, modification of licenses, and approvals for cause. Section 53.1590 addresses backfitting requirements by providing requirements that are similar to those in § 50.109.

Section 53.1595 addresses license renewals under part 53 with a simple statement that licenses may be renewed. This section may be expanded through future rulemakings to more fully describe or reference the processes related to requesting and processing applications to renew ESPs, OLs, and COLs issued under part 53.

Subpart J—Reporting and Other Administrative Requirements

Part 53 addresses various reporting and administrative requirements in subpart J.

Section 53.1600 explains the organization of the various sections within the subpart related to providing unfettered access to NRC inspectors; maintaining certain records and reporting specified events or conditions; demonstrating compliance with financial qualification requirements and providing specified financial reports; and maintaining financial protections to address potential accidents.

Section 53.1610 establishes requirements for the provision of facilities and unfettered access for inspections. These requirements are equivalent to § 50.70 with only minor changes to provide additional flexibilities and address possible differences related to reactors licensed under part 53 and the possibility that some commercial nuclear plants may not be assigned resident inspectors.

Section 53.1620 provides for maintenance of records and the making of various reports to the NRC. These requirements are largely equivalent to § 50.71. This section is not intended to reflect all provisions in § 50.71; several important requirements in § 50.71 are captured in other sections of part 53. For example, § 53.1545 within subpart I provides requirements that are equivalent to § 50.71(e) for updating FSARs. A reporting requirement related to completion of power ascension testing is added to § 53.1620 to support the assessment of annual fees under 10 CFR part 171, ''Annual Fees for Reactor Licenses and Materials Licenses, Including Holders of Certificates of Compliance, Registrations, and Quality Assurance Program Approvals and Government Agencies Licensed by the NRC,'' which normally commence upon completion of those testing activities.

Section 53.1630 establishes requirements for immediate notification requirements for operating commercial nuclear plants. These requirements are equivalent to § 50.72 with minor changes to make the reporting criteria technology-inclusive. In addition, a new version of NRC Form 361 (NRC Form 361S) has been created for use by part 53 licensees, but without LWR-specific terminology to ensure technology-inclusiveness. The requirements in

§ 53.1630 and the new NRC Form 361S are consistent with changes to § 50.72 proposed to the Commission in SECY–24–0049, ''Proposed Rule: Reporting Requirements for Nonemergency Events at Nuclear Power Plants (RIN 3150–AK71; NRC–2020–0036),'' to eliminate those nonemergency event reporting criteria that are not important to safety, do not require prompt action from the NRC, or can be tracked using other existing agency processes.

Section 53.1640 addresses the licensee event report system. These requirements are equivalent to § 50.73 with minor changes to make the requirements inclusive of various reactor technologies and to reflect appropriate internal references to other sections in part 53. In addition, NRC Forms 366, 366A, and 366B are revised to include corresponding check boxes for part 53 licensees.

Section 53.1645 requires periodic reporting of the quantity of radionuclides released to unrestricted areas in liquid and gaseous effluents, doses to members of the public, and the results of environmental monitoring. These reporting requirements in part 53 are largely equivalent to those in the TSs required by § 50.36a, ''Technical specifications on effluents from nuclear power reactors.'' The section also includes an equivalent to the reporting requirement in section IV of appendix I to part 50 if the radiation exposure to a member of the public in any calendar quarter exceeds one-half of the annual design objective.

Section 53.1650 includes a reporting requirement to support safeguards agreements between the United States and the International Atomic Energy Agency (IAEA) and is equivalent to § 50.78.

Sections 53.1660 through 53.1700 address financial requirements and are somewhat different than existing regulations in parts 50 and 52. The part 53 requirements do not include the existing part 50 and 52 requirement for an applicant to demonstrate that it ''possesses or has reasonable assurance of obtaining'' the funds necessary for construction and operation. Instead, part 53 replaces that requirement with an ''appears to be financially qualified'' standard similar to the standard in § 70.23(a)(5). Section 53.1670 is entitled ''Financial qualifications'' and requires applicants other than electric utilities to appear to be financially qualified for the activities for which the license is being sought. The remaining financial reports in part 53 are equivalent to § 50.76 for a change of status, § 50.54(cc) for the filing of a petition for bankruptcy, and § 50.81 for creditor regulations. Part 53 does not contain a requirement for annual financial reports equivalent to § 50.71(b) because these reports are not actively used by the NRC to assess a licensee but could be accessed in the event that the NRC deems it necessary to look into a licensee's financial situation due to events such as a declaration of bankruptcy.

Sections 53.1710 through 53.1730 address financial protection requirements. Section 53.1720 requires insurance to stabilize and decontaminate a plant following an accident. These requirements are taken from § 50.54(w), with the only notable change being the addition of a provision allowing plant-specific estimates of costs to stabilize and decontaminate a plant as an alternative to the $1.06 billion minimum coverage in § 50.54(w). An example of cost estimations that, in part, provided a basis for the requirements in § 50.54(w) is provided in NUREG/CR–2601, ''Technology, Safety and Costs of Decommissioning Reference Light Water Reactors Following Postulated Accidents.'' Section 53.1730 is equivalent to § 50.57(a)(5) and refers to the requirements in 10 CFR part 140, ''Financial Protection Requirements and Indemnity,'' related to financial protection requirements and indemnity agreements, including the financial protection requirements of the Price-Anderson Act.

Subpart M—Enforcement

Subpart M contains two provisions, § 53.9000 and § 53.9010, which are analogous to provisions contained in other parts of 10 CFR chapter I imposing requirements on regulated entities. Section 53.9000 provides notice of the Commission's authority under the AEA to obtain injunctions or other court orders for the enumerated violations. Paragraph § 53.9010(a) provides notice to all persons and entities subject to part 53 that they are subject to criminal sanctions for willful violations, attempted violations, or conspiracy to violate certain regulations under part 53. Criminal sanctions do not apply to the regulations listed in paragraph (b). The regulations for which criminal penalties do apply are limited to those that establish either a regulatory obligation or prohibition.

IV. Changes to Other Parts of 10 CFR Chapter I

10 CFR Part 26

A. Introduction

Through this final rule, the NRC is establishing a technology-inclusive, risk-informed, and performance-based approach for the application of drug and alcohol testing and fatigue management requirements for facilities licensed under part 53. The requirements applicable to these applicants, licensees, and other entities are commensurate with the radiological consequences presented by the applicants' facilities and the operation of these facilities.[2] The FFD framework consists of a two-tiered graded approach similar to that currently in part 26. This new FFD framework is established in subpart M, ''Fitness-for-Duty Programs for Facilities Licensed Under Part 53,'' of part 26.

The NRC is using operating experience to provide regulatory flexibility in the subpart M of part 26 framework to help support a licensee's or other entity's response to changes in societal drug use, drug testing technologies and processes, and FFD program performance. The flexibility also helps in FFD program implementation because of the wide variety of staff sizes anticipated at commercial nuclear plants licensed under part 53 and the geographically remote locations in which commercial nuclear plants may be sited.

The first-tier FFD program requirements apply to part 53 licensees and other entities of commercial nuclear plants that demonstrate compliance with § 73.100(a)(1)(i), at their discretion, no later than the start of construction activities; licensees and other entities of facilities that do not demonstrate compliance with § 73.100(a)(1)(i) no later than the start of construction activities; and holders of MLs who are assembling or performing non-operational testing of manufactured reactors. These requirements are provided in § 26.605(a) and are essentially equivalent to those requirements in subpart K, ''FFD Program for Construction,'' of part 26 but have been supplemented by select requirements from subparts E, ''Collecting Specimens for Testing,'' and I, ''Managing Fatigue,'' of part 26, and the requirements in subparts A, ''Administrative Provisions,'' and O, ''Inspection, Violations, and Penalties,'' of part 26. The first-tier requirements involve policies, procedures, behavioral observation, fatigue management, drug and alcohol testing, determinations of fitness, appeals, training, sanctions, auditing, change control, evaluating FFD program performance, recordkeeping, and reporting. These

[2] The NRC uses the term ''operation'' in its part 26 discussion to focus on human performance, namely the necessity of individuals to operate, maintain, surveil, and protect the facility and respond to operational transients and unlikely event sequences.

§ 26.605(a) FFD program requirements help deter individuals subject to this section from impairment from any cause, including drug use, alcohol misuse, and fatigue. These requirements also help licensees and other entities identify individuals using impairing substances and demonstrate compliance with § 26.23, ''Performance objectives.''

The second tier includes all the first-tier requirements, plus the more comprehensive set of FFD program requirements in current subparts C, ''Granting and Maintaining Authorization,'' D, ''Management Actions and Sanctions to be Imposed,'' H, ''Determining Fitness-for-Duty Policy Violations and Determining Fitness,'' and N, ''Recordkeeping and Reporting Requirements,'' of part 26. These requirements are provided in § 26.605(b) and are applicable to licensees and other entities that demonstrate compliance with § 73.100(a)(1)(i), if they do not choose to comply with § 26.605(a). These licensees and other entities need to implement the FFD program before they begin construction. Section 26.605(b) also applies to holders of manufacturing licenses if they possess a separate license to load fuel into a manufactured reactor. These licensees must implement their FFD program no later than when they begin loading fuel into the reactor. These requirements also apply to licensees or other entities that do not demonstrate compliance with § 73.100(a)(1)(i) that implement an FFD program under subpart M of part 26 before the loading of fuel onsite into a reactor vessel; before receiving a fueled manufactured reactor; or before operating, testing, performing maintenance of, or directing the maintenance or surveillance of security-related equipment or equipment that a risk-informed evaluation process has shown to be significant to public health and safety.

The second-tier requirements are based on the additional risk presented by nuclear reactor assembly, testing, fueling, and operation and the necessity for human actions in certain event sequences. The inclusion of the current part 26 requirements aligns part 53 FFD and AA program requirements with the current FFD and AA programs required for facilities licensed under parts 50 and 52. This approach ensures effective and consistent AA and FFD program implementation across the commercial nuclear power industry, thereby ensuring uniform requirements for individuals who may perform roles and responsibilities for multiple facilities regardless of facility licensure.

Regarding fatigue management requirements, work hour controls are required for personnel at utilization and manufacturing facilities in accordance with the existing scoping criteria in § 26.4, ''FFD program applicability to categories of individuals,'' as revised in this final rule. The amended § 26.4 also will be used to determine whether an individual is subject to drug and alcohol testing. The applicability of these scoping criteria for certain individuals (such as operators and maintenance personnel) will be determined by the licensee or other entity through its risk-informed evaluation process performed to assess the risk significance of the SSC upon which work is being performed or directed by the individual. These requirements also will be scaled based on the potential radiological consequences presented by the facility, as determined by whether the facility demonstrates compliance with § 73.100(a)(1)(i). However, fatigue management will be applied to all individuals subject to the FFD program, similar to FFD program implementation by the current fleet of commercial nuclear plants because fatigue management is a proactive requirement designed to help prevent on-shift impairment through work hour scheduling and time off. The behavioral observation program (BOP) is the principal requirement to provide reasonable assurance that individuals on shift are not mentally or physically impaired due to fatigue, which in any way could adversely affect their ability to safely and competently perform their duties.

This final rule establishes subpart M of part 26 for facilities licensed under part 53, in lieu of subjecting all part 53 licensees to the same part 26 requirements that apply to facilities licensed under part 50 or 52, for four principal reasons. First, subpart M of part 26 applies FFD requirements in a risk-informed manner commensurate with the radiological consequences presented by facilities licensed under part 53 (*i.e.,* whether a facility demonstrates compliance with § 73.100(a)(1)(i)). This regulatory strategy is consistent with the current part 26, which provides a comprehensive set of deterministic requirements for licensees and other entities at facilities that are operating. This approach is also consistent with the current subpart K of part 26, which provides a more flexible framework for nuclear power reactors under construction.

Second, subpart M of part 26 enables a part 53 licensee or other entity to implement innovative drug testing technologies and behavior observation techniques while continuing to demonstrate compliance with the part 26 performance objective in § 26.23(b) of providing reasonable assurance that individuals are not under the influence of any substance or mentally or physically impaired from any cause, which in any way adversely affects their ability to safely and competently perform assigned duties. These technologies include drug testing of oral fluid, urine, and hair specimens and non-invasive portal area screening instruments that passively test for drugs, alcohol, or both. Part of the basis to enable the use of innovative drug and alcohol testing technologies, should they become available, is to maintain FFD program effectiveness should the staff size at a part 53 commercial nuclear plant be small and challenge the effective implementation of the behavioral observation and drug and alcohol testing programs. Also, a commercial nuclear plant that is sited at a geographically remote location may present additional challenges not encountered by traditional LWR facilities licensed under part 50 or 52, such as: efficiency of postal services for shipping and controlling biological specimens; proximity to drug and alcohol collection facilities that are reasonably equivalent to that described in subpart E of part 26; availability of internet and cellular services to enable same-time discussions among the Medical Review Officer (MRO), donor, and laboratory; accessibility to substance abuse treatment services described in subpart H of part 26; and proximity to an MRO (or management and clinical staff) to evaluate potential impairment caused by fatigue and/or substance use or abuse, for-cause and post-event occurrences, and the individual's potential to return to duty.

A part 53 commercial nuclear plant that is sited in a geographically remote location and has a small staff size may present implementation challenges and the potential for small group dynamics to impact FFD program effectiveness. Particularly in isolated environments, psychological phenomena known as ''groupthink'' may take effect and could impact BOP effectiveness. For example, in circumstances where small staffs are drawn from the same small town and thereby have a potentially narrow experience base, it could be challenging to maintain a work environment in which personnel feel free to raise concerns without fear of retaliation, intimidation, harassment, or discrimination, and organizations may resultingly experience groupthink-like effects. Groupthink is particularly prevalent among cohesive and insulated

groups that experience high levels of decisional stress.[3] Small staffs at part 53 commercial nuclear plants may therefore be more susceptible to groupthink if they are working in an isolated environment where decision-making pressures may be high.

In small group dynamics, groupthink could have adverse effects on team decision-making, as studies show that individuals will be more hesitant to speak out against practices they deem unsafe for fear of deviating from group norms.[4] Individuals may also be unaware of systematic biases in the group decision-making process and may then be less likely to scrutinize the potential risks of the group's decision or sufficiently contemplate alternative paths of action.[5] Furthermore, the literature indicates that groups make riskier decisions than individuals acting alone due to the diffusion of responsibility among group members.[6] This phenomenon is known as ''the risky shift.'' ''Groupthink'' and ''the risky shift'' may lead to group behaviors that render behavioral observation less effective. As such, alternative approaches to BOPs, such as the utilization of video-based surveillance by individuals separate from the onsite work unit, could serve to mitigate potential issues associated with groupthink. The incorporation of remote observation, performed by individuals physically separate from the site, could help to bring in independent and objective perspectives and help to break patterns of thought and communication that may result in groupthink.

Even without the influence of small group dynamics, there are other practical constraints to implementing FFD requirements, such as random drug and alcohol testing, among small staffs. Random testing is less effective when applied to small staff sizes because it may be easier for staff to communicate and predict when individuals will be subject to drug and alcohol testing. Furthermore, if a facility is sited in a remote location, program implementation could be challenged by the following factors: limited mail services to laboratories certified by the U.S. Department of Health and Human Services (HHS), availability of local clinical or medical options for treatment and determinations of fitness by an MRO or Substance Abuse Expert, and use of offsite drug and alcohol collection facilities.

The increased potential for small staff sizes to impact FFD policy compliance necessitates additional flexibilities be provided to implement various FFD program elements. The NRC is requiring that facilities with small staff sizes that cannot implement random drug and alcohol testing without predictability to use a consortium/third-party administrator (C/TPA) to include the workers from multiple licensees or other entities into a combined random testing pool under § 26.607(b)(2)(vi). Use of a C/TPA significantly improves the effectiveness of the random testing programs of sites with small worker populations and ensures that individuals would not be able to predict whether random testing would be conducted in a given period of time. Use of C/TPAs is not new in Federally regulated testing, as the U.S. Department of Transportation has employed the use of C/TPAs in specific modal administrations, such as the Federal Motor Carrier Safety Administration under 49 CFR part 382, ''Controlled Substances and Alcohol Use and Testing,'' which, in part, covers independent owner-operator truck drivers that must be drug and alcohol tested. The U.S. Department of Transportation requirements in 49 CFR part 40, ''Procedures for Transportation Workplace Drug and Alcohol Testing Programs,'' also enable the use of C/TPAs to perform a variety of functions for employers, such operating random testing programs, and contracting with specimen collection sites and HHS-certified laboratories for services.

Another flexibility is in § 26.607(g)(2), where the NRC is enabling the virtual collection of oral fluid specimens for drug and alcohol testing at facilities that must use a C/TPA to implement random testing under § 26.607(b)(2)(vi). These sites have small staff sizes and could be in remote locations where accessing an in-person specimen collector might be difficult, untimely, and/or costly. Because all aspects of a virtual oral fluid collection are directly observed by the specimen collector, a video teleconference could accomplish many key elements of the collection process. The use of video teleconference technology also is not new to the NRC, as some clinicians complete other required evaluations using video teleconferencing technology, such as performing a psychological assessment under the personnel access authorization requirements in § 73.56(e)(4) or a determination of fitness performed under § 26.189(b) by a Substance Abuse Expert when potentially disqualifying FFD information is discovered about an individual that is subject to this part. In addition, existing § 26.31(b)(1)(iii) enables the use of a monitor to assist a specimen collector in completing aspects of a urine collection when a trained collector is not able to complete the activity, and existing § 26.109(b)(1) permits a hydration monitor to observe a donor during the shy bladder process in lieu of the collector conducting the activity. In both cases, the monitor must receive information from the collector on his or her responsibilities.

Also, the NRC is establishing a change control requirement to allow a licensee or other entity to change its subpart M of part 26 FFD program while ensuring that FFD program effectiveness is maintained.

Lastly, subpart M of part 26 consolidates the applicable FFD requirements by placing in one subpart all part 26 requirements (either new requirements or cross-references to existing part 26 requirements) for part 53 licensees and other entities. This should help licensees and other entities implement the requirements because it enables easy cross-reference to similar requirements in other subparts that are being implemented by non-part 53 licensees and entities subject to part 26. Understanding how other licensees or other entities implement similar FFD requirements may facilitate the sharing of operating experience in program implementation.

The use of innovative technologies and a risk-informed performance-based framework parallels the considerations presented in the Advanced Reactor Policy Statement. As stated in the policy statement, ''[S]implified systems should facilitate operator comprehension, reliable system function, and more

[3] See *e.g.,* Irene Wærø, Ragnar Rosness, and Stine Skaufel Kilska, ''Human performance and safety in Arctic environments,'' SINTEF (2018).

[4] See *e.g.,* Russell Mannion and Carl Thompson, ''Systematic biases in group decision-making: implications for patient safety,'' *International Journal for Quality I Health Care,* Vol. 26, No. 6 (2014): 606–612 (arguing that small group dynamics in healthcare teams produce systematic biases in group decision-making because healthcare professionals may be reticent to vocalize concerns they have about quality of care).

[5] See *e.g.,* Wærø, Rosness, and Kilska (arguing that groupthink leads teams to ''develop shared rationalizations that bolster a proposed choice, rather than examining alternative options and identifying the risks associated with the proposed choice''). See also David Hofmann and Adam Stetzer, ''A Cross-Level Investigation of Factors Influencing Unsafe Behaviors and Accidents,'' *Personnel Psychology,* Vol. 49 (1996) (finding that in a study of fatal accidents involving offshore oil rigs, in the absence of standard operating procedures, workers ''equated normal work methods (*i.e.,* what everyone else does) with safe and/or ideal work methods,'' revealing that the groupthink phenomena will further cement modes of work that do not reflect safety protocols in small groups that lack strong norms around workplace safety and tacitly reward short-cuts that prioritize efficiency over safety).

[6] Mannion and Thompson, ''Systematic biases in group decision-making: implications for patient safety,'' *International Journal for Quality I Health Care,* Vol. 26, No. 6 (2014): 606–612.

straightforward engineering analysis.'' Furthermore, these same attributes may reduce potential radiation exposures, help prevent the theft of nuclear materials, and use technology and design innovations. Should these components and systems be designed, implemented, and maintained to minimize reliance on human actions and leverage technology and innovation, then the robust and prescriptive FFD requirements in, for example, subparts B, ''Program Elements,'' and E of part 26 could be scaled to the part 53-licensed facility and its operation. This strategy is implemented in the subpart M of part 26 framework.

Even though current subpart K of part 26 provides a more flexible FFD program framework than the framework comprising all the subparts of part 26 except subparts I and K, subpart M of part 26 does not allow part 53 licensees and other entities to implement the requirements in subpart K. The principal reasons are that (without significant changes to subpart K that are outside the scope of this rulemaking): (1) subpart K does not apply to holders of MLs who assemble or test a reactor; (2) subpart K only applies during construction (and prior to the receipt of special nuclear material in the form of fuel assemblies), whereas subpart M applies during construction, operation, and decommissioning through implementation of the insider mitigation program (IMP) required by § 73.55 or § 73.100; (3) subpart K does not address training, authorization as defined in § 26.5, and MRO performance; (4) subpart K does not expressly authorize the use of innovative drug and alcohol testing technologies; (5) subpart K does not describe the use of time-dependent alcohol limits or special analysis testing of urine specimens; and (6) subpart K has less rigor in the protection of worker rights and sensitive information than that required in subpart M.

Despite the differences between subparts K and M of part 26, the requirements in subpart M are essentially equivalent to many in subpart K that were implemented by the licensees of Vogtle Nuclear Station and V.C. Summer Nuclear Station when they were constructing four commercial nuclear power reactors and NRC inspection and operating experience evaluation determined that the use of subpart K contributed to adequately protecting the public health and safety and the common defense and security. Further, given the risk profile posed by facilities licensed under part 53 and the additional requirements in subpart M of part 26 that were developed from operating experience and other part 26 subparts (but are not included in subpart K of part 26), the NRC concludes that if licensees and other entities effectively implement the requirements in subpart M of part 26, then their FFD programs would provide reasonable assurance that individuals subject to this final rule are fit for duty and trustworthy and reliable.

B. Changes to Part 26, Subparts A through E and I

Section 26.3(d) is the applicability paragraph for contractor/vendors (C/Vs) who implement FFD programs or program elements, to the extent that the licensees and other entities specified in § 26.3(a) through (c) rely on those C/V FFD programs or program elements to satisfy the requirements of part 26. This final rule amends § 26.3(d) to address part 53 licensees and other entities in § 26.3(f).

Section 26.3(f) places part 53 licensees or other entities within the scope of part 26. For licensees and other entities of a part 53 commercial nuclear plant, except a holder of an ML, the FFD program is required to be implemented no later than the start of construction activities. The holder of an ML needs to implement its FFD program before commencing activities that assemble a reactor.

Current § 26.4 describes FFD program applicability to categories of individuals. These categories are based on the duties, responsibilities, and the types of access an individual may possess. The NRC is amending § 26.4 to include licensees and other entities described in § 26.3(f). The NRC expects that not all categories of individuals described in current § 26.4 are applicable to all part 53 facilities. The NRC is establishing regulatory guidance in RG 5.99, ''Fatigue Management for Nuclear Power Plant Personnel at Commercial Nuclear Plants Licensed Under 10 CFR part 53,'' to help address program applicability to certain individuals.

This final rule amends § 26.4(a)(1) and (a)(4) to account for the possibility that certain individuals may perform or direct the performance of operational and maintenance activities from a remote facility (for example, a remote-control station) for licensees or other entities licensed under part 53.

The framework of the current part 26 does not account for individuals who perform operating and maintenance duties at remote facilities. Although current § 26.4(a)(1) does not limit the operating of applicable SSCs to onsite operating, § 26.5 limits the definition of ''*Maintenance,*'' for the purposes of § 26.4(a)(4), to include only ''onsite maintenance activities.'' In the 2008 part 26 final rule (73 FR 16966, March 31, 2008), the NRC explained that the work hour requirements apply to those individuals who perform maintenance activities within the licensee's owner-controlled area. Furthermore, regarding the direction of applicable operations and maintenance activities, current § 26.4(a)(1) and (4) address only individuals who perform ''onsite direction.''

Under this final rule's amendments to part 26, the limitation of ''onsite'' activities to those performed within the owner-controlled area still applies to facilities licensed under part 50 or 52. However, for licensees and other entities described in § 26.3(f), the NRC is removing the ''onsite'' limitation to include activities performed both within the owner-controlled area as well as operations and maintenance duties performed at remote facilities where safety-significant systems and components are expected to be operated within the design basis of the commercial nuclear plant.

In the 2008 part 26 final rule, the purpose of limiting ''directing'' activities to those ''directing'' activities that are conducted onsite was to avoid requiring work hour controls for individuals performing incidental duties, consistent with § 26.205(b)(5), from an offsite location in instances where those duties might be considered to be ''directive'' in nature. Under this final rule's amendments to part 26, the exclusion of incidental duties while calculating work hours is still applicable for licensees and other entities licensed under part 53. However, for these licensees and other entities, beyond instances of incidental duties, the direction of operations and maintenance activities associated with safety-significant SSCs, when performed at remote facilities, is considered in an equivalent fashion as direction performed at non-remote facilities, for the purposes of administering work hour controls.

Section 26.4(b) includes in an FFD program individuals who are granted unescorted access to the protected area of a facility licensed under part 53 and do not perform or direct the performance of the duties described in § 26.4(a). This requirement contributes to the defense-in-depth regulatory framework that helps provide reasonable assurance that individuals who have unescorted access are fit for duty, trustworthy, and reliable. For example, through this final rule, the NRC is amending part 73 to require a part 53 licensee to subject individuals to

a series of reviews to help determine whether those individuals are trustworthy and reliable before granting them unescorted access to the facility's protected area.

Through this final rule, the NRC is amending § 26.4(c) to include in an FFD program individuals who are assigned to physically report to the part 53 licensee's emergency response facility (or facilities) or participate remotely in emergency response activities, and individuals without unescorted access to the part 53 facility who, remotely or otherwise, make decisions and/or direct actions regarding plant safety or security. Part 53 commercial nuclear plants may be licensed for and rely upon offsite facilities to fulfill the role of a Technical Support Center or Emergency Operations Facility. Therefore, this final rule accounts for such offsite facilities or remotely performed activities. Further, the use of personnel to operate systems and components, maintain and surveil SSCs, and respond to plant conditions and security events may be different than those included in the Technical Support Center or Emergency Operations Facility team for power reactors currently licensed under part 50 or part 52.

For the individuals whose duties for the licensees and other entities in § 26.3(c) require the individuals to have the types of access or perform the activities listed in § 26.4(e)(1) through (6) at the location where the commercial nuclear plant will be constructed and operated, current § 26.4(e) requires them to be subject to an FFD program that satisfies all the requirements of part 26 except subparts I and K. This final rule amends § 26.4(e) to except subpart M as well as subparts I and K. This final rule also amends § 26.4(e) to include in an FFD program the individuals whose duties for the licensees and other entities in § 26.3(f) require the individuals to have the types of access or perform the activities listed in § 26.4(e)(1) through (6) or perform construction activities as defined in § 26.5.

This final rule revises § 26.4(e)(4) to include in an FFD program individuals who witness or determine inspections, tests, and analyses certifications required under part 53 because current § 26.4(e)(4) includes the individuals who perform the same duties under part 52.

This final rule amends § 26.4(f) to require individuals who construct or direct the construction of safety- or security-related SSCs at facilities licensed under part 53 to be subject to an FFD program under subpart M of part 26 or an FFD program that demonstrates compliance with all of the requirements of part 26 except for subparts I, K, and M of part 26.

Section 26.4(g) is the applicability paragraph for FFD program personnel (*e.g.,* the FFD manager, MRO, and technicians) and persons who perform AA determinations (*e.g.,* the licensee- or other entity-designated Reviewing Official). This final rule amends this section to address part 53 licensed facilities. Specifically, a part 53 licensee or other entity will use FFD program personnel to implement its FFD program as well as other assigned individuals who are not involved in the day-to-day operations of the program to implement specific elements of its FFD program, such as the collection of a specimen for drug or alcohol testing. These individuals will be held accountable for program implementation, including consistent implementation of protections afforded to all individuals subject to the FFD program.

This final rule amends § 26.4(h) to include subpart M of part 26.

Through this final rule, the NRC includes several new definitions in § 26.5, ''Definitions,'' and amends some existing definitions. The NRC is adding a definition for ''*Biological marker.*'' The definition is consistent with ''*Biomarker*'' defined by the HHS in its Mandatory Guidelines for Federal Workplace Drug Testing (HHS Guidelines) using oral fluid as the biological specimen to be tested (84 FR 57554; October 25, 2019). However, the definition for § 26.5 adds that the endogenous substance used to validate that the biological specimen ''was produced by the donor'' because subpart M of part 26 requires the MRO to evaluate any discrepant biological marker identified in a biological specimen collected from a donor.

The NRC is including a definition for the word ''*Change*'' as used in the § 26.603(e), ''FFD program change control,'' process. The definition is consistent with the definition of ''*Change*'' for a part 50 or 52 licensee's emergency plans in § 50.54(q)(1)(i).

The NRC is including a definition for ''*Consortium/Third-party administrator (C/TPA),*'' which is used in § 26.607(b)(2)(vi), with respect to administering the random testing pool and random testing selections for licensees and other entities with facilities with small staff sizes. A C/TPA also could provide access to, for example, services of medical review officers, substance abuse experts, employee assistance programs, and HHS-certified laboratories under contract to perform drug testing. This definition is based, in part, on the Federal Motor Carrier Safety Administration regulations in 49 CFR part 382 and the U.S. Department of Transportation regulations in 49 CFR part 40.

The NRC is revising the definition of ''*Constructing or construction activities*'' to clarify that for licensees or other entities in § 26.3(f), the definition of ''*Construction*'' is consistent with the definition in § 53.020.

This final rule revises the definitions of ''*Contractor/vendor*'' (C/V) and ''*Other entity*'' to make them applicable to part 53 licensees. A holder of an ML under part 53 could be a C/V under the new C/V definition.

The NRC is including a definition for ''*Illicit substance*'' because this phrase is used in subpart M of part 26 and addresses substances that cause impairment and possible addiction but are not an ''illegal drug'' as defined in § 26.5. This is based on operating experience where individuals have admitted to using common household, non-drug substances to achieve a high or satisfy an addiction. These common household items include, but are not limited to nitrous oxide, butane, propane, glue, paint vapors, lighter fluid, nail polish remover, degreasers, permanent markers, and methyl alcohol (which is found in hand sanitizer and mouthwash).

The NRC is including a definition for ''*Reduction in FFD program effectiveness*'' because this phrase, similar to the definition for ''*Change,*'' is used in § 26.603(e). The definition is generally consistent with the definition of ''*Reduction in effectiveness*'' provided for emergency plans in § 50.54(q)(1)(iv).

This final rule makes the current definition of ''*Reviewing official*'' applicable to those licenses and other entities in § 26.3(f).

This final rule amends the current part 26 definition of ''*Safety-related structures, systems, and components*'' to use the NRC's definition in § 53.020 for the part 53 licensees and other entities described in § 26.3(d) and (f).

This final rule amends the definition of ''*Security-related SSCs*'' in § 26.5 to make it applicable to a licensee or other entity described in § 26.3(d) and (f).

The NRC is including a definition for ''*Special nuclear material*'' that refers to the definition in § 70.4, ''Definitions,'' of part 70 to ensure consistency.

This final rule revises the definition of ''*Unit outage*'' to account for the potential use of commercial nuclear plants for purposes other than electricity generation.

This final rule amends § 26.21, an applicability statement for part 26 FFD programs, to include licensees and other entities described in § 26.3(f) that choose to implement an FFD program that implements all part 26 requirements, except those in subparts K and M of part 26.

This final rule amends § 26.35(c)(3) to include a reference to § 26.606(b)(2)(vii), which ensures that licensees and other entities take immediate action upon receiving notice from the employee assistance program (EAP) that an individual's condition or actions pose or have posed an immediate hazard to themselves or others.

This final rule amends § 26.51, ''Applicability,'' to apply to licensees and other entities described in § 26.3(f) that elect not to implement the requirements in subpart M of part 26 for the categories of individuals in § 26.4 and those licensees and other entities that elect to implement the requirements in § 26.605.

This final rule amends § 26.53(e), (e)(1) and (3), and (g) through (i), which are general provisions for granting and maintaining authorization, to apply to licensees and other entities described in § 26.3(f).

This final rule amends § 26.63(d), a suitable inquiry requirement, to apply to licensees and other entities described in § 26.3(f).

This final rule amends § 26.73, the applicability statement for subpart D of part 26, to apply to licensees and other entities described in § 26.3(f) that elect not to implement the requirements in subpart M of part 26 for the categories of individuals in § 26.4 and those licensees and other entities that elect to implement the requirements in § 26.605(b).

This final rule amends § 26.81, the purpose and applicability statement for subpart E of part 26, to apply to licensees and other entities described in § 26.3(f) that elect not to implement the requirements in subpart M of part 26 for the categories of individuals in § 26.4 and those licensees and other entities that implement § 26.605(a) or (b). The subpart E requirements to be implemented are listed in § 26.607(c)(2)(i) and (ii), and (c)(3).

This final rule revises § 26.97(a) and (b) to enable the virtual collection of oral fluid specimens for drug and alcohol testing, as permitted under § 26.607(g)(2).

This final rule amends § 26.201, the applicability statement for subpart I of part 26, to apply to licensees and other entities described in § 26.3(f). Also, the applicability statement is divided into two paragraphs for clarity.

The NRC is adding § 26.202, ''General provisions for facilities licensed under part 53,'' for licensees or other entities described in § 26.3(f) that elect to implement the requirements in subpart I of part 26 in accordance with § 26.605. Section 26.202 establishes requirements equivalent to those in current § 26.203, ''General provisions,'' which is applicable to parts 50 and 52 licensees. The NRC is adding the separate § 26.202 because § 26.203 refers to various requirements under subpart B of part 26, which are not applicable to facilities licensed under part 53 that implement subpart M of part 26.

Additionally, § 26.202(c), ''Training and assessments,'' unlike § 26.203(c), ''Training and examinations,'' does not include a comprehensive examination requirement because trainee assessment is conducted as part of a SAT that would be required under the FFD program training requirements in § 26.608.

Changes in §§ 26.205, 26.207, and 26.211 add references to new requirements in subparts I and M of part 26 that are applicable specifically to licensees and other entities in § 26.3(f). The NRC is not changing the specific provisions for work hour requirements in current § 26.205(d). However, as addressed in the discussion of changes to § 26.4(a), whether a licensee or other entity under part 26 needs to implement work hour controls for certain individuals or groups is dependent, in part, on determinations reached by that licensee's risk-informed evaluation process.

Changes to §§ 26.207(a)(1)(ii) and 26.211(b) allow licensees and other entities in § 26.3(f) to perform face-to-face assessments to support the approval of work hour control waivers and the conduct of fatigue assessments, respectively, using electronic communications. These changes allow supervisors to conduct such assessments from a remote location under appropriate circumstances. Such remotely conducted assessments need to be supported by someone who is present in-person with the individual being assessed and who is trained in accordance with the requirements of either §§ 26.29 and 26.203(c), or §§ 26.608 and 26.202(c). The reasoning for these changes and the associated need for in-person support to augment electronic communications is addressed further in the preamble discussion of § 26.619.

C. Requirements for Part 26, Subpart M

This final rule adds a new subpart M to part 26 that provides alternative FFD requirements for part 53 licensees and other entities.

Section 26.601 describes which entities can implement subpart M. Section 26.601(a) makes subpart M of part 26 applicable to part 53 licensees and other entities, at their discretion. If a licensee or other entity in § 26.3(f) does not elect to implement an FFD program that demonstrates compliance with the requirements of subpart M, then the individuals specified in § 26.4 will be subject to an FFD program that demonstrates compliance with all part 26 requirements, except for those requirements in subparts K and M.

For a licensee or other entity in § 26.3(f) that elects to implement an FFD program that satisfies the requirements of subpart M, § 26.601(b) and (c) describes which provisions of subpart M apply. Under § 26.601(b), a licensee or other entity that demonstrates compliance with § 73.100(a)(1)(i) has the option to implement an FFD program under either § 26.605(a) or (b). Under § 26.601(c), if a licensee or other entity elects to implement an FFD program under subpart M but does not demonstrate compliance with § 73.100(a)(1)(i), then that licensee or other entity must implement an FFD program under both § 26.605(a) and (b).

Section 26.603(a) requires an applicant to provide a description of its FFD program and its implementation within its application for a license. This requirement is equivalent to the existing requirements in §§ 26.401(b) and 52.79(a)(44). The entities required to submit these FFD program descriptions are certain applicants that comply with the part 53 application requirements in subpart H. In subpart H, § 53.1309(a)(6) requires an applicant for a CP to provide a description of its FFD program in its PSAR. Under §§ 53.1279(b)(4), 53.1369(x), and 53.1416(a)(24), this final rule requires an applicant for an ML, OL, and COL, respectively, to provide a description of its FFD program in its FSAR.

Unlike an application for a license, a description of an FFD program does not receive NRC review for possible approval. The applicant provides the NRC with information about the applicant's proposed FFD program to inform the NRC's inspection program and to demonstrate that the FFD program will be effectively implemented before a licensee or other entity commences any activity making individuals at the NRC-licensed facility subject to the FFD program.

Section 26.603(a)(1) requires the applicant to state whether it demonstrates compliance with § 73.100(a)(1)(i), which is necessary to

understand FFD program applicability under § 26.605(a) and (b).

Section 26.603(a)(2) requires the applicant to state what FFD program it plans to implement under subpart M (*i.e.,* § 26.605(a), § 26.605(b), or § 26.605(a) and (b)), or the existing FFD program (*i.e.,* all parts of part 26, except for subpart K and M).

Section 26.603(a)(3) requires a discussion that informs the NRC of the applicability of the applicant's FFD program to individuals who perform safety- or security-significant activities. This description should summarize any key differences between the staff at the site and any remote facility and the categories of individuals in § 26.4. The principal purpose of providing this description is to inform the NRC of any substantial differences in the applicability of the FFD program to the categories of individuals in § 26.4.

Section 26.603(a)(4) requires a description of the drug and alcohol testing and fitness determination process to be implemented through the licensee's or other entity's procedures, including the collection and testing facilities to be used, biological specimens to be collected and tested, and sanctions to be imposed for FFD policy violations. This process includes how individuals who test positive for a drug or alcohol will be evaluated before being afforded unescorted access to the protected area to perform or direct those duties or responsibilities making them subject to the FFD program.

Section 26.603(b) establishes the longevity of a license's or other entity's FFD program. Unlike the current part 26 regulations, § 26.603(b) expressly states that an FFD program is not applicable during decommissioning of a part 53 facility for licensees and other entities specified in § 26.3(f). However, holders of an operating or combined license should be aware that the physical protection program regulations in § 73.55, ''Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage,'' and § 73.100 include a requirement for the implementation of an IMP, even during decommissioning. Section 26.603(b) also requires the holder of an ML under part 53 to maintain its FFD program until expiration of the ML.

In § 26.603(e), this final rule implements a change control requirement for subpart M of part 26 FFD programs. Requiring licensees and other entities to demonstrate compliance with certain requirements before implementing changes to their FFD programs is necessary for two primary reasons. First, compliance with § 73.100(a)(1)(i) determines which FFD program requirements may be implemented. If a licensee makes changes to its facility that impact the licensee's ability to comply with § 73.100(a)(1)(i), then the set of applicable FFD program requirements under § 26.605 may change and would need to be documented under § 26.603(e). Second, FFD program implementation may change periodically in response to societal changes in substance abuse. Change control therefore relies on the licensee or other entity maintaining its procedures in a manner that details how its FFD program is to be implemented while incorporating changes, with documentation that justifies the changes to support audits and NRC inspection.

Section 26.603(e)(1) permits the licensee or other entity to implement changes to its FFD program if it performs and retains an analysis demonstrating that the change does not reduce the effectiveness of the FFD program or the change was necessitated or justified by a change to part 26, laboratory processes, or guidance issued by the HHS or NRC. The change control requirement enables flexibility in program implementation should the NRC or HHS change its drug testing procedures (as implemented by the licensee or other entity through its procedures) in response to changes in societal substance abuse or drug testing technologies.

The change control requirement was developed from the change control requirements in § 50.54(p) and (q)—the change control requirements for security and emergency plans, respectively. However, unlike these two requirements, the NRC does not review and approve a licensee's or other entity's FFD program or its implementing procedures, and the FFD program is not licensing-basis information as described in § 53.1300.

Section 26.603(e)(2) requires that if a change reduces FFD program effectiveness, then the licensee must implement a mitigating strategy so the FFD program, as revised, will continue to demonstrate compliance with the performance objectives in § 26.23 and not result in a reduction in FFD program effectiveness.

Section 26.603(e)(3) prohibits, with one exception, the use of the change control process to reduce the minimum panel of drugs to be tested and references the drugs listed in § 26.607(c)(1). Section 26.607(c)(1) references current § 26.31(d)(1), which states that, at a minimum, licensees and other entities shall test for marijuana metabolite, cocaine metabolite, opioids (codeine, morphine, 6-acetylmorphine, hydrocodone, hydromorphone, oxycodone, and oxymorphone), amphetamines (amphetamine, methamphetamine, methylenedioxymethamphetamine, and methylenedioxyamphetamine), phencyclidine, and alcohol. The testing of these drugs and drug metabolites, except phencyclidine, and alcohol is necessary for the FFD program to remain effective. Also, there is no subpart M of part 26 requirement stating that this panel of drugs and drug metabolites needs to consist of only scheduled drugs.[7] This flexibility accounts for the situation where an impairing substance becomes prevalent in society and a licensee or other entity elects to add the substance to their panel of substances to be tested prior to it being scheduled by the Drug Enforcement Administration.

The exception in § 26.603(e)(3) is that, should HHS elect to remove phencyclidine from the panel of drugs and drug metabolites to be tested, a licensee or other entity could make this change in its FFD program without resulting in a reduction in FFD program effectiveness. This outcome is justified based on the very infrequent occurrence rate of FFD policy violations due to phencyclidine use since 2010. However, if HHS proposes to remove a class of drugs from the panel of drugs to be tested that is listed in § 26.31(d)(1), except for phencyclidine, then a licensee or other entity may not make a similar change to its panel of drugs to be tested, because this change would be a reduction in FFD program effectiveness even with a mitigative strategy implemented.

Changes in the HHS panel of drugs and drug metabolites to be tested could potentially shift from one metabolite to a different metabolite for the same drug. Should HHS issue such a change to its panel, this is not expected to result in a reduction in FFD program effectiveness because HHS would be

[7] The Drug Enforcement Administration classifies drugs, substances, and certain chemicals used to make drugs into five (5) distinct categories, depending upon the drug's acceptable medical use and the drug's abuse or dependency potential. These categories appear as Schedules I through V of section 202 of the Controlled Substances Act (21 U.S.C. 812). Schedule I drugs have a high potential for abuse, have no currently accepted medical uses in treatment in the United States, and lack accepted safety for use under medical supervision. At the other end of the classification scheme, Schedule V drugs have the least potential for abuse among the five categories of drugs, have a currently accepted medical use in treatment in the United States, and abuse of the drug may lead to limited physical dependence or psychological dependence. For more information, see *https://www.dea.gov/drug-information/drug-scheduling.*

targeting a more effective metabolite for identifying an existing drug already being tested in its panel. This situation could occur as HHS gathers more operating experience from Federal Government implementation of its HHS Guidelines, or data generated by drug testing laboratories and Federally mandated drug testing programs required by Federal agencies such as the NRC and U.S. Departments of Transportation, Energy, and Defense.

Section 26.603(e)(4) requires that change control records be maintained for a 5-year record retention period based on the current NRC practice to conduct triennial inspections of licensees' and other entities' FFD programs. This affords the NRC an opportunity to review the licensee's or other entity's determination that FFD program changes have not reduced the effectiveness of their FFD program. Licensees and other entities are also required to summarize each change made under § 26.603(e) in their annual FFD performance reports required by § 26.617(b)(2) or § 26.717, as applicable.

Section 26.605 establishes requirements in a graded manner similar to the regulatory framework established by the requirements in subparts A through I, N, O, and K of part 26. This graded approach consists of less prescriptive FFD program requirements in § 26.605(a) and more robust program requirements in § 26.605(b).

The FFD programs under § 26.605(a) and (b) include FFD program elements similar to those in subpart B of part 26, but the new requirements are less prescriptive, enabling more flexibility in program implementation like that offered in subpart K of part 26. For example, the requirements in subpart B of part 26 are explicit requirements for, in part, the collection and testing of urine specimens. Subpart B of part 26 does not enable the use of oral fluid for drug testing, except under very limited situations as described in subpart E of part 26, or the use of hair specimens, unlike § 26.605. Section 26.605 requires drug and alcohol testing based on either the requirements in part 26 or the HHS Guidelines. The principal benefits of the § 26.605 FFD program are that it provides a regulatory framework that is consistent with the radiological consequences for a facility that demonstrates compliance with § 73.100(a)(1)(i), and affords flexibilities in the conduct of drug and alcohol testing.

Section 26.605(a) applies to part 53 licensees and other entities of commercial nuclear plants that demonstrate compliance with § 73.100(a)(1)(i), at their discretion (no later than the start of construction activities as defined in § 26.5); licensees and other entities of commercial nuclear plants that do not demonstrate compliance with § 73.100(a)(1)(i) (no later than the start of construction activities as defined in § 26.5); and holders of MLs before the start of activities performed under an ML that allows the assembly, non-operational testing, or both, of a manufactured reactor. The timing element of the applicability statement of § 26.605(a) is equivalent to that for an LWR licensee or other entity who is performing those same activities at a facility licensed under part 50 or 52 and helps provide assurance that those individuals who assemble, test, or perform construction activities as defined in § 26.5 or direct these activities are fit for duty and trustworthy and reliable. This is important because assembly and non-operational testing of a manufactured reactor and the construction and testing of SSCs required for facility operation require, in part, adherence to procedures, possible implementation of unique and precise assembly techniques, and quality assurance and controls. Additionally, SSCs within a manufactured reactor may not be accessible, testable, or available for quality assurance and verification after the reactor is assembled. This requirement also addresses solo-assembly activities that may cause latent failures and passive SSCs located internal to a reactor (for example, a fusible link designed to melt at a particular temperature to trigger an actuation mechanism) that are relied upon for safe operation but cannot be inspected or tested for proper installation, configuration, or operation after installation. A § 26.605(a) FFD program for these types of activities is equivalent to the FFD program applicable to the assembly of the reactor vessel internals and testing of the SSCs internal to the reactor at an LWR licensed under part 50 or 52.

Section 26.605(a) requires the holder of an ML to implement its FFD program no later than the start of activities that assemble a reactor, non-operational testing of a manufactured reactor, or both. The holder of the ML should establish in its procedures when reactor assembly commences and what constitutes assembly. For example, the FFD program does not need to be implemented for the receipt, storage, inspection, and staging of components and systems used to assemble (*i.e.,* build or fabricate) the reactor because this is not a current requirement for LWR facilities licensed under part 50 or 52. Furthermore, the NRC currently does not require that an FFD program be applied to the assembly or manufacturing of components (or basic components as defined in § 21.3), or systems that were fabricated or assembled outside the footprint of a commercial power reactor, and this regulatory position also applies to a manufacturing facility.

Section 26.605(b) also contains timing requirements for implementing FFD programs under that paragraph. Licensees and other entities that demonstrate compliance with § 73.100(a)(1)(i) and elect to implement FFD programs that satisfy the requirements of § 26.605(b) must establish, implement, and maintain the program no later than the start of construction activities. Holders of MLs that also possess a separate license to load fuel into a manufactured reactor must establish, implement, and maintain the program no later than the start of reactor fuel load. For all other licensees and other entities implementing an FFD program under § 26.605(b), they must establish, implement, and maintain the program before the earliest of the loading of fuel onsite into a reactor vessel; receiving a fueled manufactured reactor; or individuals subject to part 26 operate, test, perform maintenance of, or direct the maintenance or surveillance of security-related equipment or equipment that a risk-informed evaluation process has shown to be significant to public health and safety.

These entities must establish, implement, and maintain an FFD program that implements all the requirements in § 26.605(a), except §§ 26.610, ''Sanctions''; 26.617, ''Recordkeeping, reporting, and FFD program performance''; and 26.619, ''Suitability and fitness determinations''; plus additional requirements due to the increased radiological consequences presented by a part 53 commercial nuclear plant as the licensee readies it for operation. These additional requirements include those in subparts C, D, H, and N of part 26, some of which replace §§ 26.610, 26.617, and 26.619.

Section 26.605(b) also enables the licensee or other entity to better integrate its facility with the LWR fleet and Category I fuel cycle facilities because subparts C, D, and H of part 26 are required. These subparts are required, in part, because it is expected that: (1) individuals will be able to work at any part 50, 52, or 53 commercial nuclear plant and will possess a nuclear safety culture and desirable

qualifications, skills, expertise, or services; and (2) licensees and other entities of facilities licensed under parts 50, 52, and 70 may venture to construct or operate a facility licensed under part 53. Therefore, the implementation of these subparts helps ensure that all individuals subject to part 26, whether under subpart M, subpart K, or all subparts except M and K, are subject to FFD programs that provide reasonable assurance that the individuals are fit for duty, trustworthy, and reliable.

Section 26.606, ''Written policy and procedures,'' requires licensees and other entities to implement and maintain an FFD policy and procedures for their FFD programs. This section establishes requirements equivalent to those in current § 26.403, ''Written policy and procedures,'' of subpart K. However, a principal difference is that § 26.606 is written to enable the drug testing of urine, oral fluid, and hair specimens.

Section 26.606(a)(1) requires each licensee and other entity to provide a written FFD policy statement to individuals subject to the FFD program before the individuals are subjected to any FFD program drug and alcohol test. This is a protection measure afforded to individuals subject to the FFD program to help ensure that they know what is expected of them before being subject to the FFD program and potential consequences should they violate the FFD policy or procedures. This requirement also contributes to safety and security because understanding FFD program responsibilities may enhance an individual's safety culture or the individual may self-select out of the licensee's or other entity's hiring process.

Section 26.606(a)(2) requires that the FFD policy statement describe the performance objectives in § 26.23, which are the same FFD program performance objectives required for facilities licensed under parts 50, 52, or 70. Having a standard performance outcome based on a licensee or other entity satisfying the § 26.23 performance objectives enhances consistency in FFD program implementation across all entities subject to part 26. It also generates confidence that individuals subject to part 26 will safely and competently perform their duties and responsibilities and use NRC-licensed materials in a manner that will protect the public health and safety and common defense and security.

Section 26.606(a)(3) requires that the FFD policy statement describe the licensee's or other entity's implementation of the minimum days off requirements in § 26.205(d)(3) or maximum average work hours requirements in § 26.205(d)(7).

Section 26.606(a)(4) requires the FFD policy statement be written in sufficient detail to provide affected individuals with information on what is expected of them and what consequences may result from a lack of adherence to the policy, including those elements described in § 26.603(b), part 26-required sanctions, and required medical/clinical treatment and follow-up testing for FFD policy violations. This requirement is equivalent to § 26.403(a) of subpart K but includes an additional description of what the policy statement must include. For example, the policy describes the NRC-required sanctions to help deter substance abuse and required medical/clinical treatment and follow-up testing for FFD policy violations. This provision provides a protection measure by helping the individual get the assistance they need and help ensure that the individual refrains from substance abuse.

Section 26.606(a)(5) requires that the FFD policy statement describe the individual's responsibilities to report for work in a physiological and psychological condition that enables the safe and competent performance of assigned duties and responsibilities and inform a licensee- or other entity-designated representative when the individual determines that this cannot be accomplished.

Section 26.606(a)(6) requires that the FFD policy statement must prohibit the consumption of alcohol, at a minimum, within an abstinence period of 5 hours preceding the individual's arrival at the licensee's or other entity's facility.

Section 26.606(a)(7) requires that the FFD policy statement must convey that abstinence from alcohol for the 5 hours preceding any scheduled tour of duty is considered to be a minimum that is necessary, but may not be sufficient, to ensure that the individual is fit for duty.

Section 26.606(b) requires licensees and other entities implementing an FFD program in accordance with subpart M of part 26 to establish, implement, and maintain written procedures for their FFD programs. This requirement is equivalent to that in § 26.403(b) of subpart K.

Section 26.606(b)(1) establishes requirements for the licensee or other entity to develop and maintain written procedures for its drug and alcohol testing program. This provision is equivalent to the requirements in current § 26.403(b)(1) of subpart K, but § 26.606(b)(1)(i) through (iv) requires additional clarity and specificity that licensees and other entities must detail in their procedures to address new testing methods in subpart M of part 26 that are not permitted under the current part 26 framework. Clarity and specificity in procedural instructions support consistent program implementation, which protects all individuals subject to the program.

Section 26.606(b)(1)(iv) requires that if the licensee or other entity elects to use the HHS Guidelines for the conduct of drug testing, the FFD program procedures must include the name of the specific HHS Guideline and revision being implemented by the licensee or other entity and a description of the specific sections in the guideline that are being implemented, including specimen collections, drug testing, laboratory procedures, and evaluation of test results. This requirement helps ensure the following: the validity and accuracy of drug testing because the specimens are subject to laboratory testing that has been certified by the HHS; protection of worker rights equivalent to the privacy, information, and due process protections afforded to Federal workers under the HHS Guidelines because the HHS Guidelines are used in the Federally mandated drug testing programs; consistency in program implementation because all individuals subject to the FFD program are subject to the same collection, testing, and evaluation processes; and FFD program effectiveness because the effectiveness of the HHS Guidelines have been verified by HHS's National Laboratory Certification Program (NLCP). Detailed procedures will enhance MRO and FFD program personnel reviews of individual test results because instructions will be provided for, in part, the evaluation of specific test results (*e.g.,* positive, negative, biological markers), the conduct of additional testing for invalid or dilute specimens, and the assessment of subversion attempts (*e.g.,* adulterated or substituted). This benefits FFD program effectiveness and helps prevent misunderstanding of program requirements and processes.

Section 26.606(b)(2) requires licensees and other entities to include in their written procedures the immediate and follow-up actions that will be taken, and the procedures that will be used, in certain situations specified in § 26.606(b)(2)(i) through (vi). Section 26.606(b)(2) is equivalent to the requirements in current § 26.403(b)(2), which provides the same requirement under an FFD program for construction for part 50 or 52 licensees and other entities. This helps ensure the effectiveness of the FFD program and its consistent implementation, because part 53 licensed facilities will be

implementing procedures to address the same requirements and with individuals who understand what is expected of them no matter what part 53 facility they were assigned.

The situation specified in § 26.606(b)(2)(i) arises when individuals subject to the FFD program have been involved in the use, sale, or possession of illegal substances, illegal drugs, or illicit substances. This provision is equivalent to current § 26.403(b)(2)(i), except that the phrase ''illegal drugs'' is replaced with ''illegal substances, illegal drugs, or illicit substances.'' Illegal substances include legal substances used in a manner inconsistent with Federal or State law.

The situation specified in § 26.606(b)(2)(ii) arises when individuals who are subject to the FFD program are impaired by any substance or the consumption of alcohol as determined by behavioral observation or a test that measures blood alcohol concentration, as defined in § 26.5. Except for a few differences, this provision is equivalent to current § 26.403(b)(2)(ii) of subpart K. The NRC does not include the phrases ''to excess'' and ''accurately'' in § 26.606(b)(2)(ii). Subpart M of part 26 is a performance-based framework that focuses on impaired human performance, and for alcohol, impairment is determined by blood alcohol concentrations exceeding the limits in § 26.103, ''Determining a confirmed positive test result for alcohol,'' using an evidential breath testing device (EBT) for alcohol (not whether an individual drank ''to excess'').

The NRC is including the phrase ''illegal substances, illegal drugs, and illicit substances'' in § 26.606(b)(2)(ii) based on operating experience and the terminology in current § 26.23(b). There are far more substances that may cause impairment than those designated by the Drug Enforcement Administration as controlled substances (*i.e.,* those that appear on Schedules I through V of section 202 of the Controlled Substances Act), and alcohol. The phrase ''before or while constructing or directing construction of safety- or security-related SSCs'' in current § 26.403(b)(2)(ii) is not included in § 26.606(b)(2)(ii) because § 26.606 applies during construction, operation, and decommissioning, if applicable. The NRC is including the term ''behavioral observation'' in § 26.606(b)(2)(ii) because impairment can be visibly or audibly observed in an individual, and individuals subject to subpart M of part 26 will be trained in behavioral observation under § 26.608.

The situation specified in § 26.606(b)(2)(iii) arises when individuals attempt to subvert the testing process by adulterating or diluting specimens (*in vivo* or *in vitro*), substituting specimens, or by any other means. This provision is equivalent to current § 26.403(b)(2)(iii). The purpose underlying this requirement has increased in significance since issuance of the 2008 part 26 final rule because subversion attempts have accounted for about one-third of all drug testing violations of the FFD policy every year since 2016.

The situation specified in § 26.606(b)(2)(iv) arises when individuals refuse to provide a specimen for analysis or refuse to follow instructions provided by FFD program personnel. Except for one difference, this provision is equivalent to current § 26.403(b)(2)(iv). The NRC is including the phrase ''or follow the instructions provided by FFD program personnel'' based on an existing requirement in § 26.89(c) that the collector must inform the donor that if the donor refuses to cooperate in the specimen collection process, then such refusal will be considered a refusal to test and sanctions for subverting the testing process will be imposed.

The situation specified in § 26.606(b)(2)(v) arises when individuals who are subject to an FFD program had legal action taken relating to drug or alcohol use. This requirement is equivalent to current § 26.403(b)(2)(v).

The situation specified in § 26.606(b)(2)(vi) is when individuals subject to an FFD program demonstrate character or actions indicating that the individual cannot be trusted or relied upon to perform those duties and responsibilities or maintain access to NRC-licensed facilities, SNM, or sensitive information. This includes character traits beyond those attributed to drug or alcohol use. This requirement helps ensure that the licensee or other entity will implement an FFD program designed to demonstrate compliance with the § 26.23(c) performance objective that FFD programs must provide ''reasonable measures for the early detection of individuals who are not fit to perform the duties that require them to be subject to the FFD program.'' An individual who is not trustworthy and reliable is not fit to perform or direct the performance of those duties and responsibilities or be afforded those types of access that make the individual subject to an FFD program.

This requirement also helps to align the subpart M of part 26 BOP with the BOP implemented under § 73.56(f) and § 73.120 and the purpose of the IMP as described in § 73.55(b)(9) and § 73.100(b)(10).[8] The demonstrated character and actions of an individual can indicate whether the individual can be trusted and relied upon to safely and competently perform assigned duties and responsibilities or be afforded those types of access making the individual subject to the FFD program. This holds true for any demonstrated adverse character indication or action on- or offsite.

The phrase ''character or actions'' is used in § 26.606(b)(2)(vi) to focus on observed examples that indicate an individual subject to subpart M of part 26 may not be fit for duty or trustworthy and reliable. Character traits include but are not limited to personality, temperament, honesty, carelessness, apathy, psychosis, and commitment to safety culture. Assessment of an individual's character should consider the potential for changes in these traits when compared to a previous baseline. Actions include a physical or verbal demonstration of a character trait that could call into question an individual's fitness, trustworthiness, or reliability. For example, the individual does something physically, verbally, or in writing (*e.g.,* falsifying records, driving while impaired, or harming or threatening to harm oneself, others, or property) that compels another individual to conclude that the observed individual cannot be trusted or relied upon. Unlike the background investigation and reviews of ''character and reputation'' in § 73.56(d)(6) and (k)(1)(v) and § 73.120, which are principally retrospective reviews of an individual and may be based on third-party information (*i.e.,* information from individuals not subject to NRC requirements), the ''character or action'' focus of § 26.606(b)(2)(vi) is a present observation of an individual subject to the FFD program and performed by an individual who is also subject to the FFD program. Whether the information is received from an individual subject to the FFD program or someone who is not subject to the FFD program, the licensee or other entity will need to review this information (*i.e.,* determine if the information and its source are credible) to determine whether the individual should maintain authorization.

Section 26.606(b)(3) requires licensees and other entities to address in their

[8] The IMP must monitor the initial and continuing trustworthiness and reliability of individuals granted or retaining unescorted AA to a protected or vital area and implement defense-in-depth methodologies to minimize the potential for an insider to adversely affect, either directly or indirectly, the licensee's capability to protect against radiological sabotage.

procedures the process, including the duties and responsibilities of FFD program personnel, to be followed if an individual's behavior or condition raises an FFD concern. This provision also requires a process to be conducted when credible information is received by the licensee or other entity that the individual is not fit for duty, trustworthy, and reliable.

With a few exceptions, § 26.606(b)(3) is equivalent to current § 26.403(b)(3). Instead of the phrase ''while constructing or directing the construction of safety- or security-related SSCs'' in current § 26.403(b)(3), the NRC uses ''on the NRC-licensed facility'' in § 26.606(b)(3), because this provision applies during commercial nuclear plant construction, operation, and decommissioning, if applicable, in addition to holders of an ML as described in § 26.3(f). The requirement that the roles and responsibilities of FFD program personnel be described was developed from current §§ 26.4(g) and 26.31(b) and operating experience, which has demonstrated that clear job descriptions help ensure that individuals know who is designated by the licensee or other entity to make decisions regarding FFD program implementation and who can be approached when physiological or psychological help is needed. This is principally a protection consideration afforded to individuals subject to the FFD program.

The requirement also includes two conditions not found in current § 26.403(b) that clarify the initiation of the fitness determination process should an individual's behavior or condition raise an FFD concern. The phrase, ''impairment from any cause that in any way could adversely affect the individual's ability to safely and competently perform the individual's duties,'' reflects the § 26.23(b) performance objective. The condition, ''the receipt of credible information indicating that the individual cannot be trusted or relied on to perform those duties and responsibilities making the individual subject to this part,'' reflects the § 26.23(a) performance objective. In either case, as required by § 26.23(c), the FFD program must provide reasonable measures for the early detection of individuals who are not fit to perform the duties that require them to be subject to the FFD program.

Section 26.606(b)(4) requires licensees and other entities to have written procedures that address the operation and oversight of onsite and offsite collection facilities. This requirement is equivalent to current §§ 26.403(b) and 26.405(e) and is developed from § 26.41(b), which states that each licensee and other entity who is subject to subpart B of part 26, shall ensure that the entire FFD program is audited, which is part of a licensee's or other entity's oversight of the facility, and § 26.87(a), which states that each FFD program must have one or more designated collection sites that have all necessary personnel, materials, equipment, facilities, and supervision to collect specimens for drug testing and to perform alcohol testing. Having procedures for the operation and oversight of onsite and offsite collection facilities enhances consistency in program implementation, protects individuals subject to testing, and accounts for the flexibilities afforded in the types of biological specimens that may be collected under an FFD program subject to subpart M of part 26. Section 26.606(b)(4), when used with the audit requirement in § 26.615, helps maintain FFD program effectiveness and prevent subversion attempts at facilities that may not be under the direct day-to-day oversight of FFD program personnel.

Section 26.606(b)(5) requires licensees and other entities to have written procedures that address the fatigue management requirements in § 26.202(b), ''Procedures,'' and either § 26.205(d)(3) or (d)(7).

Section 26.606(b)(6) requires licensees and other entities to have written procedures that provide measures to prevent subversion of drug and alcohol tests conducted onsite and offsite. This requirement was developed from § 26.27(c)(1).

Section 26.607, ''Drug and alcohol testing,'' establishes drug and alcohol testing requirements for licensees and other entities implementing § 26.605. Except for a few differences, § 26.607 is equivalent to current § 26.405, which requires licenses and other entities implementing an FFD program under subpart K of part 26 to have a drug and alcohol testing program that demonstrates compliance with the requirements in § 26.405(b) through (g). The differences are commensurate with the risk consequences presented by a part 53-licensed facility as compared to a part 50 or 52 nuclear power plant. These requirements improve flexibility in the conduct of drug and alcohol testing while maintaining protections afforded to individuals subject to the FFD program.

Section 26.607(a) requires licensees and other entities to obtain a split specimen for all drug tests using oral fluid or urine for all test conditions in § 26.607(b) and (j). Neither current subpart K nor current subparts B or E of part 26 require a split specimen. However, many of the LWR fleet use split specimens for drug testing and commercially available drug screening products use a split specimen technique. Since publication of the 2008 part 26 final rule, the HHS has issued guidelines for urine and oral fluid specimen testing that require split specimen collections. The U.S. Department of Transportation regulations under 49 CFR part 40 also require split specimen collections for urine and oral fluid. The proposed HHS Guidelines for hair testing also require split specimen collections.

The required use of a split specimen process protects the individual because, upon a donor-alleged discrepant or questionable test result, the donor may provide permission to test the split specimen (specimen B) in an effort to refute the laboratory test results for specimen A. The requirement also enables the MRO to direct laboratory testing of specimen B if specimen A were invalid; though the NRC expects specimens becoming invalid at the laboratory to be a rare occurrence as testing will be conducted by HHS-certified laboratories. If a specimen is determined to be invalid, the occurrence would warrant further investigation by the MRO and laboratory to identify the cause. This protocol is equivalent to the special analysis testing in current § 26.163(a)(2) for dilute specimens and specimens collected under most directly observed collection conditions in that additional laboratory analysis is performed because of a questionable test result.

If a split specimen is tested by an HHS-certified laboratory, then the test result from specimen B must be used as part of the determination for an FFD policy violation as required by § 26.185(n), ''Evaluating results from a second laboratory.'' However, this is not to say that the test results from specimen A should be discarded. Since the HHS-certified laboratory should report all test results from all specimens tested to the MRO, like the information described in § 26.169, ''Reporting results,'' test result differences between specimens A and B can be used to inform the MRO as to what should be reported to the licensee or other entity to either facilitate medical or clinical assistance for the individual, inform an FFD-policy violation determination, or both.

Section 26.607(a) states that split specimen collections of oral fluid or urine must be used for the test conditions described in § 26.607(b). In addition, testing of the split specimen (specimen B) requires the donor's permission unless ordered by the MRO

to resolve an invalid test result obtained for specimen A.

Section 26.607(b) requires the licensee or other entity to subject individuals identified in § 26.202 to drug and alcohol testing under the five conditions listed in § 26.607(b)(1) through (5). Section 26.607(b) is equivalent to current § 26.405(c).

Section 26.607(b)(1) requires pre-access testing similar to current § 26.405(c)(1), which requires testing before assignment to construct or direct the construction of safety- or security-related SSCs. Unlike current § 26.405(c)(1), the requirement does not include the phrase, ''construct or direct the construction of safety- or security-related SSCs,'' because, for licensees or other entities under part 53, the pre-access test condition applies to construction, operation, and decommissioning, if applicable, to help inform a licensee's or other entity's authorization determination. The requirement also uses ''pre-access'' instead of ''pre-assignment,'' which is used in current § 26.405(c)(1).

A pre-access test requires the collection of an oral fluid or a urine specimen no more than 14 days before the individual is granted unescorted access. Although this change has roots in the 2008 part 26 final rule, which reduced the period within which pre-access testing must be performed from 60 days to 30 days or less, the 14-day requirement is based on two lessons learned from operating experience.

First, the 14-day period is a large enough window of time to collect the specimen and evaluate test results because licensees or other entities typically receive laboratory test results within 5 business days of laboratory receipt of the biological specimen. At the same time, the 14-day period is small enough to help ensure that the test results are representative of the individual's recent drug use before being granted authorization.

Second, the NRC does not expect licensees and other entities licensed under part 53 to have the large and periodic influxes of individuals (either licensee employees or C/Vs) that LWRs have to support facility operation, maintenance, engineering design changes, or nuclear refueling. Therefore, these licensees or other entities will not be periodically challenged to in-take a large workforce within the 14-day pre-access testing window.

Section 26.607(b)(2) requires the licensee or other entity to conduct random drug and alcohol testing of all individuals subject to the FFD program. With notable exceptions, this requirement is equivalent to current § 26.405(b). Section 26.405(b) gives licensees and other entities that implement an FFD program subject to subpart K of part 26 the option to impose random drug and alcohol testing. Section 26.607(b)(2) does not offer that option because subpart M of part 26, unlike subpart K, does not allow a licensee or other entity to implement a fitness monitoring program under current § 26.406 instead of a random testing program. The principal reasons for not allowing this flexibility are that no licensee or other entity has ever implemented a fitness monitoring program (*i.e.,* there is no operating or regulatory experience on which to judge the effectiveness of a fitness monitoring program), and the subpart M framework already uses behavioral observation to help ensure FFD program effectiveness. Supplementing the § 26.609 BOP with an additional observation technique (*i.e.,* the fitness monitoring program) would not result in a level of deterrence or detection equivalent to that which will be obtained through behavioral observation and random drug and alcohol testing.

Section 26.607(b)(2)(i) through (v) provides specific requirements for the conduct of a random testing program. These paragraphs are equivalent to § 26.405(b)(1) through (4), although with a few differences. The similar provisions are in § 26.607(b)(2)(i), (b)(2)(iii), and (b)(2)(iv).

The differing provisions include § 26.607(b)(2)(ii), which refers to an ''FFD program procedure'' instead of the reference to an ''FFD program policy'' in § 26.405(b)(2) because procedures contain the instructions that implement FFD program requirements, but the FFD policy need not contain specific instructions. Section 26.607(b)(2)(ii) also requires individuals who are selected for random testing to report to the onsite collection site, as opposed to the collection site in § 26.405(b)(2), because alcohol metabolism necessitates a timely alcohol test. This change is also being implemented because the NRC expects that part 53 licensees and other entities may use a combination of onsite (for random, for-cause, and post-event testing) and offsite (for pre-access, post-event, and follow-up testing) collection facilities for drug and alcohol testing and may have to afford reasonable accommodation to certain individuals, which would add complexity in the licensee's or other entity's procedurally determined time period in which an individual must report to the collection facility.

Another difference from § 26.405(b) is § 26.607(b)(2)(v), which establishes the random testing rate for the population of individuals subject to testing. Subpart K of part 26 does not establish a random testing rate. The new requirement is equivalent to current § 26.31(d)(2)(vii), which requires that the sampling process used to select individuals for random testing provides that the number of random tests performed annually is equal to at least 50 percent of the population that is subject to the FFD program.

Section 26.607(b)(3) requires for-cause testing equivalent to that used in current FFD programs implementing § 26.405(c)(2). The NRC is requiring for-cause testing, like random testing, to be conducted onsite to ensure that the test is conducted as soon as reasonably practicable. This is an important consideration when for-cause testing for alcohol or using oral fluid for drug screening or testing because human metabolism continually lowers the concentrations of the drugs, drug metabolites, and alcohol perhaps to concentrations lower than the initial or confirmatory testing cutoffs. Additionally, for facilities that are sited in geographically remote locations, an offsite collection facility might be too far away or not readily accessible.

Section 26.607(b)(4) requires post-event testing in a manner equivalent to current § 26.405(c)(3), with a few adjustments. For part 53 licensees or other entities, the NRC is requiring post-event testing under two conditions: events involving human errors that may have caused or contributed to the events (§ 26.607(b)(4)(i)), and events not involving human error that result in adverse health consequences or damage to any safety- or security-related SSC (§ 26.607(b)(4)(ii)). The word ''significant'' is not used in § 26.607(b)(4)(ii)(A) to describe the ''illness or personal injury'' as used in § 26.405(c)(3)(i) because § 26.607(b)(4)(ii)(A) describes which illnesses or injuries are covered. Section 26.607(b)(4)(ii)(B), unlike § 26.405(c)(3)(ii), does not use the word ''significant'' to describe the damage to safety- or security-related SSCs because any damage to safety- or security-related SSCs requires testing within four hours of the event unless immediate medical intervention precludes the conduct of the test on the individual(s) who caused or contributed to the event. Section 26.607(b)(4)(ii)(B) also does not use the word ''construction'' as in § 26.405(c)(3)(ii) because § 26.607(b)(4) applies to construction, operation, and decommissioning, if applicable.

Section 26.607(b)(4)(i) requires the licensee or other entity to define in its procedures the term ''human error.'' This term may take on various meanings

and it is not defined in the current or final rule, so the licensee or other entity is required to describe or define this term to help ensure consistent implementation of subpart M of part 26 and that the post-event test condition is consistently applied to all individuals subject to the FFD program. The § 26.405(c)(3)(i) requirement that ''the event is recordable under the Department of Labor standards contained in 29 CFR 1904.7, and subsequent amendments thereto,'' is not carried over to § 26.607(b)(4). Instead, the NRC is prescribing the post-event test conditions in § 26.607(b)(4), in part so they will not change unless the NRC amends the requirement.

Section 26.607(b)(5) requires follow-up testing. This requirement is equivalent to current § 26.405(c)(4), although § 26.607(b)(5) further describes follow-up testing. This final rule describes follow-up testing as part of a series of tests for drugs, alcohol, or both, which are performed after an individual subject to part 26 has violated the FFD policy on substance use or abuse, or the sale, use, or possession of illegal drugs. Follow-up testing will be used to verify an individual's continued abstinence from substance abuse. This final rule does not include a reference to a follow-up plan as in § 26.405(c)(4) because the intent of a follow-up plan is to conduct a series of drug tests, alcohol tests, or both, to verify continuing abstinence from substance abuse. Nevertheless, individuals who violate an FFD policy on substance use or abuse, or the sale, use, or possession of illegal drugs, should have a follow-up plan that includes a definition of ''abstinence'' from the medical professional prescribing the plan.

Section 26.607(c) provides additional testing requirements. This requirement is equivalent to § 26.405(d) and requires implementation of select requirements from current subpart E of part 26. The requirements govern directly observed collections, shy bladder situations, special analysis testing, and alcohol testing. These requirements are necessary to maintain FFD program effectiveness equivalent to that currently implemented by the LWR fleet.

Section 26.607(c)(1) requires validity testing and establishes the minimum panel of drugs and drug metabolites to be tested. This panel is the same as those in §§ 26.31(d)(1) and 26.405(d) because, based on operating experience from LWR FFD program implementation, this panel has been determined to contribute to a licensee or other entity satisfying the FFD performance objectives in § 26.23(a) through (d).

Section 26.405(d) requires that urine specimens collected for drug testing be subject to validity testing. Like § 26.405(d), § 26.607(c)(1) requires validity testing of urine specimens. Oral fluid specimens could also be subject to validity testing, including a biological marker, as specified in either part 26 or the HHS Guidelines.

Section 26.607(c)(2) includes requirements that already exist in the part 26 framework that provide protections for individuals subject to the FFD program and contribute to testing effectiveness when collecting and assessing a urine specimen. Specifically, current § 26.115, ''Collecting a urine specimen under direct observation,'' describes the exclusive grounds for performing a directly observed collection and the process to be followed to protect the privacy of the individual. Section 26.119, ''Determining 'shy' bladder,'' establishes the process to be followed when a donor is not able to produce a sufficient amount of urine for testing, and § 26.163(a)(2) requires special analysis testing when a specimen is dilute to help prevent a subversion attempt.

Section 26.607(c)(3) requires implementation of all the current alcohol testing requirements in § 26.91, ''Acceptable devices for conducting initial and confirmatory tests for alcohol and methods of use,'' through § 26.103, ''Determining a confirmed positive test result for alcohol.'' Using the same alcohol testing framework for parts 50, 52, 70, and 53 licensees and other entities provides for regulatory consistency, protections for individuals subject to the FFD program (*e.g.,* the quality controls and verification applied to the EBT), and FFD program effectiveness (*e.g.,* accuracy of test results). For alcohol testing, unlike drug testing, there is a preponderance of evidence that correlates blood alcohol concentrations to impairment and intoxication. Furthermore, FFD performance data has demonstrated that the time-dependent alcohol cutoffs in § 26.103 have increased the detection of individuals who are under the influence of alcohol. For these reasons, the current alcohol requirements in part 26 are required for FFD programs under subpart M.

Section 26.607(c)(4) establishes additional testing requirements. This is equivalent to current § 26.405(f) for facilities licensed under part 53 for the conduct of drug testing. Unlike § 26.405(f), § 26.607(c)(4) does not reference validity screening and initial drug and validity tests at licensee testing facilities. Another minor difference between § 26.405(f) and § 26.607(c)(4) reflects the requirement in subpart M of part 26 to use an HHS-certified laboratory for all biological specimens collected and not just for urine specimens.

Consistent with § 26.405(f), § 26.607(c)(4) requires the use of an HHS-certified laboratory for all test conditions listed in § 26.607(b), MRO-directed tests, and the testing of a split specimen. Further, HHS-certified laboratory test results using urine or oral fluid are required for the issuance of an FFD policy violation and part 26-required sanction.

All drug testing needs to be performed at an HHS-certified laboratory to help ensure FFD program effectiveness and to protect the donor from a false positive test result and an unwarranted FFD policy violation. The donor will be protected because laboratory procedures for specimen accessioning, testing, custody and control, and evaluation of test results and the training and qualification of laboratory personnel are evaluated by HHS as part of the NLCP. This provides assurance that the drug testing results are accurate and attributed to the donor. Hair specimens may also be pre-access tested for drugs as described in § 26.607(i) and positive test results may only be used as potentially disqualifying information for a licensee's or other entity's authorization determination (*i.e.,* used to assess the fitness, trustworthiness, and reliability of the individual). A positive hair test result may not be used for the administration of an FFD policy violation and sanction, except as provided for in §§ 26.607(i)(3) and 26.610(b)(4) for attempts to subvert the testing process, as defined in § 26.5.

There are three phrases or requirements in § 26.405(f) that the NRC is not using in § 26.607(c)(4). The first is the phrase, ''consistent with its standards and procedures for certification,'' regarding the operation of an HHS-certified laboratory, because the laboratory would not be HHS-certified if it were not following ''its standards and procedures for certification.'' The second is the requirement that urine specimens that yield positive, adulterated, substituted, or invalid initial validity or drug test results must be subject to confirmatory testing by the HHS-certified laboratory, except for invalid specimens that cannot be tested. This requirement is not used because, under subpart M of part 26, licensees or other entities are required to use an HHS-certified laboratory. For a laboratory to be HHS-certified, it must follow the HHS Guidelines and include

procedures that describe when a specimen cannot be tested. Lastly, the § 26.405(f) requirement that other specimens that yield positive initial drug test results must be subject to confirmatory testing by a laboratory that demonstrates compliance with stringent quality control requirements that are comparable to those required for certification by the HHS, is not used because subpart M of part 26 requires the use of an HHS-certified laboratory.

Section 26.607(c)(4) requires the licensee or other entity to contract with a primary and backup HHS-certified laboratory. This provision helps ensure that specimens are processed and tested to maintain FFD program effectiveness should the primary laboratory be unable to perform specimen testing. This helps maintain protections afforded to individuals subject to the FFD program (*e.g.,* should the donor or MRO request testing of the split specimen, a different laboratory could be used). This requirement also states that the primary and backup laboratories must have a different certifying scientist. Having a back-up HHS-certified laboratory and a different certifying scientist benefits the program and donor because the drug testing instruments, technicians, and certifying scientist are independent of the primary laboratory testing and review process. The back-up HHS-certified laboratory may be of the same corporate entity as the primary laboratory.

Section 26.607(c)(4) also states that the laboratory is subject to inspection or audit by the licensee or other entity and that records and documents must be provided and/or able to be photocopied and removed from the premises to support the inspection or audit. This requirement is equivalent to current § 26.41(d), except that laboratories are not able to limit the use and dissemination of documents copied or taken from the laboratory by a licensee or other entity. This is necessary to ensure the continuing effectiveness of FFD programs, because NLCP findings and audit results could adversely impact FFD program effectiveness. Pertinent information includes and should not be limited to NLCP-identified weaknesses (*e.g.,* custody and control, accessioning, instrumentation, procedures, training, supervision, review of test results, and resolution of previously identified corrective actions) that may impact the effectiveness of FFD programs.

Section 26.607(d) helps protect the donor from mistakes made during the drug and alcohol testing processes and helps ensure FFD program effectiveness. This final rule requires the licensee or other entity to protect the individual's privacy and the integrity of the specimen and to implement quality controls to ensure that test results are valid and attributable to the correct individual. This requirement is equivalent to the first sentence of current § 26.405(e), except that the word ''stringent'' was removed from the phrase ''stringent quality controls,'' because the word ''stringent'' is not defined.

Section 26.607(e) describes the requirements for licensees and other entities that use offsite collection facilities. Consistent with current § 26.405(e), a licensee or other entity will be able to conduct specimen collections and alcohol testing at a local hospital or other facility, except for those specimens that must be collected onsite under § 26.607(b)(3) and (4). Unlike § 26.405(e), § 26.607(e) does not restrict licensees and other entities to use hospitals and other facilities that meet the U.S. Department of Transportation requirements in 49 CFR part 40 because subpart M of part 26 is intended to provide flexibilities beyond those in the current part 26 framework. Licensees and other entities may use these Department of Transportation requirements to inform their procedures under § 26.606(b)(1) as long as the procedures do not conflict with the requirements in part 26 or the HHS Guidelines.

Section 26.607(e) also requires licensees and other entities to audit offsite collection facilities before their use and biennially to confirm that the facility procedures are comparable to those described in subpart E of part 26 or the HHS Guidelines for urine and oral fluid. This requirement is based on current § 26.41(a) and (b). The § 26.607(e) audit requirement is a program effectiveness consideration because offsite collection facilities may not require vigilance of their collectors (*e.g.,* identification of subversion attempts), diligence in the protection of worker rights (*e.g.,* privacy and specimen custody and control), or procedural compliance.

The offsite facility used by a licensee or other entity under § 26.607(e) must be licensed to conduct specimen collections and perform alcohol testing, and be audited, by the State or a State-designated entity. This requirement helps provide assurance of adequate collection facility performance and may help reduce the burden on the licensee or other entity and the collection facility. Crediting a State audit (or State licensure, oversight, or regulation) is established in §§ 26.4(i)(4) and (j), 26.91(e)(5), 26.153(f)(1), and 26.183(a).

Section 26.607(f) provides the requirements for initial drug testing. This provision is equivalent to § 26.405(f) except to account for the testing of urine and oral fluid specimens under subpart M of part 26. The initial test must use an immunoassay or an alternative technology, as specified in the HHS Guidelines for the specific biological specimen that is to be tested. Examples of alternative technologies include liquid or gas chromatography and mass spectrometry. Another difference from § 26.405(f) is changing the word ''urine'' in § 26.405(f) to ''biological specimens'' in § 26.607(f). Lastly, § 26.607(f) includes the phrase ''discrepant biological marker'' as a drug screening result that must be analyzed by an HHS-certified laboratory and evaluated by the MRO to help inform the MRO's determination of a subversion attempt.

Section 26.607(g) enables a part 53 licensee to use oral fluid as a biological specimen for testing. This requirement is equivalent to § 26.31(d)(5), which enables the MRO to conduct drug and alcohol testing using alternative methods, and § 26.405, which does not preclude the use of oral fluid specimens for FFD programs that implement subpart K of part 26 requirements. In order to provide assurance that drug testing is effective and protects the worker, § 26.607(g) requires that the licensee's or other entity's procedures incorporate the HHS Guidelines or the requirements in part 26 for the conduct of urine or oral fluid testing.

Section 26.607(g) requires that the oral fluid device must not expire before the date of the collection of the specimen. Also, the drugs, drug metabolites, initial and confirmatory testing cutoffs, and biological markers, if applicable, must be those established by the HHS Guidelines for oral fluid drug testing and the alcohol cutoffs in part 26. If they are not established by the HHS Guidelines or this part for the paneled drugs and drug metabolites, then they will be determined and documented by a forensic toxicologist review under § 26.31(d)(1)(i)(D).

Section 26.607(g)(2) permits the virtual collection of oral fluid specimens for drug and alcohol testing but only at facilities that must use a consortium/third-party administrator to implement random testing under § 26.607(b)(2)(vi). A virtual collection monitor is permitted in the location where the specimen collection is to be performed to assist the virtual collector, such as by completing Federal custody and control form (Federal CCF) paperwork; observing activities outside the viewable area of the video

teleconference equipment to ensure that the donor does not attempt to subvert the testing process; providing information to the virtual collector if/when requested; and ensuring that the oral fluid specimen(s) once packaged for shipping are secured until picked up for transportation to the HHS-certified laboratory.

Section 26.607(i) enables the collection of hair specimens for drug testing to supplement pre-access testing of urine or oral fluid specimens. Hair testing is a new feature in the part 26 framework. The NRC is permitting the use of hair testing for only Schedule I or II drugs or their metabolites to inform a licensee's or other entity's determination whether the individual is trustworthy and reliable. For example, if an individual stated no prior use of illegal drugs, a pre-access hair test could be performed to ascertain the validity of the individual's statement. However, if the HHS-certified laboratory reports a positive test result, an FFD policy violation may not be administered. This laboratory information must be treated as potentially disqualifying FFD information, unless the individual is determined to have attempted to subvert the testing process, in which case a permanent denial of authorization must be issued under § 26.610(b)(4). To provide assurance of testing effectiveness and protections afforded to individuals subject to the FFD program, § 26.607(i) requires that an HHS-certified laboratory must be used to test the hair specimen. The forensic toxicologist review is necessary if the panel of drug or drug metabolites to be tested and their cutoffs are not established by HHS or part 26 for hair.

Section 26.607(j) enables the use of portal area screening instruments to test for drugs, alcohol, or both, should these types of screening tests become available for use. This technology could substantially contribute to a licensee or other entity satisfying the § 26.23 performance objectives by helping ensure that all individuals who arrive at the NRC-licensed facility to perform or direct those duties and responsibilities or maintain those types of access making them subject to the FFD program are fit for duty and deterred from arriving onsite in a physiological condition that may be adverse to safety and security. Additionally, screening could be conducted when individuals exit the NRC-licensed facility to provide assurance that substance abuse had not occurred onsite (see § 26.23(d)). The screening instrument could be electronically linked to temporarily prevent ingress or egress and could automatically inform licensee- or other entity-designated officials of the portal area alarm. The use of portal area screening technologies may also represent cost savings because, for NRC-licensed facilities that have small staff sizes or are geographically remote, passive drug and alcohol screening technologies could be an innovative alternative to a random testing program, although the license or other entity would need to request and receive an exemption.

Section 26.607(j) also provides that if the portal area screening instrument detects a substance that exceeds the instrument's established setpoint, the individual then must be for-cause tested under § 26.607(b)(3) for drugs, alcohol, or both, depending on the screening test result received. A portal area screening test result is to be considered credible use information, which strengthens the effectiveness of a licensee's or other entity's BOP. The requirements do not allow an individual to be rescreened by the portal area screening instrument following an initial screening detection that exceeded an established setpoint in order to prevent a subversion attempt. To ensure the accuracy of any portal area screening testing performed by a licensee or other entity, a performance-based approach must be used to verify the continuing accuracy of the testing for each substance tested by the instrument. A portal area screening test can be used so long as the accuracy of the test result for a specific substance is confirmed by the resultant for-cause testing performed on an oral fluid or urine specimen for drugs, oral fluid or breath specimen for alcohol, or both. If a portal area screening result for a specific drug or drug metabolite is confirmed by drug testing performed at an HHS-certified laboratory, or oral fluid or breath alcohol testing for at least 85 percent of the specimens testing positive on portal area screening in the past 12-month data reporting period for a specific substance, the portal area screening test for that substance can continue to be used. This performance-based measure balances the use of the technology with the protection afforded to individuals from unnecessary testing. If these instruments and alcohol screening devices have the capability, they could also be used to determine the true identity of individuals to facilitate the implementation of the FFD BOP, which may be very practicable at facilities that operate with small staff sizes.

Section 26.607(k) enables the use of a blood specimen for drug, alcohol, or other testing for certain medical conditions as determined by the licensee- or other entity-designated MRO. This requirement is equivalent to current § 26.31(d)(5). The use of a licensee- or other entity-designated MRO and not one designated by a third party, such as an MRO employed by an offsite specimen collection facility, is important because the MRO must be familiar with the subpart M of part 26 requirements. To help ensure testing effectiveness and protect the worker, the blood test needs to be conducted by a laboratory that demonstrates compliance with quality control requirements that are comparable to those required for certification by the HHS, such as a hospital or clinic certified by the State, Commonwealth, or territory.

Section 26.607(l) requires licensee and other entities to use a Federal custody and control form (Federal CCF) as defined in § 26.5 for the collection and packaging of hair, oral fluid, and urine specimens for drug testing. This requirement is based on the Federal CCF documentation requirements in current subpart E of part 26 because subpart K of part 26 does not require the use of a Federal CCF under § 26.117(e).

Section 26.607(m) establishes requirements for the licensee- or other entity-designated MRO. Section 26.607(m)(1) is equivalent to § 26.405(g), however, the word ''designated'' is added to the first sentence to clarify that the MRO is designated by the licensee or other entity, and not by a third party. As stated with regard to § 26.607(k), this change clarifies that it is the licensee's or other entity's responsibility, through their designated MRO, to determine whether an individual is fit for duty and trustworthy and reliable. This is consistent with the description of FFD program personnel in current § 26.31(b) and helps provide FFD program effectiveness and protections to individuals subject to the FFD program. The paragraph was also modified from § 26.405(g) to address the determinations of FFD policy violations and fitness required by subpart H for a part 53 licensee or other entity that implements the FFD program described in § 26.605(b).

Section 26.607(m)(2) helps ensure that MRO reviews are consistent with those MRO reviews conducted at other NRC-licensed facilities subject to part 26 and that the MRO maintains knowledge of drug collection, testing processes and procedures, and evaluation of testing results.

The NRC is also requiring that if an MRO performed the duties and responsibilities in §§ 26.185 and 26.187 for at least three continuous years in the last 10 years prior to being hired or contracted by the licensee or other

entity, then the MRO would not need to repeat the initial training and examination requirements. The basis for 3 years is that the MRO has experienced three annual cycles of evaluating drug and alcohol test results, contributed to the annual FFD program performance data reported to the NRC, experienced a refueling or maintenance outage, understood the duties and responsibilities of individuals subject to the FFD program to make informed determinations of fitness, demonstrated a safety culture that helps ensure FFD program effectiveness, and been subject to NRC inspection. The basis for 10 years is the relatively long periods between significant changes to part 26 and the HHS Guidelines.

Section 26.607(m)(3) requires that the MRO attend a medical- or clinical-based training session every 5 years. This requirement was developed, in part, from section 13.1 of the HHS Guidelines for the testing of urine and oral fluid specimens and 49 CFR 40.121 of the U.S. Department of Transportation's requirements. The NRC did not include an examination requirement as part of this refresher training requirement because it could limit the types of trainings that MROs may attend. The new requirement is justified to maintain currency on changes in societal drug use, forensic toxicology, determinations of fitness, and other part 26 technical areas necessary to perform required responsibilities as an MRO performing services under subpart M of part 26.

Section 26.607(m)(4) requires the MRO to evaluate drug testing results by implementing the requirements in § 26.185 or the HHS Guidelines through the licensee's or other entity's procedures. This requirement helps ensure FFD program effectiveness and enhances consistency across the commercial nuclear industry for the evaluation of drug testing results. This also helps protect individuals because they are subject to the same evaluation criteria. If § 26.185 provides insufficient information for an MRO to make a determination on a drug testing result (including adulterant and discrepant biological markers), the guidance issued by a State agency in the State in which the NRC-licensed facility is located, Federal agency, or nationally recognized MRO training and certification organization may be used to inform an MRO determination. This provision ensures that the MRO has the flexibility to inform their evaluation of the drug testing results and fitness determination, if necessary, considering the drug- and alcohol-related flexibilities afforded in subpart M of part 26.

The § 26.607(m)(4)(ii) requirement also states that an MRO need not review alcohol test results, including positive confirmatory alcohol test results determined by an EBT under § 26.607(c)(3)(vi) and (vii), which are equivalent to the current requirements in §§ 26.101 and 26.103, respectively. Section 26.607(c)(3)(i) requires the use of an EBT under § 26.91, which ensures that confirmatory alcohol test results are precise and accurate to issue FFD policy violations.

Section 26.607(m)(5) requires the licensee- or other entity-designated MRO to determine and approve the use of oral fluid or urine as an alternative biological specimen when the donor cannot provide a requested specimen for testing. This requirement is equivalent to § 26.31(d)(5), which enables the use of an alternative specimen collection if a medical condition makes the collection of the biological specimen difficult. This determination and the retest must be completed as soon as reasonably practicable and documented to support recordkeeping, auditing, and NRC inspection.

Section 26.607(m)(6) requires that the MRO review all specimen test results associated with a drug-related FFD policy violation. This includes split specimens and all specimens taken to resolve a discrepant condition, such as a possible subversion attempt, impairment without a known cause, or a donor-requested or MRO-directed retest. To resolve a discrepant condition, the MRO is authorized to test a specimen for a biological marker, adulterants, or additional drugs. The broad scope of this MRO evaluation is necessary because of the variety of different screening and testing methods that may have been associated with the FFD policy violation. All information learned from the conduct of part 26 drug and alcohol testing should be used in the evaluation of an individual's trustworthiness and reliability, issuance of a sanction, and development of a follow-up treatment and testing plan, if administered.

Section 26.607(n) is equivalent to current § 26.31(d)(6) and establishes limits on the screening and testing of biological specimens. This is a protection consideration afforded to individuals subject to the FFD program and was not provided in subpart K of part 26. This requirement states that specimens collected under NRC regulations may only be designated or approved for screening and testing as described in this part and may not be used to conduct any other analysis or test without the written permission of the donor. Analyses and tests that may not be conducted include, but are not limited to, deoxyribonucleic acid (*i.e.,* DNA) testing, serological typing, or any other medical or genetic test used for diagnostic or specimen identification purposes.

The NRC is requiring that no biological specimens may be passively sampled and analyzed in a manner different than described in subpart M of part 26 to ensure workers are protected from non-consensual passive screening. The subpart M framework enables passive detection of drugs and alcohol, whereas passive detection is not afforded in subparts A through I, N, and O of part 26.

Section 26.607(o) is equivalent to current §§ 26.31(b)(1)(iii)(A) and 26.89 and requires that all specimen collections be conducted by a licensee- or other entity-designated and -trained individual. For subpart M of part 26, this includes onsite specimen collections, except a collection by a portal area screening instrument in § 26.607(j).

Section 26.608 requires licensees and other entities to provide FFD program training to individuals subject to the FFD program. The performance-based § 26.608 requirement was developed from the prescriptive training requirements in current § 26.29 and modeled on current § 50.120 and the requirements in §§ 53.725 and 53.830 because there is no training requirement in subpart K of part 26.

Section 26.608(a)(1) requires an FFD training program that includes the licensee's or other entity's FFD policies and procedures, including fatigue management, and the individuals' FFD program responsibilities. Individuals who collect specimens for testing must also be trained in specimen collector duties and responsibilities, including, at a minimum, specimen collection, custody and control, identification and response to subversion attempts, and privacy. For individuals specified in § 26.4, a licensee or other entity of a commercial nuclear plant is required to use a SAT, as defined in § 53.725(c)(13). These requirements are based on requirements in § 26.29(a)(2), (3), (9), and (10).

Section 26.608(a)(2) requires training on the BOP. This requirement is based on §§ 26.29(a)(8), (9), and (10), and 26.33. The provision requires individuals to be trained in the detection of behaviors or conditions that may indicate the use of illegal drugs, as in the current § 26.33 BOP requirements, and also the use of illicit drugs and substance abuse onsite and offsite. Also, in reference to impairment from fatigue or any cause if left

unattended, the phrase in § 26.33, ''may constitute a risk to public health and safety or the common defense and security,'' is replaced in § 26.608(a)(2)(iii) with ''could result in inattentiveness or human errors,'' because subpart M of part 26 is focused, in part, on ensuring individuals are fit for duty to perform or direct the performance of assigned duties and responsibilities safely and competently.

Section 26.608(a)(2)(iv) focuses on training to inform individuals that they are responsible for their own conduct, as well as observing others. Specifically, individuals will be trained to recognize when they feel unable to safely and competently perform assigned duties and responsibilities, as well as to recognize when others appear unable to safety and competently perform assigned duties and responsibilities or act in an untrustworthy and unreliable manner. The training requirement and the self-reporting requirement in § 26.606(a)(5) are in the interest of safety and security because the individual is proactively announcing that assistance may be necessary. This is consistent with the performance objectives in § 26.23(b) and (c), where certain behavior or stress conditions may be indicative of an individual not being fit for duty, trustworthy, and reliable.

Section 26.608(a)(3) helps ensure that individuals subject to the FFD program understand that FFD policy violations result in an FFD program sanction and that program information learned or generated by FFD program implementation will be used to aid licensee or other entity authorization determinations and be shared, as requested, with other licensees or other entities subject to parts 26 and 73. This requirement is equivalent to § 26.29(a)(1). Section 26.608(a)(3) is a protection measure afforded to individuals subject to the FFD program because they will understand that licensees and other entities subject to parts 26 and 73 will be informed of, in part, an individual's character, reputation, and ability to follow policies, procedures, and instructions to safely and competently perform assigned duties and responsibilities in a trustworthy and reliable manner. FFD-related information includes drug and alcohol testing results (not quantitative testing values), issuance of any sanctions, FFD determinations regarding trustworthiness and reliability, testing programs, treatment, and other remedial or corrective action.

Section 26.608(b) requires individuals to be trained on the FFD program and to receive a trainee assessment before pre-access testing. Section 26.608(b) also requires that FFD program refresher training and trainee assessments be conducted on a nominal 24-month frequency or more frequently if the need is indicated. These requirements are similar to § 26.29(c)(1). However, § 26.608(b) was developed from the SAT-based training requirements in § 50.120 and training elements from the annual FFD program refresher training requirements in § 26.29(c)(2). A trainee assessment is the same as in currently required SAT-based training programs.

Section 26.608(c) requires licensees and other entities to periodically evaluate their FFD training programs and revise them as appropriate. This training focus is not required by subpart K of part 26 or § 26.29 but addresses the flexibilities afforded in subpart M of part 26. This section is equivalent to § 50.120(b)(3).

Section 26.609 requires the implementation of a BOP. The requirement is equivalent to that in §§ 26.33 and 26.407, ''Behavioral observation,'' and applies during construction, operation, and decommissioning, if applicable. Because subpart M of part 26 applies during decommissioning through a licensee's IMP, § 26.609(a) and (b) were developed, in part, from new § 73.100(b)(9) and current §§ 73.55(b)(9) and 73.56(f) to help ensure consistency in the conduct of behavioral observation whether conducted for FFD or security purposes.

Under the FFD program, the purpose of the BOP is to help ensure that individuals subject to the FFD program are fit for duty and trustworthy and reliable to perform or direct those duties and responsibilities and maintain those types of access that make the individual subject to the FFD program. This assurance is accomplished by requiring each individual subject to subpart M of part 26 to be subject to behavioral observation, and by requiring all individuals to perform behavioral observation of others and report FFD concerns to the licensee- or other entity-designated representative(s). The intent of the BOP requirement is not to require that all individuals be observed at all times by others; NRC-licensed operators, maintenance professionals, security officers, and others routinely perform solo operations periodically throughout the day. However, individuals must be subject to observation while they are performing or directing the performance of duties and responsibilities or maintaining the types of access making them subject to the FFD program. Observing behavior only at the beginning of a work shift is not sufficient to ascertain whether an individual is fit for duty, trustworthy, and reliable. Impairing substances may have a delayed effect between use (*e.g.,* ingestion of a controlled substance) and the onset of physiological or psychological effects, and fatigue accumulates with time. Behavior must be continually observed throughout the work shift to detect any changes from baseline human performance characteristics, including mental or physical health and mannerisms, or any activities that may indicate that the individual is not trustworthy and reliable.

Section 26.609(a) differs from §§ 26.33 and 26.407 in that it places the responsibility for performing behavioral observation on ''all individuals subject to this subpart,'' rather than only those ''individuals specified in § 26.4(f) [who] are constructing or directing the construction of safety- or security-related SSCs'' in § 26.407 or ''individuals who are trained under § 26.29 to detect behaviors'' in § 26.33 to improve clarity.

Section 26.609(b) requires all individuals subject to the FFD program to report to the licensee- or other entity-designated representative any onsite or offsite behaviors or activities by individuals subject to this part that may constitute an unreasonable risk to the safety or security of the NRC-licensed facility or SNM or may cause harm to others. The NRC is requiring this description of reportable conduct because an individual's activities (*e.g.,* use of illegal substances) and communications (*e.g.,* hate speech or threats of violence) offsite are a direct indication of the individual's fitness, trustworthiness, and reliability and must be evaluated as to whether authorization should be granted or maintained. Section 26.609(b) includes a description of this conduct instead of the § 26.33 undefined phrase, ''FFD concerns,'' to enhance the clarity of the requirement. This BOP reporting requirement includes any information relating to character or reputation of the individual indicating that the individual cannot be trusted or relied upon to perform those duties and responsibilities or maintain access to NRC-licensed facilities, SNM, or sensitive information. This better aligns with the § 73.120 BOP requirement, which states that each person subject to behavioral observation must communicate to the licensee or applicant observed behaviors or activities of individuals that may constitute an unreasonable risk to the health and safety of the public and common defense and security. Section 26.609(a) and (b) were written broadly

to include offsite conduct that the reporting individual considers serious enough to call into question the character or reputation of the subject individual.

Section 26.609(c) requires that licensees and other entities perform behavioral observation visually, in-person, and, when necessary, remotely by live video and audible streaming and capture. This requirement was developed from the security observation requirements in § 73.55(e)(7)(i)(B) and (C), (h)(2)(v), and (i)(2) and (i)(5)(ii). Conducting an in-person observation of another individual is the preferred method to ascertain whether the observed individual can safely and competently perform assigned duties and responsibilities. When in-person observations are not feasible (*e.g.,* during solo operations), the requirement enables the use of video monitoring. This is addressed, for example, in § 26.609(d) regarding NRC-licensed operator manipulation of reactor controls. Additionally, certain duties (such as maintenance activities performed by a single worker outside of a control room) may not present an opportunity for video monitoring; in these situations, behavioral observation should be conducted on a sampling basis (*i.e.,* a planned observation of the work activity) as outlined in a licensee's or other entity's FFD program.

In situations involving small staff sizes, facilities sited in geographically remote locations, or both, additional observers enhance the effectiveness of a BOP. Technological developments in automated safety and security systems may enable licensees or other entities to reduce staff sizes to 10 to 40 percent of the staff size of an LWR facility licensed under part 50 or 52. Smaller staff sizes may translate into more solo operations, less teamwork, fewer peer checks, or infrequent management oversight of field activities, leading to fewer behavioral observations. Therefore, a licensee or other entity may have fewer opportunities to observe whether individuals are fit for duty. Enabling video and audible streaming and capture to enhance the BOP is consistent with the security-related behavioral observation requirement in § 73.120(c)(2)(ii), which also enables video conferencing or other acceptable electronic means promoting face-to-face interaction for those individuals working remotely.

Section 26.609(d) requires that licensees or other entities perform behavioral observation of NRC-licensed operators who manipulate the controls of any commercial nuclear plant licensed under part 53, remotely by live video and audible streaming capture for those part 53 facilities where individual task loading does not allow for the effective conduct of behavior observation in addition to assigned operational tasks. The purpose of this paragraph is similar to that of § 26.609(c), where the possibility of in-person observation is significantly diminished because of solo operations or because the facility may only require a minimum staff size onsite.

Section 26.610(a) is similar to § 26.409, ''Sanctions,'' and requires the licensee or other entity to establish sanctions for FFD policy violations that, at a minimum, prohibit the individuals specified in § 26.4 from being assigned to perform or direct those duties and responsibilities or maintaining authorization making them subject to subpart M of part 26. To be consistent with § 26.75, ''Sanctions,'' the severity of the sanction as described in § 26.610(b) escalates with the number of occurrences and severity of the FFD policy violation. The sanction is long enough to help deter future FFD policy violations and facilitate counseling and treatment before the licensee reinstates the individual's access to the facility.

Equivalent to § 26.75(c), § 26.610(b)(3) also requires a minimum 5-year denial of access to the NRC-licensed facility for certain violations of the FFD policy within the protected area of a commercial nuclear plant and by an individual or individuals who are the operators of the conveyance to transport or use formula quantities of strategic SNM. Equivalent to § 26.75(b), § 26.610(b)(4) requires a permanent denial of authorization be issued for any subversion attempt.

Section 26.611 protects information collected from FFD program implementation and is equivalent to current § 26.411, ''Protection of information.'' The protected information includes, but is not limited to, privacy and medical information. Section 26.611 does not include the § 26.411 requirement that FFD programs must maintain and use the personal information with the highest regard for individual privacy because such a requirement is unnecessary in light of the § 26.611(a) requirement that licensees and other entities must establish and maintain a system of files and procedures to prevent unauthorized disclosure.

Section 26.611(b), although equivalent to § 26.411(b), requires licensees and other entities to have all individuals sign a consent to be subject to the FFD program before subjecting the individual to the FFD program (*e.g.,* before being subject to a pre-access test in § 26.607(b)(1), unlike § 26.411(b)). The purpose of this requirement is to enhance protections afforded to individuals subject to the FFD program and their knowledge of, in part, why they are subject to drug and alcohol testing, behavioral observation, information collection, MRO reviews, and other FFD program elements. Like the consent required by § 26.411(b), the consent authorizes disclosure of the collected information. Consent is not needed for disclosures to the individuals and entities specified in § 26.37(b)(1) through (b)(6), (b)(8), and persons deciding matters under review in § 26.613, ''Appeals process.''

Section 26.613 is equivalent to § 26.413, ''Review process.'' The title was changed to an appeal process to clarify that § 26.613 is the process implemented when an individual elects to appeal a licensee or other entity determination that the individual had violated the FFD policy. The provision also requires that the process include a schedule for the completion of the review of the determination that the individual had violated the FFD policy. The NRC is establishing this requirement because operating experience demonstrates that workers may not be protected from a continuous review process that does not result in an outcome.

Section 26.615 requires licensees and other entities to perform audits of the FFD program. The section is similar to § 26.415, ''Audits.'' Under § 26.615(a), audits are performed at a frequency that ensures the FFD program's continuing effectiveness. Corrective actions will be taken as soon as reasonably practicable to resolve any problems identified and preclude recurrence. Section 26.615(b) requires the subject matter, scope, and frequency of audits to be revised as necessary to improve or maintain FFD program performance based on annual FFD program performance data reviews performed under § 26.617(d) and unsatisfactory performance or programmatic weaknesses identified under § 26.617(b)(3) and (e).

Section 26.615(c) is equivalent to § 26.415(b) and enables licensees and other entities to conduct joint audits or accept audits of C/Vs so long as the audit addresses the relevant services of the C/Vs.

Section 26.615(d) is equivalent to § 26.415(c) by establishing requirements for the auditing of HHS-certified laboratories. Unlike § 26.415(c), the new requirement does not contain a reference to the U.S. Department of Transportation drug and alcohol testing requirements. This broadens the regulatory flexibility afforded to a

licensee or other entity in that they may use an offsite collection or testing facility that does not meet the Department of Transportation requirements.

Section 26.615(d) states that licensees and other entities need not audit an HHS-certified laboratory if the licensee's or other entity's panel of drugs and drug metabolites to be tested is equivalent to the panel by which the laboratory is certified by HHS or is subject to the standards and procedures for drug testing and evaluation used by the laboratory under the HHS Guidelines. The NRC affords this flexibility because the NRC is aware that HHS desires to streamline changes in its guidelines to its panel of drugs and drug metabolites to be tested. Therefore, if a licensee or other entity elects to implement the HHS Guidelines in its procedures and maintains the minimum panel of drugs and drug metabolites to be tested as required by subpart M of part 26, a licensee or other entity may still use (and not audit) the HHS-certified laboratory because the § 26.603(e) change control process maintains FFD program effectiveness.

To help ensure FFD program effectiveness, § 26.615(d) also requires that collection facility procedures are comparable to those required in subpart E of part 26, including a requirement that the offsite facility's specimen collection and testing procedures are audited on a biennial basis, which is also a protection consideration afforded to individuals subject to the FFD program. Conducting this audit on a biennial basis is equivalent to that required in § 26.41(b) and helps ensure that the specimen collection process at the facility remains effective.

Section 26.617 establishes recordkeeping, reporting, and FFD program performance requirements similar to those in current § 26.417. However, § 26.617 requires retention of records pertaining to administration of the FFD program and FFD performance data required by § 26.717 until license termination, which is based on current § 26.711(a) because § 26.417 does not provide for a retention period.

Section 26.617(b)(1) is identical to the reporting requirements in § 26.417(b)(1) regarding the licensee's or other entity's FFD program.

Section 26.617(b)(2) requires the reporting of annual (*i.e.,* January through December) FFD program performance data for each FFD program subject to subpart M. Licensees and other entities must submit the program performance data to the NRC before March 1 of the following year. This reporting is equivalent to the annual program performance requirement in § 26.417(b)(1), and the March 1 due date is based on the reporting deadline in § 26.717(e). Licensees and other entities are required to report FFD performance information using NRC-provided forms (*e.g.,* new NRC Forms 893, ''Single Positive Test Form, 10 CFR part 26, subpart M FFD Program'' and 894, ''Annual Reporting Form, 10 CFR part 26, subpart M FFD Program'').

Section 26.617(b)(3) requires the reporting of drug and alcohol testing errors to the NRC within 30 days of completing an investigation of any testing errors or unsatisfactory performance, discovered at an HHS-certified laboratory or through the processing of appeals under § 26.613, or matters that could adversely reflect on the integrity of the random selection or random testing process. Licensees and other entities must describe in the reports the incident and any corrective actions taken or planned.

Section 26.617(c) requires that FFD-related information be shared within the commercial nuclear industry when requested to support authorization determinations. This requirement helps individuals seeking employment by another NRC-licensed facility subject to subpart C of part 26, complete their NRC-required sanctions and licensee-administered or -directed drug and/or alcohol abuse treatment plans before the restoration of authorization by a licensee or other entity. Information sharing may also enhance FFD program effectiveness because FFD-related lessons learned from, for example, substance testing, subversion attempts, and laboratory and MRO performance must be shared when requested.

Section 26.617(d) requires licensees and other entities to analyze FFD program performance data at least annually and take appropriate actions to correct any identified program weakness.

Section 26.617(e) requires licensees and other entities to document, trend, and correct non-reportable indicators of FFD programmatic weaknesses under the licensee or other entity's corrective action program. However, to protect individual privacy, drug and alcohol test results may not be tracked in a manner that would permit the identification of any individuals.

Section 26.619 requires licensees or other entities to establish a process to evaluate individuals when their fitness or trustworthiness and reliability are in question. Section 26.619 is equivalent to § 26.419, ''Suitability and fitness determinations,'' but, unlike § 26.419, applies during the construction and operation phases. Also, § 26.619 requires that a suitability or fitness determination conducted for cause be conducted face-to-face. This requirement is based on current § 26.189(c); however, unlike § 26.189(c), § 26.619 does not prohibit augmenting determinations via electronic means of communication (*i.e.,* provides sufficient visual and aural clarity to complete the process). Instead, § 26.619 explicitly permits determinations to be performed via electronic means and explains when a trained individual must be present in-person with the individual being assessed (*i.e.,* only to assist in completing for-cause drug and alcohol testing determinations and fatigue assessments).

In considering the current restriction on the use of electronic means of communication for determinations of fitness conducted for cause, the NRC finds that since publication of the 2008 part 26 final rule, there have been developments in using electronic means of communication (*i.e.,* videoconferencing) as an alternative to conducting face-to-face interactions. To address these considerations, the NRC contracted the Pacific Northwest National Laboratory (PNNL), DOE, to study whether a medical and mental health assessment via electronic communication could be an acceptable alternative to an in-person, face-to-face assessment.[9] Based on this study, if electronic means were to be used to conduct a face-to-face assessment, an in-person element would still be integral to the assessment process. However, under certain circumstances, face-to-face determinations and assessments conducted as part of an FFD program for an entity licensed under part 53 (*i.e.,* those determinations and assessments performed in accordance with § 26.619, § 26.207, or § 26.211) may be augmented via electronic communications. Such remotely conducted determinations and assessments are required to be conducted with someone who is present in-person with the individual being assessed and who is trained in accordance with the requirements of either § 26.29 and § 26.203(c) or § 26.608 and § 26.202(c). Permitting the use of electronic communications helps ensure FFD program effectiveness, especially in instances where the part 53 commercial nuclear plant is sited in a geographically remote location, when the facility has a small staff size, and when an urgent determination is required.

[9] PNNL, Technical Letter Report, ''The Use of Electronic Communications to Perform Determinations of Fitness,'' dated August 2017.

D. Changes to Part 26, Subpart N

Section 26.709 makes the recordkeeping and reporting requirements in subpart N of part 26 applicable to licensees and other entities of facilities licensed under part 53 that elect not to implement the requirements in subpart M of part 26 or elect to implement the requirements in § 26.605(b).

This final rule amends § 26.711(c) and (d) to make these requirements applicable to licensees or other entities described in § 26.3(f). Section 26.711(c) provides protection to individuals subject to part 26 by enabling an individual's right to review FFD-related information and correct any inaccurate or incomplete information. Section 26.711(d) requires, in part, that any FFD-related information shared with other licensees or other entities is correct and complete.

E. Changes to Part 26, Subpart O

Most of the changes to part 26 are new or revised substantive provisions that establish a regulatory obligation or prohibition or are conforming edits to reflect the addition of part 53. The only new provision that is not substantive, such that violation of it would not result in a criminal penalty, is § 26.601. Therefore, the NRC is adding § 26.601 to the list of regulations in § 26.825(b) to which criminal sanctions do not apply.

10 CFR Part 50

A. Section 50.160: Emergency Preparedness for Small Modular Reactors, Non-Light-Water Reactors, and Non-Power Production or Utilization Facilities

This final rule revises § 50.160(b)(3) and (c)(2) to make that section applicable to applicants and licensees under part 53. Section 50.160 provides an alternative to other part 50 emergency preparedness requirements focused on large light-water reactors to provide an optional emergency preparedness framework specifically for small modular reactors (SMRs) and other new technologies. These alternative emergency preparedness requirements adopt a performance-based, technology-inclusive, risk-informed, and consequence-oriented approach. Commercial nuclear reactor applicants complying with § 50.160 must submit as part of the application the analysis used to determine whether the criteria in § 53.1109(g)(2)(i)(A) and (B) are met and, if they are met, the size of the plume exposure pathway emergency planning zone (EPZ). An EPZ bounds the area surrounding a facility within which detailed planning is needed to implement predetermined, prompt protective actions. The criterion in § 53.1109(g)(2)(i)(A) is that public dose, as defined in § 20.1003, is projected to exceed 10 mSv (1 rem) TEDE over 96 hours from the release of radioactive materials from the facility considering accident likelihood and source term, timing of the accident sequence, and meteorology. The criterion in § 53.1109(g)(2)(i)(B) is that pre-determined, prompt protective measures are necessary. These are the same criteria that are in § 50.33(g)(2)(i)(A) and (B) and are used to assess the need for and size of an EPZ in applications under parts 50 and 52.

Applicants choosing to comply with § 50.160 must determine the radiological releases from the facility that are evaluated in the determination of the plume exposure pathway EPZ. Applicants should consider quantitative and qualitative information on the potential radiological releases that make up the spectrum of accidents used to develop the basis for the applicant's site-specific EPZ. This information is derived from the licensing basis. The NRC plans to update the risk-informed approach in RG 1.242 for part 53 while maintaining its flexibility for using information already developed and available in licensing-basis documents, including PRA results, deterministic dose quantities, accident timing, target set analyses, mitigation capabilities, and site-specific factors such as meteorology.

Applicants choosing to comply with § 50.160 must determine the radiological releases from the facility that are evaluated in the radiological dose assessment to inform the determination of the plume exposure pathway EPZ size. In its Safety Analysis Report, the applicant will describe the LBEs relevant to the facility and consider these LBEs as candidates for the spectrum of accidents used to develop the site-specific EPZ. The LBEs assessed include a wide range of events that are appropriate for considering in the facility's emergency preparedness and response planning. In addition, § 50.160(b)(1)(iv)(A)(*2*) requires licensees to be capable of implementing their approved emergency response plan in conjunction with their safeguards contingency plan.

An appropriate EPZ and pre-determined, prompt protective measures are elements of an effective emergency plan. The EPZ size is primarily informed by the consequences and release characteristics of the LBEs derived from the safety case. Each licensee should ensure that its emergency plan documents the onsite protection strategies and, as warranted, off-site preparedness capabilities to reasonably respond to, monitor, and protect against the potential events associated with the facility. The characteristics of seismic and security events should be provided in the analysis required by § 53.1109(g)(2), but the calculated dose consequences may be, but do not need to be, explicitly considered in the EPZ size determination in the same manner as LBE consequences, if the consequences from these events are less than the consequences from the LBEs. Rather, the characteristics of these events (consequence, timing, radionuclides of release) may be discussed and used to justify that the EPZ size and pre-determined, prompt protective measures to address the LBEs are sufficient to ensure that capabilities exist to reduce consequences of those events.

Part 53 applicants and licensees should consider security events in their EPZ-sizing analysis under § 53.1109(g)(2). If any such events lead to consequences greater than licensing-basis events already being considered in the EPZ size justification and would warrant preplanned prompt protective measures, then the applicant or licensee should include the security event(s) in its EPZ-sizing analysis or provide an adequate alternate method(s) for addressing them. If any of the events do not lead to consequences greater than licensing-basis events already being considered in the EPZ size justification or would not warrant preplanned prompt protective measures, then the applicant or licensee would not need to include those events in the EPZ-sizing analysis.

B. Appendix B to Part 50: Quality Assurance Criteria for Nuclear Power Plants and Fuel Reprocessing Plants

This final rule amends appendix B to part 50 to make it applicable to applicants and licensees under part 53. This results in the need for some revisions to recognize differences in terminology between parts 50 and 53. Namely, the term ''design bases,'' which is defined in § 50.2, is not used in part 53. For this reason, this final rule adds text in both section III, ''Design Control,'' and section IV, ''Procurement Document Control,'' to refer to ''functional design criteria, as defined in § 53.020,'' as the part 53 equivalent of the term ''design bases.''

C. Appendix E to Part 50: Emergency Planning and Preparedness for Production and Utilization Facilities

This final rule amends appendix E to part 50 to make it applicable to

applicants and licensees, under part 53, that choose to comply with the requirements in appendix E to part 50 and the planning standards of § 50.47(b) in accordance with § 53.855. Because the regulations contained in § 50.160 are not applicable to large LWR designs, NRC has revised appendix E to recognize the applicability of the appendix to part 53 applicants and licensees. The conforming changes made to appendix E allow its use in conjunction with § 50.47 to provide emergency preparedness framework for large LWR or other designs under part 53.

10 CFR Part 73

A. Section 73.100: Technology-Inclusive Requirements for Physical Protection of Licensed Activities at Commercial Nuclear Plants Against Radiological Sabotage

Section 73.100 provides a performance-based regulatory framework for the design, implementation, and maintenance of a physical protection program and security organization for certain commercial nuclear plants licensed under part 53. The current § 73.55 physical security requirements for nuclear power reactors licensed under part 50 and part 52 use a combination of performance criteria (*e.g.,* § 73.55(b)(1) through (3)) and numerous prescriptive requirements developed to achieve performance objectives (*e.g.,* § 73.55(k)(5)(ii)). By contrast, in the performance-based approach to physical security for part 53, performance objectives and requirements are the primary bases for regulatory decision-making, giving the licensee the flexibility to determine how to demonstrate compliance with the established performance criteria for an effective physical protection program. This physical protection program provides reasonable assurance that activities involving SNM are not inimical to the common defense and security and do not constitute an unreasonable risk to the public health and safety.

Section 73.100(a) requires each part 53 licensee that elects to demonstrate compliance with this section rather than § 73.55 to implement the requirements therein through a graded approach based on achievability of target sets. For licensees that identify achievable target sets, all of the requirements of § 73.100 apply, and must be implemented prior to initial fuel load into the reactor (or, for a fueled manufactured reactor, before initiating the removal of the features to prevent criticality required under § 53.620(d)(1)). For licensees that demonstrate they have no achievable target sets, the requirements are further graded based on whether that demonstration relies on the implementation of active measures, such as operator action, mitigative action, detection, assessment, or armed response. Licensees that do not rely on active measures are exempt from the remaining requirements of § 73.100 (but must still meet physical protection requirements for SNM or radioactive material, as applicable). Licensees that rely on active measures may limit the scope of their physical protection program by ensuring that the credited active measures will be implemented when needed in response to threats.

Based on experience from recent new reactor licensing reviews, the NRC recognizes that licensees may seek to receive unirradiated fuel onsite before carrying out the security requirements in § 73.100. However, these security requirements must be implemented at some point before reactor operation to address the increased risk arising from irradiated fuel onsite. This final rule makes clear that part 53 applicants and licensees using § 73.100 may bring unirradiated nuclear fuel onsite and protect it in accordance with the NRC's requirements for physical protection of SNM of moderate and low strategic significance under § 73.67 until initial fuel load into the reactor (or, for a fueled manufactured reactor, until initiating the removal of the features to prevent criticality required under § 53.620(d)(1)).

Section 73.100(b) outlines the general performance objective and design requirements of the licensee physical protection program. A licensee's program is required to provide protection against any deliberate act within the design-basis threat (DBT) of radiological sabotage, including spent fuel sabotage, that could directly or indirectly endanger the public health and safety by exposure to radiation. The physical protection program is supported by the AA program, cybersecurity program, and IMP to demonstrate compliance with the general performance objective of § 73.100(b).

Section 73.100(b)(2) was developed, in part, from § 73.55(b)(3). To satisfy the general performance objective of § 73.100(b)(1), the physical protection program must protect against the DBT of radiological sabotage. The existing fleet of LWR satisfies this objective by preventing significant core damage and spent fuel sabotage. Some non-LWR reactor licensees' physical protection programs may be designed to prevent a significant release of radionuclides from any source. Therefore, the performance objective focuses on radiological sabotage in general, rather than a specific focus on core damage or spent fuel sabotage, to be technology-inclusive and allow for flexibility for different reactor technologies.

Under § 73.100(b)(2)(ii), licensees must provide defense in depth in achieving performance requirements through the integration of engineered systems, administrative controls, and management measures. This requirement applies defense-in-depth concepts as part of the physical protection program to ensure the capability to demonstrate compliance with the performance objective of § 73.100(b)(1) is maintained in the changing threat environment. The defense-in-depth philosophy applies to measures against intentional acts as required by § 73.100(b), and the designs of physical security systems should employ defense in depth through systems diversity, independence, and separation under § 73.100(b)(2). The most common defense-in-depth measures apply concepts of redundancy, diversity, independence, and safety margin to ensure systems reliability and availability. The defense-in-depth philosophy applies to the design of a physical protection program, which integrates engineered controls and administrative controls, to provide protection against the DBT for radiological sabotage.

Section 73.100(b)(3) requires a physical protection program that prevents the release of radionuclides from any source from exceeding the dose reference values defined in § 53.210 of this chapter. Dose reference values are intended to assess the performance of systems for design basis scenarios. These values were not originally designed for application to security events. However, because of the analogous nature of the design basis accident and design basis threat concepts, the application of dose reference values to design basis security events is a logical extension of this well-established NRC licensing tool. There are two dose reference values, but typically the 2-hour 25 rem TEDE value is the most limiting and will, therefore, be the focus of an applicant's assessment. Although this provides less prescriptive defense in depth in achieving performance requirements, the 2-hour 25 rem dose reference value remains protective of public health and safety.

A Part 53 applicant or licensee could voluntarily choose to establish or maintain a physical protection program

that prevents significant core damage or spent fuel sabotage (in other words prevent consequences in excess of the DBA consistent with 10 CFR 73.55), and this program will meet the new performance metric without additional analyses.

The NRC notes that the 25 rem TEDE reference dose was originally introduced as a screening criterion in proposed § 53.860 (89 FR 86918), such that below 25 rem TEDE licensees would not be required to meet the provisions of §§ 73.55 or 73.100. For the final rule, the NRC relocated the 25 rem TEDE reference dose to the requirements of § 73.100(b)(3), in response to public comments. The Commission's use of the 25 rem TEDE reference value for this assessment does not imply that the Commission considers it to be an acceptable limit for a security event, but only that it represents a reference value to be used for evaluating plant features and site characteristics.

Section 73.100(b)(4) requires the physical protection program to be designed and implemented to achieve and maintain the reliability and availability of SSCs required for demonstrating compliance with specified performance requirements. These physical protection performance requirements were informed by § 73.55(b) and the Commission's Advanced Reactor Policy Statement.

The performance objective of protecting against the DBT of radiological sabotage is achieved by the design and implementation of the physical protection program, maintained at all times, with the following required performance capabilities in the provisions in § 73.100(b)(4): intrusion detection, intrusion assessment, security communication, security response, protecting against land and waterborne vehicle bomb assaults, and access control portals. The physical protection program must maintain the reliability and availability of SSCs relied upon for demonstrating compliance with the performance requirements. The terms ''reliability and availability'' are intended to describe defense in depth in a performance-based manner and are critical elements for demonstrating compliance with the requirement for protection against the DBT of radiological sabotage as described in § 73.100(b)(2).

The first element, ''intrusion detection,'' is provided through the use of detection equipment, patrols, access controls, and other program elements and provides notification to the licensee that a potential threat is present and where the threat is located.

The second element, ''intrusion assessment,'' provides a mechanism through which the licensee identifies the nature of the threat detected. This is accomplished through the use of video equipment, patrols, and other program elements that provide the licensee with timely information about the threat for use in determining how to respond.

The third element, ''security communication,'' provides a mechanism through which the licensee communicates the necessary information to the response force to ensure effectiveness of the physical protection program. This is accomplished through the redundant, independent, and diverse design of physical security and/or plant SSCs relied on for onsite and offsite security communications. The continuity and integrity of communications should account for the DBT's ability to affect the reliability and availability of communications.

The fourth element, ''security response,'' provides a mechanism through which the licensee is capable of timely security response to interdict and neutralize threats up to and including the DBT of radiological sabotage. The security response may include the use of onsite armed responders, law enforcement responders (local, State, or Federal), or other offsite armed responders (*e.g.,* licensee proprietary or contract security personnel who are positioned offsite), or a combination thereof, as appropriate.[10] The licensee must provide protection against any element of the DBT, to include those that do not rise to the full capability of the DBT. Structures, systems, and components relied on to provide delay functions must be designed to provide for timely response to adversary attacks with adequate defense in depth. Delay allows the licensee to take necessary actions to counter any attempt by the threat to advance toward the protected target or target set element. The overall response objective is to place the threat in a condition from which the threat no longer has the potential for, or capability of, doing harm to the protected target.

The fifth element, ''protecting against land and waterborne vehicle bomb assaults,'' provides a mechanism through which the licensee is capable of protecting the plant against the DBT vehicle bomb assault. The methods that are relied on to protect against a DBT land vehicle and waterborne vehicle bomb assault must be designed to protect the reactor building, structures containing safety or security-related systems, and components from explosive effects.

The sixth element, ''access control portals,'' provides a mechanism through which the licensee is capable of detecting and denying unauthorized access to persons and pass-through of contraband materials (*e.g.,* weapons, incendiary devices, explosives) to protected areas. Integrity of the access control system is maintained through licensee oversight and ensures that attempts to circumvent or bypass the established process will be detected and access denied.

The performance requirements permit the applicant or licensee to determine how to design the physical protection program to protect the plant against the DBT of radiological sabotage without prescriptive requirements such as those currently found in § 73.55. RG 5.97, ''Guidance for Technology-Inclusive Requirements for Physical Protection of Licensed Activities at Commercial Nuclear Plants,'' has been developed by the NRC to describe one acceptable approach to demonstrate compliance with requirements in § 73.100.

Section 73.100(b)(5) requires the licensee to identify target sets. Target sets are defined in RG 5.81, ''Target Set Identification and Development for Nuclear Power Plants,'' Revision 2, as the minimum combination of equipment, operator actions, and/or structures that, if all are prevented from performing their intended safety function or prevented from being accomplished, barring extraordinary actions by plant operations, would likely result in a release of radionuclides from any source that would exceed the dose reference values defined in § 53.210. The licensee must further identify which of its target sets are ''achievable'' (*i.e.,* those that are within the capabilities of the DBT and,

[10] The NRC's security regulations for commercial nuclear power reactors have historically considered onsite armed responders to be the only acceptable method for interdicting and neutralizing threats up to and including the DBT of radiological sabotage. This final rule permits advanced power reactor licensees to use any interdiction and neutralization method, which is an extension of the Commission's position in SRM–SECY–17–0100, ''Security Baseline Inspection Program Assessment Results and Recommendations for Program Efficiencies,'' dated October 8, 2018, and SRM–SECY–20–0070, ''Technical Evaluation of the Security Bounding Time Concept for Operating Nuclear Power Plants,'' dated June 6, 2024. Under this final rule, a licensee retains the responsibility to detect, assess, interdict, and neutralize threats up to and including the DBT of radiological sabotage, but may rely on law enforcement or other offsite armed responders as a method for fulfilling the required interdiction and neutralization capabilities. For licensees that choose to rely on law enforcement to fulfill these capabilities, this final rule does not create any NRC regulatory jurisdiction over, or requirements for, law enforcement.

if destroyed or disabled, can lead to a significant offsite release of radionuclides that cannot be mitigated).

Section 73.100(b)(6) requires that each licensee perform a site-specific analysis for the purpose of identifying and analyzing site-specific conditions that affect the design of the onsite physical protection program.

Section 73.100(b)(7) requires licensees to implement a performance evaluation program, which ensures that a licensee will periodically test and evaluate the effectiveness of the physical protection program to protect against the DBT. This program will ensure that licensees are able to demonstrate that the physical protection program satisfies the response requirements of § 73.100 and that the site's protective strategy effectively protects against the DBT. Licensee performance evaluations will include methods to assess, test, and challenge the integration of the physical protection programs functions and demonstrate the effectiveness of security plans, licensee protective strategy, and implementing procedures in accordance with § 73.100(g).

Section 73.100(b)(8) requires licensees to implement an AA program in accordance with § 73.56. Section 73.100(b)(9) requires licensees to establish, maintain, and implement protection against a cyberattack based on either the cybersecurity program described in § 73.110 or the program described in existing § 73.54.

Section 73.100(b)(10) requires an IMP that monitors the initial and continuing trustworthiness and reliability of individuals granted or retaining unescorted access or unescorted AA to a protected or vital area. The IMP must also implement defense-in-depth methodologies to minimize the potential for an insider (active, passive, or both) to adversely affect the licensee's capability to protect against radiological sabotage. Because no one element of the AA program, FFD program, cybersecurity program, or physical protection program would, by itself, provide the level of protection against the insider necessary to demonstrate compliance with the performance objective of § 73.100(b), the effective integration of these programs is a necessary requirement to achieve defense in depth against the potential insider.

Section 73.100(b)(11) requires that the licensee have the capability to track, trend, correct, and prevent recurrence of failures and deficiencies in the implementation of the requirements in § 73.100.

Section 73.100(b)(12) requires the coordination of the security plans and associated procedures with other onsite plans to manage the safety and security interface during normal or emergency operations.

Section 73.100(b)(13) requires firearms background check requirements for all members of the security organization whose official duties require access to covered weapons or who inventory enhanced weapons.

Section 73.100(c) was developed from § 73.55(c)(7), ''Security implementing procedures,'' and § 73.55(d), ''Security organization,'' and outlines the requirements for the composition, equipping, and training of the security organization. The purpose of the security organization is to effectively implement the physical protection program. Individuals assigned to perform physical protection or contingency response duties must be trained, equipped, and qualified to perform assigned duties and responsibilities.

Section 73.100(d) establishes a performance requirement for searches of personnel, vehicles, and materials for the protection against radiological sabotage. The requirement describes broad categories of material (explosives, firearms, incendiary devices, etc.) to be detected and prevented from entry into the protected area; specific items that will be prohibited are not prescribed in the regulation but will be stated in the licensee security plans with detailed descriptions being identified in implementation procedures.

Section 73.100(e) requires a training and qualification program, described in the training and qualification plan, that ensures personnel are able to effectively perform their assigned security-related job duties. This high-level requirement allows flexibility in how the licensee chooses to train its security personnel. One method for accomplishing this requirement would be to provide a training and qualification program that is equivalent to appendix B to part 73.

Section 73.100(f) requires periodic security reviews of the physical protection program to ensure effective implementation of the program by independent individuals. The evaluation process provides a systematized approach for assessing the physical protection program as a basis for further development and improvement. Program reviews should be designed to ensure that the physical protection program maintains effectiveness and demonstrates compliance with NRC requirements. Section 73.100(f)(1) was developed from § 73.55(m) and requires review of each element of the physical protection program. Section 73.100(f)(2) requires licensees to perform self-assessments of physical protection program functions to ensure that the capability to detect, assess, interdict, and neutralize the DBT of radiological sabotage is maintained. Section 73.100(f)(3) requires an audit of the effectiveness of the physical protection program; security plans; implementing procedures; cybersecurity programs; management of the safety/security interface activities; the testing, maintenance, and calibration program; and response commitments by local, State, and Federal law enforcement authorities. Section 73.100(f)(4) requires that results and recommendations, management findings, and any actions taken be documented and maintained to be available for inspection by the NRC. These reviews are independent of the ongoing performance evaluations described in § 73.100(b)(7) and (g).

Section 73.100(g) requires that licensee performance evaluations, described in § 73.100(b)(7), include methods appropriate and necessary to assess, test, and challenge the integration of the physical protection program's functions to protect against the DBT. The performance evaluations must also address the licensee's measures to protect against cyberattacks, in accordance with the required cybersecurity plan, and engineered systems designed to protect against the DBT standalone ground vehicle bomb attack.

Section 73.100(h) establishes performance requirements for maintaining security SSCs relied on to perform security functions to protect against the DBT. It requires that corrective actions and compensatory measures be taken by a licensee in response to a degradation of security equipment or failure of the equipment to perform its intended functions. The licensee must maintain the SSCs described in its design and licensing basis to ensure that they are reliable and available.

Section 73.100(i) establishes requirements for the suspension of security measures in response to emergency and extraordinary conditions. The requirements of this paragraph, which were developed from § 73.55(p), are intended to provide flexibility to a licensee for taking reasonable actions that depart from a security plan in an emergency when such actions are immediately needed to protect the public health and safety and no action consistent with license conditions and TS that can provide adequate or equivalent protection is immediately apparent in accordance with § 53.740(h).

Section 73.100(j) establishes requirements regarding the inspection, retention and maintenance of records required to be kept by the NRC regulations, orders, or license conditions. These requirements are developed from § 73.55(q).

B. Section 73.110: Technology-Inclusive Requirements for Protection of Digital Computer and Communication Systems and Networks

Section 53.860(d) requires that a licensee establish, implement, and maintain a cybersecurity program in accordance with § 73.54 or § 73.110. Part 53 applicants and licensees may demonstrate compliance with either of these sections, regardless of whether they elect to comply with the physical security requirements in § 73.55 or § 73.100.

Section 73.110 establishes requirements for the development and maintenance of a cybersecurity program for commercial nuclear plants licensed under part 53. This section implements a graded approach to determine the level of cybersecurity protection required for digital computers, communication systems, and networks. The section is informed by: (1) the operating experience from power reactors and insights from cyber-related assessments of fuel cycle facilities; and (2) the existing § 73.54 framework, which addresses some of the basic issues for cybersecurity regardless of the type of reactor. Differences between the § 73.54 requirements and those in § 73.110 are primarily based on the implementation of a consequence-based approach to cybersecurity that provides flexibility to accommodate the wide range of reactor technologies to be assessed by the NRC. A graded approach based on consequences is intended to account for the differing risk levels among reactor technologies. Specifically, the section requires licensees to demonstrate protection against cyberattacks in a manner that is commensurate with the potential consequences from those attacks.

Safety and security must be considered together in the design process such that, where possible, security issues are effectively resolved through design and engineered security features, as stated in 10 CFR 53.440(f). This approach ensures considerations are given for safety and security together throughout the plant's lifetime, including the design process and prior to implementing changes to plant configurations, to ensure risks are effectively managed. The requirements in § 73.110 align with this approach by requiring licensees to evaluate whether a cyberattack could lead to the consequences outlined in the rule. This evaluation helps determine whether enhancements to the design basis or physical protection system are warranted. Incorporating cybersecurity strategies and design features early in the design process can be significantly more efficient and cost-effective than retrofitting these measures after the plant has been designed or constructed.

Under § 73.110(a), licensees need to ensure that digital computer and communications systems and networks associated with safety, security, and emergency preparedness functions are adequately protected against a potential cyberattack that would result in: (1) offsite radiation doses that would endanger public health and safety (*i.e.,* the resulting consequence exceeds the reference dose values in § 53.210); or (2) adversely impacting [11] the security functions necessary to prevent unauthorized removal of material or radiological sabotage. Security digital assets include those used for nuclear MC&A. A cyberattack that results in the consequence defined in § 73.110(a)(1) requires the protection of digital assets associated with safety, security, and emergency preparedness functions. Emergency preparedness functions are included within the scope of this final rule because they are essential for recovering from and mitigating the consequences of radiological sabotage that may result from a successful cyberattack, as required by § 73.110(d)(2) and (d)(3) (*i.e.,* they are part of the defense-in-depth strategy). Digital assets associated with safety-related and non-safety-related but safety-significant systems that perform or support safety functions are within the scope of this final rule as these systems are needed to satisfy the safety criteria in § 53.210 and § 53.220 per § 53.460.

Section 73.110(b) requires licensees to protect the communication system and networks associated with the functions described in § 73.110(a)(1) and (a)(2) from cyberattacks. To accomplish this, the licensee will establish, implement, and maintain a cybersecurity program for protecting digital assets within the scope of § 73.110 that makes use of risk insights, including threat information, and considers the resulting level of consequences of the threats. If the outcome of the assessment by the licensee under § 73.110(b)(1) revealed that a potential cyberattack would not compromise any digital assets that support safety, security, and emergency preparedness functions and therefore would not result in the consequences listed in § 73.110(a) (*e.g.,* would not exceed the reference dose values), then only a narrow set of the cybersecurity program requirements in § 73.110(d) and (e) would apply. For example, the licensee would only need to develop a cybersecurity program that implements the following requirements:

- Analyze modifications of any asset before implementation to demonstrate compliance with the potential consequences in § 73.110(a);
- Ensure employees and contractors are aware of cybersecurity requirements and have some level of cybersecurity training;
- Evaluate and manage cybersecurity risks to the plant;
- Review the cybersecurity plan for any required changes; and,
- Retain records of the cybersecurity plan along with any plan changes.

Section 73.110(c) through (e) were developed from § 73.54(a)(2), and (c) through (h), respectively.

The requirements address the need for the licensee to develop a cybersecurity program that implements a defense-in-depth protective strategy as required by § 73.110(d)(2). A defense-in-depth protective strategy for cybersecurity is represented by collections of complementary and redundant security controls that establish multiple layers of protection to safeguard critical digital assets. Under a defense-in-depth protective strategy, the failure of a single protective strategy or security control should not result in the compromise of safety and security functions.

C. Section 73.120: Access Authorization Program for Commercial Nuclear Plants

Section 73.120 addresses AA for certain commercial nuclear plants licensed under part 53. The language in § 73.120 provides an alternate approach to the existing framework for AA under

[11] As defined in Regulatory Guide 5.71, ''Cybersecurity Programs for Nuclear Power Reactors,'' Revision 1, adverse impact means a direct deleterious effect on safety-related, important-to-safety, security, or emergency preparedness functions; or the operation of systems, networks, and associated equipment; or the integrity and confidentiality of data and software. Examples include loss or impairment of function; reduction in reliability; reduction in ability to detect, delay, assess or respond to malevolent activities; reduction of ability to call for or communicate with offsite assistance; or the reduction in emergency response ability to implement appropriate protective measures in the event of a radiological emergency. If the direct or indirect compromise of a support system causes a safety-related, important-to-safety, security, or emergency preparedness system or support system to actuate or ''fail safe'' and not result in radiological sabotage (*i.e.,* causes the system to actuate properly in response to established parameters and thresholds), this is not considered to be an adverse impact.

§§ 73.56 and 73.57, commensurate with risk and consequences to public health and safety. It is available to part 53 applicants and licensees who demonstrate compliance with § 73.100(a)(1)(i). The requirements in § 73.120 are similar to the existing AA program elements for those NRC-licensed facilities issued additional security measures (ASMs) orders and for materials licensees under § 37.21. Applicants not meeting § 73.100(a)(1)(i) will need to establish, implement, and maintain a full AA program, including an IMP, in accordance with § 73.56.

Section 73.120(a) is based on an applicant demonstrating that they do not exceed the dose reference values defined in § 53.210, as demonstrated through compliance with § 73.100(a)(1)(i). Section 73.120(b) identifies the categories of individuals who are subject to an AA program in accordance with this section. The applicability statement in § 73.120(b)(1)(i) encompasses individuals whom the licensee intends to grant unescorted access to the facilities' most sensitive areas, consistent with § 73.56(b)(1)(i) for power reactors and the ASM orders and license conditions issued to any NRC-licensed facility or material licensee. Sections 73.120(b)(1)(ii) through (iv) are consistent with § 73.56(b)(1)(ii) through (iv), respectively. The program will include individuals who may be onsite or offsite (*e.g.,* remote operators or information technology staff) and have virtual access to important plant operational and communication systems based upon assigned duties and responsibilities. An individual who has remote access to plant equipment and communication systems may have trusted privileges greater than the personnel at the plant site. Section 73.120(b)(1)(iii) states that offsite law enforcement personnel on official duty are not subject to the licensee AA program.

Section 73.120(c) provides general performance objectives and requirements largely consistent with the AA program requirements for nuclear power reactors under § 73.56 and provides licensees and applicants the flexibility in establishing their AA program to demonstrate compliance with various performance objectives.

Section 73.120(c)(1) includes background investigation requirements consistent with § 37.25, as well as ASMs and license conditions that are applied to non-power reactor licensees. Background investigations include important elements to establish the trustworthiness and reliability of an individual, such that they do not constitute an unreasonable risk to public health and safety or the common defense and security. These include the following: (1) personal history disclosure, (2) verification of true identity, (3) employment history evaluation, (4) unemployment/military service/education, (5) credit history evaluation, (6) character and reputation evaluation, and (7) Federal Bureau of Investigation criminal history record check.

Section 73.120(c)(2) establishes behavioral observation requirements, which are an awareness initiative for recognizing behaviors adverse to the safe operation and security of the facility through observing the behavior of others in the workplace and reporting aberrant behavior or changes in behavior that might reflect negatively on an individual's trustworthiness or reliability. Maintaining behavioral observation will assist and/or improve worker safety and reduce the risk of an insider threat. This requirement in § 73.120(c)(2) is a scaled version of the full BOP required under § 73.56(f).

Section 73.120(c)(2) provides licensees greater flexibility to implement behavioral observation options for individuals granted unescorted access to the commercial nuclear plant's protected area. Such options on reporting questionable behavior may include a program similar to the Department of Homeland Security's program, ''If you see something, say something,'' or to a corporate behavioral awareness program. Commensurate with the potential lower safety and security risks of a commercial nuclear plant that does not exceed the dose reference values defined in § 53.210, as demonstrated through compliance with § 73.100(a)(1)(i), § 73.120(c)(2) does not require the establishment of a comprehensive training program for behavioral observation (*i.e.,* initial and refresher training including knowledge checks) as required for power reactors under § 73.56 and part 26. Under § 73.120(c)(2)(ii), behavioral observation can be performed in-person or remotely by video, and identified behavior of concern must be reported to plant supervision. The remote access alternative to face-to-face interactions provides substantial flexibility for licensees and applicants. Any video conferencing or other acceptable electronic means promoting face-to-face interaction for those individuals working remotely will demonstrate compliance with this regulation.

Section 73.120(c)(3) captures and maintains the self-reporting of legal actions as an essential performance element to enhance the licensee's behavioral observation initiative similar to the current requirements under § 73.56(g), assuring that personnel who are granted and who maintain unescorted access are trustworthy and reliable.

Section 73.120(c)(4) provides a scalable approach for granting and maintaining unescorted access. One component not included from § 73.56 is the need for a psychological assessment and reassessment under § 73.56(e) for granting unescorted access and § 73.56(i)(v)(B) for individuals who perform one or more of the job functions described in § 73.120(b)(1)(ii) for maintaining unescorted access. Moreover, the requirement permits criminal history updates to be completed within 10 years of the last review, compared to the 3- or 5-year reinvestigation periodicity for personnel at an operating commercial nuclear plant. In addition, no credit check re-evaluation is required for these individuals.

The continued need to maintain unescorted access will be evaluated on an annual basis by the reviewing official. Guidance in RG 5.95, ''Access Authorization Program for Commercial Nuclear Plants,'' specifies that this evaluation should be based on a compilation of personnel interactions as described in the licensee's or applicant's policy and procedures for behavioral observation and the maintenance of an approved AA list.

Section 73.120(c)(5) requires licensees and applicants to determine when a person no longer requires the need for unescorted access or no longer satisfies the AA requirement found within this section. Guidance in RG 5.95 further explains that licensees have the flexibility to terminate unescorted access to specific areas of the site if individuals lack the continued need for that access to perform their duties and responsibilities.

Section 73.120(c)(6) is consistent with the purpose of § 37.23(e) and includes the individual's right to correct and complete information as required under § 37.23(g). The section includes a requirement for designating a reviewing official. The language provides clarity regarding the roles and responsibility of a reviewing official, who is the only individual authorized to make unescorted access determinations.

Section 73.120(c)(7) aligns with the corresponding requirements under § 37.23(f), and § 73.120(c)(8) aligns with the corresponding requirements under § 37.31. These requirements encompass the roles and responsibilities for licensees, applicants, and, if applicable,

the contractor/vendors to establish, implement, and maintain a system of files and records to ensure personal information is not disclosed to unauthorized persons.

Section 73.120(c)(9) aligns with the requirements of § 37.33.

Section 73.120(c)(10) requires licensees, applicants, and contractors or vendors to maintain the records that are required by the regulations in this section and retain them for a period of 3 years after the record is superseded or no longer needed. The record retention period of 3 years is consistent with § 37.23(h), contrasting with the 5-year retention period under § 73.56(o). Records maintained in any database(s) must be available for NRC review, consistent with the requirements found under § 73.56(o)(6)(ii).

V. Opportunities for Public Participation

The NRC published the proposed rule on October 31, 2024 (89 FR 86918), and the comment period was open until December 30, 2024. On November 22, 2024 (89 FR 92609), the NRC extended the public comment period by an additional 60 days to February 28, 2025, to allow more time for members of the public and other stakeholders to develop and submit their comments.

The NRC hosted two public meetings to engage with external stakeholders on the proposed rule and associated draft guidance documents during the public comment period. The first public meeting was held on November 19, 20, and 21, 2024. The second public meeting was held on January 8, 2025. A summary of both public meetings is available in ADAMS, as provided in the ''Availability of Documents'' section. The feedback from these public meetings informed the development of this final rule.

VI. Public Comment Analysis

The NRC prepared a summary and analysis of public comments (''Comment Response Document for the Final Rule: Risk-Informed, Technology-Inclusive Regulatory Framework for Advanced Reactors,'' Volumes I and II) received on the proposed rule and draft RGs, as referenced in the ''Availability of Documents'' section. In response to the proposed rule and draft RGs, the NRC received 152 unique comment submissions. They can be generally separated into the following classes of stakeholders:

- Industry Groups and Licensees—68 comment submissions
- Non-Government Organizations—14 comment submissions
- States, Tribes, and Local Governments—3 comment submissions
- General Public/Individuals—67 comment submissions

The public comment submissions are available from the Federal e-Rulemaking website at *https://www.regulations.gov* under Docket ID NRC–2019–0062. Responses to the public comments, including a summary of how this final rule and the guidance changed as a result of the public comments, can be found in the public comment response documents as indicated in the ''Availability of Documents'' section of this document.

For more information about the associated guidance documents, see the ''Availability of Guidance'' section of this document.

VII. Regulatory Flexibility Certification

The Regulatory Flexibility Act of 1980, as amended at 5 U.S.C. 601 *et seq,* requires that agencies consider the impact of their rulemakings on small entities and, consistent with applicable statutes, consider alternatives to minimize these impacts on the businesses, organizations, and government jurisdictions to which they apply.

In accordance with the Small Business Administration's (SBA's) regulation at 13 CFR 121.903(c), the NRC has developed its own size standards for performing an RFA analysis and has verified with the SBA Office of Advocacy that its size standards are appropriate for NRC analyses. The NRC size standards at § 2.810, ''NRC size standards,'' are used to determine whether an applicant or licensee qualifies as a small entity in the NRC's regulatory programs.

Number of Small Entities Affected

The NRC is currently not aware of any known small entities as defined in § 2.810 that are planning to apply for a commercial nuclear plant ESP, CP, OL, ML, or COL under part 53 that would be impacted by this final rule. Based on this finding, the NRC has determined that the final rule does not have a significant economic impact on a substantial number of small entities.

Economic Impact on Small Entities

Although the NRC is not aware of any small entities that are affected by the final rule, there is a possibility that future applications for a commercial nuclear plant permit or license could be submitted by small entities. Commercial nuclear plants of a size operated by a small entity would most likely be used to support electrical demand for military bases or small remote towns and would provide process heat, so they would not directly compete with a larger commercial nuclear plant that would typically produce electricity for the grid. As a result of these differing purposes, the NRC would expect that small and large entities would not be in direct competition with each other.

Therefore, the NRC concludes that this final rule will not have a significant economic impact on a substantial number of small entities.

VIII. Regulatory Analysis

The NRC has prepared a final regulatory analysis for this rule. The analysis examines the costs and benefits of the alternatives considered by the NRC. The regulatory analysis is available as indicated in the ''Availability of Documents'' section of this document. The conclusion from the analysis is that this final rule and associated guidance will result in net averted costs to the industry and the NRC of $152 million using a 7-percent discount rate and $203 million using a 3-percent discount rate, using a 66-year analysis period. Detailed information on the costs and cost savings is presented in Table 1.

TABLE 1—TOTAL COSTS AND COST SAVINGS OF FINAL RULE

[In 2024 dollars]

	Undiscounted	Discounted (7%)	Discounted (3%)
Attribute Costs			
Industry Total	$63,823,000	$11,078,000	$25,492,000
NRC Total	35,942,000	5,499,000	13,630,000
Net	99,765,000	16,577,000	39,122,000

TABLE 1—TOTAL COSTS AND COST SAVINGS OF FINAL RULE—Continued

[In 2024 dollars]

	Undiscounted	Discounted (7%)	Discounted (3%)
Annualized		1,174,000	1,368,000
Attribute Cost Savings			
Industry Total	(346,524,000)	(139,576,000)	(203,353,000)
NRC Total	(55,609,000)	(28,685,000)	(38,582,000)
Net	(402,133,000)	(168,261,000)	(241,935,000)
Annualized		(11,915,000)	(8,461,000)
Attribute Net Cost Savings			
Industry Net	(282,700,000)	(128,500,000)	(177,860,000)
NRC Net	(19,670,000)	(23,190,000)	(24,950,000)
Net	(302,370,000)	(151,690,000)	(202,810,000)
Annualized		(10,741,000)	(7,093,000)
Qualitative Benefits	Improvements in Knowledge, Regulatory Efficiency, and Increased Public Confidence.		

IX. Backfitting and Issue Finality

This section describes the backfitting and issue finality implications of this final rule and the final guidance documents described in section XVIII, ''Availability of Guidance,'' in this document, as applied to pertinent NRC approvals and certain applicants that reference NRC approvals in their applications. The NRC's current backfitting provisions associated with nuclear power plants appear in § 50.109, ''Backfitting,'' and apply to CPs and OLs under part 50. Issue finality provisions (analogous to the backfitting provisions in § 50.109) for approvals under part 52 are located in various provisions of part 52. The NRC Management Directive 8.4, ''Management of Backfitting, Forward Fitting, Issue Finality, and Information Requests,'' describes the Commission's policies on backfitting and issue finality.

This final rule provides a regulatory scheme for entities to apply for approvals under part 53. The part 50 backfitting provisions and part 52 issue finality provisions apply to actions taken by the NRC under part 50 or part 52, respectively, or actions taken by the NRC under other parts of 10 CFR chapter I that, for holders of certain approvals under part 50 or part 52, inextricably affect their activities regulated under part 50 or part 52. Issuance and implementation of part 53 will not constitute actions taken under part 50 or part 52. Also, part 53 does not allow an applicant to reference approvals issued under part 50 or part 52. Therefore, the issuance and implementation of part 53 will not affect part 50 or part 52 entities' activities regulated under part 50 or part 52. Therefore, the addition of part 53 through this final rule is not within the scope of the part 50 backfitting and part 52 issue finality provisions.

The NRC is also making conforming changes to parts 1, 2, 10, 11, 19, 20, 21, 25, 26, 30, 40, 50, 51, 70, 72, 73, 74, 75, 95, 140, 150, 170, and 171 to reflect the addition of part 53. These changes do not meet the definition of ''backfitting'' in § 50.109 or § 70.76, ''Backfitting,'' because the changes do not modify or add to the systems, structures, components, or design of a facility or to the procedures or organization required to operate a facility under part 50 or 70. These changes do not meet the definition of ''backfitting'' in § 72.62, ''Backfitting,'' because the changes do not add, eliminate, or modify the SSCs of an independent spent fuel storage installation (ISFSI) or the procedures or organization required to operate an ISFSI. These changes do not inextricably affect activities regulated under parts 50, 52, 70, or 72. Therefore, the changes to parts 1, 2, 10, 11, 19, 20, 21, 25, 26, 30, 40, 50, 51, 70, 72, 73, 74, 75, 95, 140, 150, 170, and 171 do not constitute backfitting under parts 50, 70, or 72 or affect the issue finality of an approval under part 52.

The NRC is issuing nine final guidance documents that provide guidance on the methods acceptable to the NRC for complying with aspects of this final rule. Further, as discussed in the guidance documents, applicants and licensees are not required to comply with the positions set forth in the guidance. Therefore, the final guidance documents do not constitute backfitting under part 50 or affect the issue finality of any approval issued under part 52.

X. Cumulative Effects of Regulation

The NRC seeks to minimize any potential negative consequences resulting from the cumulative effects of regulation (CER). The CER describes the challenges that licensees, or other impacted entities such as State partners, may face while implementing new regulatory positions, programs, or requirements (*e.g.,* rules, generic letters, backfits, inspections). The CER is an organizational effectiveness challenge that may result from a licensee or impacted entity implementing a number of complex regulatory actions, programs, or requirements within limited available resources.

The goals of the NRC's CER effort were met throughout the development of this final rule. The NRC engaged with external stakeholders at public meetings and solicited public comments on the proposed rule and associated draft guidance documents. The NRC also held numerous public meetings prior to publication of the proposed rule and published numerous versions of preliminary proposed rule language. Although the use of part 53 is voluntary, the NRC included in the proposed rule a request for feedback related to CER. Specifically, the NRC requested feedback on the implementation and potential unintended consequences of the proposed rule. The NRC received two comment submissions in response to these CER questions, but no comments required a change to the rule.

XI. Plain Writing

The Plain Writing Act of 2010 (Pub. L. 111–274) requires Federal agencies to write documents in a clear, concise, and well-organized manner. The NRC has

written this document to be consistent with the Plain Writing Act as well as the Presidential Memorandum, ''Plain Language in Government Writing,'' published June 10, 1998 (63 FR 31885).

XII. Environmental Assessment and Final Finding of No Significant Environmental Impact

The Commission has determined under the National Environmental Policy Act of 1969, as amended, and the Commission's regulations in subpart A of part 51, that this rule is not a major Federal action significantly affecting the quality of the human environment, and, therefore, an EIS is not required. The basis of this determination reads as follows: the implementation of the final rule will not have a significant impact on the environment. The final rulemaking has requirements that are administrative in application, matters of procedure, or provide an equivalent level of safety as existing requirements; therefore, there will be similar environmental impacts from the implementation of the part 53 regulations as there are for existing requirements.

The NRC requested the views of States on the draft environmental assessment on the proposed rule. The NRC received three comment submissions from States (two comment submissions from the State of New York and one comment submission from the State of Utah), one of which commented on the draft environmental assessment. The NRC received three additional comment submissions related to the draft environmental assessment in the proposed rule. The NRC addressed the comments from the States, along with the other comments on the proposed rule, as discussed in Section VI, ''Public Comment Analysis.'' None of these comments resulted in changes to the environmental assessment.

The determination of this environmental assessment is that there will be no significant environmental impacts to the public from this action. The environmental assessment and finding of no significant impact are available as indicated under the ''Availability of Documents'' section.

XIII. Paperwork Reduction Act

This final rule contains new and amended collections of information that are subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). The collections of information were approved by the Office of Management and Budget, approval numbers 3150–0274 (part 53), 3150–0146 (part 26), 3150–0271 (part 50), 3150–0002 (part 73), 3150–0278 (NRC Forms 361, 361A, 361N, and 361S), 3150–0104 (NRC Forms 366, 366A, and 366B), 3150–0277 (NRC Form 396), 3150–0276 (NRC Form 398), and 3150–0272 (NRC Forms 893 and 894). The changes to parts 2, 10, 11, 19, 20, 21, 25, 30, 40, 51, 70, 72, 74, 75, 95, 140, 150, 170, and 171 do not contain any new or amended collections of information subject to the Paperwork Reduction Act of 1995. Existing collections of information were approved by the Office of Management and Budget, approval numbers 3150–0062 (part 11), 3150–0044 (part 19), 3150–0014 (part 20), 3150–0035 (part 21), 3150–0046 (part 25), 3150–0017 (part 30), 3150–0020 (part 40), 3150–0021 (part 51), 3150–0009 (part 70), 3150–0132 (part 72), 3150–0123 (part 74), 3150–0055 (part 75), 3150–0047 (part 95), 3150–0039 (part 140), and 3150–0032 (part 150).

The burden to the public for these information collections is estimated to average 2,257 hours per response for part 53, 9 hours per response for part 26, 4,383 hours per response for part 50, 1,502 hours per response for part 73, and 2 hours per response for NRC Forms 893 and 894, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the information collection. Other identified information collections (NRC Forms 361, 366, 396, and 398) are not estimated to impose burden during the next 3 years.

The information collection is being conducted to evaluate applications for, issue, and regulate operations under part 53 licenses and exercise its oversight functions in an effective and efficient manner to ensure protection of public health and safety, the promotion of the common defense and security, and the protection of the environment. Information will be used by the NRC to make decisions regarding applications and license amendments, assess licensee compliance with part 53, and take corrective actions as needed. Responses to this collection of information are mandatory for licensees choosing to comply with part 53. Confidential and proprietary information submitted to the NRC is protected in accordance with NRC regulations at 10 CFR 9.17(a) and 10 CFR 2.390(b).

You may submit comments on any aspect of these information collections, including suggestions for reducing the burden, by the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2019–0062.
- *Mail comments to:* FOIA, Library, and Information Collections Branch, Office of the Chief Information Officer, Mail Stop: T–6 A10M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001 or to the OMB reviewer at OMB Office of Information and Regulatory Affairs (3150–0274), Attention: Desk Officer for the Nuclear Regulatory Commission, 725 17th Street NW, Washington, DC 20503.

Public Protection Notification

The NRC may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the document requesting or requiring the collection displays a currently valid OMB control number.

XIV. Executive Orders

The following are E.O.s that are related to this final rulemaking.

A. Executive Order 12866: Regulatory Planning and Review (as Amended by Executive Order 14215: Ensuring Accountability for All Agencies)

This action is a significant regulatory action under section 3(f) of E.O. 12866 and therefore was submitted to OMB for review.

B. Executive Order 14154: Unleashing American Energy

NRC has examined this final rule and has determined that it is consistent with the policies and directives outlined in E.O. 14154.

C. Executive Order 14192: Unleashing Prosperity Through Deregulation

This action is a deregulatory action as defined by E.O. 14192. An E.O. 14192 deregulatory action is defined as ''an action that has been finalized and has total costs less than zero.'' The final rule and associated guidance will result in net cost savings to the industry and the NRC of $152 million using a 7-percent discount rate and $203 million using a 3-percent discount rate, over the 66-year analysis period. The annualized costs are approximately $1.17 million per year at a 7 percent discount rate, and $1.37 million per year at a 3 percent discount rate. The annualized cost savings are approximately $11.9 million per year at a 7 percent discount rate, and $8.46 million per year at a 3 percent discount rate. Therefore, the net cost savings are estimated at $10.7 million per year at a 7 percent discount rate and $7.09 million per year at a 3 percent discount rate. Accordingly, this final rule has total costs less than zero, and therefore is an E.O. 14192 deregulatory action. Details on the estimated costs of this final rule can be found in Section

VIII of this document, ''Regulatory Analysis.''

D. Executive Order 14270: Zero-Based Regulatory Budgeting To Unleash American Energy

E.O. 14270, ''Zero-Based Regulatory Budgeting to Unleash American Energy,'' requires the NRC to insert a conditional sunset date into all new or amended NRC regulations provided the regulations are (1) promulgated under the AEA, the Energy Reorganization Act of 1974, as amended, or the NWPA; (2) not statutorily required; and (3) not part of the NRC's permitting regime. The NRC determined that the regulatory changes in this rule are statutorily required to comply with NEIMA, necessary for the reasonable assurance of adequate protection of public health and safety, and part of the NRC's regulatory permitting scheme authorized by the AEA. Therefore, the NRC views this rulemaking to be outside the scope of E.O. 14270 and did not insert conditional sunset dates for the regulatory changes in this final rule.

XV. Congressional Review Act

This final rule is a rule as defined in the Congressional Review Act (5 U.S.C. 801–808). However, the Office of Information and Regulatory Affairs in the Office of Management and Budget has found that it does not meet the criteria at 5 U.S.C. 804(2).

XVI. Criminal Penalties

This final rule includes federal regulations that will be enforceable by criminal penalty, as authorized by Section 223 of the AEA. Therefore, per E.O. 14294, these regulations constitute ''criminal regulatory offenses.''

For the purposes of Section 223 of the AEA, the NRC is issuing this final rule that will add a new 10 CFR part 53 and amend 10 CFR parts 19, 20, 21, 25, 26, 30, 40, 50, 70, 72, 73, 74, 95, and 140 under one or more of Sections 161b, 161i, or 161o of the AEA. Willful violations of the regulations in these parts will be subject to criminal enforcement, other than those listed in § 19.40(b), § 20.2402(b), § 21.62(b), § 25.39(b), § 26.825(b), § 30.64(b), § 40.82(b), § 50.111(b), § 53.9010(b), § 70.92(b), § 72.86(b), § 73.81(b), § 74.84(b), § 95.63(b), or § 140.89(b). Criminal penalties as they apply to regulations in part 53 are discussed in § 53.9010.

XVII. Voluntary Consensus Standards

The National Technology Transfer and Advancement Act of 1995, Public Law 104–113, requires that Federal agencies use technical standards that are developed or adopted by voluntary consensus standards bodies unless the use of such a standard is inconsistent with applicable law or otherwise impractical. In this final rule, the NRC will revise its regulations by adding a risk-informed, technology-inclusive regulatory framework for commercial advanced nuclear reactors. This action does not constitute the establishment of a standard that contains generally applicable requirements.

XVIII. Availability of Guidance

As discussed in section II, Background, of this document, the NRC's development of part 53 built upon activities such as those described in SECY–19–0117. Because a number of those activities are ongoing to support new reactor applications under the existing regulatory framework of 10 CFR parts 50 and 52, the NRC staff identified in its response to SRM–SECY–20–0032 that the timing of guidance document development to support the part 53 rulemaking was a key risk and uncertainty to publishing the final part 53 rule. To mitigate this risk, the NRC engaged external stakeholders to ensure a common prioritization of the development of these guidance documents and to work diligently on those that would be needed to support this rulemaking, forthcoming applications, or broader efforts such as the Advanced Reactor Demonstration Program being sponsored by the DOE. The NRC also recognizes that guidance development to support part 53 and advanced reactors will continue as the industry and NRC learn lessons from licensing reviews and operating experience.

The NRC is issuing nine guidance documents for the implementation of the requirements in this rulemaking. The guidance is available in ADAMS under the Accession Numbers as indicated under the ''Availability of Documents'' section in this document.

- RG 5.81, Revision 2, ''Target Set Identification and Development for Nuclear Power Reactors'' (nonpublic)

This regulatory guide (RG) was issued in draft form as Draft Regulatory Guide (DG)-5071 with the proposed rulemaking on Alternative Physical Security Requirements for Advanced Reactors (RIN 3150–AK19; Docket ID NRC–2017–0227) on August 9, 2024. (89 FR 65226). In addition, some sections from DG–5072, ''Guidance for Alternative Physical Security Requirements for Small Modular Reactors and Non-Light-Water Reactors,'' which was also issued with the same rulemaking, have been incorporated into RG 5.97, ''Guidance for Technology-Inclusive Requirements for Physical Protection of Licensed Activities at Commercial Nuclear Plants.'' The changes to these guidance documents are a result of the NRC's resolution of public comments on the 10 CFR part 53 proposed rule that requested the NRC address comments made on the proposed Alternative Physical Security Requirements for Advanced Reactors rule. As a result, the NRC addressed the public comments received on those draft guidance documents that were incorporated into the guidance documents for this final rulemaking. Those comment responses can be found in ''Comment Response Document for the Final Rule: Risk-Informed, Technology-Inclusive Regulatory Framework for Advanced Reactors,'' Volume II.

- RG 1.254, Revision 0, ''Technology-Inclusive Identification of Licensing Events for Commercial Nuclear Plants''

This RG describes an acceptable approach for identifying licensing events that can be used to inform the design basis, licensing basis, and content of applications for commercial nuclear plants, including large LWRs and non-LWRs. It applies to nuclear power reactor designers, applicants, and licensees of commercial nuclear plants applying for permits, licenses, certifications, and approvals under parts 50, 52, and 53. In this RG, the term ''licensing events'' is used in a generic sense to refer to collections of designated event categories such as, but not limited to AOOs, DBAs, DBEs, and postulated accidents. Specifically, this RG provides an acceptable approach for: (1) conducting a comprehensive and systematic search for initiating events; (2) using a systematic process to delineate a comprehensive set of event sequences; (3) grouping initiating events and event sequences into designated licensing event categories; and (4) providing assurance that the set of licensing events is complete.

- RG 5.95, Revision 0, ''Access Authorization Program for Commercial Nuclear Plants''

This RG describes a method that the staff considers acceptable to comply with requirements in § 73.120, ''Access authorization program for commercial nuclear plants,'' related to an AA program. This document provides guidance and is one NRC-approved method (not the only method) for meeting regulatory requirements for part 53. The language in § 73.120 provides flexibility through availability of the use of an alternate approach, commensurate

with risk and consequence to public health and safety, for part 53 applicants who demonstrate compliance with § 73.100(a)(1)(i).

- RG 5.96, Revision 0, ''Establishing Cybersecurity Programs for Commercial Nuclear Plants Licensed Under 10 CFR part 53''

This RG describes an approach the NRC staff deems acceptable for complying with the Commission's regulations for establishing, implementing, and maintaining a cybersecurity program at commercial nuclear plants licensed under part 53. This guidance provides an approach for meeting the requirements of § 73.110, ''Technology-inclusive requirements for protection of digital computer and communication systems and networks.''

- RG 5.97, Revision 0, ''Guidance for Technology-Inclusive Requirements for Physical Protection of Licensed Activities at Commercial Nuclear Plants''

This RG describes methods and approaches that the NRC staff considers acceptable for meeting the physical security requirements of 10 CFR part 53 and 10 CFR 73.100.

- RG 5.99, Revision 0, ''Fatigue Management for Nuclear Power Plant Personnel at Commercial Nuclear Plants Licensed Under 10 CFR part 53''

This RG describes methods that the NRC staff considers acceptable for addressing certain aspects of FFD programs established at commercial nuclear facilities licensed under part 53. This guidance, in conjunction with the existing RG 5.73, ''Fatigue Management for Nuclear Plant Personnel,'' provides comprehensive guidance regarding acceptable methods for the development and implementation of licensee fatigue management programs.

The NRC is issuing the following interim staff guidance (ISG) documents for the implementation of NRC staff review of applications under the requirements in this rulemaking:

- DRO–ISG–2023–01, ''Operator Licensing Programs''

This ISG provides guidance for the review of tailored operator licensing programs that are submitted for review consistent with the technical requirements of § 53.730(g). This guidance primarily addresses the review of operator licensing examination processes to facilitate the ability of reviewers to assess whether a proposed approach to the testing of licensed operators and trainees reflects sound assessment testing practices that are suitable for the screening of competent licensed operators. Additionally, this ISG provides further review guidance in other areas such as licensed operator continuing training and proficiency programs.

- DRO–ISG–2023–02, ''Interim Staff Guidance Augmenting NUREG–1791, 'Guidance for Assessing Exemption Requests from the Nuclear Power Plant Licensed Operator Staffing Requirements Specified in 10 CFR 50.54(m),' for Licensing Commercial Nuclear Plants under 10 CFR part 53''

This ISG provides guidance for the review of customized facility operator staffing plans that are submitted for review consistent with the technical requirements of § 53.730(f). This ISG is structured as a companion document to the existing NUREG–1791 and adapts the existing HFE-based methodologies of that document for use in the evaluation of staffing plans that will be submitted within the context of part 53 facilities. Additionally, this ISG provides further guidance to address other staffing-related considerations, such as provisions for engineering expertise.

- DRO–ISG–2023–03, ''Development of Scalable Human Factors Engineering Review Plans''

This ISG applies to the HFE review of applications for OLs, COLs, DCs, and standard design approvals for commercial nuclear plants submitted under part 53. The purpose of this ISG is to facilitate NRC understanding of an acceptable method for developing a scalable (*i.e.,* application-specific) plan for the review of these applications for compliance with applicable HFE requirements. The ISG describes a process and provides implementation guidance for the NRC to tailor HFE review plans to each application to achieve an effective and efficient review.

The NRC has identified future guidance activities that need to be completed after this final rule is published to support advanced reactor applications and NRC reviews. This includes issuance of revisions or part 53-related companions to already available guidance documents after the final part 53 rule is published.

XIX. Availability of Documents

The documents identified in the following table are available to interested persons through one or more of the following methods, as indicated.

Document	ADAMS accession No./web link/**Federal Register** citation
Final Rule Documents	
Federal Register Notice, ''Final Rule: Risk-Informed, Technology-Inclusive Regulatory Framework for Advanced Reactors,'' dated March, 2026.	ML26042A232.
''Environmental Assessment for the Final Rule—Risk-Informed, Technology-Inclusive Regulatory Framework for Advanced Reactors,'' dated March, 2026.	ML26042A231.
''Regulatory Analysis for the Final Rule: Risk-Informed, Technology-Inclusive Regulatory Framework for Advanced Reactors,'' March, 2026.	ML26042A230.
''Comment Response Document for the Final Rule: Risk-Informed, Technology-Inclusive Regulatory Framework for Advanced Reactors,'' Volume I, dated March, 2026.	ML26042A229.
''Comment Response Document for the Final Rule: Risk-Informed, Technology-Inclusive Regulatory Framework for Advanced Reactors,'' Volume II, dated March, 2026.	ML26042A228.
Information Collection Documents	
Supporting Statement for Information Collection Analysis—10 CFR Part 53	ML25230A038.
Supporting Statement for Information Collection Analysis—10 CFR Part 26	ML25230A037.
Supporting Statement for Information Collection Analysis—10 CFR Part 50	ML25232A004.
Supporting Statement for Information Collection Analysis—10 CFR Part 73	ML25230A039.
Supporting Statement for Information Collection Analysis—NRC Form 361S	ML25230A034.
Supporting Statement for Information Collection Analysis—NRC Form 366	ML25230A035.
Supporting Statement for Information Collection Analysis—NRC Form 396	ML25245A175.
Supporting Statement for Information Collection Analysis—NRC Form 398	ML25245A176.

Document	ADAMS accession No./web link/**Federal Register** citation
Supporting Statement for Information Collection Analysis—NRC Form 893 and 894	ML25230A036.
Final Rule—Part 26 Burden Tables for Risk-Informed, Technology-Inclusive Regulatory Framework for Advanced Reactors.	ML25282A045.
Final Rule—Part 50 Burden Tables for Risk-Informed, Technology-Inclusive Regulatory Framework for Advanced Reactors.	ML25282A044.
Final Rule—Part 53 Burden Tables for Risk-Informed, Technology-Inclusive Regulatory Framework for Advanced Reactors.	ML25282A046.
Final Rule—Part 73 Burden Tables for Risk-Informed, Technology-Inclusive Regulatory Framework for Advanced Reactors.	ML25282A043.
NRC Form 361S, ''Part 53 Plant Event Notification Worksheet''	ML25230A030.
NRC Form 366, ''Licensee Event Report (LER)''	ML25230A031.
NRC Form 366A, ''Licensee Event Report (LER) Continuation Sheet''	ML25230A032.
NRC Form 366B, ''Licensee Event Report (LER) (Failure Continuation)''	ML25231A040.
NRC Form 396, ''Certification of Medical Examination by Facility Licensee''	ML25245A149.
NRC Form 398, ''Personnel Qualification Statement—Licensee''	ML25245A173.
NRC Form 893, ''Single Positive Test Form, 10 CFR Part 26, Subpart M FFD Program''	ML25230A033.
NRC Form 894, ''Annual Reporting Form, 10 CFR Part 26, Subpart M FFD Program''	ML25231A039.
Regulatory Guidance Documents	
RG 1.254, ''Technology-Inclusive Identification Of Licensing Events For Commercial Nuclear Plants,'' dated March, 2026.	ML25232A005.
RG 5.81, ''Target Set Identification and Development for Nuclear Power Reactors,'' Revision 2, (non-public) dated March, 2026.	ML24229A186.
RG 5.95, ''Access Authorization Program for Commercial Nuclear Plants,'' dated March, 2026 ..	ML25232A007.
RG 5.96, ''Establishing Cybersecurity Programs For Commercial Nuclear Plants Licensed Under 10 CFR Part 53,'' dated March, 2026.	ML25232A008.
RG 5.97, ''Guidance for Technology-Inclusive Requirements for Physical Protection of Licensed Activities at Commercial Nuclear Plants,'' dated March, 2026.	ML25232A009.
RG 5.99, ''Fatigue Management For Nuclear Power Plant Personnel At Commercial Nuclear Plants Licensed Under 10 CFR Part 53,'' dated March, 2026.	ML25232A010.
ISG Documents	
DRO–ISG–2023–01, ''Operator Licensing Programs,'' dated March, 2026	ML25232A011.
DRO–ISG–2023–02, ''Interim Staff Guidance Augmenting NUREG–1791, 'Guidance for Assessing Exemption Requests from the Nuclear Power Plant Licensed Operator Staffing Requirements Specified in 10 CFR 50.54(m),' for Licensing Commercial Nuclear Plants under 10 CFR Part 53,'' dated March, 2026.	ML25232A023.
DRO–ISG–2023–03, ''Development of Scalable Human Factors Engineering Review Plans,'' dated March, 2026.	ML25232A022.
Other References	
American National Standards Institute (ANSI)/American Nuclear Society (ANS)-3.4–2013, ''Medical Certification And Monitoring Of Personnel Requiring Operator Licenses For Nuclear Power Plants''.	*https://webstore.ansi.org/Standards/ANSI/ansians2013.*
ASME/ANS RA–S–1.4–2021, ''Probabilistic Risk Assessment Standard for Advanced Non-Light Water Reactor Nuclear Power Plants''.	*https://www.asme.org/codes-standards/find-codes-standards/probabilistic-risk-assessment-standard-for-advanced-non-light-water-reactor-nuclear-power-plants/2021/pdf.*
ASCE/SEI 43–19, ''Seismic Design Criteria for Structures, Systems, and Components in Nuclear Facilities''.	*https://doi.org/10.1061/9780784415405.*
EO 12866, ''Regulatory Planning and Review,'' dated September 30, 1993	58 FR 190.
EO 14154, ''Unleashing American Energy,'' dated January 20, 2025	90 FR 8353.
EO 14192, ''Unleashing Prosperity Through Deregulation,'' dated February 6, 2025	90 FR 9065.
EO 14270, ''Zero-Based Regulatory Budgeting to Unleash American Energy,'' dated April 15, 2025.	90 FR 15643.
EO 14300, ''Ordering the Reform of the Nuclear Regulatory Commission,'' dated May 29, 2025	90 FR 22587.
Federal Register notice—Final policy statement, ''Use of Probabilistic Risk Assessment Methods in Nuclear Regulatory Activities; Final Policy Statement,'' dated August 16, 1995.	60 FR 42622.
Federal Register notice—Final rule, ''Consideration of Aircraft Impacts for New Nuclear Power Reactors,'' dated June 12, 2009.	74 FR 28112.
Federal Register notice—Final rule, ''Fitness for Duty Programs,'' dated March 31, 2008	73 FR 16966.
Federal Register notice—Final rule, ''Licenses, Certifications, and Approvals for Nuclear Power Plants,'' dated August 28, 2007.	72 FR 49352.
Federal Register notice—Final rule, ''Station Blackout,'' dated June 21, 1988	53 FR 23203.
Federal Register notice—Final rule, ''Technical Specifications,'' dated July 19,1995	60 FR 36953.
Federal Register notice—Guidance, ''Mandatory Guidelines for Federal Workplace Drug Testing Programs—Oral/Fluid,'' dated October 25, 2019.	84 FR 57554.
Federal Register notice—Policy Statement, ''Policy Statement on Severe Reactor Accidents Regarding Future Designs and Existing Plants,'' dated August 8, 1985.	50 FR 32138.

Document	ADAMS accession No./web link/**Federal Register** citation
Federal Register notice—Policy Statement, ''Safety Goals for the Operation of Nuclear Power Plants; Policy Statement; Correction and Republication,'' dated August 21, 1986.	51 FR 30028.
Federal Register notice—Policy Statement, ''Tribal Policy Statement,'' dated January 9, 2017	82 FR 2402.
Federal Register notice—Policy Statement, ''Policy Statement on the Regulation of Advanced Reactors,'' dated October 14, 2008.	73 FR 60612.
Federal Register notice—Policy Statement, ''Final Safety Culture Policy Statement,'' dated June 14, 2011.	76 FR 34773.
Federal Register notice—Proposed rule, ''Regulatory Improvements for Production and Utilization Facilities Transitioning to Decommissioning,'' dated March 3, 2022.	87 FR 12254.
Federal Register notice—Proposed rule, ''Risk-Informed, Technology-Inclusive Regulatory Framework for Advanced Reactors,'' dated October 31, 2024.	89 FR 86918.
Federal Register notice—Proposed rule; extension of comment period, ''Risk-Informed, Technology-Inclusive Regulatory Framework for Advanced Reactors,'' dated November 22, 2024.	89 FR 92609.
Federal Register notice—Public meeting, ''Reporting Requirements for Nonemergency Events at Nuclear Power Plants,'' dated November 29, 2021.	86 FR 67669.
International Commission on Radiological Protection (ICRP), Publication 2 ''Permissible dose for internal radiation,'' dated 1960.	*https://www.icrp.org/publication.asp?id=icrp%20publication%202.*
ICRP, Publication 26 ''Recommendations of the ICRP,'' dated 1977	*https://www.icrp.org/publication.asp?id=ICRP%20Publication%2026.*
ICRP, Publication 30 ''Limits for Intakes of Radionuclides by Workers,'' dated 1979	*https://www.icrp.org/publication.asp?id=ICRP%20Publication%2030%20* (Index).
Letter to Chairman Hanson, NRC, ''Final Letter on Draft 10 CFR Part 53 Rulemaking Language,'' dated November 22, 2022.	ML22319A104.
Letter to Chairman Hanson, NRC, ''Fourth Interim Letter on 10 CFR Part 53 Rulemaking Language,'' dated August 2, 2022.	ML22196A292.
Letter to Chairman Hanson, NRC, ''Preliminary Proposed Rule Language For 10 CFR Part 53, Regulation of Advanced Nuclear Reactors, Interim Report,'' dated May 30, 2021.	ML21140A354.
Letter to Chairman Hanson, NRC, ''Preliminary Rule Language For 10 CFR Part 53, Subpart F, 'Requirements for Operations,' Interim Report,'' dated February 17, 2022.	ML22040A361.
Letter to Chairman Rempe, ACRS, ''Response to the Advisory Committee on Reactor Safeguards, 'Fourth Interim Letter on 10 CFR Part 53 Rulemaking Language,'" dated September 30, 2022.	ML22249A073.
Letter to Chairman Rempe, ACRS, ''Response to the Advisory Committee on Reactor Safeguards Letter on Preliminary Rule Language for 10 CFR Part 53, Subpart F, 'Requirements for Operations,' Interim Report,'' dated March 30, 2022.	ML22063A012.
Letter to Chairman Sunseri, ACRS, ''Part 53, Licensing and Regulation of Advanced Nuclear Reactors,'' dated November 24, 2020.	ML20311A006.
Letter to Chairman Svinicki, NRC, ''10 CFR Part 53, Licensing and Regulation of Advanced Nuclear Reactors,'' dated October 21, 2020.	ML20295A647.
National Library of Medicine, National Institutes of Health, Workshop Summary, ''The Evolution of Telehealth: Where Have We Been and Where Are We Going?,'' dated November 2012.	*https://www.ncbi.nlm.nih.gov/books/NBK207141/.*
NEI 18–04, Rev. 1, ''Risk-Informed Performance-Based Technology-Inclusive Guidance for Non-Light Water Reactors,'' dated August 2019.	ML19241A472.
NEI 22–05, Rev. 0, ''Technology Inclusive Risk Informed Change Evaluation (TIRICE),'' dated January 2024.	ML24032A237.
Nuclear Innovation Alliance (NIA), ''Clarifying 'Major Portions' of a Reactor Design in Support of a Standard Design Approval,'' dated April 2017.	*https://www.nuclearinnovationalliance.org/clarifying-major-portions-reactor-design-support-standard-design-approval.*
NRC, ''Advanced Reactor Vision and Strategy: Safely Achieving Effective and Efficient Non-Light Water Reactor Mission Readiness,'' dated December 2016.	ML16356A670.
NRC, ''A Regulatory Review Roadmap for Non-Light Water Reactors,'' dated December 2017	ML17312B567.
NRC, ''Manufacturing License ML–1 for Production of Up to Eight Floating Nuclear Plants,'' dated September 30, 1982.	ML20070J215.
NRC, ''Report to Congress: Advanced Reactor Licensing,'' dated August 2012	ML12158A398 (cover letter) ML12153A014 (report).
NRC, ''Risk-Informed and Performance-Based Human-System Considerations for Advanced Reactors,'' dated March 2021.	ML21069A003.
NRC Form 890, ''Single Positive Test Form''	ML25044A086.
NRC Form 891, ''Annual Reporting for Drug and Alcohol Tests''	ML26016A656.
NRC Form 892, ''Annual Fatigue Reporting Form''	ML22013B250.
NRC Public Meeting Summary, ''Public Meeting to Discuss the Part 53 Risk-Informed, Technology-Inclusive Regulatory Framework for Advanced Reactors Rulemaking—Proposed Rule'' (November 19, 20, and 21, 2024), dated January 14, 2025.	ML25014A024.
NRC Public Meeting Summary, ''Public Meeting to Discuss the Part 53 Risk-Informed, Technology-Inclusive Regulatory Framework for Advanced Reactors Rulemaking—Proposed Rule'' (January 8, 2025), dated January 24, 2025.	ML25042A010.
NUREG–0880, ''Safety Goals for Nuclear Power Plant Operation,'' dated May 1983	ML071770230.
NUREG/CR–2601, ''Technology, Safety and Costs of Decommissioning Reference Light Water Reactors Following Postulated Accidents'' dated November 1982.	ML14023A046 (package).
NUREG–1530, Revision 1, ''Reassessment of NRC's Dollar Per Person-Rem Conversion Factor Policy, Final Report,'' dated February 2022.	ML22053A025.
NUREG–1860, Volumes 1 and 2, ''Feasibility Study for a Risk-Informed and Performance-Based Regulatory Structure for Future Plant Licensing,'' dated December 2007.	ML080440170 ML080440215.

Document	ADAMS accession No./web link/**Federal Register** citation
NUREG/BR–0058, Revision 5, ''Regulatory Analysis Guidelines of the U.S. Nuclear Regulatory Commission,'' dated April 2017.	ML17100A480.
NUREG/CR–5884, ''Revised Analyses of Decommissioning for the Reference Pressurized Water Reactor Power Station,'' dated November 1995.	ML14008A187.
NUREG/CR–6187, Volume 1, ''Revised Analyses of Decommissioning for the Reference Boiling Water Reactor Power Station,'' dated July 1996.	ML14008A186.
PNNL, Technical Letter Report, ''The Use of Electronic Communications to Perform Determinations of Fitness,'' dated August 2017.	ML18081A607.
Pre-decisional DG, ''Technology-Inclusive, Risk-Informed, and Performance-Based Methodology for Seismic Design of Commercial Nuclear Plants,'' dated October 3, 2022.	ML22276A149.
Research Information Letter 2021–04, ''Feasibility Study on a Potential Consequence-Based Seismic Design Approach for Nuclear Facilities,'' dated April 2021.	ML21113A066.
RG 1.110, Revision 1, ''Cost-Benefit Analysis for Radwaste Systems for Light-Water-Cooled Nuclear Power Reactors,'' dated October 2013.	ML13241A052.
RG 1.134, Revision 4, ''Medical Assessment Of Licensed Operators Or Applicants For Operator Licenses At Nuclear Power Plants,'' dated September 2014.	ML14189A385.
RG 1.174, ''An Approach for Using Probabilistic Risk Assessment in Risk-Informed Decisions on Plant-Specific Changes to the Licensing Basis,'' Revision 3, dated January 2018.	ML17317A256.
RG 1.208, ''A Performance-Based Approach to Define the Site-Specific Earthquake Ground Motion,'' dated March 2007.	ML070310619.
RG 1.232, ''Guidance for Developing Principal Design Criteria for Non-Light-Water Reactors,'' Revision 0, dated April 2018.	ML17325A611.
RG 1.233, Revision 0, ''Guidance for a Technology-Inclusive, Risk-Informed, and Performance-Based Methodology to Inform the Licensing Basis and Content of Applications for Licenses, Certifications, and Approvals for Non-Light-Water Reactors,'' dated June 2020.	ML20091L698.
RG 1.247, ''Acceptability of Probabilistic Risk Assessment Results for Non-Light-Water Reactor Risk-Informed Activities,'' issued March 2022 for trial use.	ML21235A008.
RG 5.71, ''Cybersecurity Programs for Nuclear Power Reactors,'' Revision 1, dated February 3, 2023.	ML22258A204.
RG 5.73, ''Fatigue Management for Nuclear Power Plant Personnel,'' dated March 20, 2009	ML083450028.
SECY–18–0096, ''Functional Containment Performance Criteria For Non-Light-Water-Reactors,'' dated September 28, 2018.	ML18115A157.
SECY–19–0117, ''Technology-Inclusive, Risk-Informed, and Performance-Based Methodology to Inform the Licensing Basis and Content of Applications for Licenses, Certifications, and Approvals for Non-Light-Water Reactors,'' dated December 2019.	ML18311A264 (package).
SECY–20–0032, ''Rulemaking Plan on 'Risk-Informed, Technology-Inclusive Regulatory Framework for Advanced Reactors (RIN–3150–AK31; NRC–2019–0062,'' dated April 13, 2020.	ML19340A056.
SECY–20–0070, ''(Redacted) Technical Evaluation of the Security Bounding Time Concept for Operating Nuclear Power Plants,'' dated November 8, 2021.	ML20126G265 (package).
SECY–24–0049, ''Proposed Rule: Reporting Requirements for Nonemergency Events at Nuclear Power Plants (RIN 3150–AK71; NRC–2020–0036),'' dated June 10, 2024.	ML23318A479.
SECY–93–092, ''Issues Pertaining to the Advanced Reactor (PRISM, MHTGR, and PIUS) and CANDU 3 Designs and their Relationship to Current Regulatory Requirements,'' dated April 8, 1993.	ML040210725.
SRM–SECY–10–0121, ''Modifying the Risk-Informed Regulatory Guidance for New Reactors,'' dated March 2, 2011.	ML110610166.
SRM–SECY–17–0100, ''Security Baseline Inspection Program Assessment Results and Recommendations for Program Efficiencies,'' dated October 8, 2018.	ML18283A072.
SRM–SECY–20–0032, ''Rulemaking Plan on 'Risk-Informed, Technology-Inclusive Regulatory Framework for Advanced Reactors (RIN–3150–AK31; NRC–2019–0062),'' dated October 2, 2020.	ML20276A293.
SRM–SECY–20–0045, ''Population Related Siting Considerations for Advanced Reactors,'' dated July 30, 2022.	ML22194A885.
SRM–SECY–98–144, ''Staff Requirements—SECY–98–144—White Paper on Risk-Informed and Performance-Based Regulations,'' dated February 24, 1999.	ML003753593.
SECY–23–0021, ''Proposed Rule: Risk-Informed, Technology-Inclusive Regulatory Framework for Advanced Reactors (RIN 3150–AK31),'' March 1, 2023.	ML21162A095.
SECY–23–0021, Enclosure 1, ''Draft **Federal Register** Notification''	ML21162A102.
SECY–23–0021, Enclosure 2, ''Draft Environmental Assessment for the Proposed Rule—Risk-Informed, Technology-Inclusive Regulatory Framework for Advanced Reactors''.	ML21162A104.
SECY–23–0021, Enclosure 3, ''Draft Regulatory Analysis for the Proposed Rule: Risk-Informed, Technology-Inclusive Regulatory Framework for Advanced Reactors''.	ML21165A112.
SECY–23–0021, Enclosure 4, ''Alternative Approaches Considered for Selected Topics During the Development of 10 CFR Part 53''.	ML22244A001.
SECY–23–0021, Enclosure 5, ''Estimated Resources for The Risk-Informed, Technology-Inclusive Regulatory Framework For Advanced Reactors Rulemaking''.	ML22304A099 (non-public).
Staff Requirements—SECY–23–0021, ''Proposed Rule: Risk-Informed, Technology-Inclusive Regulatory Framework for Advanced Reactors (RIN 3150–AK31),'' March 4, 2024.	ML24064A047 (package).

The NRC may post materials related to this document, including public comments, on the Federal rulemaking website at *https://www.regulations.gov* under Docket ID NRC–2019–0062. In addition, the Federal rulemaking website allows members of the public to receive alerts when changes or additions occur in a docket folder. To subscribe: (1) navigate to the docket folder (NRC–2019–0062); (2) click the ''Subscribe'' link; and (3) enter an email address and click on the ''Subscribe'' link.

List of Subjects

10 CFR Part 1

Flags, Organization and functions (Government Agencies), Seals and insignia.

10 CFR Part 2

Administrative practice and procedure, Antitrust, Byproduct material, Classified information, Confidential business information, Freedom of information, Environmental protection, Hazardous waste, Nuclear energy, Nuclear materials, Nuclear power plants and reactors, Penalties, Reporting and recordkeeping requirements, Sex discrimination, Source material, Special nuclear material, Waste treatment and disposal.

10 CFR Part 10

Administrative practice and procedure, Classified information, Government employees, Security measures.

10 CFR Part 11

Hazardous materials transportation, Investigations, Nuclear energy, Nuclear materials, Penalties, Reporting and recordkeeping requirements, Security measures, Special nuclear material.

10 CFR Part 19

Criminal penalties, Environmental protection, Nuclear Energy, Nuclear materials, Nuclear power plants and reactors, Occupational safety and health, Penalties, Radiation protection, Reporting and recordkeeping requirements, Sex discrimination.

10 CFR Part 20

Byproduct material, Criminal penalties, Hazardous waste, Licensed material, Nuclear energy, Nuclear materials, Nuclear power plants and reactors, Occupational safety and health, Packaging and containers, Penalties, Radiation protection, Reporting and recordkeeping requirements, Source material, Special nuclear material, Waste treatment and disposal.

10 CFR Part 21

Nuclear power plants and reactors, Penalties, Radiation protection, Reporting and recordkeeping requirements.

10 CFR Part 25

Classified information, Criminal penalties, Investigations, Penalties, Reporting and recordkeeping requirements, Security measures.

10 CFR Part 26

Administrative practice and procedure, Alcohol abuse, Alcohol testing, Appeals, Drug abuse, Drug testing, Employee assistance programs, Fitness for duty, Management actions, Nuclear power plants and reactors, Privacy, Protection of information, Radiation protection, Reporting and recordkeeping requirements.

10 CFR Part 30

Byproduct material, Criminal penalties, Fusion, Government contracts, Intergovernmental relations, Isotopes, Nuclear energy, Nuclear materials, Penalties, Radiation protection, Reporting and recordkeeping requirements, Whistleblowing.

10 CFR Part 40

Criminal penalties, Exports, Government contracts, Hazardous materials transportation, Hazardous waste, Nuclear energy, Nuclear materials, Penalties, Reporting and recordkeeping requirements, Source material, Uranium, Whistleblowing.

10 CFR Part 50

Administrative practice and procedure, Antitrust, Backfitting, Classified information, Criminal penalties, Education, Emergency planning, Fire prevention, Fire protection, Intergovernmental relations, Nuclear power plants and reactors, Penalties, Radiation protection, Reactor siting criteria, Reporting and recordkeeping requirements, Whistleblowing.

10 CFR Part 51

Administrative practice and procedure, Environmental impact statements, Hazardous waste, Nuclear energy, Nuclear materials, Nuclear power plants and reactors, Reporting and recordkeeping requirements.

10 CFR Part 53

Administrative practice and procedure, Antitrust, Backfitting, Construction permit, Combined license, Classified information, Criminal penalties, Early site permit, Emergency planning, Fees, Fire prevention, Fire protection, Inspection, Intergovernmental relations, Limited work authorization, Manufacturing license, Nuclear power plants and reactors, Operating license, Penalties, Prototype, Radiation protection, Reactor siting criteria, Reporting and recordkeeping requirements, Standard design, Standard design certification, Training programs.

10 CFR Part 70

Classified information, Criminal penalties, Emergency medical services, Hazardous materials transportation, Material control and accounting, Nuclear energy, Nuclear materials, Packaging and containers, Penalties, Radiation protection, Reporting and recordkeeping requirements, Scientific equipment, Security measures, Special nuclear material, Whistleblowing.

10 CFR Part 72

Administrative practice and procedure, Hazardous waste, Indians, Intergovernmental relations, Nuclear energy, Penalties, Radiation protection, Reporting and recordkeeping requirements, Security measures, Spent fuel, Whistleblowing.

10 CFR Part 73

Criminal penalties, Exports, Hazardous materials transportation, Imports, Nuclear energy, Nuclear materials, Nuclear power plants and reactors, Penalties, Reporting and recordkeeping requirements, Security measures.

10 CFR Part 74

Accounting, Criminal penalties, Hazardous materials transportation, Material control and accounting, Nuclear energy, Nuclear materials, Packaging and containers, Penalties, Radiation protection, Reporting and recordkeeping requirements, Scientific equipment, Special nuclear material.

10 CFR Part 75

Criminal penalties, Intergovernmental relations, Nuclear energy, Nuclear materials, Nuclear power plants and reactors, Penalties, Reporting and recordkeeping requirements, Security measures, Treaties.

10 CFR Part 95

Classified information, Criminal penalties, Penalties, Reporting and recordkeeping requirements, Security measures.

10 CFR Part 140

Insurance, Intergovernmental relations, Nuclear materials, Nuclear power plants and reactors, Penalties,

Reporting and recordkeeping requirements.

10 CFR Part 150

Criminal penalties, Hazardous materials transportation, Intergovernmental relations, Nuclear energy, Nuclear materials, Penalties, Reporting and recordkeeping requirements, Security measures, Source material, Special nuclear material.

10 CFR Part 170

Byproduct material, Import and export licenses, Intergovernmental relations, Non-payment penalties, Nuclear energy, Nuclear materials, Nuclear power plants and reactors, Source material, Special nuclear material.

10 CFR Part 171

Annual charges, Approvals, Byproduct material, Holders of certificates, Intergovernmental relations, Nonpayment penalties, Nuclear materials, Nuclear power plants and reactors, Registrations, Source material, Special nuclear material.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; and 5 U.S.C. 552 and 553, the NRC is adopting the following amendments to 10 CFR chapter I:

PART 1—STATEMENT OF ORGANIZATION AND GENERAL INFORMATION

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

Authority: Atomic Energy Act of 1954, secs. 23, 25, 29, 161, 191 (42 U.S.C. 2033, 2035, 2039, 2201, 2241); Energy Reorganization Act of 1974, secs. 201, 203, 204, 205, 209 (42 U.S.C. 5841, 5843, 5844, 5845, 5849); Administrative Procedure Act (5 U.S.C. 552, 553); Reorganization Plan No. 1 of 1980, 5 U.S.C. Appendix (Reorganization Plans).

§ 1.43 [Amended]

■ 2. In § 1.43, in paragraph (a)(2), remove ''50, 52, and 54'' add in its place ''50, 52, 53, and 54''.

PART 2—AGENCY RULES OF PRACTICE AND PROCEDURE

■ 3. The authority citation for part 2 continues to read as follows:

Authority: Atomic Energy Act of 1954, secs. 29, 53, 62, 63, 81, 102, 103, 104, 105, 161, 181, 182, 183, 184, 186, 189, 191, 234 (42 U.S.C. 2039, 2073, 2092, 2093, 2111, 2132, 2133, 2134, 2135, 2201, 2231, 2232, 2233, 2234, 2236, 2239, 2241, 2282); Energy Reorganization Act of 1974, secs. 201, 206 (42 U.S.C. 5841, 5846); Nuclear Waste Policy Act of 1982, secs. 114(f), 134, 135, 141 (42 U.S.C. 10134(f), 10154, 10155, 10161); Administrative Procedure Act (5 U.S.C. 552, 553, 554, 557, 558); National Environmental Policy Act of 1969 (42 U.S.C. 4332); 44 U.S.C. 3504 note. Section 2.205(j) also issued under Sec. 31001(s), Pub. L. 104–134, 110 Stat. 1321–373 (28 U.S.C. 2461 note).

§ 2.1 [Amended]

■ 4. In § 2.1, in paragraph (e), remove the phrase ''part 52'' and add in its place the phrase ''part 52 or 53''.

■ 5. In § 2.4, revise the definitions for ''Contested proceeding'' and ''Facility'' to read as follows:

§ 2.4 Definitions.

* * * * *

Contested proceeding means—

(1) A proceeding in which there is a controversy between the NRC staff and the applicant for a license or permit concerning the issuance of the license or permit or any of the terms or conditions thereof;

(2) A proceeding in which the NRC is imposing a civil penalty or other enforcement action, and the subject of the civil penalty or enforcement action is an applicant for or holder of a license or permit, or is or was an applicant for or holder of a license or permit, or is or was an applicant for a standard design certification under part 52 or 53 of this chapter; and

(3) A proceeding in which a petition for leave to intervene in opposition to an application for a license or permit has been granted or is pending before the Commission.

* * * * *

Facility means a production facility or a utilization facility as defined in §§ 50.2 and 53.020 of this chapter.

* * * * *

§ 2.100 [Amended]

■ 6. In § 2.100, remove the phrase ''subpart E of part 52'' and add in its place the phrase ''subpart E of part 52 or subpart H of part 53''.

■ 7. In § 2.101, revise paragraphs (a)(3)(i), (a)(5), (a)(9) introductory text, and (a)(9)(i) to read as follows:

§ 2.101 Filing of application.

(a) * * *

(3) * * *

(i) Submit to the Director, Office of Nuclear Reactor Regulation, or Director, Office of Nuclear Material Safety and Safeguards, as appropriate, such additional copies as the regulations in part 50, subpart A of part 51, and part 53 of this chapter require;

* * * * *

(5) An applicant for a construction permit under part 50 or 53 of this chapter or a combined license under part 52 or 53 of this chapter for a production or utilization facility which is subject to § 51.20(b) of this chapter, and is of the type specified in § 50.21(b)(2) or (3); or § 50.22; or part 53, as applicable, of this chapter, or is a testing facility, may submit the information required of applicants by part 50, 52, or 53 of this chapter in two parts. One part shall be accompanied by the information required by § 50.30(f), § 52.80(b), or § 53.1100(f) of this chapter, as applicable. The other part shall include any information required by § 50.34(a) and, if applicable, § 50.34a of this chapter; or §§ 52.79 and 52.80(a) of this chapter; or §§ 53.1109, 53.1306, 53.1309, and 53.1312 of this chapter; or §§ 53.1109, 53.1413, 53.1416, and 53.1419 of this chapter, as applicable. One part may precede or follow other parts by no longer than 6 months. If it is determined that either of the parts as described above is incomplete and not acceptable for processing, the Director, Office of Nuclear Reactor Regulation, or Director, Office of Nuclear Material Safety and Safeguards, as appropriate, will inform the applicant of this determination and the respects in which the document is deficient. Such a determination of completeness will generally be made within a period of 30 days. Whichever part is filed first shall also include the fee required by § 50.30(e) or § 53.1100(e) and § 170.21 of this chapter and the information required by §§ 50.33, 50.34(a)(1), and 52.79(a)(1) of this chapter; or §§ 53.1109, 53.1309, and 53.1416 of this chapter, as applicable, and § 50.37 or § 53.1115, as applicable, of this chapter. The Director, Office of Nuclear Reactor Regulation, or Director, Office of Nuclear Material Safety and Safeguards, as appropriate, will accept for docketing an application for a construction permit under part 50 or 53 of this chapter or a combined license under part 52 or 53 of this chapter for a production or utilization facility which is subject to § 51.20(b) of this chapter, and is of the type specified in § 50.21(b)(2) or (3), or § 50.22, or part 53, as applicable, of this chapter or is a testing facility where one part of the application as described above is complete and conforms to the requirements of part 50 of this chapter. The additional parts will be docketed upon a determination by the Director, Office of Nuclear Reactor Regulation, or Director, Office of Nuclear Material Safety and Safeguards, as appropriate, that it is complete.

* * * * *

(9) An applicant for a construction permit for a utilization facility which is subject to § 51.20(b) of this chapter and is of the type specified in § 50.21(b)(2) or (3), or § 50.22, or part 53 of this chapter, an applicant for or holder of an early site permit under part 52 or 53 of this chapter, or an applicant for a combined license under part 52 or 53 of this chapter, who seeks to conduct the activities authorized under § 50.10(d) or § 53.1130 of this chapter may submit a complete application under paragraphs (a)(1) through (4) of this section, which includes the information required by § 50.10(d) or § 53.1130 of this chapter. Alternatively, the applicant (other than an applicant for or holder of an early site permit) may submit its application in two parts:

(i) Part one must include the information required by § 50.33(a) through (f) or §§ 53.1109(a) through (e) and 53.1306 of this chapter, and the information required by § 50.10(d)(2) and (3) or § 53.1130(a)(2) and (3) of this chapter, as applicable.

* * * * *

■ 8. In § 2.104, revise paragraph (a) to read as follows:

§ 2.104 Notice of hearing.

(a) In the case of an application on which a hearing is required by the Act or this chapter, or in which the Commission finds that a hearing is required in the public interest, the Secretary will issue a notice of hearing to be published in the **Federal Register**. The notice must be published at least 15 days, and in the case of an application concerning a limited work authorization, construction permit, early site permit, or combined license for a facility of the type described in § 50.21(b) or § 50.22 or subpart H of part 53 of this chapter, as applicable, or a testing facility, at least 30 days, before the date set for hearing in the notice.[1] In addition, in the case of an application for a limited work authorization, construction permit, early site permit, or combined license for a facility of the type described in § 50.22 or subpart H of part 53 of this chapter, as applicable, or a testing facility, the notice must be issued as soon as practicable after the NRC has docketed the application. If the Commission decides, under § 2.101(a)(2), to determine the acceptability of the application based on its technical adequacy as well as completeness, the notice must be issued as soon as practicable after the application has been tendered.

* * * * *

[1] If the notice of hearing concerning an application for a limited work authorization, construction permit, early site permit, or combined license for a facility of the type described in § 50.21(b) or § 50.22 or subpart H of part 53 of this chapter, as applicable, or a testing facility, does not specify the time and place of initial hearing, a subsequent notice will be published in the **Federal Register** which will provide at least 30-day notice of the time and place of that hearing. After this notice is given, the presiding officer may reschedule the commencement of the initial hearing for a later date or reconvene a recessed hearing without again providing at least 30-day notice.

■ 9. In § 2.105, revise paragraph (a) introductory text and paragraphs (a)(4), (10), (12), and (13), (b)(3) introductory text, and (b)(3)(i), (ii), and (iv) to read as follows:

§ 2.105 Notice of proposed action.

(a) If a hearing is not required by the Act or this chapter, and if the Commission has not found that a hearing is in the public interest, it will, before acting thereon, publish in the **Federal Register**, as applicable, or on the NRC's website, *https://www.nrc.gov,* or both, at the Commission's discretion, either a notice of intended operation under § 52.103(a) or § 53.1452(a) of this chapter, as applicable, and a proposed finding that inspections, tests, analyses, and acceptance criteria for a combined license under subpart C of part 52 or under subpart H of part 53 of this chapter, have been or will be met, or a notice of proposed action with respect to an application for:

* * * * *

(4) An amendment to an operating license, combined license, or manufacturing license for a facility licensed under § 50.21(b) or § 50.22 or under subpart H of part 53 of this chapter, as applicable, or for a testing facility, as follows:

(i) If the Commission determines under § 50.58 or § 53.1515 of this chapter that the amendment involves no significant hazards consideration, though it will provide notice of opportunity for a hearing pursuant to this section, it may make the amendment immediately effective and grant a hearing thereafter; or

(ii) If the Commission determines under §§ 50.58 and 50.91 or § 53.1515 of this chapter, as applicable, that an emergency situation exists or that exigent circumstances exist and that the amendment involves no significant hazards consideration, it will provide notice of opportunity for a hearing pursuant to § 2.106 (if a hearing is requested, it will be held after issuance of the amendment);

* * * * *

(10) In the case of an application for an operating license for a facility of a type described in § 50.21(b) or § 50.22 or part 53 of this chapter, or a testing facility, a notice of opportunity for hearing shall be issued as soon as practicable after the application has been docketed; or

* * * * *

(12) An amendment to an early site permit issued under subpart A of part 52, or under subpart H of part 53 of this chapter, as follows:

(i) If the early site permit does not provide authority to conduct the activities allowed under § 50.10(e)(1) or § 53.1130(b)(1) of this chapter, the amendment will involve no significant hazards consideration, and though the NRC will provide notice of opportunity for a hearing under this section, it may make the amendment immediately effective and grant a hearing thereafter; and

(ii) If the early site permit provides authority to conduct the activities allowed under § 50.10(e)(1) or § 53.1130(b)(1) of this chapter and the Commission determines under §§ 50.58 and 50.91 or § 53.1515 of this chapter that an emergency situation exists or that exigent circumstances exist and that the amendment involves no significant hazards consideration, it will provide notice of opportunity for a hearing under § 2.106 (if a hearing is requested, which will be held after issuance of the amendment).

(13) A manufacturing license under subpart F of part 52 or subpart H of part 53 of this chapter.

(b) * * *

(3) For a notice of intended operation under § 52.103(a) or § 53.1452(a) of this chapter, the following information:

(i) The identification of the NRC action as making the finding required under § 52.103(g) or § 53.1452(g) of this chapter;

(ii) The manner in which the licensee notifications under § 52.99(c) or § 53.1449(c) of this chapter which are required to be made available by § 52.99(e)(2) or § 53.1449(e)(2) of this chapter may be obtained and examined;

* * * * *

(iv) Any conditions, limitations, or restrictions to be placed on the license in connection with the finding under § 52.103(g) or § 53.1452(g) of this chapter, and the expiration date or circumstances (if any) under which the conditions, limitations or restrictions will no longer apply.

* * * * *

■ 10. In § 2.106, revise paragraphs (a)(2) and (3) and (b)(2) introductory text to read as follows:

§ 2.106 Notice of issuance.

(a) * * *

(2) An amendment of a license for a facility of the type described in § 50.21(b) or § 50.22 or part 53 of this chapter, as applicable, or a testing facility, whether or not a notice of proposed action has been previously published; and

(3) The finding under § 52.103(g) or § 53.1452(g) of this chapter.

(b) * * *

(2) In the case of a finding under § 52.103(g) or § 53.1452(g) of this chapter:

* * * * *

■ 11. In § 2.109, revise paragraphs (b), (c), and (d) to read as follows:

§ 2.109 Effect of timely renewal application.

* * * * *

(b) If the licensee of a nuclear power plant licensed under § 50.21(b) or § 50.22 or under subpart H of part 53 of this chapter files a sufficient application for renewal of either an operating license or a combined license at least 5 years before the expiration of the existing license, the existing license will not be deemed to have expired until the application has been finally determined.

(c) If the holder of an early site permit licensed under subpart A of part 52 or under subpart H of part 53 of this chapter, as applicable, files a sufficient application for renewal under § 52.29 or § 53.1173 of this chapter, as applicable, at least 12 months before the expiration of the existing early site permit, the existing permit will not be deemed to have expired until the application has been finally determined.

(d) If the licensee of a manufacturing license under subpart F of part 52 or under subpart H of part 53 of this chapter files a sufficient application for renewal under § 52.177 or § 53.1295 of this chapter at least 12 months before the expiration of the existing license, the existing license will not be deemed to have expired until the application has been finally determined.

* * * * *

■ 12. In § 2.110, revise paragraphs (a)(1) and (b) to read as follows:

§ 2.110 Filing and administrative action on submittals for standard design approval or early review of site suitability issues.

(a)(1) A submittal for a standard design approval under subpart E of part 52 or under subpart H of part 53 of this chapter shall be subject to §§ 2.101(a) and 2.390 to the same extent as if it were an application for a permit or license.

* * * * *

(b) Upon initiation of review by the NRC staff of a submittal for an early review of site suitability issues under appendix Q to part 50 of this chapter, or for a standard design approval under subpart E of part 52 or under subpart H of part 53 of this chapter, the Director, Office of Nuclear Reactor Regulation, shall publish in the **Federal Register** a notice of receipt of the submittal, inviting comments from interested persons within 60 days of publication or other time as may be specified, for consideration by the NRC staff and ACRS in their review.

* * * * *

■ 13. In § 2.202, revise paragraph (e) to read as follows:

§ 2.202 Orders.

* * * * *

(e)(1) If the order involves the modification of a part 50 or a part 53 license and is a backfit, the requirements of § 50.109 or § 53.1590 of this chapter, as applicable, shall be followed, unless the licensee has consented to the action required.

(2) If the order involves the modification of combined license under subpart C of part 52 or subpart H of part 53 of this chapter, the requirements of § 52.98 or § 53.1443 of this chapter, as applicable, shall be followed unless the licensee has consented to the action required.

(3) If the order involves a change to an early site permit under subpart A of part 52 or under subpart H of part 53 of this chapter, the requirements of § 52.39 or § 53.1188 of this chapter, as applicable, must be followed, unless the applicant or licensee has consented to the action required.

(4) If the order involves a change to a standard design certification rule referenced by that plant's application, the requirements, if any, in the referenced design certification rule with respect to changes must be followed, or, in the absence of these requirements, the requirements of § 52.63 or § 53.1263 of this chapter, as applicable, must be followed, unless the applicant or licensee has consented to follow the action required.

(5) If the order involves a change to a standard design approval referenced by that plant's application, the requirements of § 52.145 or § 53.1221 of this chapter, as applicable, must be followed unless the applicant or licensee has consented to follow the action required.

(6) If the order involves a modification of a manufacturing license under subpart F of part 52 or under subpart H of part 53 of this chapter, the requirements of § 52.171 or § 53.1288 of this chapter, as applicable, must be followed, unless the applicant or licensee has consented to the action required.

■ 14. In § 2.309, revise paragraphs (a), (f)(1)(i), (vi), and (vii), (g), (h)(2), (i)(2), and (j) to read as follows:

§ 2.309 Hearing requests, petitions to intervene, requirements for standing, and contentions.

(a) *General requirements.* Any person whose interest may be affected by a proceeding and who desires to participate as a party must file a written request for hearing and a specification of the contentions which the person seeks to have litigated in the hearing. In a proceeding under § 52.103 or § 53.1452 of this chapter, as applicable, the Commission, acting as the presiding officer, will grant the request if it determines that the requestor has standing under the provisions of paragraph (d) of this section and has proposed at least one admissible contention that meets the requirements of paragraph (f) of this section. For all other proceedings, except as provided in paragraph (e) of this section, the Commission, presiding officer, or the Atomic Safety and Licensing Board designated to rule on the request for hearing and/or petition for leave to intervene, will grant the request/petition if it determines that the requestor/petitioner has standing under the provisions of paragraph (d) of this section and has proposed at least one admissible contention that meets the requirements of paragraph (f) of this section. In ruling on the request for hearing/petition to intervene submitted by petitioners seeking to intervene in the proceeding on the HLW repository, the Commission, the presiding officer, or the Atomic Safety and Licensing Board shall also consider any failure of the petitioner to participate as a potential party in the pre-license application phase under subpart J of this part in addition to the factors in paragraph (d) of this section. If a request for hearing or petition to intervene is filed in response to any notice of hearing or opportunity for hearing, the applicant/licensee shall be deemed to be a party.

* * * * *

(f) * * *

(1) * * *

(i) Provide a specific statement of the issue of law or fact to be raised or controverted, provided further, that the issue of law or fact to be raised in a request for hearing under § 52.103(b) or § 53.1452(b) of this chapter, as applicable, must be directed at demonstrating that one or more of the acceptance criteria in the combined license have not been, or will not be

met, and that the specific operational consequences of nonconformance would be contrary to providing reasonable assurance of adequate protection of the public health and safety;

* * * * *

(vi) In a proceeding other than one under § 52.103 or § 53.1452 of this chapter provide sufficient information to show that a genuine dispute exists with the applicant/licensee on a material issue of law or fact. This information must include references to specific portions of the application (including the applicant's environmental report and safety report) that the petitioner disputes and the supporting reasons for each dispute, or, if the petitioner believes that the application fails to contain information on a relevant matter as required by law, the identification of each failure and the supporting reasons for the petitioner's belief; and

(vii) In a proceeding under § 52.103(b) or § 53.1452(b) of this chapter, as applicable, the information must be sufficient, and include supporting information showing, prima facie, that one or more of the acceptance criteria in the combined license have not been, or will not be met, and that the specific operational consequences of nonconformance would be contrary to providing reasonable assurance of adequate protection of the public health and safety. This information must include the specific portion of the report required by § 52.99(c) or § 53.1449(c) of this chapter, as applicable, which the requestor believes is inaccurate, incorrect, and/or incomplete (*i.e.,* fails to contain the necessary information required by § 52.99(c) or § 53.1449(c) of this chapter, as applicable). If the requestor identifies a specific portion of the report under § 52.99(c) or § 53.1449(c) of this chapter, as applicable, as incomplete and the requestor contends that the incomplete portion prevents the requestor from making the necessary *prima facie* showing, then the requestor must explain why this deficiency prevents the requestor from making the *prima facie* showing.

* * * * *

(g) *Selection of hearing procedures.* A request for hearing and/or petition for leave to intervene may, except in a proceeding under § 52.103 or § 53.1452 of this chapter, as applicable, also address the selection of hearing procedures, taking into account the provisions of § 2.310. If a request/petition relies upon § 2.310(d), the request/petition must demonstrate, by reference to the contention and the bases provided and the specific procedures in subpart G of this part, that resolution of the contention necessitates resolution of material issues of fact which may be best determined through the use of the identified procedures.

(h) * * *

(2) If the proceeding pertains to a production or utilization facility (as defined in § 50.2 or § 53.020 of this chapter) located within the boundaries of the State, local governmental body, or Federally-recognized Indian Tribe seeking to participate as a party, no further demonstration of standing is required. If the production or utilization facility is not located within the boundaries of the State, local governmental body, or Federally-recognized Indian Tribe seeking to participate as a party, the State, local governmental body, or Federally-recognized Indian Tribe also must demonstrate standing.

* * * * *

(i) * * *

(2) Except in a proceeding under § 52.103 or § 53.1452 of this chapter, as applicable, the participant who filed the hearing request, intervention petition, or motion for leave to file new or amended contentions after the deadline may file a reply to any answer. The reply must be filed within 7 days after service of that answer.

* * * * *

(j) *Decision on request/petition.* (1) In all proceedings other than a proceeding under § 52.103 or § 53.1452 of this chapter, as applicable, the presiding officer shall issue a decision on each request for hearing or petition to intervene within 45 days of the conclusion of the initial pre-hearing conference or, if no pre-hearing conference is conducted, within 45 days after the filing of answers and replies under paragraph (i) of this section. With respect to a request to admit amended or new contentions, the presiding officer shall issue a decision on each such request within 45 days of the conclusion of any pre-hearing conference that may be conducted regarding the proposed amended or new contentions or, if no pre-hearing conference is conducted, within 45 days after the filing of answers and replies, if any. In the event the presiding officer cannot issue a decision within 45 days, the presiding officer shall issue a notice advising the Commission and the parties, and the notice shall include the expected date of when the decision will issue.

(2) The Commission, acting as the presiding officer, shall expeditiously grant or deny the request for hearing in a proceeding under § 52.103 or § 53.1452 of this chapter, as applicable. The Commission's decision may not be the subject of any appeal under § 2.311.

■ 15. Amend § 2.310 by:

■ a. In paragraphs (a) and (h) introductory text, removing the cross-reference ''parts 30, 32 through 36, 39, 40, 50, 52, 54, 55, 61, 70 and 72 of this chapter'' and adding, in its place, the cross reference ''parts 30, 32 through 36, 39, 40, 50, 52, 53, 54, 55, 61, 70, and 72 of this chapter''; and

■ b. Revising paragraphs (i) and (j).

The revisions read as follows:

§ 2.310 Selection of hearing procedures.

* * * * *

(i) In design certification rulemaking proceedings under part 52 or part 53 of this chapter, any informal hearing held under § 52.51 or § 53.1242 of this chapter, as applicable, must be conducted under the procedures of subpart O of this part.

(j) Proceedings on a Commission finding under § 52.103(c) and (g) or § 53.1452(c) and (g) of this chapter, as applicable, shall be conducted in accordance with the procedures designated by the Commission in each proceeding.

* * * * *

■ 16. In § 2.329, revise paragraph (a) to read as follows:

§ 2.329 Prehearing conference.

(a) *Necessity for prehearing conference; timing.* The Commission or the presiding officer may, and in the case of a proceeding on an application for a construction permit or an operating license for a facility of a type described in § 50.21(b) or § 50.22 or part 53 of this chapter, or a testing facility, must direct the parties or their counsel to appear at a specified time and place for a conference or conferences before trial. A prehearing conference in a proceeding involving a construction permit or operating license for a facility of a type described in § 50.21(b) or § 50.22 or part 53 of this chapter must be held within sixty (60) days after discovery has been completed or any other time specified by the Commission or the presiding officer.

* * * * *

■ 17. In § 2.339, revise paragraph (d) to read as follows:

§ 2.339 Expedited decision-making procedure.

* * * * *

(d) The provisions of this section do not apply to an initial decision directing the issuance of a limited work authorization under § 50.10 or § 53.1130

of this chapter; an early site permit under subpart A of part 52 or under subpart H of part 53 of this chapter; a construction permit or construction authorization under part 50 or 53 of this chapter; a combined license under subpart C of part 52 or under subpart H of part 53 of this chapter; or a manufacturing license under subpart F of part 52 or under subpart H of part 53.

■ 18. In § 2.340, revise paragraphs (b), (c), (d), (f), (i), and (j) to read as follows:

§ 2.340 Initial decision in certain contested proceedings; immediate effectiveness of initial decisions; issuance of authorizations, permits and licenses.

* * * * *

(b) *Initial decision—combined license under part 52 or 53 of this chapter*—(1) *Matters in controversy; presiding officer consideration of matters not put in controversy by parties.* In any initial decision in a contested proceeding on an application for a combined license under part 52 or 53 of this chapter (including an amendment to or renewal of combined license), the presiding officer shall make findings of fact and conclusions of law on the matters put into controversy by the parties and any matter designated by the Commission to be decided by the presiding officer. The presiding officer shall also make findings of fact and conclusions of law on any matter not put into controversy by the parties, but only to the extent that the presiding officer determines that a serious safety, environmental, or common defense and security matter exists, and the Commission approves of an examination of and decision on the matter upon its referral by the presiding officer under, inter alia, the provisions of §§ 2.323 and 2.341.

(2) *Presiding officer initial decision and issuance of permit or license.* (i) In a contested proceeding for the initial issuance or renewal of a combined license under part 52 or 53 of this chapter, or the amendment of a combined license where the NRC has not made a determination of no significant hazards consideration, the Commission or the Director, Office of Nuclear Reactor Regulation, as appropriate after making the requisite findings, shall issue, deny, or appropriately condition the permit or license in accordance with the presiding officer's initial decision once that decision becomes effective.

(ii) In a contested proceeding for the amendment of a combined license under part 52 or 53 of this chapter where the NRC has made a determination of no significant hazards consideration, the Commission or the Director, Office of Nuclear Reactor Regulation, as appropriate (appropriate official), after making the requisite findings and complying with any applicable provisions of § 2.1202(a) or § 2.1403(a), may issue the amendment before the presiding officer's initial decision becomes effective. Once the presiding officer's initial decision becomes effective, the appropriate official shall take action with respect to that amendment in accordance with the initial decision. If the presiding officer's initial decision becomes effective before the appropriate official issues the amendment, then the appropriate official, after making the requisite findings, shall issue, deny, or appropriately condition the amendment in accordance with the presiding officer's initial decision.

(c) *Initial decision on findings under § 52.103 or § 53.1452 of this chapter with respect to acceptance criteria in nuclear power reactor combined licenses.* In any initial decision under § 52.103(g) or § 53.1452(g) of this chapter with respect to whether acceptance criteria have been or will be met, the presiding officer shall make findings of fact and conclusions of law on the matters put into controversy by the parties, and any matter designated by the Commission to be decided by the presiding officer. Matters not put into controversy by the parties but identified by the presiding officer as matters requiring further examination, shall be referred to the Commission for its determination; the Commission may, in its discretion, treat any of these referred matters as a request for action under § 2.206 and process the matter in accordance with § 52.103(f) or § 53.1452(f) of this chapter.

(d) *Initial decision—manufacturing license under part 52 or 53 of this chapter*—(1) *Matters in controversy; presiding officer consideration of matters not put in controversy by parties.* In any initial decision in a contested proceeding on an application for a manufacturing license under subpart C of part 52 or subpart H of part 53 of this chapter (including an amendment to or renewal of a manufacturing license), the presiding officer shall make findings of fact and conclusions of law on the matters put into controversy by the parties and any matter designated by the Commission to be decided by the presiding officer. The presiding officer also shall make findings of fact and conclusions of law on any matter not put into controversy by the parties, but only to the extent that the presiding officer determines that a serious safety, environmental, or common defense and security matter exists, and the Commission approves of an examination of and decision on the matter upon its referral by the presiding officer under, inter alia, the provisions of §§ 2.323 and 2.341.

(2) *Presiding officer initial decision and issuance of permit or license.* (i) In a contested proceeding for the initial issuance or renewal of a manufacturing license under subpart C of part 52 or subpart H of part 53 of this chapter, or the amendment of a manufacturing license, the Commission or the Director, Office of Nuclear Reactor Regulation, as appropriate, after making the requisite findings, shall issue, deny, or appropriately condition the permit or license in accordance with the presiding officer's initial decision once that decision becomes effective.

(ii) In a contested proceeding for the initial issuance or renewal of a manufacturing license under subpart C of part 52 or subpart H of part 53 of this chapter, or the amendment of a manufacturing license, the Commission or the Director, Office of Nuclear Reactor Regulation, as appropriate (appropriate official), may issue the license, permit, or license amendment in accordance with § 2.1202(a) or § 2.1403(a) before the presiding officer's initial decision becomes effective. If, however, the presiding officer's initial decision becomes effective before the license, permit, or license amendment is issued under § 2.1202 or § 2.1403, then the Commission or the Director, Office of Nuclear Reactor Regulation, as appropriate, shall issue, deny, or appropriately condition the license, permit, or license amendment in accordance with the presiding officer's initial decision.

* * * * *

(f) *Immediate effectiveness of certain presiding officer decisions.* A presiding officer's initial decision directing the issuance or amendment of a limited work authorization under § 50.10 or § 53.1130 of this chapter; an early site permit under subpart A of part 52 or under subpart H of part 53 of this chapter; a construction permit or construction authorization under part 50 or 53 of this chapter; an operating license under part 50 or 53 of this chapter; a combined license under subpart C of part 52 or subpart H or part 53 of this chapter; a manufacturing license under subpart F of part 52 or subpart H of part 53 of this chapter; a renewed license under part 53 or 54 of this chapter; or a license under part 72 of this chapter to store spent fuel in an independent spent fuel storage facility (ISFSI) or a monitored retrievable storage installation (MRS); an initial decision directing issuance of a license

under part 61 of this chapter; or an initial decision under § 52.103(g) or § 53.1452(g) of this chapter that acceptance criteria in a combined license have been met, is immediately effective upon issuance unless the presiding officer finds that good cause has been shown by a party why the initial decision should not become immediately effective.

* * * * *

(i) *Issuance of authorizations, permits, and licenses—production and utilization facilities.* The Commission or the Director, Office of Nuclear Reactor Regulation, as appropriate, shall issue a limited work authorization under § 50.10 or § 53.1130 of this chapter; an early site permit under subpart A of part 52 or subpart H of part 53 of this chapter; a construction permit or construction authorization under part 50 or 53 of this chapter; an operating license under part 50 or 53 of this chapter; a combined license under subpart C of part 52 or part 53 of this chapter; or a manufacturing license under subpart F of part 52 or part 53 of this chapter within 10 days from the date of issuance of the initial decision:

(1) If the Commission or the Director has made all findings necessary for issuance of the authorization, permit or license, not within the scope of the initial decision of the presiding officer; and

(2) Notwithstanding the pendency of a petition for reconsideration under § 2.345, a petition for review under § 2.341, or a motion for stay under § 2.342, or the filing of a petition under § 2.206.

(j) *Issuance of finding on acceptance criteria under § 52.103 or § 53.1452 of this chapter.* The Commission or the Director, Office of Nuclear Reactor Regulation, as appropriate, shall make the finding under § 52.103(g) or § 53.1452(g) of this chapter, that acceptance criteria in a combined license are met within 10 days from the date of the presiding officer's initial decision:

(1) If the Commission or the Director is otherwise able to make the finding under § 52.103(g) or § 53.1452(g) of this chapter, that the prescribed acceptance criteria are met for those acceptance criteria not within the scope of the initial decision of the presiding officer;

(2) If the presiding officer's initial decision—with respect to contentions that the prescribed acceptance criteria have not been met—finds that those acceptance criteria have been met, and the Commission or the Director thereafter is able to make the finding that those acceptance criteria are met;

(3) If the presiding officer's initial decision—with respect to contentions that the prescribed acceptance criteria will not be met—finds that those acceptance criteria will be met, and the Commission or the Director thereafter is able to make the finding that those acceptance criteria are met; and

(4) Notwithstanding the pendency of a petition for reconsideration under § 2.345, a petition for review under § 2.341, or a motion for stay under § 2.342, or the filing of a petition under § 2.206.

* * * * *

§ 2.341 [Amended]

■ 19. In § 2.341, in paragraph (a)(1), remove the phrase ''§ 52.103(c)'' and add in its place the phrase ''§ 52.103(c) or § 53.1452(c)''.

§ 2.400 [Amended]

■ 20. In § 2.400, remove the phrase ''parts 50 or 52'' and add in its place the phrase ''part 50 or part 52 or § 53.1470''.

■ 21. In § 2.401, revise the section heading and paragraph (a) to read as follows:

§ 2.401 Notice of hearing on construction permit or combined license applications pursuant to appendix N of 10 CFR part 50, 52, or 53.

(a) In the case of applications under appendix N of part 50 or § 53.1470 of this chapter for construction permits for nuclear power reactors of the type described in § 50.22 or part 53 of this chapter, or applications under appendix N of part 52 or § 53.1470 of this chapter for combined licenses, the Secretary will issue notices of hearing pursuant to § 2.104.

* * * * *

■ 22. In § 2.402, revise paragraph (a) to read as follows:

§ 2.402 Separate hearings on separate issues; consolidation of proceedings.

(a) In the case of applications under appendix N of part 50 or § 53.1470 of this chapter for construction permits for nuclear power reactors of a type described in § 50.22 or part 53 of this chapter, or applications pursuant to appendix N of part 52 or § 53.1470 of this chapter for combined licenses, the Commission or the presiding officer may order separate hearings on particular phases of the proceeding, such as matters related to the acceptability of the design of the reactor in the context of the site parameters postulated for the design or environmental matters.

* * * * *

§ 2.403 [Amended]

■ 23. In § 2.403, remove the phrase ''appendix N of part 50'' and add in its place the phrase ''appendix N to part 50 or § 53.1470''.

§ 2.404 [Amended]

■ 24. In § 2.404, remove the phrase ''appendix N of part 50'' and add in its place the phrase ''appendix N to part 50 or § 53.1470''.

§ 2.405 [Amended]

■ 25. In § 2.405, remove the phrase ''part 52'' and add in its place the phrase ''part 52 or 53''.

§ 2.406 [Amended]

■ 26. In § 2.406, remove the phrase ''appendices N of parts 50 or 52'' and add in its place the phrase ''appendix N to part 50 or part 52 or § 53.1470''.

§ 2.500 [Amended]

■ 27. In § 2.500, remove the phrase ''subpart F of part 52'' and add in its place the phrase ''subpart F of part 52 or subpart H of part 53''.

■ 28. In § 2.501, revise the section heading and paragraph (a) introductory text to read as follows:

§ 2.501 Notice of hearing on application under 10 CFR part 52 or 53 for a license to manufacture nuclear power reactors.

(a) In the case of an application under subpart F of part 52 or subpart H of part 53 of this chapter for a license to manufacture nuclear power reactors of the type described in § 50.22 or part 53 of this chapter to be operated at sites not identified in the license application, the Secretary will issue a notice of hearing to be published in the **Federal Register** at least 30 days before the date set for hearing in the notice.[1] The notice shall be issued as soon as practicable after the application has been docketed. The notice will state:

* * * * *

[1] The thirty-day (30) requirement of this paragraph (a) is not applicable to a notice of the time and place of hearing published by the presiding officer after notice of hearing described in this section has been published.

■ 29. In § 2.643, revise paragraph (b) to read as follows:

§ 2.643 Acceptance and docketing of application for limited work authorization.

* * * * *

(b) The Director will accept for docketing part one of an application for a construction permit for a utilization facility which is subject to § 51.20(b) of this chapter and is of the type specified in § 50.21(b)(2) or (3) or § 50.22 or part 53 of this chapter or an application for a combined license where part one of

the application as described in § 2.101(a)(9) is complete. Part one will not be considered complete unless it contains the information required by § 50.10(d)(3) or § 53.1130(a)(3) of this chapter. Upon assignment of a docket number, the procedures in § 2.101(a)(3) and (4) relating to formal docketing and the submission and distribution of additional copies of the application must be followed.

* * * * *

§ 2.645 [Amended]

■ 30. In § 2.645, in paragraph (a), remove the phrase ''§ 50.33(a) through (f) of this chapter'' and add in its place the phrase ''§§ 50.33(a) through (f), 53.1109, and 53.1306(a) or § 53.1413 of this chapter, as applicable''.

§ 2.649 [Amended]

■ 31. In § 2.649, remove the phrase ''10 CFR 50.10(d)'' and add in its place the phrase ''§ 50.10(d) or § 53.1130(a) of this chapter''.

§ 2.800 [Amended]

■ 32. In § 2.800:

■ a. In paragraph (c), remove the phrase ''subpart B of part 52'' and add in its place the phrase ''subpart B of part 52 or subpart H of part 53''; and

■ b. In paragraph (d), remove the phrase ''subpart B of part 52'' and add in its place the phrase ''subpart B of part 52 or subpart H of part 53 of this chapter''.

§ 2.801 [Amended]

■ 33. In § 2.801, remove the phrase ''subpart B of part 52'' and add in its place the phrase ''subpart B of part 52 or subpart H of part 53''.

§ 2.813 [Amended]

■ 34. In § 2.813, in paragraph (a), remove the phrase ''parts 50, 52, and 100'' and add in its place the phrase ''parts 50, 52, 53, and 100''.

§ 2.1103 [Amended]

■ 35. In § 2.1103, remove the phrase ''part 50 of this chapter'' and add in its place the phrase ''part 50 or 53 of this chapter''.

§ 2.1200 [Amended]

■ 36. In § 2.1200, remove the phrase ''parts 30, 32 through 36, 39, 40, 50, 52, 54, 55, 61, 70, and 72 of this chapter,'' and add in its place ''parts 30, 32 through 36, 39, 40, 50, 52, 53, 54, 55, 61, 70, and 72 of this chapter,''.

■ 37. In § 2.1202, revise paragraphs (a)(1) through (3) and (6) to read as follows:

§ 2.1202 Authority and role of NRC staff.

(a) * * *

(1) An application to construct and/or operate a production or utilization facility (including an application for a limited work authorization under 10 CFR 50.10 or 53.1130, or an application for a combined license under subpart C of 10 CFR part 52, or under subpart H of 10 CFR part 53;

(2) An application for an early site permit under subpart A of 10 CFR part 52 or under subpart H of 10 CFR part 53;

(3) An application for a manufacturing license under subpart F of 10 CFR part 52 or under subpart H of 10 CFR part 53;

* * * * *

(6) Production or utilization facility licensing actions that involve significant hazards considerations as defined in 10 CFR 50.92 or 53.1520.

* * * * *

§ 2.1301 [Amended]

■ 38. In § 2.1301, in paragraph (b), remove ''part 50 and part 52'' and add in its place ''parts 50, 52, and 53''.

§ 2.1403 [Amended]

■ 39. In § 2.1403, in paragraph (a)(3), remove the phrase ''10 CFR 50.92'' and add in its place the phrase ''10 CFR 50.92 or 53.1520''.

§ 2.1500 [Amended]

■ 40. In § 2.1500, remove the phrase ''subpart B of part 52'' and add in its place the phrase ''subpart B of part 52 or under subpart H of part 53''.

§ 2.1502 [Amended]

■ 41. In § 2.1502:

■ a. In paragraph (a), remove the phrase ''§ 52.51(b)'' and add in its place the phrase ''§ 52.51(b) or § 53.1242(b)(2)''; and

■ b. In paragraph (b)(1), wherever it may appear, remove the phrase ''§ 52.51(a)'' and add in its place the phrase ''§ 52.51(a) or § 53.1242(b)''.

PART 10—CRITERIA AND PROCEDURES FOR DETERMINING ELIGIBILITY FOR ACCESS TO RESTRICTED DATA OR NATIONAL SECURITY INFORMATION OR AN EMPLOYMENT CLEARANCE

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

Authority: Atomic Energy Act of 1954, secs. 145, 161 (42 U.S.C. 2165, 2201); Energy Reorganization Act of 1974, sec. 201 (42 U.S.C. 5841); E.O. 10450, 18 FR 2489, 3 CFR, 1949–1953 Comp., p. 936, as amended; E.O. 10865, 25 FR 1583, 3 CFR, 1959–1963 Comp., p. 398, as amended; E.O. 12968, 60 FR 40245, 3 CFR, 1995 Comp., p. 391.

§ 10.1 [Amended]

■ 43. In § 10.1, in paragraph (a)(3), remove the phrase ''under part 52'' and add in its place the phrase ''under part 52 or 53''.

§ 10.2 [Amended]

■ 44. In § 10.2, in paragraph (b), wherever it may appear, remove the phrase ''under part 52'' and add in its place the phrase ''under part 52 or 53''.

PART 11—CRITERIA AND PROCEDURES FOR DETERMINING ELIGIBILITY FOR ACCESS TO OR CONTROL OVER SPECIAL NUCLEAR MATERIAL

■ 45. The authority citation for part 11 continues to read as follows:

Authority: Atomic Energy Act of 1954, secs. 161, 223 (42 U.S.C. 2201, 2273); Energy Reorganization Act of 1974, sec. 201 (42 U.S.C. 5841); 44 U.S.C. 3504 note.

Section 11.15(e) also issued under 31 U.S.C. 9701; 42 U.S.C. 2214.

§ 11.7 [Amended]

■ 46. In § 11.7:

■ a. Revise the introductory text; and

■ b. Remove the first undesignated paragraph.

The revision reads as follows:

§ 11.7 Definitions.

Terms defined in parts 10, 25, 50, 53, 70, 72, 73, and 95 of this chapter have the same meaning when used in this part. Also, as used in this part:

* * * * *

PART 19—NOTICES, INSTRUCTIONS AND REPORTS TO WORKERS: INSPECTION AND INVESTIGATIONS

■ 47. The authority citation for part 19 continues to read as follows:

Authority: Atomic Energy Act of 1954, secs. 53, 63, 81, 103, 104, 161, 223, 234, 1701 (42 U.S.C. 2073, 2093, 2111, 2133, 2134, 2201, 2273, 2282, 2297f); Energy Reorganization Act of 1974, secs. 201, 211, 401 (42 U.S.C. 5841, 5851, 5891); 44 U.S.C. 3504 note.

■ 48. In § 19.2, revise paragraph (a) to read as follows:

§ 19.2 Scope.

(a) The regulations in this part apply to:

(1) All persons who receive, possess, use, or transfer material licensed by the NRC under the regulations in parts 30 through 36 or part 39, 40, 60, 61, 63, 70, or 72 of this chapter, including persons licensed to operate a production or utilization facility under part 50, 52, or 53 of this chapter, persons licensed to possess power reactor spent fuel in an

independent spent fuel storage installation (ISFSI) under part 72 of this chapter, and in accordance with 10 CFR 76.60 to persons required to obtain a certificate of compliance or an approved compliance plan under part 76 of this chapter;

(2) All applicants for and holders of licenses (including construction permits and early site permits) under parts 50, 52, 53, and 54 of this chapter;

(3) All applicants for and holders of a standard design approval under subpart E of part 52 or under subpart H of part 53 of this chapter; and

(4) All applicants for a standard design certification under subpart B of part 52 or under subpart H of part 53 of this chapter, and those (former) applicants whose designs have been certified under that subpart.

* * * * *

■ 49. In § 19.3, revise the definitions for ''License'' and ''Regulated entities'' to read as follows:

§ 19.3 Definitions.

* * * * *

License means a license issued under the regulations in parts 30 through 36 or part 39, 40, 60, 61, 63, 70, or 72 of this chapter, including licenses to manufacture, construct and/or operate a production or utilization facility under part 50, 52, 53, or 54 of this chapter.

* * * * *

Regulated entities means any individual, person, organization, or corporation that is subject to the regulatory jurisdiction of the NRC, including (but not limited to) an applicant for or holder of a standard design approval under subpart E of part 52 or under subpart H of part 53 of this chapter or a standard design certification under subpart B of part 52 or under subpart H of part 53 of this chapter.

* * * * *

§ 19.11 [Amended]

■ 50. In § 19.11, in paragraph (a) introductory text, paragraph (b) introductory text, and paragraph (e)(1), wherever it may appear, remove the phrase ''of part 52'' and add in its place the phrase ''of part 52 or under subpart H of part 53''.

§ 19.14 [Amended]

■ 51. In § 19.14, in paragraph (a), wherever it may appear, remove the phrase ''of part 52'' and add in its place the phrase ''of part 52 or under subpart H of part 53''.

§ 19.20 [Amended]

■ 52. In § 19.20, remove ''parts 30, 40, 50, 52, 54, 60, 61, 63, 70, 72, 76, or 150'' and add in its place ''part 30, 40, 50, 52, 53, 54, 60, 61, 63, 70, 72, 76, or 150''.

PART 20—STANDARDS FOR PROTECTION AGAINST RADIATION

■ 53. The authority citation for part 20 continues to read as follows:

Authority: Atomic Energy Act of 1954, secs. 11, 53, 63, 65, 81, 103, 104, 161, 170H, 182, 186, 223, 234, 274, 1701 (42 U.S.C. 2014, 2073, 2093, 2095, 2111, 2133, 2134, 2201, 2210h, 2232, 2236, 2273, 2282, 2021, 2297f); Energy Reorganization Act of 1974, secs. 201, 202 (42 U.S.C. 5841, 5842); Low-Level Radioactive Waste Policy Amendments Act of 1985, sec. 2 (42 U.S.C. 2021b); 44 U.S.C. 3504 note.

§ 20.1002 [Amended]

■ 54. In § 20.1002, remove ''parts 30 through 36, 39, 40, 50, 52, 60, 61, 63, 70, or 72'' and add in its place ''under parts 30 through 36 or part 39, 40, 50, 52, 53, 60, 61, 63, 70, or 72''.

■ 55. In § 20.1003, revise the definition for ''License'' to read as follows:

§ 20.1003 Definitions.

* * * * *

License means a license issued under the regulations in parts 30 through 36 or part 39, 40, 50, 53, 60, 61, 63, 70, or 72 of this chapter.

* * * * *

§ 20.1101 [Amended]

■ 56. In § 20.1101, in paragraph (d):
■ a. Remove ''§ 20.1101 (b)'' and add in its place ''paragraph (b) of this section'';
■ b. Remove ''of this part''; and
■ c. Remove the phrase ''subject to § 50.34a'' and add in its place the phrase ''subject to § 50.34a or § 53.260 of this chapter''.

§ 20.1401 [Amended]

■ 57. In § 20.1401:
■ a. In paragraph (a), remove ''parts 30, 40, 50, 52, 60, 61, 63, 70, and 72'' and add in its place ''under parts 30, 40, 50, 52, 53, 60, 61, 63, 70, and 72''; and
■ b. In paragraphs (a) and (c), remove the phrase ''in accordance with § 50.83'' and add in its place the phrase ''in accordance with § 50.83 or § 53.1080''.

■ 58. In § 20.1403, revise paragraph (d) introductory text to read as follows:

§ 20.1403 Criteria for license termination under restricted conditions.

* * * * *

(d) The licensee has submitted a decommissioning plan or License Termination Plan (LTP) to the Commission indicating the licensee's intent to decommission in accordance with § 30.36(d), § 40.42(d), § 50.82 (a) and (b), subpart G of part 53, § 70.38(d), or § 72.54 of this chapter, and specifying that the licensee intends to decommission by restricting use of the site. The licensee shall document in the LTP or decommissioning plan how the advice of individuals and institutions in the community who may be affected by the decommissioning has been sought and incorporated, as appropriate, following analysis of that advice.

* * * * *

■ 59. In § 20.1404, revise paragraph (a)(4) introductory text to read as follows:

§ 20.1404 Alternate criteria for license termination.

(a) * * *

(4) Has submitted a decommissioning plan or License Termination Plan (LTP) to the Commission indicating the licensee's intent to decommission in accordance with § 30.36(d), § 40.42(d), § 50.82 (a) and (b), subpart G of part 53, § 70.38(d), or § 72.54 of this chapter, and specifying that the licensee proposes to decommission by use of alternate criteria. The licensee shall document in the decommissioning plan or LTP how the advice of individuals and institutions in the community who may be affected by the decommissioning has been sought and addressed, as appropriate, following analysis of that advice. In seeking such advice, the licensee shall provide for:

* * * * *

§ 20.1406 [Amended]

■ 60. In § 20.1406, in paragraphs (a) and (b), remove the phrase ''under part 52'' and add in its place the phrase ''under part 52 or 53''.

■ 61. In § 20.1501, revise paragraph (b) to read as follows:

§ 20.1501 General.

* * * * *

(b) Notwithstanding § 20.2103(a), records from surveys describing the location and amount of subsurface residual radioactivity identified at the site must be kept with records important for decommissioning, and such records must be retained in accordance with § 30.35(g), § 40.36(f), § 50.75(g), subpart G of part 53, § 70.25(g), or § 72.30(d) of this chapter, as applicable.

* * * * *

§ 20.1905 [Amended]

■ 62. In § 20.1905, in paragraph (g) introductory text, remove the phrase ''Parts 50 or 52'' and add in its place the phrase ''part 50, 52, or 53''.

■ 63. In § 20.2004, revise paragraph (b)(1) to read as follows:

§ 20.2004 Treatment or disposal by incineration.

* * * * *

(b)(1) Waste oils (petroleum derived or synthetic oils used principally as lubricants, coolants, hydraulic or insulating fluids, or metalworking oils) that have been radioactively contaminated in the course of the operation or maintenance of a nuclear power reactor licensed under part 50 or 53 of this chapter may be incinerated on the site where generated provided that the total radioactive effluents from the facility, including the effluents from such incineration, conform to the requirements of appendix I to part 50 or § 53.425(c) of this chapter and the effluent release limits contained in applicable license conditions other than effluent limits specifically related to incineration of waste oil. The licensee shall report any changes or additions to the information supplied under § 50.34 or § 50.34a or under subpart H of part 53 of this chapter associated with this incineration pursuant to § 50.71 or § 53.1620 of this chapter, as appropriate. The licensee shall also follow the procedures of § 50.59 or § 53.1565 of this chapter with respect to such changes to the facility or procedures.

* * * * *

■ 64. In § 20.2201, revise paragraphs (a)(2)(i), (b)(2)(i), and (c) to read as follows:

§ 20.2201 Reports of theft or loss of licensed material.

(a) * * *

(2) * * *

(i) Licensees having an installed Emergency Notification System shall make the reports to the NRC Operations Center under § 50.72 or § 53.1630 of this chapter, and

* * * * *

(b) * * *

(2) * * *

(i) For holders of an operating license for a nuclear power plant, the events included in paragraph (b) of this section must be reported under the procedures described in § 50.73(b) through (e) and (g) or § 53.1640(b) through (e) of this chapter and must include the information required in paragraph (b)(1) of this section; and

* * * * *

(c) A duplicate report is not required under paragraph (b) of this section if the licensee is also required to submit a report pursuant to § 30.55(c), § 37.57, § 37.81, § 40.64(c), § 50.72, § 50.73, § 53.1630, § 53.1640, § 70.52, § 73.27(b), § 73.67(e)(3)(vii) or (g)(3)(iii), § 73.1205, or § 150.19(c) of this chapter.

* * * * *

§ 20.2202 [Amended]

■ 65. In § 20.2202, in paragraph (d)(1), remove the phrase ''10 CFR 50.72'' and add in its place the phrase ''§ 50.72 or § 53.1630 of this chapter;''.

■ 66. In § 20.2203, revise paragraph (c) to read as follows:

§ 20.2203 Reports of exposures, radiation levels, and concentrations of radioactive material exceeding the constraints or limits.

* * * * *

(c) For holders of an operating license or a combined license for a nuclear power plant, the occurrences included in paragraph (a) of this section must be reported under the procedures described in § 50.73(b) through (e) and (g) or § 53.1640(b) through (e) of this chapter, and must include the information required by paragraph (b) of this section. Occurrences reported under § 50.73 or § 53.1640 of this chapter need not be reported by a duplicate report under paragraph (a) of this section.

* * * * *

§ 20.2206 [Amended]

■ 67. In § 20.2206, in paragraph (a)(1), remove the phrase ''or § 50.22'' and add in its place the phrase ''or § 50.22 or part 53''.

PART 21—REPORTING OF DEFECTS AND NONCOMPLIANCE

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

Authority: Atomic Energy Act of 1954, secs. 53, 63, 81, 103, 104, 161, 223, 234, 1701 (42 U.S.C. 2073, 2093, 2111, 2133, 2134, 2201, 2273, 2282, 2297f); Energy Reorganization Act of 1974, secs. 201, 206 (42 U.S.C. 5841, 5846); Nuclear Waste Policy Act of 1982, secs. 135, 141 (42 U.S.C. 10155, 10161); 44 U.S.C. 3504 note.

■ 69. In § 21.2, revise paragraphs (a)(2) through (4), (b), and (c) to read as follows:

§ 21.2 Scope.

(a) * * *

(2) Each individual, corporation, partnership, or other entity doing business within the United States, and each director and responsible officer of such an organization, that constructs a production or utilization facility licensed for manufacture, construction, or operation under part 50, 52, or 53 of this chapter, an ISFSI for the storage of spent fuel licensed under part 72 of this chapter, an MRS for the storage of spent fuel or high-level radioactive waste under part 72 of this chapter, or a geologic repository for the disposal of high-level radioactive waste under part 60 or 63 of this chapter; or supplies basic components for a facility or activity licensed, other than for export, under part 30, 40, 50, 52, 53, 60, 61, 63, 70, 71, or 72 of this chapter;

(3) Each individual, corporation, partnership, or other entity doing business within the United States, and each director and responsible officer of such an organization, applying for a design certification rule under part 52 or 53 of this chapter; or supplying basic components with respect to that design certification, and each individual, corporation, partnership, or other entity doing business within the United States, and each director and responsible officer of such an organization, whose application for design certification has been granted under part 52 or 53 of this chapter, or who has supplied or is supplying basic components with respect to that design certification;

(4) Each individual, corporation, partnership, or other entity doing business within the United States, and each director and responsible officer of such an organization, applying for or holding a standard design approval under part 52 or 53 of this chapter; or supplying basic components with respect to a standard design approval under part 52 or 53 of this chapter;

(b) For persons licensed to construct a facility under either a construction permit issued under § 50.23 or § 53.1333 of this chapter or a combined license under part 52 or 53 of this chapter (for the period of construction until the date that the Commission makes the finding under § 52.103(g) or § 53.1452(g) of this chapter), or to manufacture a facility under part 52 or 53 of this chapter, evaluation of potential defects and failures to comply and reporting of defects and failures to comply under § 50.55(e) or § 53.605 of this chapter satisfies each person's evaluation, notification, and reporting obligation to report defects and failures to comply under this part and the responsibility of individual directors and responsible officers of these licensees to report defects under section 206 of the Energy Reorganization Act of 1974.

(c) For persons licensed to operate a nuclear power plant under part 50, 52, or 53 of this chapter, evaluation of potential defects and appropriate reporting of defects under § 50.72, § 50.73, § 53.1630, § 53.1640, or §§ 73.1200 and 73.1205 of this chapter, satisfies each person's evaluation, notification, and reporting obligation to report defects under this part, and the responsibility of individual directors

and responsible officers of these licensees to report defects under Section 206 of the Energy Reorganization Act of 1974.

* * * * *

■ 70. In § 21.3, revise the definitions for ''Basic component'', ''Commercial grade item'', ''Critical characteristics'', ''Dedicating entity'', ''Dedication'', ''Defect'', and ''Substantial safety hazard'' to read as follows:

§ 21.3 Definitions.

* * * * *

Basic component. (1)(i) When applied to nuclear power plants licensed under part 53 of this chapter, basic component means a safety-related structure, system, or component (SSC), or part thereof, and when applied to nuclear power plants licensed under part 50 or 52 of this chapter, basic component means an SSC, or part thereof, that affects its safety function necessary to assure:

(A) The integrity of the reactor coolant pressure boundary;

(B) The capability to shut down the reactor and maintain it in a safe-shutdown condition; or

(C) The capability to prevent or mitigate the consequences of accidents which could result in potential offsite exposures comparable to those referred to in § 50.34(a)(1), § 50.67(b)(2), or § 100.11 of this chapter, as applicable.

(ii) Basic components are items designed and manufactured under a quality assurance program complying with appendix B to part 50 of this chapter, or commercial grade items which have successfully completed the dedication process.

(2) When applied to standard design certifications and approvals under part 53 of this chapter, basic component means the design or procurement information approved or to be approved within the scope of the design certification or approval for a safety-related SSC, or part thereof. When applied to standard design certifications under subpart B of part 52 of this chapter and standard design approvals under part 52 of this chapter, basic component means the design or procurement information approved or to be approved within the scope of the design certification or approval for an SSC, or part thereof, that affects its safety function necessary to assure:

(i) The integrity of the reactor coolant pressure boundary;

(ii) The capability to shut down the reactor and maintain it in a safe-shutdown condition; or

(iii) The capability to prevent or mitigate the consequences of accidents which could result in potential offsite exposures comparable to those referred to in § 50.34(a)(1), § 50.67(b)(2), or § 100.11 of this chapter, as applicable.

(3) When applied to other facilities and other activities licensed under part 30, 40, 50 (other than nuclear power plants), 60, 61, 63, 70, 71, or 72 of this chapter, basic component means a structure, system, or component, or part thereof, that affects their safety function, that is directly procured by the licensee of a facility or activity subject to the regulations in this part and in which a defect or failure to comply with any applicable regulation in this chapter, order, or license issued by the Commission could create a substantial safety hazard.

(4) In all cases, basic component includes safety-related design, analysis, inspection, testing, fabrication, replacement of parts, or consulting services that are associated with the component hardware, design certification, design approval, or information in support of an early site permit application under part 52 or 53 of this chapter, whether these services are performed by the component supplier or others.

Commercial grade item. (1) When applied to nuclear power plants licensed under part 50 or 53 of this chapter, commercial grade item means an SSC, or part thereof that affects its safety function, that was not designed and manufactured as a basic component. Commercial grade items do not include items where the design and manufacturing process require in-process inspections and verifications to ensure that defects or failures to comply are identified and corrected (*i.e.,* one or more critical characteristics of the item cannot be verified).

(2) When applied to facilities and activities licensed pursuant to part 30, 40, 50 (other than nuclear power plants), 60, 61, 63, 70, 71, or 72 of this chapter, commercial grade item means an item that is:

(i) Not subject to design or specification requirements that are unique to those facilities or activities;

(ii) Used in applications other than those facilities or activities; and

(iii) To be ordered from the manufacturer/supplier on the basis of specifications set forth in the manufacturer's published product description (for example, a catalog).

* * * * *

Critical characteristics. When applied to nuclear power plants licensed under part 50, 52, or 53 of this chapter, critical characteristics are those important design, material, and performance characteristics of a commercial grade item that, once verified, will provide reasonable assurance that the item will perform its intended safety function.

Dedicating entity. When applied to nuclear power plants licensed under part 50, 52, or 53 of this chapter, dedicating entity means the organization that performs the dedication process. Dedication may be performed by the manufacturer of the item, a third-party dedicating entity, or the licensee itself. The dedicating entity, under § 21.21(c), is responsible for identifying and evaluating deviations, reporting defects and failures to comply for the dedicated item, and maintaining auditable records of the dedication process.

Dedication. (1) When applied to nuclear power plants licensed pursuant to part 30, 40, 50, 53, or 60 of this chapter, dedication is an acceptance process undertaken to provide reasonable assurance that a commercial grade item to be used as a basic component will perform its intended safety function and, in this respect, is deemed equivalent to an item designed and manufactured under a quality assurance program under appendix B to part 50 of this chapter. This assurance is achieved by identifying the critical characteristics of the item and verifying their acceptability by inspections, tests, or analyses performed by the purchaser or third-party dedicating entity after delivery, supplemented as necessary by one or more of the following: commercial grade surveys; product inspections or witness at holdpoints at the manufacturer's facility, and analysis of historical records for acceptable performance. In all cases, the dedication process must be conducted under the applicable provisions of appendix B to part 50. The process is considered complete when the item is designated for use as a basic component.

(2) When applied to facilities and activities licensed pursuant to part 30, 40, 50 (other than nuclear power plants), 60, 61, 63, 70, 71, or 72 of this chapter, dedication occurs after receipt when that item is designated for use as a basic component.

Defect means:

(1) A deviation in a basic component delivered to a purchaser for use in a facility or an activity subject to the regulations in this part if, on the basis of an evaluation, the deviation could create a substantial safety hazard;

(2) The installation, use, or operation of a basic component containing a defect as defined in this section;

(3) A deviation in a portion of a facility subject to the early site permit, standard design certification, standard design approval, construction permit,

combined license or manufacturing licensing requirements of part 50, 52, or 53 of this chapter, provided the deviation could, on the basis of an evaluation, create a substantial safety hazard and the portion of the facility containing the deviation has been offered to the purchaser for acceptance;

(4) A condition or circumstance involving a basic component that could contribute to the exceeding of a safety limit, as defined in the technical specifications of a license for operation issued under part 50, 52, or 53 of this chapter; or

(5) An error, omission or other circumstance in a design certification, or standard design approval that, on the basis of an evaluation, could create a substantial safety hazard.

* * * * *

Substantial safety hazard means a loss of safety function to the extent that there is a major reduction in the degree of protection provided to public health and safety for any facility or activity licensed or otherwise approved or regulated by the NRC, other than for export, under part 30, 40, 50, 52, 53, 60, 61, 63, 70, 71, or 72 of this chapter.

* * * * *

§ 21.21 [Amended]

■ 71. In § 21.21:

■ a. In paragraphs (a)(3) introductory text and (a)(3)(i), remove the phrase ''under part 52'' and add in its place the phrase ''under part 52 or 53''; and

■ b. In paragraphs (d)(1)(i) and (ii), remove ''parts 30, 40, 50, 52, 60, 61, 63, 70, 71, or 72'' and add ''part 30, 40, 50, 52, 53, 60, 61, 63, 70, 71, or 72'' in its place.

§ 21.51 [Amended]

■ 72. In § 21.51, in paragraphs (a)(4) and (5), remove the phrase ''of part 52'' and add in its place the phrase ''of part 52 or under subpart H of part 53''.

§ 21.61 [Amended]

■ 73. In § 21.61, in paragraph (b), remove the phrase ''under part 52'' wherever it may appear and add in its place the phrase ''under part 52 or 53''.

PART 25—ACCESS AUTHORIZATION

■ 74. The authority citation for part 25 continues to read as follows:

Authority: Atomic Energy Act of 1954, secs. 145, 161, 223, 234 (42 U.S.C. 2165, 2201, 2273, 2282); Energy Reorganization Act of 1974, sec. 201 (42 U.S.C. 5841); 44 U.S.C. 3504 note; E.O. 10865, 25 FR 1583, as amended, 3 CFR, 1959–1963 Comp., p. 398; E.O. 12829, 58 FR 3479, 3 CFR, 1993 Comp., p. 570; E.O. 13526, 75 FR 707, 3 CFR, 2009 Comp., p. 298; E.O. 12968, 60 FR 40245, 3 CFR, 1995 Comp., p. 391. Section 25.17(f) and Appendix A also issued under 31 U.S.C. 9701; 42 U.S.C. 2214.

■ 75. In § 25.5, revise the definition for ''License'' to read as follows:

§ 25.5 Definitions.

* * * * *

License means a license issued pursuant to part 50, 52, 53, 60, 63, 70, or 72 of this chapter.

* * * * *

§ 25.17 [Amended]

■ 76. In § 25.17, in paragraph (a), remove ''10 CFR parts 50, 52, 54, 60, 63, 70, 72, or 76'' and add in its place ''part 50, 52, 53, 54, 60, 63, 70, 72, or 76 of this chapter''.

§ 25.35 [Amended]

■ 77. In § 25.35, in paragraph (a), wherever it may appear, remove the phrase ''under part 52'' and add in its place the phrase ''under part 52 or 53''.

PART 26—FITNESS FOR DUTY PROGRAMS

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

Authority: Atomic Energy Act of 1954, secs. 53, 103, 104, 107, 161, 223, 234, 1701 (42 U.S.C. 2073, 2133, 2134, 2137, 2201, 2273, 2282, 2297f); Energy Reorganization Act of 1974, secs. 201, 202 (42 U.S.C. 5841, 5842); 44 U.S.C. 3504 note.

■ 79. In § 26.3, revise paragraph (d) and add paragraph (f) to read as follows:

§ 26.3 Scope.

* * * * *

(d) Contractor/vendors (C/Vs) who implement FFD programs or program elements, to the extent that the licensees and other entities specified in paragraphs (a) through (c) and (f) of this section rely on those C/V FFD programs or program elements to meet the requirements of this part, shall comply with the requirements of this part.

* * * * *

(f) No later than the start of construction activities, licensees and other entities that have applied for or have been issued a license under part 53 of this chapter, other than a manufacturing license (ML), must implement the requirements in subpart M of this part or all the requirements of this part except subparts K and M. Holders of an ML under part 53 of this chapter must implement the requirements in subpart M or all the requirements of this part except subparts K and M, before commencing activities that assemble a manufactured reactor.

■ 80. In § 26.4, revise paragraphs (a) introductory text, (a)(1) and (4), (b), (c), (e) introductory, (e)(4), (f), (g) introductory text, and (h) to read as follows:

§ 26.4 FFD program applicability to categories of individuals.

(a) All persons who are granted unescorted access to nuclear power reactor protected areas by the licensees in § 26.3(a) and, as applicable, (c) and perform the following duties shall be subject to an FFD program that meets all of the requirements of this part, except subparts K and M of this part, and those persons who are granted unescorted access to either nuclear power reactor protected areas or remote facilities where safety-significant systems or components may be operated within the design basis of a licensed commercial nuclear plant, by the licensees and other entities in § 26.3(f) and perform the following duties must be subject to an FFD program that satisfies the requirements in subpart M of this part, unless the licensee or other entity subjects these individuals to an FFD program that satisfies all of the requirements of this part except for those requirements in subparts K and M:

(1) For persons who are granted unescorted access by the licensees in § 26.3(a) and, as applicable, (c), operating or onsite directing of the operation of systems and components that a risk-informed evaluation process has shown to be significant to public health and safety; for those persons who are granted unescorted access by the licensees and other entities in § 26.3(f), operating or directing of the operation of systems and components that a risk-informed evaluation process has shown to be significant to public health and safety;

* * * * *

(4) For persons who are granted unescorted access to nuclear power reactor protected areas by the licensees in § 26.3(a) and, as applicable, (c), performing maintenance or onsite directing of the maintenance of SSCs that a risk-informed evaluation process has shown to be significant to public health and safety; for those persons who are granted unescorted access to nuclear power reactor protected areas by the licensees and other entities in § 26.3(f), performing maintenance or directing of the maintenance of SSCs that a risk-informed evaluation process has shown to be significant to public health and safety; and

* * * * *

(b) All persons who are granted unescorted access to nuclear power reactor protected areas by the licensees

in § 26.3(a) and, as applicable, (c) and who do not perform the duties described in paragraph (a) of this section shall be subject to an FFD program that meets all of the requirements of this part, except §§ 26.205 through 26.209 and subparts K and M of this part. All persons who are granted unescorted access to a facility licensed under part 53 of this chapter, and who do not perform or direct the performance of the duties described in paragraph (a) of this section, must be subject to the requirements in subpart M of this part, unless the licensee or other entity implements an FFD program that satisfies all of the requirements of this part, except §§ 26.205 through 26.209 and subparts K and M.

(c) All persons who are required by a licensee in § 26.3(a) and, as applicable, (c) to physically report to the licensee's Technical Support Center or Emergency Operations Facility by licensee emergency plans and procedures shall be subject to an FFD program that meets all of the requirements of this part, except §§ 26.205 through 26.209 and subparts K and M of this part. Also, for licensees or other entities in § 26.3(f), all persons without unescorted access to the facility who make decisions and/or direct actions regarding plant safety and security, and all persons who participate remotely in emergency response activities or physically report to the Technical Support Center or Emergency Operations Facility (or an equivalent facility), must be subject to an FFD program that satisfies all of the requirements described in subpart M of this part, unless the licensee or other entity implements an FFD program that satisfies all of the requirements of this part, except §§ 26.205 through 26.209 and subparts K and M.

* * * * *

(e) When construction activities, as defined in § 26.5, begin, any individual whose duties for the licensees and other entities in § 26.3(c) require him or her to have the following types of access or perform the following activities at the location where the nuclear power plant will be constructed and operated shall be subject to an FFD program that meets all of the requirements of this part, except subparts I, K, and M of this part, and for any individual whose duties for the licensees and other entities in § 26.3(f) require him or her to have the following types of access, perform construction activities as defined in § 26.5, or perform the following activities must be subject to an FFD program as described in subpart M or an FFD program that satisfies all of the requirements of this part, except subparts I, K, and M:

* * * * *

(4) Witnesses or determines inspections, tests, and analyses certification required under part 52 or 53 of this chapter;

* * * * *

(f) Any individual who is constructing or directing the construction of safety- or security-related SSCs shall be subject to an FFD program that meets the requirements of subpart K, or, if applicable, subpart M of this part, unless the licensee or other entity subjects these individuals to an FFD program that meets all of the requirements of this part, except for subparts I, K, and M of this part.

(g) All FFD program personnel who are involved in the day-to-day operations of the program, as defined by the procedures of the licensees and other entities in § 26.3(a) through (c), and, as applicable, (d) and whose duties require them to have the following types of access or perform the following activities shall be subject to an FFD program that meets all of the requirements of this part, except subparts I, K, and M of this part, and, at the licensee's or other entity's discretion, subpart C of this part. All personnel whose duties require them to have the following types of access or perform the following activities at facilities licensed under part 53 of this chapter must be subject to the requirements in subpart M or an FFD program that satisfies all of the requirements of this part, except subparts I, K, and M, and, at the licensee's or other entity's discretion, subpart C of this part:

* * * * *

(h) Individuals who have applied for authorization to have the types of access or perform the activities described in paragraphs (a) through (d) of this section shall be subject to §§ 26.31(c)(1), 26.35(b), 26.37, and 26.39, and the applicable requirements of subparts C, E through H, and M of this part.

* * * * *

■ 81. Amend § 26.5 by:
■ a. Adding the definitions for ''Biological marker'', ''Change'', and ''Consortium/Third party administrator (C/TPA)'' in alphabetical order;
■ b. Revising the definition for ''Constructing or construction activities'' and ''Contractor/vendor (C/V)'';
■ c. Adding the definition of ''Illicit substance'' in alphabetical order;
■ d. Revising the definition of ''Other entity'';
■ e. Adding the definition of ''Reduction in FFD program effectiveness'' in alphabetical order;
■ f. Revising the definitions of ''Reviewing official'', ''Safety-related structures, systems, and components (SSCs)'', and ''Security-related SSCs'';
■ g. Adding the definition of ''Special nuclear material (SNM)'' in alphabetical order; and
■ h. Revising the definition of ''Unit outage''.

The additions and revisions read as follows:

§ 26.5 Definitions.

* * * * *

Biological marker means, for a part 53 licensee implementing subpart M of this part, an endogenous substance that is used to validate that the biological specimen collected for testing was produced by the donor.

* * * * *

Change as used in § 26.603(e) means an action that results in a modification of, addition to, or removal from the licensee's or other entity's FFD program.

* * * * *

Consortium/Third-party administrator (C/TPA) means a contractor/vendor that provides or coordinates one or more FFD program elements for a group of licensees or other entities, such as administering a collective random testing pool and random testing selections under § 26.607(b)(2)(vi), that otherwise could not be independently implemented by those licensees or other entities. A C/TPA also could provide access to, for example, the services of medical review officers, substance abuse experts, employee assistance programs, and HHS-certified laboratories under contract to perform drug testing.

Constructing or construction activities means, for the purposes of this part, the tasks involved in building a nuclear power plant that are performed at the location where the nuclear power plant will be constructed and operated. These tasks include fabricating, erecting, integrating, and testing safety- and security-related SSCs, and the installation of their foundations, including the placement of concrete. For a licensee or other entity described in § 26.3(f), construction is defined in § 53.020 of this chapter.

Contractor/vendor (C/V) means any company, or any individual not employed by a licensee or other entity specified in § 26.3(a) through (c) and (f), who is providing work or services to a licensee or other entity covered in § 26.3(a) through (c) and (f), either by contract, purchase order, oral agreement, or other arrangement.

* * * * *

Illicit substance means a substance that causes impairment and possible addiction but is not an illegal drug as defined in this section.

* * * * *

Other entity means any corporation, firm, partnership, limited liability company, association, C/V, or other organization who is subject to this part under § 26.3(a) through (c) and (f) but is not licensed by the NRC.

* * * * *

Reduction in FFD program effectiveness means, for a part 53 licensee or other entity implementing subpart M of this part, a change or series of changes to an element of the FFD program that reduces or eliminates the licensee's ability to satisfy or maintain site-specific FFD program performance when compared to historical site-specific performance, the licensee's fleet-level program performance, or industry performance.

* * * * *

Reviewing official means an employee of a licensee or other entity specified in § 26.3(a) through (c) and (f), who is designated by the licensee or other entity to be responsible for reviewing and evaluating any potentially disqualifying FFD information about an individual, including, but not limited to, the results of a determination of fitness, as defined in § 26.189, in order to determine whether the individual may be granted or maintain authorization.

Safety-related structures, systems, and components (SSCs) means, for part 50 or 52 licensees and other entities described in § 26.3(a) through (d), those SSCs that are relied on to remain functional during and following design-basis events to ensure the integrity of the reactor coolant pressure boundary, the capability to shut down the reactor and maintain it in a safe shutdown condition, or the capability to prevent or mitigate the consequences of accidents that could result in potential offsite exposure comparable to the guidelines in § 50.34(a)(1) of this chapter. For part 53 licensees and other entities described in § 26.3(d) and (f), safety-related has the same meaning as that in § 53.020 of this chapter.

Security-related SSCs means, for the purposes of this part, those structures, systems, and components that the licensee will rely on to implement the licensee's physical security and safeguards contingency plans that either are required under part 73 of this chapter if the licensee is a construction permit applicant or holder or an early site permit holder, as described in § 26.3(c)(3) through (5), respectively, or are included in the licensee's application if the licensee is a combined license applicant or holder, as described in § 26.3(c)(1) and (2), respectively, or a licensee or other entity described in § 26.3(d) or (f).

* * * * *

Special nuclear material (SNM) has the same meaning as that in § 70.4 of this chapter.

* * * * *

Unit outage means, for the purposes of this part, for electricity-generation units, that the reactor unit is disconnected from the electrical grid. *Unit outage* means, for the purposes of this part, for non-electricity-generation units, that the reactor unit is disconnected from the loads to which its output is supplied under normal operating conditions.

* * * * *

■ 82. In § 26.8, revise paragraph (b) to read as follows:

§ 26.8 Information collection requirements: OMB approval.

* * * * *

(b) The approved information collection requirements contained in this part appear in §§ 26.9, 26.27, 26.29, 26.31, 26.33, 26.35, 26.37, 26.39, 26.41, 26.53, 26.55, 26.57, 26.59, 26.61, 26.63, 26.65, 26.67, 26.69, 26.75, 26.77, 26.85, 26.87, 26.89, 26.91, 26.93, 26.95, 26.97, 26.99, 26.101, 26.103, 26.107, 26.109, 26.111, 26.113, 26.115, 26.117, 26.119, 26.125, 26.127, 26.129, 26.135, 26.137, 26.139, 26.153, 26.157, 26.159, 26.163, 26.165, 26.167, 26.168, 26.169, 26.183, 26.185, 26.187, 26.189, 26.202, 26.203, 26.205, 26.207, 26.211, 26.401, 26.403, 26.405, 26.406, 26.407, 26.411, 26.413, 26.415, 26.417, 26.603, 26.605, 26.606, 26.607, 26.608, 26.609, 26.611, 26.613, 26.617, 26.619, 26.711, 26.713, 26.715, 26.717, 26.719, and 26.821.

■ 83. Revise § 26.21 to read as follows:

§ 26.21 Fitness-for-duty program.

The licensees and other entities specified in § 26.3(a) through (c) and (f) (for those licensees and other entities that do not implement the requirements in subparts M and K of this part) shall establish, implement, and maintain FFD programs that, at a minimum, comprise the program elements contained in this subpart. The individuals specified in § 26.4(a) through (e) and (g), and, at the licensee's or other entity's discretion, § 26.4(f), and, if necessary, § 26.4(j) shall be subject to these FFD programs. Licensees and other entities may rely on the FFD program or program elements of a C/V, as defined in § 26.5, if the C/V's FFD program or program elements satisfy the applicable requirements of this part.

■ 84. In § 26.35, revise paragraph (c)(3) to read as follows:

§ 26.35 Employee assistance programs.

* * * * *

(c) * * *

(3) If a licensee or other entity receives a report from EAP personnel under paragraph (c)(2) of this section, the licensee or other entity must ensure that the requirements of §§ 26.69(d) and 26.77(b), or the procedures and actions required by § 26.606(b)(2)(vii) are implemented, as applicable.

■ 85. Revise § 26.51 to read as follows:

§ 26.51 Applicability.

The requirements in this subpart apply to the licensees and other entities identified in § 26.3(a), (b), and, as applicable, (c) for the categories of individuals in § 26.4(a) through (d), and, at the licensee's or other entity's discretion, in § 26.4(g) and, if necessary, § 26.4(j). The requirements in this subpart also apply to the licensees and other entities specified in § 26.3(c), as applicable, for the categories of individuals in § 26.4(e). At the discretion of a licensee or other entity in § 26.3(c), the requirements of this subpart also may be applied to the categories of individuals identified in § 26.4(f). In addition, the requirements in this subpart apply to the entities in § 26.3(d) to the extent that a licensee or other entity relies on the C/V to satisfy the requirements of this subpart. Certain requirements in this subpart also apply to the individuals specified in § 26.4(h). The requirements in this subpart apply to the FFD programs of licensees and other entities identified in § 26.3(f) that elect not to implement the requirements in subpart M of this part for the categories of individuals in § 26.4 and those licensees and other entities that elect to implement the requirements in § 26.605.

§ 26.53 [Amended]

■ 86. In § 26.53:

■ a. In paragraph (e), wherever it may appear, remove the phrase ''§ 26.3(a) through (c)'' and add in its place the phrase ''§ 26.3(a) through (c) and (f)'';

■ b. In paragraph (g) and paragraph (h) introductory text, remove the phrase ''(c) and (d)'' and add in its place the phrase ''(c), (d), and (f)''; and

■ c. In paragraph (i) introductory text, remove the phrase ''(c) and(d)'' and add in its place the phrase ''(c), (d), and (f)''.

§ 26.63 [Amended]

■ 87. In § 26.63, in paragraph (d), remove the phrase ''§ 26.3(a) through

(d)'' and add in its place the phrase ''§ 26.3(a) through (d) and (f)''.

■ 88. Revise § 26.73 to read as follows:

§ 26.73 Applicability.

The requirements in this subpart apply to the licensees and other entities identified in § 26.3(a), (b), and, as applicable, (c) for the categories of individuals specified in § 26.4(a) through (d) and (g). The requirements in this subpart also apply to the licensees and other entities specified in § 26.3(c), as applicable, for the categories of individuals in § 26.4(e). At the discretion of a licensee or other entity in § 26.3(c), the requirements of this subpart also may be applied to the categories of individuals identified in § 26.4(f). In addition, the requirements in this subpart apply to the entities in § 26.3(d) to the extent that a licensee or other entity relies on the C/V to satisfy the requirements of this subpart. The regulations in this subpart also apply to the individuals specified in § 26.4(h) and (j), as appropriate. The requirements in this subpart apply to the FFD programs of licensees and other entities identified in § 26.3(f) that elect not to implement the requirements in subpart M of this part for the categories of individuals in § 26.4 and those licensees and other entities that elect to implement the requirements in § 26.605(b).

■ 89. Revise § 26.81 to read as follows:

§ 26.81 Purpose and applicability.

This subpart contains requirements for collecting specimens for drug testing and conducting alcohol tests by or on behalf of the licensees and other entities in § 26.3(a) through (d) for the categories of individuals specified in § 26.4(a) through (d) and (g). At the discretion of a licensee or other entity in § 26.3(c), specimen collections and alcohol tests must be conducted either under this subpart for the individuals specified in § 26.4(e) and (f) or the licensee or other entity may rely on specimen collections and alcohol tests conducted under the requirements of 49 CFR part 40 for the individuals specified in § 26.4(e) and (f). The requirements of this subpart do not apply to specimen collections and alcohol tests that are conducted under the requirements of 49 CFR part 40, as permitted in this section and under §§ 26.4(j) and 26.31(b)(2) and subpart K of this part. The requirements in this subpart apply to the FFD programs of licensees and other entities identified in § 26.3(f) that elect not to implement the requirements in subpart M of this part for the categories of individuals in § 26.4 and those licensees and other entities that elect to implement the requirements in § 26.605.

■ 90. In § 26.97, revise paragraph (a) introductory text and paragraph (b) introductory text to read as follows:

§ 26.97 Collecting oral fluid specimens for alcohol and drug testing.

(a) The collector, with the assistance of a virtual collection monitor as permitted under § 26.607(g)(2) if applicable, shall perform the oral fluid specimen collection consistent with the device manufacturer's instructions. The collector shall:

* * * * *

(b) If all steps in paragraph (a) of this section could not be completed successfully (*e.g.,* the device breaks, the device is dropped on the floor, the device fails to activate), the collector, with the assistance of a virtual collection monitor as permitted under § 26.607(g)(2) if applicable, shall:

* * * * *

■ 91. Revise § 26.201 to read as follows:

§ 26.201 Applicability.

(a) The requirements in this subpart, with the exception of § 26.202, apply to the licensees and other entities identified in § 26.3(a); if applicable, (c), (d), and (f), for licensees and other entities not implementing the requirements in subparts K and M. For the licensees and other entities to whom the requirements in this subpart, with the exception of § 26.202, apply, the requirements in §§ 26.203 and 26.211 apply to the individuals identified in § 26.4(a) through (c). In addition, the requirements in § 26.205 through § 26.209 apply to the individuals identified in § 26.4(a).

(b) The requirements in this subpart, with the exception of § 26.203, apply to the licensees or other entities identified in § 26.3(f) implementing this subpart under § 26.605. For these licensees and other entities, the requirements in §§ 26.202 and 26.211 apply to the individuals identified in § 26.4(a) through (c) and any person licensed to operate under 10 CFR part 53; and the requirements in §§ 26.205 through 26.209 apply to the individuals identified in § 26.4(a).

■ 92. Add § 26.202 to read as follows:

§ 26.202 General provisions for facilities licensed under 10 CFR part 53.

(a) *Policy.* Licensees must establish a policy for the management of fatigue for all individuals who are subject to the licensee's FFD program and incorporate it into the written policy required in § 26.606(a).

(b) *Procedures.* In addition to the procedures required in § 26.606(b), licensees must develop, implement, and maintain procedures that—

(1) Describe the process to be followed when any individual identified in § 26.4(a) through (c) makes a self-declaration that he or she is not fit to safely and competently perform his or her duties for any part of a working tour as a result of fatigue. The procedure must—

(i) Describe the individual's and licensee's rights and responsibilities related to self-declaration;

(ii) Describe requirements for establishing controls and conditions under which an individual may be permitted or required to perform work after that individual declares that he or she is not fit due to fatigue; and

(iii) Describe the process to be followed if the individual disagrees with the results of a fatigue assessment that is required under § 26.211(a)(2);

(2) Describe the process for implementing the controls required under § 26.205 for the individuals who are performing the duties listed in § 26.4(a);

(3) Describe the process to be followed in conducting fatigue assessments under § 26.211; and

(4) Describe the disciplinary actions that the licensee may impose on an individual following a fatigue assessment, and the conditions and considerations for taking those disciplinary actions.

(c) *Training and assessments.* Licensees must include the following KAs in the content of the training and trainee assessments required in § 26.608:

(1) Knowledge of the contributors to worker fatigue, circadian variations in alertness and performance, indications and risk factors for common sleep disorders, shiftwork strategies for obtaining adequate rest, and the effective use of fatigue countermeasures; and

(2) Ability to identify symptoms of worker fatigue and contributors to decreased alertness in the workplace.

(d) *Recordkeeping.* Licensees must retain the following records for at least 3 years or until the completion of all related legal proceedings, whichever is later:

(1) Records of work hours for individuals who are subject to the work hour controls in § 26.205;

(2) For licensees implementing the requirements of § 26.205(d)(3), records of shift schedules and shift cycles, or, for licensees implementing the requirements of § 26.205(d)(7), records of shift schedules and records showing the beginning and end times and dates of all averaging periods, of individuals

who are subject to the work hour controls in § 26.205;

(3) The documentation of waivers that is required in § 26.207(a)(4), including the bases for granting the waivers;

(4) The documentation of work hour reviews that is required in § 26.205(e)(3) and (e)(4); and

(5) The documentation of fatigue assessments that is required in § 26.211(g).

(e) *Reporting.* Licensees must include the following information in a standard format in the annual FFD program performance report required under § 26.617(b)(2):

(1) A summary for each nuclear power plant site of all instances during the previous calendar year when the licensee waived one or more of the work hour controls specified in § 26.205(d)(1) through (d)(5)(i) and (d)(7) for individuals described in § 26.4(a). The summary must include only those waivers under which work was performed. If it was necessary to waive more than one work hour control during any single extended work period, the summary of instances must include each of the work hour controls that were waived during the period. For each category of individuals specified in § 26.4(a), the licensee must report—

(i) The number of instances when each applicable work hour control specified in § 26.205(d)(1)(i) through (iii), (d)(2)(i) and (ii), (d)(3)(i) through (v), and (d)(7) was waived for individuals not working on outage activities;

(ii) The number of instances when each applicable work hour control specified in § 26.205(d)(1)(i) through (iii), (d)(2)(i) and (ii), (d)(3)(i) through (v), (d)(4), (d)(5)(i), and (d)(7) was waived for individuals working on outage activities; and

(iii) A summary that shows the distribution of waiver use among the individuals applicable within each category of individuals identified in § 26.4(a) (*e.g.,* a table that shows the number of individuals who received only one waiver during the reporting period, the number of individuals who received a total of two waivers during the reporting period).

(2) A summary of corrective actions, if any, resulting from the analyses of these data, including fatigue assessments.

(f) *Audits.* Licensees must audit the management of worker fatigue under § 26.615.

■ 93. In § 26.205, revise paragraphs (d)(7)(iii) and (d)(8) to read as follows:

§ 26.205 Work hours.

* * * * *

(d) * * *

(7) * * *

(iii) Each licensee shall state, in its FFD policy and procedures required by either §§ 26.27 and 26.203(a) and (b) or §§ 26.202(a) and (b) and 26.606, the work hour counting system in paragraph (d)(7)(ii) of this section the licensee is using.

(8) Each licensee shall state, in its FFD policy and procedures required by either §§ 26.27 and 26.203(a) and (b) or §§ 26.202(a) and (b) and 26.606, the requirements with which the licensee is complying: the minimum days off requirements in paragraph (d)(3) of this section or maximum average work hours requirements in paragraph (d)(7) of this section.

* * * * *

■ 94. In § 26.207, revise paragraph (a)(1)(ii) to read as follows:

§ 26.207 Waivers and exceptions.

(a) * * *

(1) * * *

(ii) A supervisor assesses the individual face-to-face and determines that there is reasonable assurance that the individual will be able to safely and competently perform his or her duties during the additional work period for which the waiver will be granted. The supervisor performing the assessment shall be trained as required by either §§ 26.29 and 26.203(c) or §§ 26.202(c) and 26.608 and shall be qualified to direct the work to be performed by the individual. If there is no supervisor on site who is qualified to direct the work, the assessment may be performed by a supervisor who is qualified to provide oversight of the work to be performed by the individual. At a minimum, the assessment must address the potential for acute and cumulative fatigue considering the individual's work history for at least the past 14 days, the potential for circadian degradations in alertness and performance considering the time of day for which the waiver will be granted, the potential for fatigue-related degradations in alertness and performance to affect risk-significant functions, and whether any controls and conditions must be established under which the individual will be permitted to perform work. For licensees and other entities in § 26.3(f), the assessment may be performed remotely using electronic communications. In such instances, the assessment must be supported by someone who is present in-person with the individual whose alertness may be impaired, and that supporting person must be trained under the requirements of either §§ 26.29 and 26.203(c) or §§ 26.202(c) and 26.608.

* * * * *

■ 95. In § 26.211, revise paragraphs (a)(1) and (3) and paragraph (b) introductory text to read as follows:

§ 26.211 Fatigue assessments.

(a) * * *

(1) For-cause. In addition to any other test or determination of fitness that may be required under §§ 26.31(c), 26.77, 26.607(b), and 26.619, a fatigue assessment must be conducted in response to an observed condition of impaired individual alertness creating a reasonable suspicion that an individual is not fit to safely and competently perform his or her duties, except if the condition is observed during an individual's break period. If the observed condition is impaired alertness with no other behaviors or physical conditions creating a reasonable suspicion of possible substance abuse, then the licensee need only conduct a fatigue assessment. If the licensee has reason to believe that the observed condition is not due to fatigue, the licensee need not conduct a fatigue assessment;

* * * * *

(3) Post-event. A fatigue assessment must be conducted in response to events requiring post-event drug and alcohol testing as specified in § 26.31(c) or post-event tests in § 26.607(b)(4). Licensees may not delay necessary medical treatment in order to conduct a fatigue assessment; and

* * * * *

(b) Only supervisors and FFD program personnel who are trained under either §§ 26.29 and 26.203(c) or §§ 26.202(c) and 26.608 may conduct a fatigue assessment. The fatigue assessment must be conducted face-to-face with the individual whose alertness may be impaired. For licensees and other entities in § 26.3(f), a fatigue assessment may be performed remotely using electronic communications. In such instances, the fatigue assessment must be supported by someone who is present in-person with the individual whose alertness may be impaired, and that supporting person must be trained in accordance with the requirements of either §§ 26.29 and 26.203(c) or §§ 26.202(c) and 26.608.

* * * * *

■ 96. Add subpart M, consisting of §§ 26.601 through 26.619, to read as follows:

Subpart M—Fitness-for-Duty Programs for Facilities Licensed Under 10 CFR Part 53

Sec.

26.601 Applicability.
26.603 General provisions.
26.605 FFD program requirements.
26.606 Written policy and procedures.
26.607 Drug and alcohol testing.
26.608 FFD program training.
26.609 Behavioral observation.
26.610 Sanctions.
26.611 Protection of information.
26.613 Appeals process.
26.615 Audits.
26.617 Recordkeeping, reporting, and FFD program performance.
26.619 Suitability and fitness determinations.

§ 26.601 Applicability.

(a) A licensee or other entity in § 26.3(f), at its discretion, may establish, implement, and maintain a fitness-for-duty (FFD) program that satisfies the requirements of this subpart for those categories of individuals in § 26.4, as applicable, and any person licensed to operate under part 53 of this chapter. If a licensee or other entity in § 26.3(f) does not elect to implement an FFD program that satisfies the requirements of this subpart, then those categories of individuals in § 26.4, as applicable, and any person licensed to operate under part 53 of this chapter must be subject to an FFD program that satisfies all requirements under this part, except for those requirements in subpart K and this subpart.

(b) A licensee or other entity in § 26.3(f) that elects to implement an FFD program that satisfies the requirements of this subpart, and that demonstrates compliance with § 73.100(a)(1)(i) of this chapter, must establish, implement, and maintain an FFD program under § 26.605(a) or (b).

(c) A licensee or other entity in § 26.3(f) that elects to implement an FFD program that satisfies the requirements of this subpart and does not demonstrate compliance with § 73.100(a)(1)(i) of this chapter must establish, implement, and maintain an FFD program under § 26.605(a) and (b).

§ 26.603 General provisions.

(a) *FFD program description.* An applicant's description of the FFD program in its Final Safety Analysis Report, required by subpart H of part 53 of this chapter, must include—

(1) Whether the applicant demonstrates compliance with § 73.100(a)(1)(i) of this chapter;

(2) A statement whether the FFD program will be implemented pursuant to § 26.605(a) or (b) or § 26.605(a) and (b), or will satisfy all requirements under this part, except for the requirements in subpart K and this subpart;

(3) A discussion of the applicability of the FFD program to those individuals described in § 26.4 and how the program will be implemented offsite at a U.S. Nuclear Regulatory Commission (NRC)-licensed facility authorized to assemble or test a manufactured reactor, if applicable; and

(4) A description of the drug and alcohol testing and fitness determination process to be implemented through the licensee's or other entity's procedures, including the collection and testing facilities to be used, biological specimens to be collected and tested, and sanctions to be imposed for FFD policy violations.

(b) *FFD program implementation and availability.* For the licensees and other entities in § 26.3(f), other than the holder of a manufacturing license (ML), the FFD program must be maintained until the NRC's docketing of the license holder's certifications described in § 53.1070 of this chapter. For holders of an ML, the FFD program must be maintained until expiration of the ML.

(c)–(d) [Reserved]

(e) *FFD program change control.* (1) The licensee or other entity may make changes to its FFD program under this subpart if—

(i) The licensee or other entity performs and retains an analysis demonstrating that the changes do not reduce the effectiveness of the FFD program; or

(ii) The change was necessitated or justified by a change to this part, laboratory processes or procedures, or guidance issued by the U.S. Department of Health and Human Services (HHS) or NRC, as implemented by the licensee or other entity though its procedures.

(2) A licensee or other entity desiring to make a change that decreases FFD program effectiveness must implement a mitigating strategy so the FFD program, as revised, will continue to satisfy the performance objectives in § 26.23 and not result in a reduction in FFD program effectiveness.

(3) Except for phencyclidine, and notwithstanding paragraph (e)(1)(ii) of this section, the change control process may not be used to reduce the minimum panel of drugs to be tested in § 26.607(c)(1).

(4) The licensee must retain a record of each change made under this section for a period of at least 5 years from the date the change was implemented and summarize this change in its annual FFD performance report required by § 26.617(b)(2) or § 26.717, as applicable.

§ 26.605 FFD program requirements.

(a)(1) The licensee or other entity must establish, implement, and maintain an FFD program under this paragraph (a) before the start of—

(i) Construction activities as defined in § 26.5;

(ii) Activities performed under an ML that authorizes the assembly, non-operational testing, or both of a manufactured reactor; or

(iii) Activities described in paragraphs (a)(1)(i) and (ii) of this section.

(2) An FFD program under this paragraph (a) must—

(i) Apply to those individuals described in § 26.4, as applicable; and,

(ii) Implement the following requirements and subparts:

(A) Section 26.23, for performance objectives;

(B) Section 26.35, for employee assistance programs:

(*1*) For licensees and other entities who demonstrate compliance with § 73.100(a)(1)(i) of this chapter, § 26.35 must be implemented before the earliest occurrence of the following, as applicable: the loading of fuel onsite into a reactor vessel; receiving a fueled manufactured reactor; or individuals subject to this part operate, test, perform maintenance of, or direct the maintenance or surveillance of security-related equipment or equipment that a risk-informed evaluation process has shown to be significant to public health and safety; and

(*2*) For licensees and other entities that do not demonstrate compliance with § 73.100(a)(1)(i) of this chapter, § 26.35 must be implemented before the start of activities performed under an ML that allows the assembly, non-operational testing, or both, of a manufactured reactor;

(C) Section 26.603, for general provisions;

(D) Section 26.606, for written policy and procedures;

(E) Section 26.607, for drug and alcohol testing;

(F) Section 26.608, for FFD program training;

(G) Section 26.609, for behavioral observation;

(H) Section 26.610, for sanctions;

(I) Section 26.611, for protection of information;

(J) Section 26.613, for the appeals process;

(K) Section 26.615, for audits;

(L) Section 26.617, for recordkeeping, reporting, and FFD program performance;

(M) Section 26.619, for suitability and fitness determinations;

(N) Subpart A, for administrative provisions;

(O) Subpart I, for managing fatigue, in the case of holders of an ML that allows the assembly, non-operational testing, or both of a manufactured reactor; and

(P) Subpart O, for inspections, violations, and penalties.

(b)(1) Except for a licensee or other entity that demonstrates compliance with § 73.100(a)(1)(i) of this chapter and elects to implement an FFD program that satisfies the requirements of this paragraph (b), for which its FFD program must be established, implemented, and maintained no later than the start of construction activities, as defined in § 26.5, and except for holders of manufacturing licenses if they possess a separate license to load fuel into a manufactured reactor, for which its FFD program under this paragraph (b) must be established, implemented, and maintained no later than the start of the loading of fuel into the reactor, the licensee or other entity must establish, implement, and maintain an FFD program under this paragraph (b) before the earliest occurrence of the following, as applicable:

(i) The loading of fuel onsite into a reactor vessel;

(ii) Receiving a fueled manufactured reactor; and

(iii) Individuals subject to this part operate, test, perform maintenance of, or direct the maintenance or surveillance of security-related equipment or equipment that a risk-informed evaluation process has shown to be significant to public health and safety.

(2) An FFD program under this paragraph (b) must—

(i) Apply to those individuals described in § 26.4, as applicable; and

(ii) Implements the following requirements and subparts:

(A) Section 26.23, for performance objectives;

(B) Section 26.35, for employee assistance programs;

(C) Section 26.603, for general provisions;

(D) Section 26.606, for written policy and procedures;

(E) Section 26.607, for drug and alcohol testing;

(F) Section 26.608, for FFD program training;

(G) Section 26.609, for behavioral observation;

(H) Section 26.611, for protection of information;

(I) Section 26.613, for the appeals process;

(J) Section 26.615, for audits;

(K) Subpart A, for administrative provisions;

(L) Subpart C, for granting and maintaining authorization;

(M) Subpart D, for management actions and sanctions to be imposed;

(N) Subpart H, for determining fitness-for-duty Policy violations and determining fitness, unless using the *Mandatory Guidelines for Federal Workplace Drug Testing Programs* (the HHS Guidelines) for Medical Review Officer (MRO) evaluation of drug test results, and determining fitness;

(O) Subpart I, for managing fatigue;

(P) Subpart N, for recordkeeping and reporting requirements; and

(Q) Subpart O, for inspections, violations, and penalties.

§ 26.606 Written policy and procedures.

(a) Licensees and other entities that implement an FFD program under this subpart must ensure that—

(1) A written FFD policy statement is provided to each individual who is subject to the program before the individual is subject to drug and alcohol testing.

(2) The FFD policy statement describes the performance objectives in § 26.23.

(3) The FFD policy statement describes the minimum days off requirements in § 26.205(d)(3) or maximum average work hours requirements in § 26.205(d)(7).

(4) The FFD policy statement must be written in sufficient detail to provide affected individuals with information on what is expected of them and what consequences may result from a lack of adherence to the policy, including those elements described in paragraph (b) of this section, sanctions required under this part, and required medical/clinical treatment and follow-up testing for FFD policy violations.

(5) The FFD policy statement describes the individual's responsibilities to report for work in a physiological and psychological condition that enables the safe and competent performance of assigned duties and responsibilities and inform a licensee- or other entity-designated representative when the individual determines that this cannot be accomplished.

(6) The FFD policy statement must prohibit the consumption of alcohol, at a minimum, within an abstinence period of 5 hours preceding the individual's arrival at the licensee's or other entity's facility.

(7) The FFD policy statement must convey that abstinence from alcohol for the 5 hours preceding any scheduled tour of duty is considered to be a minimum that is necessary, but may not be sufficient, to ensure that the individual is fit for duty.

(b) Licensees and other entities must establish, implement, and maintain written procedures that address the following topics:

(1) For the drug and alcohol testing program under this subpart:

(i) The methods and techniques to collect and test for drugs and alcohol and for the shipping and temporary storage of biological specimens used for drug testing at HHS-certified laboratories;

(ii) The urine specimen volumes, techniques for split specimen collections, and the acceptability of a urine specimen as described in § 26.111 or as described in the HHS Guidelines;

(iii) Protecting the privacy of an individual who provides a specimen, protecting the integrity of the specimen, and ensuring that the test results are valid and attributable to the correct individual; and

(iv) If the licensee or other entity elects to use the HHS Guidelines, the name of the specific HHS Guideline and revision being implemented by the licensee or other entity and a description of the specific sections in the guideline that are being implemented in the procedure, including specimen collections, drug testing, and evaluation of test results.

(2) The immediate and follow-up actions that will be taken, and the procedures to be used, in those cases in which individuals who are subject to the FFD program:

(i) Have been involved in the use, sale, or possession of illegal substances, illegal drugs, or illicit substances;

(ii) Are impaired by any illegal substances, illegal drugs, or illicit substances or the consumption of alcohol as determined by behavioral observation or a test that measures blood alcohol concentration;

(iii) Attempted to subvert the testing process by adulterating or diluting specimens (*in vivo* or *in vitro*), substituting specimens, or by any other means;

(iv) Refused to provide a specimen for analysis or follow instructions provided by FFD program personnel;

(v) Had legal action taken relating to drug or alcohol use;

(vi) Demonstrated character or actions indicating that the individual cannot be trusted or relied upon to perform those duties and responsibilities or maintain access to NRC-licensed facilities, special nuclear material (SNM), or sensitive information; or

(vii) Have a condition or have taken actions that pose or have posed an immediate hazard to themselves or others, as notified by EAP personnel under § 26.35(c)(2).

(3) The process, including the duties and responsibilities of FFD program

personnel, to be followed if an individual's behavior or condition raises a concern regarding the possible use, sale, or possession of illegal drugs on- or offsite; the possible use or possession of alcohol on the NRC-licensed facility; impairment from any cause that in any way could adversely affect the individual's ability to safely and competently perform the individual's duties; or the receipt of credible information indicating that the individual cannot be trusted or relied on to perform those duties and responsibilities making the individual subject to this part.

(4) Operation and oversight of any onsite or offsite collection facility.

(5) The fatigue management requirements in § 26.202(b) and either § 26.205(d)(3) or (7).

(6) Measures to prevent subversion of drug and alcohol tests conducted onsite and offsite.

§ 26.607 Drug and alcohol testing.

Licensees and other entities must perform drug and alcohol testing that complies with the following requirements—

(a) *Split specimens.* Split specimen collections of oral fluid or urine must be used for the test conditions described in paragraph (b) of this section. Testing of the split specimen (specimen B) requires the donor's permission unless ordered by the MRO to resolve an invalid test result obtained for specimen A.

(b) *Test conditions.* Individuals identified in § 26.4 must be subject to drug and alcohol testing under the following conditions:

(1) *Pre-access.* A pre-access test must be conducted for drugs and alcohol before performing or directing the conduct of roles and responsibilities making the individual subject to this subpart or being granted unescorted access to the protected areas of the NRC-licensed facility. A pre-access test must have been conducted no more than 14 days before the individual is granted unescorted access.

(2) *Random.* Random testing for drugs and alcohol must—

(i) Be administered in a manner that provides reasonable assurance that individuals are unable to predict the time periods during which specimens will be collected;

(ii) Require individuals who are selected for random testing to report to the onsite collection site as soon as reasonably practicable after notification, within the time period specified in the FFD program procedure;

(iii) Ensure that all individuals in the population that is subject to random testing on a given day have an equal probability of being selected and tested;

(iv) Ensure that an individual completing a test is immediately eligible for another random test; and

(v) Ensure that the sampling process used to select individuals for random testing provides that the number of random tests performed annually is equal to at least 50 percent of the population that is subject to the FFD program at the NRC-licensed site.

(vi) If the number of individuals subject to random testing at an NRC-licensed site is such that paragraph (b)(2)(v) of this section cannot be implemented without predictable outcomes, the licensee must use a consortium/third-party administrator to manage the random testing pool and make selections for testing throughout the year.

(3) *For-cause.* For-cause drug and alcohol tests must be conducted onsite in response to an individual's observed behavior or physical condition indicating possible substance abuse, as defined in § 26.5. A for-cause drug test, alcohol test, or both, must be conducted onsite after receiving credible information either that an individual is engaging in substance abuse or in response to a portal area screening test result under paragraph (j) of this section.

(4) *Post-event.* A post-event test for drugs and alcohol must be conducted—

(i) As soon as practical after an event involving a human error that was committed by an individual specified in § 26.4, where the human error may have caused or contributed to the event. This test must be conducted onsite unless the individual requires offsite medical care. The licensee or other entity must test the individual(s) who committed or directed the error and need not test individuals who were affected by the event and whose actions likely did not cause or contribute to the event. The licensee or other entity must describe in its procedures what constitutes a human error.

(ii) Within 4 hours of an event unless immediate medical intervention precludes the conduct of the test on the individual(s) who caused or contributed to the accident(s), if the event results in—

(A) An illness or personal injury to any individual which results in death, days away from work, restricted work, transfer to another job, medical treatment beyond first aid, loss of consciousness, or other significant illness or injury, as diagnosed by a licensee- or other entity-designated physician or other licensed health care professional, even if the illness or injury does not result in death, days away from work, restricted work or job transfer, medical treatment beyond first aid, or loss of consciousness; or

(B) Damage to any safety- or security-related structures, systems, and components; and

(5) *Follow-up.* An individual subject to this part who has violated the FFD policy for substance use or abuse, or the sale, use, or possession of illegal drugs must be subject to a follow-up series of tests for drugs, alcohol, or both to verify an individual's continued abstinence from substance abuse.

(c) *Urine and oral fluid specimens.* (1) All urine or oral fluid specimens must be tested for the substances listed in § 26.31(d)(1), except as allowed by § 26.603(e)(3). All urine specimens must be subject to validity testing as specified in either this part or the HHS Guidelines. All oral fluid specimens may be subject to validity testing, including a biological marker, as specified in either this part or the HHS Guidelines.

(2) For the use of urine as the biological specimen to be tested, the following requirements must be implemented—

(i) Section 26.115, for collecting a urine specimen under direct observation;

(ii) Section 26.119, for determining ''shy'' bladder; and

(iii) Section 26.163, for cutoff levels for drugs and drug metabolites.

(3) For alcohol testing onsite, the following requirements must be implemented—

(i) Section 26.91, for acceptable devices for conducting initial and confirmatory tests for alcohol and methods of use;

(ii) Section 26.93, for preparing for alcohol testing;

(iii) Section 26.95, for conducting an initial test for alcohol using a breath specimen;

(iv) Section 26.97, for collecting oral fluid specimens for alcohol and drug testing;

(v) Section 26.99, for determining the need for a confirmatory test for alcohol;

(vi) Section 26.101, for conducting a confirmatory test for alcohol; and,

(vii) Section 26.103, for determining a confirmed positive test result for alcohol.

(4) For all test conditions in paragraph (b) of this section and for MRO-directed tests under § 26.185, drug testing must be performed at an HHS-certified laboratory for the specific biological specimen to be tested. Only HHS-certified laboratory test results from urine and oral fluid specimens may be used for the issuance of a sanction

required under this part. The licensee or other entity must establish and maintain a contract with a primary and a back-up HHS-certified laboratory (with a different Certifying Scientist) for the specimen(s) to be tested. These contracts must stipulate that the laboratories are subject to inspection or audit by the licensee or other entity and that records and documents must be provided and/or able to be photocopied and removed from the premises to support the inspection or audit.

(d) *Privacy and integrity.* The specimen collection and drug and alcohol testing procedures of FFD programs must protect the donor's privacy and the integrity of the specimen and implement quality controls to ensure that test results are valid and attributable to the correct individual.

(e) *Offsite collection facilities.* At the licensee's or other entity's discretion, except for those specimens that must be collected onsite under paragraphs (b)(3) and (4) of this section, specimen collections and alcohol testing may be conducted at a local hospital or other facility licensed to conduct specimen collections and perform alcohol testing and audited by the State or a State-designated entity. The licensee or other entity must audit these facilities, if used, before their initial use and then on a biennial basis to confirm that the facility procedures are comparable to those described in subpart E of this part or the HHS Guidelines for urine and oral fluid.

(f) *Initial testing.* A licensee or other entity subject to this subpart performing an initial test must use an immunoassay, or an alternative technology as specified in the HHS Guidelines for the specific biological specimen that is to be tested. Specimens that yield positive, positive and dilute, adulterated, substituted, or invalid initial validity or drug test results or discrepant biological markers must be subject to confirmatory testing by an HHS-certified laboratory, certified for that biological specimen, except for invalid specimens that cannot be tested.

(g) *Oral fluid testing.* (1) If the licensee or other entity elects to use oral fluid for drug or alcohol testing, the collection, packaging, temporary storage, and shipment of an oral fluid specimen to an HHS-certified laboratory for drug testing, or the collection of an oral fluid specimen for alcohol testing must be performed in accordance with licensee- or other entity-established procedures based either on the requirements in this part or the procedures in HHS Guidelines identified by the licensee or other entity in § 26.606(b)(1)(iv). The oral fluid device must not expire before the date of the collection of the specimen for testing. The drugs, drug metabolites, initial and confirmatory testing cutoffs, and biological markers, if applicable, must be those established by the HHS Guidelines for oral fluid testing and the alcohol cutoffs in this part or, if not established by the HHS Guidelines or this part for the panel of drugs and drug metabolites to be tested, as determined and documented by a forensic toxicologist review conducted pursuant to § 26.31(d)(1)(i)(D).

(2) The virtual collection of oral fluid specimens for drug and alcohol testing is only permitted for sites that must use a C/TPA to implement random testing under paragraph (b)(2)(vi) of this section. For a licensee or other entity to utilize a virtual oral fluid specimen collection process, the following must apply or should be considered, as applicable:

(i) The specimen collector completing the virtual collection must meet the requirements in § 26.85.

(ii) The oral fluid specimen collection process must be completed as described under §§ 26.97 and 26.99.

(iii) An individual other than the donor (*i.e.,* a virtual collection monitor) may be needed in the location where the specimen collection is to be performed to assist the virtual collector in completing activities, performing observations, or both.

(iv) If a virtual collection monitor is used to assist the specimen collector in completing an oral fluid specimen collection, then the virtual specimen collector must explain the collection process to the monitor and provide instruction to the monitor on required activities to be performed during the collection process. The monitor's name must be recorded on the Federal custody and control form (Federal CCF) for drug testing specimens, or an analogous document for alcohol testing.

(v) Video teleconference communication method(s) must provide sufficient visual and aural clarity to complete the process and ensure that a donor is not able to subvert the testing process.

(vi) Collection kit materials must be maintained in a secure fashion until the virtual collector initiates the virtual collection process with the donor.

(vii) The licensee or other entity's written FFD procedures must describe in detail the virtual collection process and when and how it is to be implemented.

(viii) The virtual collection procedure must address problem collections, such as the video teleconference becomes inoperable during the collection process or the donor is unable to provide an oral fluid specimen of sufficient quantity to complete the specimen collection process for drug or alcohol testing.

(ix) The virtual collection procedure must include steps to collect a breath specimen using an evidential breath testing device (EBT) if the oral fluid specimen test result under § 26.99(b) requires a confirmatory testing for alcohol under § 26.101. At a minimum, a donor with an oral fluid specimen test result requiring confirmatory testing for alcohol must be removed from duty pending additional testing.

(h) [Reserved]

(i) *Hair testing.* The testing of hair specimens may only be used to inform a licensee's or other entity's determination of whether the individual is trustworthy and reliable under the test condition in paragraph (b)(1) of this section to supplement the information gained from a pre-access test using oral fluid or urine as the test specimen and must be conducted at an HHS-certified laboratory certified to test hair specimens.

(1) If used, this process must be described in the licensee's or other entity's FFD policy and described in detail in its procedure. The panel of drugs and drug metabolites to be evaluated must only include those listed as Schedule I or II of section 202 of the Controlled Substances Act [21 U.S.C. 812]. The collection, packaging, and temporary storage of a hair specimen and shipment of the specimen to an HHS-certified laboratory must be conducted in accordance with the HHS Guidelines. The licensee- or other entity-designated FFD program personnel must conduct the collection, packaging, temporary storage, shipping, and custody and control of the specimen.

(2) Before the licensee or other entity begins to conduct hair testing, the initial and confirmatory testing cutoffs must be the cutoffs established by the HHS Guidelines for hair testing or, if not established by the HHS Guidelines or this part, as determined by a forensic toxicologist review conducted pursuant to § 26.31(d)(1)(i)(D).

(3) Confirmed positive test results must be considered potentially disqualifying FFD information until proven otherwise by a review under § 26.613. Sanctions under this subpart must not be issued for any FFD policy violation involving a drug test using a hair specimen unless the licensee or other entity determines that the individual has attempted to subvert the testing process, as defined in § 26.5, for the hair test.

(j) *Portal area screening.* A non-invasive testing instrument may be used to screen individuals for drugs, drug metabolites, and alcohol before the individuals' entry into or exit from a protected or vital area.

(1) The instrument must be operated in accordance with the manufacturer's specifications. If screening detects the presence of any drug, drug metabolite, or alcohol at or above the instrument set point, the individual screened by the instrument must be subject to for-cause testing under paragraph (b)(3) of this section.

(2) Annually, the licensee or other entity must verify the accuracy of the portal area screening test for each substance with any positive results. If at least 85 percent of the positive portal area screening test results for a substance in the past 12 months do not subsequently confirm positive on for-cause testing performed under paragraph (j)(1) of this section, the licensee or other entity cannot continue to use the screening test for the particular substance until such time as corrective actions have been implemented to improve the testing accuracy.

(3) A sanction under this part may not be issued to an individual based solely on a portal area screening instrument detection that drugs or alcohol exceed the instrument's established setpoint.

(k) *Blood testing.* The testing of blood specimens may only be conducted under the order of the licensee- or other entity-designated MRO for a valid medical reason as confirmed by the MRO pursuant to § 26.31(d)(5). This specimen must be subject to testing by a laboratory that satisfies quality control requirements that are comparable to those required for certification by the HHS.

(l) *Federal custody and control form.* For the collection and packaging of urine, oral fluid, and hair specimens for drug testing, the licensee or other entity must use a Federal CCF.

(m) *Medical Review Officer.* Licensees or other entities must—

(1) Require their designated MRO to review positive, positive and dilute, adulterated, substituted, and invalid confirmatory drug and validity test results to determine whether the donor has violated the FFD policy. The review must be completed before reporting the results to the individual designated by the licensee or other entity to assess authorization or perform the suitability and fitness determinations required under § 26.619, or, if required, that are described in subpart H of this part.

(2) Require their MRO to satisfy the requirements in § 26.183 and, prior to conducting any activities under this part, attend and pass a medical- or clinical-based training session to improve his/her knowledge of MRO duties and responsibilities, drug and alcohol testing processes and procedures, and evaluation of drug testing results. This training session must be conducted by a nationally recognized MRO training and certification organization that has been assessed by the licensee's or other entity's FFD program personnel to include the technical elements an MRO must implement under § 26.185. An MRO who performed the duties and responsibilities in §§ 26.185 and 26.187 for at least 3 continuous years in the last 10 years prior to being hired or contracted by the licensee or other entity satisfies the requirements in this paragraph (m)(2).

(3) Require their MRO to attend a medical- or clinical-based training session at least every 5 years to improve his/her knowledge of changes in drug and alcohol testing processes and procedures and evaluation of drug testing results.

(4) Require their MRO to determine whether a biological specimen is positive, positive and dilute, adulterated, substituted, or invalid by implementing the requirements in § 26.185 or the HHS Guidelines through the licensee's or other entity's procedures.

(i) If § 26.185 or the HHS Guidelines, as used by the licensee or other entity in its procedures, are insufficient to make this determination, then guidance issued by a State agency in the State in which the NRC-licensed facility is located, Federal agencies, or nationally recognized MRO training and certification organizations may be used to inform an MRO determination.

(ii) An MRO need not review alcohol test results, including positive confirmatory alcohol test results determined by an EBT under paragraphs (c)(3)(vi) and (vii) of this section.

(5) Require their MRO to determine and approve the use of oral fluid or urine as an alternative biological specimen when the donor cannot provide a specimen for testing. This determination and the retest must be documented and completed as soon as reasonably practicable.

(6) Require the MRO to review all specimen test results associated with drug-related FFD policy violations. This review includes split specimens and all specimens taken to resolve a discrepant condition, such as a possible subversion attempt, impairment without a known cause, or a donor-requested or MRO-directed re-test. To resolve a discrepant condition, the MRO is authorized to test a specimen for a biological marker, adulterants, or additional drugs.

(n) *Limitations of screening and testing.* Specimens collected under NRC regulations may only be designated or approved for screening and testing as described in this part and may not be used to conduct any other analysis or test without the written permission of the donor. Analyses, screens, and tests that may not be conducted include, but are not limited to, DNA testing, serological typing, or any other medical or genetic test used for diagnostic or specimen identification purposes. No biological specimens may be passively sampled and analyzed in a manner different than described in this subpart.

(o) *Specimen collectors.* All onsite specimen collections, except a collection by a portal area screening instrument in paragraph (j) of this section, must be conducted by licensee- or other entity-designated and -trained personnel.

§ 26.608 FFD program training.

(a) *FFD program training.* (1) Individuals must be trained in the FFD policy and procedure, including fatigue management, and their FFD program responsibilities. Individuals who collect specimens for testing must also be trained in specimen collector duties and responsibilities, including, at a minimum, specimen collection, custody and control, identification and response to subversion attempts, and privacy. For licensees and other entities of commercial nuclear plants, the FFD program training program must use a systems approach to training as defined in § 53.725 of this chapter and described in § 53.830 of this chapter for those individuals in § 26.4.

(2) FFD program training must include training on the behavioral observation program. The behavioral observation program training must include the detection of physiological behaviors or conditions that may indicate—

(i) Possible use, sale, or possession of illegal drugs or illicit drugs, or substance abuse on- or offsite;

(ii) Use or possession of alcohol onsite or use while on duty offsite;

(iii) Impairment from fatigue or any cause that, if left unattended, could result in inattentiveness or human errors; and

(iv) Any individual's inability to safely and competently perform assigned duties and responsibilities or act in a trustworthy and reliable manner while having access to protected areas, SNM, or sensitive information.

(3) Training must explain that an individual's FFD policy violation will—

(i) Subject the individual to an FFD program-required sanction designed to preclude recurrence of an FFD policy violation;

(ii) Contribute to the licensee's or other entity's assessment of whether the individual can be trusted and relied upon to safely and competently perform the assigned duties and responsibilities making the individual subject to this subpart;

(iii) Be used to inform the licensee's or other entity's insider mitigation and access authorization programs under § 73.55, § 73.56, § 73.100, or § 73.120 of this chapter; and

(iv) Be used to inform other NRC licensees and other entities subject to this part when FFD program information is requested to support authorization determinations under subpart C of this part or § 73.56 or § 73.120 of this chapter.

(b) *Training and assessments.* Training and a trainee assessment must be conducted before pre-access testing, and FFD program refresher training and trainee assessments must be conducted on a nominal 24-month frequency, or more frequently where the need is indicated. Indications of the need for more frequent training include, but are not limited to, an individual's failure to properly implement FFD program procedures and the frequency, nature, or severity of problems discovered through audits or the administration of the program.

(c) *Training program review.* The licensee or other entity must periodically evaluate its FFD training program and revise it as appropriate to reflect industry experience as well as applicable changes to the regulations in this part, the HHS Guidelines, if used, and specimen collection and testing processes implemented by the licensee or other entity.

§ 26.609 Behavioral observation.

(a) Licensees and other entities must ensure that the individuals who are subject to this subpart are subject to behavioral observation and that behavioral observation is performed by all individuals subject to this subpart.

(b) Licensees and other entities must require all individuals subject to the FFD program to report to the licensee- or other entity-designated representative any onsite or offsite behaviors or activities by individuals subject to this part that may constitute an unreasonable risk to the safety or security of the NRC-licensed facility or SNM or may cause harm to others. This reporting must include any information relating to character or reputation of the individual indicating that the individual cannot be trusted or relied upon to perform those duties and responsibilities or maintain access to NRC-licensed facilities, SNM, or sensitive information that makes them subject to this part.

(c) Behavioral observation must be performed visually, in-person, and, when necessary, remotely by live video and audible streaming and capture, to observe the behavior of individuals in the workforce subject to the requirements in this subpart.

(d) Not withstanding paragraph (c) of this section, for a reactor facility where individual task loading does not allow for the effective conduct of behavior observation in addition to assigned operational tasks, the licensee or other entity must implement a live video and audible streaming and capture system to conduct behavioral observation of persons licensed to operate under part 53 of this chapter who manipulate the controls of any commercial nuclear plant licensed under part 53.

§ 26.610 Sanctions.

(a) Licensees and other entities that implement an FFD program under this subpart must establish sanctions for FFD policy violations that, at a minimum, prohibit the individuals specified in § 26.4 from being assigned to perform or direct those duties and responsibilities or maintaining authorization making them subject to this subpart.

(b) The severity of the sanction must escalate with the number of occurrences and severity of the FFD policy violation. The sanction must be long enough to act as a deterrent and, if the individual is retained as a licensee employee or contractor/vendor, facilitate the individual to complete counseling or treatment. The sanctions must include an immediate unfavorable termination of the individual's authorization as follows:

(1) A minimum 14-day denial of access for a first violation of the FFD policy involving a confirmed positive drug or alcohol test result;

(2) A minimum 3-year denial of access for a second violation of the FFD policy involving a confirmed positive drug or alcohol test result;

(3) A minimum 5-year denial of access for any individual who is determined to have been involved in the sale, use, or possession of illegal drugs or the consumption of alcohol within a protected area of any facility licensed under part 53 of this chapter or within a transporter's facility or vehicle used in the conveyance of formula quantities of strategic SNM while the individual is subject to this subpart; and

(4) A permanent denial of access for a third violation of the FFD policy involving a confirmed positive drug or alcohol test result or a subversion attempt of any drug or alcohol test or screening process.

§ 26.611 Protection of information.

(a) Licensees and other entities that collect personal information about an individual for the purpose of complying with this subpart must establish and maintain a system of files and procedures to prevent unauthorized disclosure.

(b) Licensees and other entities must obtain a signed consent that documents the individual's acceptance of being subject to the FFD program and authorizes the disclosure of the personal information collected and maintained under this subpart, except for disclosures to the individuals and entities specified in § 26.37(b)(1) through (6) and (8), and persons deciding matters under review in § 26.613. This signed and dated consent must be obtained before making the individual subject to the FFD program.

§ 26.613 Appeals process.

Licensees and other entities that implement an FFD program under this subpart must establish and implement procedures for the review of a determination that an individual in § 26.4 has violated the FFD policy. The procedure must provide for an objective and impartial review of the facts related to the determination that the individual has violated the FFD policy and a schedule for the completion of the review.

§ 26.615 Audits.

(a) Licensees and other entities that implement an FFD program under this subpart must audit their programs at a frequency that ensures the continuing effectiveness of their FFD program, FFD program elements that are provided by C/Vs, and the FFD programs of C/Vs that are accepted by the licensee or other entity. Corrective actions must be taken as soon as reasonably practicable to resolve any problems identified in an audit and preclude recurrence.

(b) The subject matter, scope, and frequency of audits must be revised as necessary to improve or maintain program performance based on annual FFD program performance data reviews performed under § 26.617(d) and unsatisfactory performance or programmatic weaknesses identified under § 26.617(b)(3) and (e).

(c) Licensees and other entities may conduct joint audits or accept audits of C/Vs so long as the audit addresses the relevant services of the C/Vs.

(d) Licensees and other entities must audit HHS-certified laboratories unless the licensee's or other entity's panel of drugs and drug metabolites to be tested is equivalent to the panel by which the laboratory is certified by HHS or is subject to the standards and procedures for drug testing and evaluation used by the laboratory under the HHS Guidelines. Licensees and other entities must audit any hospital or other facility licensed by the State (or State-designated entity) if used to conduct specimen collections and perform alcohol testing under this part on a biennial basis to confirm that the facility procedures are comparable to those described in subpart E of this part, for urine and oral fluid.

§ 26.617 Recordkeeping, reporting, and FFD program performance.

(a) Licensees and other entities that implement FFD programs under this subpart must ensure that records pertaining to the administration of their program, which may be stored and archived electronically, are maintained so that they are available for NRC inspection purposes and for any legal proceedings resulting from the administration of the program. Records pertaining to the administration of the FFD program and FFD performance data required by § 26.717 must be retained until license termination.

(b) Licensees and other entities must make the following reports:

(1) Reports to the NRC Operations Center by telephone within 24 hours after the licensee or other entity discovers any intentional act that casts doubt on the integrity of the FFD program and any programmatic failure, degradation, or discovered vulnerability of the FFD program that may permit undetected drug or alcohol use or abuse by individuals who are subject to this subpart. These events must be reported under this subpart, rather than under the provisions of § 73.1200 of this chapter;

(2) Annual FFD program performance data under § 26.717(b) for each FFD program subject to this subpart. Licensees and other entities must submit FFD program performance data (for January through December) to the NRC annually, before March 1 of the following year and must use unexpired NRC-provided forms for the electronic submission of FFD information to the NRC; and

(3) Reports on drug and alcohol testing errors within 30 days of completing an investigation of any testing errors or unsatisfactory performance, discovered at an HHS-certified laboratory or through the processing of appeals under § 26.613, or errors or matters that could adversely reflect on the integrity of the random selection or random testing process. The reports must describe the incident and any corrective actions taken or planned.

(c) Licensees and other entities subject to this subpart must describe in sufficient detail to support an authorization determination, an individual's FFD policy violation (while protecting privacy information under § 26.611) and FFD program weakness to NRC, licensees, and other entities subject to this part when requested to support authorization determinations under subpart C of this part or § 73.120 of this chapter, as applicable, or to support licensee or other entity performance monitoring.

(d) Licensees and other entities must analyze FFD program performance data at least annually and take appropriate actions to correct any identified program weakness.

(e) Licensees and other entities must document, trend, and correct non-reportable indicators of FFD programmatic weaknesses under the licensee's or other entity's corrective action program, but may not track or trend drug and alcohol test results in a manner that would permit the identification of any individuals.

§ 26.619 Suitability and fitness determinations.

Licensees and other entities that implement FFD programs under this subpart must develop, implement, and maintain procedures for evaluating whether to assign individuals to perform or direct those duties and responsibilities making them subject to this subpart. A suitability or fitness determination conducted for cause must be performed face-to-face. A suitability or fitness determination conducted for cause may be performed remotely using electronic communications that provide sufficient visual and aural clarity to complete the assessment. A fitness determination may be supported by someone who is present in-person with the individual being assessed only during for-cause drug and alcohol testing determinations under § 26.607(b)(3) and fatigue assessments performed under § 26.211(a)(1). The supporting person must be trained in accordance with the requirements of either § 26.29 or § 26.608.

■ 97. Revise § 26.709 to read as follows:

§ 26.709 Applicability.

(a) The requirements of this subpart apply to the FFD programs of licensees and other entities specified in § 26.3(a) through (d), except for FFD programs that are implemented under subpart K of this part.

(b) The requirements in this subpart apply to the FFD programs of licensees and other entities specified in § 26.3(f) that elect not to implement the requirements in subpart M or elect to implement the requirements in § 26.605(b).

§ 26.711 [Amended]

■ 98. In § 26.711, in paragraphs (c) and (d), remove the phrase ''(c) and (d),'' and add in its place the phrase ''(c), (d), and (f),''.

■ 99. In § 26.825, revise paragraph (b) to read as follows:

§ 26.825 Criminal penalties.

* * * * *

(b) The regulations in this part that are not issued under sections 161b, 161i, or 161o for the purposes of section 223 are as follows: §§ 26.1, 26.3, 26.5, 26.7, 26.8, 26.9, 26.11, 26.51, 26.81, 26.121, 26.151, 26.181, 26.201, 26.601, 26.823, and 26.825.

PART 30—RULES OF GENERAL APPLICABILITY TO DOMESTIC LICENSING OF BYPRODUCT MATERIAL

■ 100. The authority citation for part 30 continues to read as follows:

Authority: Atomic Energy Act of 1954, secs. 11, 81, 161, 181, 182, 183, 184, 186, 187, 223, 234, 274 (42 U.S.C. 2014, 2111, 2201, 2231, 2232, 2233, 2234, 2236, 2237, 2273, 2282, 2021); Energy Reorganization Act of 1974, secs. 201, 202, 206, 211 (42 U.S.C. 5841, 5842, 5846, 5851); 44 U.S.C. 3504 note.

■ 101. In § 30.4, revise the definition for ''Utilization facility'' to read as follows:

§ 30.4 Definitions.

* * * * *

Utilization facility means a utilization facility as defined in the regulations contained in part 50 or 53 of this chapter.

■ 102. In § 30.50, revise paragraph (c)(3) to read as follows:

§ 30.50 Reporting requirements.

* * * * *

(c) * * *

(3) The provisions of this section do not apply to licensees subject to the notification requirements in § 50.72 or § 53.1630 of this chapter. They do apply to those licensees under part 50 of this chapter possessing material licensed under this part, who are not subject to

the notification requirements in § 50.72 of this chapter.

PART 40—DOMESTIC LICENSING OF SOURCE MATERIAL

■ 103. The authority citation for part 40 continues to read as follows:

Authority: Atomic Energy Act of 1954, secs. 62, 63, 64, 65, 69, 81, 83, 84, 122, 161, 181, 182, 183, 184, 186, 187, 193, 223, 234, 274, 275 (42 U.S.C. 2092, 2093, 2094, 2095, 2099, 2111, 2113, 2114, 2152, 2201, 2231, 2232, 2233, 2234, 2236, 2237, 2243, 2273, 2282, 2021, 2022); Energy Reorganization Act of 1974, secs. 201, 202, 206, 211 (42 U.S.C. 5841, 5842, 5846, 5851); Uranium Mill Tailings Radiation Control Act of 1978, sec. 104 (42 U.S.C. 7914); 44 U.S.C. 3504 note.

■ 104. In § 40.60, revise paragraph (c)(3) to read as follows:

§ 40.60 Reporting requirements.

* * * * *

(c) * * *

(3) The provisions of this section do not apply to licensees subject to the notification requirements in § 50.72 or § 53.1630 of this chapter. They do apply to those licensees under part 50 of this chapter possessing material licensed under this part who are not subject to the notification requirements in § 50.72 of this chapter.

PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

■ 105. The authority citation for part 50 is revised to read as follows:

Authority: Atomic Energy Act of 1954, secs. 11, 101, 102, 103, 104, 105, 108, 122, 147, 149, 161, 181, 182, 183, 184, 185, 186, 187, 189, 223, 234 (42 U.S.C. 2014, 2131, 2132, 2133, 2134, 2135, 2138, 2152, 2167, 2169, 2201, 2231, 2232, 2233, 2234, 2235, 2236, 2237, 2239, 2273, 2282); Energy Reorganization Act of 1974, secs. 201, 202, 206, 211 (42 U.S.C. 5841, 5842, 5846, 5851); Nuclear Waste Policy Act of 1982, sec. 306(42 U.S.C. 10226); National Environmental Policy Act of 1969 (42 U.S.C. 4332); 44 U.S.C. 3504 note.

■ 106. In § 50.47, revise paragraphs (a)(1) and (e) to read as follows:

§ 50.47 Emergency plans.

(a)(1)(i) Except as provided in paragraph (d) of this section, no initial operating license for a nuclear power reactor will be issued under this part or under part 53 of this chapter unless a finding is made by the NRC that there is reasonable assurance that adequate protective measures can and will be taken in the event of a radiological emergency. No finding under this section is necessary for issuance of a renewed nuclear power reactor operating license.

(ii) No initial combined license under part 52 or 53 of this chapter will be issued unless a finding is made by the NRC that there is reasonable assurance that adequate protective measures can and will be taken in the event of a radiological emergency. No finding under this section is necessary for issuance of a renewed combined license.

(iii) If an application for an early site permit under subpart A of part 52 of this chapter includes complete and integrated emergency plans under § 52.17(b)(2)(ii) of this chapter or an application for an early site permit under subpart H of part 53 of this chapter includes complete and integrated emergency plans under § 53.1146(b)(2)(ii) of this chapter, no early site permit will be issued unless a finding is made by the NRC that the emergency plans provide reasonable assurance that adequate protective measures can and will be taken in the event of a radiological emergency.

(iv) If an application for an early site permit proposes major features of the emergency plans under § 52.17(b)(2)(i) or § 53.1146(b)(2)(i) of this chapter, no early site permit will be issued unless a finding is made by the NRC that the major features are acceptable in accordance with the applicable standards of either this section and appendix E to this part or the applicable requirements of § 50.160, within the scope of emergency preparedness matters addressed in the major features.

* * * * *

(e) Notwithstanding the requirements of paragraph (b) of this section and the provisions of § 52.103 or § 53.1452 of this chapter, a holder of a combined license under part 52 or 53 of this chapter, as applicable, that is complying with the requirements of paragraph (b) of this section and appendix E to this part may not load fuel or operate except as provided in accordance with appendix E to this part and § 50.54(gg), and a holder of a combined license under part 52 or 53 of this chapter that is complying with the requirements of § 50.160 may not load fuel or operate except as provided in accordance with §§ 50.160(c)(2) and 50.54(gg).

* * * * *

■ 107. In § 50.54, revise paragraph (gg)(1) introductory text to read as follows:

§ 50.54 Conditions of licenses.

* * * * *

(gg)(1) Notwithstanding § 52.103 or § 53.1452 of this chapter, if following the conduct of the exercise required by paragraph IV.f.2.a of appendix E to this part or § 50.160(c)(2), as applicable, FEMA identifies one or more deficiencies in the state of offsite emergency preparedness, the holder of a combined license under part 52 or 53 of this chapter, as applicable, may operate at up to 5 percent of rated thermal power only if the Commission finds that the state of onsite emergency preparedness provides reasonable assurance that adequate protective measures can and will be taken in the event of a radiological emergency. The NRC will base this finding on its assessment of the applicant's onsite emergency plans against the pertinent standards in either § 50.47 and appendix E to this part, or § 50.160, as applicable. Review of the applicant's emergency plans will include the following standards with offsite aspects:

* * * * *

■ 108. In § 50.160, revise paragraphs (b)(3) and (c)(2) to read as follows:

§ 50.160 Emergency preparedness for small modular reactors, non-light-water reactors, and non-power production or utilization facilities.

* * * * *

(b) * * *

(3) *Emergency planning zone.* For an applicant whose analysis required by § 50.33(g)(2) or § 53.1109(g)(2) of this chapter meets the criteria in § 50.33(g)(2)(i) or § 53.1109(g)(2)(i) of this chapter, as applicable, determine and describe the boundary and physical characteristics of the EPZ in the emergency plan.

* * * * *

(c) * * *

(2) A holder of a combined license issued under part 52 or 53 of this chapter before the Commission has made the finding under § 52.103(g) or § 53.1452(g) of this chapter, as applicable, must establish, implement, and maintain an emergency preparedness program that meets the requirements of paragraph (b) of this section, as described in the approved emergency plan and license, and conduct an initial exercise to demonstrate this compliance within 2 years before the scheduled date for initial loading of fuel (or, for a fueled manufactured reactor, within 2 years before the scheduled date for initiating the removal of the features to prevent criticality required under § 53.620(d)(1) of this chapter).

■ 109. In appendix B to part 50, revise the first paragraph in the Introduction section, the first paragraph of section III, and section IV to read as follows:

Appendix B to Part 50—Quality Assurance Criteria for Nuclear Power Plants and Fuel Reprocessing Plants

Introduction. Every applicant for a construction permit is required by the provisions of § 50.34 or § 53.1309 of this chapter to include in its Preliminary Safety Analysis Report a description of the quality assurance program to be applied to the design, fabrication, construction, and testing of the structures, systems, and components of the facility. Every applicant for an operating license is required by the provisions of § 50.34 or § 53.1369 of this chapter to include, in its Final Safety Analysis Report, information pertaining to the managerial and administrative controls to be used to assure safe operation. Every applicant for a combined license is required by the provisions of § 52.79 or § 53.1416 of this chapter to include in its Final Safety Analysis Report a description of the quality assurance applied to the design, and to be applied to the fabrication, construction, and testing of the structures, systems, and components of the facility and to the managerial and administrative controls to be used to assure safe operation. For applications submitted after September 27, 2007, every applicant for an early site permit is required by the provisions of § 52.17 or § 53.1146 of this chapter to include in its Site Safety Analysis Report a description of the quality assurance program applied to site activities related to the design, fabrication, construction, and testing of the structures, systems, and components of a facility or facilities that may be constructed on the site. Every applicant for a design approval is required by the provisions of § 52.137 or § 53.1209 of this chapter to include in its Final Safety Analysis Report a description of the quality assurance program applied to the design of the structures, systems, and components of the facility. Every applicant for a design certification is required by the provisions of § 52.47 or § 53.1239 of this chapter to include in its Final Safety Analysis Report a description of the quality assurance program applied to the design of the structures, systems, and components of the facility. Every applicant for a manufacturing license is required by the provisions of § 52.157 or § 53.1279 of this chapter to include in its Final Safety Analysis Report a description of the quality assurance program applied to the design, and to be applied to the manufacture of, the structures, systems, and components of the reactor. Nuclear power plants and fuel reprocessing plants include structures, systems, and components that prevent or mitigate the consequences of postulated accidents that could cause undue risk to the health and safety of the public. This appendix establishes quality assurance requirements for the design, manufacture, construction, and operation of those structures, systems, and components. The pertinent requirements of this appendix apply to all activities affecting the safety-related functions of those structures, systems, and components; these activities include designing, purchasing, fabricating, handling, shipping, storing, cleaning, erecting, installing, inspecting, testing, operating, maintaining, repairing, refueling, and modifying.

* * * * *

III. * * *

Measures shall be established to assure that applicable regulatory requirements and the design bases, as defined in § 50.2 and as specified in the license application, or the functional design criteria, as defined in § 53.020 of this chapter and as specified in the license application, for those structures, systems, and components to which this appendix applies are correctly translated into specifications, drawings, procedures, and instructions. These measures shall include provisions to assure that appropriate quality standards are specified and included in design documents and that deviations from such standards are controlled. Measures shall also be established for the selection and review for suitability of application of materials, parts, equipment, and processes that are essential to the safety-related functions of the structures, systems and components.

* * * * *

IV. Procurement Document Control

Measures shall be established to assure that applicable regulatory requirements, design bases or functional design criteria, and other requirements which are necessary to assure adequate quality are suitably included or referenced in the documents for procurement of material, equipment, and services, whether purchased by the applicant or by its contractors or subcontractors. To the extent necessary, procurement documents shall require contractors or subcontractors to provide a quality assurance program consistent with the pertinent provisions of this appendix.

* * * * *

■ 110. In appendix E to part 50:
■ a. Revise paragraph I.1;
■ b. Add paragraph I.7;
■ c. Revise the first paragraph of section III;
■ d. Revise and republish section IV; and
■ e. Revise section V.

The addition and revisions read as follows:

Appendix E to Part 50—Emergency Planning and Preparedness for Production and Utilization Facilities

* * * * *

I. Introduction

1. Each applicant for a construction permit is required by § 50.34(a) or § 53.1309(a)(4) of this chapter to include in the preliminary safety analysis report a discussion of preliminary plans for coping with emergencies. Each applicant for an operating license is required by § 50.34(b) or § 53.1416 of this chapter to include in the application plans for coping with emergencies. Each applicant for an early site permit under subpart A of part 52 or under subpart H of part 53 of this chapter may submit plans for coping with emergencies under § 52.17 or § 53.1146 of this chapter.

* * * * *

7. For a fueled manufactured reactor licensed under part 53 of this chapter, the date for initiating the removal of the features to prevent criticality required under § 53.620(d)(1) is equivalent to the initial loading of fuel in this appendix.

* * * * *

III. The Final Safety Analysis Report; Site Safety Analysis Report

The final safety analysis report or the site safety analysis report for an early site permit that includes complete and integrated emergency plans under § 52.17(b)(2)(ii) or § 53.1146(b)(2)(ii) of this chapter shall contain the plans for coping with emergencies. The plans shall be an expression of the overall concept of operation; they shall describe the essential elements of advance planning that have been considered and the provisions that have been made to cope with emergency situations. The plans shall incorporate information about the emergency response roles of supporting organizations and offsite agencies. That information shall be sufficient to provide assurance of coordination among the supporting groups and with the licensee. The site safety analysis report for an early site permit which proposes major features must address the relevant provisions of 10 CFR 50.47 and 10 CFR part 50, appendix E, within the scope of emergency preparedness matters addressed in the major features.

* * * * *

IV. Content of Emergency Plans

1. The applicant's emergency plans shall contain, but not necessarily be limited to, information needed to demonstrate compliance with the elements in this section IV., *i.e.,* organization for coping with radiological emergencies, assessment actions, activation of emergency organization, notification procedures, emergency facilities and equipment, training, maintaining emergency preparedness, recovery, and onsite protective actions during hostile action. In addition, the emergency response plans submitted by an applicant for a nuclear power reactor operating license under 10 CFR part 50 or 10 CFR part 53, or for an early site permit (as applicable) or combined license under 10 CFR part 52 or 10 CFR part 53, shall contain information needed to demonstrate compliance with the standards described in § 50.47(b), and they will be evaluated against those standards.

2. This nuclear power reactor license applicant shall also provide an analysis of the time required to evacuate various sectors and distances within the plume exposure pathway EPZ for transient and permanent populations, using the most recent U.S. Census Bureau data as of the date the applicant submits its application to the NRC.

3. Nuclear power reactor licensees shall use NRC approved evacuation time estimates (ETEs) and updates to the ETEs in the formulation of protective action recommendations and shall provide the ETEs and ETE updates to State and local

governmental authorities for use in developing offsite protective action strategies.

4. Within 365 days of the date of the availability of the most recent decennial census data from the U.S. Census Bureau, nuclear power reactor licensees shall develop an ETE analysis using this decennial data and submit it under § 50.4 or § 53.040 of this chapter to the NRC. These licensees shall submit this ETE analysis to the NRC at least 180 days before using it to form protective action recommendations and providing it to State and local governmental authorities for use in developing offsite protective action strategies.

5. During the years between decennial censuses, nuclear power reactor licensees shall estimate EPZ permanent resident population changes once a year, but no later than 365 days from the date of the previous estimate, using the most recent U.S. Census Bureau annual resident population estimate and State/local government population data, if available. These licensees shall maintain these estimates so that they are available for NRC inspection during the period between decennial censuses and shall submit these estimates to the NRC with any updated ETE analysis.

6. If at any time during the decennial period, the EPZ permanent resident population increases such that it causes the longest ETE value for the 2-mile zone or 5-mile zone, including all affected Emergency Response Planning Areas, or for the entire 10-mile EPZ to increase by 25 percent or 30 minutes, whichever is less, from the nuclear power reactor licensee's currently NRC-approved or updated ETE, the licensee shall update the ETE analysis to reflect the impact of that population increase. The licensee shall submit the updated ETE analysis to the NRC under § 50.4 or § 53.040 of this chapter no later than 365 days after the licensee's determination that the criteria for updating the ETE have been met and at least 180 days before using it to form protective action recommendations and providing it to State and local governmental authorities for use in developing offsite protective action strategies.

7. After an applicant for a combined license under part 52 or part 53 of this chapter receives its license, the licensee shall conduct at least one review of any changes in the population of its EPZ at least 365 days prior to its scheduled fuel load. The licensee shall estimate EPZ permanent resident population changes using the most recent U.S. Census Bureau annual resident population estimate and State/local government population data, if available. If the EPZ permanent resident population increases such that it causes the longest ETE value for the 2-mile zone or 5-mile zone, including all affected Emergency Response Planning Areas, or for the entire 10-mile EPZ, to increase by 25 percent or 30 minutes, whichever is less, from the licensee's currently approved ETE, the licensee shall update the ETE analysis to reflect the impact of that population increase. The licensee shall submit the updated ETE analysis to the NRC for review under § 50.4 or § 53.040 of this chapter no later than 365 days before the licensee's scheduled fuel load.

A. Organization

The organization for coping with radiological emergencies shall be described, including definition of authorities, responsibilities, and duties of individuals assigned to the licensee's emergency organization and the means for notification of such individuals in the event of an emergency. Specifically, the following shall be included:

1. A description of the normal plant operating organization.

2. A description of the onsite emergency response organization (ERO) with a detailed discussion of:

a. Authorities, responsibilities, and duties of the individual(s) who will take charge during an emergency;

b. Plant staff emergency assignments;

c. Authorities, responsibilities, and duties of an onsite emergency coordinator who shall be in charge of the exchange of information with offsite authorities responsible for coordinating and implementing offsite emergency measures.

3. A description, by position and function to be performed, of the licensee's headquarters personnel who will be sent to the plant site to augment the onsite emergency organization.

4. Identification, by position and function to be performed, of persons within the licensee organization who will be responsible for making offsite dose projections, and a description of how these projections will be made and the results transmitted to State and local authorities, NRC, and other appropriate governmental entities.

5. Identification, by position and function to be performed, of other employees of the licensee with special qualifications for coping with emergency conditions that may arise. Other persons with special qualifications, such as consultants, who are not employees of the licensee and who may be called upon for assistance for emergencies shall also be identified. The special qualifications of these persons shall be described.

6. A description of the local offsite services to be provided in support of the licensee's emergency organization.

7. Identification of, and a description of the assistance expected from, appropriate State, local, and Federal agencies with responsibilities for coping with emergencies, including hostile action at the site. For purposes of this appendix, ''hostile action'' is defined as an act directed toward a nuclear power plant or its personnel that includes the use of violent force to destroy equipment, take hostages, and/or intimidate the licensee to achieve an end. This includes attack by air, land, or water using guns, explosives, projectiles, vehicles, or other devices used to deliver destructive force.

8. Identification of the State and/or local officials responsible for planning for, ordering, and controlling appropriate protective actions, including evacuations when necessary.

9. For nuclear power reactor licensees, a detailed analysis demonstrating that on-shift personnel assigned emergency plan implementation functions are not assigned responsibilities that would prevent the timely performance of their assigned functions as specified in the emergency plan.

B. Assessment Actions

1. The means to be used for determining the magnitude of, and for continually assessing the impact of, the release of radioactive materials shall be described, including emergency action levels that are to be used as criteria for determining the need for notification and participation of local and State agencies, the Commission, and other Federal agencies, and the emergency action levels that are to be used for determining when and what type of protective measures should be considered within and outside the site boundary to protect health and safety. The emergency action levels shall be based on in-plant conditions and instrumentation in addition to onsite and offsite monitoring. For nuclear power reactor licensees, these action levels must include hostile action that may adversely affect the nuclear power plant. The initial emergency action levels shall be discussed and agreed on by the applicant or licensee and state and local governmental authorities, and approved by the NRC. Thereafter, emergency action levels shall be reviewed with the State and local governmental authorities on an annual basis.

2. A licensee desiring to change its entire emergency action level scheme shall submit an application for an amendment to its license and receive NRC approval before implementing the change. Licensees shall follow the change process in § 50.54(q) or § 53.1565(d)(3) of this chapter for all other emergency action level changes.

C. Activation of Emergency Organization

1. The entire spectrum of emergency conditions that involve the alerting or activating of progressively larger segments of the total emergency organization shall be described. The communication steps to be taken to alert or activate emergency personnel under each class of emergency shall be described. Emergency action levels (based not only on onsite and offsite radiation monitoring information but also on readings from a number of sensors that indicate a potential emergency, such as the pressure in containment and the response of the Emergency Core Cooling System) for notification of offsite agencies shall be described. The existence, but not the details, of a message authentication scheme shall be noted for such agencies. The emergency classes defined shall include: (1) Notification of unusual events, (2) alert, (3) site area emergency, and (4) general emergency. These classes are further discussed in NUREG–0654/FEMA–REP–1.

2. Nuclear power reactor licensees shall establish and maintain the capability to assess, classify, and declare an emergency condition within 15 minutes after the availability of indications to plant operators that an emergency action level has been exceeded and shall promptly declare the emergency condition as soon as possible following identification of the appropriate emergency classification level. Licensees shall not construe these criteria as a grace period to attempt to restore plant conditions to avoid declaring an emergency action due

to an emergency action level that has been exceeded. Licensees shall not construe these criteria as preventing implementation of response actions deemed by the licensee to be necessary to protect public health and safety provided that any delay in declaration does not deny the State and local authorities the opportunity to implement measures necessary to protect the public health and safety.

D. Notification Procedures

1. Administrative and physical means for notifying local, State, and Federal officials and agencies and agreements reached with these officials and agencies for the prompt notification of the public and for public evacuation or other protective measures, should they become necessary, shall be described. This description shall include identification of the appropriate officials, by title and agency, of the State and local government agencies within the EPZs.

2. Provisions shall be described for yearly dissemination to the public within the plume exposure pathway EPZ of basic emergency planning information, such as the methods and times required for public notification and the protective actions planned if an accident occurs, general information as to the nature and effects of radiation, and a listing of local broadcast stations that will be used for dissemination of information during an emergency. Signs or other measures shall also be used to disseminate to any transient population within the plume exposure pathway EPZ appropriate information that would be helpful if an accident occurs.

3. A licensee shall have the capability to notify responsible State and local governmental agencies within 15 minutes after declaring an emergency. The licensee shall demonstrate that the appropriate governmental authorities have the capability to make a public alerting and notification decision promptly on being informed by the licensee of an emergency condition. Prior to initial operation greater than 5 percent of rated thermal power of the first reactor at a site, each nuclear power reactor licensee shall demonstrate that administrative and physical means have been established for alerting and providing prompt instructions to the public within the plume exposure pathway EPZ. The design objective of the prompt public alert and notification system shall be to have the capability to essentially complete the initial alerting and initiate notification of the public within the plume exposure pathway EPZ within about 15 minutes. The use of this alerting and notification capability will range from immediate alerting and notification of the public (within 15 minutes of the time that State and local officials are notified that a situation exists requiring urgent action) to the more likely events where there is substantial time available for the appropriate governmental authorities to make a judgment whether or not to activate the public alert and notification system. The alerting and notification capability shall additionally include administrative and physical means for a backup method of public alerting and notification capable of being used in the event the primary method of alerting and notification is unavailable during an emergency to alert or notify all or portions of the plume exposure pathway EPZ population. The backup method shall have the capability to alert and notify the public within the plume exposure pathway EPZ, but does not need to meet the 15-minute design objective for the primary prompt public alert and notification system. When there is a decision to activate the alert and notification system, the appropriate governmental authorities will determine whether to activate the entire alert and notification system simultaneously or in a graduated or staged manner. The responsibility for activating such a public alert and notification system shall remain with the appropriate governmental authorities.

E. Emergency Facilities and Equipment

Adequate provisions shall be made and described for emergency facilities and equipment, including:

1. Equipment at the site for personnel monitoring;

2. Equipment for determining the magnitude of and for continuously assessing the impact of the release of radioactive materials to the environment;

3. Facilities and supplies at the site for decontamination of onsite individuals;

4. Facilities and medical supplies at the site for appropriate emergency first aid treatment;

5. Arrangements for medical service providers qualified to handle radiological emergencies onsite;

6. Arrangements for transportation of contaminated injured individuals from the site to specifically identified treatment facilities outside the site boundary;

7. Arrangements for treatment of individuals injured in support of licensed activities on the site at treatment facilities outside the site boundary;

8. a. (i) A licensee onsite technical support center and an emergency operations facility from which effective direction can be given and effective control can be exercised during an emergency;

(ii) For nuclear power reactor licensees, a licensee onsite operational support center;

b. For a nuclear power reactor licensee's emergency operations facility required by paragraph 8.a of this section, either a facility located between 10 miles and 25 miles of the nuclear power reactor site(s), or a primary facility located less than 10 miles from the nuclear power reactor site(s) and a backup facility located between 10 miles and 25 miles of the nuclear power reactor site(s). An emergency operations facility may serve more than one nuclear power reactor site. A licensee desiring to locate an emergency operations facility more than 25 miles from a nuclear power reactor site shall request prior Commission approval by submitting an application for an amendment to its license. For an emergency operations facility located more than 25 miles from a nuclear power reactor site, provisions must be made for locating NRC and offsite responders closer to the nuclear power reactor site so that NRC and offsite responders can interact face-to-face with emergency response personnel entering and leaving the nuclear power reactor site. Provisions for locating NRC and offsite responders closer to a nuclear power reactor site that is more than 25 miles from the emergency operations facility must include the following:

(1) Space for members of an NRC site team and Federal, State, and local responders;

(2) Additional space for conducting briefings with emergency response personnel;

(3) Communication with other licensee and offsite emergency response facilities;

(4) Access to plant data and radiological information; and

(5) Access to copying equipment and office supplies;

c. For a nuclear power reactor licensee's emergency operations facility required by paragraph 8.a of this section, a facility having the following capabilities:

(1) The capability for obtaining and displaying plant data and radiological information for each reactor at a nuclear power reactor site and for each nuclear power reactor site that the facility serves;

(2) The capability to analyze plant technical information and provide technical briefings on event conditions and prognosis to licensee and offsite response organizations for each reactor at a nuclear power reactor site and for each nuclear power reactor site that the facility serves; and

(3) The capability to support response to events occurring simultaneously at more than one nuclear power reactor site if the emergency operations facility serves more than one site; and

d. For nuclear power reactor licensees, an alternative facility (or facilities) that would be accessible even if the site is under threat of or experiencing hostile action, to function as a staging area for augmentation of emergency response staff and collectively having the following characteristics: the capability for communication with the emergency operations facility, control room, and plant security; the capability to perform offsite notifications; and the capability for engineering assessment activities, including damage control team planning and preparation, for use when onsite emergency facilities cannot be safely accessed during hostile action. The requirements in this paragraph 8.d must be implemented no later than December 23, 2014, with the exception of the capability for staging emergency response organization personnel at the alternative facility (or facilities) and the capability for communications with the emergency operations facility, control room, and plant security, which must be implemented no later than June 20, 2012.

e. A licensee shall not be subject to the requirements of paragraph 8.b of this section for an existing emergency operations facility approved as of December 23, 2011;

9. At least one onsite and one offsite communications system; each system shall have a backup power source. All communication plans shall have arrangements for emergencies, including titles and alternates for those in charge at both ends of the communication links and the primary and backup means of communication. Where consistent with the function of the governmental agency, these arrangements will include:

a. Provision for communications with contiguous State/local governments within the plume exposure pathway EPZ. Such communications shall be tested monthly.

b. Provision for communications with Federal emergency response organizations. Such communications systems shall be tested annually.

c. Provision for communications among the nuclear power reactor control room, the onsite technical support center, and the emergency operations facility; and among the nuclear facility, the principal State and local emergency operations centers, and the field assessment teams. Such communications systems shall be tested annually.

d. Provisions for communications by the licensee with NRC Headquarters and the appropriate NRC Regional Office Operations Center from the nuclear power reactor control room, the onsite technical support center, and the emergency operations facility. Such communications shall be tested monthly.

F. Training

1. The program to provide for: (a) The training of employees and exercising, by periodic drills, of emergency plans to ensure that employees of the licensee are familiar with their specific emergency response duties, and (b) The participation in the training and drills by other persons whose assistance may be needed in the event of a radiological emergency shall be described. This shall include a description of specialized initial training and periodic retraining programs to be provided to each of the following categories of emergency personnel:

i. Directors and/or coordinators of the plant emergency organization;

ii. Personnel responsible for accident assessment, including control room shift personnel;

iii. Radiological monitoring teams;

iv. Fire control teams (fire brigades);

v. Repair and damage control teams;

vi. First aid and rescue teams;

vii. Medical support personnel;

viii. Licensee's headquarters support personnel;

ix. Security personnel.

In addition, a radiological orientation training program shall be made available to local services personnel; *e.g.,* local emergency services/Civil Defense, local law enforcement personnel, local news media persons.

2. The plan shall describe provisions for the conduct of emergency preparedness exercises as follows: Exercises shall test the adequacy of timing and content of implementing procedures and methods, test emergency equipment and communications networks, test the public alert and notification system, and ensure that emergency organization personnel are familiar with their duties.[3]

a. A full participation [4] exercise which tests as much of the licensee, State, and local emergency plans as is reasonably achievable without mandatory public participation shall be conducted for each site at which a power reactor is located. Nuclear power reactor licensees shall submit exercise scenarios under § 50.4 or § 53.040 of this chapter at least 60 days before use in a full participation exercise required by this paragraph 2.a.

(i) For an operating license issued under part 50 or part 53 of this chapter, this exercise must be conducted within 2 years before the issuance of the first operating license for full power (one authorizing operation above 5 percent of rated thermal power) of the first reactor and shall include participation by each State and local government within the plume exposure pathway EPZ and each state within the ingestion exposure pathway EPZ. If the full participation exercise is conducted more than 1 year prior to issuance of an operating licensee for full power, an exercise which tests the licensee's onsite emergency plans must be conducted within 1 year before issuance of an operating license for full power. This exercise need not have State or local government participation.

(ii) For a combined license issued under part 52 or part 53 of this chapter, this exercise must be conducted within 2 years of the scheduled date for initial loading of fuel. If the first full participation exercise is conducted more than 1 year before the scheduled date for initial loading of fuel, an exercise which tests the licensee's onsite emergency plans must be conducted within 1 year before the scheduled date for initial loading of fuel. This exercise need not have State or local government participation. If FEMA identifies one or more deficiencies in the state of offsite emergency preparedness as the result of the first full participation exercise, or if the Commission finds that the state of emergency preparedness does not provide reasonable assurance that adequate protective measures can and will be taken in the event of a radiological emergency, the provisions of § 50.54(gg) apply.

(iii) For a combined license issued under part 52 or part 53 of this chapter, if the applicant currently has an operating reactor at the site, an exercise, either full or partial participation,[5] shall be conducted for each subsequent reactor constructed on the site. This exercise may be incorporated in the exercise requirements of Sections IV.F.2.b. and c. in this appendix. If FEMA identifies one or more deficiencies in the state of offsite emergency preparedness as the result of this exercise for the new reactor, or if the Commission finds that the state of emergency preparedness does not provide reasonable assurance that adequate protective measures can and will be taken in the event of a radiological emergency, the provisions of § 50.54(gg) apply.

b. Each licensee at each site shall conduct a subsequent exercise of its onsite emergency plan every 2 years. Nuclear power reactor licensees shall submit exercise scenarios under § 50.4 or § 53.040 of this chapter at least 60 days before use in an exercise required by this paragraph 2.b. The exercise may be included in the full participation biennial exercise required by paragraph 2.c. of this section. In addition, the licensee shall take actions necessary to ensure that adequate emergency response capabilities are maintained during the interval between biennial exercises by conducting drills, including at least one drill involving a combination of some of the principal functional areas of the licensee's onsite emergency response capabilities. The principal functional areas of emergency response include activities such as management and coordination of emergency response, accident assessment, event classification, notification of offsite authorities, assessment of the onsite and offsite impact of radiological releases, protective action recommendation development, protective action decision making, plant system repair and mitigative action implementation. During these drills, activation of all of the licensee's emergency response facilities (Technical Support Center (TSC), Operations Support Center (OSC), and the Emergency Operations Facility (EOF)) would not be necessary, licensees would have the opportunity to consider accident management strategies, supervised instruction would be permitted, operating staff in all participating facilities would have the opportunity to resolve problems (success paths) rather than have controllers intervene, and the drills may focus on the onsite exercise training objectives.

c. Offsite plans for each site shall be exercised biennially with full participation by each offsite authority having a role under the radiological response plan. Where the offsite authority has a role under a radiological response plan for more than one site, it shall fully participate in one exercise every 2 years and shall, at least, partially participate in other offsite plan exercises in this period. If two different licensees each have licensed facilities located either on the same site or on adjacent, contiguous sites, and share most of the elements defining co-located licensees,[6] then each licensee shall:

(1) Conduct an exercise biennially of its onsite emergency plan;

(2) Participate quadrennially in an offsite biennial full or partial participation exercise;

(3) Conduct emergency preparedness activities and interactions in the years between its participation in the offsite full or partial participation exercise with offsite authorities, to test and maintain interface among the affected State and local authorities and the licensee. Co-located licensees shall also participate in emergency preparedness activities and interaction with offsite authorities for the period between exercises;

(4) Conduct a hostile action exercise of its onsite emergency plan in each exercise cycle; and

(5) Participate in an offsite biennial full or partial participation hostile action exercise in alternating exercise cycles.

d. Each State with responsibility for nuclear power reactor emergency preparedness should fully participate in the ingestion pathway portion of exercises at least once every exercise cycle. In States with more than one nuclear power reactor plume exposure pathway EPZ, the State should rotate this participation from site to site. Each State with responsibility for nuclear power reactor emergency preparedness should fully participate in a hostile action exercise at least once every cycle. States with more than one nuclear power reactor plume exposure pathway EPZ should rotate this participation from site to site.

e. Licensees shall enable any State or local government located within the plume exposure pathway EPZ to participate in the licensee's drills when requested by such State or local government.

f. Remedial exercises will be required if the emergency plan is not satisfactorily tested during the biennial exercise, such that NRC, in consultation with FEMA, cannot (1) find reasonable assurance that adequate protective measures can and will be taken in the event of a radiological emergency or (2) determine that the Emergency Response Organization (ERO) has maintained key skills specific to emergency response. The extent of State and local participation in remedial exercises must be sufficient to show that appropriate corrective measures have been taken regarding the elements of the plan not properly tested in the previous exercises.

g. All exercises, drills, and training that provide performance opportunities to develop, maintain, or demonstrate key skills must provide for formal critiques in order to identify weak or deficient areas that need correction. Any weaknesses or deficiencies that are identified in a critique of exercises, drills, or training must be corrected.

h. The participation of State and local governments in an emergency exercise is not required to the extent that the applicant has identified those governments as refusing to participate further in emergency planning activities, pursuant to § 50.47(c)(1). In such cases, an exercise shall be held with the applicant or licensee and such governmental entities as elect to participate in the emergency planning process.

i. Licensees shall use drill and exercise scenarios that provide reasonable assurance that anticipatory responses will not result from preconditioning of participants. Such scenarios for nuclear power reactor licensees must include a wide spectrum of radiological releases and events, including hostile action. Exercise and drill scenarios as appropriate must emphasize coordination among onsite and offsite response organizations.

j. (i) The exercises conducted under paragraph 2 of this section by nuclear power reactor licensees must provide the opportunity for the ERO to demonstrate proficiency in the key skills necessary to implement the principal functional areas of emergency response identified in paragraph 2.b of this section.

(ii) Each exercise must provide the opportunity for the ERO to demonstrate key skills specific to emergency response duties in the control room, TSC, OSC, EOF, and joint information center.

(iii) In each 8-calendar-year exercise cycle, nuclear power reactor licensees shall vary the content of scenarios during exercises conducted under paragraph 2 of this section to provide the opportunity for the ERO to demonstrate proficiency in the key skills necessary to respond to the following scenario elements:

(1) Hostile action directed at the plant site;

(2) No radiological release or an unplanned minimal radiological release that does not require public protective actions;

(3) An initial classification of, or rapid escalation to, a Site Area Emergency or General Emergency;

(4) Implementation of strategies, procedures, and guidance under § 50.155(b)(2) for applicants and licensees under parts 50 and 52 of this chapter; and

(5) Integration of offsite resources with onsite response.

(iv) The licensee shall maintain a record of exercises conducted during each 8-year exercise cycle that documents the content of scenarios used to comply with the requirements of section IV.F.2.j of this appendix.

(v) Each licensee shall conduct a hostile action exercise for each of its sites no later than December 31, 2015.

(vi) The first 8-year exercise cycle for a site will begin in the calendar year in which the first hostile action exercise is conducted. For a site licensed under 10 CFR part 52 or 10 CFR part 53 using 10 CFR 50.47 and this appendix, the first 8-year exercise cycle begins in the calendar year of the initial exercise required by section IV.F.2.a of this appendix.

G. Maintaining Emergency Preparedness

Provisions to be employed to ensure that the emergency plan, its implementing procedures, and emergency equipment and supplies are maintained up to date shall be described.

H. Recovery

Criteria to be used to determine when, following an accident, reentry of the facility would be appropriate or when operation could be resumed shall be described.

I. Onsite Protective Actions During Hostile Action

For nuclear power reactor licensees, a range of protective actions to protect onsite personnel during hostile action must be developed to ensure the continued ability of the licensee to safely shut down the reactor and perform the functions of the licensee's emergency plan.

V. Implementing Procedures

No less than 180 days before the scheduled issuance of an operating license for a nuclear power reactor or a license to possess nuclear material, or the scheduled date for initial loading of fuel for a combined license under part 52 or part 53 of this chapter, the applicant's or licensee's detailed implementing procedures for its emergency plan shall be submitted to the Commission as specified in § 50.4 or § 53.040.

* * * * *

[3] Use of site specific simulators or computers is acceptable for any exercise.

[4] Full participation when used in conjunction with emergency preparedness exercises for a particular site means appropriate offsite local and State authorities and licensee personnel physically and actively take part in testing their integrated capability to adequately assess and respond to an accident at a commercial nuclear power plant. Full participation includes testing major observable portions of the onsite and offsite emergency plans and mobilization of State, local and licensee personnel and other resources in sufficient numbers to verify the capability to respond to the accident scenario.

[5] Partial participation when used in conjunction with emergency preparedness exercises for a particular site means appropriate offsite authorities shall actively take part in the exercise sufficient to test direction and control functions; *i.e.,* (a) protective action decision making related to emergency action levels, and (b) communication capabilities among affected State and local authorities and the licensee.

[6] Co-located licensees are two different licensees whose licensed facilities are located either on the same site or on adjacent, contiguous sites, and that share most of the following emergency planning and siting elements:

a. Plume exposure and ingestion emergency planning zones;

b. Offsite governmental authorities;

c. Offsite emergency response organizations;

d. Public notification system; and/or

e. Emergency facilities.

* * * * *

PART 51—ENVIRONMENTAL PROTECTION REGULATIONS FOR DOMESTIC LICENSING AND RELATED REGULATORY FUNCTIONS

■ 111. The authority citation for part 51 is revised to read as follows:

Authority: Atomic Energy Act of 1954, secs. 161, 193 (42 U.S.C. 2201, 2243); Energy Reorganization Act of 1974, secs. 201, 202 (42 U.S.C. 5841, 5842); National Environmental Policy Act of 1969 (42 U.S.C. 4332, 4334, 4335); Nuclear Waste Policy Act of 1982, secs. 144(f), 121, 135, 141, 148 (42 U.S.C. 10134(f), 10141, 10155, 10161, 10168); 44 U.S.C. 3504 note.

■ 112. In § 51.4, revise the definition for ''Construction'' to read as follows:

§ 51.4 Definitions.

* * * * *

Construction means:

(1)(i) For production and utilization facilities licensed under 10 CFR part 50 or 10 CFR part 52, the activities in 10 CFR 50.10(a)(1), and does not mean the activities in 10 CFR 50.10(a)(2).

(ii) For utilization facilities licensed under 10 CFR part 53, the activities in paragraph (1) of the definition of *construction* in 10 CFR 53.020, and does not mean the activities in paragraph (2) of the definition of *construction* in 10 CFR 53.020.

(2) For materials licenses, the activities in paragraph (2)(i) of this definition, and does not mean the activities in paragraph (2)(ii) of this definition.

(i) Taking any site-preparation activity at the site of a facility subject to the regulations in 10 CFR parts 30, 36, 40, and 70 that has a reasonable nexus to radiological health and safety or the common defense and security.

(ii) Construction does not include:

(A) The activities listed in 10 CFR 50.10(a)(2)(i)–(viii); or

(B) Taking any other action that has no reasonable nexus to radiological health and safety or the common defense and security.

* * * * *

■ 113. In § 51.20, revise paragraphs (b)(1) and (2) to read as follows:

§ 51.20 Criteria for and identification of licensing and regulatory actions requiring environmental impact statements.

* * * * *

(b) * * *

(1) Issuance of a limited work authorization or a permit to construct a nuclear power reactor, testing facility, or fuel reprocessing plant under part 50 of this chapter, issuance of an early site permit under part 52 of this chapter, or issuance of a limited work authorization, construction permit, or early site permit under part 53 of this chapter.

(2) Issuance or renewal of a full power or design capacity license to operate a nuclear power reactor, testing facility, or fuel reprocessing plant under part 50 or part 53 of this chapter, or a combined license under part 52 or part 53 of this chapter.

* * * * *

■ 114. In § 51.22, revise paragraphs (c)(3) introductory text, (c)(9) introductory text, (c)(12) introductory text, (c)(17), (c)(22), and (c)(23) to read as follows:

§ 51.22 Criterion for categorical exclusion; identification of licensing and regulatory actions eligible for categorical exclusion or otherwise not requiring environmental review.

* * * * *

(c) * * *

(3) Amendments to parts 20, 30, 31, 32, 33, 34, 35, 37, 39, 40, 50, 51, 52, 53, 54, 60, 61, 63, 70, 71, 72, 73, 74, 81, and 100 of this chapter which relate to—

* * * * *

(9) Issuance of an amendment to a permit or license for a reactor under part 50, part 52, or part 53 of this chapter that changes a requirement or issuance of an exemption from a requirement, with respect to installation or use of a facility component located within the restricted area, as defined in part 20 of this chapter; or the issuance of an amendment to a permit or license for a reactor under part 50, part 52, or part 53 of this chapter that changes an inspection or a surveillance requirement; provided that:

* * * * *

(12) Issuance of an amendment to a license under parts 50, 52, 53, 60, 61, 63, 70, 72, or 75 of this chapter relating solely to safeguards matters (*i.e.,* protection against sabotage or loss or diversion of special nuclear material) or issuance of an approval of a safeguards plan submitted under parts 50, 52, 53, 70, 72, and 73 of this chapter, provided that the amendment or approval does not involve any significant construction impacts. These amendments and approvals are confined to—

* * * * *

(17) Issuance of an amendment to a permit or license under part 30, part 40, part 50, part 52, part 53, or part 70 of this chapter which deletes any limiting condition of operation or monitoring requirement based on or applicable to any matter subject to the provisions of the Federal Water Pollution Control Act.

* * * * *

(22) Issuance of a standard design approval under part 52 or part 53 of this chapter.

(23) The Commission finding for a combined license under § 52.103(g) or § 53.1452(g) of this chapter.

* * * * *

§ 51.26 [Amended]

■ 115. In § 51.26, in paragraph (d) remove the phrase ''under part 52'' and add in its place the phrase ''under 10 CFR part 52 or part 53,''.

■ 116. In § 51.30, revise paragraph (a) introductory text and paragraphs (d) and (e) to read as follows:

§ 51.30 Environmental assessment.

(a) An environmental assessment for proposed actions, other than those for a standard design certification under 10 CFR part 52 or part 53, or a manufacturing license under 10 CFR part 52 or part 53, shall identify the proposed action and include:

* * * * *

(d) An environmental assessment for a standard design certification under subpart B of part 52, or under subpart H of part 53 of this chapter must identify the proposed action and will be limited to the consideration of the costs and benefits of severe accident mitigation design alternatives and the bases for not incorporating severe accident mitigation design alternatives in the design certification. An environmental assessment for an amendment to a design certification will be limited to the consideration of whether the design change which is the subject of the proposed amendment renders a severe accident mitigation design alternative previously rejected in the earlier environmental assessment to become cost beneficial, or results in the identification of new severe accident mitigation design alternatives, in which case the costs and benefits of new severe accident mitigation design alternatives and the bases for not incorporating new severe accident mitigation design alternatives in the design certification must be addressed.

(e) An environmental assessment for a manufacturing license under subpart F of part 52 of this chapter or under subpart H of part 53 of this chapter must identify the proposed action and will be limited to the consideration of the costs and benefits of severe accident mitigation design alternatives and the bases for not incorporating severe accident mitigation design alternatives in the manufacturing license. An environmental assessment for an amendment to a manufacturing license will be limited to consideration of whether the design change which is the subject of the proposed amendment either renders a severe accident mitigation design alternative previously rejected in an environmental assessment to become cost beneficial, or results in the identification of new severe accident mitigation design alternatives, in which case the costs and benefits of new severe accident mitigation design alternatives and the bases for not incorporating new severe accident mitigation design alternatives in the manufacturing license must be addressed. In either case, the environmental assessment will not address the environmental impacts associated with manufacturing the reactor under the manufacturing license.

§ 51.31 [Amended]

■ 117. In § 51.31, in paragraph (a), remove the phrase ''under part 52'' and add in its place the phrase ''under part 52 or part 53''.

§ 51.32 [Amended]

■ 118. In § 51.32, in paragraphs (b)(1) and (3), remove the phrase ''of part 52 of this chapter'' and add in its place the phrase ''of part 52 or subpart H of part 53 of this chapter''.

§ 51.49 [Amended]

■ 119. In § 51.49, in paragraph (c) introductory text, remove the phrase ''of part 52 of this chapter'' and add in its place the phrase ''of part 52 or under subpart H of part 53 of this chapter''.

§ 51.50 [Amended]

■ 120. In § 51.50, wherever it may appear, remove the phrase ''in accordance with § 50.36b of this chapter'' and add in its place the phrase ''in accordance with § 50.36b or § 53.1112 of this chapter''.

§ 51.53 [Amended]

■ 121. In § 51.53, in paragraph (d), remove the phrase ''under § 50.82 of this chapter'' and add in its place the phrase ''under § 50.82 or § 53.1080 of this chapter''.

§ 51.54 [Amended]

■ 122. In § 51.54, in paragraph (a), remove the phrase ''of part 52 of this chapter'' and add in its place the phrase ''of part 52 or under subpart H of part 53 of this chapter''.

§ 51.55 [Amended]

■ 123. In § 51.55, in paragraph (a), remove the phrase ''of part 52 of this chapter'' and add in its place the phrase ''of part 52 or under subpart H of part 53 of this chapter''.

■ 124. In § 51.58, revise paragraph (b) to read as follows:

§ 51.58 Environmental report—number of copies; distribution.

* * * * *

(b) Each applicant for a license to manufacture a nuclear power reactor, or for an amendment to a license to manufacture, seeking approval of the final design of the nuclear power reactor under subpart F of part 52 or under subpart H of part 53 of this chapter, shall submit to the Commission an environmental report or any supplement to an environmental report in the manner specified in § 50.3 or § 53.040 of this chapter. The applicant shall maintain the capability to generate additional copies of the environmental report or any supplement to the environmental report for subsequent distribution to parties and Boards in the NRC proceeding; Federal, State, and local officials; and any affected Indian Tribes, in accordance with written instructions issued by the Director, Office of Nuclear Reactor Regulation.

■ 125. In § 51.77, revise paragraph (a) introductory text to read as follows:

§ 51.77 Distribution of draft environmental impact statement.

(a) In addition to the distribution authorized by § 51.74, a copy of a draft environmental statement for a licensing action for a production or utilization facility, except an action authorizing issuance, amendment, or renewal of a license to manufacture a nuclear power reactor pursuant to 10 CFR part 52, subpart F or 10 CFR part 53, subparts H or I will also be distributed to:

* * * * *

§ 51.92 [Amended]

■ 126. In § 51.92, in paragraph (b), remove the phrase ''10 CFR part 52'' and add in its place the phrase ''10 CFR part 52 or part 53''.

§ 51.95 [Amended]

■ 127. In § 51.95, in paragraph (c) introductory text remove the phrase ''under 10 CFR parts 52 or 54'' and add in its place the phrase ''under 10 CFR part 52, part 53, or part 54''.

■ 128. In § 51.101, revise paragraph (a)(2) to read as follows:

§ 51.101 Limitations on actions.

(a) * * *

(2) Any action concerning the proposal taken by an applicant which would—

(i) Have an adverse environmental impact; or

(ii) Limit the choice of reasonable alternatives that may be grounds for denial of the license. In the case of an application covered by § 30.32(f), § 40.31(f), § 50.10(c), § 53.1130, § 70.21(f), or § 72.16 and § 72.34 of this chapter, the provisions of this paragraph will be applied in accordance with § 30.33(a)(5), § 40.32(e), § 50.10(c), § 53.1130, § 70.23(a)(7), or § 72.40(b) of this chapter, as appropriate.

* * * * *

§ 51.103 [Amended]

■ 129. In § 51.103, in paragraph (a)(6), remove the phrase ''under 10 CFR 50.10'' and add in its place the phrase ''under § 50.10 or § 53.1130 of this chapter''.

■ 130. In § 51.105, revise paragraph (c)(1) introductory text to read as follows:

§ 51.105 Public hearings in proceedings for issuance of construction permits or early site permits; limited work authorizations.

* * * * *

(c)(1) In addition to complying with the applicable provisions of § 51.104, in any proceeding for the issuance of a construction permit for a nuclear power plant or an early site permit under part 52 or part 53 of this chapter, where the applicant requests a limited work authorization under § 50.10(d) or § 53.1130 of this chapter, the presiding officer will—

* * * * *

■ 131. In § 51.107, revise paragraphs (a) introductory text, (b) introductory text, and (d)(1) introductory text to read as follows:

§ 51.107 Public hearings in proceedings for issuance of combined licenses; limited work authorizations.

(a) In addition to complying with the applicable requirements of § 51.104, in a proceeding for the issuance of a combined license for a nuclear power reactor under part 52 or part 53 of this chapter, the presiding officer will:

* * * * *

(b) If a combined license application references an early site permit, then the presiding officer in the combined license hearing must not admit any contention proffered by any party on environmental issues that have been accorded finality under § 52.39 or § 53.1188 of this chapter, unless the contention:

* * * * *

(d)(1) In any proceeding for the issuance of a combined license where the applicant requests a limited work authorization under § 50.10(d) or § 53.1130(a) of this chapter, the presiding officer, in addition to complying with any applicable provision of § 51.104, will:

* * * * *

■ 132. Revise § 51.108 to read as follows:

§ 51.108 Public hearings on Commission findings that inspections, tests, analyses, and acceptance criteria of combined licenses are met.

In any public hearing requested under § 52.103(b) or § 53.1452(b) of this chapter, the Commission will not admit any contentions on environmental issues, the adequacy of the environmental impact statement for the combined license issued under subpart C of part 52 or under subpart H of part 53 of this chapter, or the adequacy of any other environmental impact statement or environmental assessment referenced in the combined license application. The Commission will not make any environmental findings in connection with the finding under § 52.103(g) or § 53.1452(g) of this chapter.

■ 133. Add part 53, consisting of §§ 53.000 through 53.9010, to read as follows:

PART 53—RISK-INFORMED, TECHNOLOGY-INCLUSIVE REGULATORY FRAMEWORK FOR COMMERCIAL NUCLEAR PLANTS

Sec.

53.000 Purpose.

Subpart A—General Provisions

53.015 Scope.
53.020 Definitions.
53.030 [Reserved]
53.040 Written communications.
53.050 Deliberate misconduct.
53.060 Employee protection.
53.070 Completeness and accuracy of information.
53.080 Specific exemptions.
53.090 Standards for review.

53.100 Jurisdictional limits.
53.110 Attacks and destructive acts.
53.115 Rights related to special nuclear material.
53.117 License suspension and rights of recapture.
53.120 Information collection requirements: OMB approval.

Subpart B—Technology-Inclusive Safety Requirements

53.210 Safety criteria for design-basis accidents.
53.220 Safety criteria for licensing-basis events other than design-basis accidents.
53.230 Safety functions.
53.240 Licensing-basis events.
53.250 Defense in depth.
53.260 Normal operations.
53.270 Protection of plant workers.

Subpart C—Design and Analysis Requirements

53.400 Design features for licensing-basis events.
53.410 Functional design criteria for design-basis accidents.
53.415 Protection against external hazards.
53.420 Functional design criteria for licensing-basis events other than design-basis accidents.
53.425 Design features and functional design criteria for normal operations.
53.430 Design features and functional design criteria for protection of plant workers.
53.440 Design requirements.
53.450 Analysis requirements.
53.460 Safety categorization and treatments.
53.470 [Reserved]
53.480 Earthquake engineering.

Subpart D—Siting Requirements

53.500 General siting and siting assessment.
53.510 External hazards.
53.520 Site characteristics.
53.530 Population-related considerations.
53.540 Siting interfaces.

Subpart E—Construction and Manufacturing Requirements

53.600 Construction and manufacturing—scope and purpose.
53.605 Reporting of defects and noncompliance.
53.610 Construction.
53.620 Manufacturing.

Subpart F—Requirements for Operation

53.700 Operational objectives.
53.710 Maintaining capabilities and availability of structures, systems, and components.
53.715 Maintenance, repair, and inspection programs.
53.720 Response to seismic events.
53.725 General staffing, training, personnel qualifications, and human factors requirements.
53.726 Communications.
53.728 Completeness and accuracy of information.
53.730 Defining, fulfilling, and maintaining the role of personnel in ensuring safe operations.
53.735 General exemptions.
53.740 Facility licensee requirements—general.
53.745 Operator license requirements.
53.760 Operator licensing.
53.765 Medical requirements.
53.770 Incapacitation because of disability or illness.
53.775 Applications for operators and senior operators.
53.780 Training, examination, and proficiency program.
53.785 Conditions of operator and senior operator licenses.
53.790 Issuance, modification, and revocation of operator and senior operator licenses.
53.795 Expiration and renewal of operator and senior operator licenses.
53.800 Facility licensees for self-reliant-mitigation facilities.
53.805 Facility licensee requirements related to generally licensed reactor operators.
53.810 Generally licensed reactor operators.
53.815 Generally licensed reactor operator training, examination, and proficiency programs.
53.820 Cessation of individual applicability.
53.830 Training and qualification of commercial nuclear personnel.
53.845 Programs.
53.850 Radiation protection.
53.855 Emergency preparedness.
53.860 Security programs.
53.865 Quality assurance.
53.870 Integrity assessment programs.
53.875 Fire protection.
53.880 Inservice inspection and inservice testing.
53.910 Procedures and guidelines.

Subpart G—Decommissioning Requirements

53.1000 Scope and purpose.
53.1010 Financial assurance for decommissioning.
53.1020 Cost estimates for decommissioning.
53.1030 Annual adjustments to cost estimates for decommissioning.
53.1040 Methods for providing financial assurance for decommissioning.
53.1045 Limitations on the use of decommissioning trust funds.
53.1050 NRC oversight.
53.1060 Reporting and recordkeeping requirements.
53.1070 Termination of license.
53.1075 Program requirements during decommissioning.
53.1080 Release of part of a commercial nuclear plant or site for unrestricted use.

Subpart H—Licenses, Certifications, and Approvals

53.1100 Filing of application for licenses, certifications, or approvals; oath or affirmation.
53.1101 Requirement for license.
53.1103 Combining applications and licenses.
53.1106 Elimination of repetition.
53.1109 Contents of applications; general information.
53.1112 Environmental conditions.
53.1115 Agreement limiting access to classified information.
53.1118 Ineligibility of certain applicants.
53.1120 Exceptions and exemptions from licensing requirements.
53.1121 Public inspection of applications.
53.1124 Relationship between sections.
53.1130 Limited work authorizations.
53.1140 Early site permits.
53.1144 Contents of applications for early site permits; general information.
53.1146 Contents of applications for early site permits; technical information.
53.1149 Review of applications.
53.1155 Referral to the Advisory Committee on Reactor Safeguards.
53.1158 Issuance of early site permit.
53.1161 Extent of activities permitted.
53.1164 Duration of permit.
53.1167 Limited work authorization after issuance of early site permit.
53.1170 Transfer of early site permit.
53.1173 Application for renewal.
53.1176 Criteria for renewal.
53.1179 Duration of renewal.
53.1182 Use of site for other purposes.
53.1188 Finality of early site permit determinations.
53.1200 Standard design approvals.
53.1206 Contents of applications for standard design approvals; general information.
53.1209 Contents of applications for standard design approvals; technical information.
53.1210 Contents of applications for standard design approvals; other application content.
53.1212 Standards for review of applications.
53.1215 Referral to the Advisory Committee on Reactor Safeguards.
53.1218 Staff approval of design.
53.1221 Finality of standard design approvals; information requests.
53.1230 Standard design certifications.
53.1236 Contents of applications for standard design certifications; general information.
53.1239 Contents of applications for standard design certifications; technical information.
53.1241 Contents of applications for standard design certifications; other application content.
53.1242 Review of applications.
53.1245 Referral to the Advisory Committee on Reactor Safeguards.
53.1248 Issuance of standard design certification.
53.1251 Duration of certification.
53.1254 Application for renewal.
53.1257 Criteria for renewal.
53.1260 Duration of renewal.
53.1263 Finality of standard design certifications.
53.1270 Manufacturing licenses.
53.1276 Contents of applications for manufacturing licenses; general information.
53.1279 Contents of applications for manufacturing licenses; technical information.
53.1282 Contents of applications for manufacturing licenses; other application content.

53.1285 Review of applications.
53.1286 Referral to the Advisory Committee on Reactor Safeguards.
53.1287 Issuance of manufacturing licenses.
53.1288 Finality of manufacturing licenses.
53.1291 Duration of manufacturing licenses.
53.1293 Transfer of manufacturing licenses.
53.1295 Renewal of manufacturing licenses.
53.1300 Construction permits.
53.1306 Contents of applications for construction permits; general information.
53.1309 Contents of applications for construction permits; technical information.
53.1312 Contents of applications for construction permits; other application content.
53.1315 Review of applications.
53.1318 Finality of referenced NRC approvals, permits, and certifications.
53.1324 Referral to the Advisory Committee on Reactor Safeguards.
53.1327 Authorization to conduct limited work authorization activities.
53.1330 Exemptions, departures, and variances.
53.1333 Issuance of construction permits.
53.1336 Finality of construction permits.
53.1342 Duration of construction permits.
53.1345 Transfer of construction permits.
53.1348 Termination of construction permits.
53.1360 Operating licenses.
53.1366 Contents of applications for operating licenses; general information.
53.1369 Contents of applications for operating licenses; technical information.
53.1372 Contents of applications for operating licenses; other application content.
53.1375 Review of applications.
53.1381 Referral to the Advisory Committee on Reactor Safeguards.
53.1384 Exemptions, departures, and variances.
53.1387 Issuance of operating licenses.
53.1390 Backfitting of operating licenses.
53.1396 Duration of operating licenses.
53.1399 Transfer of an operating license.
53.1402 Application for renewal.
53.1405 Continuation of an operating license.
53.1410 Combined licenses.
53.1413 Contents of applications for combined licenses; general information.
53.1416 Contents of applications for combined licenses; technical information.
53.1419 Contents of applications for combined licenses; other application content.
53.1422 Review of applications.
53.1425 Finality of referenced NRC approvals.
53.1431 Referral to the Advisory Committee on Reactor Safeguards.
53.1434 Authorization to conduct limited work authorization activities.
53.1437 Exemptions, departures, and variances.
53.1440 Issuance of combined licenses.
53.1443 Finality of combined licenses.
53.1449 Inspection during construction.
53.1452 Operation under a combined license.
53.1455 Duration of combined license.
53.1456 Transfer of a combined license.
53.1458 Application for renewal.
53.1461 Continuation of combined license.
53.1470 Standardization of commercial nuclear plant designs: licenses to construct and operate nuclear power reactors of identical design at multiple sites.

Subpart I—Maintaining and Revising Licensing-Basis Information

53.1500 Licensing-basis information.
53.1502 Specific terms and conditions of licenses.
53.1505 Changes to licensing-basis information requiring prior NRC approval.
53.1510 Application for amendment of license.
53.1515 Public notices; State consultation.
53.1520 Issuance of amendment.
53.1525 Revising certification information within a design certification rule.
53.1530 Revising design information within a Final Safety Analysis Report associated with a manufacturing license.
53.1535 Amendments during construction.
53.1540 Updating licensing-basis information and determining the need for NRC approval.
53.1545 Updating Final Safety Analysis Reports.
53.1550 Evaluating changes to facility as described in Final Safety Analysis Reports.
53.1560 Updating program documents included in licensing-basis information.
53.1565 Evaluating changes to programs included in licensing-basis information.
53.1570 Transfer of licenses.
53.1575 Termination of licenses.
53.1580 Information requests.
53.1585 Revocation, suspension, modification of licenses and approvals for cause.
53.1590 Backfitting.
53.1595 Renewal.

Subpart J—Reporting and Other Administrative Requirements

53.1600 General information.
53.1610 Unfettered access for inspections.
53.1620 Maintenance of records, making of reports.
53.1630 Immediate notification requirements for operating commercial nuclear plants.
53.1640 Licensee event report system.
53.1645 Reports of radiation exposure to members of the public.
53.1650 Facility information and verification.
53.1660 Financial requirements.
53.1670 Financial qualifications.
53.1680 [Reserved]
53.1690 Licensee's change of status; financial qualifications.
53.1700 Creditor regulations.
53.1710 Financial protection.
53.1720 Insurance required to stabilize and decontaminate plant following an accident.
53.1730 Financial protection requirements.

Subparts K and L [Reserved]

Subpart M—Enforcement

53.9000 Violations.
53.9010 Criminal penalties.

Authority: Atomic Energy Act of 1954, secs. 11, 101, 103, 108, 122, 147, 161, 181, 182, 183, 184, 185, 186, 187, 189, 223, 234 (42 U.S.C. 2014, 2131, 2132, 2133, 2134, 2135, 2138, 2152, 2167, 2169, 2201, 2231, 2232, 2233, 2234, 2235, 2236, 2237, 2239, 2273, 2282); Energy Reorganization Act of 1974, secs. 201, 202, 206, 211 (42 U.S.C. 5841, 5842, 5846, 5851); Nuclear Waste Policy Act of 1982, sec. 306 (42 U.S.C. 10226); National Environmental Policy Act of 1969 (42 U.S.C. 4332); 44 U.S.C. 3504 note; Pub. L. 115–439, 132 Stat. 5571.

§ 53.000 Purpose.

This part provides an optional, technology-inclusive, performance-based framework for the issuance, amendment, renewal, and termination of licenses, permits, certifications, and approvals for commercial nuclear plants licensed under section 103 of the Atomic Energy Act of 1954, as amended (the Act) (68 Stat. 919), and Title II of the Energy Reorganization Act of 1974, as amended (88 Stat. 1242). Also, this part gives notice to all persons who knowingly provide to any holder of or applicant for an approval, certification, permit, or license, or to a contractor, subcontractor, or consultant of any of them, components, equipment, materials, or other goods or services that relate to the activities of a holder of or applicant for an approval, certification, permit, or license, subject to this part, that they may be individually subject to U.S. Nuclear Regulatory Commission enforcement action for violation of the provisions in § 53.050.

Subpart A—General Provisions

§ 53.015 Scope.

Subpart A provides general provisions applicable to all applicants and licensees subject to the rules of this part.

§ 53.020 Definitions.

As used in this part:

Anticipated event sequence means event sequences expected to occur one or more times during the life of a commercial nuclear plant. Anticipated event sequences take into account the expected response of all structures, systems, and components (SSCs) within the plant, regardless of safety classification.

Applicant means a person applying for a license, permit, or other form of Commission permission or approval under this part.

Certified fuel handler means, for a commercial nuclear plant, either—

(1) A non-licensed operator who has qualified in accordance with a fuel handler training program approved by the Commission; or

(2) A non-licensed operator who demonstrates compliance with the following criteria:

(i) Has qualified in accordance with a fuel handler training program that demonstrates compliance with the same requirements as training programs for non-licensed operators required by § 53.830, and

(ii) Is responsible for decisions on—

(A) Safe conduct of decommissioning activities,

(B) Safe handling and storage of spent fuel; and

(C) Appropriate response to plant emergencies.

Combined license (COL) means a combined construction permit (CP) and operating license (OL) with conditions for a commercial nuclear plant issued under this part.

Commercial nuclear plant means a facility consisting of one or more commercial nuclear reactors and associated co-located support facilities, including the collection of buildings, radionuclide sources, and SSCs for which a license, certification, or approval is being sought under this part, that is or will be used for producing power for commercial electric power or other commercial purposes. For the purposes of requirements in this part that reference requirements in part 50 of this chapter, a commercial nuclear plant is equivalent to a nuclear power plant.

Commercial nuclear reactor means an apparatus, other than an atomic weapon, designed or used to sustain nuclear fission. For the purposes of requirements in this part that reference requirements in 10 CFR part 50, a commercial nuclear reactor is equivalent to a nuclear reactor as defined in § 50.2 of this chapter.

Commission means the U.S. Nuclear Regulatory Commission (NRC) or its duly authorized representatives.

Construction means the activities in paragraph (1) of this definition and does not mean the activities in paragraph (2) of this defintion.

(1) Activities constituting construction are those activities that are conducted on-site to build the commercial nuclear plant, including the driving of piles; subsurface preparation; placement of backfill, concrete, or permanent retaining walls within an excavation; installation of foundations; or in-place assembly, erection, fabrication, or testing, which are for—

(i) Safety-related (SR) SSCs and those non-safety-related but safety-significant (NSRSS) SSCs of a facility for which special treatment includes requirements on design or installation, including associated quality assurance measures;

(ii) SSCs necessary to comply with 10 CFR part 73; or

(iii) Onsite emergency facilities necessary to comply with § 53.855.

(2) Construction does not include—

(i) Changes for temporary use of the land for public recreational purposes;

(ii) Site exploration, including necessary borings to determine foundation conditions or other preconstruction monitoring to establish background information related to the suitability of the site, the environmental impacts of construction or operation, or the protection of environmental values;

(iii) Preparation of a site for construction of a facility, including clearing of the site, grading, installation of drainage, erosion, and other environmental mitigation measures, and construction of temporary roads and borrow areas;

(iv) Erection of fences and other access control measures;

(v) Excavation;

(vi) Erection of support buildings (such as construction equipment storage sheds, warehouse and shop facilities, utilities, concrete mixing plants, docking and unloading facilities, and office buildings) for use in connection with the construction of the facility;

(vii) Building of service facilities (such as paved roads, parking lots, railroad spurs, exterior utility and lighting systems, potable water systems, sanitary sewage treatment facilities, and transmission lines);

(viii) Procurement or fabrication of components or portions of the proposed facility occurring at locations other than the final, in-place location at the facility; or

(ix) Manufacture of a nuclear power reactor under a manufacturing license (ML) under subpart H of this part to be installed at the proposed site and to be part of the proposed facility.

Custom combined license (custom COL) means a COL that does not reference a standard design approval, standard design certification, or manufacturing license.

Decommission or decommissioning means to remove a plant or site safely from service and reduce residual radioactivity to a level that permits—

(1) Release of the property for unrestricted use and termination of the license; or

(2) Release of the property under restricted conditions and termination of the license.

Defense in depth means inclusion of two or more independent and redundant layers of defense in the design of a facility and its operating procedures to compensate for uncertainties such that no single layer of defense, no matter how robust, is exclusively relied upon. Defense in depth includes, but is not limited to, the use of access controls, physical barriers, redundant and diverse safety functions, and emergency response measures.

Design-basis accidents (DBAs) means postulated event sequences that are used to set functional design criteria and performance objectives for the design of SR SSCs through deterministic analyses. Design-basis accidents are a type of licensing-basis event and are based on the capabilities and reliabilities of SR SSCs needed to mitigate and prevent event sequences, respectively.

Design-basis external hazard level means the level of severity or intensity of an external hazard for which the SR SSCs are protected against or designed to withstand without losing their capability to perform their safety functions.

Design features means the active and passive SSCs and the inherent characteristics of those SSCs that contribute to limiting the total effective dose equivalent to individual members of the public during normal operations and prevent or mitigate the consequences of event sequences.

Early site permit (ESP) means a Commission approval, issued under subpart H of this part, for a site for one or more commercial nuclear plants. An early site permit is a partial construction permit.

Electric utility means any entity that generates or distributes electricity and that recovers the cost of this electricity, either directly or indirectly, through rates established by the entity itself or by a separate regulatory authority. Investor-owned utilities, including generation or distribution subsidiaries, public utility districts, municipalities, rural electric cooperatives, and State and Federal agencies, including associations of any of the foregoing, are included within the meaning of ''electric utility.''

Event sequence means a postulated initiating event defined for a set of initial plant conditions followed by system, safety function, and operator successes or failures, and terminating in a specified end state depending on the system, safety function, and operator successes and failures (*e.g.,* prevention of release of radioactive material or release in one of the reactor-specific release categories). An event sequence may include many unique variations of events that are similar in terms of results or end states.

Exclusion area means that area surrounding the reactor, in which the reactor licensee has the authority to determine all activities including exclusion or removal of personnel and property from the area. This area may be traversed by a highway, railroad, or waterway, provided these are not so close to the facility as to interfere with normal operations of the facility and provided appropriate and effective arrangements are made to control traffic on the highway, railroad, or waterway, in case of emergency, to protect the public health and safety. Residence within the exclusion area must normally be prohibited. In any event, residents must be subject to ready removal in case of necessity. Activities unrelated to operation of the reactor may be permitted in an exclusion area under appropriate limitations, provided that no significant hazards to the public health and safety will result.

Fission product release means the amount and composition of radioactive material released to the environment, after accounting for any retention of radionuclides provided by reactor design features.

Fuel means special nuclear material (SNM) or source material, discrete elements that physically contain SNM or source material, and homogeneous mixtures that contain SNM or source material, intended to or used to create power in a commercial nuclear plant.

Functional design criteria means metrics for the performance of SSCs. For SR SSCs, these criteria define performance metrics necessary to demonstrate compliance with the safety criteria in § 53.210. For NSRSS SSCs, these criteria define performance metrics necessary to demonstrate compliance with the safety criteria in § 53.220.

License, when used in the context of a facility, means a limited work authorization, CP, OL, early site permit, COL, or ML under this part, or a renewed license issued by the Commission under this part. When used in the context of a license authorizing an individual to manipulate the controls of a facility, *license* means a license issued by the Commission to perform the function of an operator, senior operator, or generally licensed reactor operator as defined in this part.

Licensee means a person who is authorized to conduct activities under a license issued under this part by the Commission.

Licensing-basis events means a collection of event sequences considered in the design and licensing of the commercial nuclear plant. Licensing-basis events are unplanned events and include anticipated event sequences, unlikely event sequences, very unlikely event sequences, and DBAs.

Licensing-basis information means the information contained in regulations, orders, licenses, certifications, or approvals issued by the NRC for a commercial nuclear plant licensed under this part and that information submitted to the NRC by an applicant or licensee in a Safety Analysis Report, program description, or other licensing-related document required under this part.

Low-population zone means the area immediately surrounding the exclusion area which contains residents, the total number and density of which are such that there is a reasonable probability that appropriate protective measures could be taken on their behalf in the event of a serious accident. A permissible population density or total population within this zone is not included in this definition because the situation may vary from case to case. Whether a specific number of people can, for example, be evacuated from a specific area or instructed to take shelter on a timely basis, will depend on many factors such as location, number and size of highways, scope and extent of advance planning, and actual distribution of residents within the area.

Major decommissioning activity means, for a commercial nuclear plant, any activity that results in permanent removal of major radioactive components, permanently modifies the structure of the containment, if applicable, or results in dismantling components for shipment containing greater than class C waste in accordance with § 61.55 of this chapter.

Major feature of the emergency plans means an aspect of those plans necessary to:

(1) Address in whole or part either one or more of the 16 standards in 10 CFR 50.47(b) or the requirements of 10 CFR 50.160(b), as applicable; or

(2) Describe the emergency planning zones as required in 10 CFR 53.1109(g).

Manufactured reactor means the essential portions of a nuclear reactor that are manufactured under an ML and subsequently transported and incorporated into a commercial nuclear plant under a COL or CP.

Manufacturing license means a license issued under this part that authorizes the manufacture of manufactured reactors but not its construction, installation, or operation.

Non-Safety-Related but Safety-Significant (NSRSS) SSCs means those SSCs which are not SR but are relied on to achieve adequate defense in depth or perform risk-significant functions and warrant special treatment.

Non-Safety-Significant SSCs means those SSCs that are not SR or NSRSS, are not relied on to achieve adequate defense in depth or to perform risk-significant functions, and do not warrant special treatment.

Person means—

(1) Any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, government agency other than the Commission or the Department of Energy, except that the Department of Energy shall be considered a person to the extent that its facilities are subject to the licensing and related regulatory authority of the Commission pursuant to section 202 of the Energy Reorganization Act of 1974, any State or any political subdivision of, or any political entity within a State, any foreign government or nation or any political subdivision of any such government or nation, or other entity; and

(2) Any legal successor, representative, agent, or agency of the foregoing.

Population center distance means the distance from the reactor to the nearest boundary of a densely populated center containing more than about 25,000 residents.

Programmatic controls means administrative measures that govern human action in implementing programs and operating, monitoring, and maintaining SSCs and equipment of a commercial nuclear plant. Programmatic controls considered to be licensing basis information are addressed by programs under § 53.845 and are specified in an application for a requested activity of the Commission.

Quality assurance (QA) means all those planned and systematic actions necessary to ensure that a structure, system, or component will perform satisfactorily in service. Quality assurance includes quality control, which comprises those QA actions related to the physical characteristics of a material, structure, component, or system which provide a means to control the quality of the material, structure, component, or system to predetermined requirements.

Safety criteria means performance-based metrics that establish a level of safety provided in requirements in §§ 53.210 and 53.220.

Safety-related structures, systems, or components means those SSCs that are relied upon to demonstrate compliance with the safety criteria in § 53.210 and warrant special treatment.

Small modular reactor means a power reactor, which may be of modular design as defined in § 52.1 of this chapter, licensed under this part to produce heat energy up to 1,000 megawatts thermal per module.

Site characteristics means the actual physical, environmental, and demographic features of a site. Site characteristics are specified in an early site permit or in a Preliminary or Final Safety Analysis Report for a limited work authorization, CP, or COL, as applicable.

Site parameters are the postulated physical, environmental, and demographic features of an assumed site. Site parameters are specified in a standard design approval, standard design certification, or ML.

Source material means source material as defined in subsection 11z. of the Atomic Energy Act of 1954, as amended, (the Act) and in the regulations contained in part 40 of this chapter.

Special nuclear material (SNM) means:

(1) Plutonium, uranium-233, uranium enriched in the isotope-233 or in the isotope-235, and any other material which the Commission, pursuant to the provisions of section 51 of the Act, determines to be SNM, but does not include source material; or

(2) Any material artificially enriched by any of the foregoing, but does not include source material.

Special treatment means those requirements, such as QA, design criteria, and programmatic controls, that are taken beyond the procurement, installation, and maintenance of commercial grade products to ensure that SR and NSRSS SSCs will provide defense in depth or perform risk-significant functions. The requirements also ensure that the SSCs will perform under the service conditions and with the reliability assumed in the analysis performed under § 53.450 to demonstrate compliance with the safety criteria in §§ 53.210 for SR SSCs and 53.220 for SR and NSRSS SSCs.

Standard design means a design which is sufficiently detailed and complete to support certification or approval in accordance with subpart H of this part, and which is usable under of this part for a multiple number of units or at a multiple number of sites without reopening or repeating the review.

Standard design approval or design approval means an NRC staff approval, issued under subpart H of this part, of a final standard design for a commercial nuclear plant. The approval may be for either the final design for the entire reactor facility or the final design of major portions thereof.

Standard design certification or design certification means a Commission approval, issued under subpart H of this part, of a final standard design for a nuclear power facility. This design may be referred to as a certified standard design.

Total effective dose equivalent means the sum of the effective dose equivalent (for external exposures) and the committed effective dose equivalent (for internal exposures).

Utilization facility means any commercial nuclear reactor other than one designed or used primarily for the formation of plutonium or uranium-233.

Unlikely event sequences means event sequences that are not expected to occur in the life of a commercial nuclear plant and are less likely than anticipated event sequences, but are infrequent rather than rare. Unlikely event sequences take into account the expected response of all SSCs within the plant regardless of safety classification.

Very unlikely event sequences means event sequences that are not expected to occur in the life of a commercial nuclear plant, are less likely than an unlikely event sequence, and are rare. Very unlikely event sequences take into account the expected response of all SSCs within the plant regardless of safety classification.

§ 53.030 [Reserved]

§ 53.040 Written communications.

(a) *General requirements.* All correspondence, reports, applications, and other written communications from the applicant or licensee to the NRC concerning the regulations in this part or individual license conditions must be sent either by mail addressed: ATTN: Document Control Desk, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; by hand delivery to the NRC's offices at 11555 Rockville Pike, Rockville, Maryland, between the hours of 8:15 a.m. and 4 p.m. eastern time; or, where practicable, by electronic submission, for example, via Electronic Information Exchange, email, or CD–ROM. Electronic submissions must be made in a manner that enables the NRC to receive, read, authenticate, distribute, and archive the submission, and process and retrieve it a single page at a time. Detailed guidance on making electronic submissions can be obtained by visiting the NRC's website at *https://www.nrc.gov/site-help/e-submittals.html;* by email to *MSHD.Resource@nrc.gov;* or by writing the Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. The guidance discusses, among other topics, the formats the NRC can accept, the use of electronic signatures, and the treatment of nonpublic information. If the communication is on paper, the signed original must be sent. If a submission due date falls on a Saturday, Sunday, or Federal holiday, the next Federal working day becomes the official due date.

(b) *Distribution requirements.* Copies of all correspondence, reports, and other written communications concerning the regulations in this part or individual license conditions, or the terms and conditions of an early site permit or standard design approval, must be submitted to the persons listed below (addresses for the NRC Regional Offices are listed in appendix D to 10 CFR part 20).

(1) *Applications for amendment of permits and licenses, reports, and other communications.* All written communications (including responses to generic letters, bulletins, information notices, regulatory information summaries, inspection reports, and miscellaneous requests for additional information) that are required of holders of licenses, permits, and design approvals issued pursuant to this part, must be submitted as follows, except as otherwise specified in paragraphs (b)(2) through (7) of this section: to the NRC's Document Control Desk (if on paper, the signed original), with a copy to the appropriate Regional Office, and a copy to the appropriate NRC Resident Inspector if one has been assigned to the site of the facility or the place of manufacture of a reactor licensed under this part.

(2) *Applications for permits and licenses, and amendments to applications.* Applications for licenses, permits, and design approvals and amendments to any of these types of applications must be submitted to the NRC's Document Control Desk, with a copy to the appropriate Regional Office, and a copy to the appropriate NRC Resident Inspector if one has been assigned to the facility or the place of manufacture of a reactor licensed under this part, except as otherwise specified in paragraphs (b)(3) through (9) of this section. If the application or amendment is on paper, the submission to the Document Control Desk must be the signed original.

(3) *Acceptance review application.* Written communications required for an application for determination of suitability for docketing must be submitted to the NRC's Document Control Desk, with a copy to the

appropriate Regional Office. If the communication is on paper, the submission to the Document Control Desk must be the signed original.

(4) *Security plan and related submissions.* Written communications, as defined in paragraphs (b)(4)(i) through (v) of this section, must be submitted to the NRC's Document Control Desk, with a copy to the appropriate Regional Office. If the communication is on paper, the submission to the Document Control Desk must be the signed original. Submissions should include the following as appropriate:

(i) Physical security plan;

(ii) Safeguards contingency plan;

(iii) Cybersecurity plan;

(iv) Change to security plan, guard training and qualification plan, safeguards contingency plan, or cybersecurity plan made without prior Commission approval under § 53.1565; and

(v) Application for amendment of physical security plan, guard training and qualification plan, safeguards contingency plan, or cybersecurity plan under § 53.1510.

(5) *Emergency plan and related submissions.* Written communications as defined in paragraphs (b)(5)(i) through (iii) of this section must be submitted to the NRC's Document Control Desk, with a copy to the appropriate Regional Office, and a copy to the appropriate NRC Resident Inspector if one has been assigned to the site of the facility. If the communication is on paper, the submission to the Document Control Desk must be the signed original. Submissions should include the following as appropriate:

(i) Emergency plan;

(ii) Change to an emergency plan under § 53.1565; and

(iii) Emergency implementing procedures under § 53.855.

(6) *Updated Final Safety Analysis Report.* An updated Final Safety Analysis Report or replacement pages under § 53.1545 must be submitted to the NRC's Document Control Desk, with a copy to the appropriate Regional Office, and a copy to the appropriate NRC Resident Inspector if one has been assigned to the site of the facility or the place of manufacture of a reactor licensed under this part. Paper copy submissions may be made using replacement pages; however, if a licensee chooses to use electronic submission, all subsequent updates or submissions must be performed electronically on a total replacement basis. If the communication is on paper, the submission to the Document Control Desk must be the signed original. If the communications are submitted electronically, see Guidance for Electronic Submissions to the Commission.

(7) *Quality assurance related submissions.* (i) A change to the Safety Analysis Report QA program description under § 53.1565, or a change to a licensee's NRC-accepted QA topical report under § 53.1565, must be submitted to the NRC's Document Control Desk, with a copy to the appropriate Regional Office, and a copy to the appropriate NRC Resident Inspector if one has been assigned to the site of the facility or the place of manufacture of a reactor licensed under this part. If the communication is on paper, the submission to the Document Control Desk must be the signed original.

(ii) A change to an NRC-accepted QA topical report from non-licensees (*i.e.,* architect/engineers, nuclear steam supply system suppliers, fuel suppliers, constructors, etc.) must be submitted to the NRC's Document Control Desk. If the communication is on paper, the signed original must be sent.

(8) *Certification of permanent cessation of operations.* The licensee's certification of permanent cessation of operations, under subpart G of this part, must state the date on which operations have ceased or will cease, and must be submitted to the NRC's Document Control Desk. This submission must be under oath or affirmation.

(9) *Certification of permanent fuel removal.* The licensee's certification of permanent fuel removal, under subpart G of this part, must state the date on which the fuel was removed from the reactor vessel and the disposition of the fuel, and must be submitted to the NRC's Document Control Desk. This submission must be under oath or affirmation.

(c) *Form of communications.* All paper copies submitted to demonstrate compliance with the requirements set forth in paragraph (b) of this section must be typewritten, printed, or otherwise reproduced in permanent form on unglazed paper. Exceptions to these requirements imposed on paper submissions may be granted for the submission of micrographic, photographic, or similar forms.

(d) *Regulation governing submission.* Licensees, applicants, and holders of standard design approvals submitting correspondence, reports, and other written communications under the regulations of this part are requested but not required to cite whenever practical, in the upper right corner of the first page of the submission, the specific regulation or other basis requiring submission.

§ 53.050 Deliberate misconduct.

(a) Any licensee or applicant for a license; holder of or applicant for a standard design approval; applicant for a standard design certification; employee of a licensee, holder of a standard design approval, or applicant for a license, standard design approval, or standard design certification; or any contractor (including a supplier or consultant), subcontractor, employee of a contractor or subcontractor of any licensee or applicant for a license, holder of or applicant for a standard design approval, or applicant for a standard design certification, who knowingly provides to any licensee, applicant, contractor, or subcontractor, any components, equipment, materials, or other goods or services that relate to a licensee's or applicant's activities in this part, may not—

(1) Engage in deliberate misconduct that causes or would have caused, if not detected, a licensee or applicant to be in violation of any rule, regulation, or order; or any term, condition, or limitation of any license issued by the Commission; or

(2) Deliberately submit to the NRC, a licensee, an applicant, or a licensee's or applicant's contractor or subcontractor, information that the person submitting the information knows to be incomplete or inaccurate in some respect material to the NRC.

(b) A person who violates paragraph (a)(1) or (2) of this section may be subject to enforcement action in accordance with the procedures in subpart B of 10 CFR part 2.

(c) For the purposes of paragraph (a)(1) of this section, deliberate misconduct by a person means an intentional act or omission that the person knows—

(1) Would cause a licensee or applicant to be in violation of any rule, regulation, or order; or any term, condition, or limitation, of any license issued by the Commission; or

(2) Constitutes a violation of a requirement, procedure, instruction, contract, purchase order, or policy of a licensee, applicant, contractor, or subcontractor.

§ 53.060 Employee protection.

(a) Discrimination by a Commission licensee, holder of a standard design approval, an applicant for a license, standard design certification, or standard design approval, a contractor or subcontractor of a Commission licensee, holder of a standard design approval, applicant for a license,

standard design certification, or standard design approval, against an employee for engaging in certain protected activities is prohibited. Discrimination includes discharge and other actions that relate to compensation, terms, conditions, or privileges of employment. The protected activities are established in section 211 of the Energy Reorganization Act of 1974, as amended, and in general are related to the administration or enforcement of a requirement imposed under the Act or the Energy Reorganization Act of 1974, as amended.

(1) The protected activities include but are not limited to—

(i) Providing the Commission or his or her employer information about alleged violations of either of the statutes named in paragraph (a) of this section or possible violations of requirements imposed under either of those statutes;

(ii) Refusing to engage in any practice made unlawful under either of the statutes named in paragraph (a) of this section or under these requirements if the employee has identified the alleged illegality to the employer;

(iii) Requesting the NRC to institute action against his or her employer for the administration or enforcement of these requirements;

(iv) Testifying in any Commission proceeding, or before Congress, or at any Federal or State proceeding regarding any provision (or proposed provision) of either of the statutes named in paragraph (a) of this section; and

(v) Assisting or participating in, or being about to assist or participate in, these activities.

(2) These activities are protected even if no formal proceeding is actually initiated as a result of the employee assistance or participation.

(3) This section has no application to any employee alleging discrimination prohibited by this section who, acting without direction from his or her employer (or the employer's agent), deliberately causes a violation of any requirement of the Energy Reorganization Act of 1974, as amended, or the Act.

(b) Any employee who believes that they have been discharged or otherwise discriminated against by any person for engaging in protected activities specified in paragraph (a)(1) of this section may seek a remedy for the discharge or discrimination through an administrative proceeding in the Department of Labor. The administrative proceeding must be initiated within 180 days after an alleged violation occurs. The employee may do this by filing a complaint alleging the violation with the Department of Labor, Wage and Hour Division. The Department of Labor may order reinstatement, back pay, and compensatory damages.

(c) A violation of paragraph (a), (e), or (f) of this section by a Commission licensee, a holder of a standard design approval, an applicant for a Commission license, standard design certification, or a standard design approval, or a contractor or subcontractor of a Commission licensee, holder of a standard design approval, or any applicant may be grounds for—

(1) Denial, revocation, or suspension of the license or standard design approval;

(2) Withdrawal or revocation of a proposed or final standard design certification;

(3) Imposition of a civil penalty on the licensee, holder of a standard design approval, or applicant (including an applicant for a standard design certification under this part following Commission adoption of final design certification rule) or a contractor or subcontractor of the licensee, holder of a standard design approval, or applicant; or

(4) Other enforcement action.

(d) Actions taken by an employer, or others, which adversely affect an employee may be predicated upon nondiscriminatory grounds. The prohibition applies when the adverse action occurs because the employee has engaged in protected activities. An employee's engagement in protected activities does not automatically render him or her immune from discharge or discipline for legitimate reasons or from adverse action dictated by nonprohibited considerations.

(e)(1) Each holder or applicant for a license or design approval, must prominently post the revision of NRC Form 3, ''Notice to Employees,'' referenced in § 19.11(e)(1) of this chapter. This form must be posted at locations sufficient to permit employees protected by this section to observe a copy on the way to or from their place of work. Premises must be posted no later than 30 days after an application is docketed and remain posted while the application is pending before the Commission, during the term of the license, and for 30 days following license termination.

(2) Copies of NRC Form 3 may be obtained by writing to the Regional Administrator of the appropriate NRC Regional Office listed in appendix D to 10 CFR part 20, via email to *Forms.Resource@nrc.gov,* or by visiting the NRC's online library at *https://www.nrc.gov/reading-rm/doc-collections/forms/.*

(f) No agreement affecting the compensation, terms, conditions, or privileges of employment, including an agreement to settle a complaint filed by an employee with the Department of Labor pursuant to section 211 of the Energy Reorganization Act of 1974, as amended, may contain any provision which would prohibit, restrict, or otherwise discourage an employee from participating in protected activity as defined in paragraph (a)(1) of this section, including, but not limited to, providing information to the NRC or to his or her employer on potential violations or other matters within NRC's regulatory responsibilities.

(g) Part 19 of 10 CFR sets forth requirements and regulatory provisions applicable to licensees, holders of a standard design approval, applicants for a license, standard design certification, or standard design approval, and contractors or subcontractors of a Commission licensee, or holder of a standard design approval, and are in addition to the requirements in this section.

§ 53.070 Completeness and accuracy of information.

(a) Information provided to the Commission by a holder of a license, permit, design certification, or standard design approval under this part or an applicant for a license, permit, design certification, or standard design approval under this part, and information required by statute or by the Commission's regulations, orders, license conditions, or terms and conditions of a standard design approval to be maintained by the applicant or the licensee must be complete and accurate in all material respects.

(b) Each applicant or licensee, each holder of a standard design approval under this part, and each applicant for a standard design certification under this part following Commission adoption of a final design certification regulation, must notify the Commission of information identified by the applicant or licensee as having for the regulated activity a significant implication for public health and safety or common defense and security. An applicant, licensee, or holder violates this paragraph (b) only if the applicant, licensee, or holder fails to notify the Commission of information that the applicant, licensee, or holder has identified as having a significant implication for public health and safety or common defense and security. Notification must be provided to the

Administrator of the appropriate Regional Office within 2 working days of identifying the information. This requirement is not applicable to information which is already required to be provided to the Commission by other reporting or updating requirements.

§ 53.080 Specific exemptions.

(a) The Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of the regulations of this part, which are authorized by law, will not present an undue risk to the public health and safety, and are consistent with the common defense and security.

(b) The Commission will not consider granting an exemption unless special circumstances are present. Special circumstances are present whenever—

(1) Application of the regulation in the particular circumstances conflicts with other rules or requirements of the Commission;

(2) Application of the regulation in the particular circumstances would not serve the underlying purpose of the rule or is not necessary to achieve the underlying purpose of the rule;

(3) Compliance would result in undue hardship or other costs that are significantly in excess of those contemplated when the regulation was adopted, or that are significantly in excess of those incurred by others similarly situated;

(4) The exemption would result in benefit to the public health and safety that compensates for any decrease in safety that may result from the grant of the exemption;

(5) The exemption would provide only temporary relief from the applicable regulation and the licensee or applicant has made good faith efforts to comply with the regulation; or

(6) There is present any other material circumstance not considered when the regulation was adopted for which it would be in the public interest to grant an exemption. If such condition is relied on exclusively for demonstrating compliance with paragraph (b) of this section, the exemption may not be granted until the Executive Director for Operations has consulted with the Commission.

(c) Any person may request an exemption permitting the conduct of construction activities prior to the issuance of a CP. The Commission may grant such an exemption upon considering and balancing the following factors:

(1) Whether conduct of the proposed activities will give rise to a significant adverse impact on the environment and the nature and extent of such impact, if any;

(2) Whether redress of any adverse environment impact from conduct of the proposed activities can reasonably be effective should such redress be necessary;

(3) Whether conduct of the proposed activities would foreclose subsequent adoption of alternatives; and

(4) The effect of delay in conducting such activities on the public interest, including whether the power needs to be used by the proposed facility, the availability of alternative sources, if any, to meet those needs on a timely basis, and delay costs to the applicant and to consumers.

(d) Issuance of such an exemption must not be deemed to constitute a commitment to issue a CP. During the period of any exemption granted pursuant to paragraph (c) of this section, any activities conducted must be carried out in such a manner as will minimize or reduce their environmental impact.

(e) The Commission's consideration of requests for exemptions from requirements of the regulations of other parts in this chapter that are applicable by virtue of this part must be governed by the exemption requirements of those parts.

§ 53.090 Standards for review.

(a) *Common standards.* In determining that a CP, OL, early site permit, COL, or ML under this part will be issued to an applicant, the Commission will be guided by the following considerations:

(1) Except for an early site permit or ML, the processes to be performed, the operating procedures, the facility and equipment, the use of the facility, and other technical specifications, or the proposals, in regard to any of the foregoing, collectively provide reasonable assurance that the applicant will comply with the regulations in this chapter, including the regulations in 10 CFR part 20, and that the health and safety of the public will not be endangered.

(2) The applicant for a CP, OL, COL, or ML is technically and financially qualified to engage in the proposed activities in accordance with the regulations in this chapter. However, no consideration of financial qualification is necessary for an electric utility applicant for an OL for a utilization facility of the type described in paragraph (d) of this section or for an applicant for an ML.

(3) The issuance of a CP, OL, early site permit, COL, or ML to the applicant will not, in the opinion of the Commission, be inimical to the common defense and security or to the health and safety of the public.

(4) Any applicable requirements of 10 CFR part 51 have been satisfied.

(b) *Additional standards for licenses.* In determining whether a license will be issued to an applicant, the Commission will, in addition to applying the standards set forth in paragraph (a) of this section, consider whether the proposed activities will serve a useful purpose proportionate to the quantities of SNM or source material to be utilized.

(c) *Additional standards and provisions affecting licenses for commercial power.* In addition to applying the standards set forth in paragraphs (a) and (b) of this section, paragraphs (c)(1) through (c)(4) of this section apply in the case of a license for a facility for the generation of commercial power.

(1) The NRC will—

(i) Give notice in writing of each application to the regulatory agency or State as may have jurisdiction over the rates and services incident to the proposed activity;

(ii) Publish notice of the application in trade or news publications as it deems appropriate to give reasonable notice to municipalities, private utilities, public bodies, and cooperatives which might have a potential interest in the utilization or production facility; and

(iii) Publish notice of the application once each week for four consecutive weeks in the **Federal Register**. No license will be issued by the NRC prior to the giving of these notices and until four weeks after the last notice is published in the **Federal Register**.

(2) If there are conflicting applications for a limited opportunity for such license, the Commission will give preferred consideration in the following order: first, to applications submitted by public or cooperative bodies for facilities to be located in high cost power areas in the United States; second, to applications submitted by others for facilities to be located in such areas; third, to applications submitted by public or cooperative bodies for facilities to be located in areas other than high cost power areas; and, fourth, to all other applicants.

(3) The licensee who transmits electric energy in interstate commerce, or sells it at wholesale in interstate commerce, must be subject to the regulatory provisions of the Federal Power Act.

(4) Nothing will preclude any government agency, now or hereafter authorized by law to engage in the production, marketing, or distribution of electric energy, if otherwise qualified,

from obtaining a CP, OL, or COL under this part for a utilization facility for the primary purpose of producing electric energy for disposition for ultimate public consumption.

(d) *Licenses for commercial nuclear plants.* A license will be issued, to an applicant who qualifies, for any one or more of the following: to transfer or receive in interstate commerce, or manufacture, produce, transfer, acquire, possess, or use a utilization facility for industrial or commercial purposes.

§ 53.100 Jurisdictional limits.

No permit, license, standard design approval, or standard design certification under this part shall be deemed to have been issued for activities that are not under or within the jurisdiction of the United States.

§ 53.110 Attacks and destructive acts.

Licensees, applicants for licenses, permits, certifications, and design approvals, and applicants for an amendment to any license, permit, certification, or design approval under this part are not required to provide for design features or other measures for the specific purpose of protection against the effects of—

(a) Attacks and destructive acts, including sabotage, directed against the facility by an enemy of the United States, whether a foreign government or other person; or

(b) Use or deployment of weapons incident to U.S. defense activities.

§ 53.115 Rights related to special nuclear material.

(a) No right to the SNM will be conferred by a license issued under this part except as may be defined by the license.

(b) Neither a license issued under this part, nor any right thereunder, nor any right to utilize or produce SNM may be transferred, assigned, or disposed of in any manner, either voluntarily or involuntarily, directly or indirectly, through transfer of control of the license to any person, unless the Commission, after securing full information, finds that the transfer is in accordance with the provisions of the Act and gives its consent in writing.

§ 53.117 License suspension and rights of recapture.

Any license issued under this part must be subject to suspension and to the rights of recapture of the material or control of the facility reserved to the Commission under section 108 of the Act in a state of war or national emergency declared by Congress.

§ 53.120 Information collection requirements: OMB approval.

(a) The NRC has submitted the information collection requirements contained in this part to the Office of Management and Budget (OMB) for approval as required by the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). The NRC may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. OMB has approved the information collection requirements contained in this part under control number 3150–0274.

(b) The approved information collection requirements contained in this part appear in §§ 53.070, 53.080, 53.240, 53.410, 53.420, 53.425, 53.430, 53.440, 53.450, 53.480, 53.500, 53.540, 53.605, 53.610, 53.620, 53.700, 53.710, 53.715, 53.720, 53.730, 53.780, 53.785, 53.805, 53.810, 53.815, 53.830, 53.850, 53.855, 53.865, 53.870, 53.875, 53.880, 53.910, 53.1010, 53.1020, 53.1030, 53.1045, 53.1060, 53.1070, 53.1075, 53.1080, 53.1100, 53.1109, 53.1115, 53.1130, 53.1140, 53.1144, 53.1146, 53.1173, 53. 1182, 53.1188, 53.1200, 53.1206, 53.1209, 53.1210, 53.1221, 53.1230, 53.1236, 53.1239, 53.1241, 53.1254, 53.1257, 53,1263, 53.1270, 53.1276, 53.1279, 53.1282, 53.1288, 53.1295, 53.1300, 53.1306, 53.1309, 53.1312, 53.1327, 53.1330, 53.1333, 53.1336, 53.1348, 53.1360, 53.1366, 53.1369, 53.1372, 53.1384, 53.1410, 53.1413, 53.1416, 53.1419, 53.1437, 53.1449, 53.1452, 53.1458, 53.1470, 53.1505, 53.1510, 53.1515, 53.1525, 53.1530, 53.1535, 53.1540, 53.1545, 53.1550, 53.1560, 53.1565, 53.1570, 53.1575, 53.1580, 53.1620, 53.1630, 53.1645, 53.1690, 53.1720.

(c) This part contains information collection requirements in addition to those approved under the control number specified in paragraph (a) of this section. The information collection requirement and the control numbers under which it is approved are as follows:

(1) In §§ 53.765, 53.770, 53.780, and 53.795, NRC Form 396 is approved under control number 3150–0024.

(2) In §§ 53.775 and 53.795, NRC Form 398 is approved under control number 3150–0090.

(3) In § 53.1640, NRC Form 366 is approved under control number 3150–0104.

(4) In § 53.1630, NRC Form 361S is approved under control number 3150–0238.

(5) In § 53.1650, International Atomic Energy Agency Design Information Questionnaire forms are approved under control number 3150–0056.

(6) In § 53.1650, DOC/NRC Form AP–A and associated forms are approved under control numbers 0694–0135.

Subpart B—Technology-Inclusive Safety Requirements

§ 53.210 Safety criteria for design-basis accidents.

Design features and programmatic controls must be provided for each commercial nuclear plant such that identification and analyses of design-basis accidents (DBAs) in accordance with § 53.240 demonstrate the following:

(a) An individual located at any point on the boundary of the exclusion area for any 2-hour period following the onset of the postulated fission product release would not receive a radiation dose in excess of 25 rem (250 millisieverts) total effective dose equivalent (TEDE); and

(b) An individual located at any point on the outer boundary of the low-population zone who is exposed to the radioactive cloud resulting from the postulated fission product release (during the entire period of its passage) would not receive a radiation dose in excess of 25 rem (250 millisieverts) TEDE.[1]

[1] The use of 25 rem TEDE is not intended to imply that this number constitutes an acceptable limit for an emergency dose to the public under accident conditions. Rather, this dose value has been set forth in this section as a reference value, which can be used in the evaluation of plant design features with respect to postulated reactor accidents, to assure that these designs provide assurance of low risk of public exposure to radiation, in the event of an accident.

§ 53.220 Safety criteria for licensing-basis events other than design-basis accidents.

Design features and programmatic controls must be provided for each commercial nuclear plant such that identification and analysis of licensing-basis events (LBEs) other than DBAs in accordance with § 53.240 demonstrate the following:

(a) Plant structures, systems, and components (SSCs), personnel, and programs provide the necessary capabilities and maintain the necessary reliability to address LBEs other than DBAs in accordance with §§ 53.240 and 53.450(e), and provide measures for defense in depth in accordance with § 53.250; and

(b) The analysis of risks to public health and safety resulting from LBEs other than DBAs under § 53.450(e) includes comprehensive risk metrics that satisfy associated risk performance objectives that are acceptable to the U.S.

Nuclear Regulatory Commission (NRC) and provide an appropriate level of safety.

§ 53.230 Safety functions.

(a) The primary safety function is limiting the release of radioactive materials from the facility and must be maintained during normal operation and for LBEs over the life of the plant.

(b) Additional safety functions needed to support the retention of radioactive materials during LBEs—such as controlling reactivity, heat generation, heat removal, and chemical interactions—must be identified for each commercial nuclear plant.

(c) The primary and additional safety functions are required to satisfy the safety criteria defined in §§ 53.210 and 53.220 and must be fulfilled by the design features, human actions, and programmatic controls specified throughout this part.

§ 53.240 Licensing-basis events.

(a) Licensing-basis events must be identified for each commercial nuclear plant and analyzed under § 53.450 to demonstrate that the safety requirements in this subpart have been satisfied.

(b) The identified LBEs, ranging from anticipated event sequences to very unlikely event sequences, must collectively address appropriate risk-informed combinations of malfunctions of plant SSCs, human errors, facility hazards, and the effects of external hazards.

(c) The analysis of LBEs must—

(1) Include analysis of one or more DBAs under § 53.450(f);

(2) Confirm the adequacy of design features and programmatic controls needed to satisfy the safety criteria defined in §§ 53.210 and 53.220, and

(3) Establish related functional requirements for plant SSCs, personnel, and programs.

§ 53.250 Defense in depth.

(a) Measures must be taken for each commercial nuclear plant to ensure appropriate defense in depth is provided to compensate for uncertainties in the analysis of the safety criteria such that there is reasonable assurance that the safety criteria in this subpart are met over the life of the plant.

(b) The uncertainties that must be addressed under paragraph (a) of this section include those related to the state of knowledge and modeling capabilities, the ability of barriers to limit the release of radioactive materials from the facility during LBEs other than DBAs, the reliability and performance of plant SSCs and personnel, and the effectiveness of programmatic controls.

(c) The safety analysis may not exclusively rely upon a single engineered design feature, human action, or programmatic control, no matter how robust, to address the range of LBEs other than DBAs.

§ 53.260 Normal operations.

Holders of licenses to operate commercial nuclear plants under this part must control public doses and dose rates in unrestricted areas from normal plant operations to meet the requirements in 10 CFR part 20.

§ 53.270 Protection of plant workers.

Holders of licenses to operate commercial nuclear plants under this part must control occupational doses to meet the requirements in 10 CFR part 20.

Subpart C—Design and Analysis Requirements

§ 53.400 Design features for licensing-basis events.

(a) Design features must be provided for each commercial nuclear plant such that, when combined with corresponding human actions and programmatic controls, the plant will satisfy the safety criteria defined in §§ 53.210 and 53.220.

(b) Design features must ensure that the safety functions identified in § 53.230 are fulfilled during licensing-basis events (LBEs).

§ 53.410 Functional design criteria for design-basis accidents.

(a) Functional design criteria must be defined for each design feature classified as safety-related (SR) in terms of its role in demonstrating compliance with the safety criteria defined in § 53.210.

(b) The identification of special treatments associated with the design of SR structures, systems, and components (SSCs) must consider human actions and programmatic controls identified and implemented in accordance with this and other subparts to achieve and maintain the reliability and capability of SSCs relied upon to satisfy the defined functional design criteria and the safety criteria required in § 53.210, and to maintain consistency with analyses required by § 53.450(f).

§ 53.415 Protection against external hazards.

Safety-related SSCs must be protected against or must be designed to withstand the effects of natural phenomena (*e.g.,* earthquakes, tornadoes, hurricanes, floods, tsunami, and seiches) and constructed hazards (*e.g.,* dams, transportation routes, military and industrial facilities) considering an event severity up to the design-basis external hazard levels as determined under § 53.510 without losing the capability to perform the safety functions identified under § 53.230. Specific requirements for earthquake engineering are included in § 53.480.

§ 53.420 Functional design criteria for licensing-basis events other than design-basis accidents.

(a) Functional design criteria must be defined for each design feature classified as SR or non-safety-related but safety-significant (NSRSS) in terms of its role in demonstrating compliance with—

(1) The safety criteria in § 53.220; and

(2) The evaluation criteria in § 53.450(e).

(b) The identification of special treatments associated with the design of SR and NSRSS SSCs must consider human actions and programmatic controls identified and implemented in accordance with this and other subparts to achieve and maintain the reliability and capability of SSCs relied upon to satisfy—

(1) The safety criteria in § 53.220; and

(2) The evaluation criteria in § 53.450(e).

§ 53.425 Design features and functional design criteria for normal operations.

(a) Design features must be provided for each commercial nuclear plant to support the Radiation Protection Program required in § 53.850.

(b) Functional design criteria must be defined for each design feature relied upon to demonstrate compliance with § 53.850.

(c) Functional design criteria, including design objectives for dose to the maximally exposed member of the public, must be defined for design features to show that plant design features and corresponding programmatic controls, including monitoring programs, control liquid, gaseous, and solid wastes, as required under part 20 of this chapter.

§ 53.430 Design features and functional design criteria for protection of plant workers.

(a) Design features must be provided for each commercial nuclear plant such that, when combined with corresponding programmatic controls, the requirements in § 53.270 can be met.

(b) Functional design criteria must be defined for each design feature relied upon to demonstrate compliance with § 53.270.

§ 53.440 Design requirements.

(a)(1) Analysis, appropriate test programs, prototype testing, operating experience, or a combination thereof must demonstrate that each design feature required by § 53.400 meets the defined functional design criteria required by §§ 53.410 and 53.420. This demonstration must consider interdependent effects throughout the commercial nuclear plant and the range of conditions under which the design features required by § 53.400 must function throughout the plant's lifetime.

(2) The design processes for SR and NSRSS SSCs under this part must include administrative procedures for evaluating operating, design, and construction experience and for considering applicable important industry experiences in the design of those SSCs.

(b) The design features classified as SR must, wherever applicable, be designed using generally accepted consensus codes and standards that have been endorsed or otherwise found acceptable by the U.S. Nuclear Regulatory Commission (NRC).

(c) The materials used for each SR and NSRSS SSC must be qualified for their service conditions over the design life of the SSC as appropriate to satisfy the special treatments established for the SSC under § 53.460.

(d) Possible degradation mechanisms related to aging, fatigue, chemical interactions, operating temperatures, effects of irradiation, and other environmental factors that may affect the performance of SR and NSRSS SSCs must be evaluated and used to inform the design and the development of integrity assessment programs under § 53.870.

(e)(1) Safety-related SSCs and, where appropriate, NSRSS SSCs must be designed and located to minimize, consistent with other safety requirements in this part, the probability and effect of fires and explosions.

(2) Noncombustible and fire-resistant materials must be used wherever practical throughout the facility, particularly in locations with SR and NSRSS SSCs.

(3) Fire detection and fire suppression systems of appropriate capacity and capability must be provided and designed to minimize the adverse effects of fires on SR and NSRSS SSCs.

(4) Fire suppression systems must be designed to ensure that their rupture or inadvertent operation does not significantly impair the ability of SR and NSRSS SSCs to perform their safety functions to satisfy § 53.230.

(f) Safety and security must be considered together in the design process such that, where possible, security issues are effectively resolved through design and engineered security features.

(g) The reactor system and waste stores for each commercial nuclear plant must be capable of achieving and maintaining a subcritical condition during normal operations and following any LBE identified in accordance with § 53.240.

(h) Each commercial nuclear plant must have a capability to provide long-term cooling of the reactor fuel and waste stores during normal operations and following any LBE identified in accordance with § 53.240.

(i) The design, analysis, staffing, and programmatic controls for each commercial nuclear plant must consider the number of reactors, waste stores, and other significant inventories of radioactive materials and the associated operating configurations, common systems, system interfaces, and system interactions.

(j) [Reserved]

(k) Design features, related functional design criteria, programmatic controls, or a combination thereof must be defined such that analyses demonstrate a low risk of permanent injury to the public due to the health effects of the chemical hazards of licensed material.

(l) Measures must be taken during the design of commercial nuclear plants to minimize, to the extent practicable, contamination of the facility and the environment, facilitate eventual decommissioning, and minimize, to the extent practicable, the generation of radioactive waste in accordance with § 20.1406 of this chapter.

(m)(1) Each commercial nuclear plant must include criticality monitoring capabilities meeting the requirements of either § 70.24 of this chapter or paragraph (m)(2) of this section.

(2) In lieu of maintaining a monitoring system capable of detecting criticality as described in § 70.24 of this chapter, criticality accident requirements may be satisfied by—

(i) Demonstrating the sub-criticality of special nuclear material, except when it is inside the reactor and the reactor is being operated, by maintaining k-effective below 0.95 at a 95 percent probability, 95 percent confidence level, under conditions that maximize reactivity for the applicable storage and handling configurations, and

(ii) Providing radiation monitors for fuel storage and associated handling areas when fuel is present to detect excessive radiation levels and to support initiating appropriate safety actions.

(3) While a spent fuel transportation package approved under 10 CFR part 71 of this chapter or spent fuel storage cask approved under 10 CFR part 72 is in the special nuclear material handing or storage area, the requirements in 10 CFR parts 71 or 72, as applicable, and the requirements of the certificate of compliance for that package or cask, are the applicable requirements for the fuel within that package or cask.

(n)(1) The design of each commercial nuclear plant must reflect state-of-the-art human factors principles for safe and reliable performance in all locations that human activities are expected for performing or supporting the continued availability of plant safety or emergency response functions.

(2) The design must provide for the capabilities described in § 53.730(b) to ensure the plant staff are able to monitor plant conditions and respond to events.

(3) The means by which the design and human actions together will achieve the safety requirements of subpart B of this part must be evaluated and used to inform the design and the development of the concept of operations required by § 53.730(c).

(4) A functional requirements analysis and function allocation must be used to ensure that plant design features address how safety functions and functional safety criteria are satisfied, and how the safety functions will be assigned to appropriate combinations of human action, automation, active safety features, passive safety features, or inherent safety characteristics.

§ 53.450 Analysis requirements.

(a) *Requirement to have a probabilistic risk assessment (PRA), or other systematic risk evaluations (SREs), or a combination thereof.* A PRA, other SREs, or a combination thereof for each commercial nuclear plant must be performed and used together with other generally accepted approaches for systematically evaluating engineered systems to identify potential failures, susceptibility to internal and external hazards, and other contributing factors to event sequences that might challenge the safety functions identified in § 53.230 and to support demonstrating that each commercial nuclear plant meets the safety criteria of § 53.220.

(b) *Specific uses of analyses.* The PRA, other SREs, or a combination thereof, together with other generally accepted approaches for systematically evaluating engineered systems must be used to—

(1) Inform the selection of the LBEs, as described in § 53.240, which must be

considered in the design to determine compliance with the safety criteria in subpart B of this part.

(2) Inform the classification of SSCs according to their safety significance in accordance with § 53.460 and to identify the environmental conditions under which the SSCs and operating staff must perform their safety functions.

(3) Evaluate the adequacy of defense-in-depth measures required in accordance with § 53.250.

(4) Identify and assess all plant operating states where there is the potential for the uncontrolled release of radioactive material to the environment.

(5) Identify and assess events that challenge plant control and safety systems whose failure could lead to the uncontrolled release of radioactive material to the environment. These include internal events, such as human errors and equipment failures, and external events identified in accordance with subpart D of this part.

(6) Inform the establishment and updating of appropriate measures for plant operations, including availability controls, to ensure that the configurations and special treatments for SR SSCs and NSRSS SSCs provide the capabilities, availability, and reliability consistent with satisfying the safety criteria under §§ 53.220 and the analyses of licensing-basis events other than design-basis accidents (DBAs) under § 53.450(e).

(c) *Maintenance and upgrade of analyses.* The PRA, other SREs, or a combination thereof must be maintained (*e.g.,* updated to reflect plant changes such as modifications, procedure changes, or plant performance data) at least every 5 years until the permanent cessation of operations under § 53.1070 and upgraded (*e.g.,* changed in scope or use of new methods) in conformance with generally accepted methods, standards, and practices that have been endorsed or otherwise found acceptable by the NRC.

(d) *Qualification of analytical codes.* The analytical codes used in modeling the physical behavior of plant systems in the analyses of licensing-basis events (including but not limited to thermodynamics, reactor physics, fuel performance, and mechanistic source term codes) must be qualified for the range of conditions for which they are to be used.

(e) *Analyses of licensing-basis events other than design-basis accidents.* (1) Analyses must be performed for LBEs other than design-basis accidents (DBAs). These LBEs must be identified using insights from a PRA, other SREs, or a combination thereof with other generally accepted approaches for systematically evaluating engineered systems to identify and analyze equipment failures and human errors.

(2) The analysis of LBEs other than DBAs must include definitions of evaluation criteria for each event or specific categories of LBEs to determine the acceptability of the plant response to the challenges posed by internal and external hazards to provide an appropriate level of safety.

(3) The analyses of LBEs other than DBAs must address event sequences from initiation to a defined end state and be used in combination with other engineering analyses to demonstrate that the functional design criteria required by § 53.420 provide sufficient barriers to the unplanned release of radionuclides to satisfy the evaluation criteria defined for each LBE other than DBAs, to satisfy the safety criteria specified in accordance with § 53.220 and provide defense in depth as required by § 53.250.

(4) The methodology used to identify, categorize, and analyze LBEs must include a means to identify event sequences deemed significant for controlling the risks posed to public health and safety.

(f) *Analysis of design-basis accidents.* (1) The analysis of LBEs required by § 53.240 must include analysis of DBAs that address possible challenges to the safety functions identified under § 53.230. The events selected as DBAs must be those that, if not terminated, have the potential for exceeding the safety criteria in § 53.210.

(2) The DBAs selected must be analyzed using deterministic methods that address event sequences from initiation to a safe stable end state and assume only the SR SSCs identified under § 53.460 and human actions addressed by the requirements of subpart F of this part are available to perform the safety functions identified in accordance with § 53.230.

(3) The analysis must conservatively demonstrate compliance with the safety criteria in § 53.210.

(g) *Other required analyses.* Analyses must be performed to assess—

(1) *Fire protection.* Fire protection measures to demonstrate, through inclusion of fires in the analysis of LBEs or by separate analyses, that a fire or explosion in any plant area would not—

(i) Prevent equipment from fulfilling the safety functions identified in accordance with § 53.230; or

(ii) Challenge the safety criteria in §§ 53.210 and 53.220.

(2) [Reserved]

(3) *Dose to members of the public.* Measures taken under § 53.425, including estimating—

(i) The quantity of each of the principal radionuclides expected to be released annually to unrestricted areas in liquid effluents produced during normal reactor operations and the dose to the maximally exposed member of the public in unrestricted areas.

(ii) The quantities of each of the principal radionuclides of the gases, halides, and particulates expected to be released annually to unrestricted areas in gaseous effluents produced during normal reactor operations and the dose to the maximally exposed member of the public in unrestricted areas.

(iii) The annual external radiation dose in unrestricted areas and the maximally exposed member of the public in unrestricted areas due to direct radiation from contained radiation sources from the commercial nuclear plant during normal reactor operations.

§ 53.460 Safety categorization and special treatments.

(a) Structures, systems, and components must be classified according to their safety significance. The SSC categories must include ''Safety-Related,'' ''Non-Safety-Related but Safety-Significant,'' and ''Non-Safety-Significant,'' as defined in subpart A of this part.

(b) For SR and NSRSS SSCs, the conditions under which they must perform their safety function in § 53.230 must be identified. Special treatments must be established in accordance with this and other subparts to provide confidence that the SSCs will perform under the service conditions and with reliability consistent with the analysis performed under § 53.450 to demonstrate meeting the safety criteria in §§ 53.210 and 53.220.

(1) The special treatments for SR SSCs must include meeting the applicable quality assurance requirements from appendix B of part 50 of this chapter.

(2) The special treatments for NSRSS SSCs and special treatments for SR SSCs beyond those required under paragraph (b)(1) of this section may include meeting selected quality assurance requirements from appendix B of part 50 of this chapter when such treatment is needed to address performance requirements, equipment reliability, or uncertainties.

(c) The identification of special treatments for SR and NSRSS SSCs must account for human actions needed to prevent or mitigate LBEs, the need to perform such actions reliably under the postulated environmental conditions, and the role of programs established in accordance with subpart F of this part to provide confidence that those actions

will be performed as assumed in the analysis performed in accordance with § 53.450 to demonstrate meeting the applicable criteria in §§ 53.210, 53.220, and 53.450(e).

§ 53.470 [Reserved]

§ 53.480 Earthquake engineering.

(a) *Effects of earthquakes.* Structures, systems, and components classified as SR or NSRSS must be able to withstand the effects of earthquakes, commensurate with the safety significance of the SSC, without loss of capability to perform their role in fulfilling the safety functions required by § 53.230.

(b) *Definitions.* As used in this section—

Design-Basis Ground Motions (DBGMs) are the vibratory ground motions for which certain SSCs must be designed to remain functional.

Operating basis earthquake (OBE) ground motion is the vibratory ground motion for which those features of the commercial nuclear plant necessary for continued operation without undue risk to the health and safety of the public are designed to remain functional. The OBE ground motion is used in § 53.720.

Response spectrum is a plot of the maximum responses (acceleration, velocity, or displacement) of idealized single-degree-of-freedom oscillators as a function of the natural frequencies of the oscillators for a given damping value. The response spectrum is calculated for a specified vibratory motion input at the oscillators' supports.

Surface deformation is the distortion of geologic strata on or near the ground surface that occurs because of tectonic forces that result from earthquakes.

(c) *Design considerations*—(1) *Design-Basis Ground Motions.* (i) The DBGMs must be derived from the Site Ground Motion Response Spectra developed in accordance with § 53.510(c), by taking into consideration the functional design criteria of SSCs in accordance with §§ 53.410 and 53.420. The horizontal component of the DBGM(s) in the free-field at the foundation level of the structures must be an appropriate response spectrum that is determined based on the risk-significance of SSCs and their safety functions. In view of the limited data available on vibratory ground motion of strong earthquakes, it is acceptable that the design response spectra be smoothed spectra.

(ii) The commercial nuclear plant must be designed so that, if the DBGMs occur, the following SSCs remain functional and within applicable stress, strain, and deformation limits:

(A) Structures, systems, and components for which functional design criteria are established in accordance with § 53.410 or § 53.420; and

(B) Structures, systems, and components classified as SR or NSRSS commensurate with safety significance in accordance with § 53.460.

(iii) In addition to seismic loads, applicable concurrent normal operating, functional, and accident-induced loads must be taken into account in the design of the SR SSCs and, commensurate with safety significance, NSRSS SSCs.

(iv) The design of the commercial nuclear plant must take into account the possible effects of seismic-induced ground disruption, such as fissuring, lateral spreads, differential settlement, liquefaction, and landsliding, on the facility foundations.

(v) The SSCs fulfilling the safety functions required by § 53.230 must be demonstrated through design, testing, or qualification methods to be able to fulfill those safety functions during and after the vibratory ground motion associated with the DBGMs.

(vi) The evaluation of SSCs required by this section to show they are able to function during and after earthquake ground motion should consider, if applicable, soil-structure interaction effects and the expected duration of vibratory motion. It is permissible to design for inelastic behavior in some of these SSCs during the DBGMs and under the postulated concurrent loads, provided the necessary safety functions are maintained.

(2) *OBE Ground Motion.* The OBE Ground Motion must be characterized by response spectra. The value of the OBE Ground Motion must be set to one-third or less of the DBGMs response spectra.

(3) [Reserved]

(4) *Required seismic instrumentation.* Suitable instrumentation must be provided so that the seismic response of commercial nuclear plant SR SSCs or NSRSS SSCs can be evaluated promptly after an earthquake.

(d) *Surface deformation.* (1) The potential for surface deformation must be taken into account in the design of the commercial nuclear plant by providing reasonable assurance that in the event of deformation, SSCs classified as SR or NSRSS in accordance with § 53.460 will remain functional.

(2) In addition to surface deformation induced loads, the design of SSCs must take into account, commensurate with safety significance, seismic loads and applicable concurrent functional and accident-induced loads.

(3) The design provisions for surface deformation must be based on its postulated occurrence in any direction and azimuth and under any part of the commercial nuclear plant, unless evidence indicates this assumption is not appropriate, and must take into account the estimated rate at which the surface deformation may occur.

(e) *Seismically induced floods and water waves and other design conditions.* Seismically induced floods and water waves from either locally or distantly generated seismic activity and other design conditions determined pursuant to subpart D of this part must be taken into account in the design of the commercial nuclear plant so as to prevent undue risk to the health and safety of the public.

(f) *Analysis.* The analyses required by § 53.450 must address seismic hazards and related SSC responses in determining that the safety criteria defined in § 53.220 will be met.

(g) *Design criteria, human actions, and programmatic controls.* Functional design criteria, human actions, and programmatic controls needed to address seismic events must be identified and implemented in accordance with this and other subparts to achieve and maintain the performance of SSCs relied upon to satisfy the safety criteria in § 53.220 and to maintain consistency with analyses required by § 53.450 when accounting for the site-specific frequencies and magnitudes of earthquakes for a commercial nuclear plant.

Subpart D—Siting Requirements

§ 53.500 General siting and siting assessment.

The purpose of this subpart and the specific requirements therein is to ensure that:

(a) The siting of each commercial nuclear plant is supported by assessments of proposed sites such that the design, including design features and programmatic controls corresponding to the site characteristics, satisfies the safety criteria defined in §§ 53.210 and 53.220. The siting assessment addresses the site characteristics that might contribute to the initiation, progression, or consequences of licensing-basis events (LBEs) analyzed under §§ 53.450 and 53.480 that are identified and mitigated by design features or programmatic controls. The siting assessment takes into consideration the potential adverse impacts that a commercial nuclear plant may have on nearby populations as a result of normal operations or LBEs.

(b) Activities performed to identify site characteristics or otherwise needed to determine site-specific contributors to

functional design criteria or analysis assumptions under subpart C of this part satisfy the applicable special treatment requirements of § 53.460, including, where applicable, the quality assurance requirements from appendix B of part 50 of this chapter.

§ 53.510 External hazards.

(a) *General external hazard requirements.* The design-basis external hazard level for the relevant external hazards for a site must be identified and characterized based on site-specific assessments of natural and constructed hazards with the potential to adversely affect plant functions. The external hazard frequencies and magnitudes determined from the site-specific assessments must take into account uncertainties and variabilities in data, models, and methods relied on to characterize the external hazards.

(b) *Definitions.* As used in this section, the following terms mean:

Geological Siting Factors are geological and seismic factors that may affect the design and operation of the proposed commercial nuclear plant.

Ground Motion Response Spectra (GMRS) are the site-specific GMRS resulting from the geologic investigations and evaluations of the site vicinity and region and used to determine design-basis ground motions for structures, systems, and components under § 53.480.

Probabilistic Seismic Hazard Analysis is an analytical methodology that incorporates uncertainty into estimates of an annual frequency of exceedance for a certain ground motion parameter (*e.g.,* peak ground acceleration, peak ground velocity, response spectral values) at a site.

(c) *Geological investigations.* The GMRS for the site must be determined based on the results of investigations of the geological, seismological, and engineering characteristics of the site and its environs and must be characterized by both horizontal and vertical free-field GMRS at the free ground surface. The size of the region to be investigated and the type of data pertinent to the investigations must be determined based on the nature of the region surrounding the site. Data on vibratory ground motion, earthquake recurrence rates, fault geometry and slip rates, and site subsurface material properties must be obtained by reviewing pertinent literature and carrying out field investigations. Uncertainties are inherent in the parameters and models used to estimate the GMRS for the site. The site assessment must reflect these uncertainties through an appropriate analysis, such as a probabilistic seismic hazard analysis.

(d) *Geologic and seismic siting factors.* The geologic and seismic siting factors considered for design under §§ 53.415 and 53.480 must include, but are not limited to, determination of the potential for surface tectonic and nontectonic deformations, the size and character of seismically induced floods and water waves that could affect a site from either locally or distantly generated seismic activity, soil and rock stability, liquefaction potential, and natural and artificial slope stability.

§ 53.520 Site characteristics.

Site characteristics that might contribute to the initiation, progression, or consequences of LBEs analyzed under § 53.450 must be identified, assessed, and considered in the design and analyses required by subpart C of this part.

§ 53.530 Population-related considerations.

Every site must have an exclusion area, a low-population zone, and a population center distance as defined in § 53.020.

(a) The offsite radiological consequences estimated by the analyses required by § 53.450(f) must be used to confirm that—

(1) An individual located at any point on the boundary of the exclusion area for any 2-hour period following onset of the postulated fission product release would not receive a radiation dose in excess of 25 rem (250 millisieverts) total effective dose equivalent.

(2) An individual located at any point on the outer boundary of the low-population zone who is exposed to the radioactive cloud resulting from the postulated fission product release (during the entire period of its passage) would not receive a radiation dose in excess of 25 rem (250 millisieverts) total effective dose equivalent.

(b) The reactor site must either:

(1) Provide a population center distance of at least one and one-third times the distance from the reactor to the outer boundary of the low-population zone; or

(2) Be found acceptable to the U.S. Nuclear Regulatory Commission (NRC) based on assessments of societal risks in comparison to societal benefits for the specific site. The boundary of the population center or the alternate area assessed considering societal risks and benefits must be determined upon consideration of population distribution. Political boundaries are not controlling in the calculation of population center distance or the alternate area assessed considering societal risks and benefits.

(c) Reactor sites should be located away from very densely populated centers or otherwise be shown to be acceptable by assessments of societal risks in comparison to societal benefits for the specific site. Areas of low-population density are, generally, preferred. However, in determining the acceptability of a particular site located away from a very densely populated center but not in an area of low-population density or when assessing a site considering societal risks and benefits, consideration will be given to safety, environmental, economic, or other factors, which may result in the site being found acceptable.

§ 53.540 Siting interfaces.

Site characteristics must be addressed by the design features, programmatic controls, and supporting analyses used to demonstrate that the safety criteria in §§ 53.210 and 53.220 are met for each commercial nuclear plant. Site characteristics must be such that adequate emergency plans and security plans can be developed and maintained.

Subpart E—Construction and Manufacturing Requirements

§ 53.600 Construction and manufacturing—scope and purpose.

This subpart applies to those construction and manufacturing activities authorized by a construction permit (CP), combined license (COL), manufacturing license (ML), or limited work authorization (LWA) issued under this part.

§ 53.605 Reporting of defects and noncompliance.

Each CP and ML issued under this part is subject to the terms and conditions in this section, and each COL issued under this part is subject to the terms and conditions in this section until the date that the Commission makes the finding under § 53.1452(g).

(a) *Definitions.* The definitions in § 21.3 of this chapter apply to this section.

(b) *Posting requirements.* (1) Each individual, partnership, corporation, dedicating entity, or other entity subject to the regulations in this section must post current copies of this section and the regulations in 10 CFR part 21; section 206 of the Energy Reorganization Act of 1974, as amended; and procedures adopted under these regulations. These documents must be posted in a conspicuous position on any premises within the United States where the

activities subject to the license are conducted.

(2) If posting of these regulations or the procedures adopted under them is not practical, the licensee may, in addition to posting section 206 of the Energy Reorganization Act of 1974, as amended, post a notice that describes the regulations/procedures, including the name of the individual to whom reports may be made, and states where they may be examined.

(c) *Procedures.* The holder of a CP, COL, or ML subject to this section must adopt appropriate procedures to—

(1) Evaluate deviations and failures to comply to identify defects and failures to comply associated with substantial safety hazards as soon as practicable, and, except as provided in paragraph (c)(2) of this section, in all cases within 60 days of discovery, to identify a reportable defect or failure to comply that could create a substantial safety hazard, were it to remain uncorrected.

(2) Ensure that if an evaluation of an identified deviation or failure to comply potentially associated with a substantial safety hazard cannot be completed within 60 days from the discovery of the deviation or failure to comply, an interim report is prepared and submitted to the Commission through a director or responsible officer, or designated person as discussed in paragraph (d)(5) of this section. The interim report should describe the deviation or failure to comply that is being evaluated and should also state when the evaluation will be completed. This interim report must be submitted in writing within 60 days of discovery of the deviation or failure to comply.

(3) Ensure that a director or responsible officer of the holder of a CP, COL, or ML subject to this section is informed as soon as practicable, and, in all cases, within the 5 working days after completion of the evaluation described in paragraph (c)(1) or (c)(2) of this section, if the construction or manufacture of a facility or activity, or a basic component supplied for such a facility or activity—

(i) Fails to comply with the Atomic Energy Act of 1954, as amended, or any applicable regulation, order, or license of the Commission relating to a substantial safety hazard;

(ii) Contains a defect; or

(iii) Underwent any significant breakdown in any portion of the quality assurance program (QAP) conducted under the requirements of appendix B to part 50 of this chapter that could have produced a defect in a basic component. These breakdowns in the QAP are reportable whether or not the breakdown actually resulted in a defect in a design approved and released for construction, installation, or manufacture.

(d) *Reporting defects and noncompliance.* (1) The holder of a CP, COL, or ML subject to this section that obtains information reasonably indicating that the facility or manufactured reactors fails to comply with the Atomic Energy Act of 1954, as amended, or any applicable regulation, order, or license of the Commission relating to a substantial safety hazard must notify the Commission of the failure to comply through a director, responsible officer, or designated person as discussed in paragraph (d)(5) of this section.

(2) The holder of a CP, COL, or ML subject to this section that obtains information reasonably indicating the existence of any defect found in the construction or manufacture, or any defect found in the final design of a facility as approved and released for construction or manufacture, must notify the Commission of the defect through a director, responsible officer, or designated person as discussed in paragraph (d)(5) of this section.

(3) The holder of a CP, COL, or ML subject to this part, who obtains information reasonably indicating that the QAP has undergone any significant breakdown discussed in paragraph (c)(3)(iii) of this section must notify the Commission of the breakdown in the QAP through a director, responsible officer, or designated person as discussed in paragraph (d)(5) of this section.

(4) When acting as a dedicating entity, the holder of a CP, COL, or ML subject to this section is responsible for identifying and evaluating deviations; reporting defects and failures to comply associated with substantial safety hazards for dedicated items; and maintaining auditable records for the dedication process.

(5) The notification requirements of this paragraph (d) apply to all defects and failures to comply associated with a substantial safety hazard regardless of whether extensive evaluation, redesign, or repair is required to conform to the criteria and bases stated in the Safety Analysis Report, CP, COL, or ML. Evaluation of potential defects and failures to comply and reporting of defects and failures to comply under this section satisfies the CP holder's, COL holder's, and ML holder's evaluation and notification obligations under 10 CFR part 21, and satisfies the responsibility of individual directors or responsible officers or holders of a CP, COL, or ML subject to this section to report defects, and failures to comply associated with substantial safety hazards under section 206 of the Energy Reorganization Act of 1974, as amended. The director or responsible officer may authorize an individual to provide the notification required by this section. However, this does not relieve the director or responsible officer of his or her responsibility under this section.

(e) *Notification—timing and where sent.* The notification required by paragraph (d) of this section must consist of—

(1) Initial notification by telephone, facsimile, or email identified in appendix A to 10 CFR part 73 to the U.S. Nuclear Regulatory Commission (NRC) Operations Center within 2 days following receipt of information by the director or responsible corporate officer under paragraph (c)(3) of this section, on the identification of a defect or a failure to comply. If the CP, COL, or ML holder elects to use facsimile, verification that the facsimile has been received should be made by calling the NRC Operations Center. This paragraph (e)(1) does not apply to interim reports described in paragraph (c)(2) of this section.

(2) Written notification submitted to the NRC Document Control Desk by an appropriate method listed in § 53.040, with a copy to the appropriate NRC Regional Administrator at the address specified in appendix D to 10 CFR part 20 and a copy to the appropriate NRC resident inspector, if applicable, within 30 days following receipt of information by the director or responsible corporate officer under paragraph (c)(3) of this section, on the identification of a defect or failure to comply.

(f) *Content of notification.* The written notification required by paragraph (e)(2) of this section must clearly indicate that the written notification is being submitted under this section and include the following information, to the extent known.

(1) Name and address of the individual or individuals informing the Commission.

(2) Identification of the facility, the activity, or the basic component supplied for the facility or the activity within the United States which contains a defect or fails to comply.

(3) Identification of the firm constructing or manufacturing the facility or supplying the basic component which fails to comply or contains a defect.

(4) Nature of the defect or failure to comply and the safety hazard which is created or could be created by the defect or failure to comply.

(5) The date on which the information of a defect or failure to comply was obtained.

(6) In the case of a basic component that contains a defect or failure to comply, the number and location of these components in use at the facility subject to the regulations in this part.

(7) In the case of a completed reactor manufactured under this part, the entities to which the reactor was supplied.

(8) The corrective action which has been, is being, or will be taken; the name of the individual or organization responsible for the action; and the length of time that has been or will be taken to complete the action.

(9) Any advice related to the defect or failure to comply about the facility, activity, or basic component that has been, is being, or will be given to other entities.

(g) *Procurement documents.* Each holder of a CP, COL, or ML subject to this section must ensure that each procurement document for a facility or a basic component specifies the provisions of 10 CFR part 21 or this section that apply, as applicable.

(h) *Coordination with 10 CFR part 21.* The requirements of this section are satisfied when the defect or failure to comply associated with a substantial safety hazard has been previously reported under 10 CFR part 21, under § 73.1205 of this chapter, under this section, or under § 53.1640.

(i) *Records retention.* The holder of a CP, COL, or ML subject to this section must prepare and maintain records necessary to accomplish the purposes of this section, specifically—

(1) Retain procurement documents, which define the requirements that facilities or basic components must satisfy in order to be considered acceptable, for the lifetime of the facility or basic component.

(2) Retain records of evaluations of all deviations and failures to comply under paragraph (c)(1) of this section for the longest of—

(i) Ten years from the date of the evaluation;

(ii) Five years from the date that an early site permit is referenced in an application for a COL; or

(iii) Five years from the date of delivery of a manufactured reactor.

(3) Retain records of all interim reports to the Commission made under paragraph (c)(2) of this section, or notifications to the Commission made under paragraph (d) of this section for the minimum time periods stated in paragraph (i)(2) of this section;

(4) Suppliers of basic components must retain records of—

(i) All notifications sent to affected licensees or purchasers under paragraph (d)(4) of this section for a minimum of 10 years following the date of the notification;

(ii) The facilities or other purchasers to whom the basic components or associated services were supplied for a minimum of 15 years from the delivery of the basic component or associated services.

(5) Maintaining reports in accordance with this section satisfies the recordkeeping obligations under 10 CFR part 21 of the entities, including directors or responsible officers thereof, subject to this section.

§ 53.610 Construction.

(a) *Management and control.* Licensees must ensure that the following plans, programs, and organizational units are developed and implemented to manage and control the construction activities:

(1) Programs to ensure that the construction of a commercial nuclear plant supports the eventual compliance with the design and analysis requirements in subpart C of this part.

(2) An organization, headed by qualified personnel, responsible for managing, controlling, and evaluating the adequacy of the construction activities.

(3) Procedures describing the qualifications for personnel in key positions in the licensee's management and control organization and the organizational responsibilities, authority, and interfaces with other parts of the licensee's organization.

(4) Procedures to evaluate the applicability of other national and international construction experience to the planned and ongoing construction activities and to ensure the applicable experience will be provided to those constructing the plant.

(5) A fitness-for-duty program, under 10 CFR part 26.

(6)(i) A QAP meeting the requirements of appendix B of part 50 of this chapter as required by § 53.460(b).

(ii) Appropriate programmatic controls to provide special treatment for non-safety-related but safety-significant structures, systems, and components (SSCs).

(7) A radiation protection program, in accordance with 10 CFR part 20, that includes measures for monitoring the dose to individuals working with radioactive materials brought onto the site, as applicable.

(8) An information security program in accordance with §§ 73.21, 73.22, and 73.23 of this chapter, as applicable.

(b) *Construction activities.* No person may begin the construction of a commercial nuclear plant on a site on which the facility is to be operated under this part until that person has been issued either a CP or COL, an early site permit authorizing activities under § 53.1130, or an LWA under this part.

(1) Licensees must satisfy the following requirements:

(i) As appropriate, considering the types and quantities of radioactive materials being brought onto the site—

(A) The licensee must maintain and follow a special nuclear material (SNM) material control and accounting program, a measurement control program, and other material control procedures that include corresponding record management requirements as required by the provisions of § 70.32 of this chapter. Prior to initial receipt of SNM onsite, the licensee must implement an SNM material control and accounting program in accordance with 10 CFR part 74.

(B) Procedures must be in place to receive, possess, use, and store source, byproduct, and SNM in accordance with applicable portions of 10 CFR parts 30, 40, and 70.

(C) A plant staff training program associated with the receipt of radioactive material must be approved and implemented prior to initial receipt of byproduct, source or SNM (excluding exempt quantities as described in § 30.18 of this chapter).

(ii) For construction of a commercial nuclear plant involving multiple reactor units, plans and procedures must be in place to prevent or mitigate potential hazards to the SSCs of operating units resulting from construction activities, including the managerial and administrative controls to be used to provide assurance that the limiting conditions for operation of the operating units are not exceeded as a result of construction activities.

(iii) Procedures must be in place prior to the start of construction activities that describe how construction will be controlled so as not to impact other features important to the design, such as dewatering, slope stability, backfill, compaction, and seepage.

(iv) For LWA holders, a plan must be developed for redress of activities performed under the LWA should one of the following situations arise:

(A) LWA work activities are terminated by the holder of the LWA;

(B) The LWA is revoked by the NRC; or

(C) The Commission denies the associated CP or COL application.

(2)(i) Onsite fresh fuel must be protected and stored in compliance with § 73.67 of this chapter.

(ii) Before initial fuel load into the reactor (or, for a fueled manufactured reactor, before initiating the removal of the features to prevent criticality required under § 53.620(d)(1)), a cybersecurity program that meets the requirements of § 73.54 or § 73.110 of this chapter, a physical security program that meets the requirements of § 73.55 or § 73.100 of this chapter, and an access authorization program that meets the requirements of § 73.56 or § 73.120 of this chapter must be established, as applicable.

(iii) Fire protection measures must be implemented for work and storage areas (including adjacent fire areas that could affect the work or storage area) before initial receipt of byproduct, source, or non-fuel SNM (excluding exempt quantities as described in § 30.18 of this chapter). The fire protection measures for areas associated with new fuel (including all fuel handling, fuel storage, and adjacent fire areas that could affect the new fuel) must be implemented before receipt of fuel. Prior to the receipt of fuel, a formal letter of agreement must be in place with the local fire department specifying the nature of arrangements in support of the fire protection program.

(c) *Inspection and acceptance.* (1) The licensee must have a process for accepting individual or groups of SSCs upon completion of construction and protecting them from damage or tampering as other construction activities continue.

(2) The post-construction acceptance process must address the inspections, tests, analyses, and acceptance criteria specified in the COL under § 53.1440 or the equivalent verifications needed to support the issuance of an operating license under § 53.1387.

§ 53.620 Manufacturing.

(a) *Management and control.* Holders of MLs must ensure that the following plans, programs, and organizational units are developed and implemented to manage and control the manufacturing activities within the scope of the ML:

(1) Programs to ensure that the manufacturing of a manufactured reactor or portions of a manufactured reactor complies with the design and analysis requirements in subpart C of this part. The entity with design authority for the manufactured reactor covered by the ML must be identified in the license.

(2) An organizational and management structure responsible for managing, controlling, and evaluating the adequacy of the reactor design and manufacturing activities.

(3) Procedures describing the qualifications for personnel in key positions in the licensee's management and control organization and the organizational responsibilities, authority, and interfaces with other parts of the licensee's organization.

(4) A program to evaluate the applicability of other national and international design and manufacturing experience to the planned and ongoing manufacturing activities.

(5) A fitness-for-duty program, in accordance with 10 CFR part 26.

(6)(i) A QAP meeting the requirements of appendix B to part 50 of this chapter, to be applied to the design, fabrication, construction, and testing of the SSCs of the manufactured reactor.

(ii) Appropriate programmatic controls to provide special treatment measures for non-safety-related but safety-significant SSCs.

(7) A radiation protection program, in accordance with 10 CFR part 20, that includes measures for monitoring the dose to individuals if the manufacturing activities include working with radioactive materials.

(8) An information security program in accordance with §§ 73.21, 73.22 and 73.23 of this chapter, as applicable.

(b) *Manufacturing activities.* Holders of MLs must satisfy the following requirements:

(1) The manufacturing process must be conducted within facilities for which the ML holder has the authority to establish controls on any activity that might affect manufacturing. The licensee must establish access controls to the portions of each facility involved in the manufacturing processes governed by the ML.

(2) Manufacturing processes must be performed in accordance with the ML and the referenced codes and standards that have been endorsed or otherwise found acceptable by the NRC.

(3) A post-manufacturing inspection and acceptance process must be established and implemented before transporting a manufactured reactor or portions of a manufactured reactor for installation at a commercial nuclear plant. The process must consider the results of inspections, tests, and analyses that have been performed and the acceptance criteria that are necessary and sufficient to conclude that manufacturing activities have been completed in accordance with the ML.

(c) *Control of radioactive materials.* As appropriate considering the types and quantities of radioactive materials being brought into the manufacturing facility—

(1) Procedures must be in place to receive, transfer, possess, and use source, byproduct, and SNM in accordance with the applicable portions of 10 CFR parts 30, 40 and 70.

(2) A fire protection program must be established and implemented before the initial receipt of byproduct, source, or non-fuel SNM (excluding exempt quantities as described in § 30.18 of this chapter).

(3) An emergency plan appropriate for responding to the facility-specific hazards of an accidental release of radioactive material and to limit the health effects of the associated chemical hazards of licensed material must be approved and implemented prior to the receipt of byproduct, source, or SNM (excluding exempt quantities as described in § 30.18 of this chapter).

(4) A plant staff training program associated with the receipt of radioactive material must be approved and implemented before initial receipt of byproduct, source, or SNM (excluding exempt quantities as described in § 30.18 of this chapter).

(5) Security requirements must be implemented for the protection of SNM based on the type, enrichment, and quantity in accordance with 10 CFR part 73, as applicable, and for the protection of Category 1 and Category 2 quantities of radioactive material in accordance with 10 CFR part 37, as applicable.

(d) *Fuel loading.* (1)(i) An ML may authorize possession of a manufactured reactor into which the licensee has loaded fresh (unirradiated) fuel pursuant to a license issued under part 70 of this chapter only if the manufactured reactor is configured during its loading, storage, and transport with features to prevent criticality that are specified in the ML.

(ii) The ML applicant may file a separate, subsequent application for the 10 CFR part 70 license or combine the application for the 10 CFR part 70 license with the application for an ML.

(iii) The Commission has determined that any such fueled manufactured reactor in which the features to prevent criticality are in place is not in operation.

(iv) Upon installation of the fueled manufactured reactor in its place of operation and a Commission finding that the acceptance criteria in the COL that authorized reactor construction are met under § 53.1452(g), or that any conditions in the CP that authorized reactor construction are met and the associated operating license (OL) issued, the features to prevent criticality may be removed. Upon initiating the removal of

the features to prevent criticality, the fueled manufactured reactor has commenced operation.

(2) Holders of part 70 licenses authorizing the possession and loading of fresh fuel into manufactured reactors must comply with the requirements of part 70 for the facilities and activities related to the storage, movement, and loading of fresh fuel in the manufactured reactor. Holders of these part 70 licenses must comply with the requirements of Subpart H to part 70, regardless of whether their proposed activities meet the applicability criteria found in 10 CFR 70.60. Procedures, equipment, and personnel required by the 10 CFR part 70 license, must be in place before the receipt of SNM at the manufacturing facility.

(i) Before the receipt of SNM, the licensee must have security programs in place that meet the performance objectives of 10 CFR 73.67, with the following additions and exceptions:

(A) A physical security plan describing the physical security program must be maintained and a cybersecurity program must be established for the possession and loading of fresh fuel into a manufactured reactor authorized by a 10 CFR part 70 license, regardless of fuel type, enrichment, and quantity.

(B) The physical security program must be designed to prevent unintended and uncontrolled criticality events.

(C) The cybersecurity program must provide reasonable assurance that a cyberattack does not adversely impact the functions performed by digital assets necessary for implementing the physical security requirements of this section, or the radiation monitoring and criticality requirements in this section or in 10 CFR part 70.

(D) All holders of a part 70 license that authorizes loading of fresh fuel into a manufactured reactor must perform the screening required in § 73.67(d)(4) of this chapter to confirm the identity, trustworthiness, and reliability of individuals prior to granting unescorted access to special nuclear material; these determinations must be documented.

(ii) [Reserved]

(3) The loading or unloading of fresh fuel into or from a manufactured reactor and any changes to the configuration of reactivity control and prevention systems for the fueled manufactured reactor must be performed by a certified fuel handler meeting the requirements in subpart F of this part.

(e) *Transportation.* (1) A holder of an ML may not transport or allow to be removed from the places of manufacture the manufactured reactor or portions thereof as defined in the ML except for either transport to a site for which the Commission has issued a COL or CP that references the subject ML or export in accordance with 10 CFR part 110.

(2) A holder of an ML must include in any contract governing the transport of a manufactured reactor or portions thereof as defined in the ML from the places of manufacture to any other location, a provision requiring that the person transporting the manufactured reactor comply with all shipping requirements in applicable NRC regulations, certificates of compliance, and NRC-issued licenses.

(3) Procedures governing the preparation of the manufactured reactor or portions thereof as defined in the ML for transport and the conduct of the transport must be issued prior to transport. The procedures must implement the protective measures and restrictions described in NRC regulations and NRC-issued licenses to protect the reactor from potential conditions that would adversely affect the safe operation of a commercial nuclear plant.

(4) For a manufactured reactor that is to be loaded with fresh fuel before transport to the place of operation, the ML must specify that transportation will be in accordance with parts 71 and 73 of this chapter.

(f) *Acceptance and installation at the site for which the Commission has issued a COL or CP that references the subject ML.* (1) Installation at the site for which the Commission has issued a COL or CP that references the subject ML must follow the regulations in § 53.610.

(2) Upon arrival at the site, the manufactured reactor or portions of a manufactured reactor may not be installed in its place of operation unless the COL or CP holder performs inspections sufficient to verify the reactor is in compliance with the ML and has not been damaged in transit. The COL or CP holder must perform these inspections in accordance with documented procedures subject to quality assurance measures commensurate with their importance to safety. In addition, inspections must confirm that the interface requirements between the manufactured reactor or portions of a manufactured reactor and the remaining portions of the commercial nuclear plant are met.

Subpart F—Requirements for Operation

§ 53.700 Operational objectives.

The purpose of this subpart and the specific requirements herein is to ensure that:

(a) Each holder of an operating license (OL) or combined license (COL) under this part develops, implements, and maintains controls for plant structures, systems, and components (SSCs), responsibilities of personnel, and plant programs during the operating life of each commercial nuclear plant such that the requirements defined in subpart B are satisfied. More specifically:

(1) Under § 53.710 through § 53.730, each holder of an OL or COL under this part must maintain the capabilities, availability, and reliability of plant SSCs to ensure that the safety functions identified in § 53.230 will be performed if called upon during licensing-basis events (LBEs).

(2) Under § 53.725 through § 53.830, each holder of an OL or COL under this part must ensure that personnel have adequate knowledge and skills to perform their assigned duties that support the performance of the safety functions identified in § 53.230.

(3) Under § 53.845 through § 53.910, each holder of an OL or COL under this part must implement plant programs sufficient to ensure that the safety functions identified in § 53.230 will be performed if called upon during normal operations and LBEs.

(b) [Reserved]

§ 53.710 Maintaining capabilities and availability of structures, systems, and components.

Measures must be provided for each commercial nuclear plant licensed under this part such that the capabilities, availability, and reliability of plant SSCs, when combined with corresponding programmatic controls and human actions, provide that the safety criteria defined in §§ 53.210 and 53.220 will be met.

(a) Technical specifications must be developed, implemented, and maintained that define conditions or limitations on plant operations that are necessary to ensure that safety-related (SR) SSCs can fulfill the safety functions identified under § 53.230 and support meeting the safety criteria of § 53.210. The technical specifications must describe the following requirements:

(1) Limits on the inventory of radioactive materials within the reactor system and supporting systems with the potential, individually or collectively, to cause a release exceeding the safety criteria in § 53.210 as a result of a design-basis accident analyzed in accordance with § 53.450(f).

(2) Operating limits for the facility that if exceeded could lead to a failure to perform a required safety function necessary to demonstrate compliance with the safety criteria in § 53.210.

(3) For each SSC classified as SR in accordance with § 53.460, technical specifications must define—

(i) *Limiting conditions for operation.* Limiting conditions for operation are the lowest functional capability or performance levels of SR SSCs required to ensure that the design-basis accidents analyzed in accordance with § 53.450(f) satisfy the safety criteria of § 53.210. When a limiting condition for operation is not met, the licensee must shut down the plant or follow any remedial action permitted by the technical specifications until the condition can be met.

(ii) *Surveillance requirements.* Surveillance requirements are requirements relating to test, calibration, or inspection to assure that the necessary quality of systems and components is maintained and that the limiting conditions for operation will be met.

(4) Design elements to be included are those elements of the plant such as materials of construction and geometric arrangements, which, if altered or modified, would have a significant effect on safety and are not covered in categories described in paragraphs (a)(1) through (3) of this section.

(5) Administrative controls are the provisions relating to organization and management, procedures, recordkeeping, review and audit, and reporting necessary to assure operation of the plant in a safe manner. Each licensee must submit any reports to the Commission pursuant to approved technical specifications under § 53.040.

(b) Control measures on plant operations, including availability controls, must be developed and implemented to ensure that the configurations and special treatments for SR SSCs and non-safety-related but safety-significant (NSRSS) SSCs provide the capabilities, availability, and reliability required to demonstrate compliance with the criteria of §§ 53.220 and 53.450(e).[1] The control measures must—

(1)(i) Identify who within the licensee's organization has authority to make configuration changes;

(ii) Establish processes to make configuration changes to NSRSS SSCs; and

(iii) Establish processes to ensure that all organizations of the commercial nuclear plant affected by the configuration changes are formally notified and approve of the change.

(2) Describe how the special treatments for each NSRSS SSC and special treatments for SR SSCs beyond those under paragraph (a) of this section will be established and maintained over the operating life of the commercial nuclear plant.

[1] The comprehensive risk metrics and related risk performance objectives established under § 53.220 involve assessing and averaging the risks over a defined period (*e.g.,* plant year) and do not constitute a real-time requirement that must be continuously demonstrated by the licensee.

§ 53.715 Maintenance, repair, and inspection programs.

(a) A program to control maintenance activities and monitor the performance or condition of SR and NSRSS SSCs must be developed, implemented, and maintained.

(b) Whenever a licensee determines through activities related to maintenance, repair, and inspection of SSCs, the activities under § 53.710, or otherwise that the performance or condition of an SR or NSRSS SSC does not demonstrate compliance with established special treatments or performance goals related to capabilities, availability, or reliability, the licensee must take appropriate corrective action.

(c) Performance and condition monitoring activities and associated goals and preventive maintenance activities must be evaluated at least every 24 months. The evaluations must take into account, where practical, industry-wide operating experience. Adjustments must be made where necessary to ensure that the objective of preventing failures of SSCs through maintenance is appropriately balanced against the objective of minimizing unavailability of SSCs due to monitoring or preventive maintenance.

(d) Before performing maintenance activities (including but not limited to surveillance, post-maintenance testing, and corrective and preventive maintenance), the licensee must assess and manage the increase in risk that may result from the proposed maintenance activities.

§ 53.720 Response to seismic events.

If vibratory ground motion exceeding that of the operating basis earthquake Ground Motion or significant plant damage due to vibratory ground motion occurs, the licensee must shut down the commercial nuclear plant. If structures, systems, or components necessary for the safe shutdown of the commercial nuclear plant are not available after the occurrence of this vibratory ground motion, the licensee must consult with the Commission and must propose a plan for the timely, safe shutdown of the commercial nuclear plant. Prior to resuming operations, the licensee must demonstrate to the Commission that those features necessary for continued operation without undue risk to the health and safety of the public or necessary to maintain the licensing basis of the commercial nuclear plant were either not functionally damaged or have been repaired.

§ 53.725 General staffing, training, personnel qualifications, and human factors requirements.

(a) *Two classes of commercial nuclear plants.* Commercial nuclear plants licensed under this part are either of the class of self-reliant-mitigation facilities or of interaction-dependent-mitigation facilities, based upon the similarity of operating and technical characteristics of the plants in the class. A commercial nuclear plant is a self-reliant-mitigation facility if the U.S. Nuclear Regulatory Commission (NRC) determined as part of its approval of the OL or COL for that plant that its design demonstrates compliance with the criteria of § 53.800(a)(1) through (a)(5). Otherwise, the commercial nuclear plant is an interaction-dependent-mitigation facility.

(b) *Purpose and applicability.* The regulations in §§ 53.725 through 53.830 address areas related to staffing, training, personnel qualifications, and human factors engineering for applicants for or holders of OLs or COLs under this part. These regulations are organized as follows:

(1) Sections 53.725 through 53.745 address general requirements for staffing, training, personnel qualifications, and human factors engineering. The regulations within these sections are applicable to all applicants for or holders of OLs or COLs under this part, except where specifically stated otherwise.

(2) Sections 53.760 through 53.795 address operator and senior operator licensing requirements. The regulations within these sections are applicable to those applicants for or holders of OLs or COLs under this part for interaction-dependent-mitigation facilities that have not yet certified the permanent cessation of operations and permanent removal of fuel from the reactor vessel as described under § 53.1070.

(3) Sections 53.800 through 53.820 address generally licensed reactor operator requirements. The regulations within these sections are in lieu of §§ 53.760 through 53.795 for those applicants for or holders of OLs or COLs under this part for self-reliant-mitigation facilities that have not yet certified the permanent cessation of operations and permanent removal of fuel from the reactor vessel as described under § 53.1070.

(4) Section 53.830 provides general personnel training requirements. The regulations within this section are applicable to all applicants for or holders of OLs or COLs under this part.

(c) *Definitions.* When used in §§ 53.725 through 53.830, *applicant* refers to an applicant for an operator or senior operator license; *licensee* refers to the holder of an operator, senior operator, or generally licensed reactor operator license; and *facility licensee* refers to the licensee for the commercial nuclear plant where the applicant would be licensed or the licensee is licensed. As also used in §§ 53.725 through 53.830—

Automation means a device or system that accomplishes (partially or fully) a function or task.

Auxiliary operator means any individual who operates components of a commercial nuclear plant but does not manipulate controls or direct the manipulation of controls of the plant and is not required to be licensed under the provisions of this part.

Controls when used with respect to a nuclear reactor means apparatus and mechanisms, the manipulation of which directly affects the reactivity or power level of the reactor.

Generally licensed reactor operator means any individual licensed under the provisions of § 53.810 to manipulate controls of a self-reliant-mitigation facility and to direct the licensed activities of generally licensed reactor operators.

Interaction-dependent-mitigation facility means a commercial nuclear plant design other than one that demonstrates compliance with the operating and technical characteristics defined under § 53.800.

Load following means a commercial nuclear plant automatically changing its output to match expected demand in response to externally originated instructions or signals.

Operator means any individual licensed under the provisions of §§ 53.760 through 53.795 to manipulate controls of an interaction-dependent-mitigation facility.

Performance testing means testing conducted to verify a simulation facility's performance as compared to actual or predicted reference plant performance.

Reference plant means the specific commercial nuclear plant, or plant design for facilities which are not yet constructed, on which a simulation facility's configuration, system control arrangement, and design data are based.

Self-reliant-mitigation facility means a commercial nuclear plant design that demonstrates compliance with the operating and technical characteristics defined under § 53.800.

Senior operator means any individual licensed under the provisions of §§ 53.760 through 53.795 to manipulate controls of an interaction-dependent-mitigation facility and to direct the licensed activities of operators.

Simulation facility means an interface designed to provide a realistic imitation of the operation of a commercial nuclear plant used for the administration of examinations, for training, and/or to demonstrate compliance with experience requirements for applicants or licensees. A simulation facility may rely, in whole or part, upon the physical utilization of the reference plant itself.

Systems approach to training means a training program that includes the following five elements:

(i) Systematic analysis of the jobs to be performed.

(ii) Learning objectives derived from the analysis which describe desired performance after training.

(iii) Training design and implementation based on the learning objectives.

(iv) Evaluation of trainee mastery of the objectives during training.

(v) Evaluation and revision of the training based on the performance of trained personnel in the job setting.

§ 53.726 Communications.

(a) An applicant or licensee or facility licensee must submit any communication or report required by the regulations contained within §§ 53.725 through 53.830 and must submit any application filed under these regulations to the Commission.

(b) Each facility licensee that is required to comply with the requirements of §§ 53.760 through 53.795 (*i.e.,* interaction-dependent-mitigation facilities) must notify the appropriate NRC contact within 30 days of the following in regard to a licensed operator or senior operator:

(1) Permanent reassignment from the position for which the facility licensee has certified the need for a licensed operator or senior operator under § 53.775(a)(1);

(2) Termination of any operator or senior operator; or

(3) Permanent disability or illness as required under § 53.770.

§ 53.728 Completeness and accuracy of information.

Information provided to the Commission by an applicant for an operator or senior operator license or by a licensee or information required by statute or by the Commission's regulations, orders, or license conditions to be maintained by the applicant or the licensee must be complete and accurate in all material respects.

§ 53.730 Defining, fulfilling, and maintaining the role of personnel in ensuring safe operations.

Each applicant for or holder of an OL or COL for a commercial nuclear plant under this part must comply with the following:

(a) *Human factors engineering design requirements.* The plant design must reflect state-of-the-art human factors engineering principles for safe and reliable performance in all locations that human activities are expected for performing or supporting the continued availability of plant safety or emergency response functions.

(b) *Human system interface design requirements.* The plant design must provide for the following to support operating personnel in monitoring plant conditions and responding to plant events:

(1) Features for displaying to operating personnel a minimum set of parameters that define the safety status of the plant and are capable of displaying both the full range of important plant parameters and data trends on demand, as well as indicating when process limits are being approached or exceeded;

(2) Automatic indication of the bypassed and operable status of safety systems;

(3) Direct indication of SSC status that relates to the ability of the SSC to perform its safety function, such as relief and safety valve position (*i.e.,* open or closed) for barriers important to fulfilling safety functions with such devices, and ultimate heat sink and cooling system status and availability;

(4) Instrumentation to measure, record, and display key plant parameters related to the performance of SSCs and the integrity of barriers important to fulfilling safety functions to support operators in monitoring plant conditions and responding to plant events. Examples include temperatures and pressures within important systems or structures, core or fuel system conditions (including possible damage states), temperatures and levels associated with cooling functions, combustible gas concentrations, radiation levels in systems and within structures, and radioactive effluent releases;

(5) Leakage control and detection in the design of systems that pass through barriers important to fulfilling safety functions for the release of radionuclides. An example is an SSC

that penetrates a containment structure that might contain radioactive materials that could contribute to the source term during an accident;

(6) Monitoring of in-plant radiation and airborne radioactivity as appropriate for a broad range of normal operating and accident conditions; and

(7) For self-reliant-mitigation facilities, the plant design must also provide the generally licensed reactor operators with the capability to do the following:

(i) Receive plant operating data, including reactor parameters and information needed for the evaluation of emergency conditions.

(ii) Promptly dispatch operations and maintenance personnel.

(iii) Immediately implement responsibilities under the facility emergency plan, as applicable.

(8) For both interaction-dependent and self-reliant mitigation facilities, the plant design must provide licensed operators with the capability of immediately initiating a reactor shutdown from their location.

(c) *Concept of operations.* A concept of operations that is of sufficient scope and detail to address the following must be provided:

(1) Plant goals;

(2) The roles and responsibilities of operating personnel and automation (or any combination thereof) that are responsible for completing plant functions;

(3) Staffing, qualifications, and training;

(4) The management of normal operations;

(5) The management of off-normal conditions and emergencies;

(6) The management of maintenance and modifications; and

(7) The management of tests, inspections, and surveillances.

(d) *Functional requirements analysis and function allocation.* A functional requirements analysis and a function allocation must be provided that are sufficient to demonstrate compliance with the following:

(1) The functional requirements analysis must address how safety functions and functional safety criteria are satisfied; and

(2) The function allocation must describe how the safety functions will be assigned to human action, automation, active safety features, passive safety features, and/or inherent safety characteristics.

(e) *Operating experience.* A program, during construction and during operation, as applicable, for evaluating and applying operating experience must be developed, implemented, and maintained.

(f) *Staffing plan.* A staffing plan must be developed and comply with the following:

(1) The staffing plan must include a description of how engineering expertise will be available to the on-shift operating personnel during all plant conditions, to assist if they encounter a situation not covered by procedures or training. Engineering expertise includes familiarity with the operation of the plant for which the expertise is provided and one of the following:

(i) A bachelor's degree in engineering, engineering technology, or physical science from an institution accredited by a U.S. Government recognized accrediting body or equivalent; or

(ii) A Professional Engineer's license from a U.S. State or territory.

(2) Applicants for or holders of OLs or COLs for interaction-dependent-mitigation facilities must include within their staffing plans a description of how the proposed numbers, positions, and qualifications of operators and senior operators across all modes of plant operations will be sufficient to ensure that plant safety functions will be maintained. This description must be supported by human factors engineering analyses and assessments.

(3) Applicants for or holders of OLs or COLs for self-reliant-mitigation facilities must include within their staffing plans a description of how generally licensed reactor operator staffing that is both sufficient to continually monitor the operations of fueled reactors and to provide for a continuity of responsibility for facility operations at all times during the operating phase will be maintained.

(4) Applicants for or holders of OLs or COLs under this part must include within their staffing plans a description of how the positions and responsibilities of personnel contained within those plans will adequately satisfy necessary support functions within areas such as plant operations, equipment surveillance and maintenance, radiological protection, chemistry control, fire brigades, engineering, security, and emergency response.

(5) The staffing plan must be approved by the NRC as part of its approval of the OL or COL for the plant. The approved staffing plan is subject to the requirements of § 53.1565.

(g) *Training, examination, and proficiency programs.* Develop, implement, and maintain programs that comply with the following requirements. These programs must be approved by the NRC as part of its approval of the OL or COL for the plant:

(1) For those applicants for or holders of OLs or COLs for interaction-dependent-mitigation facilities:

(i) The operator licensing initial training program required under § 53.780(a);

(ii) The operator licensing initial examination program required under § 53.780(b);

(iii) The operator licensing requalification program required under § 53.780(c); and

(iv) The operator proficiency program required under § 53.780(g).

(2) For those applicants for or holders of OLs or COLs for self-reliant-mitigation facilities, the generally licensed reactor operator training, examination, and proficiency programs required under § 53.815.

(3) The operator licensing requalification programs required under § 53.780(c) or § 53.815(b) must be implemented upon commencing the administration of initial examinations under the operator licensing examination program required under § 53.780(b) or § 53.815(b), respectively.

§ 53.735 General exemptions.

The regulations in §§ 53.725 through 53.830 do not require a license for an individual who—

(a) Under the direction and in the presence of an operator or senior operator or a generally licensed reactor operator, as appropriate, manipulates the controls of a commercial nuclear plant as a part of the individual's training in a facility licensee's training program as approved by the Commission to qualify for an operator or senior operator license or a generally licensed reactor operator license there, as appropriate, under these regulations; or

(b) Under the direction and in the presence of a senior operator or generally licensed reactor operator, as appropriate, manipulates the controls of a commercial nuclear plant to load or unload the fuel into, out of, or within the reactor vessel while the reactor is not operating.

§ 53.740 Facility licensee requirements—general.

(a) Facility licensees must demonstrate compliance with the requirements of either §§ 53.760 through 53.795 for interaction-dependent-mitigation facilities or §§ 53.800 through 53.820 for self-reliant-mitigation facilities.

(b) The facility licensee must maintain the staffing complement described under its approved facility staffing plan until such time as the permanent cessation of operations and

permanent removal of fuel from the reactor vessel has been certified as described under § 53.1070. The approved staffing plan is subject to the requirements of § 53.1565.

(c) Except as provided under § 53.735, the facility licensee may not permit the manipulation of the controls of a commercial nuclear plant by anyone who is not an operator or senior operator or generally licensed reactor operator, as appropriate.

(d) Facility licensees for interaction-dependent-mitigation facilities that have not yet certified the permanent cessation of operations and permanent removal of fuel from the reactor vessel as described under § 53.1070 must designate senior operators to be responsible for supervising the licensed activities of operators.

(e) Apparatus and mechanisms other than controls, the operation of which may affect the reactivity or power level of a reactor, must be manipulated only while plant conditions are being monitored by an individual who is an operator or senior operator or a generally licensed reactor operator, as appropriate.

(f)(1) Load following is permitted if at least one of the following is immediately capable of refusing demands when they could challenge the safe operation of the plant or when precluded by the plant equipment conditions:

(i) The actuation of an automatic protection system that utilizes setpoints more conservative than those otherwise credited for the purposes of reactor protection; or

(ii) An automated control system; or

(iii) An operator or senior operator or a generally licensed reactor operator, as appropriate.

(2) The provisions of paragraph (e) of this section do not apply during load following operations.

(g)(1) Facility licensees for interaction-dependent-mitigation facilities must have present during alteration of the core (including fuel loading or transfer) an individual holding a senior operator license, or a senior operator license limited to fuel handling to directly supervise the activity and, during this time, the facility licensee must not assign other duties to this person.

(2) Facility licensees for self-reliant-mitigation facilities must have present during alteration of the core (including fuel loading or transfer) an individual holding a generally licensed reactor operator license to directly supervise the activity and, during this time, the facility licensee must not assign other duties to this person.

(3) The provisions of paragraphs (g)(1) and (2) of this section do not apply to core alterations performed as part of refueling operations while a facility that is capable of online refueling is operating at power.

(h) Facility licensees may take reasonable action that departs from a license condition or a technical specification (contained in a license issued under this part) in an emergency when this action is immediately needed to protect the public health and safety and no action consistent with license conditions and technical specifications that can provide adequate or equivalent protection is immediately apparent. Such facility licensee action must be approved, as a minimum, by a senior operator or a generally licensed reactor operator, as applicable, or, after certifying the permanent cessation of operations and permanent removal of fuel from the reactor vessel as described under § 53.1070 by a certified fuel handler, senior operator, or generally licensed reactor operator, as applicable, prior to taking the action.

§ 53.745 Operator license requirements.

A person must be authorized by a license issued by the Commission to perform the function of an operator, senior operator, or generally licensed reactor operator as defined in this part.

§ 53.760 Operator licensing.

(a) *Applicability.* Sections 53.760 through 53.795 address operator and senior operator licensing requirements. The regulations within these sections are applicable to those applicants for or holders of OLs or COLs under this part for interaction-dependent-mitigation facilities that have not yet certified the permanent cessation of operations and permanent removal of fuel from the reactor vessel as described under § 53.1070.

(b) [Reserved]

§ 53.765 Medical requirements.

(a) An applicant for an operator or senior operator license must have a medical examination by a physician. An operator or senior operator must have a medical examination by a physician every 2 years.

(b) To certify the medical fitness of an applicant for an operator or senior operator license, an authorized representative of the facility licensee must complete and sign NRC Form 396, ''Certification of Medical Examination by Facility Licensee,'' which can be obtained by writing the Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, by calling 301–415–7232, or by visiting the NRC's website at *https://www.nrc.gov* and selecting forms from the index found on the home page, or by other means provided by the NRC.

(1) NRC Form 396 must certify that a physician has conducted the medical examination of the applicant as required in paragraph (a) of this section.

(2) When the medical certification requests a conditional license based on medical evidence, the medical evidence must be submitted on NRC Form 396 to the Commission to enable the Commission to make a determination in accordance with § 53.775(b).

(c) The facility licensee must document and maintain the results of medical qualifications data, test results, and each operator's or senior operator's medical history for the current license period and provide the documentation to the Commission upon request. The facility licensee must retain this documentation while an individual performs the functions of an operator or senior operator.

§ 53.770 Incapacitation because of disability or illness.

If, during the term of the operator or senior operator license, the licensee develops a permanent physical or mental condition that causes the licensee to fail to demonstrate compliance with the requirements of § 53.775(b)(1)(i), the facility licensee must notify the Commission within 30 days of learning of the diagnosis. For conditions for which a conditional license (as described in § 53.775(b)) is requested, the facility licensee must provide medical certification on NRC Form 396 to the Commission (as described in § 53.765(b)).

§ 53.775 Applications for operators and senior operators.

(a) *How to apply.* (1) The applicant for an operator or senior operator license must—

(i) Complete NRC Form 398, ''Personal Qualification Statement—Licensee,'' which can be obtained by writing the Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, by calling 301–415–5877, or by visiting the NRC's website at *https://www.nrc.gov* and selecting forms from the index found on the home page, or by other means provided by the NRC;

(ii) File an original of NRC Form 398, or an equivalent electronic submittal, together with the information required in paragraphs (a)(1)(iii) and (a)(1)(iv) of this section, with the appropriate Regional Administrator.

(iii) Provide evidence that the applicant, as a trainee, has successfully demonstrated competence in manipulating the controls of either the facility for which a license is sought or a simulation facility that demonstrates compliance with the requirements of § 53.780(e). For operators applying for a senior operator license, certification that the operator has successfully operated the controls of the facility as an operator will be accepted; and

(iv) Provide certification by the facility licensee of medical condition and general health on NRC Form 396, to comply with § 53.765.

(2) The Commission may at any time after the application has been filed, and before the license has expired, require further information under oath or affirmation to enable it to determine whether to grant or deny the application or whether to revoke, modify, or suspend the license.

(3) An applicant whose application has been denied because of a medical condition or their general health may submit a further medical report at any time as a supplement to the application.

(4) Each application and statement must contain complete and accurate disclosure as to all matters required to be disclosed. The applicant must sign statements required by paragraphs (a)(1)(i) and (a)(1)(ii) of this section.

(b) *Disposition of an initial application*—(1) *License approval.* The Commission will approve an initial application if it finds that the following criteria are met:

(i) *Health.* The applicant's medical condition and general health will not adversely affect the performance of assigned operator or senior operator job duties or cause operational errors endangering public health and safety. The Commission will base its finding upon the certification by the facility licensee as detailed in § 53.765(b).

(ii) *Examination.* The applicant has passed the requisite examination in accordance with § 53.780(b). The examination determines whether the applicant for an operator's or senior operator's license has learned to operate a facility competently and safely, and additionally, in the case of a senior operator, whether the applicant has learned to supervise the licensed activities of operators competently and safely.

(2) *Conditional license.* If an applicant's general medical condition does not demonstrate compliance with the minimum standards under § 53.775(b)(1)(i), the Commission may approve the application and include conditions in the license to accommodate the medical condition. The Commission will consider the recommendations and supporting evidence of the facility licensee and of the examining physician (provided on NRC Form 396) in arriving at its decision.

(c) *Re-applications.* (1) An applicant whose application for a license has been denied because of failure to pass the examination may file a new application. The application must be submitted on NRC Form 398 and include a statement signed by an authorized representative of the facility licensee by whom the applicant will be employed that states in detail the extent of the applicant's additional training and remediation since the denial and certifies that the applicant is ready for re-examination.

(2) An applicant who has passed a portion of the examination and failed another may request in a new application on NRC Form 398 to be excused from re-examination on the portions of the examination that the applicant has passed. The Commission may in its discretion grant the request if it determines that sufficient justification is presented.

§ 53.780 Training, examination, and proficiency program.

(a) *Operator licensing initial training program.* (1) A program that is based upon a systems approach to training, as defined by § 53.725(b), must be utilized for the training of applicants for operator and senior operator licenses. The program must ensure that applicants at the facility will possess the knowledge, skills, and abilities necessary to protect the public health and maintain those plant safety functions specific to the facility design. The program must be approved by the Commission prior to its use for training applicants, as described under § 53.730(g). The approved operator licensing initial training program is subject to the requirements of § 53.1565.

(2) The facility licensee must maintain operator licensing initial training program records documenting the initial operator licensing training administered and completed by each applicant. The facility licensee must retain these records during the period in which any trainees subsequently remain licensed as operators or senior operators at the facility.

(b) *Operator licensing initial examination program.* (1) The facility licensee must establish and implement an examination program for testing a representative sample of the knowledge, skills, and abilities needed to safely perform operator and senior operator duties, to include both the examination methods and criteria to be used to assess passing performance. The program must provide for valid and reliable examinations and be approved by the Commission prior to its use for examining applicants, as described under § 53.730(g). The approved operator licensing initial examination program is subject to the requirements of § 53.1565.

(2) The facility licensee must submit prepared examinations to the Commission for review and approval in advance of their administration.

(3) The Commission will either administer an approved examination or allow the facility licensee to administer the examination. The facility licensee must ensure that sufficient advance notification is provided to the Commission to either administer the examination or allow for a representative of the Commission to be afforded the opportunity to be present when the facility licensee administers the examination.

(4) Graded examination documentation for each applicant must be provided to the Commission for review in making operator licensing decisions.

(5) The facility licensee must maintain operator licensing initial examination program records documenting the participation of each operator and senior operator applicant in the initial examination. The records must contain copies of examinations administered, the answers given by the applicant, documentation of the grading of examinations, and documentation of any additional training administered in areas in which an applicant exhibited deficiencies. The facility licensee must retain these records during the period in which the associated operators or senior operators remain licensed at the facility.

(c) *Operator licensing requalification program.* (1) A program based upon a systems approach to training, as defined by § 53.725(b), must be utilized for the continuing training of operators and senior operators.

(i) The program must ensure that operators and senior operators at the facility maintain the knowledge, skills, and abilities necessary to protect the public health and maintain those plant safety functions specific to the facility design. The program must be conducted for a continuous period not to exceed 24 months in duration.

(ii) The program must be approved by the Commission prior to its use for continuing training, as described under § 53.730(g). The approved operator licensing requalification program is subject to the requirements of § 53.1565.

(2) The following requirements apply to operator licensing requalification programs:

(i) The facility licensee must propose a requalification examination program for testing, for each requalification period, a sample of the topics included under the systems approach to training, to include both the examination methods and criteria to be used to assess passing performance. The program must provide for valid and reliable examinations and be approved by the Commission prior to its use for examining operators and senior operators, as described under § 53.730(g). The approved requalification examination program is subject to the requirements of § 53.1565.

(ii) The following requirements apply to the requalification examination program:

(A) The facility licensee must make prepared requalification examinations available to the Commission for review.

(B) The facility licensee must ensure that a representative of the Commission is afforded the opportunity to be present during requalification examination administration.

(C) The facility licensee must ensure that each operator and senior operator is administered a complete requalification examination on a periodicity not to exceed 24 months. Additionally, the facility licensee must ensure that any licensed operator or senior licensed operator who either demonstrates unsatisfactory performance on, or fails to complete, this biennial requalification examination is removed from the performance of licensed operator and senior licensed operator duties until any necessary remedial training has been completed and a retake examination has been passed.

(D) The facility licensee must promptly provide a summary of examination results to the NRC for each operator and senior operator following the completion of the requalification examination.

(3) The facility licensee must maintain operator licensing requalification program records documenting the participation of each operator and senior operator in the requalification program. The records must contain copies of examinations administered, the answers given by the operator or senior operator, documentation of the grading of examinations, and documentation of any additional training administered in areas in which an operator or senior operator exhibited deficiencies. The facility licensee must retain these records until the operator's or senior operator's license is renewed.

(d) *Examination integrity.* Applicants, operators and senior operators, and facility licensees must not engage in any activity that compromises the integrity of any application or examination required by §§ 53.760 through 53.795. The integrity of an examination is considered compromised if any activity, regardless of intent, affected, or, but for detection, could have affected the consistent administration of the examination. This includes activities related to the preparation and certification of applications and all activities related to the preparation, administration, and grading of examinations required by §§ 53.760 through 53.795.

(e) *Simulation facilities.* (1) This section addresses the use of a simulation facility for the administration of examinations, for training, or to demonstrate compliance with experience requirements for applicants for operator and senior operator licenses.

(2) Simulation facilities used for training purposes, for demonstrating compliance with experience requirements, or for the conduct of examinations under § 53.780(b) and (c) must demonstrate compliance with the following criteria as they relate to the facility licensee's reference plant:

(i) The simulation facility must be of sufficient scope and fidelity for individuals to acquire and demonstrate the necessary knowledge, skills, and abilities to safely perform operator and senior operator duties.

(ii) The simulation facility must utilize models relating to nuclear, thermal-hydraulic, and other applicable design-specific characteristics that either replicate the most recent fuel load in the reference commercial nuclear plant or, prior to initial fuel load (or, for a fueled manufactured reactor, prior to initiating the removal of the features to prevent criticality required under § 53.620(d)(1)), replicate the intended initial fuel load for the reference commercial nuclear plant, with the exception of those portions of the simulation facility that utilize the reference plant itself.

(iii) Simulation facility fidelity must be demonstrated so that significant control manipulations are completed without procedural exceptions, simulator performance exceptions, or deviation from the approved training scenario sequence.

(3) Facility licensees that maintain a simulation facility that has been approved by the Commission for training purposes, demonstrating compliance with experience requirements, or the conduct of examinations under § 53.780(b) and (c) for the facility licensee's reference plant must:

(i) Conduct performance testing throughout the life of the simulation facility in a manner sufficient to ensure that paragraph (e)(2) of this section is met;

(ii) Retain the results of performance testing for 4 years after the completion of each performance test or until superseded by updated test results;

(iii) Promptly correct modeling and hardware discrepancies and discrepancies identified from scenario validation and from performance testing or provide justification as to why the presence of such discrepancies will not adversely affect simulator performance with respect to the criteria of paragraph (e)(2) of this section;

(iv) Make the results of any uncorrected performance test failures that may exist at the time of the initial license examination or requalification examination available for NRC review, prior to or concurrent with preparations for each initial license examination or requalification examination; and

(v) Maintain the provisions for license application and examination integrity consistent with § 53.780(d).

(4) A simulation facility must demonstrate compliance with the requirements of paragraphs (e)(2) and (e)(3) of this section for the Commission to accept the simulation facility for conducting initial examinations as described in § 53.780(b), requalification training as described in § 53.780(c), or performing control manipulations that affect reactivity to establish eligibility for an operator or senior operator license as described in § 53.775(a).

(f) *Waiver of examination requirement.* On application, the Commission may waive any or all of the requirements for an initial licensing examination if it finds that the applicant has demonstrated the required knowledge, skills, and abilities to safely operate the plant, and is capable of continuing to do so. The Commission may make such a finding based on demonstration of the following:

(1) Recent operating experience at a comparable facility;

(2) Proof of the applicant's past competent and safe performance; and

(3) Proof of the applicant's current qualifications.

(g) *Proficiency.* The facility licensee must develop, implement, and maintain a proficiency program to ensure that operators and senior operators will actively perform the functions of an operator or senior operator, respectively, as needed to maintain proficiency with on-shift duties and familiarity with

plant status. This program must include those steps that will be taken to re-establish proficiency when it cannot be maintained. This program must be approved by the Commission as part of its approval of the OL or COL for the plant. The approved proficiency program is subject to the requirements of § 53.1565.

(h) *Records.* Each record required by this section must be legible throughout the retention period specified by each Commission regulation. The record may be the original, a reproduced copy, or an electronic copy provided that the copy is authenticated by authorized personnel.

§ 53.785 Conditions of operator and senior operator licenses.

Each operator and senior operator license contains and is subject to the following conditions whether stated in the license or not:

(a) Neither the license nor any right under the license may be assigned or otherwise transferred.

(b) The license is limited to the facility or facilities for which it is issued.

(c) The license is limited to those controls of the facility or facilities specified in the license.

(d) The license is subject to, and the licensee must observe, all applicable rules, regulations, and orders of the Commission.

(e) The licensee must maintain or re-establish proficiency in accordance with the facility licensee's Commission-approved proficiency program required under § 53.780(g).

(f) The licensee must be subject to the facility's Commission-approved operator licensing requalification and requalification examination programs required under § 53.780(c).

(g) The licensee must have a biennial medical examination as described by § 53.765.

(h) The licensee must notify the Commission within 30 days about a conviction for a felony.

(i) The licensee must not consume or ingest alcoholic beverages within the protected area of commercial nuclear plants. The licensee must not use, possess, or sell any illegal drugs. The licensee must not perform activities authorized by a license issued under this part while under the influence of alcohol or any prescription, over-the-counter, or illegal substance that could adversely affect his or her ability to safely and competently perform his or her licensed duties. For the purpose of this paragraph (i), with respect to alcoholic beverages and drugs, the term ''under the influence'' means the licensee exceeded, as evidenced by a confirmed test result, the lower of the cutoff levels for drugs or alcohol contained in 10 CFR part 26, or as established by the facility licensee. The term ''under the influence'' also means the licensee could be mentally or physically impaired as a result of substance use including prescription and over-the-counter drugs, as determined under the provisions, policies, and procedures established by the facility licensee for its fitness-for-duty program, in such a manner as to adversely affect his or her ability to safely and competently perform licensed duties.

(j) Each licensee must participate in the drug and alcohol testing programs as required under 10 CFR part 26.

(k) The licensee must comply with any other conditions that the Commission may impose to protect health or to minimize danger to life or property.

§ 53.790 Issuance, modification, and revocation of operator and senior operator licenses.

(a) *Issuance of operator and senior operator licenses.* If the Commission determines that an applicant for an operator license or a senior operator license demonstrates compliance with the requirements of the Atomic Energy Act of 1954, as amended, (the Act) and its regulations, it will issue a license in the form and containing any conditions and limitations it considers appropriate and necessary.

(b) *Modification and revocation of operator and senior operator licenses.* (1) The terms and conditions of all operator and senior operator licenses are subject to amendment, revision, or modification by reason of rules, regulations, or orders issued in accordance with the Act or any amendments thereto.

(2) Any license may be revoked, suspended, or modified, in whole or in part—

(i) For any material false statement in the application or in any statement of fact required under section 182 of the Act;

(ii) Because of conditions revealed by the application or statement of fact or any report, record, inspection, or other means that would warrant the Commission to refuse to grant a license on an original application;

(iii) For willful violation of, or failure to observe, any of the terms and conditions of the Act or the license, or of any rule, regulation, or order of the Commission;

(iv) For any conduct determined by the Commission to be a hazard to safe operation of the facility; or

(v) For the sale, use, or possession of illegal drugs, or refusal to participate in the facility drug and alcohol testing program, or a confirmed positive test for drugs, drug metabolites, or alcohol in violation of the conditions and cutoff levels established by § 53.785(i) or the consumption of alcoholic beverages within the protected area of commercial nuclear plants, or a determination of unfitness for scheduled work as a result of the consumption of alcoholic beverages.

§ 53.795 Expiration and renewal of operator and senior operator licenses.

(a) *Expiration.* (1) Each operator license and senior operator license expires 6 years after the date of issuance, upon termination of employment with the facility licensee, or upon determination by the facility licensee that the licensed individual no longer needs to maintain a license.

(2) If a licensee files an application for renewal or an upgrade of an existing license on NRC Form 398 at least 30 days before the expiration of the existing license, it does not expire until disposition of the application for renewal or for an upgraded license has been finally determined by the Commission. Filing by mail will be deemed to be complete at the time the application is postmarked

(b) *Renewal.* (1) The applicant for renewal of an operator license or senior operator license must—

(i) Complete and sign NRC Form 398 and include the number of the license for which renewal is sought.

(ii) File an original of NRC Form 398 as specified in § 53.775.

(iii) Provide written evidence of the applicant's experience under the existing license and the approximate number of hours that the licensee has operated the facility.

(iv) Provide a statement by an authorized representative of the facility licensee that during the effective term of the current license the applicant has satisfactorily completed the requalification program for the facility for which operator or senior operator license renewal is sought.

(v) Provide evidence that the applicant has discharged the license responsibilities competently and safely. The Commission may accept as evidence of the applicant's having met this requirement a certificate of an authorized representative of the facility licensee or holder of an authorization by which the licensee has been employed.

(vi) Provide certification by the facility licensee of medical condition and general health on NRC Form 396, to comply with § 53.765.

(2) The license will be renewed if the Commission finds that—

(i) The medical condition and the general health of the licensee continue to be such as not to cause operational errors that endanger public health and safety. The Commission will base this finding upon the certification by the facility licensee as described in § 53.765(b).

(ii) The licensee—

(A) Is capable of continuing to competently and safely assume licensed duties;

(B) Has successfully completed a requalification program that has been approved by the Commission as required by § 53.780(c); and

(C) Has passed the requalification examinations as required by § 53.780(c).

(iii) There is a continued need for an operator to operate or for a senior operator to supervise operators at the facility designated in the application.

(iv) The past performance of the licensee has been satisfactory to the Commission. In making its finding, the Commission will include in its evaluation information such as notices of violations or letters of reprimand in the licensee's docket.

§ 53.800 Facility licensees for self-reliant-mitigation facilities.

(a) A commercial nuclear plant is a self-reliant-mitigation facility if the NRC determined as part of its approval of the OL or COL for that plant that its design demonstrates compliance with the criteria in paragraphs (a)(1) though (a)(5) of this section. A self-reliant-mitigation facility is of a class, based upon the similarity of operating and technical characteristics of the plants in the class, such that its licensee must comply with the requirements of §§ 53.800 through 53.820 in lieu of those in §§ 53.760 through 53.795.

(1) The safety performance criteria of §§ 53.210 and 53.220 must be met without reliance upon human action for credited event mitigation.

(2) The results of the probabilistic risk assessment (PRA), other systematic risk evaluations, or a combination thereof required by § 53.450(a) must demonstrate that the evaluation criteria for the events analyzed in accordance with § 53.450 will be met without reliance on human actions to achieve acceptable event mitigation.

(3) The functional requirements analysis and function allocation performed under § 53.730(d) must demonstrate that functions required for safety are not reliant upon credited human action.

(4) The plant response to events analyzed under § 53.450 must rely exclusively on safety features and characteristics that will neither be rendered unavailable by credible human errors of commission or omission nor credibly require manual human operation in response to equipment failures. Compliance with this paragraph (a)(4) may be achieved through the use of SSCs that function through inherent characteristics or that have engineered protections against human failures.

(5) Assessments of credited human actions within the analysis of design-basis accidents (DBAs) and across the range of LBEs other than DBAs do not identify important human actions needed to ensure appropriate defense in depth is provided, as required by § 53.250.

(b) [Reserved]

§ 53.805 Facility licensee requirements related to generally licensed reactor operators.

(a) Licensees for self-reliant-mitigation facilities that have not yet certified the permanent cessation of operations and permanent removal of fuel from the reactor vessel as described under § 53.1070 must demonstrate compliance with the following requirements:

(1) Ensure that, in addition to being qualified to perform those items identified by the facility-specific systems approach to training conducted under § 53.815, generally licensed reactor operators are qualified to safely and competently—

(i) Perform administrative tasks, including compliance with technical specifications, and perform operability determinations;

(ii) Implement maintenance and configuration controls;

(iii) Comply with radioactive release limitations;

(iv) Understand plant operating data, including reactor parameters, and evaluate emergency conditions;

(v) Initiate a reactor shutdown from necessary locations;

(vi) Dispatch and direct operations and maintenance personnel;

(vii) Implement any applicable responsibilities under the facility emergency plan; and

(viii) Make required notifications to local, State, participating Tribal, and Federal authorities.

(2) Develop, implement, and maintain facility technical specifications that provide the necessary administrative controls to ensure the implementation of the requirements in this section.

(3) Develop, implement, and maintain the generally licensed reactor operator training, examination, and proficiency programs required under § 53.815.

(4) Ensure that generally licensed reactor operators are subject to the facility's generally licensed reactor operator training, examination, and proficiency programs required under § 53.815. Ensure that generally licensed reactor operators are subject to and comply with the applicable programmatic requirements for personnel required under 10 CFR parts 26 and 73. An individual that is not in compliance with any of these programs is not qualified to be in a position that may involve the manipulation of the controls of the commercial nuclear plant.

(5) Report annually to the NRC the identity of all generally licensed reactor operators at the commercial nuclear plant, including all additions and deletions since the previous report.

(6) Ensure that the facility design continues to meet the criteria of § 53.800.

(b) [Reserved]

§ 53.810 Generally licensed reactor operators.

(a) A general license to manipulate the controls of a self-reliant-mitigation facility and to direct the licensed activities of generally licensed reactor operators is hereby issued to any individual employed in a position that may involve the manipulation of the controls of that self-reliant-mitigation facility and who observes the restrictions of this section.

(b) A generally licensed reactor operator must comply with the operating procedures and other conditions specified in the license authorizing operation of the facility.

(c) The general license is limited to the facility or facilities at which the operator is employed.

(d) The Commission will suspend the general license on an individual operator basis for violations of any provision of the Act or any rule or regulation issued thereunder whenever the Commission deems such suspension desirable, including—

(1) For willful violation of, or failure to observe, any of the terms and conditions of the Act or the general license, or of any rule, regulation, or order of the Commission;

(2) For any conduct determined by the Commission to be a hazard to safe operation of the facility; or

(3) For the sale, use, or possession of illegal drugs, or refusal to participate in the facility drug and alcohol testing program, or a confirmed positive test for

drugs, drug metabolites, or alcohol in violation of the conditions and cutoff levels established by § 53.810(f) or the consumption of alcoholic beverages within the protected area of commercial nuclear plants, or a determination of unfitness for scheduled work as a result of the consumption of alcoholic beverages.

(e) The Commission may require information from a generally licensed reactor operator to determine whether a general license should be revoked or suspended with respect to that operator.

(f) The generally licensed reactor operator must not consume or ingest alcoholic beverages within the protected area of commercial nuclear plants. The generally licensed reactor operator must not use, possess, or sell any illegal drugs. The generally licensed reactor operator must not perform activities requiring a general license while under the influence of alcohol or any prescription, over-the-counter, or illegal substance that could adversely affect his or her ability to safely and competently perform these activities. For the purpose of this paragraph (f), with respect to alcoholic beverages and drugs, the term ''under the influence'' means the generally licensed reactor operator exceeded, as evidenced by a confirmed test result, the lower of the cutoff levels for drugs or alcohol contained in 10 CFR part 26, or as established by the facility licensee. The term ''under the influence'' also means the generally licensed reactor operator could be mentally or physically impaired as a result of substance use including prescription and over-the-counter drugs, as determined under the provisions, policies, and procedures established by the facility licensee for its fitness-for-duty program, in such a manner as to adversely affect his or her ability to safely and competently perform generally licensed reactor operator duties.

(g) The generally licensed reactor operator must notify the Commission within 30 days about a conviction for a felony.

§ 53.815 Generally licensed reactor operator training, examination, and proficiency programs.

(a) *Applicability.* The requirements of this section apply to each licensee of a self-reliant-mitigation facility that has not yet certified the permanent cessation of operations and permanent removal of fuel from the reactor vessel as described under § 53.1070.

(b) *Requirements.* (1) The facility licensee must develop, implement, and maintain training and examination programs that demonstrate compliance with the requirements of paragraphs (b)(2) through (b)(3) of this section.

(2) The training program must provide for both the initial and continuing training of generally licensed reactor operators and be derived from a systems approach to training as defined in this part.

(3)(i) The training program must incorporate the instructional requirements necessary to provide qualified generally licensed reactor operators to operate and maintain the facility in a safe manner in all modes of operation. The training program must comply with the facility license, including all technical specifications and applicable regulations. The facility licensee must periodically evaluate and revise the training program as appropriate to reflect industry experience and relevant changes, including changes to the facility, procedures, regulations, and quality assurance (QA) requirements. Facility licensee management must periodically review the training program for effectiveness.

(ii) The training program must ensure that generally licensed reactor operators have and maintain the necessary knowledge, skills, and abilities.

(iii) The training program must include the generally licensed reactor operator manipulating the controls of either the facility or a simulation facility that demonstrates compliance with the requirements of § 53.815(e).

(iv) The training program must include an initial examination program for testing a representative sample of the knowledge, skills, and abilities needed to safely perform generally licensed reactor operator duties, to include both the examination methods and criteria to be used to assess passing performance. The facility licensee must provide the opportunity for a representative of the Commission to be present during initial examination administration.

(v) The training program must include a requalification examination program for testing a sample of the topics included under the systems approach to training, to include the examination methods and criteria to be used to assess passing performance. The requalification examination program must specify an appropriate periodicity for administering a complete requalification examination to each generally licensed reactor operator, and the facility licensee must provide the opportunity for a representative of the Commission to be present during requalification examination administration.

(A) The facility licensee must ensure that any generally licensed reactor operator who either demonstrates unsatisfactory performance on, or fails to complete, the requalification examination is removed from the performance of generally licensed reactor operator duties until such time that any necessary remedial training has been completed and a retake examination has been passed.

(B) [Reserved]

(vi) The training program must be approved by the Commission prior to its use, as described under § 53.730(g). The examination program must provide for valid and reliable examinations and must be approved by the Commission prior to their use, as described under § 53.730(g). The approved programs are subject to the requirements of § 53.1565.

(c) *Records.* The following is required regarding the documentation of the generally licensed reactor operator training and examination programs:

(1) Sufficient records must be maintained by the facility licensee to maintain the integrity of the programs and kept available for NRC inspection to verify the adequacy of the programs.

(2) The facility licensee must maintain records documenting the participation of each generally licensed reactor operator in the training and examination programs. The records must contain copies of examinations administered, the answers given by the generally licensed reactor operator, documentation of the grading of examinations, and documentation of any additional training administered in areas in which a generally licensed reactor operator exhibited deficiencies. The facility licensee must retain these records while the associated generally licensed reactor operators remain employed at the facility.

(3) Each record required by this part must be legible throughout the retention period. The record may be the original, a reproduced copy, or an electronic copy provided that the copy is authenticated by authorized personnel.

(d) *Examination integrity.* Generally licensed reactor operators and facility licensees must not engage in any activity that compromises the integrity of any examination conducted under the generally licensed reactor operator training and examination programs. The integrity of an examination is considered compromised if any activity, regardless of intent, affected, or, but for detection, could have affected the consistent administration of the examination. This includes all activities related to the preparation, administration, and grading of examinations.

(e) *Simulation facilities.* (1) Simulation facilities used for training

purposes, for maintaining proficiency, or for the conduct of examinations must demonstrate compliance with the following criteria as they relate to the facility licensee's reference plant:

(i) The simulation facility must be of sufficient scope and fidelity for individuals to acquire and demonstrate the necessary knowledge, skills, and abilities to safely perform generally licensed reactor operator duties.

(ii) The simulation facility must utilize models relating to nuclear, thermal-hydraulic, and other applicable design-specific characteristics that either replicate the most recent fuel load in the reference commercial nuclear plant or, prior to initial fuel load (or, for a fueled manufactured reactor, prior to initiating the removal of the features to prevent criticality required under § 53.620(d)(1)), replicate the intended initial fuel load for the reference commercial nuclear plant, with the exception of those portions of the simulation facility that utilize the reference plant itself.

(iii) Simulator fidelity must be demonstrated so that significant control manipulations are completed without procedural exceptions, simulator performance exceptions, or deviation from the approved training scenario sequence.

(2) Facility licensees that maintain a simulation facility for training purposes, for maintaining proficiency, or for the conduct of examinations must—

(i) Conduct performance testing throughout the life of the simulation facility in a manner sufficient to ensure that paragraph (e)(1) of this section is met;

(ii) Retain the results of performance testing for 4 years after the completion of each performance test or until superseded by updated test results;

(iii) Promptly correct modeling and hardware discrepancies and discrepancies identified from scenario validation and from performance testing or provide justification for why the presence of such discrepancies will not adversely affect the criteria of paragraph (e)(1) of this section;

(iv) Make the results of any uncorrected performance test failures that may exist at the time of an inspection available for NRC review; and

(v) Maintain the provisions for examination integrity consistent with § 53.815(d).

(f) *Waiver of examination requirement.* The facility licensee may waive any or all of the requirements for an examination in accordance with the facility licensee's Commission-approved generally licensed reactor operator training and examination programs.

(g) *Proficiency.* The facility licensee must develop, implement, and maintain a proficiency program to allow generally licensed reactor operators to maintain proficiency regarding position functions and familiarity with plant status. This program must include those steps that will be taken in order to re-establish proficiency when it cannot be maintained.

§ 53.820 Cessation of individual applicability.

The general license ceases to be applicable on an individual basis once a generally licensed reactor operator is no longer being employed in a position that may involve the manipulation of the controls of the self-reliant mitigation facility.

§ 53.830 Training and qualification of commercial nuclear personnel.

(a) This section addresses personnel training requirements. The regulations within this section are applicable to all applicants for or holders of OLs or COLs under this part.

(b) Prior to initial fuel load (or, for a fueled manufactured reactor, prior to initiating the removal of the features to prevent criticality required under § 53.620(d)(1)), each holder of an operating or COL under this part must, with sufficient time to provide trained and qualified personnel to operate the facility, establish, implement, and maintain a training program that demonstrates compliance with the requirements of paragraphs (c) and (d) of this section.

(c) The training program must be derived from a systems approach to training as defined in this part and must provide, at a minimum, for the training and qualification of the following categories of commercial nuclear personnel:

(1) Supervisors (*e.g.,* shift supervisors);

(2) Technicians (*e.g.,* maintenance, chemistry, and radiological); and

(3) Other appropriate operating personnel (*e.g.,* auxiliary operators, certified fuel handlers, and individuals who provide engineering expertise to on-shift operating personnel).

(d) The training program must incorporate the instructional requirements necessary to provide qualified personnel to operate components of a commercial nuclear plant and maintain the facility in a safe manner in all modes of operation. The training program must be developed to be in compliance with the facility license, including all technical specifications and applicable regulations.

(1) The training program must be periodically evaluated and revised as appropriate to reflect industry experience and relevant changes, including changes to the facility, procedures, regulations, and QA requirements. The training program must be periodically reviewed by facility licensee management for effectiveness.

(2) Sufficient records must be maintained by the facility licensee to maintain program integrity and kept available for NRC inspection to verify the adequacy of the training program.

§ 53.845 Programs.

(a) The required plant programs under this part must include but are not necessarily limited to the programs described in the following sections of this subpart. Licensees may combine, separate, and otherwise organize programs and related documents as appropriate for the technologies and organizations associated with the commercial nuclear plant.

(b) In addition to the programs described in the following sections, programs must be provided for each commercial nuclear plant, if necessary, to ensure that the performance of design features and human actions are consistent with the analyses performed under §§ 53.450 and 53.730 and that the plant will demonstrate compliance with the safety criteria defined in §§ 53.210 and 53.220.

§ 53.850 Radiation protection.

(a) Each holder of an OL or COL under this part must develop, implement, and maintain a Radiation Protection Program for operations that is commensurate with the scope and extent of licensed activities under this part and includes measures for limiting and monitoring radioactive plant effluents and limiting and monitoring the dose to individuals working with radioactive materials in accordance with 10 CFR part 20.

(b) Each holder of an OL or COL under this part must develop, implement, and maintain a program for the control of radioactive effluents and for environmental monitoring. The program must be contained in an Offsite Dose Calculations Manual, must be implemented by procedures, and must include remedial actions to be taken whenever the program limits are exceeded. The Offsite Dose Calculations Manual must—

(1) Contain the methodology and parameters used in the calculation of offsite doses resulting from radioactive

gaseous and liquid effluents, in the calculation of gaseous and liquid effluent monitoring alarm and trip setpoints, and in the conduct of the radiological environmental monitoring program; and

(2) Contain the radioactive effluent controls and radiological environmental monitoring activities, and descriptions of the information that should be included in the Annual Radiological Environmental Operating and Radioactive Effluent Release Reports required by § 53.1645.

(c) Each holder of an OL or COL under this part must develop, implement, and maintain a Process Control Program that identifies the administrative and operational controls for solid radioactive waste processing, process parameters, and surveillance requirements sufficient to ensure compliance with the requirements of 10 CFR part 20, 10 CFR part 61, and 10 CFR part 71.

§ 53.855 Emergency preparedness.

(a) Each holder of an OL or COL under this part must have an emergency response plan that must contain information needed to demonstrate compliance with either the requirements in § 50.160 of this chapter or the requirements in appendix E to part 50 and the planning standards of § 50.47(b) of this chapter.

(b) No initial OL, initial COL, or early site permit that includes complete and integrated emergency plans will be issued under this part unless a finding is made by the NRC, in accordance with § 50.47 of this chapter, that there is reasonable assurance that adequate protective measures can and will be taken in the event of a radiological emergency.

§ 53.860 Security programs.

(a) *Physical protection program.* Each holder of an OL or COL under this part must develop, implement, and maintain a physical protection program under the following requirements:

(1) The licensee must implement security requirements for the protection of special nuclear material based on the type, enrichment, and quantity in accordance with 10 CFR part 73, as applicable, and implement security requirements for the protection of Category 1 and Category 2 quantities of radioactive material in accordance with 10 CFR part 37, as applicable; and

(2) The licensee must demonstrate compliance with the provisions set forth in either § 73.55 or § 73.100 of this chapter.

(b) *Fitness-for-duty.* Each holder of an OL or COL under this part must develop, implement, and maintain a fitness-for-duty program under 10 CFR part 26.

(c) *Access authorization.* Each holder of an OL or COL under this part must develop, implement, and maintain an access authorization program under § 73.56 or § 73.120 of this chapter, as applicable.

(d) *Cybersecurity.* Each holder of an OL or COL under this part must develop, implement, and maintain a cybersecurity program under § 73.54 or § 73.110 of this chapter.

(e) *Information security.* Each holder of an OL or COL under this part must develop, implement, and maintain an information protection system under §§ 73.21, 73.22, and 73.23 of this chapter, as applicable.

§ 53.865 Quality assurance.

Each holder of an OL or COL under this part must develop, implement, and maintain a quality assurance program in accordance with appendix B of part 50 of this chapter. A written quality assurance program manual must be developed and used to guide the conduct of the program.

§ 53.870 Integrity assessment programs.

Each holder of an OL or COL under this part must develop, implement, and maintain an integrity assessment program to monitor, evaluate, and manage—

(a) The effects of plant aging on SR and NSRSS SSCs. The program may refer to surveillances, tests, and inspections conducted for specific SSCs in accordance with other requirements in this part or conducted in accordance with applicable consensus codes and standards endorsed or otherwise found acceptable by the NRC;

(b) Cyclic or transient load limits to ensure that SR and NSRSS SSCs are maintained within the applicable design limits; and

(c) Degradation mechanisms related to chemical interactions, operating temperatures, effects of irradiation, and other environmental factors to ensure that the capabilities, availability, and reliability of SR and NSRSS SSCs demonstrate compliance with the functional design criteria of §§ 53.410 and 53.420.

§ 53.875 Fire protection.

(a)(1) Each holder of an OL or COL under this part must have a fire protection plan that describes the overall fire protection program for the facility; identifies the various positions within the licensee's organization that are responsible for the program; states the authorities that are delegated to each of these positions to implement those responsibilities; and outlines the plans for fire protection, fire detection and suppression capability; and limitation of fire damage.

(2) The fire protection plan must also describe specific features necessary to implement the program described in paragraph (a)(1) of this section such as the following: administrative controls and personnel requirements for fire prevention and manual fire suppression activities; automatic and manually operated fire detection and suppression systems; and the means to limit fire damage to SSCs so that the capability to demonstrate compliance with the requirements of § 53.210 is ensured.

(b)(1) Each holder of an OL or COL under this part must develop a performance-based or deterministic fire protection program that demonstrates compliance with the safety criteria outlined in §§ 53.210 and 53.220, related safety functions outlined in § 53.230, and defense in depth as outlined in § 53.250 with specific fire protection measures related to fire prevention, fire detection, and fire suppression.

(2) The fire protection program must comply with the following:

(i) Safety-related and, where appropriate, NSRSS SSCs must be designed, located, and maintained to minimize, consistent with other safety requirements, the probability and effect of fires and explosions.

(ii) Noncombustible and fire-resistant materials must be used wherever practical throughout the facility, particularly in locations with SR and NSRSS SSCs.

(iii) Fire detection and fire suppression systems of appropriate capacity and capability must be provided and designed and maintained to minimize the adverse effects of fires on SR and NSRSS SSCs.

(iv) Fire suppression systems must be designed and maintained to ensure that their rupture or inadvertent operation does not significantly impair the ability of SR and NSRSS SSCs to perform their safety functions to satisfy § 53.230.

§ 53.880 Inservice inspection and inservice testing.

(a) Each holder of an OL or COL under this part must develop, implement, and maintain a program for inservice inspection (ISI) and inservice testing (IST) prior to receiving an OL or COL. The ISI/IST programs must, wherever applicable, be in accordance with generally accepted consensus codes and standards that have been endorsed or otherwise found acceptable by the NRC. The ISI/IST program must

include all inspections and tests required by the codes and standards used in the design and be supplemented by risk insights that identify the most important SSCs to plant safety. The types of testing and inspections and their frequency should be informed by risk insights to maintain the reliability and performance of SSCs consistent with the associated design and analyses activities involving those SSCs. Risk insights must also be used to determine when to conduct the inspections and tests (*e.g.,* full power, shutdown, refueling) to minimize risk to the plant workers and the public. The ISI/IST program must be documented in a written manual and managed by qualified personnel reporting to the director, responsible officer, or designated person.

(b) Prior to plant operation, baseline inspections and testing must be performed using the same techniques as will be used for future inspections and testing. The results of these inspections and testing must be used as benchmarks for evaluating the results of future inspections and testing. Sufficient room and support must be provided to accommodate the personnel, ISI/IST equipment, and shielding necessary to perform the inspections and testing. Acceptance criteria for determining whether corrective action is needed must be developed (or taken from the codes and standards used in the design) for evaluating the results of the inspections and testing. The results of the inspections and testing must be provided to the director, responsible officer, or designated person who is responsible for determining what, if any, corrective action is needed and when it should be taken. The ISI/IST results and corrective actions must be documented and the documentation retained for the life of the plant.

§ 53.910 Procedures and guidelines.

(a) Each holder of an OL or COL under this part must have a program for developing, implementing, and maintaining an integrated set of procedures, guidelines, and related supporting activities to support normal operations and respond to possible unplanned events.

(b) The program required by paragraph (a) of this section must include but is not limited to development, implementation, maintenance, and supporting activities of procedures and guidelines for the following:

(1) Plant operations;

(2) Maintenance activities under § 53.715;

(3) Program requirements under this subpart;

(4) Emergency operating procedures, if developed to address the role of human actions in responding to LBEs;

(5) Accident management guidelines, if developed to address the role of human actions in responding to LBEs;

(6) Procedures for each area in which licensed special nuclear material is handled, used, or stored to protect personnel upon the sounding of a criticality alarm required by § 53.440(m); and

(7) Procedures that describe how the licensee will address the following areas if the licensee is notified of a potential aircraft threat:

(i) Verification of the authenticity of threat notifications;

(ii) Maintenance of continuous communication with threat notification sources;

(iii) Contacting all onsite personnel and applicable offsite response organizations;

(iv) Onsite actions necessary to enhance the capability of the facility to mitigate the consequences of an aircraft impact;

(v) Measures to reduce visual discrimination of the site relative to its surroundings or individual buildings within the protected area;

(vi) Dispersal of equipment and personnel, as well as rapid entry into site protected areas for essential onsite personnel and offsite responders who are necessary to mitigate the event; and

(vii) Recall of site personnel.

Subpart G—Decommissioning Requirements

§ 53.1000 Scope and purpose.

This subpart defines the requirements related to decommissioning for applicants for, or holders of, an operating license (OL) or combined license (COL). The requirements related to maintaining financial assurance for decommissioning are in §§ 53.1010 through 53.1060. The requirements for transitioning from operations to decommissioning and for the release of property and termination of the license are in §§ 53.1070 through 53.1080.

§ 53.1010 Financial assurance for decommissioning.

(a) This section establishes requirements for indicating to the U.S. Nuclear Regulatory Commission (NRC) how an applicant for or holder of an OL or COL under this part will provide reasonable assurance that funds will be available for the decommissioning process. Reasonable assurance consists of a series of steps as provided in paragraph (b) of this section and §§ 53.1020, 53.1030 and 53.1040. Funding for the decommissioning of commercial nuclear plants may also be subject to the regulation of Federal or State government agencies (*e.g.,* Federal Energy Regulatory Commission (FERC) and State Public Utility Commissions) that have jurisdiction over rate regulation. The requirements of this subpart, in particular § 53.1020, are in addition to, and not a substitution for, other requirements, and are not intended to be used by themselves or by other agencies to establish rates.

(b) Each applicant for an OL or COL under this part must prepare a plan and an associated decommissioning report that ensures and documents that adequate funding will be available to decommission the facility. Each holder of an OL or COL must implement and maintain the plan.

(1)(i) Before the Commission issues an OL under this part, the applicant must update the decommissioning report to certify that it has provided financial assurance for decommissioning in the amount proposed in the application and approved by the NRC under § 53.1020.

(ii) No later than 30 days after the Commission issues the notice of intended operation under § 53.1452 for a COL under this part, the licensee must update the decommissioning report to certify that it has provided financial assurance for decommissioning in the amount proposed in the application and approved by the NRC under § 53.1020.

(2) The amount of financial assurance for decommissioning to be provided must be based on a site-specific cost estimate for decommissioning the facility under § 53.1020.

(3) The amount of financial assurance for decommissioning to be provided must be adjusted annually using a rate at least equal to that stated in § 53.1030.

(4) The amount of financial assurance for decommissioning to be provided must be covered by one or more of the methods described in § 53.1040 as acceptable to the NRC. A copy of the financial instrument obtained to satisfy the requirements of § 53.1040 must be submitted to the NRC as part of the application for an OL under this part; however, an applicant for or holder of a COL need not obtain such financial instrument or submit a copy to the Commission except as provided in § 53.1060(b).

§ 53.1020 Cost estimates for decommissioning.

Cost estimates for decommissioning must be site-specific. Site-specific decommissioning cost estimates (DCEs) must account for the engineering, labor,

equipment, transportation, disposal, and related charges needed to support termination of the license. They must include the costs for decontaminating structures, systems, and components and the site environs; removal of contaminated components and materials from the plant and the site environs; disposal of removed components and materials in appropriate facilities; and any other activities supporting the release of the property and termination of the license. They must also address the approach to annual adjustments required by § 53.1030. Finally, site-specific DCEs must include plans for adjusting levels of funds assured for decommissioning to demonstrate that a reasonable level of assurance will be provided that funds will be available when needed to cover the cost of decommissioning.

§ 53.1030 Annual adjustments to cost estimates for decommissioning.

Each holder of an OL or COL under this part must annually adjust the cost estimate for decommissioning to account for escalation in labor, energy, and waste burial costs. Licensees may elect to use either a site-specific adjustment factor, approved as part of the plan and associated decommissioning report required by § 53.1010, in paragraph (a) of this section or the generic adjustment factor in paragraph (b) of this section.

(a) A site-specific adjustment factor must address the estimated contributions and escalation of costs for the following aspects of decommissioning:

(1) Labor, materials, and services;

(2) Energy and waste transportation; and

(3) Radioactive waste burial or other disposition.

(b) A generic adjustment factor must be at least equal to 0.65 L + 0.13 E + 0.22 B, where L and E are escalation factors for labor and energy, respectively, and are to be taken from regional data of U.S. Department of Labor Bureau of Labor Statistics and B is an escalation factor for waste burial and is to be taken from NRC report NUREG–1307, ''Report on Waste Burial Charges.''

§ 53.1040 Methods for providing financial assurance for decommissioning.

Financial assurance for decommissioning is to be provided by the following methods.

(a) *Prepayment.* Prepayment is the deposit made preceding the start of operation or the transfer of a license under § 53.1570 into an account segregated from licensee assets and outside the administrative control of the licensee and its subsidiaries or affiliates of cash or liquid assets such that the amount of funds would be sufficient to pay decommissioning costs. Prepayment may be in the form of a trust, escrow account, or Government fund with payment by certificate of deposit, deposit of government or other securities, or other method acceptable to the NRC. This trust, escrow account, Government fund, or other type of agreement must be established in writing and maintained at all times in the United States with an entity that is an appropriate State or Federal government agency, or an entity whose operations in which the prepayment deposit is managed are regulated and examined by a Federal or State agency. A licensee that has prepaid funds based on a site-specific cost estimate under § 53.1020 may take credit for projected earnings on the prepaid decommissioning trust funds, using up to a 2 percent annual real rate of return through the time of termination of the license. A licensee may use a credit of greater than 2 percent if the licensee's rate-setting authority has specifically authorized a higher rate. Actual earnings on existing funds may be used to calculate future fund needs.

(b) *External sinking fund.* An external sinking fund is a fund established and maintained by setting funds aside periodically in an account segregated from licensee assets and outside the administrative control of the licensee and its subsidiaries or affiliates in which the total amount of funds would be sufficient to pay decommissioning costs. An external sinking fund may be in the form of a trust, escrow account, or Government fund, with payment by certificate of deposit, deposit of government or other securities, or other method acceptable to the NRC. This trust, escrow account, Government fund, or other type of agreement must be established in writing and maintained at all times in the United States with an entity that is an appropriate State or Federal government agency, or an entity whose operations in which the external sinking fund is managed are regulated and examined by a Federal or State agency. A licensee that has collected funds based on a site-specific cost estimate under § 53.1020 may take credit for projected earnings on the external sinking funds using up to a 2 percent annual real rate of return from the time of future funds' collection through the time of termination of the license. A licensee may use a credit of greater than 2 percent if the licensee's rate-setting authority has specifically authorized a higher rate. Actual earnings on existing funds may be used to calculate future fund needs. A licensee whose rates for decommissioning costs cover only a portion of these costs may make use of this method only for the portion of these costs that are collected in one of the manners described in this paragraph (b). This method may be used as the exclusive mechanism relied upon for providing financial assurance for decommissioning in the following circumstances:

(1) By a licensee that recovers, either directly or indirectly, the estimated total cost of decommissioning through rates established by ''cost of service'' or similar ratemaking regulation. Public utility districts, municipalities, rural electric cooperatives, and State and Federal agencies, including associations of any of the foregoing, that establish their own rates and are able to recover their cost of service allocable to decommissioning, are deemed to satisfy this condition.

(2) By a licensee whose source of revenues for its external sinking fund is a ''non-bypassable charge,'' the total amount of which will provide funds estimated to be needed for decommissioning pursuant to § 53.1020, § 53.1060, or § 53.1575.

(c) *A surety method, insurance, or other guarantee method.* (1) These methods guarantee that decommissioning costs will be paid. A surety method may be in the form of a surety bond, or letter of credit. Any surety method or insurance used to provide financial assurance for decommissioning must contain the following conditions:

(i) The surety method or insurance must be open-ended, or, if written for a specified term, such as 5 years, must be renewed automatically, unless 90 days or more prior to the renewal day the issuer notifies the NRC, the beneficiary, and the licensee of its intention not to renew. The surety or insurance must also provide that the full-face amount be paid to the beneficiary automatically prior to the expiration without proof of forfeiture if the licensee fails to provide a replacement acceptable to the NRC within 30 days after receipt of notification of cancellation.

(ii) The surety or insurance must be payable to a trust established for decommissioning costs. The trustee and trust must be acceptable to the NRC. An acceptable trustee includes an appropriate State or Federal government agency or an entity that has the authority to act as a trustee and whose trust operations are regulated and examined by a Federal or State agency.

(2) A parent company guarantee of funds for decommissioning costs based on a financial test may be used if the guarantee and test are as contained in appendix A to 10 CFR part 30.

(3) For commercial companies that issue bonds, a guarantee of funds by the applicant or licensee for decommissioning costs based on a financial test may be used if the guarantee and test are as contained in appendix C to 10 CFR part 30. For commercial companies that do not issue bonds, a guarantee of funds by the applicant or licensee for decommissioning costs may be used if the guarantee and test are as contained in appendix D to 10 CFR part 30. A guarantee by the applicant or licensee may not be used in any situation in which the applicant or licensee has a parent company holding majority control of voting stock of the company.

(d) *Funding method for Federal licensees.* For a Federal licensee, a statement of intent containing a cost estimate for decommissioning and indicating that funds for decommissioning will be obtained when necessary.

(e) *Contractual funding method.* Contractual obligation(s) on the part of a licensee's customer(s), the total amount of which over the duration of the contract(s) will provide the licensee's total share of uncollected funds estimated to be needed for decommissioning pursuant to § 53.1020, § 53.1060, or § 53.1575. To be acceptable to the NRC as a method of decommissioning funding assurance, the terms of the contract(s) must include provisions that the buyer(s) of electricity or other products will pay for the decommissioning obligations specified in the contract(s), notwithstanding the operational status either of the licensed plant to which the contract(s) pertains or force majeure provisions. All proceeds from the contract(s) for decommissioning funding will be deposited to the external sinking fund. The NRC reserves the right to evaluate the terms of any contract(s) and the financial qualifications of the contracting entity or entities offered as assurance for decommissioning funding.

(f) *Other funding mechanisms.* Any other mechanism, or combination of mechanisms, that provides, as determined by the NRC upon its evaluation of the specific circumstances of each licensee submittal, assurance of decommissioning funding equivalent to that provided by the mechanisms specified in paragraphs (a) through (e) of this section. Licensees who do not have sources of funding described in paragraph (b) of this section may use an external sinking fund in combination with a guarantee mechanism, as specified in paragraph (c) of this section, provided that the total amount of funds estimated to be necessary for decommissioning is assured.

§ 53.1045 Limitations on the use of decommissioning trust funds.

(a)(1) Decommissioning trust funds may be used by licensees if—

(i) The withdrawals are for expenses for decommissioning activities consistent with the definition of decommission or decommissioning in § 53.020;

(ii) The expenditure would not reduce the value of the decommissioning trust below an amount necessary to place and maintain the reactor in a safe storage condition if unforeseen conditions or expenses arise; and

(iii) The withdrawals would not inhibit the ability of the licensee to complete funding of any shortfalls in the decommissioning trust needed to ensure the availability of funds to ultimately release the site and terminate the license.

(2) Initially, 3 percent of the amount determined in accordance with § 53.1020 may be used for decommissioning planning. For licensees that have submitted the certifications required under § 53.1070 and commencing 90 days after the NRC has received the post-shutdown decommissioning activities report (PSDAR) required by § 53.1060, an additional 20 percent may be used. An updated site-specific DCE must be submitted to the NRC prior to the licensee using any funding in excess of these amounts.

(b) Licensees that are not ''electric utilities'' as defined in § 53.020 that use prepayment or an external sinking fund to provide financial assurance must provide in the terms of the arrangements governing the trust, escrow account, or Government fund, used to segregate and manage the funds that—

(1) The trustee, manager, investment advisor, or other person directing investment of the funds—

(i) Is prohibited from investing the funds in securities or other obligations of the licensee or any other owner or operator of any commercial nuclear plant or their affiliates, subsidiaries, successors or assigns, or in a mutual fund in which at least 50 percent of the fund is invested in the securities of a licensee or parent company whose subsidiary is an owner or operator of a foreign or domestic commercial nuclear plant. However, the funds may be invested in securities tied to market indices or other non-nuclear sector collective, commingled, or mutual funds, provided that no more than 10 percent of trust assets may be indirectly invested in securities of any entity owning or operating one or more commercial nuclear plants.

(ii) Is obligated at all times to adhere to a standard of care set forth in the trust, which either shall be the standard of care, whether in investing or otherwise, required by State or Federal law or one or more State or Federal regulatory agencies with jurisdiction over the trust funds, or, in the absence of any such standard of care, whether in investing or otherwise, that a prudent investor would use in the same circumstances. The term ''prudent investor,'' shall have the same meaning as set forth in FERC's ''Regulations Governing Nuclear Plant Decommissioning Trust Funds'' at 18 CFR 35.32(a)(3), or any successor regulation.

(2) The licensee, its affiliates, and its subsidiaries are prohibited from being engaged as investment manager for the funds or from giving day-to-day management direction of the funds' investments or direction on individual investments by the funds, except in the case of passive fund management of trust funds where management is limited to investments tracking market indices.

(3) The trust, escrow account, Government fund, or other account used to segregate and manage the funds may not be amended in any material respect without written notification to the Director, Office of Nuclear Reactor Regulation, or Director, Office of Nuclear Material Safety and Safeguards, as applicable, at least 30 working days before the proposed effective date of the amendment. The licensee must provide the text of the proposed amendment and a statement of the reason for the proposed amendment. The trust, escrow account, Government fund, or other account may not be amended if the person responsible for managing the trust, escrow account, Government fund, or other account receives written notice of objection from the Director, Office of Nuclear Reactor Regulation, or Director, Office of Nuclear Material Safety and Safeguards, as applicable, within the notice period.

(4) Except for withdrawals being made under paragraph (a) of this section or for payments of ordinary administrative costs (including taxes) and other incidental expenses of the fund (including legal, accounting, actuarial, and trustee expenses) in connection with the operation of the fund, no disbursement or payment may be made from the trust, escrow account,

Government fund, or other account used to segregate and manage the funds until written notice of the intention to make a disbursement or payment has been given to the Director, Office of Nuclear Reactor Regulation, or Director, Office of Nuclear Material Safety and Safeguards, as applicable, at least 30 working days before the date of the intended disbursement or payment. The disbursement or payment from the trust, escrow account, Government fund or other account may be made following the 30 working day notice period if the person responsible for managing the trust, escrow account, Government fund, or other account does not receive written notice of objection from the Director, Office of Nuclear Reactor Regulation, or Director, Office of Nuclear Material Safety and Safeguards, as applicable, within the notice period. Disbursements or payments from the trust, escrow account, Government fund, or other account used to segregate and manage the funds, other than for payment of ordinary administrative costs (including taxes) and other incidental expenses of the fund (including legal, accounting, actuarial, and trustee expenses) in connection with the operation of the fund, are restricted to decommissioning expenses or transfer to another financial assurance method acceptable under § 53.1040 until final decommissioning has been completed. After decommissioning has begun and withdrawals from the decommissioning fund are made under paragraph (a) of this section, no further notification need be made to the NRC.

(c) Licensees that are ''electric utilities'' under § 53.020 that use prepayment or an external sinking fund to provide financial assurance must include a provision in the terms of the trust, escrow account, Government fund, or other account used to segregate and manage funds that except for withdrawals being made under paragraph (a) of this section or for payments of ordinary administrative costs (including taxes) and other incidental expenses of the fund (including legal, accounting, actuarial, and trustee expenses) in connection with the operation of the fund, no disbursement or payment may be made from the trust, escrow account, Government fund, or other account used to segregate and manage the funds until written notice of the intention to make a disbursement or payment has been given the Director, Office of Nuclear Reactor Regulation, or Director, Office of Nuclear Material Safety and Safeguards, as applicable, at least 30 working days before the date of the intended disbursement or payment. The disbursement or payment from the trust, escrow account, Government fund or other account may be made following the 30 working day notice period if the person responsible for managing the trust, escrow account, Government fund, or other account does not receive written notice of objection from the Director, Office of Nuclear Reactor Regulation, or Director, Office of Nuclear Material Safety and Safeguards, as applicable, within the notice period. Disbursements or payments from the trust, escrow account, Government fund, or other account used to segregate and manage the funds, other than for payment of ordinary administrative costs (including taxes) and other incidental expenses of the fund (including legal, accounting, actuarial, and trustee expenses) in connection with the operation of the fund, are restricted to decommissioning expenses or transfer to another financial assurance method acceptable under § 53.1040 until final decommissioning has been completed. After decommissioning has begun and withdrawals from the decommissioning fund are made under paragraph (a) of this section, no further notification need be made to the NRC.

(d) A licensee that is not an ''electric utility'' under § 53.020 and using a surety method, insurance, or other guarantee method to provide financial assurance must provide that the trust established for decommissioning costs to which the surety or insurance is payable contains in its terms the requirements in § 53.1045(b)(1) through (b)(4).

§ 53.1050 NRC oversight.

The NRC reserves the right to take the following steps in order to ensure a licensee's adequate accumulation of decommissioning funds: review, as needed, the rate of accumulation of decommissioning funds and, either independently or in cooperation with FERC and the licensee's State Public Utility Commission, take additional actions as appropriate on a case-by-case basis, including modification of a licensee's schedule for the accumulation of decommissioning funds.

§ 53.1060 Reporting and recordkeeping requirements.

(a) Each holder of an OL under this part or holder of a COL under this part after the date that the Commission has made the finding under § 53.1452(g) must report, at least once every 2 years, by March 31, on the status of its certification of decommissioning funding for each commercial nuclear reactor or part of a commercial nuclear reactor that it owns. The information in this report must include, at a minimum, the amount of decommissioning funds estimated to be required under §§ 53.1020 and 53.1030; the amount of decommissioning funds accumulated to the end of the calendar year preceding the date of the report; a schedule of the annual amounts remaining to be collected; the assumptions used regarding rates of escalation in decommissioning costs, rates of earnings on decommissioning funds, and rates of other factors used in funding projections; any contracts upon which the licensee is relying under § 53.1040(e); any modifications occurring to a licensee's method of providing financial assurance since the last submitted report; and any material changes to trust agreements. If any of the preceding items is not applicable, the licensee should so state in its report. Any licensee for a plant that is within 5 years of the projected end of its operation, or where conditions have changed such that it will close within 5 years (before the end of its licensed life), or that has already closed (before the end of its licensed life), or that is involved in a merger or an acquisition must submit this report annually.

(b) Each holder of a COL under this part must, 2 years before and 1 year before the scheduled date for initial loading of fuel (or, for a fueled manufactured reactor, 2 years before and 1 year before the scheduled date for initiating the removal of the features to prevent criticality required under § 53.620(d)(1)) submit a report to the NRC containing a certification updating the DCEs and a copy of the financial instrument to be used to satisfy § 53.1040. No later than 30 days after the Commission publishes notice in the **Federal Register** under § 53.1452(a), the licensee must submit an updated decommissioning report required under § 53.1010(b)(1)(ii), including a copy of the financial instrument obtained to satisfy § 53.1040.

(c) Each licensee must keep records of information important to the safe and effective decommissioning of the facility in an identified location until the license is terminated by the Commission. If records of relevant information are kept for other purposes, reference to these records and their locations may be used. Information the Commission considers important to decommissioning consists of—

(1) Records of spills or other unusual occurrences involving the spread of contamination in and around the facility, equipment, or site. These

records may be limited to instances when significant contamination remains after any cleanup procedures or when there is reasonable likelihood that contaminants may have spread to inaccessible areas as in the case of possible seepage into porous materials such as concrete. These records must include any known information on identification of involved nuclides, quantities, forms, and concentrations.

(2) As-built drawings and modifications of structures and equipment in restricted areas where radioactive materials are used and/or stored and of locations of possible inaccessible contamination such as buried pipes that may be subject to contamination. If required drawings are referenced, each relevant document need not be indexed individually. If drawings are not available, the licensee must substitute appropriate records of available information concerning these areas and locations.

(3) Records of the cost estimate performed for the decommissioning funding plan or of the amount certified for decommissioning, and records of the funding method used for assuring funds if either a funding plan or certification is used.

(4) Records of—

(i) The licensed site area, as originally licensed and any revisions, which must include a site map and any acquisition or use of property outside the originally licensed site area for the purpose of receiving, possessing, or using licensed materials;

(ii) The licensed activities carried out on the acquired or used property; and

(iii) The release and final disposition of any property recorded in paragraph (c)(4)(i) of this section, the historical site assessment performed for the release, radiation surveys performed to support release of the property, submittals to the NRC made under § 53.1070, and the methods employed to ensure that the property met the radiological criteria of subpart E of 10 CFR part 20 at the time the property was released.

(d) Each holder of an OL or COL under this part must at or about 5 years prior to the projected end of operations submit a preliminary DCE which includes an up-to-date assessment of the major factors that could affect the cost to decommission.

(e) Prior to or within 2 years following permanent cessation of operations, the licensee must submit a PSDAR to the NRC, and a copy to the affected State(s). The PSDAR must contain a description of the planned decommissioning activities along with a schedule for their accomplishment, a discussion that provides the reasons for concluding that the environmental impacts associated with site-specific decommissioning activities will be bounded by appropriate previously issued environmental impact statements, and a site-specific DCE, including the projected cost of managing irradiated fuel.

(f) For decommissioning activities that delay completion of decommissioning by including a period of storage or surveillance, the licensee must provide a means of adjusting cost estimates and associated funding levels over the storage or surveillance period.

(g) After submitting its site-specific DCE required by paragraph (e) of this section, and until the licensee has completed its final radiation survey and demonstrated that residual radioactivity has been reduced to a level that permits termination of its license, the licensee must annually submit to the NRC, by March 31, a financial assurance status report. The report must include the following information, current through the end of the previous calendar year:

(1) The amount spent on decommissioning, both cumulative and over the previous calendar year, the remaining balance of any decommissioning funds, and the amount provided by other financial assurance methods being relied upon;

(2) An estimate of the costs to complete decommissioning, reflecting any difference between actual and estimated costs for work performed during the year, and the decommissioning criteria upon which the estimate is based;

(3) Any modifications occurring to a licensee's current method of providing financial assurance since the last submitted report; and

(4) Any material changes to trust agreements or financial assurance contracts.

(5) If the sum of the balance of any remaining decommissioning funds, plus earnings on such funds calculated at not greater than a 2 percent real rate of return, together with the amount provided by other financial assurance methods being relied upon, does not cover the estimated cost to complete the decommissioning, the financial assurance status report must include additional financial assurance to cover the estimated cost of completion.

(h) After submitting its site-specific DCE required by paragraph (e) of this section, the licensee must annually submit to the NRC, by March 31, a report on the status of its funding for managing irradiated fuel. The report must include the following information, current through the end of the previous calendar year:

(1) The amount of funds accumulated to cover the cost of managing the irradiated fuel;

(2) The projected cost of managing irradiated fuel until title to the fuel and possession of the fuel is transferred to the Secretary of Energy; and

(3) If the funds accumulated do not cover the projected cost, a plan to obtain additional funds to cover the cost.

§ 53.1070 Termination of license.

For each holder of an OL or COL under this part—

(a)(1) When the licensee has determined to permanently cease operations the licensee must, within 30 days, submit a written certification to the NRC, consistent with the requirements of § 53.040(b)(8);

(2) When appropriate to support decommissioning activities and the eventual permanent removal of fuel from the reactor vessel, the licensee must develop defueled technical specifications by reviewing the operational technical specifications and determining which specifications no longer apply during decommissioning and which ones should remain applicable. The licensee must make the appropriate submittals to the NRC in accordance with § 53.1510 to request changes to the technical specifications; and

(3)(i) Once fuel has been permanently removed from the reactor vessel, the licensee must submit a written certification to the NRC that meets the requirements of § 53.040(b)(9); and

(ii) The licensee must establish and maintain staffing consisting of certified fuel handlers, as defined under § 53.020, and other non-licensed personnel with appropriate qualifications, and in sufficient numbers, to ensure support for facility operations and radiological control activities, as required by the facility defueled technical specifications. These personnel must be subject to the training requirements of § 53.830.

(b) Upon docketing of the certifications for permanent cessation of operations and permanent removal of fuel from the reactor vessel, or when a final legally effective order to permanently cease operations has come into effect, the license issued under this part no longer authorizes operation of the reactor or emplacement or retention of fuel into the reactor vessel.

(c) Decommissioning will be completed within 60 years of permanent cessation of operations. Completion of decommissioning beyond 60 years will be approved by the Commission only when necessary to protect public health and safety. Factors that will be

considered by the Commission in evaluating an alternative that provides for completion of decommissioning beyond 60 years of permanent cessation of operations include unavailability of waste disposal capacity and other site-specific factors affecting the licensee's capability to carry out decommissioning, including presence of other nuclear facilities at the site.

(d)(1) Prior to or within 2 years following permanent cessation of operations, the licensee must submit a PSDAR and site-specific DCE in accordance with § 53.1060(e).

(2) The NRC must notice receipt of the PSDAR and make the PSDAR publicly available and publish notice of its availability for public comment in the **Federal Register**. The NRC must also schedule a public meeting readily accessible to individuals in the vicinity of the licensee's facility. The NRC must publish a notice in the **Federal Register** and in a forum, such as local newspapers, that is readily accessible to individuals in the vicinity of the site, announcing the date, time, and location of the meeting, along with a brief description of the purpose of the meeting.

(e) Licensees must not perform any major decommissioning activities, as defined in § 53.020, until 90 days after the NRC has received the licensee's PSDAR submittal and until certifications of permanent cessation of operations and permanent removal of fuel from the reactor vessel, as required under paragraph (a) of this section, have been submitted.

(f) Licensees must not perform any decommissioning activities, as defined in § 53.020, that—

(1) Foreclose release of the site for possible unrestricted use;

(2) Result in significant environmental impacts not previously reviewed; or

(3) Result in there no longer being reasonable assurance that adequate funds will be available for decommissioning.

(g) In taking actions permitted under § 53.1540 following submittal of the PSDAR, the licensee must notify the NRC in writing, and send a copy to the affected State(s), before performing any decommissioning activity inconsistent with, or making any significant schedule change from, those actions and schedules described in the PSDAR, including changes that increase the decommissioning cost by more than 20 percent from the previously provided DCE.

(h) Licensees may use decommissioning trust funds consistent with the limitations of § 53.1045(a). Licensees must report on the status of decommissioning trust funds consistent with the requirements of § 53.1060.

(i) Licensees must submit an application for termination of license in accordance with § 53.1070. The application for termination of license must be accompanied or preceded by a license termination plan to be submitted for NRC approval.

(1) The license termination plan must be a supplement to the Final Safety Analysis Report or equivalent and must be submitted at least 2 years before termination of the license date.

(2) The license termination plan must include—

(i) A site characterization;

(ii) Identification of remaining dismantlement activities;

(iii) Plans for site remediation;

(iv) Detailed plans for the final radiation survey;

(v) A description of the end use of the site, if restricted;

(vi) An updated site-specific estimate of remaining decommissioning costs;

(vii) A supplement to the environmental report, pursuant to § 51.53 of this chapter, describing any new information or significant environmental change associated with the licensee's proposed termination activities; and

(viii) Identification of parts, if any, of the facility or site that were released for use before approval of the license termination plan.

(3) Following receipt of the license termination plan, the NRC must make the license termination plan publicly available and publish notice of its availability for public comment in the **Federal Register**. The NRC must also schedule a public meeting readily accessible to individuals in the vicinity of the licensee's facility upon receipt of the license termination plan. The NRC must publish a notice in the **Federal Register** and in a forum, such as local newspapers, that is readily accessible to individuals in the vicinity of the site, announcing the date, time, and location of the meeting, along with a brief description of the purpose of the meeting.

(j) If the license termination plan demonstrates that the remainder of decommissioning activities will be performed in accordance with the regulations in this chapter, will not be inimical to the common defense and security or to the health and safety of the public, and will not have a significant effect on the quality of the environment and after notice to interested persons, the Commission will approve the plan, by license amendment, subject to such conditions and limitations as it deems appropriate and necessary and authorize implementation of the license termination plan.

(k) The Commission will terminate the license if it determines that—

(1) The remaining dismantlement has been performed in accordance with the approved license termination plan; and

(2) The final radiation survey and associated documentation, including an assessment of dose contributions associated with parts released for use before approval of the license termination plan, demonstrate that the facility and site have met the criteria for decommissioning in subpart E of 10 CFR part 20.

§ 53.1075 Program requirements during decommissioning.

(a) Licensees that have submitted the certifications required under § 53.1070 must maintain a decommissioning fire protection program to address the potential for fires that could cause the release or spread of radioactive materials.

(1) The objectives of the decommissioning fire protection program are to

(i) Reasonably prevent these fires from occurring;

(ii) Rapidly detect, control, and extinguish those fires that do occur and that could result in a radiological hazard; and

(iii) Ensure that the risk of fire-induced radiological hazards to the public, environment, and plant personnel is minimized.

(2) The licensee must assess the decommissioning fire protection program on a regular basis. The licensee must revise the decommissioning fire protection program documentation as appropriate throughout the various stages of facility decommissioning.

(3) The licensee may make changes to the decommissioning fire protection program without NRC approval if these changes do not reduce the effectiveness of fire protection for structures, systems, and components that could result in a radiological hazard, taking into account the decommissioning plant conditions and activities.

(b) [Reserved]

§ 53.1080 Release of part of a commercial nuclear plant or site for unrestricted use.

(a) Prior written NRC approval is required to release part of a commercial nuclear plant or site for unrestricted use at any time before receiving approval of a license termination plan. Section 53.1060 specifies recordkeeping requirements associated with partial release. Holders of an OL or COL under

this part seeking NRC review and approval must—

(1) Evaluate the effect of releasing the property to ensure that—

(i) The dose to individual members of the public does not exceed the limits and standards of subpart D of 10 CFR part 20;

(ii) There is no reduction in the effectiveness of emergency planning or physical security;

(iii) Effluent releases remain within license conditions;

(iv) The environmental monitoring program and offsite dose calculation manual are revised to account for the changes;

(v) The siting criteria of subpart D of this part continue to be met; and

(vi) All other applicable statutory and regulatory requirements continue to be met.

(2) Perform a historical site assessment of the part of the commercial nuclear plant or site to be released; and

(3) Perform surveys adequate to demonstrate compliance with the radiological criteria for unrestricted use specified in § 20.1402 of this chapter for impacted areas.

(b) For release of non-impacted areas, the licensee may submit a written request for NRC review and approval of the release if a license amendment is not otherwise required. The request submittal must include—

(1) The results of the evaluations performed in accordance with paragraphs (a)(1) and (a)(2) of this section;

(2) A description of the part of the commercial nuclear plant or site to be released;

(3) The schedule for release of the property;

(4) The results of the evaluations performed in accordance with § 53.1540; and

(5) A discussion that provides the reasons for concluding that the environmental impacts associated with the licensee's proposed release of the property will be bounded by appropriate previously issued environmental impact statements.

(c) After receiving a request from the licensee for NRC approval of the release of a non-impacted area, the NRC must—

(1) Determine whether the licensee has adequately evaluated the effect of releasing the property as required by paragraph (a)(1) of this section;

(2) Determine whether the licensee's classification of any release areas as non-impacted is adequately justified; and

(3) If determining that the licensee's submittal is adequate, inform the licensee in writing that the release is approved.

(d) For release of impacted areas, the licensee must submit an application for amendment of its license for the release of the property. The application must include—

(1) The information specified in paragraphs (b)(1) through (b)(3) of this section;

(2) The methods used for and results obtained from the radiation surveys required to demonstrate compliance with the radiological criteria for unrestricted use specified in § 20.1402; and

(3) A supplement to the environmental report, under § 51.53 of this chapter.

(e) After receiving a license amendment application from the licensee for the release of an impacted area, the NRC must—

(1) Determine whether the licensee has adequately evaluated the effect of releasing the property as required by paragraph (a)(1) of this section;

(2) Determine whether the licensee's classification of any release areas as non-impacted is adequately justified;

(3) Determine whether the licensee's radiation survey for an impacted area is adequate; and

(4) If determining that the licensee's submittal is adequate, approve the licensee's amendment application.

(f) The NRC must publish notice receipt of the release approval request or license amendment application in the **Federal Register** and make the approval request or license amendment application available for public comment. Before acting on an approval request or license amendment application submitted in accordance with this section, the NRC must conduct a public meeting readily accessible to individuals in the vicinity of the licensee's facility for the purpose of obtaining public comments on the proposed release of part of the commercial nuclear plant or site. The NRC must publish a document in the **Federal Register** and in a forum, such as local newspapers, which is readily accessible to individuals in the vicinity of the site, announcing the date, time, and location of the meeting, along with a brief description of the purpose of the meeting.

Subpart H—Licenses, Certifications, and Approvals

§ 53.1100 Filing of application for licenses, certifications, or approvals; oath or affirmation.

(a) *Serving of applications.* (1) Each filing of an application for a standard design approval, standard design certification, or license under this part, and any amendments to the applications, must be submitted to the U.S. Nuclear Regulatory Commission (NRC) under § 53.040, as applicable.

(i) Any person, except one excluded by § 53.1118, may file an application for a manufacturing license (ML), combined license (COL), construction permit (CP), or operating license (OL) under this part with the Director, Office of Nuclear Reactor Regulation.

(ii) Any person who may apply for a CP or for a COL under this part, may file an application for an early site permit (ESP) with the Director, Office of Nuclear Reactor Regulation. An application for an early site permit may be filed notwithstanding the fact that an application for a CP or a COL has not been filed in connection with the site for which a permit is sought.

(iii) Any person may submit a proposed standard design for a commercial nuclear plant to the NRC for its review. The submittal may consist of either the final design for the entire facility or the final design for major portions thereof.

(iv) An application for design certification may be filed notwithstanding the fact that an application for a CP, COL, or ML for such a facility has not been filed. The application must comply with §§ 2.811 through 2.819 of this chapter.

(2) Each applicant for a construction permit (CP), early site permit, combined license (COL), or manufacturing license (ML) under this part must, upon notification by the presiding officer designated to conduct the public hearing required by the Atomic Energy Act of 1954, as amended, (the Act) update the application and serve the updated copies of the application or parts of it, eliminating all superseded information, together with an index of the updated application, as directed by the presiding officer. Any subsequent amendment to the application must be served on those served copies of the application and must be submitted to the NRC as specified in § 53.040, as applicable.

(3) The applicant must make a copy of the updated application available at the public hearing for the use of any other parties to the proceeding and must certify that the updated copies of the application contain the current contents of the application submitted in accordance with the requirements under this part.

(4) At the time of filing an application, the Commission will make available at the NRC website, *https://www.nrc.gov,* a copy of the application, subsequent amendments, and other records pertinent to the matter that is

the subject of the application for public inspection and copying.

(5) The serving of copies required by this section must not occur until the application has been docketed under § 2.101(a) of this chapter. Copies must be submitted to the Commission, as specified in § 53.040, as applicable, to enable the Director, Office of Nuclear Reactor Regulation to determine whether the application is sufficiently complete to permit docketing.

(b) *Oath or affirmation.* Each application for a standard design approval, standard design certification, or license, including, whenever appropriate, a CP or early site permit, or amendment of it, and each amendment of each application must be executed in a signed original by the applicant or duly authorized officer thereof under oath or affirmation.

(c)–(d) [Reserved]

(e) *Filing fees.* Each application for a standard design approval, standard design certification, or commercial nuclear plant license under this part, including, whenever appropriate, a CP, COL, operating license (OL), ML, or early site permit, other than a license exempted from 10 CFR part 170, must be accompanied by the fee prescribed in 10 CFR part 170. No fee will be required to accompany an application for renewal, amendment, or termination of a CP, OL, COL, or ML, except as provided in § 170.21 of this chapter.

(f) *Environmental report.* An application for a CP, OL, early site permit, design certification, COL, or ML for a commercial nuclear plant must be accompanied by an environmental report required under 10 CFR part 51.

§ 53.1101 Requirement for license.

Except as provided in § 53.1120, no person within the United States may transfer or receive in interstate commerce, manufacture, produce, transfer, acquire, possess, or use any utilization facility except as authorized by a license issued by the Commission.

§ 53.1103 Combining applications and licenses.

(a) An applicant may combine several applications in one application for different kinds of licenses under the regulations in this chapter.

(b) The Commission may combine in a single license the activities of an applicant which would otherwise be licensed separately.

§ 53.1106 Elimination of repetition.

An applicant may incorporate by reference in its application information contained in previous applications, statements, or reports filed with the Commission, provided, however, that such references are clear and specific.

§ 53.1109 Contents of applications; general information.

Each application must include, unless otherwise indicated in this subpart—

(a) Name of applicant;

(b) Address of applicant;

(c) Description of business or occupation of applicant;

(d)(1) If applicant is an individual, the citizenship of applicant;

(2) If applicant is a partnership, the name, citizenship and address of each partner and the principal location where the partnership does business;

(3) If applicant is a corporation or an unincorporated association, the following information:

(i) The State where it is incorporated or organized and the principal location where it does business;

(ii) The names, addresses and citizenship of its directors and of its principal officers; and

(iii) Whether it is owned, controlled, or dominated by an alien, a foreign corporation, or foreign government, and if so, give details; or

(4) If the applicant is acting as agent or representative of another person in filing the application, identify the principal and furnish information required under this paragraph (d) with respect to such principal;

(e) The class and type of license applied for, the use to which the facility will be put, the period of time for which the license is sought, and a list of other licenses, except operator's licenses, issued or applied for in connection with the proposed facility;

(f) [Reserved]

(g)(1) Except as provided in paragraph (g)(2) of this section, if the application is for an OL or COL for a commercial nuclear plant, or if the application is for an early site permit for a commercial nuclear plant and contains plans for coping with emergencies under § 53.1146(b)(2)(ii), the applicant must submit the radiological emergency response plans of State, local, and participating Tribal governmental entities in the United States that are wholly or partially within the plume exposure pathway emergency planning zone (EPZ),[1] and the plans of State governments wholly or partially within the ingestion pathway EPZ.[2] If the application is for an early site permit that, under § 53.1146(b)(2)(i), proposes major features of the emergency plans describing the EPZs, then the descriptions of the EPZs must meet the requirements of this paragraph (g)(1). Generally, the plume exposure pathway EPZ for a commercial nuclear plant must consist of an area about 10 miles (16 km) in radius and the ingestion pathway EPZ must consist of an area about 50 miles (80 km) in radius. The exact size and configuration of the EPZs surrounding a particular commercial nuclear plant must be determined in relation to the local emergency response needs and capabilities as they are affected by such conditions as demography, topography, land characteristics, access routes, and jurisdictional boundaries. The size of the EPZs also may be determined on a case-by-case basis for gas-cooled reactors and for reactors with an authorized power level less than 250 megawatt thermal. The plans for the ingestion pathway must focus on such actions as are appropriate to protect the food ingestion pathway.

(2) Applicants for commercial nuclear plants consisting of either small modular reactors or non-light-water reactors complying with § 50.160 of this chapter who apply for a CP, an OL, a COL, or an early site permit under this part must submit as part of the application the analysis used to determine whether the criteria in § 53.1109(g)(2)(i)(A) and (B) are met and, if they are met, the size of the plume exposure pathway EPZ.

(i) The plume exposure pathway EPZ is the area within which:

(A) Public dose, as defined in § 20.1003 of this chapter, is projected to exceed 10 millisieverts (1 rem) total effective dose equivalent over 96 hours from the release of radioactive materials from the facility considering accident likelihood and source term, timing of the accident sequence, and meteorology; and

(B) Pre-determined, prompt protective measures are necessary.

(ii) If the application is for an OL or COL or if the application is for an early site permit and contains plans for coping with emergencies under § 53.1146(b)(2)(ii), and if the plume exposure pathway EPZ extends beyond the site boundary:

(A) The applicant must submit radiological emergency response plans of State, local, and participating Tribal governmental entities in the United States that are wholly or partially within the plume exposure pathway EPZ.

(B) The exact configuration of the plume exposure pathway EPZ surrounding the facility shall be determined in relation to the local emergency response needs and capabilities as they are affected by such conditions as demography, topography, land characteristics, access routes, and jurisdictional boundaries.

(iii) If the application is for an early site permit that, under § 53.1146(b)(2)(i), proposes major features of the emergency plans and describes the EPZ, and if the EPZ extends beyond the site boundary, then the exact configuration of the plume exposure pathway EPZ surrounding the facility must be determined in relation to the local emergency response needs and capabilities as they are affected by such conditions as demography, topography, land characteristics, access routes, and jurisdictional boundaries.

(h) [Reserved]

(i) A list of the names and addresses of such regulatory agencies as may have jurisdiction over the rates and services incident to the proposed activity, and a list of trade and news publications which circulate in the area where the proposed activity will be conducted and which are considered appropriate to give reasonable notice of the application to those municipalities, private utilities, public bodies, and cooperatives, which might have a potential interest in the facility; and

(j) If the application contains Restricted Data or classified National Security information, confirmation that all Restricted Data and classified National Security information are separated from the unclassified information.

[1] EPZs are discussed in NUREG–0396, U.S. Environmental Protection Agency 520/1–78–016, ''Planning Basis for the Development of State and Local Government Radiological Emergency Response Plans in Support of Light-Water Nuclear Power Plants,'' December 1978.

[2] If the State, local, and participating Tribal emergency response plans have been previously provided to the NRC for inclusion in the facility docket, the applicant need only provide the appropriate reference to meet this requirement.

§ 53.1112 Environmental conditions.

(a) Each CP, early site permit, and COL under this part may include conditions to address environmental issues during construction. These conditions are to be set out in an attachment to the license, which is incorporated in and made a part of the license. These conditions will be derived from information contained in the environmental report submitted pursuant to § 51.50 of this chapter, as analyzed and evaluated in the NRC record of decision and will identify the obligations of the licensee in the environmental area, including, as appropriate, requirements for reporting and keeping records of environmental data, and any conditions and monitoring requirement for the protection of the nonaquatic environment.

(b) Each license authorizing operation of a commercial nuclear plant under this part, and each license for a commercial nuclear plant for which the certification of permanent cessation of operations required under § 53.1070 has been submitted may include conditions to address environmental issues during operation and decommissioning. These conditions are to be set out in an attachment to the license, which is incorporated in and made a part of the license. These conditions will be derived from information contained in the environmental report or the supplement to the environmental report submitted under §§ 51.50 and 51.53 of this chapter as analyzed and evaluated in the NRC record of decision, and will identify the obligations of the licensee in the environmental area, including, as appropriate, requirements for reporting and keeping records of environmental data and any conditions and monitoring requirement for the protection of the nonaquatic environment.

§ 53.1115 Agreement limiting access to classified information.

As part of its application and in any event before the receipt of Restricted Data or classified National Security Information or the issuance of a license or standard design approval under this part, or before the Commission has adopted a final standard design certification rule under this part, the applicant must agree in writing that it will not permit any individual to have access to or any facility to possess Restricted Data or classified National Security Information until the individual and/or facility has been approved for access under the provisions of 10 CFR parts 25 and/or 95. The agreement of the applicant becomes part of the license or standard design approval.

§ 53.1118 Ineligibility of certain applicants.

Any person who is a citizen, national, or agent of a foreign country, or any corporation, or other entity which the Commission knows or has reason to believe is owned, controlled, or dominated by an alien, a foreign corporation, or a foreign government, will be ineligible to apply for and obtain a license unless—

(a) The Commission determines that issuance of the applicable license to the entity is not inimical to the common defense and security or the health and safety of the public; and

(b) The entity is an alien, corporation, or other entity that is owned, controlled, or dominated by the government of, a corporation that is incorporated in, or an alien who is a citizen or national of Australia, Austria, Belgium, Canada, Chile, Colombia, Costa Rica, Czechia, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, India, Ireland, Israel, Italy, Japan, Korea, Latvia, Lithuania, Luxembourg, Mexico, Netherlands, New Zealand, Norway, Poland, Portugal, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, or the United Kingdom.

§ 53.1120 Exceptions and exemptions from licensing requirements.

Nothing in this part must be deemed to require a license for—

(a) The manufacture, production, or acquisition by the Department of Defense of any utilization facility authorized pursuant to section 91 of the Act or the use of such facility by the Department of Defense or by a person under contract with and for the account of the Department of Defense;

(b) Except to the extent that the Department of Energy facilities of the types subject to licensing pursuant to section 202 of the Energy Reorganization Act of 1974, as amended, are involved—

(1)(i) The processing, fabrication or refining of special nuclear material (SNM) or the separation of SNM, or the separation of SNM from other substances by a prime contractor of the Department of Energy under a prime contract for—

(A) The performance of work for the Department of Energy at a United States Government-owned or controlled site;

(B) Research in, or development, manufacture, storage, testing or transportation of, atomic weapons or components thereof; or

(C) The use or operation of a utilization facility in a United States owned vehicle or vessel; or

(ii) The processing, fabrication or refining of SNM of the separation of SNM, or the separation of SNM from other substances by a prime contractor or subcontractor of the Commission or the Department of Energy under a prime contract or subcontract when the Commission determines that the exemption of the prime contractor or subcontractor is authorized by law; and that, under the terms of the contract or subcontract, there is adequate assurance that the work thereunder can be accomplished without undue risk to the public health and safety; or

(2)(i) The construction or operation of a utilization facility for the Department of Energy at a United States Government-owned or controlled site, including the transportation of the utilization facility to or from such site

and the performance of contract services during temporary interruptions of such transportation; or the construction or operation of a utilization facility for the Department of Energy in the performance of research in, or development, manufacture, storage, testing, or transportation of, atomic weapons or components thereof; or the use or operation of a utilization facility for the Department of Energy in a United States Government-owned vehicle or vessel; provided that such activities are conducted by a prime contractor of the Department of Energy under a prime contract with the Department of Energy; or

(ii) The construction or operation of a utilization facility by a prime contractor or subcontractor of the Commission or the Department of Energy under his or her prime contract or subcontract when the Commission determines that the exemption of the prime contractor or subcontractor is authorized by law; and that, under the terms of the contract or subcontract, there is adequate assurance that the work thereunder can be accomplished without undue risk to the public health and safety; or

(c) The transportation or possession of any utilization facility by a common or contract carrier or warehouse employee in the regular course of carriage for another or storage incident thereto.

§ 53.1121 Public inspection of applications.

Applications and documents submitted to the Commission in connection with applications may be made available for public inspection under the provisions of part 2 of this chapter.

§ 53.1124 Relationship between sections.

(a) *Limited work authorization.* An application for a limited work authorization (LWA) under this part may be submitted as part of an application for an early site permit, CP, or COL under this part as required in § 53.1130(a)(2).

(b) *Early site permit.* (1) A holder of an early site permit may request an LWA.

(2) An application for a CP or COL under this part may, but need not, reference an early site permit.

(c) *Standard design approval.* An application for a standard design approval under this part may, but need not, reference an OL or custom COL under this part that is essentially the same as the information supporting the standard design for which approval is being requested.

(d) *Standard design certification.* An application for a standard design certification under this part may, but need not, reference an OL or custom COL under this part that is essentially the same as the standard design for which certification is being requested.

(e) *Manufacturing license.* (1) A manufactured reactor or portions thereof as defined in an ML issued under this part may be either transported to and installed at a site for which a COL or CP under this part has been issued or exported in accordance with part 110.

(2) An ML applicant under this part may reference a standard design certification or a standard design approval under this part in its application.

(f) *Construction permit.* An application for a CP may, but need not, reference a standard design certification, standard design approval, or ML issued under this part, respectively, and may also reference an early site permit issued under this part. In the absence of a demonstration that an entity other than the one originally sponsoring a standard design certification is qualified to supply a design, the Commission will entertain an application for a CP that references a standard design certification issued under this part only if the entity that sponsored the certification supplies the design for the applicant's use.

(g) *Operating license.* (1) An application for an OL under this part may, but need not, reference an early site permit, standard design certification, or standard design approval issued under this part. In the absence of a demonstration that an entity other than the one originally sponsoring a standard design certification is qualified to supply a design, the Commission will entertain an application for an OL that references a standard design certification issued under this part only if the entity that sponsored the certification supplies the design for the applicant's use.

(2) The holder of a CP must, at the time of submission of the Final Safety Analysis Report (FSAR), file an application for an OL.

(h) *Combined licenses.* An application for a COL under this part may, but need not, reference an early site permit, standard design certification, standard design approval, or ML issued under this part. In the absence of a demonstration that an entity other than the one originally sponsoring and obtaining a standard design certification is qualified to supply a design, the Commission will entertain an application for a COL that references a standard design certification issued under this part only if the entity that sponsored the certification supplies the design for the applicant's use.

§ 53.1130 Limited work authorizations.

(a) *Request for limited work authorization.* (1) Any person to whom the Commission may otherwise issue either a license or permit related to a commercial nuclear plant may request an LWA allowing that person to perform the driving of piles, subsurface preparation, placement of backfill, concrete, or permanent retaining walls within an excavation, and installation of the foundation, including placement of concrete, any of which are for a structure, system, or component (SSC) of the facility for which either a CP or COL is otherwise required under § 53.610.

(2) An application for an LWA may be submitted as part of a complete application for a CP or COL in accordance with § 2.101(a)(1) through (a)(5) of this chapter, or as a partial application in accordance with § 2.101(a)(9) of this chapter. An application for an LWA by the holder of an early site permit must be submitted as a complete application in accordance with § 2.101(a)(1) through (a)(4) of this chapter.

(3) The application must include—

(i) A Safety Analysis Report required by § 53.1146, § 53.1309 or § 53.1416, as applicable, a description of the activities requested to be performed, and the design and construction information otherwise required by the Commission's rules and regulations to be submitted for a CP or COL under this part but limited to those portions of the facility that are within the scope of the LWA. The Safety Analysis Report must demonstrate that activities conducted under the LWA will be conducted in compliance with the technically relevant Commission requirements in 10 CFR chapter I applicable to the design of those portions of the facility within the scope of the LWA;

(ii) An environmental report in accordance with § 51.49 of this chapter; and

(iii) A plan for redress of activities performed under the LWA, should limited work activities be terminated by the holder, or the LWA be revoked by the NRC or upon effectiveness of the Commission's final decision denying the associated CP or COL application, as applicable.

(b) *Issuance of limited work authorization.* (1) The Director, Office of Nuclear Reactor Regulation may issue an LWA only after—

(i) The NRC staff issues the final environmental impact statement for the LWA under part 51 of this chapter;

(ii) The presiding officer makes the finding in § 51.105(c) or § 51.107(d) of this chapter, as applicable;

(iii) The Director determines that the applicable standards and requirements of the Act, and the Commission's regulations applicable to the activities to be conducted under the LWA, have been met, the applicant is technically qualified to engage in the activities authorized, and that issuance of the LWA will provide reasonable assurance of adequate protection to public health and safety and will not be inimical to the common defense and security; and

(iv) The presiding officer finds that there are no unresolved safety issues relating to the activities to be conducted under the LWA that would constitute good cause for withholding the authorization.

(2) Each LWA will specify the activities that the holder is authorized to perform.

(c) *Effect of limited work authorization.* Any activities undertaken under an LWA are entirely at the risk of the applicant and, except as to the matters determined under paragraph (b)(1) of this section, the issuance of the LWA has no bearing on the issuance of a CP or COL with respect to the requirements of the Act and rules, regulations, or orders issued under the Act. The environmental impact statement for a CP or COL application for which an LWA was previously issued will not address, and the presiding officer will not consider, the sunk costs of the holder of the LWA in determining the proposed action (*i.e.,* issuance of the CP or COL).

(d) *Implementation of redress plan.* If construction is terminated by the holder, the underlying application is withdrawn by the applicant or denied by the NRC, or the LWA is revoked by the NRC, then the holder must begin implementation of the redress plan in a reasonable time. The holder must also complete the redress of the site no later than 18 months after termination of construction, revocation of the LWA, or upon effectiveness of the Commission's final decision denying the associated CP application or the associated COL application, as applicable.

§ 53.1140 Early site permits.

Sections 53.1140 through 53.1188 set out the requirements and procedures applicable to Commission issuance of an early site permit under this part for approval of a site for a commercial nuclear plant separate from the filing of an application for a CP or COL for the facility.

§ 53.1144 Contents of applications for early site permits; general information.

The application must contain all of the information required by § 53.1109(a) through (d) and (j).

§ 53.1146 Contents of applications for early site permits; technical information.

(a) The application must contain—

(1) A Site Safety Analysis Report that must include the following:

(i) The specific number, type, and thermal power level of the facilities, or range of possible facilities, for which the site may be used;

(ii) The anticipated maximum levels of radiological and thermal effluents each facility will produce;

(iii) The type of cooling systems, including intakes and outflows, where appropriate, that may be associated with each facility;

(iv) The boundaries of the site;

(v) The proposed general location of each facility on the site;

(vi) The external hazards and site characteristics required by this part;

(vii) The location and description of any nearby industrial, military, or transportation facilities and routes;

(viii) The existing and projected future population profile of the area surrounding the site;

(ix) A description and assessment of the site on which a facility is to be located. The assessment must address the requirements of subpart D of this part;

(x) Information demonstrating that site characteristics are such that adequate security plans and measures can be developed; and

(xi) A description of the quality assurance program (QAP) required by appendix B to part 50 of this chapter applied to site-related activities for the future design, fabrication, construction, and testing of the SSCs of a facility or facilities that may be constructed on the site.

(2) A complete environmental report as required by § 51.50(b) of this chapter.

(b)(1) The Site Safety Analysis Report must identify physical characteristics of the proposed site, such as egress limitations from the area surrounding the site, that could pose a significant impediment to the development of emergency plans. If physical characteristics are identified that could pose a significant impediment to the development of emergency plans, the application must identify measures that would, when implemented, mitigate or eliminate the significant impediment.

(2) The Site Safety Analysis Report may also—

(i) Propose major features of the emergency plans, under either § 50.160 or the requirements in appendix E to part 50 and § 50.47(b) of this chapter, as applicable, such as the exact size and configuration of the EPZs, for review and approval by the NRC, in consultation with the Federal Emergency Management Agency (FEMA), as applicable, in the absence of complete and integrated emergency plans; or

(ii) Propose complete and integrated emergency plans for review and approval by the NRC, in consultation with FEMA, as applicable, in accordance with either § 50.160 or the requirements in appendix E to part 50 and § 50.47(b) of this chapter. To the extent approval of emergency plans is sought, the application must contain the information required by § 53.1109(g).

(3) Emergency plans submitted under paragraph (b)(2)(ii) of this section must include the proposed inspections, tests, and analyses that the holder of a COL referencing the early site permit must perform, and the acceptance criteria that are necessary and sufficient to provide reasonable assurance that, if the inspections, tests, and analyses are performed and the acceptance criteria met, the facility has been constructed and will be operated in conformity with the emergency plans, the provisions of the Act, and the Commission's rules and regulations. Major features of an emergency plan submitted under paragraph (b)(2)(i) of this section may include proposed inspections, tests, analyses, and acceptance criteria (ITAAC).

(4) Under paragraphs (b)(1) and (b)(2)(i) of this section, the Site Safety Analysis Report must include, where appropriate, a description of contacts and arrangements made with Federal, State, participating Tribal, and local governmental agencies with emergency planning responsibilities. The Site Safety Analysis Report must contain any certifications that have been obtained. If these certifications, where appropriate, cannot be obtained, the Site Safety Analysis Report must contain information, including a utility plan, sufficient to show that the proposed plans provide reasonable assurance that adequate protective measures can and will be taken in the event of a radiological emergency at the site. Under the option set forth in paragraph (b)(2)(ii) of this section, the applicant must make good faith efforts, where appropriate, to obtain from the same governmental agencies certifications that—

(i) The proposed emergency plans are practicable;

(ii) These agencies are committed to participating in any further

development of the plans, including any required field demonstrations; and

(iii) That these agencies are committed to executing their responsibilities under the plans in the event of an emergency.

(c) An applicant may request that an LWA under § 53.1130 be issued in conjunction with the early site permit. The application must include the information otherwise required by § 53.1130.

(d) Each applicant for an early site permit under this part must protect safeguards information against unauthorized disclosure in accordance with the requirements in §§ 73.21 and 73.22 of this chapter, as applicable.

§ 53.1149 Review of applications.

(a) *Standards for review of applications.* Applications filed under this part will be reviewed according to the applicable standards set out in this part. In addition, the Commission must prepare an environmental impact statement during review of the application, under the applicable provisions of 10 CFR part 51. The Commission must determine, after consultation with FEMA, as applicable, whether the information required of the applicant by § 53.1146(b)(1) shows that there is no significant impediment to the development of emergency plans that cannot be mitigated or eliminated by measures proposed by the applicant, whether any major features of emergency plans submitted by the applicant under § 53.1146(b)(2)(i) are acceptable under either § 50.160 or appendix E to part 50 and § 50.47(b) of this chapter, and whether any emergency plans submitted by the applicant under § 53.1146(b)(2)(ii) provide reasonable assurance that adequate protective measures can and will be taken in the event of a radiological emergency.

(b) *Administrative review of applications; hearings.* An early site permit application is subject to all procedural requirements in 10 CFR part 2, including the requirements for docketing in § 2.101(a)(1) through (4) of this chapter, and the requirements for issuance of a notice of hearing in § 2.104(a) and (d) of this chapter, provided that the designated sections may not be construed to require that the environmental report, or draft or final environmental impact statement includes an assessment of the benefits of construction and operation of the reactor or reactors, or an analysis of alternative energy sources. The presiding officer in an early site permit hearing must not admit contentions proffered by any party concerning an assessment of the benefits of construction and operation of the reactor or reactors, or an analysis of alternative energy sources if those issues were not addressed by the applicant in the early site permit application. All hearings conducted on applications for early site permits filed under this part are governed by the procedures contained in subparts C, G, L, and N of 10 CFR part 2, as applicable.

§ 53.1155 Referral to the Advisory Committee on Reactor Safeguards.

The Commission must refer a copy of the application for an early site permit to the Advisory Committee on Reactor Safeguards (ACRS). The ACRS must report on those portions of the application which concern safety.

§ 53.1158 Issuance of early site permit.

(a) After conducting a hearing under § 53.1149(b) and receiving the report to be submitted by the ACRS under § 53.1155, the Commission may issue an early site permit, in the form the Commission deems appropriate, if the Commission finds that—

(1) An application for an early site permit demonstrates compliance with the applicable standards and requirements of the Act and the Commission's regulations;

(2) Notifications, if any, to other agencies or bodies have been duly made;

(3) There is reasonable assurance that the site is in conformity with the provisions of the Act and the Commission's regulations;

(4) The applicant is technically qualified to engage in any activities authorized;

(5) The proposed ITAAC, including any on emergency planning, are necessary and sufficient, within the scope of the early site permit, to provide reasonable assurance that the facility has been constructed and will be operated in conformity with the license, the provisions of the Act, and the Commission's regulations;

(6) Issuance of the permit will not be inimical to the common defense and security or to the health and safety of the public;

(7) Any significant adverse environmental impact resulting from activities requested under § 53.1146(c) can be redressed; and

(8) The findings required by 10 CFR part 51 have been made.

(b) The early site permit must specify the site characteristics, design parameters, and terms and conditions of the early site permit the Commission deems appropriate. Before issuance of either a CP or COL referencing an early site permit, the Commission must find that any relevant terms and conditions of the early site permit have been met. Any terms or conditions of the early site permit that could not be met by the time of issuance of the CP or COL, must be set forth as terms or conditions of the CP or COL.

(c) The early site permit must specify those § 53.1130(b) activities requested under § 53.1146(c) that the permit holder is authorized to perform.

§ 53.1161 Extent of activities permitted.

If the activities authorized by § 53.1158(c) are performed and the site is not referenced in an application for a CP or a COL issued under this part while the permit remains valid, then the early site permit remains in effect solely for the purpose of site redress, and the holder of the permit must redress the site under the terms of the site redress plan required by § 53.1146(c). If, before redress is complete, a use not envisaged in the redress plan is found for the site or parts thereof, the holder of the permit must carry out the redress plan to the greatest extent possible consistent with the alternate use.

§ 53.1164 Duration of permit.

(a) Except as provided in paragraph (b) of this section, an early site permit issued under this subpart may be valid for not less than 10, nor more than 20 years from the date of issuance.

(b) An early site permit continues to be valid beyond the date of expiration in any proceeding on a CP application or a COL application that references the early site permit and is docketed before the date of expiration of the early site permit, or, if a timely application for renewal of the permit has been docketed, before the Commission has determined whether to renew the permit.

(c) An applicant for a CP or COL may, at its own risk, reference in its application a site for which an early site permit application has been docketed but not granted.

(d) Upon issuance of a CP or COL, a referenced early site permit is subsumed, to the extent referenced, into the CP or COL.

§ 53.1167 Limited work authorization after issuance of early site permit.

A holder of an early site permit may request an LWA under § 53.1130.

§ 53.1170 Transfer of early site permit.

An application to transfer an early site permit will be processed under § 53.1570.

§ 53.1173 Application for renewal.

(a) Not less than 12, nor more than 36 months before the expiration date stated in the early site permit, or any later renewal period, the permit holder may apply for a renewal of the permit. An application for renewal must contain all information necessary to bring up to date the information and data contained in the previous application.

(b) Any person whose interests may be affected by renewal of the permit may request a hearing on the application for renewal. The request for a hearing must comply with § 2.309 of this chapter. If a hearing is granted, notice of the hearing will be published under § 2.309 of this chapter.

(c) An early site permit, either original or renewed, for which a timely application for renewal has been filed, remains in effect until the Commission has determined whether to renew the permit. If the permit is not renewed, it continues to be valid in certain proceedings in accordance with the provisions of § 53.1164(b).

§ 53.1176 Criteria for renewal.

(a) The Commission must grant the renewal if it determines that—

(1) The site complies with the Act, the Commission's regulations, and orders applicable and in effect at the time the site permit was originally issued; and

(2) Any new requirements the Commission may wish to impose—

(i) Are necessary for adequate protection to public health and safety or common defense and security;

(ii) Are necessary for compliance with the Commission's regulations, and orders applicable and in effect at the time the site permit was originally issued; or

(iii) Would provide a substantial increase in overall protection of the public health and safety or the common defense and security to be derived from the new requirements, and the direct and indirect costs of implementation of those requirements are justified in view of this increased protection.

(b) A denial of renewal under the provisions of § 53.1176(a) does not bar the permit holder or another applicant from filing a new application for the site which proposes changes to the site or the way that it is used to correct the deficiencies cited in the denial of the renewal.

§ 53.1179 Duration of renewal.

Each renewal of an early site permit may be for not less than 10, nor more than 20 years, plus any remaining years on the early site permit then in effect before renewal.

§ 53.1182 Use of site for other purposes.

A site for which an early site permit has been issued under this part may be used for purposes other than those described in the permit, including the location of other types of energy facilities. The permit holder must inform the Director, Office of Nuclear Reactor Regulation (Director), of any significant uses for the site which have not been approved in the early site permit. The information about the activities must be given to the Director at least 30 days in advance of any actual construction or site modification for the activities. The information provided could be the basis for imposing new requirements on the permit, under the provisions of § 53.1188. If the permit holder informs the Director that the holder no longer intends to use the site for a commercial nuclear plant, the Director may terminate the permit.

§ 53.1188 Finality of early site permit determinations.

(a) *Commission finality.* (1) While an early site permit is in effect under § 53.1164 or § 53.1179, the Commission may not change or impose new site characteristics, design parameters, or terms and conditions, including emergency planning requirements, on the early site permit unless the Commission—

(i) Determines that a modification is necessary to bring the permit or the site into compliance with the Commission's regulations and orders applicable and in effect at the time the permit was issued;

(ii) Determines the modification is necessary to assure adequate protection of the public health and safety or the common defense and security;

(iii) Determines that a modification is necessary based on an update under paragraph (b) of this section; or

(iv) Issues a variance requested under paragraph (d) of this section.

(2) In making the findings required for issuance of a CP, COL, or OL, or the findings required by § 53.1452(g), or in any enforcement hearing other than one initiated by the Commission under paragraph (a)(1) of this section, if the application for the CP, COL, or OL references an early site permit, the Commission must treat as resolved those matters resolved in the proceeding on the application for issuance or renewal of the early site permit, except as provided for in paragraphs (b), (c), and (d) of this section.

(i) If the Commission grants a CP application that references an early site permit and an application for an OL references the CP, the Commission must treat as resolved those matters resolved in the proceeding for the issuance or renewal of the early site permit, except as provided for in paragraphs (b), (c), and (d) of this section.

(ii) If the early site permit approved an emergency plan (or major features thereof) that is in use by a licensee of a commercial nuclear plant, the Commission must treat as resolved changes to the early site permit emergency plan (or major features thereof) that are identical to changes made to the licensee's emergency plans under § 53.1565 occurring after issuance of the early site permit.

(iii) If the early site permit approved an emergency plan (or major features thereof) that is not in use by a licensee of a commercial nuclear plant, the Commission must treat as resolved changes that are equivalent to those that could be made under § 53.1565 without prior NRC approval had the emergency plan been in use by a licensee.

(b) *Updating of early site permit-emergency preparedness.* An applicant for a CP, OL, or COL who has filed an application referencing an early site permit issued under this subpart must update the emergency preparedness information that was provided under § 53.1146(b) and discuss whether the updated information materially changes the bases for compliance with applicable NRC requirements.

(c) *Hearings and petitions.* (1) In any proceeding for the issuance of a CP, OL, or COL referencing an early site permit, contentions on the following matters may be litigated in the same manner as other issues material to the proceeding:

(i) The nuclear reactor proposed to be built does not fit within one or more of the site characteristics or design parameters included in the early site permit;

(ii) One or more of the terms and conditions of the early site permit have not been met;

(iii) A variance requested under paragraph (d) of this section is unwarranted or should be modified;

(iv) New or additional information is provided in the application that substantially alters the bases for a previous NRC conclusion or constitutes a sufficient basis for the Commission to modify or impose new terms and conditions related to emergency preparedness; or

(v) Any significant environmental issue that was not resolved in the early site permit proceeding, or any issue involving the impacts of construction and operation of the facility that was resolved in the early site permit proceeding for which significant new information has been identified.

(2) Any person may file a petition requesting that the site characteristics,

design parameters, or terms and conditions of the early site permit be modified, or that the permit be suspended or revoked. The petition will be considered under § 2.206 of this chapter. Before construction commences, the Commission must consider the petition and determine whether any immediate action is required. If the petition is granted, an appropriate order will be issued. Construction under the CP or COL will not be affected by the granting of the petition unless the order is made immediately effective. Any change required by the Commission in response to the petition must demonstrate compliance with the requirements of paragraph (a)(1) of this section.

(d) *Variances.* An applicant for a CP, OL, or COL referencing an early site permit may include in its application a request for a variance from one or more site characteristics, design parameters, or terms and conditions of the early site permit, or from the Site Safety Analysis Report. In determining whether to grant the variance, the Commission must apply the same technically relevant criteria applicable to the application for the original or renewed early site permit. Once a CP or COL referencing an early site permit is issued, variances from the early site permit will not be granted for that CP or COL.

(e) *Early site permit amendment.* The holder of an early site permit may not make changes to the early site permit or the Site Safety Analysis Report without prior Commission approval. The request for a change to the early site permit must be in the form of an application for a license amendment and must demonstrate compliance with the requirements of §§ 53.1510 and 53.1520.

§ 53.1200 Standard design approvals.

Sections 53.1200 through 53.1221 set out procedures for the filing, NRC staff review, and referral to the ACRS of standard designs, or major portions thereof, for a commercial nuclear plant under this part.

§ 53.1206 Contents of applications for standard design approvals; general information.

The application must contain all of the information required by § 53.1109(a) through (c) and (j).

§ 53.1209 Contents of applications for standard design approvals; technical information.

(a) *Major portion of a standard design.* If the applicant seeks review of a major portion of a standard design, the application need only contain the information required by this section to the extent the requirements are applicable to the major portion of the standard design for which NRC staff approval is sought. If an applicant seeks approval of a major portion of the design, the scope of the application for which approval is sought must include all functional design criteria necessary to demonstrate compliance with the safety criteria in §§ 53.210, 53.220 and 53.450(e), as applicable, for the major portion of the standard design for which NRC staff approval is sought. Such applicants must identify conditions related to interfaces with systems outside the scope of the major portion of the standard design for which NRC staff approval is sought, and functional or physical boundary conditions between the major portion of the standard design for which NRC staff approval is sought and the remainder of the standard design. These conditions must be demonstrated when the standard design approval is incorporated into a subsequent CP, design certification, ML, or COL application.

(b) *Final Safety Analysis Report.* The application must contain an FSAR that describes the facility and the limits on its operation, presents a safety analysis of the SSCs and of the facility, or major portions thereof, for which the applicant seeks design approval, and must include the following information:

(1) *Site parameters.* The site parameters postulated for the design under this part, including the design-basis external hazard levels for the relevant external hazards, and an analysis and evaluation of the design in terms of those site parameters.

(2) *Design information.* Except as specified in this paragraph (b), an application for a standard design approval for a commercial nuclear plant must include the design information equivalent to that required for a standard design certification under § 53.1239(a)(2) through (27) for those portions of a commercial nuclear plant included in the standard design approval.

§ 53.1210 Contents of applications for standard design approvals; other application content.

(a) In addition to the FSAR, the application must also include the following:

(1) *Availability controls (if not included in the FSAR).* A description of the controls on plant operations, including availability controls, to provide reasonable confidence that the configurations and special treatments for safety-related (SR) SSCs and non-safety-related but safety-significant (NSRSS) SSCs provide the capabilities and reliabilities required to demonstrate compliance with the safety criteria of § 53.220.

(2) *Safeguards information.* A description of the program to protect Safeguards Information against unauthorized disclosure in accordance with the requirements in §§ 73.21 and 73.22 of this chapter, as applicable.

(b) If there are SSCs of the plant which required research and development to confirm the adequacy of their design, provide a report in the application which documents the resolution of any safety questions associated with such SSCs.

(c) A description of how the performance of each design feature has been demonstrated capable of fulfilling functional design criteria considering interdependent effects through either analysis, appropriate test programs, prototype testing, operating experience, or a combination thereof, in accordance with § 53.440(a).

§ 53.1212 Standards for review of applications.

Applications filed under this part will be reviewed under the standards set out in 10 CFR parts 20, 53, and 73.

§ 53.1215 Referral to the Advisory Committee on Reactor Safeguards.

The Commission must refer a copy of the application to the ACRS. The ACRS must report on those portions of the application which concern safety.

§ 53.1218 Staff approval of design.

(a) Upon completion of its review of a submittal under §§ 53.1200 through 53.1221 and receipt of a report by the ACRS under § 53.1215, the NRC staff must publish a determination in the **Federal Register** as to whether or not the design is acceptable, subject to appropriate terms and conditions, and make an analysis of the design in the form of a report available at the NRC website, *https://www.nrc.gov.*

(b) A standard design approval issued under this section is valid for 15 years from the date of issuance and may not be renewed. A design approval continues to be valid beyond the date of expiration in any proceeding on an application for a CP, OL, COL, or ML under this part that references the design approval and is docketed before the date of expiration of the design approval.

§ 53.1221 Finality of standard design approvals; information requests.

(a) An approved design must be used by and relied upon by the NRC staff and the ACRS in their reviews of any standard design certification or individual facility license application

under this part that incorporates by reference a standard design approved under this part unless there exists significant new information that substantially affects the earlier determination or other good cause.

(b) The determination and report by the NRC staff do not constitute a commitment to issue a permit or license, or in any way affect the authority of the Commission, Atomic Safety and Licensing Board Panel, or presiding officers in any proceeding under part 2 of this chapter.

(c) Except for information requests seeking to verify compliance with the current licensing basis of the standard design approval, information requests to the holder of a standard design approval must be evaluated before issuance to ensure that the burden to be imposed on respondents is justified in view of the potential safety significance of the issue to be addressed in the requested information. Each evaluation performed by the NRC staff must be in accordance with § 53.1580 and must be approved by the Executive Director for Operations or authorized designee before issuance of the request.

(d) The Commission will require, before granting a CP, COL, OL, or ML that references a standard design approval, that information normally contained in engineering documents, such as analyses, drawings, procurement specifications, or construction and installation specifications, be completed and available for audit if the more detailed information is necessary for the Commission to verify the information in the application and make its safety determination, including the determination that the application is consistent with the design approval information. This information may be acquired by appropriate arrangements with the design approval applicant.

§ 53.1230 Standard design certifications.

Sections 53.1230 through 53.1263 set forth the requirements and procedures applicable to the Commission's issuance of rules granting standard design certifications for commercial nuclear plants under this part separate from the filing of an application for a CP or COL for such a facility.

§ 53.1236 Contents of applications for standard design certifications; general information.

The application must contain all of the information required by § 53.1109(a) through (c) and (j).

§ 53.1239 Contents of applications for standard design certifications; technical information.

The application must contain a level of design information sufficient to enable the Commission to judge the applicant's proposed means of assuring that construction conforms to the design and to reach a final conclusion on all safety questions associated with the design before the certification is granted. The information submitted for a design certification must include performance requirements and design information sufficiently detailed to permit the preparation of acceptance and inspection requirements by the NRC. The Commission will require, before design certification, that information normally contained in engineering documents, such as analyses, drawings, procurement specifications, or construction and installation specifications, be completed and available for audit if the more detailed information is necessary for the Commission to verify the information in the application and make its safety determination.

(a) *Final Safety Analysis Report.* The application must contain an FSAR that describes the facility and the limits on its operation, and presents a safety analysis of the SSCs, and must include the following information:

(1) *Site parameters.* The site parameters postulated for the design under this part, including the design-basis external hazard levels for the relevant external hazards, and an analysis and evaluation of the design in terms of those site parameters.

(2) *Plant description and safety functions*—(i) *General plant description.* A general description of the commercial nuclear plant including reactor type, the intended use of the reactor, nuclear design (*e.g.,* neutron spectrum, reactor control, multi-unit reactor control), overall layout of the plant including significant plant features and SSCs, maximum power level and the nature and inventory of radioactive materials.

(ii) *Safety functions.* A description of the primary and additional safety functions required under § 53.230 and a summary of how each safety function is satisfied.

(3) *Design features and functional design criteria—licensing-basis events.* (i) A description of the design features required by § 53.400 and the functional design criteria required by §§ 53.410 and 53.420 that, when combined with corresponding human actions and programmatic controls, demonstrate that the plant will demonstrate compliance with the safety criteria defined in § 53.210 and established in accordance with § 53.220 during licensing-basis events (LBEs).

(ii) A description of how design features demonstrate compliance with the requirements of § 53.440(a) through (i) and (k) through (m).

(4) *Design features supporting normal operations.* A description of the design features required by § 53.425 to support the holder of an OL or COL complying with § 53.260 during normal operations.

(5) [Reserved]

(6) *Earthquake engineering.* The information necessary to demonstrate that the commercial nuclear plant complies with the earthquake engineering criteria in § 53.480.

(7) *Programmatic controls and interfaces.* (i) A description of the corresponding programmatic controls and interfaces necessary to achieve and maintain the reliability and capability of SSCs relied upon to demonstrate compliance with the functional design criteria required by §§ 53.410 and 53.420 and the safety criteria in §§ 53.210 and 53.220 and necessary to maintain consistency with analyses required by § 53.450.

(ii) For an application for a multi-unit commercial nuclear plant, the programmatic controls and interfaces must also be described for different modular configurations, as required by § 53.440(i), including any restrictions that will be necessary during the construction and startup of any given unit to ensure the safe operation of the overall commercial nuclear plant to be licensed under this part.

(8) *Programmatic controls for normal operations.* A description of how programmatic controls, including monitoring programs, would provide assurance that design features and procedures will enable the holder of an OL or COL to comply with § 53.260.

(9) *Design features supporting the protection of plant workers.* A description of the design features required by § 53.430 to support the holder of an OL or COL complying with § 53.270.

(10) *Programmatic controls for protection of plant workers.* A description of how programmatic controls, including monitoring programs, would provide assurance that design features and procedures will enable the holder of an OL or COL to comply with § 53.270.

(11) *Codes and standards.* A description of generally accepted consensus codes and standards used to design the design features, as required by § 53.440(b).

(12) *Materials.* A description of the materials used for SR and NSRSS SSCs and a description of the qualification of

these materials for their service conditions over the plant lifetime, as required by § 53.440(c).

(13) *Integrity assessment program.* A description of a design integrity assessment program that addresses the elements described in § 53.440(d).

(14) [Reserved]

(15) *Criticality.* Information demonstrating how the applicant will comply with requirements for criticality accidents in § 53.440(m).

(16) *Multi-unit plants.* For an application for standard design certification of a multi-unit commercial nuclear plant, the possible operating configurations of the reactor units, including common systems, interface requirements, and system interactions, as required by § 53.440(i).

(17) *SSC classification.* (i) The classification of SSCs according to their safety significance under § 53.460(a).

(ii) For SR and NSRSS SSCs, the conditions under which they must perform the safety functions required by § 53.230, including environmental conditions.

(18) *Probabilistic risk assessment or other systematic risk evaluations (SREs).* A description of the probabilistic risk assessment (PRA), other SREs, or a combination thereof required by § 53.450(a) and associated results.

(19) *Analyses.* A description of the analyses performed under § 53.450(b) through (g) that includes the following information:

(i) A description of the analysis of LBEs and its results, as described in § 53.240. This analysis description must—

(A) Address the elements in § 53.450(e) and (f); and

(B) Under § 53.460(c)—

(*1*) Describe any human actions that are necessary to prevent or mitigate LBEs;

(*2*) Describe how those human actions are capable of being reliably performed under the postulated environmental conditions present; and

(*3*) Describe how those human actions would be addressed by programs established under subpart F of this part.

(ii)(A) A description of how SSCs relied on to meet the safety criteria defined in § 53.210 are protected against or designed to withstand the effects of external hazards under § 53.510.

(B) The information necessary to demonstrate that the commercial nuclear plant complies with the earthquake engineering criteria in § 53.480.

(iii) A description of the defense-in-depth measures required by § 53.250.

(iv) A description of all plant operating states where there is the potential for the uncontrolled release of radioactive material to the environment, as required by § 53.450(b)(4).

(v) A description of the events that challenge plant control and safety systems whose failure could lead to an undesirable end state and/or radioactive material release, as required by § 53.450(b)(5).

(vi) A description of the analytical codes used in modeling plant behavior in analyses of LBEs and how these codes are qualified for the range of conditions for which they were used, as required by § 53.450(d).

(vii) A description of the results of other analyses required by § 53.450(g).

(20) *Special treatments.* A description of special treatments established as required by § 53.460.

(21) [Reserved]

(22) *Quality assurance.* A description of the QAP applied to the design of the SSCs of the commercial nuclear plant, as required by § 53.460(b). The description of the QAP for a commercial nuclear plant must include a discussion of how the applicable requirements of appendix B to part 50 of this chapter were satisfied.

(23) *Design features and controls to address the minimization of contamination.* The information required by § 20.1406 of this chapter.

(24) *Interface requirements.* (i) A description analysis, and evaluation of the interfaces between the standard design and the balance of the commercial nuclear plant that may impact the ability of the plant to demonstrate compliance with the functional design criteria or the safety criteria of subparts B and C of this part.

(ii) Confirmation that interface requirements are verifiable through inspections, testing, or analysis. These requirements must be sufficiently detailed to allow for completion of the final safety analysis by license applicants that reference the certified design under this subpart. The method to be used for verification of interface requirements must be included as part of the proposed ITAAC required by § 53.1241(a)(3).

(iii) A representative conceptual design for those portions of the plant for which the application does not seek certification to aid the NRC in its review of the FSAR and to permit assessment of the adequacy of the interface requirements under paragraph (a)(24)(i) of this section.

(25) *Technical qualifications.* A description of the technical qualifications of the applicant to engage in the proposed activities in accordance with the regulations in this chapter.

(26) *Technical specifications.* Proposed technical specifications prepared under § 53.710(a) for those areas addressed by the design certification.

(27) *Role of personnel.* Information to address the following for the role of personnel in ensuring safe operations:

(i) A description of how the human factors engineering design requirements of § 53.440(n)(1) are addressed;

(ii) A description of how the human system interface design requirements of § 53.440(n)(2) are addressed;

(iii) A concept of operations that is of sufficient scope and detail to address the requirements of § 53.440(n)(3);

(iv) A functional requirements analysis and function allocation that is of sufficient scope and detail to address the requirements of § 53.440(n)(4).

(b) [Reserved]

§ 53.1241 Contents of applications for standard design certifications; other application content.

(a) In addition to the FSAR, the application must also include the following:

(1) *Environmental report.* An environmental report as required by § 51.55 of this chapter.

(2) *Availability controls (if not included in the FSAR).* A description of the controls on plant operations, including availability controls, to provide reasonable confidence that the configurations and special treatments for SR and NSRSS SSCs provide the capabilities and reliabilities required to demonstrate compliance with the safety criteria of § 53.220.

(3) *Inspections, tests, analyses, and acceptance criteria.* The proposed ITAAC that are necessary and sufficient to provide reasonable assurance that, if the inspections, tests, and analyses are performed and the acceptance criteria met, a facility that incorporates the design certification has been constructed and will be operated in conformity with the design certification, the provisions of the Act, and the Commission's rules and regulations.

(4) *Safeguards information.* A description of the program to protect Safeguards Information against unauthorized disclosure in accordance with the requirements in §§ 73.21 and 73.22 of this chapter, as applicable.

(b) If there are SSCs of the plant which required research and development to confirm the adequacy of their design, provide a report in the application which documents the resolution of any safety questions associated with such SSCs.

(c) A description of how the performance of each design feature has

been demonstrated capable of fulfilling functional design criteria considering interdependent effects through either analysis, appropriate test programs, prototype testing, operating experience, or a combination thereof, in accordance with § 53.440(a).

§ 53.1242 Review of applications.

(a) *Standards for review of applications.* Applications filed under this part will be reviewed for compliance with the standards set out in 10 CFR parts 20, 51, 53, and 73.

(b) *Administrative review of applications; hearings.* (1) A standard design certification is a rule that will be issued under the provisions of subpart H of 10 CFR part 2, as supplemented by the provisions of this section. The Commission must initiate the rulemaking after an application has been filed under § 53.1100(a)(1)(iii) and must specify the procedures to be used for the rulemaking. The notice of proposed rulemaking published in the **Federal Register** must provide an opportunity for the submission of comments on the proposed design certification rule. If, at the time a proposed design certification rule is published in the **Federal Register** under this paragraph (b)(1), the Commission decides that a legislative hearing should be held, the information required by § 2.1502(c) of this chapter must be included in the **Federal Register** document for the proposed design certification.

(2) Following the submission of comments on the proposed design certification rule, the Commission may, at its discretion, hold a legislative hearing under the procedures in subpart O of part 2 of this chapter. The Commission must publish a document in the **Federal Register** of its decision to hold a legislative hearing. The document must contain the information specified in § 2.1502(c) of this chapter and specify whether the Commission or a presiding officer will conduct the legislative hearing.

(3) Notwithstanding anything in § 2.390 of this chapter to the contrary, proprietary information will be protected in the same manner and to the same extent as proprietary information submitted in connection with applications for licenses, provided that the design certification will be published in chapter I of this title.

(c) *Reference to an issued operating license or combined license.* In those cases where a design certification application is preceded by the issuance of an OL or custom COL for a commercial nuclear plant that is essentially the same as the standard design for which certification is being requested, the NRC review will follow the processes for referencing a standard design approval in § 53.1221, to the extent practicable.

§ 53.1245 Referral to the Advisory Committee on Reactor Safeguards.

The Commission must refer a copy of the application to the ACRS. The ACRS must report on those portions of the application which concern safety.

§ 53.1248 Issuance of standard design certification.

(a) After conducting a rulemaking proceeding under § 53.1242 on an application for a standard design certification and receiving the report to be submitted by the ACRS under § 53.1245, the Commission may issue a standard design certification in the form of a rule for the design that is the subject of the application, if the Commission determines that—

(1) The application demonstrates compliance with the applicable standards and requirements of the Act and the Commission's regulations;

(2) Notifications, if any, to other agencies or bodies have been duly made;

(3) There is reasonable assurance that the standard design conforms with the provisions of the Act and the Commission's regulations;

(4) The applicant is technically qualified;

(5) The proposed ITAAC are necessary and sufficient, within the scope of the standard design, to provide reasonable assurance that, if the inspections, tests, and analyses are performed and the acceptance criteria met, the facility has been constructed and will be operated in accordance with the design certification, the provisions of the Act, and the Commission's regulations;

(6) Issuance of the standard design certification will not be inimical to the common defense and security or to the health and safety of the public;

(7) The findings required by part 51 of this chapter have been made; and

(8) The applicant has implemented the QAP described or referenced in the Safety Analysis Report.

(b) The design certification rule must specify the site parameters, design characteristics, and any additional requirements and restrictions of the design certification rule.

(c) After the Commission has adopted a final design certification rule, the applicant must not permit any individual to have access to or any facility to possess restricted data or classified National Security Information until the individual and/or facility has been approved for access under the provisions of 10 CFR parts 25 and/or 95, as applicable.

§ 53.1251 Duration of certification.

(a) Except as provided in paragraph (b) of this section, a standard design certification issued under this subpart is valid for 40 years from the effective date of the rule.

(b) A standard design certification continues to be valid beyond the date of expiration in any proceeding on an application for a COL or an OL under this part that references the standard design certification and is docketed either before the date of expiration of the certification, or, if a timely application for renewal of the certification has been filed, before the Commission has determined whether to renew the certification. A design certification also continues to be valid beyond the date of expiration in any hearing held under § 53.1452 before operation begins under a COL that references the design certification.

(c) An applicant for a CP, OL, COL, or ML under this part may, at its own risk, reference in its application a design for which a design certification application has been docketed but not granted.

§ 53.1254 Application for renewal.

(a) Not less than 12 nor more than 36 months before the expiration of the initial 40-year period, or any later renewal period, any person may apply for renewal of the certification. An application for renewal must contain all information necessary to bring up to date the information and data contained in the previous application. The Commission will require, before renewal of certification, that information normally contained in engineering documents, such as analyses, drawings, procurement specifications, or construction and installation specifications, be completed and available for audit if the more detailed information is necessary for the Commission to verify the information in the application and make its safety determination. Notice and comment procedures must be used for a rulemaking proceeding on the application for renewal. The Commission, in its discretion, may require the use of additional procedures in individual renewal proceedings.

(b) A design certification, either original or renewed, for which a timely application for renewal has been filed remains in effect until the Commission has determined whether to renew the certification. If the certification is not

renewed, it continues to be valid in certain proceedings under § 53.1251.

§ 53.1257 Criteria for renewal.

(a) The Commission must issue a rule granting the renewal if the design, either as originally certified or as modified during the rulemaking on the renewal, complies with the Act and the Commission's regulations applicable and in effect at the time the certification was issued.

(b) The Commission may impose other requirements if it determines that—

(1) They are necessary for adequate protection to public health and safety or common defense and security;

(2) They are necessary for compliance with the Commission's regulations and orders applicable and in effect at the time the design certification was issued; or

(3) There is a substantial increase in overall protection of the public health and safety or the common defense and security to be derived from the new requirements, and the direct and indirect costs of implementing those requirements are justified in view of this increased protection.

(c) In addition, the applicant for renewal may request an amendment to the design certification. The Commission must grant the amendment request if it determines that the amendment will comply with the Act and the Commission's regulations in effect at the time of renewal. If the amendment request entails such an extensive change to the design certification that an essentially new standard design is being proposed, an application for a design certification must be filed in accordance with this subpart.

(d) Denial of renewal does not bar the applicant, or another applicant, from filing a new application for certification of the design, which proposes design changes that correct the deficiencies cited in the denial of the renewal.

§ 53.1260 Duration of renewal.

Each renewal of certification for a standard design will be for not less than 10, nor more than 40 years.

§ 53.1263 Finality of standard design certifications.

(a)(1) While a standard design certification rule is in effect under § 53.1251 or § 53.1260, the Commission may not modify, rescind, or impose new requirements on the certification information, whether on its own motion, or in response to a petition from any person, unless the Commission determines in a rulemaking that the change—

(i) Is necessary either to bring the certification information or the referencing plants into compliance with the Commission's regulations applicable and in effect at the time the certification was issued;

(ii) Is necessary to provide adequate protection of the public health and safety or the common defense and security;

(iii) Reduces unnecessary regulatory burden and maintains protection to public health and safety and the common defense and security;

(iv) Provides the detailed design information to be verified under those ITAAC that are directed at certification information (*i.e.,* design acceptance criteria);

(v) Is necessary to correct material errors in the certification information;

(vi) Substantially increases overall safety, reliability, or security of facility design, construction, or operation, and the direct and indirect costs of implementation of the rule change are justified in view of this increased safety, reliability, or security; or

(vii) Contributes to increased standardization of the certification information.

(2)(i) In a rulemaking under § 53.1263(a)(1), except for § 53.1263(a)(1)(ii), the Commission will give consideration to whether the benefits justify the costs for plants that are already licensed or for which an application for a permit or license is under consideration.

(ii) The rulemaking procedures for changes under § 53.1263(a)(1) must provide for notice and opportunity for public comment.

(3) Any modification the NRC imposes on a design certification rule under paragraph (a)(1) of this section will be applied to all plants referencing the certified design, except those to which the modification has been rendered technically irrelevant by action taken under paragraphs (a)(4) or (b) of this section.

(4) The Commission may not impose new requirements by plant-specific order on any part of the design of a specific plant referencing the design certification rule if that part was approved in the design certification while a design certification rule is in effect under § 53.1248, unless—

(i) A modification is necessary to secure compliance with the Commission's regulations applicable and in effect at the time the certification was issued, or to assure adequate protection of the public health and safety or the common defense and security; and

(ii) Special circumstances as defined in § 53.080 are present. In addition to the factors listed in § 53.080, the Commission must consider whether the special circumstances which § 53.080 requires to be present outweigh any decrease in safety that may result from the reduction in standardization caused by the plant-specific order.

(5) Except as provided in § 2.335 of this chapter, in making the findings required for issuance of a COL, CP, OL, or ML, or for any hearing under § 53.1452, the Commission must treat as resolved those matters resolved in connection with the issuance or renewal of a design certification rule.

(b) An applicant who references a design certification rule may request an exemption from one or more elements of the certification information. The Commission may grant such a request only if it determines that the exemption will comply with the requirements of § 53.080. In addition to the factors listed in § 53.080, the Commission must consider whether the special circumstances that § 53.080 requires to be present outweigh any decrease in safety that may result from the reduction in standardization caused by the exemption. The granting of an exemption on request of an applicant is subject to litigation in the same manner as other issues in the OL or COL hearing.

(c) The Commission will require, before granting a CP, COL, OL, or ML that references a design certification rule, that information normally contained in engineering documents, such as analyses, drawings, procurement specifications, or construction and installation specifications, be completed and available for audit if the more detailed information is necessary for the Commission to verify the information in the application and make its safety determination, including the determination that the application is consistent with the certification information. This information may be acquired by appropriate arrangements with the design certification applicant.

§ 53.1270 Manufacturing licenses.

Sections 53.1270 through 53.1295 set out the requirements and procedures applicable to Commission issuance of a license under this part authorizing manufacture of manufactured reactors to be installed at sites not identified in the ML application.

§ 53.1276 Contents of applications for manufacturing licenses; general information.

Each application for an ML must include the information contained in § 53.1109(a) through (e), and (j).

§ 53.1279 Contents of applications for manufacturing licenses; technical information.

(a) *Final Safety Analysis Report-siting and design.* The application must include an FSAR containing the information set forth below, with a level of design information sufficient to enable the Commission to judge the applicant's proposed means of ensuring that the manufacturing conforms to the design and to reach a final conclusion on all safety questions associated with the design, permit the preparation of construction and installation specifications by an applicant who seeks to use the manufactured reactor, and permit the preparation of acceptance and inspection requirements by the NRC. The application must include the following information:

(1) *Site parameters.* The site parameters postulated for the design under this part, including the design-basis external hazard levels for the relevant external hazards, and an analysis and evaluation of the design in terms of those site parameters.

(2) *Design information.* The design information equivalent to that required for a standard design certification as defined in § 53.1239(a)(2) through (27) for those portions of a commercial nuclear plant included in the manufactured reactor.

(3) *Quality assurance program.* A description of the QAP applied to the design, and to be applied to the fabrication and testing of the SSCs of the manufactured reactor under § 53.620(a)(6), including a discussion of how the applicable requirements of appendix B to part 50 of this chapter will be satisfied;

(4) *Conceptual designs.* Representative conceptual designs for one or more commercial nuclear plants using the manufactured reactor;

(5) *Operating configurations.* If multiple manufactured reactors may be installed at a commercial nuclear plant, a description of the possible operating configurations, including common systems, interface requirements, and system interactions. The final safety analysis must also account for differences among the possible configurations, including any restrictions that will be necessary during the construction and startup of a given manufactured reactor to ensure the safe operation of any commercial nuclear reactor already operating;

(6) *Interface requirements.* (i) The interface requirements between the manufactured reactor and the remaining portions of the commercial nuclear plant or connections to other facilities outside of the commercial nuclear plant.

(ii) Confirmation that interface requirements are verifiable through inspections, testing, or analysis. These requirements must be sufficiently detailed to allow for completion of the final safety analysis by license applicants that reference the manufactured reactor manufactured under this subpart. Applicants for a COL under this part will need to verify the interface requirements at the installation site. The method to be used for verification of interface requirements must be included as part of the proposed ITAAC required by § 53.1282(a).

(iii) Information to support development of radiation monitoring programs required under subpart F of this part by an applicant for a COL, including potential pathways for radionuclides produced within the manufactured reactor to enter interfacing systems.

(b) *Final Safety Analysis Report—manufacturing information.* The FSAR must include the following information related to the manufacturing processes, organization, controls, and inspections:

(1) A description, including references to generally accepted consensus codes and standards, of the processes that will be used to procure, fabricate, and assemble components that make up the manufactured reactor. The description should clearly define which activities are proposed to be within the scope of the ML and those, such as the making of a component to be procured from a separate company for installation in the manufactured reactor, that are not considered to be within the scope of the ML;

(2) A description of the organizational and management structure singularly responsible for direction of design and manufacture of the manufactured reactor. The information should include a description of the management plans, technical qualifications, and controls in place to demonstrate compliance with the requirements of § 53.620;

(3) A description of the inspections and tests to be performed as part of the manufacturing process, including the inspection of procured components, inspection and testing of fabrication processes such as the molding, welding, or coating of components, and inspections and testing of the assembled manufactured reactor or portions of the manufactured reactor;

(4) A description of the fitness-for-duty program required by part 26 of this chapter and its implementation.

(c) *Final Safety Analysis Report—deployment of the completed manufactured reactor.* The application must include a description of the following information related to the deployment of a manufactured reactor:

(1) Procedures governing the preparation of the manufactured reactor or portions of the manufactured reactor for shipping to the site where it is to be operated; the conduct of shipping; and verifying the condition of the shipped items upon receipt at the site;

(2) Details of the interaction of the design, manufacture, and installation of a manufactured reactor within the applicant's organization and the manner by which the applicant will ensure close integration between the designer, contractors, and any facility in which the manufactured reactor is to be installed;

(3) Measures to be used for the control of interfaces, including the consideration of key site parameters, between the holder of the ML and the holder of the COL or CP for the commercial nuclear plant at which the manufactured reactor is to be installed.

(d) *Final Safety Analysis Report—special considerations for factory fueling.* In addition to the above paragraphs (a) through (c) of this section, an application for an ML for a manufactured reactor that will be fueled at the factory under a 10 CFR part 70 license must include the following information related to loading fuel and the required features to prevent criticality and to otherwise provide assurance that the fueled manufactured reactor can be successfully transported, installed, and operated at a site for which the Commission has issued a COL or a CP and OL that authorizes construction and operation of a commercial nuclear plant using the manufactured reactor:

(1) A description of the procedures used during the fueling of the manufactured reactor that ensure that the configuration of fuel within the fueled manufactured reactor is consistent with the design and analyses supporting operation of the manufactured reactor under the COL or OL at the place of operation. The description may reference the applicable 10 CFR part 70 application and other sections of the Safety Analysis Report supporting the ML license application.

(i) The application must describe the measures taken for in-factory

inspections and non-nuclear testing performed to ensure that the configuration of fuel within the fueled manufactured reactor is consistent with the design and analyses supporting operation of the manufactured reactor under the COL or OL at the place of operation.

(ii) The application must describe the design features included in the manufactured reactor to prevent criticality, the associated functional design criteria applied to those design features, and the physical and programmatic controls implemented during manufacturing, storage, and transport that are credited to assure the features function as designed when subject to potential hazards and human errors. The descriptions must include how those measures will be controlled during installation under the ML and removal under the COL or OL at the place of operation.

(2) A description of the procedures governing the transfer of responsibilities for the fueled manufactured reactor from the holder of the ML to the holder of the COL or CP and OL for the installation site.

(3) If available at the time of filing the ML application or, if not available at the time of filing the ML application, submitted as an amendment to the ML or ML application at the time of filing the Part 70 application, a description of the programs needed to demonstrate compliance with the requirements of § 53.620(d) and 10 CFR parts 70, 71, and 73 for the receipt, storage, and loading of SNM into a manufactured reactor and the transport of the fueled manufactured reactor to a site for which the Commission has issued a COL or CP and OL that authorizes construction and operation of a commercial nuclear plant using the manufactured reactor, including the following.

(i) A physical security program in accordance with § 53.620(d)(2)(i).

(ii) A cybersecurity program in accordance with § 53.620(d)(2)(i).

§ 53.1282 Contents of applications for manufacturing licenses; other application content.

(a) *Inspections, tests, analyses, and acceptance criteria.* (1) The application must contain proposed inspections, tests, and analyses that the COL or CP holder must perform, and the acceptance criteria that are necessary and sufficient to provide reasonable assurance that, if the inspections, tests, and analyses are performed and the acceptance criteria met:

(i) The reactor has been manufactured in conformity with the ML, the provisions of the Act, and the Commission's rules and regulations; and

(ii) The manufactured reactor will be operated in conformity with the approved design and any license authorizing operation of the manufactured reactor.

(2) If the application references a standard design certification, the ITAAC contained in the certified design must apply to those portions of the facility design that are covered by the design certification.

(3) If the application references a standard design certification, the application may include a notification that a required inspection, test, or analysis in the design certification ITAAC has been successfully completed and that the corresponding acceptance criterion has been met. The **Federal Register** notice required by § 53.1285 must indicate that the application includes this notification.

(b) *Environmental report.* (1) The application must contain an environmental report as required by § 51.54 of this chapter.

(2) If the ML application references a standard design certification, the environmental report need not contain a discussion of severe accident mitigation design alternatives for the manufactured reactor as used in a commercial nuclear plant.

(c) *Safeguards information.* The application must contain a description of the program to protect safeguards information against unauthorized disclosure in accordance with the requirements in §§ 73.21 and 73.22 of this chapter, as applicable.

(d) *Performance demonstration.* A description of how the performance of each design feature has been demonstrated capable of fulfilling functional design criteria considering interdependent effects through either analysis, appropriate test programs, prototype testing, operating experience, or a combination thereof, in accordance with § 53.440(a).

§ 53.1285 Review of applications.

(a) *Standards for review of applications.* Applications for MLs under this part will be reviewed according to the applicable standards set out in this subpart as well as applicable standards in 10 CFR parts 20, 25, 26, 51, 53, 70, 71, 73, and 75.

(b) *Administrative review of applications, hearings.* A proceeding on an ML is subject to all applicable procedural requirements contained in 10 CFR part 2, including the requirements for docketing in § 2.101(a)(1) through (4) of this chapter, and the requirements for issuance of a notice of proposed action in § 2.105 of this chapter, *provided, however,* that the designated sections may not be construed to require that the environmental report or draft or final environmental impact statement include an assessment of the benefits of constructing and/or operating the manufactured reactor or an evaluation of alternative energy sources. All hearings on MLs are governed by the hearing procedures contained in 10 CFR part 2, subparts C, E, G, L, and N.

§ 53.1286 Referral to the Advisory Committee on Reactor Safeguards.

The Commission must refer a copy of the application to the ACRS. The ACRS must report on those portions of the application which concern safety.

§ 53.1287 Issuance of manufacturing licenses.

(a) After completing any hearing under § 53.1285(b), and receiving the report submitted by the ACRS, the Commission may issue an ML if the Commission finds that—

(1) Applicable standards and requirements of the Act and the Commission's regulations have been met;

(2) There is reasonable assurance that the manufactured reactor will be manufactured, and can be transported, incorporated into a commercial nuclear plant, and operated in conformity with the ML, the provision of the Act, and the Commission's regulations;

(3) The proposed manufactured reactor can be incorporated into a commercial nuclear plant and operated at sites having characteristics that fall within the site parameters postulated for the design of the manufactured reactors without undue risk to the health and safety of the public;

(4) The applicant is technically qualified to design and manufacture the proposed manufactured reactor;

(5) The proposed ITAAC are necessary and sufficient, within the scope of the ML, to provide reasonable assurance that the manufactured reactor has been manufactured and will be operated in conformity with the license, the provisions of the Act, and the Commission's regulations;

(6) The issuance of a license to the applicant will not be inimical to the common defense and security or to the health and safety of the public; and

(7) The findings required by 10 CFR part 51 have been made.

(b) Each ML issued under this subpart must specify—

(1) Terms and conditions as the Commission deems necessary and appropriate;

(2) Technical specifications for operation of the manufactured reactor, as the Commission deems necessary and appropriate;

(3) Significant site parameters and significant design characteristics for the manufactured reactor;

(4) The interface requirements to be met by the site-specific elements of the facility, such as the energy conversions systems and ultimate heat sink, not within the scope of the manufactured reactor; and

(5) The entity with design authority for the manufactured reactor covered by the license.

§ 53.1288 Finality of manufacturing licenses.

(a)(1) During the term of an ML issued under this part, the Commission may not modify, rescind, or impose new requirements on the design of the manufactured reactor, or the requirements for the manufacture of the manufactured reactor, unless the Commission determines that a modification is necessary to bring the design of the reactor or its manufacture into compliance with the Commission's requirements applicable and in effect at the time the ML was issued, or to provide reasonable assurance of adequate protection to public health and safety or common defense and security.

(2) Any modification to the design of a manufactured reactor that is imposed by the Commission under paragraph (a)(1) of this section will be applied to all manufactured reactors manufactured under the license, including those that have already been transported and sited, except those manufactured reactors to which the modification has been rendered technically irrelevant or otherwise unnecessary by action taken under § 53.1530, § 53.1550, or paragraph (b) of this section.

(3) In making the findings required under this part for issuance of a COL, CP, or OL, in any hearing under § 53.1452, or in any enforcement hearing other than one initiated by the Commission under paragraph (a)(1) of this section, for which a manufactured reactor manufactured under this subpart is referenced or used, the Commission must treat as resolved those matters resolved in the proceeding on the application for issuance or renewal of the ML, including the adequacy of design of the manufactured reactor, the costs and benefits of severe accident mitigation design alternatives, and the bases for not incorporating severe accident mitigation design alternatives into the design of the manufactured reactor to be manufactured.

(b) An applicant who references or uses a manufactured reactor manufactured under an ML under this part may include in the application a request for a departure from the design characteristics, site parameters, terms and conditions, or approved design of the manufactured reactor. The Commission may grant a request only if it determines that the departure will comply with the requirements of § 53.080 The granting of a departure on request of an applicant is subject to litigation in the same manner as other issues in the COL or CP hearing.

§ 53.1291 Duration of manufacturing licenses.

An ML issued under this part is valid for not less than 5, nor more than 40 years from the date of issuance. Upon expiration of the ML, the manufacture of any uncompleted manufactured reactors must cease unless a timely application for renewal has been docketed with the NRC.

§ 53.1293 Transfer of manufacturing licenses.

An ML may be transferred under § 53.1570.

§ 53.1295 Renewal of manufacturing licenses.

(a)(1) Not less than 12 months, nor more than 5 years before the expiration of the ML, or any later renewal period, the holder of the ML issued under this part may apply for a renewal of the license. An application for renewal must contain all information necessary to bring up to date the information and data contained in the previous application.

(2) The filing of an application for a renewed license must be in accordance with subpart A of 10 CFR part 2 and § 53.1100.

(3) An ML issued under this part, either original or renewed, for which a timely application for renewal has been filed, remains in effect until the Commission has made a final determination on the renewal application.

(4) Any person whose interest may be affected by renewal of the license may request a hearing on the application for renewal. The request for a hearing must comply with § 2.309 of this chapter. If a hearing is granted, notice of the hearing will be published in accordance with § 2.104 of this chapter.

(b) The Commission may grant the renewal if the Commission determines—

(1) The ML complies with the Act and the Commission's regulations and orders applicable and in effect at the time the ML was originally issued; and

(2) Any new requirements the Commission may wish to impose are—

(i) Necessary for adequate protection to public health and safety or common defense and security;

(ii) Necessary for compliance with the Commission's regulations and orders applicable and in effect at the time the ML was originally issued; or

(iii) A substantial increase in overall protection of the public health and safety or the common defense and security to be derived from the new requirements, and the direct and indirect costs of implementation of those requirements are justified in view of this increased protection.

(c) A renewed ML may be issued for a term of not less than 5, nor more than 40 years, plus any remaining years on the ML then in effect before renewal. The renewed license must be subject to the requirements of § 53.1288.

§ 53.1300 Construction permits.

Sections 53.1300 through 53.1348 set out the requirements and procedures applicable to Commission issuance of a CP for commercial nuclear plants. A CP for the construction of a commercial nuclear plant under this part will be issued before the issuance of an OL if the application is otherwise acceptable and will be converted upon completion of the facility and Commission action, into an OL as provided under §§ 53.1360 through 53.1405.

§ 53.1306 Contents of applications for construction permits; general information.

An application for a CP must include the information required by § 53.1109 and the following information:

(a) Information sufficient to demonstrate to the Commission the financial qualification of the applicant to carry out, under the regulations in this chapter, the activities for which the permit is sought. As applicable, the applicant should provide information that demonstrates that the applicant appears to be financially qualified to cover estimated construction costs and related fuel cycle costs, including estimates of the total construction costs and related fuel cycle costs of the facility, a financial capacity plan, and any source(s) of funds available at the time of application to cover these costs. If available funding at the time of application is 50 percent or less, the applicant should include proposed license conditions to facilitate verification that funding is available prior to the start of construction.

(b) If the applicant proposes to construct or alter a facility, the application must state the earliest and

latest dates for completion of the construction or alteration.

§ 53.1309 Contents of applications for construction permits; technical information.

The application must contain a Preliminary Safety Analysis Report (PSAR) that describes the facility and the limits on its operation and presents a preliminary safety analysis of the SSCs of the facility as a whole. The PSAR must include the following information, at a level of detail sufficient to enable the Commission to reach a conclusion on safety matters that must be resolved by the Commission before issuance of a CP:

(a)(1) *Site information.* An application for a CP for a commercial nuclear reactor must include the site information equivalent to that required for an early site permit in § 53.1146(a)(1)(iv) through (x).

(2) *Design information.* Except as specified in this paragraph (a)(2), an application for a CP for a commercial nuclear plant must include the design information equivalent to that required for a standard design certification as defined in § 53.1239(a)(2) through (a)(21), (a)(23), and § 53.1239(a)(26) through (27).

(i) *Quality assurance program.* A description of the QAP to be applied to the design, fabrication, construction, and testing of the SSCs of the facility under § 53.610(a)(6), including a discussion of how the requirements of appendix B to part 50 of this chapter will be satisfied.

(ii) *Preliminary design information.* The information provided in the application may include some aspects of the design that are not fully developed, and the information is therefore preliminary. The completed design, including any changes during construction, must be described in the FSAR required in § 53.1369 that supports an application for an OL.

(iii) *Planned research or testing.* Descriptions of how design features and related functional design criteria will fulfill the safety criteria in subpart B and how that has been or will be demonstrated through either analysis, appropriate test programs, experience, or a combination thereof. Where any design feature has not been fully developed or demonstrated to fulfill the functional design criteria at the time of an application for a CP, the applicant must provide a plan for future analysis, research and development, test programs, gathering of experience, or a combination thereof to provide reasonable confidence that the required demonstration will be available for an application for an OL

(iv) *Programmatic controls.* Descriptions of the programmatic controls may include those to be provided in the FSAR or other licensing-basis documents because they are necessary to achieve and maintain the reliability and capability of SSCs relied upon to demonstrate compliance with the established safety criteria and functional design criteria required in subpart B, and to maintain consistency with analyses required by § 53.450.

(3) *Technical qualifications.* A description of the technical qualifications of the applicant to engage in the proposed activities under the regulations in this chapter.

(4) *Emergency preparedness.* A description of the applicant's preliminary plans for coping with emergencies based on:

(i) Except as provided in paragraph (a)(4)(ii) of this section, the requirements in appendix E to part 50.

(ii) For a commercial nuclear plant consisting of either small modular reactors or non-light-water reactors, the requirements in either § 50.160 or appendix E to part 50.

(5) *Physical security.* A report that provides a preliminary description of how the site characteristics support the development of adequate security plans and measures consistent with the requirements in § 53.540.

(6) *Fitness-for-duty program.* A description of the fitness-for-duty (FFD) program required by 10 CFR part 26 and its implementation.

(b) A description of the program to protect Safeguards Information against unauthorized disclosure in accordance with the requirements in §§ 73.21 and 73.22 of this chapter, as applicable.

§ 53.1312 Contents of applications for construction permits; other application content.

(a) In addition to the PSAR, the application must include the following:

(1) An environmental report either under § 51.50(a) of this chapter if an LWA under § 53.1130 is not requested in conjunction with the CP application, or under §§ 51.49 and 51.50(a) of this chapter if an LWA is requested in conjunction with the CP application; or

(2) If the applicant wishes to request that an LWA under § 53.1130 be issued before issuance of the CP, the information otherwise required by § 53.1130, in accordance with either § 2.101(a)(1) through (a)(5), or § 2.101(a)(9) of this chapter.

(b) If the CP application references an early site permit, standard design approval, standard design certification, or ML issued under this part, then the following requirements apply:

(1) The PSAR need not contain information or analyses submitted to the Commission in connection with the referenced NRC approval, license,, or certification, provided, however, that the PSAR incorporates the material by reference and confirms that the site and design of the facility falls within parameter values postulated in the referenced NRC approval, license, or certification.

(2) The PSAR must provide a means to demonstrate that all terms and conditions that have been included in the referenced NRC approval, license, or certification will be satisfied by the date of issuance of the OL, as appropriate. If the PSAR does not demonstrate that each site characteristic falls within the corresponding postulated site parameter and each design characteristic of the facility falls within the corresponding postulated design parameter, the application must justify a departure, variance, or exemption from the referenced NRC approval, license, or certification in regard to that particular site or design characteristic in compliance with the requirements of this part.

(3) If a referenced early site permit approves complete and integrated emergency plans, or major features of emergency plans, then the PSAR must include any new or additional information that updates and corrects the information that was provided under § 53.1146(b)(2) and discuss whether the new or additional information materially changes the bases for compliance with the applicable requirements.

§ 53.1315 Review of applications.

(a) *Standards for review of applications.* Applications filed under this part will be reviewed according to the standards set out in 10 CFR parts 20, 51, 53, 73, and 140.

(b) *Administrative review of applications; hearings.* A proceeding on a CP application is subject to all applicable procedural requirements contained in 10 CFR part 2, including the requirements for docketing (§ 2.101 of this chapter) and issuance of a notice of hearing (§ 2.104 of this chapter). All hearings on CP applications are governed by the procedures contained in 10 CFR part 2.

§ 53.1318 Finality of referenced NRC approvals, permits, and certifications.

If the application for a CP under this part references an early site permit, standard design approval, standard design certification, or ML, the scope and nature of matters resolved for the application are governed by the relevant

provisions addressing finality, including §§ 53.1188, 53.1221, 53.1263, and 53.1288.

§ 53.1324 Referral to the Advisory Committee on Reactor Safeguards.

The Commission must refer a copy of the application to the ACRS. The ACRS must report on those portions of the application that concern safety and must apply the standards referenced in § 53.1315, in accordance with the finality provisions in § 53.1318.

§ 53.1327 Authorization to conduct limited work authorization activities.

(a) If the application does not reference an early site permit which authorizes the holder to perform the activities under § 53.1130, the applicant may not perform those activities without obtaining the separate authorization required by § 53.1130. Authorization may be granted only after the presiding officer in the proceeding on the application has made the findings and determination required by § 53.1130(b)(1)(ii) and (iv), and the Director, Office of Nuclear Reactor Regulation makes the determination required by § 53.1130(b)(1)(iii).

(b) If, after an applicant has performed the activities permitted by paragraph (a) of this section, the application for the CP is withdrawn or denied, then the applicant must implement an approved site redress plan.

§ 53.1330 Exemptions, departures, and variances.

(a) Applicants for a CP under this part, or any amendment to a CP, may include in the application a request for an exemption from one or more of the Commission's regulations. The Commission may grant a request if it determines that the exemption complies with § 53.080.

(b) An applicant for a CP who has filed an application referencing an NRC approval, license, or certification issued under this part may include in the application a request for exemptions, departures, or variances related to the subject referenced NRC approval, license, or certification. In determining whether to grant the departure, variance, or exemption, the Commission must apply the same technically relevant criteria as were applicable to the application for the original or renewed approval, license, or certification.

§ 53.1333 Issuance of construction permits.

(a) After conducting a hearing in accordance with § 53.1315 and receiving the report submitted by the ACRS, the Commission may issue a CP only if the Commission finds that—

(1) The applicant has described the proposed design of the facility and has identified the major features or components incorporated therein for the protection of the health and safety of the public;

(2) Such further technical or design information as may be required to complete the safety analysis, and which can reasonably be left for later consideration, will be supplied in the FSAR;

(3) Safety features or components, if any, that require research and development have been described by the applicant and the applicant has identified, and there will be conducted, a research and development program reasonably designed to resolve any safety questions associated with such features or components; and

(4) On the basis of the foregoing, there is reasonable assurance of the following—

(i) Such safety questions will be satisfactorily resolved at or before the latest date stated in the application for completion of construction of the proposed facility; and

(ii) Taking into consideration the site criteria contained in subpart D to this part, the proposed facility can be constructed and operated at the proposed location without undue risk to the health and safety of the public.

(b) A CP must contain the terms and conditions for the permit, as the Commission deems necessary and appropriate. The Commission may, in its discretion, incorporate in any CP provisions requiring the applicant to furnish periodic reports of the progress and results of research and development programs designed to resolve safety questions.

§ 53.1336 Finality of construction permits.

Notwithstanding any provision in § 53.1590, a CP constitutes an authorization to proceed with construction but does not constitute Commission approval of the safety of any design feature or specification unless the applicant specifically requests such approval and such approval is incorporated in the permit. The applicant, at its option, may request such approvals in the CP or by amendment to the CP. If approved by the NRC and included in the permit, the NRC will consider modifications to the approved design features or specifications in accordance with § 53.1590.

§ 53.1342 Duration of construction permits.

(a) A CP will state the earliest and latest dates for completion of construction or alteration of the facility, not to exceed 40 years from date of issuance.

(b) If the proposed construction or alteration of the facility is not completed by the latest completion date, the CP shall expire, and all rights are forfeited. However, upon good cause shown, the Commission will extend the completion date for a reasonable period of time. The Commission will recognize, among other things, developmental problems attributed to the experimental nature of the facility or fire, flood explosion, strike, sabotage, domestic violence, enemy action an act of the elements, and other acts beyond the control of the permit holder, as a basis for extending the completion date.

§ 53.1345 Transfer of construction permits.

A CP may be transferred under § 53.1570.

§ 53.1348 Termination of construction permits.

When a permit holder has determined to permanently cease construction, the holder must, within 30 days, submit a written certification to the NRC.

§ 53.1360 Operating licenses.

Sections 53.1360 through 53.1405 set out the requirements and procedures applicable to Commission issuance of an OL for a nuclear power facility.

§ 53.1366 Contents of applications for operating licenses; general information.

An application for an OL must include the information required by § 53.1109 and, except for an electric utility applicant, information sufficient to demonstrate to the Commission the financial qualification of the applicant to carry out, in accordance with the regulations in this chapter, the activities for which the license is sought. As applicable, the applicant must submit information that demonstrates the applicant appears to be financially qualified to cover estimated operation costs for the period of the license. The applicant must submit estimates for total annual operating costs for each of the first 5 years of operation of the facility and a financial capacity plan and must indicate any source(s) of funds available at the time of application to cover these costs. If available funding at the time of application is 50 percent or less, the applicant should include proposed license conditions to facilitate verification that funding is available prior to the start of operations.

§ 53.1369 Contents of applications for operating licenses; technical information.

Final Safety Analysis Report. The application must contain an FSAR that describes the facility and the limits on its operation and presents a safety analysis of the SSCs of the facility as a whole. The FSAR must include the following information, at a level of detail sufficient to enable the Commission to reach a final conclusion on all safety matters that must be resolved by the Commission before issuance of an OL:

(a) *Site information.* An application for an OL for a commercial nuclear reactor must include the site information equivalent to that required for an early site permit in § 53.1146(a)(1)(iv) through (x), including all current information, such as the results of environmental and meteorological monitoring programs, which has been developed since issuance of the CP, relating to site evaluation factors identified in this part.

(b) *Design information.* Except as specified in this paragraph (b), an FSAR for an OL for a commercial nuclear plant must include the final design information equivalent to that required for a standard design certification as defined in § 53.1239(a)(2) through (7), (a)(9), (a)(11) and (12), (a)(14) through (21), (a)(23), and (a)(25).

(1) The completed design, including any changes during construction, must be described.

(2) Where any design feature had not been fully developed or demonstrated at the time of application for the CP, the applicant must provide the analysis, research and development, test programs, gathering of experience, or a combination thereof to provide the required demonstration to fulfill the functional design criteria.

(c) [Reserved]

(d) *Integrity assessment program.* A description of an Integrity Assessment Program that addresses the elements described in § 53.870.

(e) *Safeguards information.* A description of the program to protect Safeguards Information against unauthorized disclosure in accordance with the requirements in §§ 73.21 and 73.22 of this chapter, as applicable.

(f) *Emergency response facility or facilities.* Description of location and capabilities to be established for command and control, support, and coordination of onsite and offsite, as applicable, functions during reactor accident conditions.

(g) *Role of personnel.* (1) A description of the completed assessments related to the role of personnel in ensuring safe operations considering the analyses required by § 53.730. These assessments must include the following:

(i) Human factors engineering design requirements of § 53.730(a);

(ii) Human system interface design requirements of § 53.730(b);

(iii) Concept of operations of § 53.730(c);

(iv) Functional requirements analysis and function allocation of § 53.730(d);

(2) A description of the program to be used for evaluating and applying operating experience as required by § 53.730(e);

(3) A staffing plan and supporting analyses as required by § 53.730(f).

(h) *Training, examination, and proficiency programs.* (1) A description of the training, examination, and proficiency programs required by § 53.730(g);

(2) A description of the training programs required by § 53.830.

(i) *Emergency plan.* Emergency plans complying with the requirements of § 53.855.

(1) Include all emergency plan certifications, as applicable, that have been obtained from the State, local, and participating Tribal governmental agencies with emergency planning responsibilities that are wholly or partially within the EPZ plume exposure pathway. These certifications must state that—

(i) The proposed emergency plans are practicable;

(ii) These agencies are committed to participating in any further development of the plans, including any required field demonstrations; and

(iii) These agencies are committed to executing their responsibilities under the plans in the event of an emergency.

(2) If certifications cannot be obtained after sustained, good faith efforts by the applicant, then the application must contain information, including a utility plan, sufficient to show that the proposed plans provide reasonable assurance that adequate protective measures can and will be taken in the event of a radiological emergency at the site.

(3) If complete and integrated emergency plans were approved as part of an early site permit, or submitted, reviewed, and approved as part of the CP application, new certifications that demonstrate compliance with the requirements of paragraph (i)(1) of this section are not required.

(j) *Organization.* A description of the applicant's organizational structure, allocations of responsibilities and authorities, and personnel qualifications requirements for operation.

(k) *Maintenance program.* A description of a maintenance program under § 53.715.

(l) *Quality assurance.* A description of the QAP that demonstrates compliance with the requirements under § 53.865.

(m) *Radiation protection program.* A radiation protection program description under § 53.850.

(n) *Security program.* A physical security plan that describes how the applicant will comply with § 53.860 (and 10 CFR part 11, if applicable, including the identification and description of jobs as required by § 11.11(a) of this chapter, at the proposed facility). The plan must list tests, inspections, audits, and other means to be used to demonstrate compliance with the requirements of 10 CFR parts 11 and 73, if applicable.

(o) *Safeguards contingency plan.* A safeguards contingency plan in accordance with the criteria set forth in appendix C to 10 CFR part 73. The safeguards contingency plan must include plans for dealing with threats, thefts, and radiological sabotage, as defined in 10 CFR part 73, relating to the SNM and nuclear facilities licensed under this chapter and in the applicant's possession and control. Each application for this type of license must include the information contained in the applicant's safeguards contingency plan. (Implementing procedures required for this plan need not be submitted for approval.) [1]

(p) *Security training and qualification.* A training and qualification plan that describes how the applicant will demonstrate compliance with the criteria set forth in § 73.100 of this chapter or appendix B to 10 CFR part 73.

(q) *Cybersecurity plan.* A cybersecurity plan in accordance with the criteria set forth in § 73.54 or § 73.110 of this chapter.

(r) *Security, safeguards, and cybersecurity plan implementation.* A description of the implementation of the physical security plan, safeguards contingency plan, training and qualification plan, and cybersecurity plan. Each applicant who prepares a physical security plan, a safeguards contingency plan, a training and qualification plan, or a cybersecurity plan must protect the plans and other related Safeguards Information against unauthorized disclosure in accordance with the requirements of §§ 73.21 and 73.22 of this chapter.

(s) *Fire protection program.* A description of the fire protection program under § 53.875.

(t) *Inservice inspection/inservice testing program.* A description of the

inservice inspection and inservice testing programs under § 53.880.

(u)–(v) [Reserved]

(w) *General employee training.* A description of the training program required to demonstrate compliance with § 53.830 and its implementation.

(x) *Fitness-for-duty program.* A description of the FFD program required by 10 CFR part 26 and its implementation.

(y) *Other programs.* A description and evaluation of the results of the applicant's programs, including research and development, if any, to demonstrate that any safety questions identified at the CP stage have been resolved.

(z) *Safety design feature performance.* A description of how the performance of each safety design feature has been demonstrated capable of fulfilling functional design criteria considering interdependent effects through either analysis, appropriate test programs, prototype testing, operating experience, or a combination thereof, in accordance with § 53.440(a).

(aa) *Technical specifications.* Proposed technical specifications prepared in accordance with the requirements of § 53.710(a).

[1] A physical security plan that contains all the information required in both § 73.55 or § 73.100 of this chapter and appendix C to 10 CFR part 73 satisfies the requirement for a contingency plan.

§ 53.1372 Contents of applications for operating licenses; other application content.

In addition to the FSAR, the application must also include the following:

(a) *Environmental report.* An environmental report in accordance with § 51.53(b) of this chapter.

(b) *Availability controls (if not included in the FSAR).* A description of the controls on plant operations, including availability controls, to provide reasonable confidence of safe operation and that the configurations and special treatments for SR and NSRSS SSCs provide the capabilities and reliabilities required to satisfy the safety criteria of § 53.220 if not addressed by Technical Specifications under § 53.1369(aa).

§ 53.1375 Review of applications.

(a) *Standards for review of applications.* Applications filed under this part will be reviewed according to the standards set out in 10 CFR parts 20, 26, 51, 53, 73, and 140.

(b) *Administrative review of applications; hearings.* A proceeding on an OL is subject to all applicable procedural requirements contained in 10 CFR part 2, including the requirements for docketing (§ 2.101 of this chapter) and issuance of a notice of hearing (§ 2.104 of this chapter). All hearings on OLs are governed by the procedures contained in 10 CFR part 2.

§ 53.1381 Referral to the Advisory Committee on Reactor Safeguards.

The Commission must refer a copy of the application to the ACRS. The ACRS must report on those portions of the application that concern safety and must apply the standards referenced in § 53.1375.

§ 53.1384 Exemptions, departures, and variances.

(a) Applicants for an OL under this part, or any amendment to an OL, may include in the application a request for an exemption from one or more of the Commission's regulations. The Commission may grant an exemption request if it determines that the exemption complies with § 53.080.

(b) An applicant for an OL who has filed an application referencing an NRC approval, permit, license, or certification issued under this part may include in the application a request for departures, variances, or exemptions related to the subject referenced NRC approval, permit, license, or certification. In determining whether to grant the departure, variance, or exemption, the Commission must apply the same technically relevant criteria as were applicable to the application for the original or renewed approval, license, or certification.

§ 53.1387 Issuance of operating licenses.

Upon completion of the construction or alteration of a facility, in compliance with the terms and conditions of the construction permit and subject to any necessary testing of the facility for health or safety purposes, the Commission will, in the absence of good cause shown to the contrary, issue an OL or an appropriate amendment of the license, as the case may be.

(a)(1) After receiving the report submitted by the ACRS, the Commission may issue an OL if the Commission finds that—

(i) Construction of the facility has been substantially completed in conformity with the CP and the application as amended, the provisions of the Act, and the rules and regulations of the Commission;

(ii) Any required notifications to other agencies or bodies have been duly made;

(iii) The facility will operate in conformity with the application as amended, the provisions of the Act, and the rules and regulations of the Commission;

(iv) There is reasonable assurance that—

(A) The activities authorized by the OL can be conducted without endangering the health and safety of the public; and

(B) Such activities will be conducted in compliance with the regulations in this chapter.

(v) The applicant is technically and financially qualified to engage in the activities authorized, however, no finding of financial qualification is necessary for an electric utility applicant for an OL;

(vi) Issuance of the license will not be inimical to the common defense and security or to the health and safety of the public;

(vii) The applicable provisions of 10 CFR part 140 have been satisfied; and

(viii) The findings required by 10 CFR part 51 have been made.

(2) [Reserved]

(b) [Reserved]

(c) The OL will include appropriate provisions with respect to any uncompleted items of construction and such limitations or conditions as are required to assure that operation during the period of the completion of such items will not endanger public health and safety.

(d) The Commission will issue an OL in such form and containing such conditions and limitations, including technical specifications, as it deems necessary and appropriate.

§ 53.1390 Backfitting of operating licenses.

After issuance of an OL, the Commission may not modify, add, or delete any term or condition of the OL, except in accordance with the provisions of § 53.1590.

§ 53.1396 Duration of operating licenses.

The Commission will issue an OL under this part for the term requested by the applicant, not to exceed 40 years from the date of issuance, or for the estimated useful life of the facility if the Commission determines that the estimated useful life is less than the term requested.

§ 53.1399 Transfer of an operating license.

An OL may be transferred under § 53.1570.

§ 53.1402 Application for renewal.

The filing of an application for a renewed license must be in accordance with § 53.1595.

§ 53.1405 Continuation of an operating license.

Each OL for a facility that has permanently ceased operations continues in effect beyond the expiration date to authorize ownership and possession of the facility until the Commission notifies the licensee in writing that the license is terminated. During this period of continued effectiveness, the licensee must—

(a) Take actions necessary to decommission and decontaminate the facility and continue to maintain the facility, including, where applicable, the storage, control, and maintenance of the spent fuel in a safe condition; and

(b) Conduct activities in accordance with all other restrictions applicable to the facility in accordance with the NRC's regulations and the provisions of the OL for the facility.

§ 53.1410 Combined licenses.

Sections 53.1410 through 53.1461 set out the requirements and procedures applicable to Commission issuance of COLs for commercial nuclear plants under this part.

§ 53.1413 Contents of applications for combined licenses; general information.

An application for a COL must include the information required by § 53.1109 and, except for an electric utility applicant in regard to financial assurance required after a Commission finding under § 53.1452, the application must include information sufficient to demonstrate to the Commission the financial qualification of the applicant to carry out, in accordance with the regulations in this chapter, the activities for which the permit or license is sought. As applicable, the following should be provided:

(a) The information that demonstrates that the applicant appears to be financially qualified to cover estimated construction costs and related fuel cycle costs, including estimates of the total construction costs and related fuel cycle costs of the facility, a financial capacity plan, and any source(s) of funds available at the time of application to cover these costs. If available funding at the time of application is 50 percent or less, the applicant should include proposed license conditions to facilitate verification that funding is available prior to the start of construction.

(b) The applicant must submit information that demonstrates the applicant appears to be financially qualified to cover estimated operation costs for the period of the license. The applicant must submit estimates for total annual operating costs for each of the first 5 years of operation of the facility, a financial capacity plan and indicate any source(s) of funds available at the time of application to cover these costs. If available funding at the time of application is 50 percent or less, the applicant should include proposed license conditions to facilitate verification that funding is available prior to the start of operations.

§ 53.1416 Contents of applications for combined licenses; technical information.

(a) The application must contain an FSAR that describes the facility and the limits on its operation and presents a safety analysis of the SSCs of the facility as a whole. The Commission will require, before issuance of a COL, that information normally contained in engineering documents, such as analyses, drawings, procurement specifications, or construction and installation specifications, be completed and available for audit if the more detailed information is necessary for the Commission to verify the information in the application and make its safety determination. The FSAR must include the following information, at a level of detail sufficient to enable the Commission to reach a final conclusion on all safety matters that must be resolved by the Commission before issuance of a COL:

(1) *Site information.* An application for a COL for a commercial nuclear reactor must include the site information required for an early site permit in § 53.1146(a)(1)(iv) through (x).

(2) *Design information.* An application for a COL for a commercial nuclear plant must include the design information equivalent to that required for a standard design certification as defined in § 53.1239(a)(2) through (7), (a)(9), (a)(11), (a)(12), (a)(14) through (21), and (a)(23).

(3) *Technical qualifications.* A description of the technical qualifications of the applicant to engage in the proposed activities in accordance with the regulations in this chapter.

(4) *Integrity assessment program.* A description of an Integrity Assessment Program that addresses the elements described in § 53.870.

(5) *Safeguards information.* A description of the program to protect Safeguards Information against unauthorized disclosure in accordance with the requirements in §§ 73.21 and 73.22 of this chapter, as applicable.

(6) *Emergency response facility or facilities.* Description of the locations and capabilities to be established for command and control, support, and coordination of onsite and offsite, as applicable, functions during reactor accident conditions.

(7) *Role of personnel.* (i) A description of the completed assessments related to the role of personnel in ensuring safe operations considering the analyses required by § 53.730. These assessments must include the following:

(A) Human factors engineering design requirements of § 53.730(a);

(B) Human system interface design requirements of § 53.730(b);

(C) Concept of operations of § 53.730(c); and

(D) Functional requirements analysis and function allocation of § 53.730(d);

(ii) A description of the program to be used for evaluating and applying operating experience as required by § 53.730(e);

(iii) A staffing plan and supporting analyses as required by § 53.730(f).

(8) *Training, examination, and proficiency programs.* (i) A description of the training, examination, and proficiency programs required by § 53.730(g); and

(ii) A description of the training programs required by § 53.830.

(9) *Emergency plan.* Emergency plans complying with the requirements of § 53.855.

(i) The emergency plan must include, as applicable, all emergency plan certifications that have been obtained from the State, local, and participating Tribal governmental agencies with emergency planning responsibilities. The certifications must state that—

(A) The proposed emergency plans are practicable;

(B) These agencies are committed to participating in any further development of the plans, including any required field demonstrations; and

(C) These agencies are committed to executing their responsibilities under the plans in the event of an emergency.

(ii) If certifications cannot be obtained after sustained, good faith efforts by the applicant, then the application must contain information, including a utility plan, sufficient to show that the proposed plans provide reasonable assurance that adequate protective measures can and will be taken in the event of a radiological emergency at the site.

(10) *Organization.* A description of the applicant's organizational structure, allocations of responsibilities and authorities, and personnel qualifications requirements for operation.

(11) *Maintenance program.* A description of a maintenance program under § 53.715.

(12) *Quality assurance.* A description of the QAP under § 53.865.

(13) *Radiation protection program.* A radiation protection program description under § 53.850.

(14) *Security program.* A physical security plan that describes how the applicant will comply with § 53.860 (and 10 CFR part 11, if applicable, including the identification and description of jobs as required by § 11.11(a) of this chapter, at the proposed facility). The plan must list tests, inspections, audits, and other means to be used to demonstrate compliance with the requirements of 10 CFR parts 11 and 73, if applicable.

(15) *Safeguards contingency plan.* A safeguards contingency plan in accordance with the criteria set forth in appendix C to 10 CFR part 73. The safeguards contingency plan must include plans for dealing with threats, thefts, and radiological sabotage, as defined in 10 CFR part 73, relating to the SNM and nuclear facilities licensed under this chapter and in the applicant's possession and control. Each application for this type of license must include the information contained in the applicant's safeguards contingency plan.[1] (Implementing procedures required for this plan need not be submitted for approval.)

(16) *Security training and qualification.* A training and qualification plan that describes how the applicant will demonstrate compliance with the criteria set forth in § 73.100 of this chapter or appendix B to 10 CFR part 73.

(17) *Cybersecurity plan.* A cybersecurity plan in accordance with the criteria set forth in § 73.54 or § 73.110 of this chapter.

(18) *Security, safeguards, and cybersecurity plan implementation.* A description of the implementation of the physical security plan, safeguards contingency plan, training and qualification plan, and cybersecurity plan. Each applicant who prepares a physical security plan, a safeguards contingency plan, a training and qualification plan, or a cybersecurity plan must protect the plans and other related Safeguards Information against unauthorized disclosure in accordance with the requirements of §§ 73.21 and 73.22 of this chapter.

(19) *Fire protection program.* A description of the fire protection program under § 53.875.

(20) *Inservice inspection/inservice testing program.* Descriptions of inservice inspection and inservice testing programs under § 53.880.

(21)–(22) [Reserved]

(23) *General employee training.* A description of the training program required to demonstrate compliance with § 53.830 and its implementation.

(24) *Fitness-for-duty program.* A description of the FFD program under part 26 of this chapter and its implementation.

(25) *Technical specifications.* Proposed technical specifications prepared in accordance with the requirements of § 53.710(a).

(b) If there are SSCs of the plant for which research and development is necessary to confirm the adequacy of their design, a report which documents the resolution of any safety questions associated with such SSCs.

(c) A description of how the performance of each safety design feature has been demonstrated capable of fulfilling functional design criteria considering interdependent effects through either analysis, appropriate test programs, prototype testing, operating experience, or a combination thereof, in accordance with § 53.440(a).

(d) If the COL application references an early site permit, then the following requirements apply:

(1) The FSAR need not contain information or analyses submitted to the Commission in connection with the early site permit provided that the FSAR must either include or incorporate by reference the early site permit Site Safety Analysis Report and contain, in addition to the information and analyses otherwise required, information sufficient to demonstrate that the design of the facility falls within the site characteristics and design parameters specified in the early site permit.

(2) If the FSAR does not demonstrate that design of the facility falls within the site characteristics and design parameters, the application must include a request for a variance that complies with the requirements of §§ 53.1188(d) and 53.1437.

(3) The FSAR must demonstrate that all terms and conditions that have been included in the early site permit will be satisfied by the date of issuance of the COL. Any terms or conditions of the early site permit that could not be met by the time of issuance of the COL must be set forth as terms or conditions of the COL.

(4) If the early site permit approves complete and integrated emergency plans, or major features of emergency plans, then the FSAR must include any new or additional information that updates and corrects the information that was provided under § 53.1146(b)(2) and discuss whether the new or additional information materially changes the bases for compliance with the applicable requirements. The application must identify changes to the emergency plans or major features of emergency plans that have been incorporated into the proposed facility emergency plans and that constitute or would constitute a change in an emergency plan that results in reducing the licensee's capability to perform an emergency planning function in the event of a radiological emergency.

(5) If complete and integrated emergency plans are approved as part of the early site permit, new certifications meeting the requirements of paragraph (a)(9)(i) of this section are not required.

(e) If the COL application references a standard design approval, then the following requirements apply:

(1) The FSAR need not contain information or analyses submitted to the Commission in connection with the design approval, provided, however, that the FSAR must either include or incorporate by reference the standard design approval FSAR and must contain, in addition to the information and analyses otherwise required, information sufficient to demonstrate that the characteristics of the site fall within the site parameters specified in the design approval. In addition, the plant-specific information of the PRA, other SREs, or a combination thereof must use the information of the PRA, other SREs, or a combination thereof for the design approval and must be updated to account for site-specific design information and any design changes or departures.

(2) The FSAR must demonstrate that all terms and conditions that have been included in the design approval will be satisfied by the date of issuance of the COL.

(f) If the COL application references a standard design certification, then the following requirements apply:

(1) The FSAR need not contain information or analyses submitted to the Commission in connection with the standard design certification, provided, however, that the FSAR must either include or incorporate by reference the standard design certification FSAR and must contain, in addition to the information and analyses otherwise required, information sufficient to demonstrate that the site characteristics fall within the site parameters specified in the standard design certification. In addition, the plant-specific information of the PRA, other SREs, or a combination thereof must use the information of the PRA, other SREs, or a combination thereof for the standard design certification and must be updated to account for site-specific design information and any design changes or departures.

(2) The FSAR must demonstrate that the interface requirements established for the design under § 53.1239(a)(24) have been met.

(3) The FSAR must demonstrate that all requirements and restrictions set forth in the referenced standard design certification rule must be satisfied by the date of issuance of the COL. Any requirements and restrictions set forth in the referenced standard design certification rule that could not be satisfied by the time of issuance of the COL, must be set forth as terms or conditions of the COL.

(g) If the COL application references the use of one or more manufactured reactors licensed under § 53.1270, then the following requirements apply:

(1) The FSAR need not contain information or analyses submitted to the Commission in connection with the ML, provided, however, that the FSAR must either include or incorporate by reference the ML FSAR and must contain, in addition to the information and analyses otherwise required, information sufficient to demonstrate that the site characteristics fall within the site parameters specified in the ML. In addition, the plant-specific information of the PRA, other SREs, or a combination thereof must use the information of the PRA, other SREs, or a combination thereof for the manufactured reactor and must be updated to account for site-specific design information and any design changes or departures.

(2) The FSAR must demonstrate that the interface requirements established for the design have been met.

(3) The FSAR must demonstrate that all terms and conditions that have been included in the ML will be satisfied by the date of issuance of the COL. Any terms or conditions of the ML that could not be met by the time of issuance of the COL, must be set forth as terms or conditions of the COL.

(h) Each applicant for a COL under this part must protect Safeguards Information against unauthorized disclosure in accordance with the requirements in §§ 73.21 and 73.22 of this chapter, as applicable.

[1] A physical security plan that contains all the information required in both § 73.55 or § 73.100 of this chapter and appendix C to 10 CFR part 73 demonstrates compliance with the requirement for a contingency plan.

§ 53.1419 Contents of applications for combined licenses; other application content.

(a) In addition to the FSAR, the application must also include the following:

(1) *Environmental report.* (i) An environmental report either in accordance with § 51.50(c) of this chapter if an LWA under § 53.1130 is not requested in conjunction with the COL application, or in accordance with §§ 51.49 and 51.50(c) of this chapter if an LWA is requested in conjunction with the COL application; or

(ii) If the applicant wishes to request that an LWA under § 53.1130 be issued before issuance of the COL, the information otherwise required by § 53.1130, in accordance with either § 2.101(a)(1) through (a)(4), or § 2.101(a)(9) of this chapter;

(2) *Availability controls (if not included in the FSAR).* A description of the controls on plant operations, including availability controls, to provide reasonable confidence of safe operation and that the configurations and special treatments for SR SSCs and NSRSS SSCs provide the capabilities and reliabilities required to satisfy the safety criteria of § 53.220 if not addressed by Technical Specifications under § 53.1416(a)(25); and

(3) *Inspections, tests, analyses, and acceptance criteria.* The proposed inspections, tests, and analyses, including those applicable to emergency planning, that the licensee must perform, and the acceptance criteria that are necessary and sufficient to provide reasonable assurance that, if the inspections, tests, and analyses are performed and the acceptance criteria met, the facility has been constructed and will be operated in conformity with the COL, the provisions of the Act, and the Commission's rules and regulations.

(i) If the application references an early site permit with ITAAC, the early site permit ITAAC must apply to those aspects of the COL which are approved in the early site permit.

(ii) If the application references a standard design certification, the ITAAC contained in the certified design must apply to those portions of the facility design which are approved in the standard design certification.

(iii) If the application references an ML, the ITAAC contained in the ML must apply to those portions of the facility design which are approved in the ML.

(iv) If the application references an early site permit with ITAAC, a standard design certification, an ML, or a combination thereof, the application may include a notification that a required inspection, test, or analysis in the ITAAC has been successfully completed and that the corresponding acceptance criterion has been met. The **Federal Register** notice required by § 53.1422 of this chapter must indicate that the application includes this notification.

(b) [Reserved]

§ 53.1422 Review of applications.

(a) *Standards for review of applications.* Applications filed under this part will be reviewed according to the standards set out in 10 CFR parts 20, 51, 53, 73, and 140.

(b) *Administrative review of applications; hearings.* A proceeding on a COL is subject to all applicable procedural requirements contained in 10 CFR part 2, including the requirements for docketing (§ 2.101 of this chapter) and issuance of a notice of hearing (§ 2.104 of this chapter). If an applicant requests a Commission finding on certain ITAAC with the issuance of the COL, then those ITAAC will be identified in the notice of hearing. All hearings on COLs are governed by the procedures contained in 10 CFR part 2.

§ 53.1425 Finality of referenced NRC approvals.

If the application for a COL under this part references an early site permit, standard design certification rule, standard design approval, or ML, issued under this part, the scope and nature of matters resolved for the application and any COL issued are governed by the relevant provisions addressing finality, including §§ 53.1188, 53.1221, 53.1263, and 53.1288.

§ 53.1431 Referral to the Advisory Committee on Reactor Safeguards.

The Commission must refer a copy of the application to the ACRS. The ACRS must report on those portions of the application that concern safety and must apply the standards referenced in § 53.1422, in accordance with the finality provisions in § 53.1425.

§ 53.1434 Authorization to conduct limited work authorization activities.

(a) If the application for a COL under this part does not reference an early site permit which authorizes the holder to perform the activities under § 53.1130(b), the applicant may not perform those activities without obtaining the separate authorization required by § 53.1130(a). Authorization may be granted only after the presiding officer in the proceeding on the application has made the findings and determination required by § 53.1130(b)(1)(ii) and (b)(1)(iv), and the Director, Office of Nuclear Reactor Regulation makes the determination required by § 53.1130(b)(1)(iii).

(b) If, after an applicant has performed the activities permitted by a LWA issued under § 53.1130, the application for the COL is withdrawn or denied, then the applicant must implement the approved site redress plan.

§ 53.1437 Exemptions, departures, and variances.

(a) An applicant for a COL, or any amendment to a COL, may include in the application a request for an exemption from one or more of the Commission's regulations.

(1) If the request is for an exemption from any part of a referenced standard design certification rule, the Commission may grant the request if it determines that the exemption complies with any exemption provisions of the referenced standard design certification rule, or with § 53.1263 if there are no applicable exemption provisions in the referenced standard design certification rule.

(2) For all other requests for exemptions, the Commission may grant a request if it determines that the exemption complies with § 53.080.

(b) An applicant for a COL who has filed an application referencing an early site permit issued under § 53.1158 may include in the application a request for a variance from one or more site characteristics, design parameters, or terms and conditions of the permit, or from the Site Safety Analysis Report. In determining whether to grant the variance, the Commission must apply the same technically relevant criteria as were applicable to the application for the original or renewed site permit. Once a COL referencing an early site permit is issued, variances from the early site permit will not be granted for that CP or COL.

(c) An applicant for a COL who has filed an application referencing use of a manufactured reactor may include in the application a request for a departure from one or more design characteristics, site parameters, terms and conditions, or approved design of the manufactured reactor under the ML issued under § 53.1287. The Commission may grant such a request only if it determines that the departure will comply with the requirements of § 53.080, and that the special circumstances outweigh any decrease in safety that may result from the reduction in standardization caused by the departure.

(d) Issuance of a variance under paragraph (b) of this section or a departure under paragraph (c) of this section is subject to litigation during the COL proceeding in the same manner as other issues material to that proceeding.

§ 53.1440 Issuance of combined licenses.

(a)(1) After conducting a hearing under § 53.1422(b) and receiving the report submitted by the ACRS, the Commission may issue a COL if the Commission finds that—

(i) The applicable standards and requirements of the Act and the Commission's regulations have been met;

(ii) Any required notifications to other agencies or bodies have been duly made;

(iii) There is reasonable assurance that the facility will be constructed and will operate in conformity with the license, the provisions of the Act, and the Commission's regulations;

(iv) The applicant is technically and financially qualified to engage in the activities authorized; however, no finding of financial qualification is necessary for an electric utility applicant for a COL;

(v) Issuance of the license will not be inimical to the common defense and security or to the health and safety of the public; and

(vi) The findings required by 10 CFR part 51 have been made.

(2) The Commission may also find, at the time it issues the COL, that certain acceptance criteria in one or more of the ITAAC in a referenced early site permit, standard design certification, or ML have been met. This finding will finally resolve that those acceptance criteria have been met, those acceptance criteria will be deemed to be excluded from the COL, and findings under § 53.1452(g) with respect to those acceptance criteria are unnecessary.

(b) The Commission must identify within the COL the inspections, tests, and analyses, including those applicable to emergency planning, that the licensee must perform, and the acceptance criteria that, if met, are necessary and sufficient to provide reasonable assurance that the facility has been constructed and will be operated in conformity with the license, the provisions of the Act, and the Commission's rules and regulations.

(c) A COL must contain the terms and conditions, including technical specifications, as the Commission deems necessary and appropriate.

§ 53.1443 Finality of combined licenses.

(a) After issuance of a COL, the Commission may not modify, add, or delete any term or condition of the COL, the design of the facility, the ITAAC contained in the license that are not derived from a referenced standard design certification or ML, except under the provisions of § 53.1452 or § 53.1590.

(b) If the COL does not reference a standard design certification, then a licensee may make changes in the facility as described in the FSAR (as updated) and make changes in the procedures as described in the FSAR (as updated) under the applicable change processes in § 53.1550.

(c) If the COL references a certified design, then—

(1) Changes to or departures from information within the scope of the referenced standard design certification rule are subject to the applicable change processes in that rule; and

(2) Changes that are not within the scope of the referenced standard design certification rule are subject to the applicable change processes in subpart I of this part, unless they also involve changes to or noncompliance with information within the scope of the referenced standard design certification rule. In these cases, the applicable provisions of this section and the standard design certification rule apply.

(d) [Reserved]

(e) The Commission may issue and make immediately effective any amendment to a COL upon a determination by the Commission that the amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person. The amendment may be issued and made immediately effective in advance of the holding and completion of any required hearing. The amendment will be processed under the procedures specified in § 53.1515.

(f) Any modification to, addition to, or deletion from the terms and conditions of a COL, including any modification to, addition to, or deletion from the inspections, tests, and analyses, or related acceptance criteria contained in the license is a proposed amendment to the license. There must be an opportunity for a hearing on the amendment.

§ 53.1449 Inspection during construction.

(a) *Licensee schedule for inspections, tests, or analyses.* The licensee must submit to the NRC, no later than 1 year after issuance of the COL or at the start of construction as defined at § 53.020, whichever is later, its schedule for completing the inspections, tests, or analyses in the ITAAC. The licensee must submit updates to the ITAAC schedules every 6 months thereafter and, within 1 year of its scheduled date for initial loading of fuel (or, for a fueled manufactured reactor, within 1 year of its scheduled date for initiating the removal of the features to prevent criticality required under § 53.620(d)(1)), the licensee must submit updates to the ITAAC schedule every 30 days until the final notification is provided to the NRC under paragraph (c)(1) of this section.

(b) *Licensee and applicant conduct of activities subject to ITAAC.* With respect to activities subject to an ITAAC, an applicant for a COL may proceed at its own risk with design and procurement activities, and a licensee may proceed at its own risk with design, procurement, construction, and preoperational activities, even though the NRC may not have found that any one of the prescribed acceptance criteria are met.

(c) *Licensee notifications*—(1) *ITAAC closure notification.* The licensee must notify the NRC that prescribed inspections, tests, and analyses have been performed and that the prescribed acceptance criteria are met. The notification must contain sufficient information to demonstrate that the prescribed inspections, test, and analyses have been performed and that the prescribed acceptance criteria are met.

(2) *ITAAC post-closure notifications.* Following the licensee's ITAAC closure notifications under paragraph (c)(1) of this section until the Commission makes the finding under § 53.1452(g), the licensee must notify the NRC, in a timely manner, of new information that materially alters the basis for determining that either inspections, tests, or analyses were performed as required, or that acceptance criteria are met. The notification must contain sufficient information to demonstrate that, notwithstanding the new information, the prescribed inspections, tests, and analyses have been performed as required, and the prescribed acceptance criteria are met.

(3) *Uncompleted ITAAC notification.* If the licensee has not provided, by the date 225 days before the scheduled date for initial loading of fuel (or, for a fueled manufactured reactor, by the date 225 days before the scheduled date for initiating the removal of the features to prevent criticality required under § 53.620(d)(1)), the notification required by paragraph (c)(1) of this section for all ITAAC, then the licensee must notify the NRC that the prescribed inspections, tests, or analyses for all uncompleted ITAAC will be performed and that the prescribed acceptance criteria will be met prior to operation. The notification must be provided no later than the date 225 days before the scheduled date for initial loading of fuel (or, for a fueled manufactured reactor, no later than the date 225 days before the scheduled date for initiating the removal of the features to prevent criticality required under § 53.620(d)(1)), and must provide sufficient information to demonstrate that the prescribed inspections, tests, or analyses will be performed and the prescribed acceptance criteria for the uncompleted ITAAC will be met, including, but not limited to, a description of the specific procedures and analytical methods to be used for performing the prescribed inspections, tests, and analyses and determining that the prescribed acceptance criteria are met.

(4) *All ITAAC complete notification.* The licensee must notify the NRC that all ITAAC are complete.

(d) *Licensee determination of noncompliance with ITAAC.* (1) In the event that an activity is subject to an ITAAC derived from a referenced standard design certification and the licensee has not demonstrated that the prescribed acceptance criteria are met, the licensee may take corrective actions to successfully complete that ITAAC or request an exemption from the standard design certification ITAAC, as applicable. A request for an exemption must also be accompanied by a request for a license amendment under subpart I.

(2) In the event that an activity is subject to an ITAAC not derived from a referenced standard design certification and the licensee has not demonstrated that the prescribed acceptance criteria are met, the licensee may take corrective actions to successfully complete that ITAAC or request a license amendment under subpart I.

(e) *NRC inspection, publication of notices, and availability of licensee notifications.* The NRC must ensure that the prescribed inspections, tests, and analyses in the ITAAC are performed.

(1) At appropriate intervals until the last date for submission of requests for hearing under § 53.1452, the NRC must publish notices in the **Federal Register** of the NRC staff's determination of the successful completion of inspections, tests, and analyses.

(2) The NRC must make publicly available the licensee notifications under paragraph (c) of this section. The NRC must, no later than the date of publication of the notice of intended operation required by § 53.1452(a), make publicly available those licensee notifications under paragraph (c) of this section that have been submitted to the NRC at least 7 days before that notice.

§ 53.1452 Operation under a combined license.

(a) The licensee must notify the NRC of its scheduled date for initial loading of fuel no later than 270 days before the scheduled date and must notify the NRC of updates to its schedule every 30 days thereafter.[1] Not less than 180 days before the date scheduled for initial loading of fuel into a plant by a licensee that has been issued a COL under this part, the Commission must publish notice of intended operation in the **Federal Register**.[2] The notice must provide that any person whose interest may be affected by operation of the plant may, within 60 days, request that the Commission hold a hearing on whether the facility as constructed complies, or on completion will comply, with the acceptance criteria in the COL, except that a hearing must not be granted for those ITAAC that the Commission found were met under § 53.1440(a)(2).

(b) A request for hearing under paragraph (a) of this section must show, *prima facie*—

(1) That one or more of the acceptance criteria of the ITAAC in the COL have not been, or will not be, met; and

(2) The specific operational consequences of nonconformance that would be contrary to providing reasonable assurance of adequate protection of the public health and safety.

(c) The Commission, acting as the presiding officer, must determine whether to grant or deny the request for hearing under the applicable requirements of § 2.309 of this chapter. If the Commission grants the request, the Commission, acting as the presiding officer, must determine whether during a period of interim operation there will be reasonable assurance of adequate protection to the public health and safety. The Commission's determination must consider the petitioner's *prima facie* showing and any answers thereto. If the Commission determines there is such reasonable assurance, it must allow operation during an interim period under the COL.

(d) The Commission, in its discretion, must determine appropriate hearing procedures, whether informal or formal adjudicatory, for any hearing under paragraph (a) of this section, and must state its reasons therefor.

(e) The Commission must, to the maximum possible extent, render a decision on issues raised by the hearing request within 180 days of the publication of the notice provided by paragraph (a) of this section or by the anticipated date for initial loading of fuel into the reactor, whichever is later.

(f) A petition to modify the terms and conditions of the COL will be processed as a request for action under § 2.206 of this chapter. The petitioner must file the petition with the Secretary of the Commission. Before the licensed activity allegedly affected by the petition (fuel loading, low power testing, etc.) commences, the Commission must determine whether any immediate action is required. If the

petition is granted, then an appropriate order will be issued. Fuel loading and operation under the COL will not be affected by the granting of the petition unless the order is made immediately effective.

(g) The licensee must not operate the facility until the Commission makes a finding that the acceptance criteria in the COL are met, except for those acceptance criteria that the Commission found were met under § 53.1440(a)(2). If the COL is for a modular design, each reactor unit may require a separate finding as construction proceeds.

(h) After the Commission has made the finding in paragraph (g) of this section, the ITAAC do not, by virtue of their inclusion in the COL, constitute regulatory requirements either for licensees or for renewal of the license; except for the specific ITAAC for which the Commission has granted a hearing under paragraph (a) of this section, all ITAAC expire upon final Commission action in the proceeding. However, subsequent changes to the facility or procedures described in the FSAR (as updated) must comply with the requirements in § 53.1443(e) or (f), as applicable.

[1] For licensees installing fueled manufactured reactors under a COL, the COL holder must instead notify the NRC of its scheduled date for initiating the removal of the features to prevent criticality required under § 53.620(d)(1) no later than 270 days before the scheduled date and must notify the NRC of updates to its schedule every 30 days thereafter.

[2] For licensees installing fueled manufactured reactors under a COL, the Commission must instead publish notice of intended operation in the **Federal Register** not less than 180 days before the date scheduled for initiating the removal of the features to prevent criticality required under § 53.620(d)(1).

§ 53.1455 Duration of combined license.

A COL is issued for a specified period not to exceed 40 years from the date on which the Commission makes a finding that acceptance criteria are met under § 53.1452(g) or allowing operation during an interim period under the COL under § 53.1452(c).

§ 53.1456 Transfer of a combined license.

A COL may be transferred under § 53.1570.

§ 53.1458 Application for renewal.

The filing of an application for a renewed license must be in accordance with § 53.1595.

§ 53.1461 Continuation of combined license.

Each COL for a facility that has permanently ceased operations continues in effect beyond the expiration date to authorize ownership and possession of the facility until the Commission notifies the licensee in writing that the license is terminated. During this period of continued effectiveness, the licensee must—

(a) Take actions necessary to decommission and decontaminate the facility and continue to maintain the facility, including, where applicable, the storage, control and maintenance of the spent fuel, in a safe condition; and

(b) Conduct activities in accordance with all other restrictions applicable to the facility in accordance with the NRC's regulations and the provisions of the COL for the facility.

§ 53.1470 Standardization of commercial nuclear plant designs: licenses to construct and operate nuclear power reactors of identical design at multiple sites.

(a) Except as otherwise specified in this section, the provisions of this section apply to CP, OL, and COL applications for commercial nuclear plants of identical design (the ''common design'') under this part.

(b) Each application for a CP, OL, or COL submitted pursuant to this section must be submitted as specified in § 53.1300, § 53.1360, or § 53.1410, respectively, and § 2.101 of this chapter. Each application must state that the applicant wishes to construct a facility identical to a facility proposed for one or more sites other than the applicant's (the ''common design''), and the applicant wishes to have the application considered under this section. Each application must list each of the other applications to be treated together under this section or specify that such other applications will be submitted to the NRC within 12 months of submittal of the first application.

(c) Each application must include the information required by the applicable sections of this subpart, provided, however, that the application must identify the common design, and, if applicable, reference a standard design certification or standard design approval under this part, or the use of a reactor manufactured under this part. The FSAR for each application must either incorporate by reference or include the final safety analysis of the common design, including, if applicable, the FSAR for the referenced standard design certification, standard design approval, or the manufactured reactor.

(d) Each application submitted pursuant to this section must contain an environmental report under § 53.1312(a)(1), § 53.1372(a), or § 53.1419(a)(1), as applicable, that complies with the applicable provisions of 10 CFR part 51, *provided, however,* that the application may incorporate by reference a single environmental report on the environmental impacts of the common design that are applicable to each site.

(e) Upon a determination that each application is acceptable for docketing under § 2.101 of this chapter, each application will be docketed and a notice of docketing for each application will be published in the **Federal Register**, under § 2.104 of this chapter, *provided, however,* that the notice must state that the application will be processed under the provisions of this section and subpart D of 10 CFR part 2. At the discretion of the Commission, a single notice of docketing for multiple applications may be published in the **Federal Register**.

(f) The NRC must prepare an environmental assessment or draft and final environmental impact statements for each of the applications under 10 CFR part 51. Scoping under §§ 51.28 and 51.29 of this chapter for each of the license applications may be conducted simultaneously and joint scoping may be conducted with respect to the environmental issues relevant to the common design. If the applications reference a standard design certification, then the environmental assessment or environmental impact statement for each of the applications must incorporate by reference the standard design certification environmental assessment. If the applications do not reference a standard design certification, then the NRC must prepare environmental assessments or draft and final supplemental environmental impact statements which address severe accident mitigation design alternatives for the common design, which must be incorporated by reference into the environmental assessment or environmental impact statement prepared for each application. Scoping under §§ 51.28 and 51.29 of this chapter for the supplemental environmental impact statement may be conducted simultaneously and may be part of the scoping for each of the applications.

(g) The ACRS must report on each of the applications as required by the applicable sections of this subpart. Each report must be limited to those safety matters for each application that are not relevant to the common design. In addition, the ACRS must separately report on the safety of the common design, *provided, however,* that the report need not address the safety of a referenced standard design certification or reactor manufactured under this part.

(h) The Commission must designate a presiding officer to conduct the

proceeding with respect to the health and safety, common defense and security, and environmental matters relating to the common design and affecting at least two applications. The hearing will be governed by the applicable provisions of subparts A, C, G, L, N, and O of 10 CFR part 2 relating to applications for CPs, OLs, and COLs. The presiding officer must issue a partial initial decision on the common design.

(i) If the design for the power reactor(s) proposed in a particular application is not identical to the others, that application may not be processed under this section and subpart D of 10 CFR part 2.

(j) As used in this section, the design of a nuclear power reactor included in a single referenced Safety Analysis Report means the design of those SSCs important to radiological health and safety and the common defense and security.

Subpart I—Maintaining and Revising Licensing-Basis Information

§ 53.1500 Licensing-basis information.

This subpart provides the requirements for each holder of a license for a commercial nuclear plant licensed under this part to maintain licensing-basis information as defined in § 53.020; evaluate changes to site characteristics, plant design features, and programmatic controls to determine needed approvals and revisions; and submit appropriate updates to the U.S. Nuclear Regulatory Commission (NRC).

§ 53.1502 Specific terms and conditions of licenses.

(a) Each license issued under this part is subject to the provisions of the Atomic Energy Act of 1954, as amended, (the Act) and to all rules, regulations, and orders of the Commission. The terms and conditions of the license will be subject to amendment, revision, or modification, by reason of amendments of the Act or by reason of rules, regulations, and orders issued in accordance with the terms of the Act.

(b) Each license issued under this part must be subject to all conditions imposed as a matter of law by sections 401(a)(2) and 401(d) of the Federal Water Pollution Control Act, as amended (33 U.S.C.A. 1341(a)(2) and (d)).

(c) A holder of an operating license (OL) or combined license (COL) under this part may take reasonable action that departs from a license condition or a technical specification included in a license issued under this part in a national security emergency established by a law enacted by the Congress or by an order or directive issued by the President pursuant to statutes or the Constitution of the United States. The authority under this paragraph (c) must be exercised in accordance with law, including section 57e of the Act, and is in addition to the authority granted under § 53.740(h), which remains in effect unless otherwise directed by the Commission during a national security emergency. The authority under this paragraph (c) may be exercised—

(1) When this action is immediately needed to implement national security objectives as designated by the national command authority through the Commission; and

(2) No action consistent with license conditions and technical specifications that can satisfy national security objectives is immediately apparent.

(d)(1) If the NRC finds that the state of emergency preparedness does not provide reasonable assurance that adequate protective measures can and will be taken in the event of a radiological emergency (including findings based on requirements of 10 CFR part 50, appendix E, section IV.D.3) and if the deficiencies (including deficiencies based on requirements of 10 CFR part 50, appendix E, section IV.D.3) are not corrected within 4 months of that finding, the Commission will determine whether the facility must be shut down or cease operations until such deficiencies are remedied or whether other enforcement action is appropriate. In determining whether a shutdown or other enforcement action is appropriate, the Commission will take into account, among other factors, whether the licensee can demonstrate to the Commission's satisfaction that the deficiencies in the plan are not significant for the plant in question, or that adequate interim compensating actions have been or will be taken promptly, or that that there are other compelling reasons for continued operation.

(2) If the planning standards for radiological emergency preparedness apply to offsite emergency response plans, or if the planning activities in § 50.160(b)(1)(iv)(B) apply, then the NRC will base its finding on a review of the Federal Emergency Management Agency findings and determinations as to whether State, participating Tribal, and local emergency plans are adequate and capable of being implemented, and on the NRC assessment as to whether the licensee's emergency plans are adequate and capable of being implemented. Nothing in this paragraph (d)(2) must be construed as limiting the authority of the Commission to take action under any other regulation or authority of the Commission or at any time other than that specified in this paragraph (d)(2).

§ 53.1505 Changes to licensing-basis information requiring prior NRC approval.

(a) Sections 53.1510 through 53.1520 provide the process for a licensee to request and the NRC to issue amendments to licenses, including any conditions contained therein, technical specifications or other attachments to a license, and any orders issued by the NRC modifying a license. Sections 53.1525 and 53.1530 govern proposed changes to a commercial nuclear plant referencing a certified design or manufacturing license (ML).

(b) A licensee may propose changing licensing-basis information established by NRC regulations by requesting an exemption in accordance with § 53.080.

§ 53.1510 Application for amendment of license.

Whenever a holder of a license under this part desires to amend the license, an application for an amendment must be filed with the Commission, as specified in § 53.040, that fully describes the changes desired and, following as far as applicable, the form prescribed for original applications. Applications for amendments involving changes to plant structures, systems, and components (SSCs), programmatic controls, or the role of plant personnel must include an assessment of the changes in relation to the safety requirements in subpart B of this part and the analyses requirements of § 53.450 as applicable, an analysis of whether the amendment involves no significant hazards consideration using the standards in § 53.1520, and a consideration of environmental factors.

§ 53.1515 Public notices; State consultation.

The Commission will use the following procedures for an application requesting an amendment to an OL or COL issued under this part.

(a) *Public notices.* (1)(i) The Commission may publish in the **Federal Register** under § 2.105 of this chapter an individual notice of proposed action for an amendment for which it makes a proposed determination that no significant hazards consideration is involved, or, at least once every 30 days, publish a periodic **Federal Register** notice of proposed actions, which identifies each amendment issued and each amendment proposed to be issued since the last such periodic notice, or it may publish both such notices.

(ii) For each amendment proposed to be issued, the notice will

(A) Contain the staff's proposed determination under the standards in § 53.1520;

(B) Provide a brief description of the amendment and of the facility involved;

(C) Solicit public comments on the proposed determination; and

(D) Provide for a 30-day comment period.

(iii) The comment period will begin on the day after the date of the publication of the first notice, and, normally, the amendment will not be granted until after this comment period expires.

(2) The Commission may inform the public about the final disposition of an amendment request for which it has made a proposed determination of no significant hazards consideration either by issuing an individual notice of issuance under § 2.106 of this chapter or by publishing such a notice in its periodic system of **Federal Register** notices. In either event, it will not make and will not publish a final determination of no significant hazards consideration unless it receives a request for a hearing on that amendment request.

(3) Where the Commission makes a final determination that no significant hazards consideration is involved and that the amendment should be issued, the amendment will be effective on issuance, even if adverse public comments have been received and even if an interested person meeting the provisions for intervention called for in § 2.309 of this chapter has filed a request for a hearing. The Commission need hold any required hearing only after it issues an amendment, unless it determines that a significant hazards consideration is involved, in which case the Commission will provide an opportunity for a prior hearing.

(4) Where the Commission finds that an emergency situation exists, in that failure to act in a timely way would result in derating or shutdown of a commercial nuclear reactor, or in prevention of either resumption of operation or of increase in power output up to the plant's licensed power level, it may issue a license amendment involving no significant hazards consideration without prior notice and opportunity for a hearing or for public comment. In such a situation, the Commission will not publish a notice of proposed determination on no significant hazards consideration but will publish a notice of issuance under § 2.106 of this chapter providing for opportunity for a hearing and for public comment after issuance. The Commission expects its licensees to apply for license amendments in a timely fashion. It will decline to dispense with notice and comment on the determination of no significant hazards consideration if it determines that the licensee has abused the emergency provision by failing to make timely application for the amendment and thus itself creating the emergency. Whenever an emergency situation exists, a licensee requesting an amendment must explain why this emergency situation occurred and why it could not avoid this situation, and the Commission will assess the licensee's reasons for failing to file an application sufficiently in advance of that event.

(5) Where the Commission finds that exigent circumstances exist, in that a licensee and the Commission must act quickly and that time does not permit the Commission to publish a **Federal Register** notice allowing 30 days for prior public comment, and it also determines that the amendment involves no significant hazards considerations, it—

(i)(A) Will either issue a **Federal Register** notice providing notice of an opportunity for hearing and allowing at least 2 weeks from the date of the notice for prior public comment; or

(B) Will use local media to provide reasonable notice to the public in the area surrounding a licensee's facility of the licensee's amendment and of its proposed determination as described in paragraph (a)(1) of this section, consulting with the licensee on the proposed media release and on the geographical area of its coverage;

(ii) Will provide for a reasonable opportunity for the public to comment, using its best efforts to make available to the public whatever means of communication it can for the public to respond quickly, and, in the case of telephone comments, have these comments recorded or transcribed, as necessary and appropriate;

(iii) When it has issued a local media release, may inform the licensee of the public's comments, as necessary and appropriate;

(iv) Will publish a notice of issuance under § 2.106 of this chapter;

(v) Will provide a hearing after issuance, if one has been requested by a person who satisfies the provisions for intervention specified in § 2.309 of this chapter; and

(vi) Will require the licensee to explain the exigency and why the licensee cannot avoid it and use its normal public notice and comment procedures in paragraph (a)(1) of this section if it determines that the licensee has failed to use its best efforts to make a timely application for the amendment in order to create the exigency and to take advantage of this procedure.

(6) Where the Commission finds that significant hazards considerations are involved, it will issue a **Federal Register** notice providing an opportunity for a prior hearing even in an emergency situation, unless it finds an imminent danger to the health or safety of the public, in which case it will issue an appropriate order or rule under 10 CFR part 2.

(b) *State consultation.* (1) At the time a licensee requests an amendment, it must notify the State in which its facility is located of its request by providing that State with a copy of its application and its reasoned analysis about no significant hazards considerations and indicate on the application that it has done so.

(2) The Commission will advise the State of its proposed determination about no significant hazards consideration normally by sending it a copy of the **Federal Register** notice.

(3) The Commission will make the names of the Project Manager or other NRC personnel it designated to consult with the State available to the State official designated to consult about its proposed determination. The Commission will consider any comments of that State official. If it does not hear from the State in a timely manner, it will consider that the State has no interest in its determination; nonetheless, to ensure that the State is aware of the application, before it issues the amendment, it will make a good faith effort to communicate directly with that official. (Inability to consult with a responsible State official following good faith attempts will not prevent the Commission from making effective a license amendment involving no significant hazards consideration.)

(4) The Commission will make a good faith attempt to consult with the State before it issues a license amendment involving no significant hazards consideration. If, however, it does not have time to use its normal consultation procedures because of an emergency situation, it will attempt to communicate directly with the appropriate State official. (Inability to consult with a responsible State official following good faith attempts will not prevent the Commission from making effective a license amendment involving no significant hazards consideration, if the Commission deems it necessary in an emergency situation.)

(5) After the Commission issues the requested amendment, it will send a copy of its determination to the State.

(c) *Caveats about State consultation.* (1) The State consultation procedures in

paragraph (b) of this section do not give the State a right—

(i) To veto the Commission's proposed or final determination;

(ii) To a hearing on the determination before the amendment becomes effective; or

(iii) To insist upon a postponement of the determination or upon issuance of the amendment.

(2) These procedures do not alter present provisions of law that reserve to the Commission exclusive responsibility for setting and enforcing radiological health and safety requirements for commercial nuclear plants.

§ 53.1520 Issuance of amendment.

(a) In determining whether an amendment to a license will be issued to the applicant, the Commission will be guided by the considerations which govern the issuance of initial licenses to the extent applicable and appropriate. If the application is for amendment of an OL or COL and involves the material alteration of a commercial nuclear plant, a construction permit (CP) will be issued before the issuance of the amendment to the license, provided however, that if the application involves a material alteration to a manufactured reactor under this part before its installation at a site, or a COL before the date that the Commission makes the finding under § 53.1452(g), no application for or issuance of a CP is required. If the amendment involves a significant hazards consideration, the Commission will give notice of its proposed action—

(1) Under § 2.105 of this chapter before acting thereon; and

(2) As soon as practicable after the application has been docketed.

(b) The Commission will be particularly sensitive to a license amendment request that involves irreversible consequences (such as one that permits a significant increase in the amount of effluents or radiation emitted by a commercial nuclear plant).

(c) The Commission may make a final determination, under the procedures in § 53.1515, that a proposed amendment to an OL or a COL for a commercial nuclear plant under this part involves no significant hazards consideration, if operation of the plant in accordance with the proposed amendment would not—

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or

(2) Create the possibility of a new or different kind of an accident from any accident previously evaluated; or

(3) Involve a significant reduction in a margin of safety.

§ 53.1525 Revising certification information within a design certification rule.

(a) A holder of an OL or COL who references a design certification rule issued under this part must request an exemption if proposing to change one or more elements of the certification information. The Commission may grant such a request only if it determines that the exemption will comply with the requirements of § 53.080 and that the special circumstances outweigh any decrease in safety that may result from the reduction in standardization caused by the departure.

(b) The request for an exemption must be included with any associated license amendment request, which must be requested and processed in accordance with §§ 53.1510, 53.1515, and 53.1520.

(c) Licensees must evaluate changes to the design as described in the Final Safety Analysis Report (FSAR) not involving changes to the certification information using the criteria in § 53.1550.

§ 53.1530 Revising information within a Final Safety Analysis Report associated with a manufacturing license.

(a) The holder of an ML may make changes to the facility or procedures as described in the Final Safety Analysis Report (FSAR) associated with the ML without obtaining a license amendment pursuant to § 53.1510 if the change meets the criteria in § 53.1550(a)(1) and (2) using the specifications in § 53.1550(b). If needed, applications for amending an ML must be submitted and processed in accordance with §§ 53.1510, 53.1515, and 53.1520. In those cases where an ML references a design certification rule, the amendment application from the holder of the ML must also request an exemption from the design certification rule under § 53.1525 if proposing to change one or more elements of the certification information.

(b)(1) The holder of an ML must maintain records of changes to the facility or procedures made without a license amendment under paragraph (a) of this section. These records must include a written evaluation which provides the bases for the determination that the change does not require a license amendment under the criteria in paragraph § 53.1550(a)(2).

(2) The records of changes in the facility must be maintained until the expiration of an ML issued under this part, or the expiration of a renewed license issued under § 53.1295—whichever is later. Records of changes in procedures must be maintained for a period of 5 years.

§ 53.1535 Amendments during construction.

(a) The holder of a CP or limited work authorization (LWA) under this part may request an amendment to the CP or LWA in order to gain Commission approval of the safety of selected design features or specifications, including proposed departures from a design certification rule or ML. Amendments to CPs or LWAs under this part must be requested and processed under §§ 53.1510 and 53.1520.

(b) The holder of a COL under this part for which the NRC has not yet made a finding in accordance with § 53.1452(g) must request amendments required by § 53.1525 or § 53.1550 no later than 45 days from the date the licensee begins the construction of the SSCs to implement the change or departure requiring NRC approval. The licensee proceeds with such changes at its own risk recognizing that there is a possibility that the amendment will not be granted.

§ 53.1540 Updating licensing-basis information and determining the need for NRC approval.

(a) Sections 53.1545 through 53.1565 provide the process for a holder of an OL or COL to modify licensing-basis information and to evaluate potential changes to its facilities, procedures, programs, and organizations to determine if NRC approval is required.

(b) Definitions for the purposes of §§ 53.1545 through 53.1565—

Change means a modification or addition to, or removal from, the commercial nuclear plant or procedures that affects a design feature or related functional design criteria, method of performing or controlling the functions of design features, or an evaluation that demonstrates that intended functions will be accomplished.

Departure from a method of evaluation described in the Final Safety Analysis Report (FSAR) (as updated) used in establishing the functional design criteria for safety-related structures, systems, or components or in the safety analyses means—

Changing any of the elements of the method described in the FSAR (as updated) unless the results of the analysis are conservative or essentially the same; or

Changing from a method described in the FSAR to another method unless that method has been approved by NRC for the intended application.

Facility as described in the FSAR (as updated) means—

The SSCs that are described in the FSAR (as updated),

The design and performance requirements for such SSCs described in the FSAR (as updated), and

The evaluations or methods of evaluation included in the FSAR (as updated) for such SSCs which demonstrate that their intended function(s) will be accomplished.

Final Safety Analysis Report (as updated) means the FSAR submitted under § 53.1279, § 53.1369 or § 53.1416, as amended and supplemented, and as updated under § 53.1545, as applicable.

Procedures as described in the Final Safety Analysis Report (as updated) means those procedures that contain information described in the FSAR (as updated) such as how SSCs are operated and controlled (including assumed operator actions and response times).

§ 53.1545 Updating Final Safety Analysis Reports.

(a) Each holder of an OL or COL under this part for which the Commission has made the finding under § 53.1452(g) must update the FSAR originally submitted as part of the application for the license every 24 months or more frequently to assure that the information included in the report contains the latest information developed. The submittal must include the effects on the content of the FSAR of—

(1) Changes made to the facility or procedures as described in the FSAR;

(2) Safety analyses and evaluations performed by the licensee either in support of approved license amendments or in support of conclusions that changes did not require a license amendment under § 53.1550;

(3) Updates to the probabilistic risk assessment (PRA), other systematic risk evaluations, or a combination thereof required under § 53.450(a);

(4) The cumulative effects of the changes to the facility or procedures on the margins to the safety criteria in §§ 53.210, 53.220, and 53.450(e) since the last FSAR update; and

(5) Analyses of new safety issues performed by or on behalf of the licensee at Commission request.

(b)(1) The licensee must submit revisions containing updated information to the Commission, under § 53.040, identifying the location of revised or new information.

(2) The submittal must include—

(i) A certification by a duly authorized officer of the licensee that either the information accurately presents changes made since the previous submittal, necessary to reflect information and analyses submitted to the Commission or prepared pursuant to Commission requirement, or that no such changes were made; and

(ii) An identification of changes made under the provisions of § 53.1550 but not previously submitted to the Commission.

(c) Each applicant for or holder of a COL under this part for which the Commission has not made the finding under § 53.1452(g) must submit an update to the FSAR annually by providing the information required in paragraphs (a)(1) through (a)(5) of this section and meeting the requirements of paragraph (b) of this section. Combined license applicants who have requested the NRC to suspend its review of the COL application and COL holders who have informed the NRC that they do not plan to pursue construction need not submit an annual update of the FSAR. If a COL applicant requests that the NRC resume its review, or a COL holder notifies the NRC that the COL holder plans to commence or resume construction, then the COL applicant or holder must submit to NRC an update to its FSAR within 90 days of the request or notification, as applicable, and annually thereafter.

(d) The FSAR (as updated) must be retained by the licensee until the Commission terminates its license.

(e) Each holder of an ML under this part must submit an update of the FSAR every 24 months or more frequently as necessary to facilitate dependent COL or CP applications. The submittal must include the effects of changes on the content of the FSAR as described in paragraphs (a)(1), (a)(3) through (a)(5), and (b) of this section and safety analyses and evaluations performed by the licensee either in support of approved license amendments or in support of conclusions that changes did not require a license amendment under § 53.1530.

§ 53.1550 Evaluating changes to facility as described in Final Safety Analysis Reports.

(a) The holder of an OL or COL may make changes in the facility as described in the FSAR (as updated) and make changes in the procedures as described in the FSAR (as updated) without obtaining a license amendment pursuant to § 53.1510 only if—

(1) A change to the technical specifications incorporated in the license is not required; and

(2) The change meets all of the following criteria:

(i) Does not result in an increase to the frequency or consequences of an event sequence such that an event sequence not previously identified as risk significant becomes risk significant by the analyses performed in accordance with § 53.450(e).

(ii) Does not result in an increase to the frequency or consequences of an event sequence such that an event sequence exceeds the licensing-basis event evaluation criteria required to be established in accordance with § 53.450(e).

(iii) Does not involve either of the following:

(A) A change to the NRC-approved comprehensive risk metric(s) or associated risk performance objective under § 53.220(b); or

(B) An increase to the frequency or consequences of one or more event sequences such that any calculated comprehensive risk metric exceeds the associated risk performance objective established in accordance with § 53.220.

(iv) Does not involve a departure from a method of evaluation described in the FSAR (as updated) used in assessing design-basis accidents in accordance with § 53.450(f) unless the results of the analysis under § 53.450(f) are conservative or essentially the same, the revised method of evaluation has been previously approved by the NRC for the intended application, or the revised method of evaluation can be used under an NRC-endorsed consensus code or standard.

(v) Does not result in a change to the safety classification of an SSC from safety-related to either non-safety-related but safety-significant or non-safety-related.

(vi) Does not result in more than a minimal decrease in defense in depth.

(vii) [Reserved]

(viii) Does not result in the identification of a new design-basis accident in accordance with § 53.450(f).

(ix) Does not result in more than a minimal increase in the consequences of any design-basis accident.

(3) In implementing this paragraph (a), the FSAR (as updated) is considered to include FSAR changes since submittal of the last update of the FSAR under § 53.1545.

(4) The provisions in this section do not apply to changes to the facility or procedures when the applicable regulations establish more specific criteria for accomplishing such changes.

(b)(1) A licensee who references a design certification rule may make departures from the standard design, without prior Commission approval, unless the proposed departure involves a change to the design as described in the rule certifying the design, in which case the requirements of § 53.1525 are applicable.

(2) The licensee must maintain records of all departures from the certified design of the facility and these records must be maintained and

available for audit until the termination of the license. The licensee must identify the location and nature of departures from licensing-basis information within supporting documents for a certified design within the updates to the Safety Analysis Report required by § 53.1545.

(3) Licensees for which the NRC has docketed the certifications required under § 53.1070 need not retain records of departures from the design of the facility associated with SSCs that have been permanently removed from service using an NRC-approved change process.

(c)(1) The licensee must maintain records of changes in the facility and procedures made under paragraph (a) of this section. These records must include a written evaluation which provides the bases for the determination that the change does not require a license amendment under paragraph (a)(2) of this section.

(2) The licensee must submit, as specified in § 53.040, a report containing a brief description of any departures and changes, including a summary of the evaluation of each. A report must be submitted at intervals not to exceed 24 months. For COLs, the report must be submitted at intervals not to exceed 6 months during the period from the date of application for a COL to the date the Commission makes its findings under § 53.1452(g).

(3) The records of changes in the facility must be maintained until the termination of an OL or COL issued under this part, or the termination of a renewed license issued under § 53.1595—whichever is later. Records of changes in procedures must be maintained for a period of 5 years.

§ 53.1560 Updating program documents included in licensing-basis information.

(a) Each holder under this part of an OL or COL for which the Commission has made the finding under § 53.1452(g) must biennially or more frequently update the program documents submitted as part of an application to obtain or maintain the license to assure that the information included in the documents contains the latest information developed. The submittals must include the effects on the content of the program documents of—

(1) Changes made in the facility, procedures, licensee's organization, or site environs;

(2) Safety analyses and evaluations performed by the applicant or licensee either in support of approved license amendments or in support of conclusions that changes did not require a license amendment in accordance with § 53.1550;

(3) Analyses of new safety issues performed by or on behalf of the licensee at Commission request; and

(4) Changes to the programs as a result of operating experience, corrective actions, or other reasons deemed appropriate to ensure the programs serve their underlying purpose to support the requirements in subpart B of this part or other NRC regulations.

(b)(1) The licensee must submit revisions containing updated information to the Commission, as specified in § 53.040, identifying the location of revised or new information.

(2) The submittal must include—

(i) A certification by a duly authorized officer of the licensee that either the information accurately presents changes made since the previous submittals, necessary to reflect information and analyses submitted to the Commission or prepared pursuant to Commission requirement, or that no such changes were made; and

(ii) An identification of changes made under the provisions of § 53.1550 but not previously submitted to the Commission.

(c) The updated program documents must be retained by the licensee until the Commission terminates their license.

§ 53.1565 Evaluating changes to programs included in licensing-basis information.

(a) A licensee may make changes to the facility, procedures, or organizations or address changes to site environs as described in the program documents included in licensing-basis information without obtaining prior NRC approval only if—

(1) A change to the technical specifications incorporated in the license is not required;

(2) An exemption from an NRC regulation is not required; and

(3) The change conforms to program-specific requirements included in regulations in this part, technical specifications, or the NRC-approved program document included and reviewed as part of a license application under subpart H or an amendment under this subpart.

(b) In implementing this section, the program documents (as updated) include changes since submittal of the last updates of the program documents pursuant to § 53.1560.

(c) The provisions in this section do not apply to changes to the program documents when the applicable regulations establish more specific criteria for accomplishing such changes.

(d) To make changes to the facility, procedures, or organizations or to address changes to site environs as described in the program documents included in licensing-basis information for individual programs, the following requirements must be satisfied:

(1) *Quality assurance program—operation.* (i) Each holder under this part of an OL or COL, after the Commission makes the finding under § 53.1452(g), may make a change to a previously accepted quality assurance program (QAP) description included or referenced in the Safety Analysis Report without prior NRC approval, provided the change does not reduce the commitments in the program description as accepted by the NRC. Changes to the QAP description that do not reduce the commitments must be submitted to the NRC in accordance with the requirements of § 53.1545. In addition to QAP changes involving administrative improvements and clarifications, spelling corrections, punctuation, or editorial items, the following changes are not considered to be reductions in commitment:

(A) The use of a quality assurance (QA) standard approved by the NRC which is more recent than the QA standard in the licensee's QAP at the time of the change;

(B) The use of a QA alternative or exception approved by an NRC safety evaluation, provided that the bases of the NRC approval are applicable to the licensee's facility;

(C) The use of generic organizational position titles that clearly denote the position function, supplemented as necessary by descriptive text, rather than specific titles;

(D) The use of generic organizational charts to indicate functional relationships, authorities, and responsibilities, or, alternately, the use of descriptive text;

(E) The elimination of QAP information that duplicates language in QA regulatory guides and QA standards to which the licensee is committed; and

(F) Organizational revisions that ensure that persons and organizations performing QA functions continue to have the requisite authority and organizational freedom, including sufficient independence from cost and schedule when opposed to safety considerations.

(ii) Changes to the QAP description that do reduce the commitments must be submitted to the NRC and receive NRC approval prior to implementation, as follows:

(A) Changes made to the QAP description as presented in the Safety Analysis Report or in a topical report must be submitted as specified in § 53.040.

(B) The submittal of a change to the Safety Analysis Report QAP description must include all pages affected by that change and must be accompanied by a forwarding letter identifying the change, the reason for the change, and the basis for concluding that the revised program incorporating the change continues to satisfy the criteria of appendix B to part 50 of this chapter and the Safety Analysis Report QAP description commitments previously accepted by the NRC (the letter need not provide the basis for changes that correct spelling, punctuation, or editorial items).

(C) A copy of the forwarding letter identifying the change must be maintained as a facility record for 3 years.

(D) Changes to the QAP description included or referenced in the Safety Analysis Report shall be regarded as accepted by the Commission upon receipt of a letter to this effect from the appropriate reviewing office of the Commission or 60 days after submittal to the Commission, whichever occurs first.

(2) *Quality assurance program—siting, construction, and manufacturing.* Each holder of an LWA, early site permit, CP, ML, or COL, before the Commission makes the finding under § 53.1452(g) of this chapter, under this part may make a change to a previously accepted QAP description included or referenced in the Safety Analysis Report without prior NRC approval, provided the change does not reduce the commitments in the program description previously accepted by the NRC. Changes to the QAP description that do not reduce the commitments must be submitted to NRC within 90 days. Changes to the QAP description that reduce the commitments must be submitted to NRC and receive NRC approval before implementation, as follows:

(i) Changes to the Safety Analysis Report must be submitted for review as specified in § 53.040. Changes made to NRC-accepted QA topical report descriptions must be submitted as specified in § 53.040.

(ii) The submittal of a change to the Safety Analysis Report QAP description must include all pages affected by that change and must be accompanied by a forwarding letter identifying the change, the reason for the change, and the basis for concluding that the revised program incorporating the change continues to satisfy the criteria of appendix B of part 50 of this chapter and the Safety Analysis Report QAP description commitments previously accepted by the NRC (the letter need not provide the basis for changes that correct spelling, punctuation, or editorial items).

(iii) A copy of the forwarding letter identifying the changes must be maintained as a facility record for 3 years.

(iv) Changes to the QAP description included or referenced in the Safety Analysis Report shall be regarded as accepted by the Commission upon receipt of a letter to this effect from the appropriate reviewing office of the Commission or 60 days after submittal to the Commission, whichever occurs first.

(3) *Emergency preparedness program.* (i) Definitions for the purpose of paragraph (d)(3) of this section:

(A) *Change* means an action that results in modification or addition to, or removal from, the licensee's emergency plan. All such changes are subject to the provisions of this section except where the applicable regulations establish specific criteria for accomplishing a particular change.

(B) *Emergency plan* means the document(s), prepared and maintained by the licensee, that identify and describe the licensee's methods for maintaining emergency preparedness and responding to emergencies. An emergency plan includes the plan as originally approved by the NRC and all subsequent changes made by the licensee with, and without, prior NRC review and approval under paragraph (d)(3) of this section.

(C) *Emergency planning function* means a capability or resource necessary to prepare for and respond to a radiological emergency.

(D) *Reduction in effectiveness* means a change in an emergency plan that results in reducing the licensee's capability to perform an emergency planning function in the event of a radiological emergency.

(ii)(A) Except as provided in paragraph (d)(3)(ii)(B) of this section, a holder of an OL under this part, or a COL under this part after the Commission makes the finding under § 53.1452(g), must follow and maintain the effectiveness of an emergency plan that meets the requirements in appendix E to part 50 of this chapter and the planning standards of § 50.47(b).

(B) A holder of an OL under this part for a commercial nuclear plant consisting of small modular reactors (SMRs) or non-light-water reactors, or a holder of a COL under this part after the Commission makes the finding under § 53.1452(g) for a commercial nuclear plant consisting of either SMRs or non-light-water reactors, must follow and maintain the effectiveness of either an emergency plan that meets the requirements in § 50.160 or an emergency plan that meets the requirements in appendix E to part 50 of this chapter and the planning standards of § 50.47(b).

(iii)(A) Except as provided in paragraph (d)(3)(iii)(B) of this section, the licensee may make changes to its emergency plan without NRC approval only if the licensee performs and retains an analysis demonstrating that the changes do not reduce the effectiveness of the plan and the plan, as changed, continues to meet the requirements in appendix E to part 50 of this chapter and the planning standards of § 50.47(b).

(B) A license under this part for a commercial nuclear plant consisting of either SMRs or non-light-water reactors may make changes to its emergency plan without NRC approval only if the licensee performs and retains an analysis demonstrating that the changes do not reduce the effectiveness of the plan and the plan, as changed, continues to meet either the requirements in § 50.160 or the requirements in appendix E to part 50 and the planning standards of § 50.47(b).

(iv) The changes to a licensee's emergency plan that reduce the effectiveness of the plan as defined in paragraph (d)(3)(i)(D) of this section may not be implemented without prior approval by the NRC. A licensee desiring to make such a change must submit an application for an amendment to its license. In addition to the filing requirements of §§ 53.1510 and 53.1515, the request must include all emergency plan pages affected by that change and must be accompanied by a forwarding letter identifying the change, the reason for the change, and the basis for concluding that the licensee's emergency plan, as revised, will continue to meet either the requirements in § 50.160 to this chapter or the requirements in appendix E to part 50 of this chapter and the planning standards of § 50.47(b) of this chapter.

(v) The licensee must retain a record of each change to the emergency plan made without prior NRC approval for a period of three years from the date of the change and shall submit, as specified in § 53.040, a report of each such change, including a summary of its analysis, within 30 days after the change is put in effect.

(vi) The licensee must retain the emergency plan and each change for which prior NRC approval was obtained pursuant to paragraph (d)(3)(iv) of this section as a record until the Commission terminates the license for the nuclear power reactor.

(vii)(A) The licensee must provide for the development, revision, implementation, and maintenance of its emergency preparedness program. The licensee must ensure that all program elements are reviewed by persons who have no direct responsibility for the implementation of the emergency preparedness program either—

(*1*) At intervals not to exceed 12 months; or

(*2*) As necessary, based on an assessment by the licensee against performance indicators, and as soon as reasonably practicable after a change occurs in personnel, procedures, equipment, or facilities that potentially could adversely affect emergency preparedness, but no longer than 12 months after the change. In any case, all elements of the emergency preparedness program must be reviewed at least once every 24 months.

(B) The review must include an evaluation for adequacy of interfaces with State, participating Tribal, and local governments and of licensee drills, exercises, capabilities, and procedures. The results of the review, along with recommendations for improvements, must be documented, reported to the licensee's corporate and plant management, and retained for a period of 5 years. The part of the review involving the evaluation for adequacy of interface with State, participating Tribal, and local governments must be available to the appropriate State, participating Tribal, and local governments.

(4) *Security programs.* (i) The licensee must prepare and maintain safeguards contingency plan procedures in accordance with appendix C of part 73 of this chapter for affecting the actions and decisions contained in the Responsibility Matrix of the safeguards contingency plan. The licensee may not make a change that would decrease the safeguard effectiveness of a physical security plan, or guard training and qualification plan, or cybersecurity plan submitted under subpart H or part 73 of this chapter, or of the first four categories of information (Background, Generic Planning Base, Licensee Planning Base, Responsibility Matrix) contained in a licensee safeguards contingency plan submitted under subpart H or part 73 of this chapter, as applicable, without prior approval of the Commission. A licensee desiring to make such a change must submit an application for amendment to the licensee's license under §§ 53.1510, 53.1515, and 53.1520.

(ii) The licensee may make changes to the plans referenced in paragraph (d)(4)(i) of this section without prior Commission approval if the changes do not decrease the safeguards effectiveness of the plan. The licensee must maintain records of changes to the plans made without prior Commission approval for a period of 3 years from the date of the change, and must submit, as specified in § 53.040, a report containing a description of each change within 2 months after the change is made. Prior to the safeguards contingency plan being put into effect, the licensee must have—

(A) All safeguards capabilities specified in the safeguards contingency plan available and functional;

(B) Detailed procedures developed according to appendix C to part 73 of this chapter available at the licensee's site; and

(C) All appropriate personnel trained to respond to safeguards incidents as outlined in the plan and specified in the detailed procedures.

(iii) The licensee must provide for the development, revision, implementation, and maintenance of its safeguards contingency plan. The licensee must ensure that all program elements are reviewed by individuals independent of both security program management and personnel who have direct responsibility for implementation of the security program either—

(A) At intervals not to exceed 12 months; or

(B) As necessary, based on an assessment by the licensee against performance indicators, and as soon as reasonably practicable after a change occurs in personnel, procedures, equipment, or facilities that potentially could adversely affect security, but no longer than 12 months after the change. In any case, all elements of the safeguards contingency plan must be reviewed at least once every 24 months.

(iv) The review must include a review and audit of safeguards contingency procedures and practices, an audit of the security system testing and maintenance program, and a test of the safeguards systems along with commitments established for response by local law enforcement authorities. The results of the review and audit, along with recommendations for improvements, must be documented, reported to the licensee's corporate and plant management, and kept available at the plant for inspection for a period of 3 years.

§ 53.1570 Transfer of licenses.

(a) No commercial nuclear plant license issued under this part, or any right thereunder, shall be transferred, assigned, or in any manner disposed of, either voluntarily or involuntarily, directly or indirectly, through transfer of control of the license to any person, unless the Commission gives its consent in writing.

(b)(1) An application for transfer of a license must include—

(i) As much of the information described in §§ 53.1109, 53.1306, 53.1366, and 53.1413 with respect to the identity and technical and financial qualifications of the proposed transferee as would be required by those sections if the application were for an initial license. The Commission may require additional information such as data respecting proposed safeguards against hazards from radioactive materials and the applicant's qualifications to protect against such hazards.

(ii) A statement of the purposes for which the transfer of the license is requested, the nature of the transaction necessitating or making desirable the transfer of the license, and an agreement to limit access to Restricted Data or Classified National Security Information pursuant to § 53.1115. The Commission may require any person who submits an application for license pursuant to the provisions of this section to file a written consent from the existing licensee or a certified copy of an order or judgment of a court of competent jurisdiction attesting to the person's right (subject to the licensing requirements of the Act and these regulations) to possession of the facility or site involved.

(2) [Reserved]

(c) After appropriate notice to interested persons, including the existing licensee, and observance of such procedures as may be required by the Act or regulations or orders of the Commission, the Commission will approve an application for the transfer of a license, if the Commission determines—

(1) That the proposed transferee is qualified to be the holder of the license; and

(2) That transfer of the license is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission pursuant thereto.

§ 53.1575 Termination of licenses.

(a) When the holder of an OL or COL under this part has determined to permanently cease operations the licensee must, within 30 days, submit a written certification to the NRC, consistent with the requirements of § 53.1070.

(b) Once fuel has been permanently removed from the reactor system, the licensee must submit a written

certification to the NRC that meets the requirements of § 53.1070.

(c)(1) Upon docketing of the certifications for permanent cessation of operations and permanent removal of fuel from the reactor system, or when a final legally effective order to permanently cease operations has come into effect, the license no longer authorizes operation of the reactor or emplacement or retention of fuel into the reactor system.

(2) Activities associated with decommissioning will be carried out in accordance with the requirements and procedures in subpart G of this part.

(3) The Commission shall terminate the license if it determines that—

(i) The remaining dismantlement has been performed in accordance with the approved license termination plan required in subpart G of this part; and

(ii) The final radiation survey and associated documentation, including an assessment of dose contributions associated with parts released for use before approval of the license termination plan, demonstrate that the facility and site have met the criteria for decommissioning in subpart E of 10 CFR part 20.

(d) A holder of a CP or COL under this part may request the termination of the license as well as licenses issued by the NRC under parts 30, 40, or 70 of this chapter prior to plant operations. Such requests may support an immediate NRC approval of the site for unrestricted use.

§ 53.1580 Information requests.

Each licensee under this part must at any time before termination of the license, upon request of the Commission, submit, as specified in § 53.040 written statements, signed under oath or affirmation, to enable the Commission to determine whether or not the license should be modified, suspended, or revoked. Except for information sought to verify licensee compliance with the current licensing basis for that facility, the NRC must prepare the reason or reasons for each information request prior to issuance to ensure that the burden to be imposed on respondents is justified in view of the potential safety significance of the issue to be addressed in the requested information. Each such justification provided for an evaluation performed by the NRC staff must be approved by the Executive Director for Operations or his or her designee prior to issuance of the request.

§ 53.1585 Revocation, suspension, modification of licenses and approvals for cause.

A license or standard design approval issued under this part may be revoked, suspended, or modified, in whole or in part, for any material false statement in the application or in the supplemental or other statement of fact required of the applicant; or because of conditions revealed by the application or statement of fact of any report, record, inspection, or other means which would warrant the Commission to refuse to grant a license or approval on an original application; or for failure to manufacture a reactor, or construct or operate a facility in accordance with the terms of the license, provided, however, that failure to make timely completion of the proposed construction or alteration of a facility under a CP under this part shall be governed by the provisions of § 53.1342(b); or for violation of, or failure to observe, any of the terms and provisions of the Act, regulations, license, approval, or order of the Commission.

§ 53.1590 Backfitting.

(a)(1) Backfitting means the modification of or addition to systems, structures, components, or design of a facility; or the design approval for a facility; or the procedures or organization required to design, construct or operate a facility; any of which may result from a new or amended provision in the Commission's regulations or the imposition of a regulatory staff position interpreting the Commission's regulations that is either new or different from a previously applicable staff position after the date of the commercial nuclear plant license issued under this part.

(2) Except as provided in paragraph (a)(4) of this section, the Commission shall require a systematic and documented analysis pursuant to paragraph (b) of this section for backfits which it seeks to impose.

(3) Except as provided in paragraph (a)(4) of this section, the Commission shall require the backfitting of a facility only when it determines, based on the analysis described in paragraph (b) of this section, that there is a substantial increase in the overall protection of the public health and safety or the common defense and security to be derived from the backfit and that the direct and indirect costs of implementation for that facility are justified in view of this increased protection.

(4) The provisions of paragraphs (a)(2) and (a)(3) of this section are inapplicable and, therefore, backfit analysis is not required and the standards in paragraph (a)(3) of this section do not apply where the Commission or staff, as appropriate, finds and declares, with appropriate documented evaluation for its finding, either—

(i) That a modification is necessary to bring a facility into compliance with a license or the rules or orders of the Commission, or into conformance with written commitments by the licensee; or

(ii) That regulatory action is necessary to ensure that the facility provides adequate protection to the health and safety of the public and is in accord with the common defense and security; or

(iii) That the regulatory action involves defining or redefining what level of protection to the public health and safety or common defense and security should be regarded as adequate.

(5) The Commission must always require the backfitting of a facility if it determines that such regulatory action is necessary to ensure that the facility provides adequate protection to the health and safety of the public and is in accord with the common defense and security.

(6) The documented evaluation required by paragraph (a)(4) of this section must include a statement of the objectives of and reasons for the modification and the basis for invoking the exception. If immediately effective regulatory action is required, then the documented evaluation may follow rather than precede the regulatory action.

(7) If there are two or more ways to achieve compliance with a license or the rules or orders of the Commission, or with written licensee commitments, or there are two or more ways to reach a level of protection which is adequate, then ordinarily the applicant or licensee is free to choose the way which best suits its purposes. However, should it be necessary or appropriate for the Commission to prescribe a specific way to comply with its requirements or to achieve adequate protection, then cost may be a factor in selecting the way, provided that the objective of compliance or adequate protection is met.

(b) In reaching the determination required by paragraph (a)(3) of this section, the Commission will consider how the backfit should be scheduled in light of other ongoing regulatory activities at the facility and, in addition, will consider information available concerning any of the following factors as may be appropriate and any other information relevant and material to the proposed backfit:

(1) The statement of the specific objectives that the proposed backfit is designed to achieve;

(2) The general description of the activity that would be required by the licensee or applicant in order to complete the backfit;

(3) The potential change in the risk to the public from the accidental off-site release of radioactive material;

(4) The potential impact on radiological exposure of facility employees;

(5) The installation and continuing costs associated with the backfit, including the cost of facility downtime or the cost of construction delay;

(6) The potential safety impact of changes in plant or operational complexity, including the relationship to proposed and existing regulatory requirements;

(7) The estimated resource burden on the NRC associated with the proposed backfit and the availability of such resources;

(8) The potential impact of differences in facility type, design or age on the relevancy and practicality of the proposed backfit;

(9) Whether the proposed backfit is interim or final and, if interim, the justification for imposing the proposed backfit on an interim basis.

(c) No licensing action will be withheld during the pendency of backfit analyses required by the Commission's rules.

(d) The Executive Director for Operations shall be responsible for implementation of this section, and all analyses required by this section shall be approved by the Executive Director for Operations or his or her designee.

§ 53.1595 Renewal.

Licenses may be renewed by the Commission upon expiration of the period of the license.

Subpart J—Reporting and Other Administrative Requirements

§ 53.1600 General information.

Each applicant and licensee under this part must ensure that U.S. Nuclear Regulatory Commission (NRC) inspectors have unfettered access to sites and facilities licensed or proposed to be licensed in § 53.1610, must maintain records and make reports to the NRC in accordance with requirements in §§ 53.1620 through 53.1650, must satisfy financial qualification and reporting requirements in §§ 53.1660 through 53.1700, and must obtain and maintain required financial protections in case of an accident in §§ 53.1720 and 53.1730.

§ 53.1610 Unfettered access for inspections.

(a) Each applicant for or holder of a manufacturing license (ML), operating license (OL), combined license (COL), construction permit (CP), or early site permit must permit inspection, by duly authorized representatives of the Commission, of its records, premises, activities, and of licensed materials in possession or use, related to the license or CP or early site permit as may be necessary to effectuate the purposes of the Atomic Energy Act of 1956, as amended, (the Act) and the Energy Reorganization Act of 1974, as amended.

(b)(1) Each holder of an ML, OL, COL, or CP must, upon request by the Director, Office of Nuclear Reactor Regulation, provide rent-free office space for the exclusive use of the Commission inspection personnel. Heat, air conditioning, light, electrical outlets, and janitorial services must be furnished by each licensee and each holder of a CP. The office must be convenient to and have full access to the facility and must provide the inspectors both visual and acoustic privacy.

(2) For a site or facility with an assigned resident inspector, the space provided must be adequate to accommodate a full-time inspector, a part-time secretary, and transient NRC personnel and must be generally commensurate with other office facilities at the site. For sites or facilities assigned multiple resident inspectors, additional space may be requested. The office space that is provided must be subject to the approval of the Director, Office of Nuclear Reactor Regulation. All furniture, supplies, and communication equipment will be furnished by the Commission.

(3) For a site or facility without an assigned resident inspector, temporary space to accommodate periodic or special inspections must be provided. The office space must be generally commensurate with other office accommodations at the site.

(4) The licensee or permit holder must afford any NRC resident inspector assigned to that site, or other NRC inspectors identified by the Regional Administrator as likely to inspect the facility, immediate unfettered access, equivalent to access provided regular plant employees, following proper identification and compliance with applicable access control measures for security, radiological protection, and personal safety.

(5) The licensee or permit holder must ensure that the arrival and presence of an NRC inspector, who has been properly authorized facility access as described in paragraph (b)(4) of this section, is not announced or otherwise communicated by its employees or contractors to other persons at the facility unless specifically requested by the NRC inspector.

§ 53.1620 Maintenance of records, making of reports.

(a) Each holder of an ML, OL, COL, CP, or early site permit must maintain all records and make all reports, in connection with the activity, as may be required by the conditions of the license or permit or by the regulations and orders of the Commission in effectuating the purposes of the Act and the Energy Reorganization Act of 1974, as amended. Reports must be submitted in accordance with § 53.040.

(b) [Reserved]

(c) Records that are required by the regulations in this part, by license condition, or by technical specifications must be retained for the period specified by the appropriate regulation, license condition, or technical specification. If a retention period is not otherwise specified, these records must be retained until the Commission terminates the facility license or, in the case of an early site permit, until the permit expires.

(d)(1) Records which must be retained under this part may be the original or a reproduced copy or a microform if the reproduced copy or microform is duly authenticated by authorized personnel and the microform is capable of producing a clear and legible copy after storage for the period specified by Commission regulations. The record may also be stored in electronic media with the capability of producing legible, accurate, and complete records during the required retention period. Records such as letters, drawings, and specifications, must include all pertinent information such as stamps, initials, and signatures. The licensee must maintain adequate safeguards against tampering with, and loss of records.

(2) If there is a conflict between the Commission's regulations in this part, license condition, or technical specification, or other written Commission approval or authorization pertaining to the retention period for the same type of record, the retention period specified in the regulations in this part for such records shall apply unless the Commission, under § 53.080 of this part, has granted a specific exemption from the record retention requirements in the regulations in this part.

(e) Each licensee must notify the Commission as specified in § 53.040 of

this part, of successfully completing power ascension testing or startup testing as applicable within 30 calendar days of completing the testing.

§ 53.1630 Immediate notification requirements for operating commercial nuclear plants.

(a) *General requirements.*[1] (1) Each holder of an OL under this part or a COL under this part after the Commission makes the finding under § 53.1452(g), must notify the NRC Headquarters Operations Center via the Emergency Notification System (ENS) of—

(i) The declaration of any of the Emergency Classes specified in the licensee's approved Emergency Plan; or

(ii) Those non-emergency events specified in paragraph (b) of this section that occurred within 3 years of the date of discovery.

(2) If the ENS is inoperative, the licensee must make the required notifications via commercial telephone service, other dedicated telephone system, or any other method which will ensure that a report is made as soon as practical to the NRC Headquarters Operations Center at the numbers specified in appendix A to part 73 of this chapter.

(3) The licensee must notify the NRC immediately after notification of the appropriate State or local agencies and not later than 1 hour after the time the licensee declares one of the Emergency Classes.

(4) The licensee must activate the data links with the NRC as specified in their emergency plans after declaring an Emergency Class for events of actual or potential substantial degradation of plant safety or security, probable risk to site personnel life, or site equipment damage caused by hostile action. The data links may also be activated by the licensee during emergency drills or exercises if the licensee's computer system has the capability to transmit the exercise data.

(5) When making a report under paragraph (a)(1) of this section, the licensee must identify—

(i) The Emergency Class declared; or

(ii) Paragraph (b)(1), ''One-hour reports,'' paragraph (b)(2), ''Four-hour reports,'' or paragraph (b)(3), ''Eight-hour reports,'' as the paragraph of this section requiring notification of the non-emergency event.

(6) In lieu of submitting a report required under paragraph (b)(2) or (b)(3) of this section through the Emergency Notification System, the licensee may submit the report using other methods, provided the licensee submits the report to the NRC Headquarters Operations Center within the required timeframe and confirms receipt of the report by the NRC.

(b) *Non-emergency events*—(1) *One-hour reports.* If not reported as a declaration of an Emergency Class under paragraph (a) of this section, the licensee must notify the NRC as soon as practical and in all cases within one hour of the occurrence of any deviation from the plant's Technical Specifications authorized under § 53.740(h) of this part.

(2) *Four-hour reports.* If not reported under paragraphs (a) or (b)(1) of this section, the licensee must notify the NRC as soon as practical, and in all cases within 4 hours of the occurrence of any of the following:

(i) The initiation of any commercial nuclear plant shutdown required by the plant's Technical Specifications.

(ii) Any event or condition that results in actuation of the reactor protection system when the reactor is critical except when the actuation results from and is part of a pre-planned sequence during testing or reactor operation.

(iii) [Reserved]

(iv) Any event or condition that results in an unplanned movement of, change of state in, or chemical interaction involving a significant amount of radioactive material within the commercial nuclear plant.

(v) [Reserved]

(3) *Eight-hour reports.* If not reported under paragraphs (a), (b)(1), or (b)(2) of this section, the licensee must notify the NRC as soon as practical and in all cases within 8 hours of the occurrence of any of the following:

(i) Any event or condition that results in—

(A) The condition of the commercial nuclear plant, including its principal safety barriers, being seriously degraded; or

(B) The commercial nuclear plant being in a condition not analyzed under § 53.450 that significantly degrades plant safety.

(ii)–(iv) [Reserved]

(v) Any event that results in a major loss of emergency assessment capability, offsite response capability, or offsite communications capability (*e.g.,* significant portion of control room indication, ENS, or offsite notification system).

(c) *Follow-up notification:* With respect to the notifications made under paragraphs (a) and (b) of this section, in addition to making the required initial notification, each licensee, must during the course of the event—

(1) Immediately report:

(i) Any further degradation in the level of safety of the plant or other worsening plant conditions, including those that require the declaration of any of the Emergency Classes, if such a declaration has not been previously made; or

(ii) Any change from one Emergency Class to another; or

(iii) A termination of the Emergency Class.

(2) Immediately report:

(i) The results of ensuing evaluations or assessments of plant conditions,

(ii) The effectiveness of response or protective measures taken, and

(iii) Important information related to plant behavior that is not understood.

(3) Maintain an open, continuous communication channel with the NRC Headquarters Operation Center upon request by the NRC.

[1] Other requirements for immediate notification of the NRC by licensed operating commercial nuclear plants are contained elsewhere in this chapter, in particular §§ 20.1906, 20.2202, 72.216, 73.77, and 73.1200 of this chapter.

§ 53.1640 Licensee event report system.

(a) *Reportable events.* (1) Each commercial nuclear plant licensee holding an OL under this part or a COL under this part after the Commission makes the finding under § 53.1452(g), must submit a Licensee Event Report (LER) for any event of the type described in this paragraph (a) within 60 days after discovery of the event. In the case of an invalid actuation reported under § 53.1640(a)(2), other than automatic reactor shutdown when the reactor is critical, the licensee may, at its option, provide a telephone notification to the NRC Operations Center within 60 days after discovery of the event instead of submitting a written LER. Unless otherwise specified in this section, the licensee must report an event if it occurred within 3 years of the date of discovery regardless of the plant mode or power level, and regardless of the significance of the structure, system, or component that initiated the event.

(2) The licensee must report—

(i)(A) The completion of any commercial nuclear plant shutdown required by the plant's Technical Specifications.

(B) Any operation or condition which was prohibited by the plant's Technical Specifications except when—

(*1*) The Technical Specification is administrative in nature;

(*2*) The event consisted solely of a case of a late surveillance test where the oversight was corrected, the test was performed, and the equipment was found to be capable of performing its specified safety functions; or

(*3*) The Technical Specification was revised prior to discovery of the event

such that the operation or condition was no longer prohibited at the time of the event.

(C) Any deviation from the plant's Technical Specifications authorized under § 53.740(h).

(ii) Any event or condition that resulted in—

(A) The condition of the commercial nuclear plant, including its principal safety barriers, being seriously degraded; or

(B) The commercial nuclear plant being in a condition not analyzed under § 53.450 that significantly degrades plant safety.

(iii) Any natural phenomena or other external condition that posed an actual threat to the safety of the commercial nuclear plant or significantly hampered site personnel in the performance of duties necessary for the safe operation of the commercial nuclear plant.

(iv) Any event or condition that resulted in inadvertent operation of any structures, systems, and component classified as safety-related (SR) for an identified safety function under § 53.460 or the unplanned sole reliance on an SR system for those systems that are in constant operation, except when—

(A) The actuation resulted from and was part of a pre-planned sequence during testing; or

(B) The actuation was invalid and—

(*1*) Occurred while the system was properly removed from service; or

(*2*) Occurred after the safety function had been already completed.

(v) Any event or condition that could have prevented the fulfillment of the safety functions identified under § 53.230.

(vi) Events covered in paragraph (a)(2)(v) of this section may include one or more procedural errors, equipment failures, and/or discovery of design, fabrication, construction, and/or procedural inadequacies. However, individual component failures need not be reported pursuant to paragraph (a)(2)(v) of this section if any other equipment was operable and available to perform the required safety function.

(vii)(A) Any event or condition that as a result of a single cause could have prevented the fulfillment of any of the safety functions identified under § 53.230.

(B) Events covered in paragraph (a)(2)(vii)(A) of this section may include cases of procedural error, equipment failure, and/or discovery of a design, analysis, fabrication, construction, and/or procedural inadequacy. However, licensees are not required to report an event pursuant to paragraph (a)(2)(vii)(A) of this section if the event results from—

(*1*) A shared dependency among trains or channels that is a natural or expected consequence of the approved plant design; or

(*2*) Normal and expected wear or degradation.

(viii)(A) Any airborne radioactive release that, when averaged over a time period of 1-hour, resulted in airborne radionuclide concentrations in an unrestricted area that exceeds 20 times the applicable concentration limits specified in appendix B to 10 CFR part 20, table 2, column 1.

(B) Any liquid effluent release that, when averaged over a time period of 1-hour, exceeds 20 times the applicable concentrations specified in appendix B to 10 CFR part 20, table 2, column 2, at the point of entry into the receiving waters (*i.e.,* unrestricted area) for all radionuclides except tritium and dissolved noble gases.

(ix) Any event that posed an actual threat to the safety of the commercial nuclear plant or significantly hampered site personnel in the performance of duties necessary for the safe operation of the plant, including fires, toxic gas releases, or radioactive releases.

(b) *Contents.* The LER must contain—

(1) A brief abstract describing the major occurrences during the event, including all component or system failures that contributed to the event and significant corrective action taken or planned to prevent recurrence.

(2)(i) A clear, specific narrative description of what occurred so that knowledgeable readers conversant with the design of commercial nuclear plants, but not familiar with the details of a particular plant, can understand the complete event.

(ii) The narrative description must include the following specific information as appropriate for the particular event:

(A) Plant operating conditions before the event.

(B) Status of systems, structures, or components that were inoperable at the start of the event and that contributed to the event.

(C) Dates and approximate time of the occurrences.

(D) The cause of each component or system failure or personnel error, if known.

(E) The failure mode, mechanism, and effect of each failed component, if known.

(F) [Reserved]

(G) For failures of components with multiple functions, include a list of systems or secondary functions that were also affected.

(H) For failure that rendered a component or system classified as SR or non-safety-related but safety-significant inoperable, an estimate of the elapsed time from the discovery of the failure until the component or system was returned to service.

(I) The method of discovery of each component or system failure or procedural error.

(J) For each human performance related root cause, the licensee must discuss the cause(s) and circumstances.

(K) Automatically and manually initiated safety system responses.

(L) The manufacturer and model number (or other identification) of each component that failed during the event.

(3) An assessment of the safety consequences and implications of the event. This assessment must include—

(i) The availability of systems or components that could have performed the same function as the components and systems that failed during the event, and

(ii) For events that occurred when the reactor was shut down, the availability of systems or components that are needed to shut down the reactor and maintain safe shutdown conditions, remove residual heat, control the release of radioactive material, or mitigate the consequences of an accident.

(4) A description of any corrective actions planned as a result of the event, including those to reduce the probability of similar events occurring in the future.

(5) Reference to any previous similar events at the same plant that are known to the licensee.

(6) The name and contact information of a person within the licensee's organization who is knowledgeable about the event and can provide additional information concerning the event and the plant's characteristics.

(c) *Supplemental information.* The Commission may require the licensee to submit specific additional information beyond that required by paragraph (b) of this section if the Commission finds that supplemental material is necessary for complete understanding of an unusually complex or significant event. These requests for supplemental information will be made in writing and the licensee must submit, as specified in § 53.040, the requested information as a supplement to the initial LER.

(d) *Submission of reports.* Licensee Event Reports must be prepared on NRC Form 366 and submitted to the NRC, as specified in § 53.040.

(e) *Report legibility.* The reports and copies that licensees are required to submit to the Commission under the provisions of this section must be of sufficient quality to permit legible

reproduction and micrographic processing.

§ 53.1645 Reports of radiation exposure to members of the public.

(a) Each holder of an OL, and each holder of a COL after the Commission has made the finding under § 53.1452(g), must submit radiological reports as required by 10 CFR part 20, as well as an Annual Radioactive Effluent Release Report and an Annual Radiological Environmental Operating Report. The Annual Radioactive Effluent Release Report must specify the quantity of each of the principal radionuclides released to unrestricted areas in liquid and in gaseous effluents and an estimate of the dose received by the maximally exposed member of the public in an unrestricted area from effluents and direct radiation from contained sources during the previous calendar year. The Annual Radiological Environmental Operating Report must provide data on measurable levels of radiation and radioactive materials in the environment, must include an evaluation of the relationship between quantities of radioactive material released in effluents and resultant radiation doses to individuals from principal pathways of exposure, and must include the results of environmental monitoring during the previous calendar year. These reports must also include any other information as may be required by the Commission to estimate maximum potential annual radiation doses to the public. The reports must be submitted as specified in § 53.040 by May 15 of each successive year. If the total effective dose equivalent to members of the public in unrestricted areas during the reporting period is greater than the design objectives established under § 53.425, the report must specify the causes for exceeding the design objective and describe any corrective actions. On the basis of these reports and any additional information the Commission may obtain from the licensee or others, the Commission may require the licensee to take action as the Commission deems appropriate.

(b) If during any calendar quarter the radiation exposure to a member of the public in the unrestricted areas, calculated on the same basis as the respective design objective exposure, exceeds one-half of the annual design objective exposure, the licensee must submit a report as specified in § 53.040. The report shall specify the causes for exceeding one-half the annual design objective exposure in a quarter and describe corrective actions that the licensee will take to maintain radiation exposure to levels within the design objectives for the remainder of the year. The report shall be submitted within 30 days from the end of the quarter when one-half of the annual design objective exposure was exceeded.

§ 53.1650 Facility information and verification.

(a) In response to a written request by the Commission, each applicant for a CP or license and each recipient of a CP or a license must submit facility information, as described in § 75.10 of this chapter, on International Atomic Energy Agency (IAEA) Design Information Questionnaire forms and site information on DOC/NRC Form AP–A and associated forms;

(b) As required by the Additional Protocol, must submit location information described in § 75.11 of this chapter on DOC/NRC Form AP–1 and associated forms; and

(c) Must permit verification thereof by the IAEA and take other action as necessary to implement the US/IAEA Safeguards Agreement, as described in part 75 of this chapter.

§ 53.1660 Financial requirements.

Sections 53.1670 through 53.1700 set out the requirements and procedures related to financial qualifications and related reporting requirements.

§ 53.1670 Financial qualifications.

Except for an electric utility applicant for a license to operate a commercial nuclear plant, an applicant for a CP, OL, or COL under this part must appear to be financially qualified for the activities for which the permit or license is sought.

§ 53.1680 [Reserved]

§ 53.1690 Licensee's change of status; financial qualifications.

(a) An electric utility licensee holding an OL or COL (including a renewed license) for a commercial nuclear plant, no later than seventy-five (75) days prior to ceasing to be an electric utility in any manner not involving a license transfer under § 53.1399 or § 53.1456 must provide the NRC with the financial qualifications information that would be required for obtaining an initial OL under this part. The financial qualifications information must address the first full 5 years of operation after the date the licensee ceases to be an electric utility.

(b)(1) Any holder of a license issued under this part must notify the appropriate NRC Regional Administrator, in writing, immediately following the filing of a voluntary or involuntary petition for bankruptcy under any chapter of title 11 (Bankruptcy) of the United States Code by or against—

(i) The licensee;

(ii) An entity (as 11 U.S.C. 101(14) defines that term) controlling the licensee or listing the license or licensee as property of the estate; or

(iii) An affiliate (as 11 U.S.C. 101(2) defines that term) of the licensee.

(2) This notification must indicate—

(i) The bankruptcy court in which the petition for bankruptcy was filed; and

(ii) The date of the filing of the petition.

§ 53.1700 Creditor regulations.

(a) Pursuant to section 184 of the Act, the Commission consents, without individual application, to the creation of any mortgage, pledge, or other lien upon any facility not owned by the United States which is the subject of a license or upon any leasehold or other interest in such facility; provided—

(1) That the rights of any creditor so secured may be exercised only in compliance with and subject to the same requirements and restrictions as would apply to the licensee pursuant to the provisions of the license, the Act, and regulations issued by the Commission under the Act; and

(2) That no creditor so secured may take possession of the facility pursuant to the provisions of this section prior to either the issuance of a license from the Commission authorizing such possession or the transfer of the license.

(b) Any creditor so secured may apply for transfer of the license covering such facility by filing an application for transfer of the license under § 53.1570. The Commission will act upon such application under subpart I of this part.

(c) Nothing contained in this regulation shall be deemed to affect the means of acquiring, or the priority of, any tax lien or other lien provided by law.

(d) As used in this section—

(1) *License* includes any license under this part, which may be issued by the Commission with regard to a facility.

(2) *Creditor* includes, without implied limitation, the trustee under any mortgage, pledge or lien on a facility made to secure any creditor, any trustee or receiver of the facility appointed by a court of competent jurisdiction in any action brought for the benefit of any creditor secured by such mortgage, pledge or lien, any purchaser of such facility at the sale thereof upon foreclosure of such mortgage, pledge, or lien or upon exercise of any power of sale contained therein, or any assignee of any such purchaser.

(3) *Facility* includes, but is not limited to, a site which is the subject of an early

site permit under this part, and a reactor manufactured under an ML under this part.

§ 53.1710 Financial protection.

Sections 53.1720 and 53.1730 set out the requirements and procedures related to licensees obtaining and maintaining insurance to cover stabilization and decontamination activities in the event of an accident and financial protection in accordance with part 140, ''Financial Protection Requirements and Indemnity Agreements,'' of this chapter.

§ 53.1720 Insurance required to stabilize and decontaminate plant following an accident.

Each commercial nuclear plant licensee under this part must take reasonable steps to obtain insurance available at reasonable costs and on reasonable terms from private sources or to demonstrate that it possesses an equivalent amount of protection covering the licensee's obligation, in the event of an accident at the licensee's commercial nuclear reactor, to stabilize and decontaminate the plant and the plant site at which such an accident may occur, provided that—

(a) The insurance required by this section must have a minimum coverage limit for each commercial nuclear plant site of $1.06 billion, an amount based on plant-specific estimates of costs to stabilize and decontaminate a plant, or whatever amount of insurance is generally available from private sources, whichever is less. The required insurance must clearly state that, as and to the extent provided in paragraph (d)(1) of this section, any proceeds must be payable first for stabilization of the plant and next for decontamination of the plant and the plant site. If a licensee's coverage falls below the required minimum, the licensee must within 60 days take all reasonable steps to restore its coverage to the required minimum. The required insurance may, at the option of the licensee, be included within policies that also provide coverage for other risks, including, but not limited to, the risk of direct physical damage.

(b)(1) With respect to policies issued or annually renewed, the proceeds of such required insurance must be dedicated, as and to the extent provided in this paragraph (b), to reimbursement or payment on behalf of the insured of reasonable expenses incurred or estimated to be incurred by the licensee in taking action to fulfill the licensee's obligation, in the event of an accident at the licensee's plant, to ensure that the plant is in, or is returned to, and maintained in, a safe and stable condition and that radioactive contamination is removed or controlled such that personnel exposures are consistent with the occupational exposure limits in 10 CFR part 20. These actions must be consistent with any other obligation the licensee may have under this chapter and must be subject to paragraph (d) of this section. As used in this section, an ''accident'' means an event that involves the release of radioactive material from its intended place of confinement within the commercial nuclear plant such that there is a present danger of release off site in amounts that would pose a threat to the public health and safety.

(2) The stabilization and decontamination requirements set forth in paragraph (d) of this section must apply uniformly to all insurance policies required under this section.

(c) The licensee shall report to the NRC on April 1 of each year the current levels of this insurance or financial security it maintains and the sources of this insurance or financial security.

(d)(1) In the event of an accident at the licensee's plant, whenever the estimated costs of stabilizing the licensed plant and of decontaminating the plant and the plant site exceed one tenth of the minimum insurance under paragraph (a) of this section, the proceeds of the insurance required by this section must be dedicated to and used, first, to ensure that the licensed plant is in, or is returned to, and can be maintained in, a safe and stable condition so as to prevent any significant risk to the public health and safety and, second, to decontaminate the plant and the plant site in accordance with the licensee's cleanup plan as approved by order of the Director, Office of Nuclear Reactor Regulation. This priority on insurance proceeds must remain in effect for 60 days or, upon order of the Director, for such longer periods, in increments not to exceed 60 days except as provided for activities under the cleanup plan required in paragraphs (d)(3) and (d)(4) of this section, as the Director may find necessary to protect the public health and safety. Actions needed to bring the plant to and maintain the plant in a safe and stable condition may include one or more of the following, as appropriate:

(i) Shutdown of the reactor(s) and other processes at the plant;

(ii) Establishment and maintenance of long-term cooling with stable decay heat removal;

(iii) Maintenance of sub-criticality;

(iv) Control of radioactive releases; and

(v) Securing of structures, systems, or components to minimize radiation exposure to onsite personnel or to the offsite public or to facilitate later decontamination or both.

(2) The licensee must inform the Director, Office of Nuclear Reactor Regulation in writing when the plant is and can be maintained in a safe and stable condition so as to prevent any significant risk to the public health and safety. Within 30 days after the licensee informs the Director that the plant is in this condition, or at such earlier time as the licensee may elect or the Director may for good cause direct, the licensee must prepare and submit a cleanup plan for the Director's approval. The cleanup plan must identify and contain an estimate of the cost of each cleanup operation that will be required to decontaminate the reactor sufficiently to permit the licensee either to resume operation of the reactor or to apply to the Commission under subpart G of this part for authority to decommission the reactor and to surrender the license voluntarily. Cleanup operations may include one or more of the following, as appropriate:

(i) Processing any contaminated materials generated by the accident and by decontamination operations to remove radioactive materials;

(ii) Decontamination of surfaces inside the plant buildings to levels consistent with the Commission's occupational exposure limits in 10 CFR part 20, and decontamination or disposal of equipment;

(iii) Decontamination or removal and disposal of internal parts, damaged fuel from the reactor coolant or fuel systems, or related process or waste systems; and

(iv) Cleanup of the reactor coolant or fuel systems or related process or waste systems.

(3) Following review of the licensee's cleanup plan, the Director will order the licensee to complete all operations that the Director finds are necessary to decontaminate the reactor sufficiently to permit the licensee either to resume operation of the reactor or to apply to the Commission under subpart G of this part for authority to decommission the reactor and to surrender the license voluntarily. The Director must approve or disapprove, in whole or in part for stated reasons, the licensee's estimate of cleanup costs for such operations. Such order may not be effective for more than one year, at which time it may be renewed. Each subsequent renewal order, if imposed, may be effective for not more than 6 months.

(4) Of the balance of the proceeds of the required insurance not already expended to place the plant in a safe and stable condition under paragraph (b)(1) of this section, an amount

sufficient to cover the expenses of completion of those decontamination operations that are the subject of the Director's order must be dedicated to such use, provided that, upon certification to the Director of the amounts expended previously and from time to time for stabilization and decontamination and upon further certification to the Director as to the sufficiency of the dedicated amount remaining, policies of insurance may provide for payment to the licensee or other loss payees of amounts not so dedicated, and the licensee may proceed to use in parallel (and not in preference thereto) any insurance proceeds not so dedicated for other purposes.

§ 53.1730 Financial protection requirements.

Commercial nuclear plant licensees must satisfy the applicable provisions of part 140, ''Financial Protection Requirements and Indemnity Agreements,'' of this chapter.

Subparts K and L [Reserved]

Subpart M—Enforcement

§ 53.9000 Violations.

(a) The Commission may obtain an injunction or other court order to prevent a violation of the provisions of—

(1) The Atomic Energy Act of 1954, as amended (the Act);

(2) Title II of the Energy Reorganization Act of 1974, as amended; or

(3) A regulation or order issued under those Acts.

(b) The Commission may obtain a court order for the payment of a civil penalty imposed under Section 234 of the Act:

(1) For violations of—

(i) Sections 53, 57, 62, 63, 81, 82, 101, 103, 104, 107, or 109 of the Act;

(ii) Section 206 of the Energy Reorganization Act of 1974, as amended;

(iii) Any rule, regulation, or order issued under the sections specified in paragraph (b)(1)(i) of this section;

(iv) Any term, condition, or limitation of any license issued under the sections specified in paragraph (b)(1)(i) of this section.

(2) For any violation for which a license may be revoked under section 186 of the Act.

§ 53.9010 Criminal penalties.

(a) Section 223 of the Act provides for criminal sanctions for willful violation of, attempted violation of, or conspiracy to violate, any regulation issued under sections 161b, 161i, or 161o of the Act. For purposes of section 223, all the regulations in part 53 are issued under one or more of sections 161b, 161i, or 161o, except for the sections listed in paragraph (b) of this section.

(b) The regulations in 10 CFR part 53 that are not issued under sections 161b, 161i, or 161o for the purposes of section 223 are as follows: §§ 53.000, 53.015, 53.020, 53.040, 53.080, 53.090, 53.100, 53.110, 53.120, 53.600, 53.725, 53.726, 53.735, 53.760, 53.775, 53.790, 53.795, 53.820, 53.910, 53.1000, 53.1050, 53.1100, 53.1103, 53.1106, 53.1109, 53.1112, 53.1115, 53.1118, 53.1120, 53.1121, 53.1124, 53.1140, 53.1144, 53.1146, 53.1149, 53.1155, 53.1158, 53.1164, 53.1170, 53.1173, 53.1176, 53.1179, 53.1188, 53.1200, 53.1206, 53.1209, 53.1210, 53.1212, 53.1215, 53.1218, 53.1221, 53.1230, 53.1236, 53.1239, 53.1241, 53.1242, 53.1245, 53.1248, 53.1251, 53.1254, 52.1257, 52.1260, 53.1263, 53.1270, 53.1276, 53.1279, 53.1282, 53.1285, 53.1286, 53.1287, 53.1288, 53.1291, 53.1293, 53.1295, 53.1300, 53.1306, 53.1309, 53.1312, 53.1315, 53.1318, 53.1324, 53.1330, 53.1333, 53.1336, 53.1348, 53.1360, 53.1366, 53.1369, 53.1372, 53.1375, 53.1381, 53.1384, 53.1387, 53.1390, 53.1396, 53.1401, 53.1405, 53.1410, 53.1416, 53.1419, 53.1422, 53.1425, 53.1431, 53.1437, 53.1440, 53.1443, 53.1452, 53.1455, 53.1456, 53.1458, 53.1461, 53.1470, 53.1500, 53.1510, 53.1515, 53.1520, 53.1525, 53.1530, 53.1535, 53.1540, 53.1560, 53.1585, 53.1590, 53.1595, 53.1600, 53.1660, 53.1670, 53.1700, 53.1710, 53.1730, 53.9000, 53.9010.

PART 70—DOMESTIC LICENSING OF SPECIAL NUCLEAR MATERIAL

■ 134. The authority citation for 10 CFR part 70 continues to read as follows:

Authority: Atomic Energy Act of 1954, secs. 51, 53, 57(d), 108, 122, 161, 182, 183, 184, 186, 187, 193, 223, 234, 274, 1701 (42 U.S.C. 2071, 2073, 2077(d), 2138, 2152, 2201, 2232, 2233, 2234, 2236, 2237, 2243, 2273, 2282, 2021, 2297f); Energy Reorganization Act of 1974, secs. 201, 202, 206, 211 (42 U.S.C. 5841, 5842, 5846, 5851); Nuclear Waste Policy Act of 1982, secs. 135, 141 (42 U.S.C. 10155, 10161); 44 U.S.C. 3504 note.

Sections 70.1(c) and 70.20a(b) also issued under secs. 135, 141, Pub. L. 97–425, 96 Stat. 2232, 2241 (42 U.S.C. 10155, 10161).

Section 70.21(g) also issued under Atomic Energy Act sec. 122 (42 U.S.C. 2152).

Section 70.31 also issued under Atomic Energy Act sec. 57(d) (42 U.S.C. 2077(d)).

Sections 70.36 and 70.44 also issued under Atomic Energy Act sec. 184 (42 U.S.C. 2234).

Section 70.81 also issued under Atomic Energy Act secs. 186, 187 (42 U.S.C. 2236, 2237).

Section 70.82 also issued under Atomic Energy Act sec. 108 (42 U.S.C. 2138).

§ 70.20a [Amended]

■ 135. In § 70.20a, in paragraph (b), remove ''parts 30 through 36, 39, 40, 50, 72, 110'' and add in its place ''parts 30 through 36, 39, 40, 50, 53, 72, 110''.

§ 70.22 [Amended]

■ 136. In § 70.22, wherever it may appear, remove the phrase ''part 50'' and add in its place the phrase ''part 50 or part 53''.

■ 137. In § 70.24, revise paragraphs (d) to read as follows:

§ 70.24 Criticality accident requirements.

* * * * *

(d)(1) The requirements in paragraphs (a) through (c) of this section do not apply to a holder of a construction permit or operating license for a nuclear power reactor issued under part 50 or part 53 of this chapter or a combined license issued under part 52 or part 53 of this chapter, if the holder complies with the requirements of paragraph (b) of 10 CFR 50.68 or paragraph (m)(2) of 10 CFR 53.440, as applicable.

(2) An exemption from § 70.24 held by a licensee who thereafter elects to comply with requirements of paragraph (b) of 10 CFR 50.68 or paragraph (m)(2) of 10 CFR 53.440 does not exempt that licensee from complying with any of the requirements in § 50.68 or § 53.440(m) of this chapter but will be ineffective so long as the licensee elects to comply with § 50.68(b) or § 53.440(m)(2) of this chapter, as applicable.

§ 70.32 [Amended]

■ 138. In § 70.32, in paragraph (c)(1) introductory text, remove the phrase ''part 50 of this chapter'' and add in its place the phrase ''part 50 or part 53 of this chapter''; and in paragraph (d) remove the phrase ''or § 70.34 of this chapter, as appropriate.'' and add in its place the phrase '', § 70.34, or § 53.1510 of this chapter, as appropriate.''.

■ 139. In § 70.50, revise paragraph (d) to read as follows:

§ 70.50 Reporting requirements.

* * * * *

(d) The provisions of § 70.50 do not apply to licensees subject to § 50.72 or § 53.1630 of this chapter. They do apply to those 10 CFR parts 50 or 53 licensees possessing material licensed under 10 CFR part 70 that are not subject to the notification requirements in § 50.72 or § 53.1630 of this chapter.

PART 72—LICENSING REQUIREMENTS FOR THE INDEPENDENT STORAGE OF SPENT NUCLEAR FUEL AND HIGH-LEVEL RADIOACTIVE WASTE, AND REACTOR-RELATED GREATER THAN CLASS C WASTE

■ 140. The authority citation for 10 CFR part 72 continues to read as follows:

Authority: Atomic Energy Act of 1954, secs. 51, 53, 57, 62, 63, 65, 69, 81, 161, 182, 183, 184, 186, 187, 189, 223, 234, 274 (42 U.S.C. 2071, 2073, 2077, 2092, 2093, 2095, 2099, 2111, 2201, 2210e, 2232, 2233, 2234, 2236, 2237, 2238, 2273, 2282, 2021); Energy Reorganization Act of 1974, secs. 201, 202, 206, 211 (42 U.S.C. 5841, 5842, 5846, 5851); National Environmental Policy Act of 1969 (42 U.S.C. 4332); Nuclear Waste Policy Act of 1982, secs. 117(a), 132, 133, 134, 135, 137, 141, 145(g), 148, 218(a) (42 U.S.C. 10137(a), 10152, 10153, 10154, 10155, 10157, 10161, 10165(g), 10168, 10198(a)); 44 U.S.C. 3504 note.

■ 141. In § 72.3, revise the definition for ''Independent spent fuel storage installation or ISFSI'' to read as follows:

§ 72.3 Definitions.

* * * * *

Independent spent fuel storage installation or ISFSI means a complex designed and constructed for the interim storage of spent nuclear fuel, solid reactor-related GTCC waste, and other radioactive materials associated with spent fuel and reactor-related GTCC waste storage. An ISFSI which is located on the site of another facility licensed under this part or a facility licensed under part 50 or part 53 of this chapter and which shares common utilities and services with that facility or is physically connected with that other facility may still be considered independent.

* * * * *

■ 142. In § 72.30, revise paragraph (e)(5) to read as follows:

§ 72.30 Financial assurance and recordkeeping for decommissioning.

* * * * *

(e) * * *

(5) In the case of licensees who are issued a power reactor license under part 50 or part 53 of this chapter or ISFSI licensees who are an electric utility, as defined in part 50 or part 53 of this chapter, with a specific license issued under this part, the methods of § 50.75(b), (e), and (h) or § 53.1010, § 53.1040, § 53.1045(b), and § 53.1060 of this chapter, as applicable. In the event that funds remaining to be placed into the licensee's ISFSI decommissioning external sinking fund are no longer approved for recovery in rates by a competent rate making authority, the licensee must make changes to provide financial assurance using one or more of the methods stated in paragraphs (e)(1) through (4) of this section.

* * * * *

■ 143. In § 72.32, revise paragraph (c)(2) to read as follows:

§ 72.32 Emergency plan.

* * * * *

(c) * * *

(2)(i) Located within the exclusion area as defined in 10 CFR part 100, of a nuclear power reactor licensed for operation by the Commission, the emergency plan that meets either the requirements in § 50.160 of this chapter or the requirements in appendix E to part 50 of this chapter and § 50.47(b) of this chapter shall be deemed to satisfy the requirements of this section.

(ii) Located within the exclusion area, as defined in 10 CFR part 53, of a commercial nuclear plant licensed for operation by the Commission, the emergency plan that meets either the requirements in § 50.160 of this chapter or the requirements in appendix E to part 50 of this chapter and § 50.47(b) of this chapter shall be deemed to satisfy the requirements of this section.

* * * * *

§ 72.40 [Amended]

■ 144. In § 72.40, in paragraph (c), remove the phrase ''under part 50 of this chapter,'' and add in its place the phrase ''under part 50 or part 53 of this chapter,''.

■ 145. In § 72.75, revise paragraph (i)(1)(ii) to read as follows:

§ 72.75 Reporting requirements for specific events and conditions.

* * * * *

(i) * * *

(1) * * *

(ii) Licensees issued a general license under § 72.210, after the licensee has placed spent fuel on the ISFSI storage pad (if the ISFSI is located inside the collocated protected area, for a reactor licensed under part 50 or part 53 of this chapter) or after the licensee has transferred spent fuel waste outside the reactor licensee's protected area to the ISFSI storage pad (if the ISFSI is located outside the collocated protected area, for a reactor licensed under part 50 or part 53 of this chapter).

* * * * *

§ 72.184 [Amended]

■ 146. In § 72.184, in paragraph (a), remove the phrase ''under part 50 of this chapter'' and add in its place the phrase ''under part 50 or part 53 of this chapter''.

■ 147. Revise § 72.210 to read as follows:

§ 72.210 General license issued.

A general license is hereby issued for the storage of spent fuel in an independent spent fuel storage installation at power reactor sites to persons authorized to possess or operate nuclear power reactors under 10 CFR part 50, part 52, or part 53.

■ 148. In § 72.212, revise paragraph (b)(8) to read as follows:

§ 72.212 Conditions of general license issued under § 72.210.

* * * * *

(b) * * *

(8) Before use of the general license, determine whether activities related to storage of spent fuel under this general license involve a change in the facility Technical Specifications or require a license amendment for the facility pursuant to § 50.59(c) or § 53.1550 of this chapter. Results of this determination must be documented in the evaluations made in paragraph (b)(5) of this section.

* * * * *

■ 149. In § 72.218, revise paragraphs (a) and (b) to read as follows:

§ 72.218 Termination of licenses.

(a) The notification regarding the program for the management of spent fuel at the reactor required by § 50.54(bb) or § 53.1060 of this chapter must include a plan for removal of the spent fuel stored under this general license from the reactor site. The plan must show how the spent fuel will be managed before starting to decommission systems and components needed for moving, unloading, and shipping this spent fuel.

(b) An application for termination of a reactor operating license issued under 10 CFR part 50 and submitted under § 50.82 of this chapter, or a combined license issued under 10 CFR part 52 and submitted under § 52.110 of this chapter, or a reactor operating or combined license under 10 CFR part 53 and submitted under § 53.1070 of this chapter must contain a description of how the spent fuel stored under this general license will be removed from the reactor site.

* * * * *

PART 73—PHYSICAL PROTECTION OF PLANTS AND MATERIALS

■ 150. The authority citation for 10 CFR part 73 continues to read as follows:

Authority: Atomic Energy Act of 1954, secs. 53, 147, 149, 161, 161A, 170D, 170E, 170H, 170I, 223, 229, 234, 1701 (42 U.S.C.

2073, 2167, 2169, 2201, 2201a, 2210d, 2210e, 2210h, 2210i, 2273, 2278a, 2282, 2297f); Energy Reorganization Act of 1974, secs. 201, 202 (42 U.S.C. 5841, 5842); Nuclear Waste Policy Act of 1982, secs. 135, 141 (42 U.S.C. 10155, 10161); 44 U.S.C. 3504 note.

Section 73.37(b)(2) also issued under sec. 301, Pub. L. 96–295, 94 Stat. 789 (42 U.S.C. 5841 note).

■ 151. In § 73.1, revise paragraph (b)(1)(i) to read as follows:

§ 73.1 Purpose and scope.

* * * * *

(b) * * *

(1) * * *

(i) The physical protection of production and utilization facilities licensed under part 50, part 52, or part 53 of this chapter,

* * * * *

■ 152. In § 73.2, revise introductory text and paragraph (a) to read as follows:

§ 73.2 Definitions.

As used in this part:

(a) Terms defined in parts 50, 52, 53, 70, and 95 of this chapter have the same meaning when used in this part.

* * * * *

■ 153. In § 73.8, revise paragraph (b) to read as follows:

§ 73.8 Information collection requirements: OMB approval.

* * * * *

(b) The approved information collection requirements contained in this part appear in §§ 73.5, 73.15, 73.17, 73.20, 73.21, 73.24, 73.25, 73.26, 73.27, 73.37, 73.40, 73.45, 73.46, 73.50, 73.54, 73.55, 73.56, 73.57, 73.58, 73.60, 73.67, 73.70, 73.72, 73.73, 73.74, 73.77, 73.100, 73.110, 73.120, 73.1200, 73.1205, 73.1210, 73.1215, and appendices B and C to this part.

* * * * *

■ 154. In § 73.50, revise the introductory text to read as follows:

§ 73.50 Requirements for physical protection of licensed activities.

Each licensee who is not subject to § 73.51, but who possesses, uses, or stores formula quantities of strategic special nuclear material that are not readily separable from other radioactive material and which have a total external radiation level in excess of 1 gray (100 rad) per hour at a distance of 1 meter (3.3 feet) from any accessible surfaces without intervening shielding other than at a nuclear reactor facility licensed under part 50, part 52, or part 53 of this chapter, shall comply with the following:

* * * * *

■ 155. In § 73.55, revise paragraphs (a)(4) and (6), (b)(8) and (9)(ii)(C), (c)(6), (i)(4)(iii), (l)(1) and (7)(ii), (p)(1)(i) and (ii), and (r)(2) and (r)(4)(iii) to read as follows:

§ 73.55 Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage.

(a) * * *

(4) Applicants for an operating license under the provisions of part 50 or part 53 of this chapter or holders of a combined license under the provisions of part 52 or part 53 of this chapter shall implement the requirements of this section before fuel is allowed onsite (protected area).

* * * * *

(6) Applicants for an operating license under the provisions of part 50 or part 53 of this chapter, or holders of a combined license under the provisions of part 52 or part 53 of this chapter that do not reference a standard design certification or reference a standard design certification issued after May 26, 2009, shall meet the requirement of § 73.55(i)(4)(iii).

(b) * * *

(8) The licensee shall establish, maintain, and implement a cyber security program in accordance with § 73.54 or § 73.110, as applicable.

(9) * * *

(ii) * * *

(C) The cyber security program described in § 73.54 or § 73.110, as applicable; and

* * * * *

(c) * * *

(6) Cyber Security Plan. The licensee shall establish, maintain, and implement a Cyber Security Plan that describes how the criteria set forth in § 73.54 or § 73.110, as applicable, will be implemented.

* * * * *

(i) * * *

(4) * * *

(iii) Applicants for an operating license under the provisions of part 50 of this chapter, or holders of a combined license under the provisions of part 52 of this chapter, or licensees under part 53 of this chapter that elect to demonstrate compliance with § 73.55, consistent with § 53.860(a)(2) of this chapter, shall construct, locate, protect, and equip both the central and secondary alarm stations to the standards for the central alarm station contained in this section. Both alarm stations shall be equal and redundant, such that all functions needed to satisfy the requirements of this section can be performed in both alarm stations.

* * * * *

(l) * * *

(1) Commercial nuclear power reactors licensed under 10 CFR part 50, part 52, or part 53 and authorized to use special nuclear material in the form of MOX fuel assemblies containing up to 20 weight percent PuO_2 shall, in addition to demonstrating compliance with the requirements of this section, protect un-irradiated MOX fuel assemblies against theft or diversion as described in this paragraph (l).

* * * * *

(7) * * *

(ii) Additional measures for the physical protection of un-irradiated MOX fuel assemblies containing greater than 20 weight percent PuO_2 shall be determined by the Commission on a case-by-case basis and documented through license amendment in accordance with § 50.90 or § 53.1510 of this chapter.

* * * * *

(p) * * *

(1) * * *

(i) Under § 50.54 paragraphs (x) and (y) or § 53.740(h) of this chapter, the licensee may suspend any security measures under this section in an emergency when this action is immediately needed to protect the public health and safety and no action consistent with license conditions and technical specifications that can provide adequate or equivalent protection is immediately apparent. This suspension of security measures must be approved as a minimum by a licensed senior operator or a generally licensed reactor operator, as applicable, before taking this action.

(ii) During severe weather when the suspension of affected security measures is immediately needed to protect the personal health and safety of security force personnel and no other immediately apparent action consistent with the license conditions and technical specifications can provide adequate or equivalent protection. This suspension of security measures must be approved, as a minimum, by a licensed senior operator or a generally licensed reactor operator, as applicable, with input from the security supervisor or manager, before taking this action.

* * * * *

(r) * * *

(2) The licensee shall submit proposed alternative measure(s) to the Commission for review and approval under § 50.4 and § 50.90, or § 53.040 and § 53.1510 of this chapter, before implementation.

* * * * *

(4) * * *

(iii) Based on comparison of the costs of the alternative measures to the costs

of demonstrating compliance with the Commission's requirements using the essential elements of § 50.109 or § 53.1590 of this chapter, the costs of fully demonstrating compliance with the Commission's requirements are not justified by the protection that would be provided.

■ 156. In § 73.56, revise paragraph (a)(3) to read as follows:

§ 73.56 Personnel access authorization requirements for nuclear power plants.

(a) * * *

(3) Each applicant for an operating license under the provisions of part 50 of this chapter, each holder of a combined license under the provisions of part 52 of this chapter, and applicants for an operating license or holders of a combined license under part 53 of this chapter who do not demonstrate compliance with 10 CFR 73.100(a)(1)(i) shall implement the requirements of this section before fuel is allowed on site (protected area).

* * * * *

■ 157. In § 73.57, revise paragraph (a)(3) to read as follows:

§ 73.57 Requirements for criminal history records checks of individuals granted unescorted access to a nuclear power facility, a non-power reactor, or access to Safeguards Information.

(a) * * *

(3) Before receiving its operating license under 10 CFR part 50 or part 53 or before the Commission makes its finding under § 52.103(g) or § 53.1452(g) of this chapter, each applicant for a license to operate a nuclear power reactor (including an applicant for a combined license) or a non-power reactor may submit fingerprints for those individuals who will require unescorted access to the nuclear power facility or non-power reactor facility.

* * * * *

■ 158. In § 73.58, revise paragraph (a) to read as follows:

§ 73.58 [Amended]

(a) Each operating nuclear power reactor licensee with a license issued under part 50, part 52, or part 53 of this chapter shall comply with the requirements of this section.

* * * * *

■ 159. In § 73.67, revise introductory text of paragraphs (d) introductory text and (f) introductory text to read as follows:

§ 73.67 Licensee fixed site and in-transit requirements for the physical protection of special nuclear material of moderate and low strategic significance.

* * * * *

(d) *Fixed site requirements for special nuclear material of moderate strategic significance.* Each licensee who possesses, stores, or uses quantities and types of special nuclear material of moderate strategic significance at a fixed site or contiguous sites, except as allowed by paragraph (b)(2) of this section and except those who are licensed to operate a nuclear power reactor pursuant to part 50 or part 53, provided that the special nuclear material is located within a protected area and protected under § 73.55 or § 73.100, shall:

* * * * *

(f) *Fixed site requirements for special nuclear material of low strategic significance.* Each licensee who possesses, stores, or uses special nuclear material of low strategic significance at a fixed site or contiguous sites, except those who are licensed to operate a nuclear power reactor pursuant to part 50 or part 53, provided that the special nuclear material is located within a protected area and protected under § 73.55 or § 73.100, shall:

* * * * *

■ 160. In § 73.77, revise paragraphs (a), (b)(1), (c)(6) and (7) to read as follows:

§ 73.77 Cybersecurity event notifications.

(a) Each licensee subject to the provisions of § 73.54 or § 73.110 shall notify the NRC Headquarters Operations Center via the Emergency Notification System (ENS), under paragraph (c) of this section:

(1) Within one hour after discovery of a cyberattack that adversely impacted:

(i) Safety-related or important-to-safety functions, security functions, or emergency preparedness functions (including offsite communications); or that compromised support systems and equipment resulting in adverse impacts to safety, security, or emergency preparedness functions within the scope of § 73.54; or,

(ii) Safety, security, and emergency preparedness functions performed by digital assets that prevent a postulated fission product release resulting in offsite doses exceeding the values in § 53.210 of this chapter, or security functions performed by digital assets necessary for implementing the physical security requirements in § 53.860(a) of this chapter.

(2) Within 4 hours:

(i) After discovery of a cyberattack that could have caused an adverse impact to:

(A) Safety-related or important-to-safety functions, security functions, or emergency preparedness functions (including offsite communications); or that could have compromised support systems and equipment, which if compromised, could have adversely impacted safety, security, or emergency preparedness functions within the scope of § 73.54; or,

(B) Safety, security, and emergency preparedness functions performed by digital assets that prevent a postulated fission product release resulting in offsite doses exceeding the values in § 53.210 of this chapter, or security functions performed by digital assets necessary for implementing the physical security requirements in § 53.860(a) of this chapter.

(ii) After discovery of a suspected or actual cyberattack initiated by personnel with physical or electronic access to digital computer and communication systems and networks within the scope of § 73.54 or § 73.110.

(iii) After notification to a local, State, or other Federal agency (*e.g.,* law enforcement, Federal Bureau of Investigation (FBI), etc.) of an event related to the licensee's implementation of their cybersecurity program for digital computer and communication systems and networks within the scope of § 73.54 or § 73.110 that does not otherwise require a notification under paragraph (a) of this section.

(3) Within 8 hours after receipt or collection of information regarding observed behavior, activities, or statements that may indicate intelligence gathering or pre-operational planning related to a cyberattack against digital computer and communication systems and networks within the scope of § 73.54 or § 73.110.

(b) * * *

(1) The licensee shall use the site corrective action program to record vulnerabilities, weaknesses, failures and deficiencies in their § 73.54 or § 73.110 cybersecurity program within 24 hours of their discovery.

* * * * *

(c) * * *

(6) *Declaration of emergencies.* Notifications made to the NRC for the declaration of an emergency class shall be performed in accordance with § 50.72 or § 53.1630 of this chapter, as applicable.

(7) *Elimination of duplication.* Separate notifications and reports are not required for events that are also reportable under §§ 50.72 and 50.73 or §§ 53.1630 and 53.1640 of this chapter. However, these notifications should also indicate the applicable § 73.77 reporting criteria.

* * * * *

■ 161. Add subpart J, consisting of §§ 73.100 through 73.120, to read as follows:

Subpart J—Security Requirements at Commercial Nuclear Plants

Sec.

73.100 Technology-inclusive requirements for physical protection of licensed activities at commercial nuclear plants against radiological sabotage.
73.110 Technology-inclusive requirements for protection of digital computer and communication systems and networks.

73.120 Access authorization program for commercial nuclear plants.

§ 73.100 Technology-inclusive requirements for physical protection of licensed activities at commercial nuclear plants against radiological sabotage.

(a) *Introduction.* (1) Each licensee that is licensed to operate a commercial nuclear plant under part 53 of this chapter and elects to implement the requirements of this section must identify achievable target sets in accordance with paragraph (b)(5) of this section and develop, implement, and maintain a physical protection program under the following requirements:

(i) Each licensee that demonstrates no achievable target sets exist in accordance with paragraph (b)(5) of this section, and does not credit any active measures (*e.g.,* operator action, mitigative action, detection, assessment, armed response) in making that demonstration, is exempt from the remaining requirements of this section.

(ii) Each licensee that demonstrates no achievable target sets exist in accordance with paragraph (b)(5) of this section, and credits active measures in making that demonstration, must implement the requirements of this section through its physical security plan, training and qualification plan, safeguards contingency plan, and cybersecurity plan, referred to collectively hereafter as ''security plans,'' before initial fuel load into the reactor (or, for a fueled manufactured reactor, before initiating the removal of the features to prevent criticality required under § 53.620(d)(1) of this chapter); for such licensees, the requirements of paragraphs (b)(2) through (4) of this section will be deemed satisfied if the physical protection program is designed to ensure that the credited active measures will be implemented in response to threats up to and including the design-basis threat of radiological sabotage.

(iii) Each licensee that demonstrates achievable target sets exist, in accordance with paragraph (b)(5) of this section, must implement the requirements of this section through its physical security plan, training and qualification plan, safeguards contingency plan, and cybersecurity plan, referred to collectively hereafter as ''security plans,'' before initial fuel load into the reactor (or, for a fueled manufactured reactor, before initiating the removal of the features to prevent criticality required under § 53.620(d)(1) of this chapter).

(2) The security plans must identify, describe, and account for site-specific conditions that affect the licensee's capability to satisfy the requirements of this section.

(b) *General performance objective and requirements.* (1) The licensee must establish, implement, and maintain a physical protection program and a security organization, which will have as their objective to provide reasonable assurance that activities involving special nuclear material are not inimical to the common defense and security and do not constitute an unreasonable risk to the public health and safety.

(2) To satisfy the general performance objective of paragraph (b)(1) of this section, the physical protection program must protect against the design-basis threat of radiological sabotage as stated in § 73.1. Specifically, the licensee must—

(i) Ensure that the physical protection program capabilities to protect against the design-basis threat of radiological sabotage are maintained at all times; and

(ii) Provide defense in depth in achieving performance requirements through the integration of engineered systems, administrative controls, and management measures.

(3) The physical protection program must be designed to prevent the release of radionuclides from any source from exceeding the dose reference values defined in § 53.210 of this chapter.

(4) The physical protection program must be designed and implemented to achieve and maintain the reliability and availability of structures, systems, and components (SSCs) required for demonstrating compliance with the following performance requirements at all times:

(i) *Intrusion detection.* The licensee must be capable of detecting attempted and actual unauthorized access to interior and exterior areas containing SSCs needed to implement safety and security functions.

(ii) *Intrusion assessment.* The licensee must be capable of timely assessment for determining the cause of a detected intrusion.

(iii) *Security communication.* The licensee must be capable of continuous security communications. Communication systems must account for design-basis threats that can interrupt or interfere with continuity or integrity of communications.

(iv) *Security response.* The physical protection program must be designed to provide timely security response to interdict and neutralize adversary attacks up to and including the design-basis threat of radiological sabotage. The physical protection program must be designed to provide layers of security response, with each layer assuring that a single failure does not result in the loss of capability to neutralize the design-basis threat adversary. Structures, systems, and components relied on for delay functions must be designed to allow for timely security responses to adversary attacks with adequate defense in depth.

(A) The security response may rely on the use of onsite responders, law enforcement or other offsite armed responders, or a combination thereof, to fulfill the interdiction and neutralization functions required by paragraph (b)(4)(iv) of this section. A licensee relying entirely or partially on law enforcement or other offsite armed responders must—

(*1*) Maintain the capability to detect, assess, interdict, and neutralize threats as required by paragraphs (b)(4)(i), (b)(4)(ii), and (b)(4)(iv) of this section;

(*2*) Provide adequate delay to enable law enforcement or other offsite armed responders to fulfill the interdiction and neutralization functions for threats up to and including the design-basis threat of radiological sabotage;

(*3*) Provide necessary information about the facility and make available periodic training to law enforcement or other offsite armed responders who will fulfill the interdiction and neutralization functions for threats up to and including the design-basis threat of radiological sabotage;

(*4*) Fully describe in the safeguards contingency plan the role that law enforcement or other offsite armed responders will play in the licensee's protective strategy. The description must provide sufficient detail to enable the NRC to determine that the licensee's physical protection program provides reasonable assurance of adequate protection against threats up to and including the design-basis threat of radiological sabotage; and

(*5*) Identify criteria and measures to compensate for the degradation or absence of law enforcement or other offsite armed responders and propose suitable compensatory measures that meet the requirements of paragraph (h)(3) of this section to address this degradation.

(B) For licensees relying entirely or partially on law enforcement responders to fulfill the interdiction and neutralization functions required by

paragraph (b)(4)(iv) of this section, the training and qualification requirements related to armed response personnel in paragraphs (c) and (e) of this section do not apply to law enforcement responders. The licensee shall continue to satisfy the performance evaluation requirements in paragraph (g) of this section for all armed response personnel, including law enforcement.

(v) *Protecting against land and waterborne vehicle bomb assaults.* The licensee must be capable of protecting the plant against the design-basis threat vehicle bomb assault. The methods that are relied on to protect against a design-basis threat land vehicle and waterborne vehicle bomb assault must be designed to protect the reactor building and structures containing safety- or security-related systems, and components from explosive effects.

(vi) *Access control portals.* The licensee must be capable of detecting and denying unauthorized access to persons and pass-through of contraband materials (*e.g.,* weapons, incendiary devices, explosives) to protected areas.

(5) The licensee must identify and document complete and accurate target sets in accordance with the following:

(i) Preventative operator actions may be credited as target set elements when: sufficient time to implement exists; environmental conditions allow operator actions to be completed successfully; adversary interference is precluded; all equipment required for operator actions is available, dedicated, staged, and maintained; approved procedures exist specific to the task being performed; and training is maintained for proficiency of the credited operator action.

(ii) The identification of target sets must not assume the success of the security organization; except that licensees may consider delay provided by the security organization when assessing the availability of operator actions.

(iii) The licensee must consider cyberattacks in the identification of target sets.

(iv) The licensee must further identify achievable target sets through a site-specific analysis. Achievable target sets are those that are within the capabilities of the design-basis threat adversary to compromise, destroy, or render non-functional; cannot be mitigated after adversary interference is precluded and prior to a release of radionuclides exceeding dose reference values defined in 10 CFR 53.210; and, if defeated, result irreversibly in exceedance of the dose reference values in 10 CFR 53.210.

(v) The licensee must document and maintain the process used to identify achievable target sets, to include the site-specific analyses and methodologies used to determine and group the target set equipment or elements, including elements not contained in a protected or vital area.

(vi) The licensee must implement a process for the oversight of target set equipment and systems to ensure that changes to the configuration of the identified equipment and systems are considered in the licensee's protective strategy. Where appropriate, changes must be made to documented target sets.

(vii) The licensee must maintain records in accordance with paragraph (j) of this section and, in addition, must maintain site-specific analyses until submittal of the licensee's certifications required by § 53.1070 of this chapter.

(6) The licensee must identify and analyze site-specific conditions, including achievable target sets, that may affect the physical protection program needed to implement the requirements of this section. The licensee must account for these conditions in demonstrating compliance with the requirements of this section.

(7) The licensee must establish, implement, and maintain a performance evaluation program to assess the effectiveness of the licensee's implementation of the physical protection program to protect against the design-basis threat of radiological sabotage.

(8) The licensee must establish, implement, and maintain an access authorization program under § 73.56, and must describe the program in the physical security plan.

(9) The licensee must establish, implement, and maintain a cybersecurity program under § 73.54 or § 73.110 and must describe the program in the cybersecurity plan.

(10) The licensee must establish, implement, and maintain an insider mitigation program and must describe the program in the physical security plan.

(i) The insider mitigation program must monitor the initial and continuing trustworthiness and reliability of individuals granted or retaining unescorted access or unescorted access authorization to a protected or vital area, and implement defense-in-depth methodologies to minimize the potential for an insider (active, passive, or both) to adversely affect, either directly or indirectly, the licensee's capability to protect against radiological sabotage.

(ii) The insider mitigation program must integrate elements of—

(A) The access authorization program under § 73.56 or § 73.120;

(B) The fitness-for-duty program under 10 CFR part 26;

(C) The cybersecurity program under § 73.54 or § 73.110; and

(D) The physical protection program under this section.

(11) The licensee must have the capability to track, trend, correct, and prevent recurrence of failures and deficiencies in the implementation of the requirements of this section.

(12) Implementation of security plans and associated procedures must be coordinated with other onsite plans and procedures to preclude conflict during both normal and emergency conditions and ensure the adequate management of the safety and security interface.

(13)(i) The licensee must ensure that the firearms background check requirements of § 73.17 of this part are met for all members of the security organization whose official duties require access to covered weapons or who inventory enhanced weapons.

(ii) The provisions of this paragraph (b)(13) are only applicable to licensees subject to this section that are also subject to the firearms background check provisions of § 73.17 of this part.

(c) *Security organization.* The licensee must establish and maintain a security organization that is staffed, trained, qualified, and equipped to implement the physical protection program under the requirements of this section.

(1) The licensee must establish a management system for maintaining and implementing security policies and procedures to implement the requirements of this section and the security plans.

(2) Implementing procedures must document the conduct of security operations, security design and configuration controls, maintenance, training and qualification, and contingency responses.

(3) The licensee must—

(i) Establish a process for the approval of designs, policies, processes, and procedures and changes by the individual with overall responsibility for the physical protection program; and

(ii) Ensure that revisions and changes to the physical protection program and implementing policies, processes, and procedures satisfy the requirements of this section.

(4) The licensee must retain, in accordance with § 73.70, all analyses, assessments, calculations, and descriptions of the technical basis for demonstrating compliance with the performance requirements of paragraph (b) of this section. The licensee must protect these records in accordance with the requirements for protecting

safeguards information in §§ 73.21 and 73.22.

(5) The licensee may not permit any individual to implement any part of the physical protection program unless the individual has been trained, equipped, and qualified to perform their assigned duties and responsibilities in accordance with the training and qualification plan.

(d) *Search requirements.* The licensee must establish and implement searches of individuals, vehicles, and materials to detect and prevent the introduction into the protected area of firearms, explosives, incendiary devices, or other items and material which could be used to commit radiological sabotage.

(e) *Training and qualification program.* The licensee must establish and maintain a training and qualification program that ensures personnel who are responsible for the physical protection of the facility against radiological sabotage are able to effectively perform their assigned security-related job duties for implementing the requirements of this section and must describe the program in the training and qualification plan.

(f) *Security reviews.* The licensee must establish and implement security reviews to assess the effectiveness of the implementation of the physical protection program. Security reviews must be performed by individuals independent of those personnel responsible for program management and any individual who has direct responsibility for implementing the onsite physical protection program.

(1) The licensee must review each element of the physical protection program at a frequency commensurate with the importance or significance to safety of plant operations to ensure timely identification and documentation of vulnerabilities, improvements, and corrective actions. The objective of these reviews must be maintaining effective implementation of the engineered and administrative controls required to achieve the physical protection program functions and the management system required to implement programs and requirements in this section.

(2) The licensee must establish and perform self-assessments to ensure the effective implementation of the physical protection program functions of detection, assessment, communication, delay, and interdiction and neutralization to protect against the design-basis threat of radiological sabotage. The licensee must perform design verification and assessments of the capabilities of active and passive engineering systems relied on to protect against the design-basis threat.

(3) Reviews of the security program must include, but are not limited to, an audit of the effectiveness of the physical protection program, security plans, implementing procedures, cybersecurity programs, safety/security interface activities, the testing, maintenance, and calibration program, and response commitments by local, State, and Federal law enforcement authorities.

(4) The results and recommendations of the onsite physical protection program reviews, management's findings regarding program effectiveness, and any actions taken as a result of recommendations from prior program reviews, must be documented in a report and must be maintained in an auditable form and available for inspection.

(g) *Performance evaluation.* Licensee performance evaluations must include methods appropriate and necessary to assess, test, and challenge the integration of the physical protection program's functions to protect against the design-basis threat, including measures to protect against cyberattack and engineered systems designed to protect against the design-basis threat standalone ground vehicle bomb attack.

(1) The licensee must establish the frequencies for performance evaluations commensurate with the security significance of the physical protection program.

(2) The licensee must document processes and procedures for implementing the performance evaluations. The licensee must maintain records, including results, findings, and corrective actions identified during the performance evaluations.

(h) *Maintenance, testing, and calibration and corrective actions.* (1) The licensee must ensure that security SSCs, including supporting systems, are inspected, tested, and calibrated for operability and performance at intervals necessary and sufficient to meet the requirements of this section.

(2) The licensee must implement corrective actions to ensure resolution of identified vulnerabilities and deficiencies to meet the requirements of this section.

(3) The licensee must establish and implement timely compensatory measures for degraded or inoperable security SSCs to meet the requirements of this section. Compensatory measures must provide a level of protection that is equivalent to the protection that was provided prior to the degradation or inoperability of the security structures, systems, or components.

(4) The licensee must document processes and procedures and maintain records for implementing the corrective actions, compensatory measures, and maintenance, inspection, testing, and calibration of security SSCs.

(i) *Suspension of security measures.* (1) The licensee may suspend implementation of affected requirements of this section in accordance with § 53.740(h) of this chapter under the following conditions:

(i) In an emergency, when action is immediately needed to protect the public health and safety; and

(ii) During severe weather, when the suspension of affected security measures is immediately needed to protect the personal health and safety of personnel.

(2) Suspended security measures must be reinstated as soon as conditions permit.

(3) The suspension of security measures must be reported and documented in accordance with the provisions of §§ 73.1200 and 73.1205.

(j) *Records.* (1) The Commission may inspect, copy, retain, and remove all reports, records, and documents required to be kept by Commission regulations, orders, or license conditions, whether the reports, records, and documents are kept by the licensee or a contractor.

(2) The licensee must maintain all records required to be kept by Commission regulations, orders, or license conditions, until the Commission terminates the license for which the records were developed and must maintain superseded portions of these records for at least 3 years after the record is superseded, unless otherwise specified by the Commission.

(3) If a contracted security force is used to implement the onsite physical protection program, the licensee's written agreement with the contractor must be retained by the licensee as a record for the duration of the contract.

(4) Review and audit reports must be available for inspection, for a period of 3 years.

§ 73.110 Technology-inclusive requirements for protection of digital computer and communication systems and networks.

(a) Each licensee that is licensed to operate a commercial nuclear plant under 10 CFR part 53 and elects to implement the requirements of this section must establish, implement, and maintain a cybersecurity program that is commensurate with the potential consequences resulting from cyberattacks, up to and including the design-basis threat as described in § 73.1. The cybersecurity program must provide reasonable assurance that digital computer and communication

systems and networks are adequately protected against cyberattacks that are capable of causing the following consequences:

(1) Adversely impacting the safety, security, and emergency preparedness functions performed by digital assets that prevent a postulated fission product release resulting in offsite doses exceeding the values in § 53.210 of this chapter.

(2) Adversely impacting the security functions performed by digital assets necessary for implementing the physical security requirements in § 53.860(a) of this chapter.

(b) To protect digital computer and communication systems and networks associated with the functions described in paragraphs (a)(1) and (2) of this section, the licensee must—

(1) Analyze the potential consequences resulting from cyberattacks on digital computer and communication systems and networks and identify those assets that must be protected to demonstrate compliance with paragraph (a) of this section; and

(2) Implement the cybersecurity program in accordance with paragraph (d) of this section.

(c) The licensee must protect the systems and networks identified in paragraph (b)(1) of this section in a manner that is commensurate with the potential consequences resulting from cyberattacks that:

(1) Adversely impact the integrity or confidentiality of data and/or software;

(2) Deny access to systems, services, and/or data; and

(3) Adversely impact the operation of systems, networks, and associated equipment.

(d) The cybersecurity program must be designed in a manner that is commensurate with the potential consequences resulting from cyberattacks through the following steps:

(1) Implement security controls to protect the assets identified under paragraph (b)(1) of this section from cyberattacks, commensurate with their safety and security significance;

(2) Apply and maintain defense-in-depth protective strategies to ensure the capability to detect, delay, respond to, and recover from cyberattacks capable of causing the consequences identified in paragraph (a) of this section;

(3) Mitigate the adverse effects of cyberattacks capable of causing the consequences identified in paragraph (a) of this section; and

(4) Ensure that the functions of protected assets identified under paragraph (b)(1) of this section are not adversely impacted due to cyberattacks.

(e) The licensee must implement the following requirements in a manner that is commensurate with the potential consequences resulting from cyberattacks:

(1) As part of the cybersecurity program, the licensee must comply with the requirements in § 73.54(d)(1), (2), and (4), and must ensure that modifications to assets, identified under paragraph (b)(1) of this section are evaluated before implementation to ensure that the cybersecurity performance objectives identified in paragraph (a) of this section are maintained.

(2) The licensee must establish, implement, and maintain a cybersecurity plan that implements the cybersecurity program requirements of this section.

(i) The cybersecurity plan must describe how the requirements of this section will be implemented and must account for the site-specific conditions that affect implementation.

(ii) The cybersecurity plan must include measures for incident response and recovery for cyberattacks. The cybersecurity plan must include the analysis identified under paragraph (b)(1) of this section and describe how the licensee will—

(A) Apply and maintain defense-in-depth protective strategies as required in paragraph (d)(2) of this section;

(B) Maintain the capability for timely detection and response to cyberattacks;

(C) Mitigate the consequences of cyberattacks;

(D) Correct exploited vulnerabilities; and

(E) Restore affected systems, networks, and/or equipment affected by cyberattacks.

(3) The licensee must develop and maintain written policies and implementing procedures to implement the cybersecurity plan. Policies, implementing procedures, and other supporting technical information used by the licensee need not be submitted for Commission review and approval as part of the cybersecurity plan but are subject to inspection by NRC staff on a periodic basis.

(4) The licensee must establish and implement cybersecurity reviews to assess the effectiveness of the implementation of the cybersecurity program.

(i) The licensee must review each element of the cybersecurity program at a frequency commensurate with the importance or significance to safety of plant operations to ensure timely identification and documentation of vulnerabilities, improvements, and corrective actions.

(ii) Cybersecurity reviews must be performed by individuals independent of those personnel responsible for program management and any individual who has direct responsibility for implementing the cybersecurity program.

(iii) The licensee must establish and perform self-assessments to ensure the effective implementation of the cybersecurity program.

(iv) The results and recommendations of the cybersecurity program reviews, management's findings regarding program effectiveness, and any actions taken as a result of recommendations from prior program reviews, must be documented in a report and must be maintained in an auditable form and available for inspection.

(5) The licensee must retain all records and supporting technical documentation required to demonstrate compliance with the requirements of this section as a record until the Commission terminates the license for which the records were developed and must maintain superseded portions of these records for at least three (3) years after the record is superseded, unless otherwise specified by the Commission.

§ 73.120 Access authorization program for commercial nuclear plants.

(a) *Introduction and scope.* Each applicant for an operating license or a holder of a combined license under 10 CFR part 53 must establish, maintain, and implement an access authorization program before initial fuel load into the reactor (or, for a fueled manufactured reactor, before initiating the removal of the features to prevent criticality required under § 53.620(d)(1) of this chapter). The requirements in this section apply to applicants and licensees who demonstrate compliance with 10 CFR 73.100(a)(1)(i).

(b) *Applicability.* (1) The following individuals must be subject to an access authorization program under this section:

(i) Any individual to whom a licensee intends to grant unescorted access to a commercial nuclear plant protected area, vital area, or controlled access area where licensed material is used or stored;

(ii) Any individual whose duties and responsibilities permit the individual to take actions by electronic means, either on site or remotely, that could adversely impact the licensee's or applicant's operational safety, security, or emergency preparedness;

(iii) Any individual who has responsibilities for implementing a licensee's or applicant's protective strategy, including armed security force

officers, alarm station operators, and tactical response team leaders but not including Federal, State, or local law enforcement personnel; and

(iv) The licensee or applicant access authorization program reviewing official or contractor or vendor access authorization program reviewers.

(2) The licensee or applicant may subject other individuals, including employees of a contractor or a vendor who are designated in access authorization program procedures, to an access authorization program that demonstrates compliance with the requirements of this section.

(c) *General performance objectives and requirements.* Each licensee's or applicant's access authorization program under this section must demonstrate that the individuals who are specified in paragraph (b) of this section are trustworthy and reliable, such that they do not constitute an unreasonable risk to public health and safety or the common defense and security. The licensee's access authorization program must maintain the capabilities for demonstrating compliance with the following performance requirements:

(1) *Background investigation.* (i)(A) Licensees and applicants must ensure that any individual seeking initial unescorted access or to maintain unescorted access is subject to a background investigation.

(B) Background investigations must include the program elements contained under § 37.25 of this chapter and must also include a credit history evaluation.

(ii) Background investigations must include fingerprinting and an FBI identification and criminal history records check in accordance with § 37.27 of this chapter.

(iii) Licensees must have the informed and signed consent of the subject individual to initiate a background investigation. This consent must include authorization to share personal information with other individuals or organizations as necessary to complete the background investigation. A signed consent must be obtained prior to any reinvestigation. The subject individual may withdraw his or her consent at any time. Licensees must inform the individual that—

(A) If an individual withdraws his or her consent, the licensee may not initiate any elements of the background investigation that were not in progress at the time the individual withdrew his or her consent; and

(B) The withdrawal of consent for the background investigation is sufficient cause for denial or termination of unescorted access authorization.

(2) *Behavioral observation.* Licensees, applicants, contractors, and vendors must ensure the access authorization program includes provisions that the individuals specified in paragraph (b) of this section are subject to behavioral observation.

(i) Each person subject to behavioral observation must communicate to the licensee or applicant observed behaviors or activities of individuals that may constitute an unreasonable risk to the health and safety of the public and common defense and security.

(ii) Behavioral observation must include visual observation, in person or remotely by video, to detect and promptly report to plant supervision any concerns arising from behavioral observation, including, but not limited to, concerns related to any questionable behavior patterns or activities of others.

(3) *Self-reporting of legal actions.* Licensees or applicants must inform personnel who are granted and who maintain unescorted access of their responsibilities to self-report to plant supervision legal actions taken by a law enforcement authority or court of law against the individual that could result in incarceration or a court order or that requires a court appearance, including but not limited to an arrest, an indictment, the filing of charges, or a conviction, but excluding minor civil actions or misdemeanors such as parking violations or speeding tickets, for any individual who has applied for unescorted access or who maintains unescorted access.

(4) *Unescorted access.* Licensees or applicants must grant unescorted access only after the licensee has verified an individual is trustworthy and reliable. A list of persons currently approved for unescorted access to a protected area, vital area, or controlled access area must be maintained at all times. Unescorted access determinations must be reviewed annually by the reviewing official. Licensees and applicants must complete an FBI criminal history record check update for each individual maintaining unescorted access, within 10 years of the last review.

(5) *Termination of unescorted access.* Licensees and applicants must promptly terminate unescorted access when this access is no longer required or a reviewing official determines an individual is no longer trustworthy and reliable in accordance with this section.

(6) *Determination basis for access.* (i) The licensee's or applicant's reviewing official must determine whether to permit, deny, unfavorably terminate, maintain, or administratively withdraw an individual's unescorted access based on an evaluation of all of the information collected to demonstrate compliance with the requirements of this section.

(ii) Licensees and applicants must provide individuals subject to this section, prior to any final adverse determination, the right to complete, correct, and explain information obtained as a result of the licensee's background investigation pursuant to § 37.23(g) of this chapter.

(iii) The licensee's or applicant's reviewing officials are the only individuals authorized to make unescorted access determination decisions. Each licensee or applicant must name one or more individuals to be reviewing officials pursuant to the requirements of § 37.23(b)(2) of this chapter.

(7) *Review procedures.* Review procedures must be established in accordance with § 37.23(f) of this chapter, to include provisions for the notification in writing of individuals who are denied unescorted access or who are unfavorably terminated.

(8) *Protection of information.* Licensees, applicants, contractors, or vendors must establish and maintain a system of files and procedures in accordance with § 37.31 of this chapter, to ensure personal information is not disclosed to unauthorized persons.

(9) *Access authorization reviews and corrective action.* Licensees and applicants must develop, implement, and maintain procedures for conduct of access authorization reviews and corrective actions in accordance with § 37.33 of this chapter to ensure the continuing effectiveness of the access authorization program and to ensure that the access authorization program and program elements are in compliance with the requirements of this section. Each licensee and applicant must be responsible for the continuing effectiveness of the access authorization program, including access authorization program elements that are provided by the contractors or vendors, and the access authorization programs of any of the contractors or vendors that are accepted by the licensee or applicant.

(10) *Records.* Licensees, applicants, and contractors or vendors must document the processes and procedures for maintaining records used or created to establish an individual's trustworthiness and reliability or to document access determinations. Licensees, applicants, and contractor or vendors must—

(i) Retain documentation regarding the trustworthiness and reliability of individual employees for 3 years from the date the individual no longer requires unescorted access;

(ii) Retain a copy of the current access authorization program procedures as a record for 3 years after the procedure is no longer needed. If any portion of the procedure is superseded, retain the superseded material for 3 years after the record is superseded; and

(iii) Retain the list of persons approved for unescorted access for 3 years after the list is superseded or replaced. Records maintained in any database(s) must be available for NRC review.

■ 162. In § 73.1200, revise paragraphs (a) introductory text, (c)(1) introductory text, (e)(1) introductory text, (e)(4), (g)(1) introductory text, (o)(5)(i) and (o)(6)(i), (r), and (s) to read as follows:

§ 73.1200 Notification of physical security events.

(a) *15-minute notifications—facilities.* Each licensee subject to the provisions of § 73.20, § 73.45, § 73.46, § 73.51, § 73.55, or § 73.100 must notify the NRC Headquarters Operations Center, as soon as possible but within 15 minutes after—

* * * * *

(c) * * *

(1) Each licensee subject to the provisions of § 73.20, § 73.45, § 73.46, § 73.50, § 73.51, § 73.55, § 73.60, § 73.67, or § 73.100 must notify the NRC Headquarters Operations Center as soon as possible but no later than 1 hour after the time of discovery of the following significant facility security events involving—

* * * * *

(e) * * *

(1) Each licensee subject to the provisions of § 73.20, § 73.45, § 73.46, § 73.50, § 73.51, § 73.55, § 73.60, § 73.67, or § 73.100 must notify the NRC Headquarters Operations Center within 4 hours after time of discovery of the following facility security events involving—

* * * * *

(4) For licensees subject to the provisions of § 73.55 or § 73.100, an event involving the licensee's suspension of security measures.

* * * * *

(g) * * *

(1) Each licensee subject to the provisions of § 73.20, § 73.45, § 73.46, § 73.50, § 73.51, § 73.55, § 73.60, § 73.67, or § 73.100 must notify the NRC Headquarters Operations Center within 8 hours after time of discovery of the following facility security program failures involving—

* * * * *

(o) * * *

(5) * * *

(i) Licensees must establish the requested continuous communications channel once the licensee has completed other required notifications under this section, § 50.72 of this chapter, appendix E to part 50 of this chapter, § 53.1630 of this chapter, § 70.50 of this chapter; or § 72.75 of this chapter; as appropriate.

* * * * *

(6) * * *

(i) Licensees must establish the requested continuous communications channel once the licensee or the movement control center has completed other required notifications under this section, § 50.72 of this chapter, appendix E to part 50 of this chapter, § 53.1630 of this chapter, § 70.50 of this chapter; § 72.75 of this chapter; or requested assistance from the LLEA, as appropriate.

* * * * *

(r) *Declaration of emergencies.* Licensees notifying the NRC of the declaration of an emergency class must do so in accordance with §§ 50.72, 53.1630, 63.73, 70.50, and 72.75 of this chapter, as applicable.

(s) *Elimination of duplication.* Licensees with notification obligations under paragraphs (a) through (h), (m), and (n) of this section and §§ 50.72, 53.1630, 63.73, 70.50, and 72.75 of this chapter may notify the NRC of events in a single communication. This communication must identify each regulation under which the licensee is reporting.

* * * * *

■ 163. In § 73.1205, revise paragraph (b)(2) to read as follows:

§ 73.1205 Written follow-up reports of physical security events.

* * * * *

(b) * * *

(2)(i) Licensees subject to § 50.73 or § 53.1640 of this chapter must prepare the written follow-up report on NRC Form 366.

(ii) Licensees not subject to § 50.73 or § 53.1640 of this chapter must prepare the written follow-up report in a letter format.

* * * * *

■ 164. In § 73.1210, revise paragraphs (a)(1) and (b)(3)(i) to read as follows:

§ 73.1210 Recordkeeping of physical security events.

(a) * * *

(1) Licensees with facilities or shipment activities subject to the provisions of § 73.20, § 73.25, § 73.26, § 73.27, § 73.37, § 73.45, § 73.46, § 73.50, § 73.51, § 73.55, § 73.60, § 73.67, or § 73.100, must record the physical security events and conditions adverse to security that are specified in paragraphs (c) through (f) of this section.

* * * * *

(b) * * *

(3) * * *

(i) Licensees must record these physical security events and conditions adverse to security in either a stand-alone safeguards event log or as part of the licensee's corrective action program, as specified under the applicable quality assurance program provisions of parts 50, 52, 53, 60, 63, 70, and 72 of this chapter, or both.

* * * * *

■ 165. In § 73.1215, revise paragraph (d)(1) to read as follows:

§ 73.1215 Suspicious activity reports.

* * * * *

(d) * * *

(1) For licensees subject to the provisions of § 73.20, § 73.45, § 73.46, § 73.50, § 73.51, § 73.55, § 73.60, § 73.67, or § 73.100, the licensees must report activities they assess are suspicious. Examples include, but are not limited to, the following:

* * * * *

■ 166. In appendix B to part 73, revise *Definitions* introductory text to read as follows:

Appendix B to Part 73—General Criteria for Security Personnel

* * * * *

Definitions

Terms defined in parts 50, 53, 70, and 73 of this chapter have the same meaning when used in this appendix.

* * * * *

PART 74—MATERIAL CONTROL AND ACCOUNTING OF SPECIAL NUCLEAR MATERIAL

■ 167. The authority citation for 10 CFR part 74 continues to read as follows:

Authority: Atomic Energy Act of 1954, secs. 53, 57, 161, 182, 223, 234, 1701 (42 U.S.C. 2073, 2077, 2201, 2232, 2273, 2282, 2297f); Energy Reorganization Act of 1974, secs. 201, 202 (42 U.S.C. 5841, 5842); 44 U.S.C. 3504 note.

■ 168. In § 74.31, revise paragraph (a) introductory text to read as follows:

§ 74.31 Nuclear material control and accounting for special nuclear material of low strategic significance.

(a) *General performance objectives.* Each licensee who is authorized to possess and use more than one effective kilogram of special nuclear material of low strategic significance, excluding sealed sources, at any site or contiguous sites subject to control by the licensee,

other than a production or utilization facility licensed pursuant to part 50, part 53, or part 70 of this chapter, or operations involved in waste disposal, shall implement and maintain a Commission-approved material control and accounting system that will achieve the following objectives:

* * * * *

■ 169. In § 74.41, revise paragraph (a) introductory text to read as follows:

§ 74.41 Nuclear material control and accounting for special nuclear material of moderate strategic significance.

(a) *General performance objectives.* Each licensee who is authorized to possess special nuclear material (SNM) of moderate strategic significance or SNM in a quantity exceeding one effective kilogram of strategic special nuclear material in irradiated fuel reprocessing operations other than as sealed sources and to use this material at any site other than a nuclear reactor licensed pursuant to part 50 or part 53 of this chapter; or as reactor irradiated fuels involved in research, development, and evaluation programs in facilities other than irradiated fuel reprocessing plants; or an operation involved with waste disposal, shall establish, implement, and maintain a Commission-approved material control and accounting (MC&A) system that will achieve the following performance objectives:

* * * * *

■ 170. In § 74.51, revise paragraph (a) introductory text to read as follows:

§ 74.51 Nuclear material control and accounting for strategic special nuclear material.

(a) *General performance objectives.* Each licensee who is authorized to possess five or more formula kilograms of strategic special nuclear material (SSNM) and to use such material at any site, other than a nuclear reactor licensed pursuant to part 50 or 53 of this chapter, an irradiated fuel reprocessing plant, an operation involved with waste disposal, or an independent spent fuel storage facility licensed pursuant to part 72 of this chapter shall establish, implement, and maintain a Commission-approved material control and accounting (MC&A) system that will achieve the following objectives:

* * * * *

PART 75—SAFEGUARDS ON NUCLEAR MATERIAL—IMPLEMENTATION OF SAFEGUARDS AGREEMENTS BETWEEN THE UNITED STATES AND THE INTERNATIONAL ATOMIC ENERGY AGENCY

■ 171. The authority citation for 10 CFR part 75 continues to read as follows:

Authority: Atomic Energy Act of 1954, secs. 53, 63, 103, 104, 122, 161, 223, 234, 1701 (42 U.S.C. 2073, 2093, 2133, 2134, 2152, 2201, 2273, 2282, 2297f); Energy Reorganization Act of 1974, sec. 201 (42 U.S.C. 5841); Nuclear Waste Policy Act of 1982, secs. 135, 141 (42 U.S.C. 10155, 10161); 44 U.S.C. 3504 note.

Section 75.4 also issued under Nuclear Waste Policy Act secs. 135 (42 U.S.C. 10155, 10161).

■ 172. In § 75.4, revise the second paragraph of the introductory text and the definition for ''Facility'' to read as follows:

§ 75.4 Definitions.

* * * * *

Unless otherwise defined in this section, the terms defined in §§ 40.4, 50.2, 53.020, and 70.4 of this chapter have the same meaning when used in this part.

* * * * *

Facility means:

(6) Any plant or location where the possession of more than 1 effective kilogram of nuclear material is licensed pursuant to 10 CFR part 40, 50, 53, 60, 61, 63, 70, 72, 76, or 150 of this chapter or an Agreement State license.

* * * * *

PART 95—FACILITY SECURITY CLEARANCE AND SAFEGUARDING OF NATIONAL SECURITY INFORMATION AND RESTRICTED DATA

■ 173. The authority citation for 10 CFR part 95 continues to read as follows:

Authority: Atomic Energy Act of 1954, secs. 145, 161, 223, 234 (42 U.S.C. 2165, 2201, 2273, 2282); Energy Reorganization Act of 1974, sec. 201 (42 U.S.C. 5841); 44 U.S.C. 3504 note; E.O. 10865, as amended, 25 FR 1583, 3 CFR, 1959–1963 Comp., p. 398; E.O. 12829, 58 FR 3479, 3 CFR, 1993 Comp., p. 570; E.O. 12968, 60 FR 40245, 3 CFR, 1995 Comp., p. 391; E.O. 13526, 75 FR 707, 3 CFR, 2009 Comp., p. 298.

■ 174. In § 95.5, revise the definition for ''License'' to read as follows:

§ 95.5 Definitions.

* * * * *

License means a license issued under 10 CFR part 50, 52, 53, 54, 60, 63, 70, or 72.

* * * * *

§ 95.39 [Amended]

■ 175. In § 95.39(a), remove ''part 52'' and add in its place ''part 52 or part 53.''

PART 140—FINANCIAL PROTECTION REQUIREMENTS AND INDEMNITY AGREEMENTS

■ 176. The authority citation for 10 CFR part 140 continues to read as follows:

Authority: Atomic Energy Act of 1954, secs. 161, 170, 223, 234 (42 U.S.C. 2201, 2210, 2273, 2282); Energy Reorganization Act of 1974, secs. 201, 202 (42 U.S.C. 5841, 5842); 44 U.S.C. 3504 note.

■ 177. In § 140.2, revise paragraphs (a)(1) and (2) to read as follows:

§ 140.2 Scope.

(a) * * *

(1) To each person who is an applicant for or holder of a license issued under 10 CFR part 50, 52, 53, or 54 to operate a nuclear reactor; and

(2) With respect to an extraordinary nuclear occurrence, to each person who is an applicant for or holder of a license to operate a production facility or a utilization facility (including an operating license issued under part 50 or part 53 of this chapter and a combined license under part 52 or part 53 of this chapter), and to other persons indemnified with respect to the involved facilities.

* * * * *

■ 178. Revise § 140.10 to read as follows:

§ 140.10 Scope.

This subpart applies to each person who is an applicant for or holder of a license issued under 10 CFR part 50, 53 or 54 to operate a nuclear reactor, or is the applicant for or holder of a combined license issued under 10 CFR part 52, 53, or 54, except licenses held by persons found by the Commission to be Federal agencies or nonprofit educational institutions licensed to conduct educational activities. This subpart also applies to persons licensed to possess and use plutonium in a plutonium processing and fuel fabrication plant.

■ 179. In § 140.11, revise paragraph (b) to read as follows:

§ 140.11 Amounts of financial protection for certain reactors.

* * * * *

(b) In any case where a person is authorized under 10 CFR part 50, 52, 53, or 54 to operate two or more nuclear reactors at the same location, the total primary financial protection required of the licensee for all such reactors is the highest amount which would otherwise be required for any one of those

reactors; provided, that such primary financial protection covers all reactors at the location.

■ 180. In § 140.12, revise paragraph (c) to read as follows:

§ 140.12 Amount of financial protection required for other reactors.

* * * * *

(c) In any case where a person is authorized under 10 CFR part 50, 52, 53, or 54 to operate two or more nuclear reactors at the same location, the total financial protection required of the licensee for all such reactors is the highest amount which would otherwise be required for any one of those reactors; provided, that such financial protection covers all reactors at the location.

* * * * *

■ 181. Revise § 140.13 to read as follows:

§ 140.13 Amount of financial protection required of certain holders of construction permits and combined licenses.

Each holder of a 10 CFR part 50 or 10 CFR part 53 construction permit, or a holder of a combined license under part 52 or part 53 of this chapter before the date that the Commission had made the finding under § 52.103(g) or § 53.1452(g) of this chapter, who also holds a license under part 70 of this chapter authorizing ownership, possession and storage only of special nuclear material at the site of the nuclear reactor for use as fuel in operation of the nuclear reactor after issuance of either an operating license under 10 CFR part 50 or 53, or a combined license under 10 CFR part 52 or 53, shall, during the period before issuance of a license authorizing operation under 10 CFR part 50 or 53, or the period before the Commission makes the finding under § 52.103(g) or § 53.1452(g) of this chapter, as applicable, have and maintain financial protection in the amount of $1,000,000. Proof of financial protection shall be filed with the Commission in the manner specified in § 140.15 before issuance of the license under part 70 of this chapter.

■ 182. In § 140.20, revise paragraphs (a)(1)(i) and (ii) to read as follows:

§ 140.20 Indemnity agreements and liens.

(a) * * *

(1)(i) The effective date of the license (issued under part 50 or part 53 of this chapter) authorizing the licensee to operate the nuclear reactor involved; or

(ii) The date that the Commission makes the finding under § 52.103(g) or § 53.1452(g) of this chapter; or

* * * * *

PART 150—EXEMPTIONS AND CONTINUED REGULATORY AUTHORITY IN AGREEMENT STATES AND IN OFFSHORE WATERS UNDER SECTION 274

■ 183. The authority citation for 10 CFR part 150 continues to read as follows:

Authority: Atomic Energy Act of 1954, secs. 11, 53, 81, 83, 84, 122, 161, 181, 223, 234, 274 (42 U.S.C. 2014, 2201, 2231, 2273, 2282, 2021); Energy Reorganization Act of 1974, sec. 201 (42 U.S.C. 5841); Nuclear Waste Policy Act of 1982, secs. 135, 141 (42 U.S.C. 10155, 10161); 44 U.S.C. 3504 note.

Sections 150.3, 150.15, 150.15a, 150.31, 150.32 also issued under Atomic Energy Act secs. 11e(2), 81, 83, 84 (42 U.S.C. 2014e(2), 2111, 2113, 2114).

Section 150.14 also issued under Atomic Energy Act sec. 53 (42 U.S.C. 2073).

Section 150.15 also issued under Nuclear Waste Policy Act sec. 135 (42 U.S.C. 10155, 10161).

Section 150.17a also issued under Atomic Energy Act sec. 122 (42 U.S.C. 2152).

Section 150.30 also issued under Atomic Energy Act sec. 234 (42 U.S.C. 2282).

■ 184. In § 150.15, revise paragraphs (a)(7)(iii) and (a)(8) to read as follows:

§ 150.15 Persons not exempt.

(a) * * *

(7) * * *

(iii) Greater than Class C (GTCC) waste, as defined in part 72 of this chapter, in an ISFSI or an MRS licensed under part 72 of this chapter; the GTCC waste must originate in, or be used by, a facility licensed under part 50, part 52, or part 53 of this chapter.

(8) Greater than Class C waste, as defined in part 72 of this chapter, that originates in, or is used by, a facility licensed under part 50, part 52, or part 53 of this chapter and is licensed under part 30 and/or part 70 of this chapter.

* * * * *

PART 170—FEES FOR FACILITIES, MATERIALS, IMPORT AND EXPORT LICENSES, AND OTHER REGULATORY SERVICES UNDER THE ATOMIC ENERGY ACT OF 1954, AS AMENDED

■ 185. The authority citation for 10 CFR part 170 continues to read as follows:

Authority: Atomic Energy Act of 1954, secs. 11, 161(w) (42 U.S.C. 2014, 2201(w)); Energy Reorganization Act of 1974, sec. 201 (42 U.S.C. 5841); 42 U.S.C. 2215; 31 U.S.C. 901, 902, 9701; 44 U.S.C. 3504 note.

■ 186. In § 170.3, revise the definitions for ''Manufacturing License,'' ''Part 55 Reviews,'' ''Power reactor,'' and ''Special projects'' to read as follows:

§ 170.3 Definitions.

* * * * *

Manufacturing license means a license under subpart F of part 52 of this chapter or subpart H of part 53 of this chapter to manufacture a nuclear power reactor(s) to be operated at sites not identified in the license application.

* * * * *

Part 55 Reviews as used in this part means those services provided by the Commission to administer requalification and replacement examinations and tests for reactor operators licensed under 10 CFR part 55 or part 53 of the Commission's regulations and employed by part 50 or part 53 licensees. These services also include related items such as the preparation, review, and grading of the examinations and tests.

* * * * *

Power reactor means a nuclear reactor designed to produce electrical or heat energy licensed by the Commission under the authority of section 103 or subsection 104b of the Act, and under the provisions of § 50.21(b), § 50.22, or part 53 of this chapter.

* * * * *

Special projects means specific services provided by the Commission for which fees are not otherwise specified in this chapter. This includes, but is not limited to, contested hearings on licensing actions directly related to U.S. Government national security initiatives (as determined by the NRC), topical report reviews, early site reviews, waste solidification activities, activities related to the tracking and monitoring of shipment of classified matter, services provided to certify licensee, vendor, or other private industry personnel as instructors for 10 CFR part 55 or part 53 reactor operators, reviews of financial assurance submittals that do not require a license amendment, reviews of responses to Confirmatory Action Letters, reviews of uranium recovery licensees' land-use survey reports, and reviews of § 50.71 or § 53.1545 of this chapter Final Safety Analysis Reports. Special projects does not include activities otherwise exempt from fees under this part. It also does not include those contested hearings for which a fee exemption is granted in § 170.11(a)(2), including those related to individual plant security modifications.

* * * * *

■ 187. In § 170.12, revise paragraph (d)(1)(v) to read as follows:

§ 170.12 Payment of fees.

* * * * *

(d) * * *

(1) * * *

(v) 10 CFR 50.71 or 53.1545 Final Safety Analysis Reports;

* * * * *

§ 170.21 [Amended]

■ 188. In § 170.21, in footnote 1 remove the phrase ''(*e.g.,* 10 CFR 50.12, 10 CFR 73.5)'' and add in its place the phrase ''(*e.g.,* 10 CFR 50.12, 10 CFR 53.080, 10 CFR 73.5)''.

■ 189. Revise § 170.41 to read as follows:

§ 170.41 Failure by an applicant or licensee to pay prescribed fees.

If the Commission determines that an applicant or a licensee has failed to pay a prescribed fee required in this part, the Commission will not process any application and may suspend or revoke any license or approval issued to the applicant or licensee. The Commission may issue an order with respect to licensed activities that the Commission determines to be appropriate or necessary to carry out the provisions of this part, parts 30, 31, 32 through 35, 40, 50, 53, 61, 70, 71, 72, 73, and 76 of this chapter, and of the Act.

PART 171—ANNUAL FEES FOR REACTOR LICENSES AND FUEL CYCLE LICENSES AND MATERIALS LICENSES, INCLUDING HOLDERS OF CERTIFICATES OF COMPLIANCE, REGISTRATIONS, AND QUALITY ASSURANCE PROGRAM APPROVALS AND GOVERNMENT AGENCIES LICENSED BY THE NRC

■ 190. The authority citation for 10 CFR part 171 continues to read as follows:

Authority: Atomic Energy Act of 1954, secs. 11, 161(w), 223, 234 (42 U.S.C. 2014, 2201(w), 2273, 2282); Energy Reorganization Act of 1974, sec. 201 (42 U.S.C. 5841); 42 U.S.C. 2215; 44 U.S.C. 3504 note.

■ 191. Revise § 171.3 to read as follows:

§ 171.3 Scope.

The regulations in this part apply to any person holding an operating license for a test reactor or research reactor issued under part 50 of this chapter, and to any person holding an operating license for a power reactor licensed under 10 CFR part 50 or part 53, or a combined license issued under 10 CFR part 52 or part 53, that has provided notification to the U.S. Nuclear Regulatory Commission (NRC) that the licensee has successfully completed power ascension testing. The regulations in this part also apply to any person holding a materials license as defined in this part, a Certificate of Compliance, a sealed source or device registration, a quality assurance program approval, and to a Government agency as defined in this part. Notwithstanding the other provisions in this section, the regulations in this part do not apply to uranium recovery and fuel facility licensees until after the Commission verifies through inspection that the facility has been constructed in accordance with the requirements of the license.

■ 192. In § 171.5, revise the definitions for ''Operating license'' and ''Power reactor'' to read as follows:

§ 171.5 Definitions.

* * * * *

Operating license means having a license issued under § 50.57 or § 53.1387 of this chapter. It does not include licenses that only authorize possession of special nuclear material after the Commission has received a request from the licensee to amend its licensee to permanently withdraw its authority to operate or the Commission has permanently revoked such authority.

* * * * *

Power reactor means a nuclear reactor designed to produce electrical or heat energy and licensed by the Commission under the authority of section 103 or subsection 104b of the Atomic Energy Act of 1954, as amended, and under the provisions of § 50.21(b) or § 50.22, or part 53 of this chapter.

* * * * *

■ 193. In § 171.15, revise paragraphs (a), (b)(2)(iii), (c)(1), and (d)(1) to read as follows:

§ 171.15 Annual fees: Non-power production or utilization licenses, reactor licenses, and independent spent fuel storage licenses.

(a) Each person holding an operating license for one or more non-power production or utilization facilities under 10 CFR part 50 that has provided notification to the NRC of the successful completion of startup testing; each person holding an operating license for a power reactor licensed under 10 CFR part 50 or a combined license under 10 CFR part 52, or an operating license or combined license for a commercial nuclear plant under 10 CFR part 53, that has provided notification to the NRC of the successful completion of power ascension testing; each person holding a 10 CFR part 50 or part 52, power reactor license, or a 10 CFR part 53 commercial nuclear plant license that is in decommissioning or possession only status, except those that have no spent fuel onsite; and each person holding a 10 CFR part 72 license who does not hold a 10 CFR part 50, part 52, or part 53 license and provides notification under § 72.80(g) of this chapter, shall pay the annual fee for each license held during the Federal fiscal year in which the fee is due. This paragraph (a) does not apply to test or research reactors exempted under § 171.11(b).

(b) * * *

(2) * * *

(iii) Generic activities required largely for NRC to regulate power reactors (*e.g.,* updating part 50, part 52, or part 53 of this chapter, operating the Incident Response Center, new reactor regulatory infrastructure). The base annual fee for operating power reactors does not include generic activities specifically related to reactor decommissioning.

(c)(1) The FY 2025 annual fee for each power reactor holding a 10 CFR part 50 or part 53 operating license or combined license issued under 10 CFR part 52 or part 53 that is in a decommissioning or possession-only status and has spent fuel onsite, and for each independent spent fuel storage 10 CFR part 72 licensee who does not hold a 10 CFR part 50 or part 53 operating license, or a 10 CFR part 52 or part 53 combined license, is $326,000.

* * * * *

(d)(1) Each person holding an operating license for an SMR issued under 10 CFR part 50 or part 53, or a combined license issued under 10 CFR part 52 or part 53, that has provided notification to the NRC of the successful completion startup testing, shall pay the annual fee for all licenses held for an SMR site. The annual fee will be determined using the cumulative licensed thermal power rating of all SMR units and the bundled unit concept, during the fiscal year in which the fee is due. For a given site, the use of the bundled unit concept is independent of the number of SMR plants, the number of SMR licenses issued, or the sequencing of the SMR licenses that have been issued.

* * * * *

■ 194. In § 171.17, revise paragraphs (a) introductory text, (a)(1)(ii), and (a)(2) to read as follows:

§ 171.17 Proration.

* * * * *

(a) *Reactors,* 10 CFR part 72 licensees who do not hold 10 CFR part 50, 10 CFR part 52, or 10 CFR part 53 licenses, and materials licenses with annual fees of $100,000 or greater for a single fee category. The NRC will base the proration of annual fees for terminated and downgraded licenses on the fee rule in effect at the time the action is official. The NRC will base the determinations on the proration requirements under paragraphs (a)(2) and (3) of this section.

(1) * * *

(ii) The annual fees for new licenses for non-power production or utilization facilities, 10 CFR part 72 licensees who do not hold 10 CFR part 50, part 52, or part 53 licenses, and materials licenses with annual fees of $100,000 or greater for a single fee category for the current FY, that are subject to fees under this part and are granted a license to operate on or after October 1 of a FY, are prorated on the basis of the number of days remaining in the FY. Thereafter, the full annual fee is due and payable each subsequent FY.

(2) *Terminations.* The base operating power reactor annual fee for operating reactor licensees or the annual fee for small modular reactor licensees, who have requested amendment to withdraw operating authority permanently during the FY will be prorated based on the number of days during the FY the license was in effect before docketing of the certifications for permanent cessation of operations and permanent removal of fuel from the reactor vessel or when a final legally effective order to permanently cease operations has come into effect. The spent fuel storage/reactor decommissioning annual fee for reactor licensees who permanently cease operations and have permanently removed fuel from the site during the FY will be prorated on the basis of the number of days remaining in the FY after docketing of both the certifications of permanent cessation of operations and permanent removal of fuel from the site. The spent fuel storage/reactor decommissioning annual fee will be prorated for those 10 CFR part 72 licensees who do not hold a 10 CFR part 50, part 52, or part 53 license who request termination of the 10 CFR part 72 license and permanently cease activities authorized by the license during the FY based on the number of days the license was in effect before receipt of the termination request. The annual fee for materials licenses with annual fees of $100,000 or greater for a single fee category for the current FY will be prorated based on the number of days remaining in the FY when a termination request or a request for a possession-only license is received by the NRC, provided the licensee permanently ceased licensed activities during the specified period. The annual fee for non-power production or utilization facilities will be prorated based on the number of days remaining in the FY when the authorization to operate the facility has been permanently removed from the license during the FY.

* * * * *

Dated: March 25, 2026.

For the Nuclear Regulatory Commission.

Tomas Herrera,

Acting Secretary of the Commission.

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Federal Register

Vol. 91, No. 60

Monday, March 30, 2026

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General Information, indexes and other finding aids **202–741–6000**

Laws **741–6000**

Presidential Documents

Executive orders and proclamations **741–6000**

The United States Government Manual **741–6000**

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Privacy Act Compilation **741–6050**

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FEDERAL REGISTER PAGES AND DATE, MARCH

9977–10304 2
10305–10490 3
10491–10744 4
10745–10938 5
10939–11128 6
11129–11440 9
11441–11888 10
11889–12054 11
12055–12286 12
12287–12496 13
12497–12672 16
12673–12914 17
12915–13210 18
13211–13490 19
13491–13702 20
13703–13932 23
13933–14444 24
14445–14640 25
14641–14754 26
14755–15518 27
15519–15881 30

CFR PARTS AFFECTED DURING MARCH

At the end of each month the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:
11014 11439
11015 12285
11016 12495
11017 12913
11018 15505
11019 15507

Executive Orders:
13603 (amended by EO 14391) 13199
14378 (superseded in part by EO 14397) 15509
14390 12051
14391 13199
14392 13201
14393 13203
14394 13207
14395 13485
14396 14639
14397 15509

Administrative Orders:
Notices
Notice of March 2, 2026 10937
Notice of March 24, 2026 15511
Notice of March 24, 2026 15513
Notice of March 24, 2026 15515
Notice of March 24, 2026 15517

5 CFR

Ch. XIV 13949
2421 13933
2422 13933
2426 13933
2429 13933

Proposed Rules:
294 13978
316 10904
330 10904
351 10904
353 10904
359 10904
362 10904
430 ..... 10904, 14654
2429 10774

7 CFR

760 11129
915 11131
944 11131
1205 9977
1214 11135
1215 11441
1222 11140
1414 10491
1430 11129
3555 13211

Proposed Rules:
6 11174
205 13782
923 11181
932 11184
981 ..... 11187, 13526
1212 11189
1217 15545

9 CFR

Proposed Rules:
Ch. III 13979
3 13978
201 12936

10 CFR

1 15696
2 15696
9 10939
10 15696
11 15696
19 15696
20 15696
21 15696
25 15696
26 15696
30 15696
40 15696
50 15696
51 (2 documents) 15519, 15696
53 15696
70 15696
72 ..... 12915, 15696
73 15696
74 15696
75 15696
95 15696
140 15696
150 15696
170 15696
171 15696
800 10954
1040 ..... 10954, 10955
1042 10955
1703 10305

Proposed Rules:
2 ..... 10450, 11934
15 12084
51 ..... 10450, 11934
52 ..... 10450, 11934
54 ..... 10450, 11934
170 12084
171 12084

12 CFR

5 ..... 9977, 10491
27 10499
262 13491
265 10745
330 13703
611 10956

614.....10956
620.....10956
626.....10956
628.....10956
630.....10956
1228.....12673, 13492
1238.....12055

Proposed Rules:
3 .....10202, 14951, 15332
6.....10202, 14951
8.....10202
15.....10202
19.....10202
Ch. VII.....10343
32.....14951
208.....14951
217 .....14908, 14951, 15332
225.....14951
238.....14951, 15332
252.....14951, 15332
324.....14951, 15332
701.....14484
703.....11934
741.....14484
746.....14484
749.....11934
1310.....15551

13 CFR

142.....13217
302.....12675
303.....12676
305.....12677

14 CFR

25.....12678, 12915
29.....12680
33.....12917
39 .....10309, 10311, 10313, 10503, 10506, 10508, 10510, 10513, 10746, 10956, 10959, 10961, 10965, 11443, 11446, 12055, 12059, 12065, 12068, 12287, 12289, 12292, 12497, 12499, 12501, 12684, 13492, 13706, 14641, 14643, 14755
71 ...9982, 9983, 10968, 11889, 12295, 12686, 13219, 13495, 13496, 14645, 14647, 15534
73 .....13708, 13710, 13713
97 .....10316, 10318, 12687
107.....9984

Proposed Rules:
39 .....10349, 10522, 11191, 11478, 11480, 12312, 12314, 12512, 12695, 12698, 12942, 13238, 13240, 13791, 13794, 13982, 13984, 14654, 15566, 15569
71 .....10013, 10014, 10352, 10979, 12514, 13529, 14486, 14488

15 CFR

4.....10748
30.....15535

16 CFR

Proposed Rules:
Ch. I.....12325
425.....12318
1217.....11944
1233.....15536

17 CFR

1.....13714
231.....13714
240.....10320
241.....13714
249.....10320

Proposed Rules:
Ch. I.....12516
240.....13243

18 CFR

35.....14306
40.....13952, 13957

19 CFR

12.....11889

20 CFR

Proposed Rules:
655.....15454
656.....15454

21 CFR

73.....13965, 13966
201.....10749
207.....10749
878.....14445
1305.....13498
1308 .....9985, 12504, 13733
1310.....11450

Proposed Rules:
73.....10524
573.....10525
866.....15572
878.....12524
892.....12951, 12966

22 CFR

22.....12296
42.....11891
135.....12509, 13967

23 CFR

655.....10771

24 CFR

247.....12301
599.....10970
880.....12301
882.....12301
884.....12301
886.....12301
891.....12301
966.....12301

Proposed Rules:
5.....10016
960.....10016
982.....10016
983.....10016

26 CFR

1.....13500
301.....13220

Proposed Rules:
1 .....10983, 11003, 11194, 12118
300.....14657
301.....11203

27 CFR

9.....13967, 13970

Proposed Rules:
9.....13987

28 CFR

68.....9989

Proposed Rules:
26.....12525
77.....10780

29 CFR

404.....13737
2510.....13503

Proposed Rules:
2550.....10033

30 CFR

250.....9998

Proposed Rules:
550.....11212
556.....11212
590.....11212

31 CFR

375.....15540
548.....10002
587 .....10003, 10004, 10006, 10007
591.....10008
1010.....11456

Proposed Rules:
1010.....10034

32 CFR

145.....10516

33 CFR

165.....12689
401.....12690
402.....12693

34 CFR

685.....12302

Proposed Rules:
Ch. II.....10353
600.....11378
668.....11378
690.....11378

36 CFR

7.....10334, 12929
251.....13221, 14458
702.....13224

Proposed Rules:
13.....11483

37 CFR

1.....13510
380 .....11458, 11462, 11465, 11468
383.....11471, 15543

Proposed Rules:
201.....13529
202.....13529
203.....13529

39 CFR

Proposed Rules:
Ch. III.....10526
111.....13263, 14490

40 CFR

52 .....10339, 11474, 13739, 13747, 13762, 13771, 13773, 13774, 13777
60.....11802, 13225
62.....13225, 13974
63.....13116
141.....13227
180.....14461
271.....14648
300.....10516, 12304
1090.....10008

Proposed Rules:
52 .....10360, 10531, 10545, 12123, 12333, 13797, 14658
60.....13543
62 .....10556, 13543, 13800, 13802
63 .....10559, 12700, 13266
70.....14658
81.....10545
118.....10787
147.....13266
228.....12126
241.....13804
260.....10862
261.....10862, 14666
262.....10862
263.....10862
264.....10862
265.....10862
266.....10862
267.....10862
271.....10862, 14673
300.....10577
716.....15582
751.....14790
761.....10862

41 CFR

101-8.7.....10971
105-9.....10971

42 CFR

Ch. I.....12308
405.....12071
410.....12071
414.....12071
424.....12071
425.....12071
427.....12071
428.....12071
495.....12071
512.....12071

Proposed Rules:
600.....11006

45 CFR

160.....14350
162.....14350
402.....14758

Proposed Rules:
153.....11006
154.....11006
155.....11006
156.....11006
158.....11006
211.....14797
212.....14797
1336.....14800
1355.....11017

47 CFR

Proposed Rules:
43.....14408
51.....14408
54.....14408
61.....14408
64.....12736, 14408
69.....14408

48 CFR

Ch.1 .....12488, 12491
22.....12488
25.....12488
52.....12488

Proposed Rules:
970.....11495

9903.....13559, 13562
9904.....13562
1011.....14490
1105.....14490

49 CFR

40.....10518
Proposed Rules:
392.....14803
571.....12532, 12537

50 CFR

18.....14760
216.....12510
300.....14464
622 .....12930, 13520, 14480, 14651
635.....10696
648 .....11141, 12082, 12511, 14782
660.....12933, 13520
679 .....10520, 11750, 11902, 12934, 13236, 14652
Proposed Rules:
10.....11019
17.....14074
18.....11240
92.....11267
217.....12972
218.....11618
224.....10580
300.....14511, 14516
622.....10360, 12989
648 .....12545, 12993, 14674, 15585
660.....11022

LIST OF PUBLIC LAWS

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H.R. 7211/P.L. 119–81
To authorize the President to award the Medal of Honor to John W. Ripley for acts of valor during the Vietnam War, and for other purposes. (Mar. 26, 2026; 140 Stat. 751)

Last List March 25, 2026

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