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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 987

[Doc. No. AMS–SC–24–0049]

Domestic Dates Produced or Packed in Riverside County, California; Decreased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule implements a recommendation from the California Date Administrative Committee (Committee) to decrease the assessment rate established for the 2024–2025 crop year and subsequent crop years from \$0.15 to \$0.05 per hundredweight for domestic dates produced or packed in Riverside County, California. The assessment rate will remain in effect indefinitely unless modified, suspended, or terminated.

DATES: Effective June 12, 2026.

FOR FURTHER INFORMATION CONTACT:

Peter Sommers, Marketing Specialist, or Abigail Maharaj, Chief, West Region Branch, Market Development Division, Specialty Crops Program, AMS, USDA; telephone: (559) 487–5901, or email: PeterR.Sommers@usda.gov or Abigail.Maharaj@usda.gov.

SUPPLEMENTARY INFORMATION: This action, pursuant to 5 U.S.C. 553, amends regulations issued to carry out a marketing order as defined in 7 CFR 900.2(j). This final rule is issued under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674) (the Act), amending Marketing Order No. 987 (7 CFR part 987; the Order), regulating the handling of domestic dates produced or packed in Riverside County, California. The Committee locally administers the Order and is comprised of producers and handlers of dates operating within the area of production.

This final action is exempt from the Office of Management and Budget (OMB) review process required by Executive Order 12866. This final rule would amend existing Marketing Order No. 987, as amended (7 CFR part 987), “Domestic Dates Produced or Packed in Riverside County, California,” and is necessary for the continued operation of Marketing Order No. 987. Additionally, this final action is exempt from the requirements of Executive Order 14192, “Unleashing Prosperity Through Deregulation,” pursuant to section 5(c).

This final rule has been reviewed under Executive Order 13175, “Consultation and Coordination with Indian Tribal Governments,” which requires Federal agencies to consider whether their rulemaking actions would have Tribal implications. The Agricultural Marketing Service (AMS) has determined that this final rule is unlikely to have substantial direct effects on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes.

This final rule has been reviewed under Executive Order 12988, “Civil Justice Reform.” Under the Order now in effect, California date handlers are subject to assessments. Funds to administer the Order are derived from such assessments. It is intended that the assessment rate will be applicable to all assessable dates for the 2024–2025 crop year, and continue until amended, suspended, or terminated.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the U.S. Department of Agriculture (USDA) a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. Such handler is afforded the opportunity for a hearing on the petition. After the hearing, USDA would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review USDA’s ruling on the petition,

provided an action is filed not later than 20 days after the date of the entry of the ruling.

This final rule decreases the assessment rate for California dates handled under the Order from \$0.15 to \$0.05 per hundredweight for the 2024–2025 crop year and subsequent crop years.

Sections 987.71 and 987.72 of the Order authorize the Committee, with AMS approval, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. The members of the Committee are familiar with the Committee’s needs and with the costs of goods and services in their local area and are able to formulate an appropriate budget and assessment rate. The assessment rate is formulated and discussed in a public meeting, and all directly affected persons have an opportunity to participate and provide input.

For the 2023–2024 crop year and subsequent crop years, the Committee recommended, and AMS approved, an assessment rate of \$0.15 per hundredweight of California dates. That rate continues in effect from crop year to crop year until modified, suspended, or terminated by AMS upon recommendation and information submitted by the Committee or other information available to AMS.

The Committee met on June 27, 2024, and unanimously recommended, with a vote of six in favor and none opposed, 2024–2025 crop year expenditures of \$89,410 and an assessment rate of \$0.05 per hundredweight of California dates handled for the 2024–2025 crop year and subsequent crop years. In comparison, the 2023–2024 crop year’s budgeted expenditures were \$75,800. The \$0.05 per hundredweight assessment rate is \$0.10 lower than the rate currently in effect. The Committee recommended decreasing the assessment rate to reduce its reserve funds to within a level authorized under the Order. The Committee projects 300,000 hundredweight of assessable California dates for the 2024–2025 crop year, down from the 426,000 hundredweight that the Committee initially projected for the 2023–2024 crop year.

The Committee derived the recommended assessment rate by considering anticipated crop year

expenses, an expected 300,000 hundredweight of assessable dates, and the amount of funds available in the authorized reserve. The expected 300,000 hundredweight of assessable California dates would generate \$15,000 in assessment revenue at the assessment rate (300,000 hundredweight multiplied by \$0.05 assessment rate). The Committee believes income generated from handler assessments, along with approximately \$68,310 in reserve funds and \$6,100 of surplus allocation income from the date cull program will be sufficient to meet the Committee's estimated program expenditures of \$89,410 for the 2024–2025 crop year. Funds available in the financial reserve (currently about \$129,000) will be kept within the maximum permitted by the Order (not to exceed the average of annual expenses for the preceding five years, as authorized in § 987.72).

The assessment rate will continue in effect indefinitely until modified, suspended, or terminated by AMS upon recommendation and information submitted by the Committee or other available information. Although this assessment rate will be in effect for an indefinite period, the Committee will continue to meet prior to or during each crop year to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of Committee meetings are available from the Committee or AMS. Committee meetings are open to the public and interested persons may express their views at these meetings. AMS will evaluate Committee recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking would be undertaken as necessary. The Committee's 2024–2025 crop year budget, and those for subsequent crop years, will be reviewed and as appropriate, approved by AMS.

Final Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612), AMS has considered the economic impact of this final rule on small entities. Accordingly, AMS has prepared this final regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act are unique regulations in that they are brought about through group action of typically small entities acting on their own behalf.

There are approximately 70 producers of California dates in the production area and 11 handlers of California dates subject to regulation under the Order. At the time this analysis was prepared, the Small Business Association (SBA) defined small agricultural producers of California dates as those having annual receipts equal to or less than \$3,500,000 (North American Industry Classification System (NAICS) code 111339, Other Noncitrus Fruit Farming) and small agricultural service firms as those having annual receipts equal to or less than \$34,000,000 (NAICS code 115114, Postharvest Crop Activities) (13 CFR 121.201).

According to the USDA National Agricultural Statistics Service (NASS), data for the most-recently completed crop year (2023) shows that the average price producers received for California dates was \$2,630 per ton, with an estimated production of 35,300 tons. Using the average price producers received, production information, and the number of producers, the majority of producers have estimated annual receipts of less than \$3,500,000 (\$2,630 multiplied by 35,300 tons equals \$92,839,000, divided by 70 producers equals \$1,326,271 per producer). Thus, the majority of California date producers may be classified as small entities, according to the SBA definition.

In addition, AMS Market News reported an average terminal market price of \$43.09 per 11-pound carton for the 2023 calendar year (California origin, Medjool variety, non-organic, all terminal markets, all grades and sizes). With approximately 70,600,000 pounds handled, the industry would have shipped an estimated 6,418,182, 11-pound cartons (70,600,000 pounds divided by 11 pounds) of packaged dates for a total value of \$276,559,462 (6,418,182 multiplied by \$43.09). With 11 date handlers within the production area, the 2023 average revenue per handler is estimated to be \$25,141,769 (\$276,559,462 divided by 11), which is below the \$34,000,000 SBA size threshold for handlers. Thus, assuming a normal distribution, most California date handlers may be classified as small entities.

This final rule decreases the assessment rate collected from handlers for the 2024–2025 and subsequent crop years from \$0.15 to \$0.05 per hundredweight of assessable California dates. The Committee unanimously recommended 2024–2025 crop year expenditures of \$89,410 and an assessment rate of \$0.05 per hundredweight of California dates. The assessment rate of \$0.05 is \$0.10 lower than the rate currently in effect. The

Committee expects the industry to handle 300,000 hundredweight of assessable California dates during the 2024–2025 crop year. Thus, the \$0.05 per hundredweight rate should provide \$15,000 in assessment income (300,000 hundredweight multiplied by \$0.05 per hundredweight). The Committee expects income derived from handler assessments, along with reserve funds and surplus allocation income from the date cull program, should be sufficient to meet budgeted expenditures for the 2024–2025 crop year.

The Committee recommended decreasing the assessment rate to utilize funds from its reserve to meet necessary expenses for the 2024–2025 crop year, and ensure the reserve is maintained at a level in compliance with order requirements.

Prior to arriving at this budget and assessment rate recommendation, the Committee discussed various alternatives, including reducing the assessment rate more and/or less than the rate herein. However, the Committee determined that the recommended assessment rate would achieve its goals of both adequately funding Committee operations and reducing the reserve to an appropriate level. Consequently, those alternatives were rejected.

A review of historical and preliminary information pertaining to the upcoming crop year indicates the average producer price for the 2024–2025 crop year should be approximately \$2,847 per ton (\$142.35 per hundredweight) of California dates. Therefore, the estimated assessment revenue for the 2024–2025 crop year as a percentage of total producer revenue would be about 0.04 percent (\$0.05 per hundredweight assessment rate divided by \$142.35 multiplied by 100).

This final rule decreases the assessment obligation imposed on handlers. Assessments are applied uniformly on all handlers, and some of the costs may be passed on to producers. However, these costs are expected to be offset by the benefits derived by the operation of the Order.

Committee meetings are widely publicized throughout the production area. The California date industry and all interested persons are invited to attend the meetings and participate in Committee deliberations on all issues. Like all Committee meetings, the June 27, 2024, meeting was a public meeting and all entities, both large and small, were able to express views on this issue. Finally, interested persons were invited to submit comments on this rule, including the regulatory and information collection impacts of this action on small businesses.

In accordance with the Paperwork Reduction Act of 1995, (44 U.S.C. chapter 35), the Order's information collection requirements have been previously approved by OMB and assigned OMB No. 0581-0178, Vegetable and Specialty Crops. No changes in those requirements are necessary as a result of this rule. Should any changes become necessary, they would be submitted to OMB for approval.

This final rule will not impose any additional reporting or recordkeeping requirements on either small or large California date handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

AMS is committed to complying with the E-Government Act, to promote the use of the internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

AMS has not identified any relevant Federal rules that duplicate, overlap, or conflict with this final rule.

A proposed rule concerning this action was published in the **Federal Register** on September 12, 2025 (90 FR 44151). Copies of the proposed rule were provided to all California date handlers. In addition, the proposal was made available through the internet by AMS and the Office of the Federal Register via <https://www.regulations.gov>. A 30-day comment period ending October 14, 2025, was provided to all interested persons to respond to the proposal. AMS received no comments during the comment period. Accordingly, AMS made no changes to the rule as proposed.

After consideration of all relevant material presented, including the information and recommendations submitted by the Committee and other available information, AMS has determined that this rule is consistent with and effectuates the purposes of the Act.

List of Subjects in 7 CFR Part 987

Dates, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 987 is amended as follows:

PART 987—DOMESTIC DATES PRODUCED OR PACKED IN RIVERSIDE COUNTY, CALIFORNIA

■ 1. The authority citation for 7 CFR part 987 continues to read as follows:

Authority: 7 U.S.C. 601–674.

■ 2. Revise § 987.339 to read as follows:

§ 987.339 Assessment rate.

On and after October 1, 2024, an assessment rate of \$0.05 per hundredweight is established for dates produced or packed in Riverside County, California.

Erin Morris,

Administrator, Agricultural Marketing Service.

[FR Doc. 2026–09502 Filed 5–12–26; 8:45 am]

BILLING CODE:P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2026–1324; Project Identifier AD–2025–00986–T; Amendment 39–23334; AD 2026–09–12]

RIN 2120-AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain The Boeing Company Model 737–100, –200, –200C, –300, –400, and –500 series airplanes. This AD was prompted by a report of cracks found in the fuselage skin underneath the aft drain mast. This AD requires repetitive inspections of the fuselage skin and structure common to the aft drain mast for any crack or corrosion and applicable on-condition actions. The FAA is issuing this AD to address the unsafe condition on these products. **DATES:** This AD is effective June 17, 2026.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of June 17, 2026.

ADDRESSES:

AD Docket: You may examine the AD docket at [regulations.gov](https://www.regulations.gov) under Docket No. FAA–2026–1324; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, any comments

received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

Material Incorporated by Reference:

- For Boeing material identified in this AD, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminister 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](https://www.regulations.gov) under Docket No. FAA–2026–1324.

FOR FURTHER INFORMATION CONTACT:

Wayne Ha, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 562–627–5238; email: wayne.ha@faa.gov.

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain The Boeing Company Model 737–100, –200, –200C, –300, –400, and –500 series airplanes. The NPRM was published in the **Federal Register** on February 13, 2026 (91 FR 6798). The NPRM was prompted by a report of cracks found in the fuselage skin underneath the aft drain mast. In the NPRM, the FAA proposed to require repetitive inspections of the fuselage skin and structure common to the aft drain mast for any crack or corrosion and applicable on-condition actions. The FAA is issuing this AD to address cracking or corrosion in the fuselage skin and structure common to the aft drain mast. This condition, if not addressed, could result in the inability of the principal structural element (PSE) to sustain limit loads, which may result in rapid decompression of the fuselage and loss of structural integrity of the airplane.

Discussion of Final Airworthiness Directive

Comments

The FAA received comments from Aviation Partners Boeing and Boeing who supported the NPRM without change.

Conclusion

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

Material Incorporated by Reference Under 1 CFR Part 51

The FAA reviewed Boeing Alert Service Bulletin 737–53A1409, Revision 1, dated October 27, 2023. This material specifies procedures for repetitive internal detailed inspections around the fastener holes, cutout, channel, and fillers of the structure common to the aft drain mast (also referred to as the “aft waste water drain mast”) for any crack or corrosion; repetitive external detailed inspections and external surface high frequency eddy current (HFEC) inspections around the fastener holes

and cutout on the fuselage skin common to the aft drain mast for any crack or corrosion; and applicable on-condition actions. On-condition actions include obtaining and following repair instructions. This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the ADDRESSES section.

Costs of Compliance

The FAA estimates that this AD affects 123 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Repetitive inspections	7 work-hours × \$85 per hour = \$595 per inspection cycle.	\$0	\$595 per inspection cycle	\$73,185 per inspection cycle.

The FAA has received no definitive data on which to base the cost estimates for the on-condition actions specified in this AD.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2026–09–12 The Boeing Company: Amendment 39–23334; Docket No. FAA–2026–1324; Project Identifier AD–2025–00986–T.

(a) Effective Date

This airworthiness directive (AD) is effective June 17, 2026.

(b) Affected ADs

None.

(c) Applicability

This AD applies to The Boeing Company Model 737–100, –200, –200C, –300, –400, and –500 series airplanes, certificated in any category, as identified in Boeing Alert Service Bulletin 737–53A1409, Revision 1, dated October 27, 2023.

(d) Subject

Air Transport Association (ATA) of America Code 53, Fuselage.

(e) Unsafe Condition

This AD was prompted by a report of cracks found in the fuselage skin underneath the aft drain mast. The FAA is issuing this AD to address cracking or corrosion in the fuselage skin and structure common to the aft drain mast. The unsafe condition, if not addressed, could result in the inability of the principal structural element (PSE) to sustain limit loads, which may result in rapid decompression of the fuselage and loss of structural integrity of the airplane.

(f) Compliance

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

(g) Required Actions for Group 1 Airplanes

For airplanes identified as Group 1 in Boeing Alert Service Bulletin 737–53A1409, Revision 1, dated October 27, 2023: Within 120 days after the effective date of this AD, inspect the fuselage skin and structure common to the aft drain mast for any crack or corrosion and applicable on-condition actions, using a method approved in accordance with the procedures specified in paragraph (k) of this AD.

(h) Required Actions for Group 2 Airplanes

For airplanes identified as Group 2 in Boeing Alert Service Bulletin 737–53A1409, Revision 1, dated October 27, 2023: Except as specified in paragraph (i) of this AD, at the applicable times specified in paragraph 1.E.,

“Compliance,” of Boeing Alert Service Bulletin 737–53A1409, Revision 1, dated October 27, 2023, do all applicable actions identified in, and in accordance with, paragraphs 3.B.2., “Action 1: Do Part 2,” and 3.B.3., “Action 2: Do Part 3,” of the Accomplishment Instructions of Boeing Alert Service Bulletin 737–53A1409, Revision 1, dated October 27, 2023.

(i) Exceptions to Service Bulletin Specifications

(1) Where the Compliance Time columns of the tables in the “Compliance” paragraph of Boeing Alert Service Bulletin 737–53A1409, Revision 1, dated October 27, 2023, refer to the original issue date of Service Bulletin 737–53A1409, this AD requires using the effective date of this AD.

(2) Where Boeing Alert Service Bulletin 737–53A1409, Revision 1, dated October 27, 2023, specifies contacting Boeing for repair instructions: This AD requires doing the repair using a method approved in accordance with the procedures specified in paragraph (k) of this AD.

(j) Credit for Previous Actions

This paragraph provides credit for the actions specified in paragraphs (g) and (h) of this AD, as applicable, if those actions were performed before the effective date of this AD using Boeing Alert Service Bulletin 737–53A1409, dated May 4, 2023.

(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) 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 Wayne Ha, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 562–627–5238; email: wayne.ha@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 Service Bulletin 737–53A1409, Revision 1, dated October 27, 2023.

(ii) [Reserved]

(3) For Boeing material identified in this AD, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminister 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 April 28, 2026.

Brian Knaup,

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

[FR Doc. 2026–09535 Filed 5–12–26; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2026–0017; Project Identifier MCAI–2023–00681–R; Amendment 39–23326; AD 2026–09–05]

RIN 2120–AA64

Airworthiness Directives; Leonardo S.p.A. Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all Leonardo S.p.A. Model AB139 and AW139 helicopters. This AD was prompted by reports of a damaged spare inflation system of a certain life raft kit due to the inappropriate shipment of the parts. This AD requires replacing certain life raft inflation systems and prohibits installing an affected life raft inflation system on any helicopter. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective June 17, 2026.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of June 17, 2026.

ADDRESSES:

AD Docket: You may examine the AD docket at regulations.gov under Docket No. FAA–2026–0017; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

Material Incorporated by Reference:

- For European Union Aviation Safety Agency (EASA) material identified in this AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; phone: +49 221 8999 000; email: ADs@easa.europa.eu; website: easa.europa.eu. You may find the EASA material on the EASA website at ad.easa.europa.eu.

- You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 10101 Hillwood Parkway, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call (817) 222–5110. It is also available at regulations.gov under Docket No. FAA–2026–0017.

FOR FURTHER INFORMATION CONTACT:

David Enns, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: (316) 946–4147; email: david.enns@faa.gov.

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to all Leonardo S.p.A. Model AB139 and AW139 helicopters. The NPRM was published in the **Federal Register** on January 21, 2026 (91 FR 2504). The NPRM was prompted by EASA AD 2023–0101, dated May 15, 2023, issued by EASA, which is Technical Agent for the Member States of the European Union (EASA AD 2023–0101) (also referred to as the MCAI). The MCAI states that there have been reports of a damaged spare inflation system of life raft kit part number (P/N) 3G9560F00111, P/N 3G9560F00112, and P/N 4G2560F00811. The MCAI further states that subsequent investigation results revealed the damage was caused

by the inappropriate shipment of the parts.
In the NPRM, the FAA proposed to require replacing certain life raft inflation systems and prohibit installing an affected life raft inflation system on any helicopter.

The FAA is issuing this AD to address a damaged life raft inflation system. The unsafe condition, if not addressed, could lead to the inability to inflate a life raft and possibly affect the safe evacuation of occupants in the case of ditching over water.

You may examine the MCAI in the AD docket at *regulations.gov* under Docket No. FAA–2026–0017.

Discussion of Final Airworthiness Directive

Comments

The FAA received no comments on the NPRM or on the determination of the costs.

Conclusion

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

Material Incorporated by Reference Under 1 CFR Part 51

The FAA reviewed EASA AD 2023–0101, which specifies procedures for replacing life raft inflation system P/N 202402A and P/N 202256A that have a certain cylinder and valve serial number. EASA AD 2023–0101 also prohibits installing an affected life raft inflation system part on any helicopter. This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the ADDRESSES section.

Costs of Compliance

The FAA estimates that this AD affects 161 helicopters of U.S. registry

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

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Replace life raft inflation system	4 work-hours × \$85 per hour = \$340	\$8,910	\$9,250	\$1,489,250

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

Authority for This Rulemaking

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

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

Regulatory Findings

This AD will not have federalism implications under Executive Order 13132. This AD will not have a

substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

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

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

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2026–09–05 Leonardo S.p.A.: Amendment 39–23326; Docket No. FAA–2026–0017; Project Identifier MCAI–2023–00681–R.

(a) Effective Date

This airworthiness directive (AD) is effective June 17, 2026.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all Leonardo S.p.A., Model AB139 and AW139 helicopters, certificated in any category.

(d) Subject

Joint Aircraft System Component (JASC) Code 2564, Life Raft.

(e) Unsafe Condition

This AD was prompted by reports of a damaged spare inflation system of a certain life raft kit due to inappropriate shipment of the parts. The FAA is issuing this AD to address a damaged life raft inflation system, which could lead to the inability to inflate a life raft and possibly affect the safe evacuation of occupants in the case of ditching over water.

(f) Compliance

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

(g) Required Actions

Except as specified in paragraphs (h) and (i) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, European Union Aviation Safety Agency AD 2023–0101, dated May 15, 2023 (EASA AD 2023–0101).

(h) Exceptions to EASA AD 2023–0101

(1) Where EASA AD 2023–0101 refers to its effective date, this AD requires using the effective date of this AD.

(2) Where EASA AD 2023–0101 requires compliance in terms of flight hours, this AD requires using hours time-in-service.

(3) Where EASA AD 2023–0101 defines “affected part,” this AD requires replacing that definition with “Life raft inflation system part number (P/N) 202402A and P/N 202256A that:

(i) have a cylinder and valve serial number (S/N) as specified in Leonardo Helicopters Alert Service Bulletin (ASB) 139–734, original issue, dated April 13, 2023, or Revision A, dated April 28, 2023; except those that have not been modified in accordance with the instructions of Aero Sekur Service Bulletin (SB) SB–139–25–005, Revision 1, dated April 21, 2023, and Survitec SB 25–225–A, Revision 1, dated February 23, 2023 (co-published as one document) as applicable; or

(ii) have a cylinder where the S/N cannot be determined.”

(4) This AD does not adopt the “Remarks” section of EASA AD 2023–0101.

(i) No Reporting and Return of Parts Requirement

Although the material referenced in EASA AD 2023–0101 specifies to submit certain information to the manufacturer and to return the parts to the manufacturer, this AD does not require any of these actions.

(j) Special Flight Permits

Special flight permits may be issued in accordance with 14 CFR 21.197 and 21.199, provided there are no flights over water.

(k) Alternative Methods of Compliance (AMOCs)

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

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

(l) Additional Information

For more information about this AD, contact David Enns, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: (316) 946–4147; email: david.enns@faa.gov.

(m) Material Incorporated by Reference

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

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

(i) European Union Aviation Safety Agency (EASA) AD 2023–0101, dated May 15, 2023.

(ii) [Reserved]

(3) For EASA material identified in this AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; phone: +49 221 8999 000; email: ADs@easa.europa.eu; website: easa.europa.eu. You may find the EASA material on the EASA website at ad.easa.europa.eu.

(4) You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 10101 Hillwood Parkway, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call (817) 222–5110.

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

Issued on May 6, 2026.

Steven W. Thompson,

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

[FR Doc. 2026–09520 Filed 5–12–26; 8:45 am]

BILLING CODE 4910–13–P

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

[Docket No. FAA–2026–0737; Project Identifier MCAI–2025–01038–T; Amendment 39–23328; AD 2026–09–07]

RIN 2120–AA64

Airworthiness Directives; Dassault Aviation Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is superseding Airworthiness Directive (AD) 2023–22–10, which applied to certain Dassault Aviation Model FAN JET FALCON, FAN JET FALCON SERIES C, D, E, F, and G airplanes. AD 2023–22–10 required revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations. Since the FAA issued AD 2023–22–10, the FAA has determined that new or more restrictive airworthiness limitations are necessary. This AD continues to require certain actions in

AD 2023–22–10 and requires revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective June 17, 2026.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of June 17, 2026.

The Director of the Federal Register approved the incorporation by reference of a certain other publication listed in this AD as of December 26, 2023 (88 FR 80567, November 20, 2023).

ADDRESSES:

AD Docket: You may examine the AD docket at regulations.gov under Docket No. FAA–2026–0737; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

Material Incorporated by Reference:

- For European Union Aviation Safety Agency (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.

- 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–2026–0737.

FOR FURTHER INFORMATION CONTACT:

Kimi Kim, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: 781–238–7693; email: 9-AVS-AIR-BACO-COS@faa.gov.

SUPPLEMENTARY INFORMATION:**Background**

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2023–22–10, Amendment 39–22594 (88 FR 80567, November 20, 2023) (AD 2023–22–10). AD 2023–22–10 applied to certain Dassault Aviation Model FAN JET FALCON, FAN JET FALCON SERIES C,

D, E, F, and G airplanes. AD 2023–22–10 required revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations. The FAA issued AD 2023–22–10 to address, among other things, fatigue cracking and damage in principal structural elements. The unsafe condition, if not addressed, could result in reduced structural integrity of the airplane.

The NPRM was published in the **Federal Register** on February 6, 2026 (91 FR 5375). The NPRM was prompted by EASA AD 2025–0124, dated May 28, 2025 (EASA AD 2025–0124) (also referred to as the MCAI), issued by EASA, which is the Technical Agent for the Member States of the European Union. The MCAI states that new or more restrictive airworthiness limitations have been developed.

In the NPRM, the FAA proposed to continue to require certain actions in AD 2023–22–10 and to require revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations, as specified in EASA AD 2025–0124. The FAA is issuing this AD to address the unsafe condition on these products.

You may examine the MCAI in the AD docket at *regulations.gov* under Docket No. FAA–2026–0737.

Discussion of Final Airworthiness Directive

Comments

The FAA received no comments on the NPRM or on the determination of the cost to the public.

Conclusion

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

Material Incorporated by Reference Under 1 CFR Part 51

The FAA reviewed EASA AD 2025–0124, which specifies new or more

restrictive airworthiness limitations for airplane structures and safe life limits.

This AD also requires EASA AD 2023–0059, dated March 16, 2023, which the Director of the Federal Register approved for incorporation by reference as of December 26, 2023 (88 FR 80567, November 20, 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.

Costs of Compliance

The FAA estimates that this AD affects 32 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

The FAA estimates the total cost per operator for the retained actions from AD 2023–22–10 to be \$7,650 (90 work-hours × \$85 per work-hour).

The FAA has determined that revising the existing 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.

The FAA estimates the total cost per operator for the new actions to be \$7,650 (90 work-hours × \$85 per work-hour).

Authority for This Rulemaking

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

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

Regulatory Findings

This AD will not have federalism implications under Executive Order 13132. This AD will not have a

substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

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

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

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

- 2. The FAA amends § 39.13 by:
 - a. Removing Airworthiness Directive (AD) 2023–22–10, Amendment 39–22594 (88 FR 80567, November 20, 2023); and
 - b. Adding the following new AD:

2026–09–07 Dassault Aviation: Amendment 39–23328; Docket No. FAA–2026–0737; Project Identifier MCAI–2025–01038–T.

(a) Effective Date

This airworthiness directive (AD) is effective June 17, 2026.

(b) Affected ADs

This AD replaces AD 2023–22–10, Amendment 39–22594 (88 FR 80567, November 20, 2023) (AD 2023–22–10).

(c) Applicability

This AD applies to Dassault Aviation Model FAN JET FALCON, FAN JET FALCON SERIES C, D, E, F, and G airplanes, certificated in any category, as identified in European Union Aviation Safety Agency (EASA) AD 2025–0124, dated May 28, 2025 (EASA AD 2025–0124).

(d) Subject

Air Transport Association (ATA) of America Code 05, Time Limits/Maintenance Checks.

(e) Unsafe Condition

This AD was prompted by a determination that new or more restrictive airworthiness

limitations are necessary. The FAA is issuing this AD to address fatigue cracking, damage, and corrosion in principal structural elements. The unsafe condition, if not addressed, could result in reduced structural integrity of the airplane.

(f) Compliance

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

(g) Retained Revision of the Existing Maintenance or Inspection Program, With a New Terminating Action

This paragraph restates the requirements of paragraph (i) of AD 2023–22–10, with a new terminating action. 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 2023–0059, dated March 16, 2023 (EASA AD 2023–0059). Accomplishing the revision of the existing maintenance or inspection program required by paragraph (j) of this AD terminates the requirements of this paragraph.

(h) Retained Exceptions to EASA AD 2023–0059, With No Changes

This paragraph restates the exceptions specified in paragraph (j) of AD 2023–22–10, with no changes.

(1) This AD does not adopt the requirements specified in paragraphs (1) and (2) of EASA AD 2023–0059.

(2) Paragraph (3) of EASA AD 2023–0059 specifies revising “the approved AMP” within 12 months after its effective date, but this AD requires revising the existing maintenance or inspection program, as applicable, within 90 days after December 26, 2023 (the effective date of AD 2023–22–10).

(3) The initial compliance time for doing the tasks specified in paragraph (3) of EASA AD 2023–0059 is at the applicable “limitations” and “associated thresholds” as incorporated by the requirements of paragraph (3) of EASA AD 2023–0059, or within 90 days after December 26, 2023 (the effective date of AD 2023–22–10), whichever occurs later.

(4) This AD does not adopt the provisions specified in paragraphs (4) and (5) of EASA AD 2023–0059.

(5) This AD does not adopt the “Remarks” section of EASA AD 2023–0059.

(i) Retained Restrictions on Alternative Actions and Intervals, With a New Exception

This paragraph restates the requirements of paragraph (k) of AD 2023–22–10, with a new exception. Except as required by paragraph (j) of this AD, after the maintenance or inspection program has been revised as required by paragraph (g) of this AD, no alternative actions (e.g., inspections) or intervals are allowed unless they are approved as specified in the provisions of the “Ref. Publications” section of EASA AD 2023–0059.

(j) New Revision of the Existing Maintenance or Inspection Program

Except as specified in paragraph (k) of this AD: Comply with all required actions and compliance times specified in, and in

accordance with, EASA AD 2025–0124. Accomplishing the revision of the existing maintenance or inspection program required by this paragraph terminates the requirements of paragraph (g) of this AD.

(k) Exceptions to EASA AD 2025–0124

(1) This AD does not adopt the requirements specified in paragraphs (1) and (2) of EASA AD 2025–0124.

(2) Paragraph (3) of EASA AD 2025–0124 specifies revising “the approved AMP,” within 12 months after its effective date, but this AD requires revising the existing maintenance or inspection program, as applicable, within 90 days after the effective date of this AD.

(3) The initial compliance time for doing the tasks specified in paragraph (3) of EASA AD 2025–0124 is at the applicable “limitations” and “associated thresholds” as incorporated by the requirements of paragraph (3) of EASA AD 2025–0124, or within 90 days after the effective date of this AD, whichever occurs later.

(4) This AD does not adopt the provisions specified in paragraphs (4) and (5) of EASA AD 2025–0124.

(5) This AD does not adopt the “Remarks” section of EASA AD 2025–0124.

(l) New Provisions for Alternative Actions and Intervals

After the existing maintenance or inspection program has been revised as required by paragraph (j) of this AD, no alternative actions (e.g., inspections) and intervals are allowed unless the actions and intervals are approved as specified in the provisions of the “Ref. Publications” section of EASA AD 2025–0124.

(m) Additional AD Provisions

The following provisions also apply to this AD:

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

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

(n) Additional Information

For more information about this AD, contact Kimi Kim, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410,

Westbury, NY 11590; phone: 781–238–7693; email: 9-AVS-AIR-BACO-COS@faa.gov.

(o) Material Incorporated by Reference

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

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

(3) The following material was approved for IBR on June 17, 2026.

(i) European Union Aviation Safety Agency (EASA) AD 2025–0124, dated May 28, 2025.

(ii) [Reserved]

(4) The following material was approved for IBR on December 26, 2023 (88 FR 80567, November 20, 2023).

(i) EASA AD 2023–0059, dated March 16, 2023.

(ii) [Reserved]

(5) 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.

(6) 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.

(7) 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 April 24, 2026.

Steven W. Thompson,

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

[FR Doc. 2026–09536 Filed 5–12–26; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2025–2556; Project Identifier MCAI–2024–00034–R; Amendment 39–23330; AD 2026–09–09]

RIN 2120–AA64

Airworthiness Directives; Leonardo S.p.A. Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is superseding Airworthiness Directive (AD) 2021–23–04 which applied to certain Leonardo S.p.A. Model A109E helicopters. AD 2021–23–04 required repetitive inspections of the intersection of the

lateral pylon and floor spar at station (STA) 1815 for cracking and, depending on the findings, repair. Since the FAA issued AD 2021–23–04, it was determined that additional helicopter models are affected by the unsafe condition. Additionally, the manufacturer has developed a modification that provides terminating action for the repetitive inspections. This AD continues to require repetitive inspections of the affected area for cracking and adds additional helicopter models to the applicability. This AD also requires modification of the affected area, which is terminating action for the repetitive inspections. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective June 17, 2026.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of June 17, 2026.

ADDRESSES:

AD Docket: You may examine the AD docket at [regulations.gov](https://www.regulations.gov) under Docket No. FAA–2025–2556; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

Material Incorporated by Reference:

- For European Union Aviation Safety Agency (EASA) material identified in this AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; phone: +49 221 8999 000; email: ADs@easa.europa.eu; website: easa.europa.eu. You may find the EASA material on the EASA website at ad.easa.europa.eu.

- You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 10101 Hillwood Parkway, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call (817) 222–5110. It is also available at [regulations.gov](https://www.regulations.gov) under Docket No. FAA–2025–2556.

FOR FURTHER INFORMATION CONTACT: Jacob Fitch, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: (817) 222–4130; email: jacob.fitch@faa.gov.

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2021–23–04, Amendment 39–21802 (86 FR 68892, December 6, 2021) (AD 2021–23–04), which applied to Leonardo S.p.A. Model A109E helicopters. AD 2021–23–04 required repetitive inspections of the intersection of the lateral pylon and floor spar at STA 1815 for cracking and, depending on the findings, repair. The FAA issued AD 2021–23–04 to address cracking in the intersection of the lateral pylon and floor spar at STA 1815 on the left- and right-hand sides, which, if not addressed, could affect the structural integrity of the helicopter. Since the FAA issued AD 2021–23–04, it was determined that additional helicopter models are affected by the unsafe condition.

The NPRM was published in the **Federal Register** on September 30, 2025 (90 FR 46768). The NPRM was prompted by EASA AD 2024–0004, dated January 5, 2024 (EASA AD 2024–0004) (also referred to as the MCAI), issued by EASA, which is the Technical Agent for the Member States of the European Union. The MCAI states that Leonardo developed a modification to prevent cracking in the intersection of the lateral pylon and floor spar at STA 1815 on the left- and right-hand sides.

In the NPRM, the FAA proposed to continue to require repetitive inspections of the affected area for cracking and add additional helicopter models to the applicability. The NPRM also proposed to require modification of the affected area, which would be terminating action for the repetitive inspections. The FAA is issuing this AD to address the unsafe condition on these products.

You may examine the MCAI in the AD docket at [regulations.gov](https://www.regulations.gov) under Docket No. FAA–2025–2556.

Discussion of Final Airworthiness Directive

Comments

The FAA received comments from the Citizens Rulemaking Alliance. The following presents the comments received on the NPRM and the FAA’s response to each comment.

Request To Issue an NPRM or Justify Forgoing Notice and Comment

The Citizens Rulemaking Alliance requested that the FAA either convert this action to an NPRM or provide its justification for finding good cause to bypass notice and comment procedures, reopen the comment period for at least 60 days, and commit to promptly

superseding the AD with an NPRM while suspending enforcement of non-time-critical provisions pending comment. The commenter asserted the FAA has not adequately justified use of the good cause exemption to bypass notice and comment and the 30-day delayed effective date.

The FAA notes the comment was submitted in response to an NPRM for which the FAA provided a 45-day comment period. This final rule is effective 35 days after its publication in the **Federal Register**. Therefore, no change to this AD is necessary.

Request To Consider Impact on Small Entities

The Citizens Rulemaking Alliance requested that the FAA either provide the factual basis for its Regulatory Flexibility Act (RFA) certification that the AD will not have a significant economic impact on a substantial number of small entities or prepare an initial regulatory flexibility analysis and consider less burdensome alternatives for small operators. The commenter stated that the FAA should also reopen the comment period for at least 60 days to allow comment on that analysis.

The FAA has considered the AD’s impact on small businesses and provides the following factual basis for its RFA certification.

The Regulatory Flexibility Act of 1980, Public Law 96–354, 94 Stat. 1164 (5 U.S.C. 601–612), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121, 110 Stat. 857, Mar. 29, 1996) and the Small Business Jobs Act of 2010 (Public Law 111–240, 124 Stat. 2504, Sept. 27, 2010), requires Federal agencies to consider the effects of the regulatory action on small business and other small entities and to minimize any significant economic impact. The term “small entities” comprises small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

Small Entities to Which This AD Applies

The FAA used the definition of small entities in the RFA for this analysis. The RFA defines small entities as small businesses, small governmental jurisdictions, or small organizations. In 5 U.S.C. 601(3), the RFA defines “small business” to have the same meaning as “small business concern” under section 3 of the Small Business Act. The Small Business Act authorizes the Small Business Administration (SBA) to

define “small business” by issuing regulations.

The SBA (2023) has established size standards for various types of economic activities, or industries, under the North American Industry Classification

System (NAICS). These size standards generally define small businesses based on the number of employees or annual receipts. The following table provides the SBA size standards for all industries with at least 1 entity impacted by this

AD. Note that the SBA definition of a small business applies to the parent company and all affiliates as a single entity.

SMALL BUSINESS SIZE STANDARDS

NAICS Code	Description	Size standard
238220	Plumbing, Heating, and Air-Conditioning Contractors	\$19.0 million.
336411	Aircraft Manufacturing	1,500 employees.
336412	Aircraft Engine and Engine Parts Manufacturing	1,500 employees.
336413	Other Aircraft Parts and Auxiliary Equipment Manufacturing	1,250 employees.
423860	Transportation Equipment and Supplies Merchant Wholesalers	175 employees.
481211	Nonscheduled Chartered Passenger Air Transportation	1,500 employees.
481219	Other Nonscheduled Air Transportation	\$25.0 million.
484110	General Freight Trucking, Local	\$34.0 million.
488190	Other Support Activities for Air Transportation	\$40.0 million.
523910	Miscellaneous Intermediation/Venture Capital Retiring	\$47.0 million.
523991	Trust, Fiduciary, and Custody Activities	\$47.0 million.
525990	Other Financial Vehicles	\$40.0 million.
532411	Commercial Air, Rail, and Water Transportation Equipment Rental and Leasing	\$45.5 million.
541614	Process, Physical Distribution, and Logistics Consulting Services	\$20.0 million.
621910	Ambulance Services	\$22.5 million.
622110	General Medical and Surgical Hospitals	\$47.0 million.
713990	All Other Amusement and Recreation Industries	\$9.0 million.
921120	Legislative Bodies	50,000 population.

To identify small entities, the FAA first identified the primary NAICS of the entity or parent company, and then used data from different sources (e.g.,

company annual reports, Bureau of Transportation Statistics) to determine whether the entity meets the applicable size standard. The FAA provides the

estimated number of small entities affected by this AD:

ESTIMATED NUMBER OF SMALL ENTITIES

Category	Number of entities	Number of small entities	Small entities %
Plumbing, Heating, and Air-Conditioning Contractors	1	1	100
Aircraft Manufacturing	1	0	0
Aircraft Engine and Engine Parts Manufacturing	1	1	100
Other Aircraft Parts and Auxiliary Equipment Manufacturing	3	3	100
Transportation Equipment and Supplies Merchant Wholesalers	1	1	100
Nonscheduled Chartered Passenger Air Transportation	7	6	86
Other Nonscheduled Air Transportation	3	3	100
General Freight Trucking, Local	1	1	100
Other Support Activities for Air Transportation	4	4	100
Miscellaneous Intermediation/Venture Capital Retiring	1	0	0
Trust, Fiduciary, and Custody Activities	5	4	80
Other Financial Vehicles	1	0	0
Commercial Air, Rail, and Water Transportation Equipment Rental and Leasing	1	1	100
Process, Physical Distribution, and Logistics Consulting Services	1	1	100
Ambulance Services	3	1	33
General Medical and Surgical Hospitals	3	0	0
All Other Amusement and Recreation Industries	1	1	100
Legislative Bodies	1	0	0
Total	39	28	72

Projected Reporting, Recordkeeping, and Other Compliance Requirements

The FAA estimates operators will incur either an inspection cost of \$1,394 annually or a one-time modification cost of \$25,860 per helicopter. Once an operator incurs the one-time modification cost, the operator will no

longer incur annual inspection costs. The FAA cannot estimate when each operator will incur this modification cost. In addition, some of the costs of this AD may be covered under warranty, thereby reducing the cost impact on affected operators. The FAA analyzes the cost of each compliance method

relative to the annual revenue of each small entity. The following table shows the estimated compliance costs by each NAICS industry.

AVERAGE COSTS OF COMPLIANCE PER SMALL ENTITY

Category	Average annual revenue	Average annual inspection cost	Average one-time modification cost
Plumbing, Heating, and Air-Conditioning Contractors	\$3,000,000	\$1,394	\$25,860
Aircraft Engine and Engine Parts Manufacturing	3,000,000	1,394	25,860
Other Aircraft Parts and Auxiliary Equipment Manufacturing	1,890,307	7,435	137,920
Transportation Equipment and Supplies Merchant Wholesalers	3,000,000	1,394	25,860
Nonscheduled Chartered Passenger Air Transportation	690,175	1,626	30,170
Other Nonscheduled Air Transportation	158,213	1,394	25,860
General Freight Trucking, Local	7,500,000	1,394	25,860
Other Support Activities for Air Transportation	3,500,608	2,091	38,790
Trust, Fiduciary, and Custody Activities	1,914,808	3,137	58,185
Commercial Air, Rail, and Water Transportation Equipment Rental and Leasing	860,000	1,394	25,860
Process, Physical Distribution, and Logistics Consulting Services	14,730,000	1,394	25,860
Ambulance Services	17,740,000	1,394	25,860
All Other Amusement and Recreation Industries	520,000	1,394	25,860
Average	2,977,165	2,440	45,255

Significant Alternatives Considered

The FAA evaluated the alternative of not promulgating this AD but ultimately deemed that this alternative would create a significant safety hazard. Since the issuance of AD 2021–23–04, which affected certain Leonardo S.p.A. Model A109E helicopters, it has been determined that the risk of structural cracking at the intersection of the lateral pylon and floor spar extends to additional helicopter models. Relying on the existing requirements would leave these additional models unmonitored. By expanding the applicability and requiring the modification, this AD addresses the unsafe condition and prevents potential structural failure, ensuring a level of safety that the alternative of no action could not provide.

RFA Conclusions

Based on average compliance costs, the FAA has determined that the financial impacts of this AD are not disproportionate to small entities. Therefore, the FAA did not change this AD as a result of this comment.

Request To Comply With the Paperwork Reduction Act (PRA)

The Citizens Rulemaking Alliance requested that the FAA revise the AD to comply with the PRA if reporting is required or make any reporting provisions voluntary until PRA requirements are satisfied.

The FAA notes that paragraph (i) of this AD specifies that this AD does not require reporting. If an AD were to require reporting, the preamble of the AD would include a paragraph titled “Paperwork Reduction Act” that would provide the applicable OMB control number, required PRA statements, and

the estimated time to collect the required information (burden). Any costs associated with the reporting requirement would be included in the Costs of Compliance section in the preamble of the AD. Therefore, the FAA did not change this AD as a result of this comment.

Request To Make Incorporation by Reference (IBR) Materials Reasonably Available

The Citizens Rulemaking Alliance stated that the FAA’s current practices for IBR frequently fail to meet the legal and regulatory standards for reasonable availability. The commenter called on the FAA to guarantee that all IBR materials are easily and freely accessible to the public and affected parties for the duration of the comment period and to reopen the comment period for at least 60 days to accommodate this access.

The FAA’s practices comply with 5 U.S.C. 552(a) of the Administrative Procedure Act and 1 CFR part 51. The FAA makes IBR materials available in the AD docket when the final rule is published in the **Federal Register**, following formal approval of the IBR by the Office of the Federal Register. Materials may only be posted before the final rule’s publication if they are already publicly available or if there is written consent from the owner of the IBR material. All relevant materials incorporated by reference will be accessible in the AD docket on *Regulations.gov*, which the public can access without registration or fees.

The FAA also provides summaries and access details in the preamble and regulatory text, makes materials available for inspection at FAA and National Archives and Records Administration (NARA) offices, offers publisher contact information, and

obtains formal IBR approval from the Office of the Federal Register. These efforts are intended to ensure that all IBR materials meet the “reasonably available” standard required by 1 CFR part 51. Therefore, the FAA did not change this AD as a result of this comment.

Request To Provide the Regulatory Evaluation

The Citizens Rulemaking Alliance requested that the FAA add to the AD docket the regulatory evaluation of the proposed AD and reopen the comment period for at least 60 days to allow for public input on the additional cost information.

The FAA’s practice is to add the regulatory evaluation of the proposed AD in the NPRM, not as a separate document in the AD docket.

In the Costs of Compliance section of the NPRM, the FAA disclosed the estimated number of work hours, the number of helicopters affected on the U.S. registry (which has been updated in this final rule), estimated parts cost, and the aggregate costs for the U.S. fleet. The FAA has revised the Costs of Compliance section to clarify costs of this AD. Since the FAA provided the regulatory evaluation in the NPRM, and the commenter did not provide additional information for the FAA to consider in its analysis, it is not necessary to reopen the comment period or provide additional information in the AD docket.

Conclusion

These products have been approved by the civil aviation authority of another country and are approved for operation in the United States. Pursuant to the FAA’s bilateral agreement with this State of Design Authority, that authority

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

Material Incorporated by Reference Under 1 CFR Part 51

The FAA reviewed EASA AD 2024–0004, which specifies procedures for

repetitive inspections of STA 1815 for cracking; fluorescent liquid penetrant inspections of any cracking to determine the extent of the cracking, or other damage, such as deformation or corrosion; and modifying the affected area by reinforcing the fuselage, which provides terminating action for the repetitive inspections. This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the ADDRESSES section.

Costs of Compliance

The FAA estimates that this AD affects 81 helicopters of U.S. Registry.

The FAA estimates that operators will incur an annual inspection cost of \$1,394 (\$510 per inspection cycle) until they make the modification, and then they will incur a one-time modification cost of \$25,860 per helicopter (\$12,930 per fuselage side). Once an operator incurs a one-time modification cost, the operator will no longer incur inspection costs. The FAA does not estimate when operators would need to modify their helicopter.

ESTIMATED COMPLIANCE COSTS

Action	Labor costs	Parts cost	Cost per product	Total cost to U.S. operators
Inspection	Up to 6 work-hours × \$85 ¹ per hour = \$510 per inspection cycle.	\$0	\$1,394 annually ²	\$112,914 annually.
Modification	120 work-hours per fuselage side × \$85 per hour × 2 sides = \$20,400 (\$10,200 per side).	\$5,460 (\$2,730 per side)	\$25,860 one-time cost ..	\$2,094,660 one-time cost.

¹ The FAA estimated operators will incur \$85 in costs per labor hour, which is the weighted average fiscal year (FY) 2026 fully loaded wage of an aircraft mechanic (\$69.85) working 60% of the labor hours and a general and operations manager (\$108.15) working 40% of the labor hours. The FAA estimated these wages by taking the average of the FY 2024 Bureau of Labor Statistics (BLS) air transportation industry average wage for aircraft mechanics and general and operations managers (See: *Occupational Employment and Wage Statistics Query System*, BLS (May 2024), data.bls.gov/oes/); multiplying each wage by a fringe benefit factor of 1.42 (See: *Employer Cost for Employee Compensation—December 2024*, BLS (2024), bls.gov/news.release/archives/ecec_03142025.pdf); and adjusting these 2024 wages to 2026 dollars using an implicit Gross Domestic Product (GDP) Price Deflator of 2.8% (See: *Gross Domestic Product: Implicit Price Deflator*, FRED (2026) fred.stlouisfed.org/series/GDPDEF).

² The FAA estimates the average helicopter will need 2.73 annual inspections. A helicopter must be inspected every 100 hours in service, and the average general aviation or part 135 helicopter operated 273.3 hours in calendar year 2024 (See: *General Aviation and Part 135 Activity Surveys—CY 2024*, faa.gov/data_research/aviation_data_statistics/general_aviation/cy2024).

The FAA recognizes that operators might incur additional costs, such as helicopter downtime. However, the FAA cannot quantify these costs. According to the manufacturer, some of the costs of this AD may be covered under warranty, thereby reducing the cost impact on affected operators.

Authority for This Rulemaking

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

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

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

Regulatory Findings

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

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

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

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

- 2. The FAA amends § 39.13 by:
- a. Removing Airworthiness Directive 2021–23–04, Amendment 39–21802 (86 FR 68892, December 6, 2021); and
 - b. Adding the following new airworthiness directive:

2026–09–09 Leonardo S.p.A.: Amendment 39–23330; Docket No. FAA–2025–2556; Project Identifier MCAI–2024–00034–R.

(a) Effective Date

This airworthiness directive (AD) is effective June 17, 2026.

(b) Affected ADs

This AD replaces AD 2021–23–04, Amendment 39–21802 (86 FR 68892, December 6, 2021).

(c) Applicability

This AD applies to Leonardo S.p.A. Model A109E and A109S helicopters, certificated in any category, as identified in European Union Aviation Safety Agency (EASA) AD 2024–0004, dated January 5, 2024 (EASA AD 2024–0004).

(d) Subject

Joint Aircraft Service Component (JASC) Code 5300, Fuselage structure.

(e) Unsafe Condition

This AD was prompted by reports of cracking in the center fuselage frame assembly in the intersection of the lateral pylon and floor spar at station 1815 on the left- and right-hand sides and the subsequent development of a modification to that area to prevent cracking. The FAA is issuing this AD to address this cracking, which, if not addressed, could affect the structural integrity of the helicopter.

(f) Compliance

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

(g) Requirements

Except as specified in paragraphs (h) and (i) of this AD: Comply with all required actions and compliance times specified in, and in accordance with EASA AD 2024–0004.

(h) Exceptions to EASA AD 2024–0004

(1) Where EASA AD 2024–0004 requires compliance in terms of flight hours, this AD requires using hours time-in-service.

(2) Where EASA AD 2024–0004 refers to the effective date of EASA AD 2020–0256, this AD requires using the effective date of AD 2021–23–04, which is January 10, 2022.

(3) Where EASA AD 2024–0004 refers to its effective date and August 11, 2022 (the effective date of EASA AD 2022–0153, dated July 28, 2022), this AD requires using the effective date of this AD.

(4) Where paragraphs (3) and (4) of EASA AD 2024–0004 specify damage, for the purposes of this AD, damage includes, but is not limited to, corrosion or deformation.

(5) Where paragraph (5) of EASA AD 2024–0004 specifies contacting Leonardo for approved repair instructions and accomplishing those instructions accordingly, this AD requires that corrective action be done in accordance with a method approved by the Manager, International Validation Branch, FAA; or EASA; or Leonardo S.p.A. Helicopters' EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(6) Where paragraph (7) of EASA AD 2024–0004 specifies “the initial inspection”, for

this AD, replace that text with “any inspection”.

(7) Where paragraph (8) of EASA AD 2024–0004 allows credit for repairs accomplished in accordance with the applicable Leonardo approved repair instructions, this AD does not allow that credit.

(8) Where the material referenced in EASA AD 2024–0004 specifies discarding parts, this AD requires removing those parts from service.

(9) This AD does not adopt the “Remarks” section of EASA AD 2024–0004.

(i) No Reporting Requirement

Although the service material referenced in EASA AD 2024–0004 specifies submitting certain information to the manufacturer, this AD does not include that action.

(j) Special Flight Permits

Special flight permits are prohibited.

(k) Alternative Methods of Compliance (AMOCs)

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

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

(l) Additional Information

For more information about this AD, contact Jacob Fitch, Aviation Safety Engineer, FAA, 1600 Stewart Avenue., Suite 410, Westbury, NY 11590; phone: (817) 222–4130; email: jacob.fitch@faa.gov.

(m) Material Incorporated by Reference

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

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

(i) European Union Aviation Safety Agency (EASA) AD 2024–0004, dated January 5, 2024.

(ii) [Reserved]

(3) For EASA material identified in this AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; phone: +49 221 8999 000; email: ADs@easa.europa.eu; website: easa.europa.eu. You may find the EASA material on the EASA website at ad.easa.europa.eu.

(4) You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 10101 Hillwood Parkway, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call (817) 222–5110.

(5) You may view this material at the National Archives and Records

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

Issued on May 7, 2026.

Steven W. Thompson,

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

[FR Doc. 2026–09516 Filed 5–12–26; 8:45 am]

BILLING CODE 4910–13–P

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

[Docket No. FAA–2026–0730; Project Identifier MCAI–2025–01416–R; Amendment 39–23329; AD 2026–09–08]

RIN 2120–AA64

Airworthiness Directives; Airbus Helicopters Deutschland GmbH (AHD) Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all Airbus Helicopters Deutschland GmbH (AHD) Model MBB–BK 117 C–2 and MBB–BK 117 D–2 helicopters. This AD was prompted by a determination that a certain part-numbered standard MS18027 type hook may be subject to localized yielding in the mating threads when assembled to higher assembly torques. This AD requires modifying and re-identifying the affected part or replacing the affected part with a serviceable part. This AD also prohibits installing an affected part on any helicopter unless certain requirements are met. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective June 17, 2026.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of June 17, 2026.

ADDRESSES:

AD Docket: You may examine the AD docket at regulations.gov under Docket No. FAA–2026–0730; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The address for Docket Operations is U.S. Department of

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

Material Incorporated by Reference:

- For European Union Aviation Safety Agency (EASA) material identified in this AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; phone: +49 221 8999 000; email: ADs@easa.europa.eu; website: easa.europa.eu. You may find the EASA material on the EASA website at ad.easa.europa.eu.

- You may view this material at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Parkway, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call (817) 222-5110. It is also available at regulations.gov under Docket No. FAA-2026-0730.

FOR FURTHER INFORMATION CONTACT:

Steven Warwick, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: (817) 222-5225; email: steven.r.warwick@faa.gov.

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to all Airbus Helicopters Deutschland GmbH (AHD) Model MBB-BK 117 C-2 and MBB-BK 117 D-2 helicopters. The NPRM was published in the **Federal Register** on January 26, 2026 (91 FR 3092). The NPRM was prompted by EASA AD 2025-0188, dated September 1, 2025, issued by EASA, which is the Technical Agent for the Member States of the European

Union (EASA AD 2025-0188) (also referred to as the MCAI). The MCAI states that the standard MS18027 hook part number (P/N) 42305-283 installed on the large hook damper assembly, P/N 44307-480, may be subject to localized yielding in the mating threads when assembled to higher assembly torques.

In the NPRM, the FAA proposed to require modifying and re-identifying the affected part or replacing the affected part with a serviceable part. The FAA also proposed to prohibit installing an affected part on any helicopter unless certain requirements are met.

The FAA is issuing this AD to prevent failure of the hook. The unsafe condition, if not addressed, could result in failure of the large hook damper assembly, which could result in loss of the hoist load and injury to persons.

You may examine the MCAI in the AD docket at regulations.gov under Docket No. FAA-2026-0730.

Discussion of Final Airworthiness Directive

Comments

The FAA received no comments on the NPRM or on the determination of the costs.

Conclusion

These products have been approved by the civil aviation authority of another country and are approved for operation in the United States. Pursuant to the FAA's bilateral agreement with this State of Design Authority, that authority has notified the FAA of the unsafe condition described in the MCAI referenced above. The FAA reviewed the relevant data and determined that air safety requires adopting this AD as

proposed. Accordingly, the FAA is issuing this AD to address the unsafe condition on these products. Except for minor editorial changes, this AD is adopted as proposed in the NPRM. None of the changes will increase the economic burden on any operator.

Material Incorporated by Reference Under 1 CFR Part 51

The FAA reviewed EASA AD 2025-0188, which specifies procedures for modifying the large hook damper assembly having P/N 44307-480 by replacing the standard MS18027 hook P/N 42305-283 with D-Lok hook P/N 42315-488 and reidentifying the large hook damper assembly to P/N 44307-480-1.

EASA AD 2025-0188 also specifies procedures for replacing large hook damper assembly P/N 44307-480 with large hook damper assembly P/N 44307-480-1 (modification already accomplished) as an alternative to the initial modification requirement. EASA AD 2025-0188 also prohibits installing an affected large hook damper assembly having P/N 44307-480 on any helicopter unless certain requirements are met within 12 months of the effective date of this AD and prohibits installing the affected part on any helicopter.

This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

The FAA estimates that this AD affects 183 helicopters of U.S. registry.

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

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Modify hook and reidentify large hook damper assembly.	1 work-hour × \$85 per hour = \$85	\$3,545	\$3,630	\$664,290

The FAA estimates the following cost to do any replacement that would be an

alternative method of compliance. The agency has no way of determining the

number of helicopters that might choose this replacement:

ALTERNATIVE METHOD COSTS

Action	Labor cost	Parts cost	Cost per product
Replace large hook damper assembly	1 work-hour × \$85 per hour = \$85	\$23,867	\$23,952

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2026–09–08 Airbus Helicopters Deutschland GmbH (AHD): Amendment 39–23329; Docket No. FAA–2026–0730; Project Identifier MCAI–2025–01416–R.

(a) Effective Date

This airworthiness directive (AD) is effective June 17, 2026.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all Airbus Helicopters Deutschland GmbH (AHD) Model MBB–BK 117 C–2 and MBB–BK 117 D–2 helicopters, certificated in any category.

(d) Subject

Joint Aircraft System Component (JASC) Code 2500, Cabin Equipment/Furnishings.

(e) Unsafe Condition

This AD was prompted by the determination that the standard MS18027 type hook may be subject to localized yielding in the mating threads when assembled to higher assembly torques. The FAA is issuing this AD to prevent failure of the hook. The unsafe condition, if not addressed, could result in failure of the large hook damper assembly, which could result in loss of the hoist load and injury to persons.

(f) Compliance

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

(g) Required Actions

Except as specified in paragraphs (h) and (i) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, European Union Aviation Safety Agency AD 2025–0188, dated September 1, 2025 (EASA AD 2025–0188).

(h) Exceptions to EASA AD 2025–0188

(1) Where EASA AD 2025–0188 refers to its effective date, this AD requires using the effective date of this AD.

(2) Where the material referenced in EASA AD 2025–0188 specifies "discard", this AD requires replacing that text with "remove from service".

(3) Where the material referenced in EASA AD 2025–0188 specifies "check", this AD requires replacing that text with "inspect".

(4) Where the material referenced in EASA AD 2025–0188 specifies "if necessary clean the surface", this AD requires replacing that text with "clean the surface".

(5) This AD does not adopt the "Remarks" section of EASA AD 2025–0188.

(i) No Reporting Requirement

Although the material referenced in EASA AD 2025–0188 specifies to submit information to the manufacturer, this AD does not require those actions.

(j) Special Flight Permits

Special flight permits may be issued in accordance with 14 CFR 21.197 and 21.199 to operate the helicopter to a location where the actions of this AD can be accomplished provided that no external load is carried.

(k) Alternative Methods of Compliance (AMOCs)

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

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

(l) Additional Information

For more information about this AD, contact Steven Warwick, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: (817) 222–5225; email: steven.r.warwick@faa.gov.

(m) Material Incorporated by Reference

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

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

(i) European Union Aviation Safety Agency (EASA) AD 2025–0188, dated September 1, 2025.

(ii) [Reserved]

(3) For EASA material identified in this AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; phone: +49 221 8999 000; email: ADS@easa.europa.eu; website: easa.europa.eu. You may find the EASA material on the EASA website at ad.easa.europa.eu.

(4) You may view this material at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Parkway, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call (817) 222–5110.

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

Issued on April 28, 2026.

Steven W. Thompson,

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

[FR Doc. 2026–09521 Filed 5–12–26; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Part 97**

[Docket No. 31663; Amdt. No. 4217]

Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures; Miscellaneous Amendments**AGENCY:** Federal Aviation Administration (FAA), DOT.**ACTION:** Final rule.

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

DATES: This rule is effective May 13, 2026. The compliance date for each SIAP, associated Takeoff Minimums, and ODP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of May 13, 2026.

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

For Examination

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

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

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

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

Availability

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

FOR FURTHER INFORMATION CONTACT: Gary W. Petty, Manager (Acting), Standards Section, Flight Procedures and Airspace Group, Aviation Safety, Federal Aviation Administration. Mailing Address: FAA Mike Monroney Aeronautical Center, Flight Procedures and Airspace Group, 6500 South MacArthur Blvd., STB Annex, Bldg. 26, Room 217, Oklahoma City, OK 73099. Telephone (405) 954-1139.

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

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

Availability and Summary of Material Incorporated by Reference

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

The material incorporated by reference describes SIAPs, Takeoff Minimums and/or ODPs as identified in

the amendatory language for part 97 of this final rule.

The Rule

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

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

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

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

Lists of Subjects in 14 CFR Part 97

Air Traffic Control, Airports, Incorporation by reference, Navigation (air).

Issued in Washington, DC, on May 8, 2026.

Gary W. Petty,

Manager (Acting), Standards Section, Flight Procedures and Airspace Group, Flight Technologies & Procedures Division, Federal Aviation Administration.

Adoption of the Amendment

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

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

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

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

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

Effective 11 June 2026

Marysville, CA, MYV, RNAV (GPS) RWY 14, Orig-E
Marysville, CA, MYV, RNAV (GPS) RWY 32, Orig-E
Dubuque, IA, DBQ, RNAV (GPS) RWY 31, Orig-C
Pontiac, MI, PTK, RNAV (GPS) RWY 9R, Orig-C

Effective 9 July 2026

Honolulu, HI, HNL/PHNL, ILS RWY 8L, Amdt 26
Honolulu, HI, HNL/PHNL, LOC RWY 8L, Amdt 3
Honolulu, HI, HNL/PHNL, RNAV (GPS) Y RWY 4R, Amdt 3B
Honolulu, HI, HNL/PHNL, RNAV (RNP) Z RWY 8L, Amdt 4A
Honolulu, HI, HNL/PHNL, VOR OR TACAN RWY 8R, Orig
Honolulu, HI, HNL/PHNL, VOR OR TACAN—A, Amdt 2
Maquoketa, IA, OQW, RNAV (GPS) RWY 15, Amdt 2
Maquoketa, IA, OQW, RNAV (GPS) RWY 33, Amdt 1B
Maquoketa, IA, OQW, Takeoff Minimums and Obstacle DP, Amdt 2
Ottumwa, IA, OTM, RNAV (GPS) RWY 4, Orig
Ottumwa, IA, OTM, RNAV (GPS) RWY 22, Orig
Ottumwa, IA, OTM, Takeoff Minimums and Obstacle DP, Amdt 2
Benton, KS, 1K1, RNAV (GPS) RWY 17, Amdt 1
Benton, KS, 1K1, Takeoff Minimums and Obstacle DP, Amdt 1
Bedford, MA, BED, RNAV (GPS) RWY 29, Amdt 1
Grand Rapids, MI, GRR, ILS OR LOC RWY 8R, Amdt 7

Charlotte, NC, CLT, ILS OR LOC RWY 1R, ILS RWY 1R (CAT II), ILS RWY 1R (CAT III), Orig
Charlotte, NC, CLT, ILS OR LOC RWY 18C, Amdt 11, CANCELED
Charlotte, NC, CLT, ILS OR LOC RWY 19L, Orig
Charlotte, NC, CLT, ILS OR LOC RWY 36C, ILS RWY 36C (CAT II), ILS RWY 36C (CAT III), Amdt 17, CANCELED
Charlotte, NC, CLT, RNAV (GPS) Y RWY 1R, Orig
Charlotte, NC, CLT, RNAV (GPS) Y RWY 18C, Amdt 4, CANCELED
Charlotte, NC, CLT, RNAV (GPS) Y RWY 19L, Orig
Charlotte, NC, CLT, RNAV (GPS) Y RWY 36C, Amdt 3F, CANCELED
Charlotte, NC, CLT, RNAV (RNP) Z RWY 1R, Orig
Charlotte, NC, CLT, RNAV (RNP) Z RWY 18C, Amdt 1, CANCELED
Charlotte, NC, CLT, RNAV (RNP) Z RWY 19L, Orig
Charlotte, NC, CLT, RNAV (RNP) Z RWY 36C, Orig-G, CANCELED
Charlotte, NC, CLT, Takeoff Minimums and Obstacle DP, Amdt 9A
Princeton/Rocky Hill, NJ, 39N, RNAV (GPS) RWY 10, Amdt 3
Princeton/Rocky Hill, NJ, 39N, RNAV (GPS) RWY 28, Amdt 1
Princeton/Rocky Hill, NJ, 39N, VOR—A, Amdt 8
Harrisburg, PA, CXY, ILS OR LOC RWY 8, Amdt 13
Harrisburg, PA, CXY, RNAV (GPS) RWY 8, Amdt 2
Clark, SD, 8D7, Takeoff Minimums and Obstacle DP, Amdt 1
Warrenton, VA, HWY, LOC RWY 15, Orig-C
[FR Doc. 2026–09487 Filed 5–12–26; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 31664; Amdt. No. 4218]

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

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule amends, suspends, or removes Standard Instrument Approach Procedures (SIAPs) and associated Takeoff Minimums and Obstacle Departure Procedures for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, adding new obstacles, or

changing air traffic requirements. These changes are designed to provide for the safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: This rule is effective May 13, 2026. The compliance date for each SIAP, associated Takeoff Minimums, and ODP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of May 13, 2026.

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

For Examination

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

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

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

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

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

Availability

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

FOR FURTHER INFORMATION CONTACT: Gary W. Petty, Manager (Acting), Standards Section, Flight Procedures and Airspace Group, Aviation Safety, Federal Aviation Administration. Mailing Address: FAA Mike Monroney Aeronautical Center, Flight Procedures and Airspace Group, 6500 South MacArthur Blvd., STB Annex, Bldg. 26, Room 217, Oklahoma City, OK 73099. Telephone (405) 954–1139.

SUPPLEMENTARY INFORMATION: This rule amends 14 CFR part 97 by amending the referenced SIAPs. The complete regulatory description of each SIAP is listed on the appropriate FAA Form 8260, as modified by the National Flight Data Center (NFDC)/Permanent Notice

to Airmen (P–NOTAM), and is incorporated by reference under 5 U.S.C. 552(a), 1 CFR part 51, and 14 CFR 97.20. The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, pilots do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained on FAA form documents is unnecessary. This amendment provides the affected CFR sections, and specifies the SIAPs and Takeoff Minimums and ODPs with their applicable effective dates. This amendment also identifies the airport and its location, the procedure and the amendment number.

Availability and Summary of Material Incorporated by Reference

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

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

The Rule

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

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

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

Because of the close and immediate relationship between these SIAPs, Takeoff Minimums and ODPs, and safety in air commerce, I find that notice and public procedure under 5 U.S.C. 553(b) are impracticable and contrary to the public interest and, where applicable, under 5 U.S.C. 553(d), good cause exists for making these SIAPs effective in less than 30 days.

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

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

List of Subjects in 14 CFR Part 97

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

Issued in Washington, DC, May 8, 2026.

Gary W. Petty,

Manager (Acting), Standards Section, Flight Procedures and Airspace Group, Flight Technologies & Procedures Division, Federal Aviation Administration.

Adoption of the Amendment

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

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

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

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

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

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

* * * Effective Upon Publication

AIRAC date	State	City	Airport	FDC No.	FDC date	Procedure name
11–Jun–26 ...	KY	Lexington	Blue Grass	6/3418	3/5/2026	ILS OR LOC RWY 22, Amdt 21.
11–Jun–26 ...	OH	Youngstown/Warren	Youngstown/Warren Rgnl	6/5587	4/24/2026	ILS OR LOC RWY 32, Amdt 28A.
11–Jun–26 ...	OH	Youngstown/Warren	Youngstown/Warren Rgnl	6/5588	4/24/2026	ILS OR LOC RWY 14, Amdt 9.
11–Jun–26 ...	OH	Youngstown/Warren	Youngstown/Warren Rgnl	6/5589	4/24/2026	NDB RWY 32, Amdt 20D.
11–Jun–26 ...	OH	Youngstown/Warren	Youngstown/Warren Rgnl	6/5590	4/24/2026	RNAV (GPS) RWY 14, Amdt 1.
11–Jun–26 ...	OH	Youngstown/Warren	Youngstown/Warren Rgnl	6/5591	4/24/2026	RNAV (GPS) RWY 32, Amdt 1.
11–Jun–26 ...	OH	Youngstown/Warren	Youngstown/Warren Rgnl	6/7348	5/1/2026	RADAR–1, Amdt 15.

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

19 CFR Part 12

[CBP Dec. 26–06]

RIN 1685—AA42

Extension of Import Restrictions Imposed on Categories of Archaeological and Ethnological Material of Türkiye

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Final rule.

SUMMARY: This document amends U.S. Customs and Border Protection (CBP) regulations to reflect an extension of import restrictions on certain categories of archaeological and ethnological material of the Republic of Türkiye (Türkiye), which were originally imposed by CBP Decision Number 21–09. The CBP regulations are being amended to reflect this extension through March 24, 2031.

DATES: Effective on May 13, 2026.

FOR FURTHER INFORMATION CONTACT: For legal aspects, W. Richmond Beevers, Chief, Cargo Security, Carriers and Restricted Merchandise Branch, Regulations and Rulings, Office of Trade, (202) 325–0084, *ot-trrculturalproperty@cbp.dhs.gov*. For operational aspects, Christopher Mabelitini, Director, Intellectual Property Rights Policy & Programs, Trade Programs Directorate, Office of Trade, (571) 296–1269, *1USGBbranch@cbp.dhs.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

The Convention on Cultural Property Implementation Act (Pub. L. 97–446, 19 U.S.C. 2601 *et seq.*) (CPIA), which implements the 1970 United Nations Educational, Scientific and Cultural Organization (UNESCO) Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property (823 U.N.T.S. 231 (1972)) (the Convention), allows for the conclusion of an agreement between the United States and another party to the Convention to impose import restrictions on eligible archaeological and ethnological material. Under the CPIA and the applicable U.S. Customs and Border Protection (CBP) regulations, found in § 12.104 of title 19 of the Code of Federal Regulations (19 CFR 12.104), the restrictions are effective for no more

than five years beginning on the date on which an agreement enters into force with respect to the United States (19 U.S.C. 2602(b)). This period may be extended for additional periods, each extension not to exceed five years, if it is determined that the factors justifying the initial agreement still pertain and no cause for suspension of the agreement exists (19 U.S.C. 2602(e); 19 CFR 12.104g(a)).

On January 19, 2021, the United States and the Republic of Türkiye (Türkiye) entered into a Memorandum of Understanding entitled, “Memorandum of Understanding between the Government of the United States of America and the Government of the Republic of Turkey Concerning the Imposition of Import Restrictions on Categories of Archaeological and Ethnological Material of Turkey”¹ (the 2021 MOU). The 2021 MOU entered into force upon the exchange of diplomatic notes, on March 24, 2021, and reflects an agreement to impose import restrictions on categories of archaeological material, ranging in date from approximately 1,200,000 B.C. to A.D. 1770, and ethnological material, ranging in date from the 1st century A.D. to A.D. 1923, representing Türkiye’s cultural heritage.

On June 16, 2021, CBP published a final rule (CBP Decision (Dec.) Number 21–09) in the **Federal Register** (86 FR 31910), which amended 19 CFR 12.104g(a) to reflect the imposition of these restrictions, including a list designating the types of archaeological and ethnological material covered by the restrictions, for a five-year period ending on March 24, 2026. On August 7, 2025, the United States Department of State proposed in the **Federal Register** (90 FR 38194) to extend the 2021 MOU. On January 6, 2026, after considering the views and recommendations of the Cultural Property Advisory Committee, the Under Secretary for Public Diplomacy, United States Department of State, made the necessary determinations to extend the MOU for an additional five years. Pursuant to an exchange of diplomatic notes, which entered into force on May 5, 2026, the United States and Türkiye have agreed to extend the 2021 MOU for an additional five-year period, through March 24, 2031. However, in the absence of a final rule extending enforcement of the restrictions,

¹ On May 26, 2022, the Republic of Turkey changed its official name to the Republic of Türkiye in a request submitted to the United Nations’ Secretary-General by Türkiye’s Minister of Foreign Affairs. In January 2023, the United States Department of State adopted the official name change.

enforcement of these restrictions ended on March 24, 2026. Enforcement of the extension will begin upon publication of this document in the **Federal Register**.

Accordingly, CBP is amending 19 CFR 12.104g(a) to reflect the extension of the import restrictions. The restrictions on the importation of categories of archaeological and ethnological material of Türkiye will continue in effect until March 24, 2031. Importation of such material from Türkiye continues to be restricted until that date unless the conditions set forth in 19 U.S.C. 2606 and 19 CFR 12.104c are met.

The Designated List, which includes archaeological material from Türkiye ranging in date from approximately 1,200,000 B.C. to A.D. 1770, and ethnological material from Türkiye from the 1st century A.D. to the end of the Ottoman Empire with the foundation of the Republic of Türkiye in A.D. 1923, covered by these import restrictions is set forth in CBP Dec. 21–09. The Designated List and additional information may also be found at the following website address: <https://www.state.gov/current-agreements-and-import-restrictions> by selecting the materials for the appropriate country.

Inapplicability of Notice and Delayed Effective Date

This amendment involves a foreign affairs function of the United States and is, therefore, being made without notice or public procedure under 5 U.S.C. 553(a)(1). For the same reason, a delayed effective date is not required under 5 U.S.C. 553(d)(3).

Executive Order 12866

Executive Order 12866 (Regulatory Planning and Review) directs agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). CBP has determined that this document is not a regulation or rule subject to the provisions of Executive Order 12866 because it pertains to a foreign affairs function of the United States, as described above, and therefore is specifically exempted by section 3(d)(2) of Executive Order 12866.

Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, requires an agency to prepare and make available to the public a regulatory flexibility analysis

that describes the effect of a proposed rule on small entities (*i.e.*, small businesses, small organizations, and small governmental jurisdictions) when the agency is required to publish a general notice of proposed rulemaking for a rule. Since a general notice of proposed rulemaking is not necessary for this rule, CBP is not required to prepare a regulatory flexibility analysis for this rule.

Signing Authority

In accordance with Treasury Order 100–20, the Secretary of the Treasury has delegated to the Secretary of Homeland Security the authority related to the customs revenue functions vested in the Secretary of the Treasury as set forth in 6 U.S.C. 212 and 215, subject to certain exceptions. This regulation is being issued in accordance with Department of Homeland Security Delegation 07010.3, Revision 03.2,

which delegates to the Commissioner of CBP the authority to prescribe and approve regulations related to cultural property import restrictions.

Rodney S. Scott, Commissioner, having reviewed and approved this document, has delegated the authority to electronically sign this document to the Director of the Regulations and Disclosure Law Division of CBP, for purposes of publication in the **Federal Register**.

List of Subjects in 19 CFR Part 12

Cultural property, Customs duties and inspection, Imports, Prohibited merchandise, and Reporting and recordkeeping requirements.

Amendment to the CBP Regulations

For the reasons set forth above, part 12 of title 19 of the Code of Federal Regulations (19 CFR part 12), is amended as set forth below:

PART 12—SPECIAL CLASSES OF MERCHANDISE

■ 1. The general authority citation for part 12 and the specific authority citation for § 12.104g continue to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States (HTSUS)), 1624;

* * * * *

Sections 12.104 through 12.104i also issued under 19 U.S.C. 2612;

* * * * *

■ 2. In § 12.104g, amend the table in paragraph (a) by removing the entry for Turkey and adding in its place the entry for Türkiye to read as follows:

§ 12.104g Specific items or categories designated by agreements or emergency actions.

(a) * * *

State party	Cultural property	Decision No.
Türkiye	Archaeological material representing Türkiye's cultural heritage ranging from approximately 1,200,000 B.C. to A.D. 1770, and ethnological material ranging from the 1st century A.D. to A.D. 1923.	CBP Dec. 21–09 extended by CBP Dec. 26–06.

* * * * *

Robert F. Altneu,

Director, Regulations and Disclosure Law Division, Regulations and Rulings, Office of Trade, U.S. Customs and Border Protection.

[FR Doc. 2026–09575 Filed 5–12–26; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1308

[Docket No. DEA–1511]

Schedules of Controlled Substances: Placement of CUMYL-PEGACLONE in Schedule I

AGENCY: Drug Enforcement Administration, Department of Justice.

ACTION: Final rule.

SUMMARY: With the issuance of this final rule, the Drug Enforcement Administration places 5-pentyl-2-(2-phenylpropan-2-yl)pyrido[4,3-b]indol-1-one (other names: CUMYL-PEGACLONE; SGT–151), including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible,

in schedule I of the Controlled Substances Act. This action is being taken, in part, to enable the United States to meet its obligations under the 1971 Convention on Psychotropic Substances. This action imposes regulatory controls and administrative, civil, and criminal sanctions applicable to schedule I controlled substances on persons who handle (manufacture, distribute, reverse distribute, import, export, engage in research, conduct instructional activities or chemical analysis with, or possess) or propose to handle CUMYL-PEGACLONE.

DATES: *Effective date:* May 13, 2026.

FOR FURTHER INFORMATION CONTACT: Dr. Terrence L. Boos, Drug and Chemical Evaluation Section, Diversion Control Division, Drug Enforcement Administration; Telephone: (571) 362–3249.

SUPPLEMENTARY INFORMATION: In this final rule, the Drug Enforcement Administration (DEA) permanently places CUMYL-PEGACLONE and its salts, isomers, and salts of isomers, whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation, in schedule I of the Controlled Substances Act (CSA).

Legal Authority

The United States is a party to the 1971 United Nations Convention on Psychotropic Substances (1971 Convention), Feb. 21, 1971, 32 U.S.T. 543, 1019 U.N.T.S. 175, as amended. Procedures respecting changes in drug schedules under the 1971 Convention are governed domestically by 21 U.S.C. 811(d)(2)–(4). When the United States receives notification of a scheduling decision pursuant to Article 2 of the 1971 Convention indicating that a drug or other substance has been added to a schedule specified in the notification, the Secretary of Health and Human Services (Secretary),¹ after consultation with the Attorney General, shall first determine whether existing legal controls under subchapter I of the CSA and the Federal Food, Drug, and Cosmetic Act meet the requirements of the schedule specified in the notification with respect to the specific

¹ As discussed in a memorandum of understanding entered into by the FDA and the National Institute on Drug Abuse (NIDA), FDA acts as the lead agency within HHS in carrying out the Secretary's scheduling responsibilities under the CSA, with the concurrence of NIDA. 50 FR 9518 (Mar. 8, 1985). The Secretary has delegated to the Assistant Secretary for Health of HHS the authority to make domestic drug scheduling recommendations. 58 FR 35460 (July 1, 1993).

drug or substance.² In the event that the Secretary did not consult with the Attorney General, and the Attorney General did not issue a temporary order, as provided under 21 U.S.C. 811(d)(4), the procedures for permanent scheduling set forth in 21 U.S.C. 811(a) and (b) control.

Pursuant to 21 U.S.C. 811(a)(1) and (2), the Attorney General (as delegated to the Administrator of the DEA pursuant to 28 CFR 0.100) may, by rule, and upon the recommendation of the Secretary, add to such a schedule or transfer between such schedules any drug or other substance, if she finds that such drug or other substance has a potential for abuse, and makes with respect to such drug or other substance the findings prescribed by 21 U.S.C. 812(b) for the schedule in which such drug or other substance is to be placed.

Background

The neurochemical effects of CUMYL-PEGACLONE occur primarily through cannabinoid receptor systems in the brain. CUMYL-PEGACLONE binds to cannabinoid subtype 1 (CB1) receptors, functions as a full agonist, and has a binding affinity and functional activity profile that is similar to that of other schedule I cannabinoids, including Δ9-THC, JWH-018, XLR11, and AKB-48. On June 10, 2021, the Secretary-General of the United Nations advised the Secretary of State of the United States that the Commission on Narcotic Drugs voted to place CUMYL-PEGACLONE in Schedule II of the 1971 Convention during its 64th Session held on April 14, 2021.

As a signatory to this international treaty, the United States is required, by scheduling under the CSA, to place appropriate controls on CUMYL-PEGACLONE to meet the minimum requirements of the treaty. Because the procedures in 21 U.S.C. 811(d)(3) and (4) for consultation and issuance of a temporary order, discussed in the above legal authority section, were not followed for CUMYL-PEGACLONE, DEA is utilizing the procedures for permanent scheduling set forth in 21 U.S.C. 811(a) and (b) to control CUMYL-PEGACLONE. Such scheduling would satisfy the United States' international obligations.

To meet the minimum requirements of this treaty and to confront this emerging substance, DEA published an order in the **Federal Register** on December 12, 2023, temporarily placing CUMYL-PEGACLONE in schedule I of the CSA based upon a finding that this substance poses an imminent hazard to

the public safety under 21 U.S.C. 811(h)(1).³ That temporary order was effective upon the date of publication. On December 11, 2025, DEA published a temporary scheduling order to extend the temporary schedule I status of CUMYL-PEGACLONE for one year, or until the permanent scheduling action for this substance is completed, whichever occurs first.⁴

DEA and HHS Eight-Factor Analyses

In a letter dated December 11, 2024, in accordance with 21 U.S.C. 811(b), and in response to DEA's June 12, 2023 request, the Department of Health and Human Services (HHS) provided to DEA a scientific and medical evaluation and scheduling recommendation for CUMYL-PEGACLONE. DEA reviewed the scientific and medical evaluation and scheduling recommendation for schedule I placement provided by HHS, and all other relevant data, pursuant to 21 U.S.C. 811(b) and (c), and conducted its own analysis under the eight factors stipulated in 21 U.S.C. 811(c). DEA found, under 21 U.S.C. 811(b)(1), that CUMYL-PEGACLONE warrants control in schedule I. Both the DEA and HHS's Eight-Factor Analyses are available in their entirety under the tab Supporting Documents of the public docket for this action at <https://www.regulations.gov> under docket number DEA-1356.

Notice of Proposed Rulemaking To Schedule CUMYL-PEGACLONE

On December 11, 2025, DEA published a notice of proposed rulemaking (NPRM) to permanently control CUMYL-PEGACLONE in schedule I.⁵ Specifically, DEA proposed to add CUMYL-PEGACLONE to the list of hallucinogenic substances under 21 CFR 1308.11(d). The NPRM provided an opportunity for interested persons to file a request for hearing in accordance with DEA regulations on or before January 12, 2026. DEA did not receive any requests for a hearing. The NPRM also provided an opportunity for interested persons to submit comments on or before January 12, 2026.

Comments Received

DEA received one comment in response to the NPRM in support of the

rulemaking for the placement of CUMYL-PEGACLONE into schedule I of the CSA.

Comment in support of the rulemaking: One comment was in support of the rulemaking. The response specifically noted the serious adverse effects following the ingestion of CUMYL-PEGACLONE and described how this rule will help to decrease the availability of CUMYL-PEGACLONE to the general public to decrease dependence and addiction to this substance.

DEA Response: DEA appreciates the comment in support of this rulemaking.

Scheduling Conclusion

After consideration of the public comment, scientific and medical evaluation and accompanying scheduling recommendation from HHS, and after its own eight-factor evaluation, DEA finds that these facts and all relevant data constitute substantial evidence of potential for abuse of CUMYL-PEGACLONE. As such, DEA is permanently scheduling CUMYL-PEGACLONE as a controlled substance under schedule I of the CSA. The permanent scheduling of CUMYL-PEGACLONE fulfills the United States' obligations as a party to the 1971 Convention.

Determination of Appropriate Schedule

The CSA establishes five schedules of controlled substances known as schedules I, II, III, IV, and V. The CSA also specifies the findings required to place a drug or other substance in any particular schedule, 21 U.S.C. 812(b). After consideration of the analysis and recommendation of the then Assistant Secretary for Health of HHS and review of all other available data, the Administrator of DEA, pursuant to 21 U.S.C. 812(b)(1), finds that:

(1) CUMYL-PEGACLONE has a high potential for abuse that is comparable to other scheduled synthetic cannabinoids, such as JWH-018, XLR11, and ABKB-48. In vitro studies demonstrate that CUMYL-PEGACLONE binds to CB1 receptors and functions as a full agonist. In drug discrimination studies conducted in animals to evaluate its discriminative stimulus effects, CUMYL-PEGACLONE was shown to fully substitute for the discriminative stimulus effects produced by delta 9-THC. The ingestion of CUMYL-PEGACLONE has been documented to result in serious adverse effects including seizures, sudden collapse of the user, and death.

(2) CUMYL-PEGACLONE has no currently accepted medical use in treatment in the United States. In HHS's

³ *Schedules of Controlled Substances: Temporary Placement of MDMB-4en-PINACA, 4F-MDMB-BUTICA, ADB-4en-PINACA, CUMYL-PEGACLONE, 5F-EDMB-PICA, and MMB-FUBICA into Schedule I*, 88 FR 86040 (Dec. 12, 2023).

⁴ *Schedules of Controlled Substances: Extension of Temporary Placement of CUMYL-PEGACLONE in Schedule I of the Controlled Substances Act*, 90 FR 57542 (Dec. 11, 2025).

⁵ *Schedules of Controlled Substances: Placement of CUMYL-PEGACLONE in Schedule I*, 90 FR 57534 (Dec. 11, 2025).

² 21 U.S.C. 811(d)(3).

2024 recommendation to control CUMYL-PEGACLONE, it was noted there are no approved New Drug Applications for CUMYL-PEGACLONE and no known therapeutic applications for CUMYL-PEGACLONE in the United States. DEA is not aware of any other evidence suggesting that CUMYL-PEGACLONE has a currently accepted medical use in treatment in the United States.⁶

(3) There is a lack of accepted safety for use of CUMYL-PEGACLONE under medical supervision. Because CUMYL-PEGACLONE has no approved medical use and has not been investigated as a new drug, its safety for use under medical supervision has not been determined.

Based on these findings, the Administrator of DEA concludes that CUMYL-PEGACLONE, as well as its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible, warrants control in schedule I of the CSA.

⁶ To place a drug or other substance in schedule I under the CSA, DEA must consider whether the substance has a currently accepted medical use in treatment in the United States. 21 U.S.C. 812(b)(1)(B). First, DEA looks to whether the drug or substance has FDA approval. When no FDA approval exists, DEA has traditionally applied a five-part test to a drug or substance that has not been approved by the FDA: (1) The drug's chemistry must be known and reproducible; (2) there must be adequate safety studies; (3) there must be adequate and well-controlled studies proving efficacy; (4) the drug must be accepted by qualified experts; and (5) the scientific evidence must be widely available. See *Marijuana Scheduling Petition; Denial of Petition; Remand*, 57 FR 10499 (Mar. 26, 1992), *pet. for rev. denied*, *Alliance for Cannabis Therapeutics v. Drug Enforcement Admin.*, 15 F.3d 1131, 1135 (D.C. Cir. 1994). DEA and HHS applied the traditional five-part test for currently accepted medical use in this matter and concluded the test was not satisfied. In a recent published letter in a different context, HHS applied an additional two-part test to determine currently accepted medical use for substances that do not satisfy the five-part test: (1) whether there exists widespread, current experience with medical use of the substance by licensed health care practitioners operating in accordance with implemented jurisdiction-authorized programs, where medical use is recognized by entities that regulate the practice of medicine, and, if so, (2) whether there exists some credible scientific support for at least one of the medical conditions for which part (1) is satisfied. On April 11, 2024, the Department of Justice's Office of Legal Counsel (OLC) issued an opinion, which, among other things, concluded that HHS's two-part test would be sufficient to establish that a drug has a currently accepted medical use. Office of Legal Counsel, Memorandum for Merrick B. Garland Attorney General Re: Questions Related to the Potential Rescheduling of Marijuana at 3 (April 11, 2024). For purposes of this final rule, there is no evidence that health care providers have widespread experience with medical use of CUMYL-PEGACLONE, or that the use of CUMYL-PEGACLONE is recognized by entities that regulate the practice of medicine, so the two-part test also is not satisfied.

Requirements for Handling CUMYL-PEGACLONE

CUMYL-PEGACLONE is subject to the CSA's schedule I regulatory controls and administrative, civil, and criminal sanctions applicable to the manufacture, distribution, reverse distribution, import, export, engagement in research, conduct instructional activities or chemical analysis with, and possession of schedule I controlled substances, including the following:

1. *Registration.* Any person who handles (manufactures, distributes, reverse distributes, imports, exports, engages in research, or conducts instructional activities or chemical analysis with, or possesses), or who desires to handle, CUMYL-PEGACLONE must register with DEA to conduct such activities pursuant to 21 U.S.C. 822, 823, 957, and 958, and in accordance with 21 CFR parts 1301 and 1312.

Any person who currently handles CUMYL-PEGACLONE and is not registered with DEA to conduct research with a schedule I controlled substance must submit an application for registration and may not continue to handle CUMYL-PEGACLONE as of May 13, 2026, unless DEA has approved that application for registration pursuant to 21 U.S.C. 822, 823, 957, and 958, and in accordance with 21 CFR parts 1301 and 1312.

Notwithstanding the foregoing, pursuant to 21 U.S.C. 822(h), if, on May 13, 2026, a person is conducting research on CUMYL-PEGACLONE and is already registered to conduct research with another controlled substance in schedule I, the person may continue to conduct research on CUMYL-PEGACLONE if they submit a completed application for registration or modification of existing registration, as applicable, to conduct research with CUMYL-PEGACLONE not later than 90 calendar days after May 13, 2026. The person may continue to conduct such research until the person withdraws the application or the Administrator serves on the person an order to show cause proposing denial of the application pursuant to 21 U.S.C. 824(c) and in accordance with 21 CFR 1301.37. If the Administrator serves an order to show cause proposing denial of the application or modification, the person may not continue to conduct research with CUMYL-PEGACLONE and may not receive or otherwise obtain additional CUMYL-PEGACLONE. If an order to show cause is served and the person requests a hearing in accordance with 21 CFR 1301.37(d), the hearing shall be held in accordance with 21 CFR 1301.41–1301.46 on an expedited basis

and not later than 45 calendar days after the request is made, except that the hearing may be held at a later time if so requested by the person. If the person sends a copy of the application to a manufacturer or distributor of CUMYL-PEGACLONE, receipt of the copy by the manufacturer or distributor constitutes sufficient evidence that the person is authorized to receive CUMYL-PEGACLONE pursuant to 21 U.S.C. 822(h)(4). Continuation of research under 21 U.S.C. 822(h) does not authorize any other handling (e.g., distribution) of CUMYL-PEGACLONE. Retail sales of schedule I controlled substances to the general public are not allowed under the CSA. Possession of any quantity in a manner not authorized by the CSA is unlawful and those in possession of any quantity may be subject to prosecution pursuant to the CSA.

2. *Disposal of stocks.* Any person unwilling or unable to obtain a schedule I registration must surrender or transfer all quantities of currently held CUMYL-PEGACLONE to a person registered with DEA before the effective date of the final scheduling action in accordance with all applicable Federal, State, local, and Tribal laws. CUMYL-PEGACLONE must be disposed of in accordance with 21 CFR part 1317, in addition to all other applicable Federal, State, local, and Tribal laws.

3. *Security.* CUMYL-PEGACLONE is subject to schedule I security requirements and must be handled and stored pursuant to 21 U.S.C. 823, and in accordance with 21 CFR 1301.71–1301.76. Non-practitioners handling CUMYL-PEGACLONE must comply with the employee screening requirements of 21 CFR 1301.90 through 1301.93.

4. *Labeling and Packaging.* All labels, labeling, and packaging for commercial containers of CUMYL-PEGACLONE must comply with 21 U.S.C. 825 and be in accordance with 21 CFR part 1302.

5. *Quota.* Generally, only registered manufacturers are permitted to manufacture CUMYL-PEGACLONE in accordance with a quota assigned pursuant to 21 U.S.C. 826, and in accordance with 21 CFR part 1303.

6. *Inventory.* Every DEA registrant who possesses any quantity of CUMYL-PEGACLONE must take an inventory of CUMYL-PEGACLONE on hand, pursuant to 21 U.S.C. 827 and in accordance with 21 CFR 1304.03, 1304.04, and 1304.11(a) and (d).

Any person who registers with DEA must take an initial inventory of all stocks of controlled substances (including CUMYL-PEGACLONE) on

hand on the date the registrant first engages in the handling of controlled substances, pursuant to 21 U.S.C. 827 and in accordance with 21 CFR 1304.03, 1304.04, and 1304.11(a) and (b).

After the initial inventory, every DEA registrant must take an inventory of all controlled substances (including CUMYL-PEGACLONE) on hand every two years, pursuant to 21 U.S.C. 827 and in accordance with 21 CFR 1304.03, 1304.04, and 1304.11.

7. *Records and Reports.* Every DEA registrant must maintain records and submit reports for CUMYL-PEGACLONE, or products containing CUMYL-PEGACLONE, pursuant to 21 U.S.C. 827 and in accordance with 21 CFR 1301.74(b) and (c), 1301.76(b), and parts 1304, 1312 and 1317. Manufacturers and distributors must submit reports regarding CUMYL-PEGACLONE to the Automation of Reports and Consolidated Order System pursuant to 21 U.S.C. 827 and in accordance with 21 CFR parts 1304 and 1312.

8. *Order Forms.* Every DEA registrant who distributes CUMYL-PEGACLONE must comply with the order form requirements, pursuant to 21 U.S.C. 828 and 21 CFR part 1305.

9. *Importation and Exportation.* All importation and exportation of CUMYL-PEGACLONE must comply with 21 U.S.C. 952, 953, 957, and 958, and in accordance with 21 CFR parts 1304 and 1312.

10. *Liability.* Any activity involving CUMYL-PEGACLONE not authorized by, or in violation of, the CSA or its implementing regulations, is unlawful, and may subject the person to administrative, civil, and/or criminal sanctions.

Regulatory Analyses

Executive Orders 12866, 13563, 14192, and 14294

In accordance with 21 U.S.C. 811(a), this final scheduling action is subject to formal rulemaking procedures performed “on the record after opportunity for a hearing,” which are conducted pursuant to the provisions of 5 U.S.C. 556 and 557. The CSA sets forth the procedures and criteria for scheduling a drug or other substance. Such actions are exempt from review by the Office of Management and Budget (OMB) pursuant to section 3(d)(1) of Executive Order (E.O.) 12866 and the principles reaffirmed in E.O. 13563. DEA scheduling actions are not subject to either E.O. 14192, Unleashing Prosperity Through Deregulation, or E.O. 14294, Overcriminalization in Federal Regulations.

Executive Order 12988, Civil Justice Reform

This regulation meets the applicable standards set forth in sections 3(a) and 3(b)(2) of E.O. 12988 to eliminate drafting errors and ambiguity, minimize litigation, provide a clear legal standard for affected conduct, and promote simplification and burden reduction.

Executive Order 13132, Federalism

This rulemaking does not have federalism implications warranting the application of E.O. 13132. The rule does not have substantial direct effects on the states, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government.

Executive Order 13175, Consultation and Coordination With Indian Tribal Governments

This rule does not have tribal implications warranting the application of E.O. 13175. It does not have substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.

Paperwork Reduction Act of 1995

This action does not impose a new collection or modify an existing collection of information under the Paperwork Reduction Act of 1995.⁷ Also, this rule does not impose new or modify existing recordkeeping or reporting requirements on state or local governments, individuals, businesses, or organizations. However, this rule would require compliance with the following existing OMB collections: 1117–0003, 1117–0004, 1117–0006, 1117–0008, 1117–0009, 1117–0010, 1117–0012, 1117–0014, 1117–0021, 1117–0023, 1117–0029, and 1117–0056. 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.

Regulatory Flexibility Act

The Administrator of DEA, in accordance with the Regulatory Flexibility Act, 5 U.S.C. 601–612, has reviewed this final rule, and by approving it, certifies that it will not have a significant economic impact on a substantial number of small entities.

DEA is placing the substance CUMYL-PEGACLONE (chemical name: methyl 3,3-dimethyl-2-(1-(pent-4-en-1-yl)-1H-

indazole-3-carboxamido)butanoate), including its salts, isomers, and salts of isomers, in schedule I of the CSA to enable the United States to meet its obligations under the 1971 Convention. This action imposes the regulatory controls and administrative, civil, and criminal sanctions applicable to schedule I controlled substances on persons who handle (manufacture, distribute, reverse distribute, import, export, engage in research, conduct instructional activities or chemical analysis with, or possess) or propose to handle CUMYL-PEGACLONE.

Based on the review of HHS’s scientific and medical evaluation and all other relevant data, DEA determined that CUMYL-PEGACLONE has high potential for abuse, has no currently accepted medical use in treatment in the United States, and lacks accepted safety for use under medical supervision. There appear to be no legitimate sources for CUMYL-PEGACLONE as a marketed drug in the United States, but DEA notes that this substance is available for purchase from legitimate suppliers for scientific research. There is no evidence of significant diversion of CUMYL-PEGACLONE from legitimate suppliers. Therefore, this final rule will not have a significant economic impact on a substantial number of small entities.

Unfunded Mandates Reform Act of 1995

In accordance with the Unfunded Mandates Reform Act (UMRA) of 1995, 2 U.S.C. 1532, DEA has determined that this action would not result in any Federal mandate that may result “in the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector, of \$100,000,000 or more (adjusted annually for inflation) in any 1 year. . . .” Therefore, neither a Small Government Agency Plan nor any other action is required under UMRA of 1995.

Congressional Review Act

This rule is not a major rule as defined by the Congressional Review Act (CRA), 5 U.S.C. 804(2). However, pursuant to the CRA, DEA is submitting a copy of this rule to both Houses of Congress and to the Comptroller General.

Determination To Make Rule Effective Immediately

The Administrative Procedure Act (APA) generally requires that rules enacted in accordance with the procedures of 5 U.S.C. 553 to be effective not less than 30 days after publication of the proposed rule.⁸ However, the APA provides three

⁷ 44 U.S.C. 3501–3521.

⁸ 5 U.S.C. 553(d).

exceptions for when an agency may make a rule effective sooner than 30 days after publication, including if the agency finds for good cause why the rule should be effective sooner and publishes those reasons with the rule.⁹

DEA finds that there is good cause for this scheduling action to be immediately effective upon publication because a delay in the effective date is unnecessary and contrary to the public interest. First, it is unnecessary because CUMYL-PEGACLONE is currently listed in schedule I of the CSA under 21 U.S.C. 811(h).¹⁰ Second, as discussed in

the temporary scheduling order and NPRM, CUMYL-PEGACLONE poses imminent hazard to public safety. Therefore, DEA believes it is unnecessary and contrary to the public interest to delay the effectiveness of this final rule by 30 days.¹¹

List of Subjects in 21 CFR Part 1308

Administrative practice and procedure, Drug traffic control, Reporting and record keeping requirements.

For the reasons set out above, DEA amends 21 CFR part 1308 as follows:

PART 1308—SCHEDULES OF CONTROLLED SUBSTANCES

- 1. The authority citation for part 1308 continues to read as follows:

Authority: 21 U.S.C. 811, 812, 871(b), 956(b), unless otherwise noted.

- 2. Amend § 1308.11 by adding the new paragraph (d)(116) to read as follows:

§ 1308.11 Schedule I.

* * * * *

(d) * * *

*	*	*	*	*	*	*	*
(116) 5-Pentyl-2-(2-phenylpropan-2-yl)pyrido[4,3-b]indol-1-one (other names: CUMYL-PEGACLONE; SGT-151)							7093
*	*	*	*	*	*	*	*

* * * * *

Signing Authority

This document of the Drug Enforcement Administration was signed on May 6, 2026, by DEA Administrator Terrance C. Cole. That document with the original signature and date is maintained by DEA. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DEA Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of DEA. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Heather Achbach,

Federal Register Liaison Officer, Drug Enforcement Administration.

[FR Doc. 2026–09566 Filed 5–12–26; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket Number USCG–2026–0493]

RIN 1625–AA08

Special Local Regulation; St. Mary's River, St. George's Creek, Piney Point, MD

AGENCY: Coast Guard, Department of Homeland Security.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary special local regulation for certain waters of the St. Mary's River. This action is necessary to provide for the safety of life on these navigable waters located at Piney Point, MD, during a two-day, high-speed, power boat demonstration event on June 06, 2026, and June 07, 2026. This regulation prohibits persons and vessels from entering the regulated area unless specifically authorized by the Captain of the Port Maryland-National Capital Region or their designated representative.

DATES: This rule is in effect from 8:30 a.m. on June 06, 2026, through 5 p.m. on June 07, 2026. It will only be subject to enforcement, however, between 8:30

a.m. and 5 p.m. on each of those two days.

FOR FURTHER INFORMATION CONTACT: If you have questions about this rule, contact LCDR Kate Newkirk, Sector Maryland-NCR, Waterways Management Division, U.S. Coast Guard; telephone 410–576–2525, email MDNCRMarineEvents@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background and Authority

The Coast Guard has received a request, under 33 CFR 100.15, for a Marine Event Permit to host a high-speed, power boat demonstration event in Piney Point, MD on June 06, 2026 and June 07, 2026, from 8:30 a.m. to 5 p.m. on both days.

The Captain of the Port Maryland-National Capital Region (COTP) is issuing this Special Local Regulation (SLR) under the authority in 46 U.S.C. 70041. The COTP has determined that potential hazards associated with the vintage and historic racing powerboat demonstrations will be a safety concern for anyone intending to participate in

⁹ 5 U.S.C. 553(d)(3).

¹⁰ *Schedules of Controlled Substances: Temporary Placement of CUMYL-PEGACLONE, 4F-MDMB-BUTICA, ADB-4en-PINACA, CUMYL-PEGACLONE, 5F-EDMB-PICA, and MMB-FUBICA into Schedule I*, 88 FR 86040 (Dec. 12, 2023); *Schedules of Controlled Substances: Extension of Temporary Placement of CUMYL-PEGACLONE in*

Schedule I of the Controlled Substances Act, 90 FR 57356 (Dec. 11, 2025).

¹¹ See, e.g., *Schedules of Controlled Substances: Placement of beta-Hydroxythiofentanyl in Schedule I*, 84 FR 20023, 20027 (May 8, 2019); *Schedules of Controlled Substances: Placement of UR-144, XLR11, and AKB48 into Schedule I*, 81 FR 29142, 29144 (May 11, 2016); *accord Schedules of*

Controlled Substances: Placement of Seven Specific Fentanyl-Related Substances in Schedule I, 90 FR 44979 (Sept. 18, 2025); *Schedules of Controlled Substances: Placement of Nine Specific Fentanyl-Related Substances in Schedule I*, 88 FR 85104 (Dec. 7, 2023).

this event and for vessels that operate within waters of the St. Mary's River covered by this rule. If normal vessel traffic were allowed to interfere with the event, potential hazards would include the risk of injury or death resulting from near or actual contact among participant vessels, spectator vessels, or non-participant waterway users. The purpose of this rulemaking is to ensure the safety of event participants, non-participants, and transiting vessels before, during, and after the scheduled event.

As is authorized by 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it is impracticable to do so. The Coast Guard was notified of this event on March 18, 2026, but we must establish this SLR by June 06, 2026, to protect personnel, vessels, and the marine environment. Therefore, we have do not have enough time to solicit and respond to comments.

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

III. Discussion of the Rule

This rule establishes a temporary SLR from 8:30 a.m. on June 06, 2026, through 5 p.m. on June 07, 2026. It will only be subject to enforcement, however, between 8:30 a.m. and 5 p.m. on each of those two days. The regulated area covers all navigable waters of St. George Creek. This area starts at Cedar Point, follows the western shoreline south to Coade Bar, then cuts southeast across the creek to Dodson Point. From there, it continues north along the eastern shoreline, including the area near the St. George Island Bridge (SR-249), all the way up to Long Bar at the entrance to St. George Harbor. The boundary then wraps northeast across the creek back to Cedar Point, terminating at the point of origin.

The regulated area is approximately 1,750 yards in length and 940 yards in width. The duration of the special local regulation and size of the regulated area is intended to ensure the safety of life on these navigable waters before, during, and after the high-speed power boat event scheduled to take place from June 06, 2026, and June 07, 2026, from 8:30 a.m. to 5 p.m. on each day. No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative.

IV. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders.

A. Impact on Small Entities

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

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), if this rule will affect your small business, organization, or governmental jurisdiction and you have questions, contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Small businesses may send comments to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards by calling 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

B. Collection of Information

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

C. Federalism and Indian Tribal Governments

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

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

D. Unfunded Mandates Reform Act

As required by The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538), the Coast Guard certifies

that this rule will not result in an annual expenditure of \$100,000,000 or more (adjusted for inflation) by a State, local, or tribal government, in the aggregate, or by the private sector.

E. Environment

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

This rule is a special local regulation. It is categorically excluded from further review under paragraph L61 of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1.

List of Subjects in 33 CFR Part 100

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

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100 as follows:

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

■ 1. The authority citation for part 100 continues to read as follows:

Authority: 46 U.S.C. 70041; 33 CFR 1.05–1.

■ 2. Add § 100.T599–0493 to read as follows:

§ 100.T599–0493 Southern Maryland Boat Club Piney Point Regatta, St. Mary's River, St. George Creek, Piney Point, MD.

(a) Location. All coordinates are based on datum NAD 1983.

(1) *Regulated area.* All navigable waters of St. George Creek, within an area bounded by a line connecting the following points: from the shoreline at Cedar Point at position latitude 38°09'03.4" N, longitude 076°29'55.7" W; thence south along the shoreline to Coade Bar at latitude 38°08'22.5" N, longitude 076°29'19.9" W; thence southeast across St. George Creek to Dodson Point at latitude 38°08'03.8" N, longitude 076°29'44.6" W; thence north along the shoreline and the eastern extent of the St. George Island (SR-249) Bridge to Long Bar (at the entrance to St. George Harbor) at latitude 38°08'50.6" N, longitude 076°30'13.0" W; thence northeast across St. George Creek to and

terminating at the point of origin. The race area, buffer area, and spectator area are all within the regulated area.

(2) *Race area.* The race area is a polygon in shape measuring approximately 700 yards in length by 240 yards in width. The area is bounded by a line commencing near Hodgson Point at position latitude 38°08'39.80" N, longitude 076°30'3.13" W, thence southeast to latitude 38°08'21.95" N, longitude 076°29'49.31" W; thence southwest to latitude 38°08'18.20" N, longitude 076°29'56.98" W, thence northwest to latitude 38°08'36.10" N, longitude 076°30'10.84" W; thence northeast to and terminating at the point of origin.

(3) *Buffer area.* The buffer area is a polygon in shape measuring approximately 90 yards in all directions surrounding the entire race area described in the preceding paragraph of this section. The area is bounded by a line commencing near Hodgson Point at position latitude 38°08'43.58" N, longitude 076°30'02.12" W; thence southeast to latitude 38°08'21.12" N, longitude 076°29'44.81" W, thence southwest to latitude 38°08'14.68" N, longitude 076°29'58.24" W; thence northwest to latitude 38°08'35.95" N, longitude 076°30'14.33" W, thence northeast to and terminating at the point of origin.

(4) *Spectator area.* The designated spectator area is a polygon in shape with its length measuring approximately 700 yards and its width measuring approximately 300 yards at its northern portion and 150 yards at its southern portion. The area is bounded by a line commencing at position latitude 38°08'46.86" N, longitude 076°29'51.07" W; thence southeast to latitude 38°08'38.11" N, longitude 076°29'44.27" W; thence south to latitude 38°08'26.81" N, longitude 076°29'43.01" W; thence southwest to latitude 38°08'23.50" N, longitude 076°29'46.50" W, thence northwest to latitude 38°08'41.28" N, longitude 076°30'00.18" W, thence northeast to and terminating at the point of origin.

(b) *Definitions.* As used in this section, *designated representative* means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel and a Federal, State, and local officer designated by or assisting the Captain of the Port Sector Maryland-National Capital Region (COTP) in the enforcement of the regulated area. *Participant* means all persons and vessels registered with the event sponsor as a participant in the race.

(c) *Regulations.* (1) All non-participants are prohibited from entering, transiting through, anchoring in, or remaining within the regulated area described in paragraph (a) of this section unless authorized by the COTP or their designated representative.

(2) To seek permission to enter, contact the COTP or the COTP's representative on VHF-FM channel 16 or by telephone at 410-576-2525. Those in the regulated area must comply with all lawful orders or directions given to them by the COTP or the COTP's designated representative.

(d) *Enforcement period[s].* This section will be enforced from 8:30 a.m. to 5 p.m. on June 06, 2026, and from 8:30 a.m. to 5 p.m. on June 07, 2026.

Dated: May 8, 2026.

Patrick C. Burkett,

Captain, U.S. Coast Guard, Captain of the Port Sector Maryland-National Capital Region.

[FR Doc. 2026-09494 Filed 5-12-26; 8:45 am]

BILLING CODE 9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket Number USCG-2026-0502]

RIN 1625-AA08

Special Local Regulation; Marine Events Within the USCG East District

AGENCY: Coast Guard, Department of Homeland Security.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary special local regulation for certain waters of Prospect Bay near Kent Island Narrows, Maryland. This action is necessary to provide for the safety of life on these navigable waters near Kent Island, MD, during a power boat racing event on June 6, 2026. In the event of inclement weather, the event will take place on June 7, 2026. This regulation prohibits persons and vessels from entering the regulated area unless specifically authorized by the Captain of the Port Sector Maryland-National Capital Region or their designated representative.

DATES: This rule is effective from 12:30 p.m. On June 6, 2026, through 3 p.m. on June 7, 2026. It will only be subject to enforcement, however, between 12:30 p.m. and 3 p.m. on one of those two days. Weather permitting, it will be subject to enforcement, on June 6, 2026.

In the event of inclement weather, it will be subject to enforcement on June 7, 2026.

FOR FURTHER INFORMATION CONTACT: If you have questions about this rule, contact LCDR Kate Newkirk, Sector Maryland-NCR, Waterways Management Division, U.S. Coast Guard; telephone 410-576-2596, or email MDNCRWaterways@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
COTP Captain of the Port, Sector Maryland-National Capital Region
DHS Department of Homeland Security
FR Federal Register
NPRM Notice of proposed rulemaking
§ Section
SLR Special Local Regulation
U.S.C. United States Code

II. Background and Authority

On April 09, 2026, the Coast Guard received a request under 33 CFR 100.15 from the Smith Island Crab Skiff Association for a Marine Event Permit to host Historic Smith Island crab skiff races. The event will be held from 1 p.m. through 2:30 p.m. on June 6, 2026, in and around Kent Island, MD. The power boat race will consist of three heats with approximately 7 22-foot-long boats in each race, competing on a designated, marked course.

The Captain of the Port, Sector Maryland-National Capital Region is issuing this Special Local Regulation (SLR) under the authority in 46 U.S.C. 70041. The COTP has determined that potential hazards associated with the power boat race, such as the risk of collisions, would be a safety concern for anyone intending to participate in this event and for vessels that operate within the specified waters of Prospect Bay. The purpose of this rule is to protect event participants, non-participants, and transiting vessels before, during, and after the scheduled event.

As is authorized by 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it is impracticable to publish an NPRM, consider and respond to comments, and publish a final rule within the time since we received the Marine Event Permit application on April 9, if we are to establish this SLR by June 6, 2026, to protect personnel, vessels, and the marine environment.

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

III. Discussion of the Rule

This rule establishes a temporary SLR which will be subject to enforcement from 12:30 p.m. through 3 p.m. on June 6, 2026. Alternatively, and in the event of inclement weather, the SLR will only be subject to enforcement from 12:30 p.m. through 3 p.m. on June 7. The SLR will cover certain waters of Prospect Bay near Kent Island Narrows, Maryland. The coordinates of these waters are provided in the rule text, at the end of this document. No vessel or person other than those that are registered with the event host as participants will be permitted to enter the regulated area without obtaining permission from the COTP or their designated representative.

IV. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders.

A. Impact on Small Entities

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

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), if this rule will affect your small business, organization, or governmental jurisdiction and you have questions, contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Small businesses may send comments to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards by calling 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

B. Collection of Information

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

C. Federalism and Indian Tribal Governments

We have analyzed this rule under Executive Order 13132, Federalism, and

have determined that it is consistent with the fundamental federalism principles and preemption requirements described in that Order.

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

D. Unfunded Mandates Reform Act

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

E. Environment

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

This rule is a special local regulation. It is categorically excluded from further review under paragraph L61 of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1.

List of Subjects in 33 CFR Part 100

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

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100 as follows:

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

■ 1. The authority citation for part 100 continues to read as follows:

Authority: 46 U.S.C. 70041; 33 CFR 1.05–1.

■ 2. Add § 100.T599–0502 to read as follows:

§ 100.T599–0502 Special Local Regulation; Prospect Bay, Kent Island Narrows, MD.

(a) *Location.* This special local regulation applies to the following regulated area:

(1) *Regulated area.* All waters of Prospect Bay, from surface to bottom, encompassed by a line connecting the following points beginning at 38°57′55.1580″ N 76°15′8.1180″ W, thence to 38°58′0.2700″ N 76°14′57.2100″ W, thence to 38°57′42.9420″ N 76°14′44.7480″ W, thence to 38°57′38.1480″ N 76°14′57.2100″ W and back to the beginning point. The race area and buffer zone are within the regulated area.

(2) *Race area.* This area is bounded by a line commencing at position 38°57′54.6840″ N 76°15′5.7300″ W, thence to 38°57′58.2780″ N 76°14′57.9720″ W, thence to 38°57′43.7100″ N 76°14′48.8100″ W, thence to 38°57′40.6320″ N 76°14′57.1440″ W, and back to the beginning point.

(3) *Buffer zone.* The buffer zone surrounds the entire race area and is bounded by a line commencing at position 38°57′55.1580″ N 76°15′8.1180″ W, thence to 38°58′0.2700″ N 76°14′57.2100″ W, thence to 38°57′42.9420″ N 76°14′44.7480″ W, thence to 38°57′38.1480″ N 76°14′57.2100″ W and back to the beginning point.

(b) *Definitions.* As used in this section, *designated representative* means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel and a Federal, State, and local officer designated by or assisting the Captain of the Port Sector Maryland-National Capital Region (COTP) in the enforcement of the regulated area. *Participant* means all persons and vessels registered with the event sponsor as a participant in the race.

(c) *Regulations.* (1) All non-participants are prohibited from entering, transiting through, anchoring in, or remaining within the regulated area described in paragraph (a) of this section unless authorized by the COTP or their designated representative.

(2) To seek permission to enter, contact the COTP or the COTP's representative on VHF–FM channel 16 or by telephone at (410) 576–2525. Those in the regulated area must comply with all lawful orders or directions given to them by the COTP or the COTP's designated representative.

(d) *Enforcement periods.* This section will be enforced from 12:30 p.m. through 3 p.m. on June 6, 2026.

Alternatively, and in the event of inclement weather, enforcement will occur from 12:30 p.m. through 3 p.m. on June 07, 2026.

Dated: May 8, 2026.

Patrick C. Burkett,
Captain, U.S. Coast Guard, Captain of the Port Maryland-National Capital Region.

[FR Doc. 2026-09493 Filed 5-12-26; 8:45 am]

BILLING CODE 9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG-2026-0530]

RIN 1625-AA00

Safety Zone; Laguna Madre, South Padre Island, TX

AGENCY: Coast Guard, Department of Homeland Security.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for navigable waters within an 800-foot radius of a fireworks barge in the Laguna Madre. The safety zone is needed to protect personnel, vessels, and the marine environment from potential hazards created by a fireworks display. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port, Sector Corpus Christi, or their designated representative.

DATES: This rule is effective on May 16, 2026, from 8 p.m. to midnight.

ADDRESSES: To view available documents go to <https://www.regulations.gov> and search for USCG-2026-0530.

FOR FURTHER INFORMATION CONTACT: If you have questions about this rule, contact LT Timothy Cardenas, Sector Corpus Christi Waterways Management Division, U.S. Coast Guard; telephone 361-244-4784, or email Timothy.J.Cardenas@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background and Authority

The Coast Guard received notification that fireworks will be launched from a

barge on the Laguna Madre near South Padre Island, TX. Hazards from fireworks displays include accidental discharge of fireworks, dangerous projectiles, and falling hot embers or other debris. The Captain of the Port (COTP) Corpus Christi has determined that potential hazards associated with fireworks are a safety concern for anyone within 800 feet of the fireworks display. Therefore, the COTP is issuing this rule under the authority in 46 U.S.C. 70034, which is needed to protect personnel, vessels, and the marine environment in the navigable waters within the safety zone.

Because of these potential hazards, the Coast Guard is issuing this rule without prior notice and comment. As is authorized by 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it is impracticable and contrary to the public interest. Additionally, the Coast Guard was notified of this event on April 28, 2026, but we must establish this safety zone by May 16, 2026, to protect personnel, vessels, and the marine environment. Therefore, we do not have enough time to solicit and respond to comments.

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

III. Discussion of the Rule

This rule establishes a safety zone from 8 p.m. until midnight on May 16, 2026. The safety zone will cover all navigable waters within 800 feet of the fireworks barge in the Laguna Madre at 26°06'02.1" N, 097°10'17.7" W. Vessels and persons will not be allowed to enter the zone during this time, unless authorized by the Captain of the Port.

IV. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders.

A. Impact on Small Entities

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

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

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

B. Collection of Information

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

C. Federalism and Indian Tribal Governments

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

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

D. Unfunded Mandates Reform Act

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

E. Environment

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

significant effect on the human environment.

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T08-0530 to read as follows:

§ 165.T08-0530 Safety Zone; Laguna Madre, South Padre Island, TX.

(a) *Location.* The following area is a safety zone: All waters of Laguna Madre, from surface to bottom, encompassed by an 800-foot radius at the following point, 26°06'02.1" N, 097°10'17.7" W. These coordinates are based on the World Geodetic System (WGS 84).

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

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

(2) To seek permission to enter, contact the COTP or the COTP's representative on VHF-FM channel 16 or by telephone (800) 874-2143. Those in the safety zone must comply with all lawful orders or directions given to them by the COTP or the COTP's designated representative.

(d) *Enforcement period.* This section will be enforced from 8 p.m. to midnight on May 16, 2026.

T.H. Bertheau,

Captain, U.S. Coast Guard, Captain of the Port Sector Corpus Christi.

[FR Doc. 2026-09491 Filed 5-12-26; 8:45 am]

BILLING CODE 9110-04-P

POSTAL REGULATORY COMMISSION

39 CFR Part 3055

[Docket No. RM2026-1; Order No. 9566]

RIN 3211-AA40

Service Performance Reporting Requirements; Revisions

AGENCY: Postal Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Commission is adopting final rule revisions that update the existing annual service performance reporting requirements for the Postal Service's Market Dominant products.

DATES: *Effective* June 12, 2026.

ADDRESSES: For additional information, Order No. 9566 can be accessed electronically through the Commission's website at <https://www.prc.gov>.

FOR FURTHER INFORMATION CONTACT:

David A. Trissell, General Counsel, at 202-789-6820.

SUPPLEMENTARY INFORMATION:

Table of Contents

- I. Background
- II. Basis of Final Rules
- III. Final Rules

I. Background

The Postal Accountability and Enhancement Act (PAEA) enhanced the Commission's role in overseeing how the Postal Service reports information.¹ The PAEA requires the Commission to prescribe the content and form of the public reports that the Postal Service files with the Commission under section 3652. 39 U.S.C. 3652(e)(1). The Commission may initiate proceedings to improve the quality, accuracy, or completeness of Postal Service reporting whenever the Commission determines that service performance data have become significantly inadequate, could be significantly improved, or otherwise requires revision as necessitated by the public interest. 39 U.S.C. 3652(e)(2). The PAEA introduced new requirements that led to the Postal Service developing service standards (a

delivery day range and business rules), service performance goals (on-time percent targets), and service performance measurement systems. Following a multi-year evaluation process, on July 5, 2018, the Commission approved the use of the Internal Service Performance Measurement (SPM) System.² In doing so, the Commission found the applicable standard for use of an internal service performance measurement system to be whether the system is capable of reporting accurate, reliable, and representative service performance data. *Id.* at 15.

From a design perspective, SPM is significantly more complex than the measurement systems that preceded it. In recent months, the Postal Service has three times given the Commission notice of substantial planned changes to the SPM system.³

The recent enactment of the Postal Service Reform Act of 2022 (PSRA) codified a requirement for the Postal Service to set reasonable performance targets for each product and to provide those targets to the Commission for the Commission to evaluate compliance each year.⁴

II. Basis of Rule Revisions

Pursuant to 39 U.S.C. 503, 3652, 3653, 3691, and 3692, the Commission revises the service performance reporting rules at 39 CFR part 3055, subpart A.

First, the Commission revises existing §§ 3055.4 and 3055.5 to more specifically address changes to internal service performance measurement systems. These revisions establish a

² Docket No. PI2015-1, Order Approving Use of Internal Measurement Systems, July 5, 2018 (Order No. 4697).

³ In the first two of these instances, the Commission put in place interim reporting requirements to enable it to evaluate the effect of these changes on SPM's accuracy, reliability, and representativeness, and also to evaluate whether any revisions to the Commission's service performance reporting requirements with respect to measurement exclusions are necessary. See Docket Nos. RM2024-9 and PI2025-2, Interim Order Regarding Proposed Service Performance Measurement Changes, March 28, 2025, at 22-23, 37-39, 40-41 (Order No. 8761). These reporting requirements were partially modified by Order No. 8823. See Docket Nos. RM2024-9 and PI2025-2, Order Conditionally Granting Motion for Reconsideration of Order No. 8761, April 30, 2025 (Order No. 8823). See also Docket Nos. RM2024-9, PI2025-2, and PI2025-5, Interim Order Regarding Further Proceedings on Planned Service Performance Measurement Changes, June 27, 2025, at 23-24 (Order No. 8942). The third notice of planned changes was dismissed without prejudice. See Docket Nos. RM2024-9, PI2025-2, PI2025-5, and PI2025-6, Order Dismissing Without Prejudice Notice of Planned Service Performance Measurement Changes, October 8, 2025 (Order No. 9241).

⁴ Postal Service Reform Act of 2022, Public Law 117-108, 136 Stat. 1127 (2022).

¹ Postal Accountability and Enhancement Act (PAEA), Public Law 109-435, 120 Stat. 3198 (2006). See 39 U.S.C. 3652(e).

burden of proof that proposed changes to such systems will be required to meet and prevent the Postal Service from implementing changes without prior Commission approval. They also codify the Commission's existing authority to initiate a proceeding to review such systems at any time, and implement a procedure whereby interested persons can petition the Commission to initiate such a proceeding. The Commission has made one modification to its initial proposal by adding a new paragraph (c) within revised § 3055.4 that establishes a default period of 90 days for the Commission to review notices of proposed changes to internal or hybrid measurement systems, while reserving to the Commission the right to extend that period if the Commission finds it necessary to do so. If the Commission does extend the review period, the Commission shall issue an order explaining why it needs more time to review the notice and providing an expected date for completion of the Commission's review.

Second, the Commission revises existing § 3055.5 to require the Postal Service to begin providing notice of all changes to service standard delivery day ranges and changes to origin/destination ZIP Code pairs that affect the number of days to delivery, at least 7 days prior to implementation. This is a slight modification from the Commission's initial proposal, which would have required notice of such changes to be provided 30 days prior to implementation.

Third, the Commission revises existing §§ 3055.6 and 3055.7 in recognition of the PSRA's requirement that the Postal Service establish and file with the Commission reasonable performance targets, which the Commission must use to evaluate compliance for each product. 39 U.S.C. 3692(a). The Postal Service will be required to provide sufficient information about the criteria used to select the targets for the Commission to be able to determine, by a preponderance of the evidence, that the targets are, in fact, reasonable.

The Commission finds that each of these revisions will improve the quality of service performance data and further the public interest. 39 U.S.C. 3652(e)(2)(B)–(C).

III. Final Rules

List of Subjects in 39 CFR Part 3055

Administrative practice and procedure, Reporting and recordkeeping requirements.

For the reasons stated in the preamble, the Commission amends 39 CFR part 3055 as follows:

PART 3055—SERVICE PERFORMANCE AND CUSTOMER SATISFACTION REPORTING

- 1. The authority citation for part 3055 is revised to read as follows:

Authority: 39 U.S.C. 503, 3622, 3651, 3652, 3653, 3691, 3692, 3705.

- 2. Revise § 3055.4 to read as follows:

§ 3055.4 Internal service performance measurement systems.

(a) Service performance measurements obtained from internal service performance measurement systems or hybrid service performance measurement systems (which are defined as systems that rely on both an internal and an external measurement component) shall not be used to comply with any reporting requirement under subparts A or B of this part without prior Commission approval.

(b) The Postal Service shall file notice with the Commission describing any proposed changes to internal or hybrid service performance measurement systems (including proposed changes to any associated reporting methodologies or the use of proxies). In proposing such changes, the Postal Service must demonstrate, by a preponderance of the evidence, that internal or hybrid service performance measurement systems will be capable of producing accurate, reliable, representative, and useful service performance data and results. The Commission may summarily dismiss (without prejudice to refile) any proposal that fails to include this information. The Postal Service's proposal must specify any planned implementation date(s), any requested decision date(s), and the reasons therefor. Preponderance of the evidence means proof by information that, compared with that opposing it, leads to the conclusion that the fact at issue is more probably true than not.

(c) In the absence of a determination of good cause for an extension, the Commission shall issue an order on a notice filed pursuant to paragraph (b) of this section not later than 90 days following the filing of the Postal Service's notice. If the Commission determines that an order cannot reasonably be issued within 90 days, then the Commission shall issue an order explaining why and providing an expected date for completion of Commission review.

(d) Changes to internal or hybrid service performance measurement systems proposed pursuant to paragraph

(b) of this section may not be implemented without prior Commission approval.

(e) The Commission may initiate a proceeding at any time to consider whether internal or hybrid service performance measurement systems are producing accurate, reliable, representative, and useful service performance data and results. Any interested person, including a public representative, may submit a petition to the Commission to initiate such a proceeding.

- 3. Revise § 3055.5 to read as follows:

§ 3055.5 Changes to external service performance measurement systems, service standards, service goals, or reporting methodologies.

(a) The Postal Service shall file notice with the Commission describing all changes to external service performance measurement systems and service goals (including performance targets), 30 days prior to planned implementation. The Postal Service shall also file notice with the Commission describing all changes to reporting methodologies, including the use of proxies (other than reporting methodologies or the use of proxies associated with internal or hybrid service performance measurement systems as described by § 3055.4 of this part), 30 days prior to planned implementation. The Commission may initiate a proceeding at any time to consider such changes if it appears that the changes might have a material impact on the accuracy, reliability, or utility of the reported measurement, or if the changes might have a material impact on the characteristics of the underlying product.

(b) No later than 7 days before planned implementation of any change to service standard delivery day ranges or origin/destination ZIP Code pairs that affect the number of days to delivery, the Postal Service shall file notice with the Commission describing the exact nature and scope of implementation. Each notice shall use plain language to list all locations affected by the change in service standards (at the level of granularity of the service standard), the categories of affected market dominant products, the current service standard, the planned service standard, and the date of the planned change. If the change in service standards is associated with a Change in the Nature of Postal Services docket pursuant to 39 U.S.C. 3661 and part 3020 of this chapter, then each notice shall be filed in the applicable Change in the Nature of Postal Services docket. Otherwise, each notice should be filed in the most

recent Annual Compliance Report docket.

■ 4. Revise § 3055.6 to read as follows:

§ 3055.6 Addition of new market dominant products or changes to existing market dominant products.

Whenever the Postal Service proposes the addition of a new market dominant product or a change to an existing market dominant product, it also shall propose new or revised (as necessary) service performance measurement systems, service standards, service goals (including performance targets), data reporting elements, and data reporting methodologies.

■ 5. Revise § 3055.7 to read as follows:

§ 3055.7 Reasonable performance targets.

(a) Pursuant to 39 U.S.C. 3692(a)(1), the Postal Service shall establish reasonable performance targets for each market dominant product for each fiscal year and provide such targets to the Commission not later than 60 days after the beginning of the fiscal year in which they will apply. In setting reasonable performance targets, the Postal Service must consider and balance:

(1) the need for each target to establish a clear path toward improving performance and enabling the provision of high-quality service; and

(2) the need for each target to be realistically attainable considering the Postal Service's network, workforce, transportation capacity, and financial resources, and actual service standards in effect.

(b) The Postal Service's filing made pursuant to paragraph (a) of this section shall contain sufficient information about the criteria used to select the targets for the Commission to be able to determine (based on the contents of the Postal Service's filing alone), by a preponderance of the evidence, that the targets set by the Postal Service are reasonable. Preponderance of the evidence means proof by information that, compared with that opposing it, leads to the conclusion that the fact at issue is more probably true than not.

(c) The Commission will use each reasonable target set by the Postal Service to evaluate compliance for each market dominant product for a given fiscal year pursuant to 39 U.S.C. 3653(b)(2).

By the Commission.

Mallory S. Richards,
Attorney-Advisor.

[FR Doc. 2026-09554 Filed 5-12-26; 8:45 am]

BILLING CODE 7710-FW-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA-HQ-OPP-2025-3360; FRL-13301-01-OCSPPI]

Oxirane, 2-phenyl-, polymer With oxirane, mono(hydrogen 2-sulfobutanedioate), octyl ether, sodium salt (1:2) in Pesticide Formulations; Exemption From the Requirement for a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes an exemption from the requirement of a tolerance for residues of oxirane, 2-phenyl-, polymer with oxirane, mono(hydrogen 2-sulfobutanedioate), octyl ether, sodium salt (1:2) (CAS Reg. No 2983072-24-6); (also known as oxirane, 2-phenyl-, polymer with oxirane, monoethyl ether, sulphosuccinated, disodium salt) when used as an inert ingredient in a pesticide chemical formulation under 40 CFR 180.960. Spring Regulatory Sciences on behalf of Evonik Corporation submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), requesting an exemption from the requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of oxirane, 2-phenyl-, polymer with oxirane, mono(hydrogen 2-sulfobutanedioate), octyl ether, sodium salt (1:2) on food or feed commodities when used in accordance with these exemptions.

DATES: This regulation is effective May 13, 2026. Objections and requests for hearings must be received on or before July 13, 2026 and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of this document).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA-HQ-OPP-2025-3360, is available online at <https://www.regulations.gov>. Additional information about dockets generally, along with instructions for visiting the docket in-person, is available at <https://www.epa.gov/dockets>.

FOR FURTHER INFORMATION CONTACT:

Charles Smith, Registration Division (7505T), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460-0001; main telephone number: (202) 566-1030; email address: RDfRNotices@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

If you have any questions regarding the applicability of this proposed action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. What is EPA's authority for taking this action?

EPA is issuing this rulemaking under section 408 of the FFDCA, 21 U.S.C. 346a. FFDCA section 408(c)(2)(A)(i) allows EPA to establish an exemption from the requirement for a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the exemption is "safe." FFDCA section 408(c)(2)(A)(ii) defines "safe" to mean that "there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information." This includes exposure through drinking water and in residential settings but does not include occupational exposure. Pursuant to FFDCA section 408(c)(2)(B), in establishing or maintaining in effect an exemption from the requirement of a tolerance, EPA must take into account the factors set forth in FFDCA section 408(b)(2)(C), which require EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to "ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue" Additionally, FFDCA section 408(b)(2)(D) requires that the Agency consider, among other things, "available information concerning the cumulative effects of a particular pesticide's residues" and

“other substances that have a common mechanism of toxicity.”

C. How can I file an objection or hearing request?

Under FFDCA section 408(g), 21 U.S.C. 346a(g), any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. If you fail to file an objection to the final rule within the time period specified in the final rule, you will have waived the right to raise any issues resolved in the final rule. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify the docket ID number EPA-HQ-OPP-2025-3360 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing and must be received by the Hearing Clerk on or before July 13, 2026.

EPA's Office of Administrative Law Judges (OALJ), in which the Hearing Clerk is housed, urges parties to file and serve documents by electronic means only, notwithstanding any other particular requirements set forth in other procedural rules governing those proceedings. See “Order Urging Electronic Filing and Service,” dated December 3, 2025, which can be found at <https://www.epa.gov/system/files/documents/2025-12/2025-12-03-order-urging-electronic-filing-and-service.pdf>. Although EPA's regulations require submission via U.S. Mail or hand delivery, EPA intends to treat submissions filed via electronic means as properly filed submissions; therefore, EPA believes the preference for submission via electronic means will not be prejudicial. When submitting documents to the OALJ electronically, a person should utilize the OALJ e-filing system at https://yosemite.epa.gov/oal/eab/eab-alj_upload.nsf.

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket at <https://www.regulations.gov>. Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be CBI or other information whose disclosure is restricted by statute. If you wish to include CBI in your request, please follow the applicable instructions at <https://www.epa.gov/dockets/commenting-epa-dockets#rules> and clearly mark the information that you claim to be CBI. Information not marked confidential pursuant to 40 CFR part 2

may be disclosed publicly by EPA without prior notice.

II. Petition for Exemption

In the **Federal Register** of January 28, 2026 (91 FR 3701) (FRL-12474-11-OCSP), EPA published a notice pursuant to FFDCA section 408, 21 U.S.C. 346a, announcing the receipt of a pesticide petition (PP IN-11999) filed by Spring Regulatory Sciences on behalf of Evonik Corporation, 7801 Whitepine Road, Richmond, VA 23237. The petition requested that 40 CFR 180.960 be amended by establishing an exemption from the requirement of a tolerance for residues of oxirane, 2-phenyl-, polymer with oxirane, mono(hydrogen 2-sulfobutanedioate), octyl ether, sodium salt (1:2) (CAS Reg. No 2983072-24-6). That document included a summary of the petition prepared by Spring Regulatory Sciences on behalf of Evonik Corporation, the petitioner, which is available in the docket.

The Agency received one comment from a private citizen expressing concerns regarding the Agency not fully evaluating submitted data, the need for aggregate and cumulative exposure considerations, and application of the Food Quality Protection Act (FQPA) safety factor as well as concerns for chemical-resistant pests. The notice EPA published on January 28, 2026, is a procedural action through which the Agency gives notice of the receipt of a petition and solicits public comment prior to completing its scientific evaluation. The statement that the Agency has not fully evaluated the submitted data reflects this statutory design and does not indicate a deficiency in the petition. As outlined in the following sections of this final rule, the Agency has made a safety determination based on the low-risk polymer criteria under 40 CFR 723.250. Additionally, aggregate exposure, cumulative effects, and the need for the FQPA safety factor for infants and children are addressed within this final rule. Since no toxicity endpoints of concern were identified, the FQPA safety factor was not used and aggregate risks were assessed qualitatively. No common mechanisms of toxicity warranting a cumulative assessment were identified. For more details, please see units IV.A. through IV.D. of this document. To the extent the comment raises issues pertaining to other regulatory actions, the Agency is responding herein only as they relate to the action at hand. The commenter is encouraged to submit comments on those separate actions through the appropriate dockets, provided the

applicable comment periods remain open.

III. Inert Ingredient Definition

Inert ingredients are all ingredients that are not active ingredients as defined in 40 CFR 153.125 and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): solvents such as alcohols and hydrocarbons; surfactants such as polyoxyethylene polymers and fatty acids; carriers such as clay and diatomaceous earth; thickeners such as carrageenan and modified cellulose; wetting, spreading, and dispersing agents; propellants in aerosol dispensers; microencapsulating agents; and emulsifiers. The term “inert” is not intended to imply nontoxicity; the ingredient may or may not be chemically active. Generally, EPA has exempted inert ingredients from the requirement of a tolerance based on the low toxicity of the individual inert ingredients.

IV. Final Tolerance Actions

A. Aggregate Risk Assessment and Determination of Safety

EPA establishes exemptions from the requirement of a tolerance only in those cases where it can be shown that the risks from aggregate exposure to pesticide chemical residues under reasonably foreseeable circumstances will pose no appreciable risks to human health. In order to determine the risks from aggregate exposure to pesticide inert ingredients, the Agency considers the toxicity of the inert in conjunction with possible exposure to residues of the inert ingredient through food, drinking water, and through other exposures that occur as a result of pesticide use in residential settings. If EPA is able to determine that a finite tolerance is not necessary to ensure that there is a reasonable certainty that no harm will result from aggregate exposure to the inert ingredient, an exemption from the requirement of a tolerance may be established.

Consistent with FFDCA section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure for oxirane, 2-phenyl-, polymer with oxirane, mono(hydrogen 2-sulfobutanedioate), octyl ether, sodium salt (1:2) including exposure resulting from the exemption established by this action. EPA's assessment of exposures and risks associated with oxirane, 2-

phenyl-, polymer with oxirane, mono(hydrogen 2-sulfobutanedioate), octyl ether, sodium salt (1:2) follows.

B. Low Risk Polymer Criteria

In the case of certain chemical substances that are defined as polymers, the Agency has established a set of criteria to identify categories of polymers expected to present minimal or no risk. The definition of a polymer is given in 40 CFR 723.250(b) and the exclusion criteria for identifying these low-risk polymers are described in 40 CFR 723.250(d). Oxirane, 2-phenyl-, polymer with oxirane, mono(hydrogen 2-sulfobutanedioate), octyl ether, sodium salt (1:2) conforms to the definition of a polymer given in 40 CFR 723.250(b) and meets the following criteria that are used to identify low-risk polymers.

1. The polymer is not a cationic polymer nor is it reasonably anticipated to become a cationic polymer in a natural aquatic environment.

2. The polymer does contain as an integral part of its composition at least two of the atomic elements carbon, hydrogen, nitrogen, oxygen, silicon, and sulfur.

3. The polymer does not contain as an integral part of its composition, except as impurities, any element other than those listed in 40 CFR 723.250(d)(2)(ii).

4. The polymer is neither designed nor can it be reasonably anticipated to substantially degrade, decompose, or depolymerize. An available biodegradation study supports that oxirane, 2-phenyl-, polymer with oxirane, mono(hydrogen 2-sulfobutanedioate), octyl ether, sodium salt (1:2) is not readily biodegradable (MRID 52502501).

5. The polymer is manufactured or imported from monomers and/or reactants that are already included on the TSCA Chemical Substance Inventory or manufactured under an applicable TSCA section 5 exemption.

6. The polymer is not a water absorbing polymer with a number average molecular weight (MW) greater than or equal to 10,000 Daltons.

7. The polymer does not contain certain perfluoroalkyl moieties consisting of a CF₃- or longer chain length as listed in 40 CFR 723.250(d)(6).

Additionally, the polymer also meets as required the following exemption criteria: specified in 40 CFR 723.250(e):

- The polymer's number average MW of 1,900 Daltons is greater than 1,000 and less than 10,000 Daltons.

- The polymer contains less than 10% oligomeric material below MW 500 and less than 25% oligomeric material below MW 1,000.

- The polymer contains only reactive functional groups listed in 40 CFR 723.250(e)(1)(ii)(A).

Thus, oxirane, 2-phenyl-, polymer with oxirane, mono(hydrogen 2-sulfobutanedioate), octyl ether, sodium salt (1:2) meets the criteria for a polymer to be considered low risk under 40 CFR 723.250. Based on its conformance to the criteria in this unit, no mammalian toxicity is anticipated from dietary, inhalation, or dermal exposure to oxirane, 2-phenyl-, polymer with oxirane, mono(hydrogen 2-sulfobutanedioate), octyl ether, sodium salt (1:2).

C. Exposure Assessment

For the purposes of assessing potential exposure under this exemption, EPA considered that oxirane, 2-phenyl-, polymer with oxirane, mono(hydrogen 2-sulfobutanedioate), octyl ether, sodium salt (1:2) could be present in all raw and processed agricultural commodities and drinking water, and that non-occupational non-dietary exposure was possible. The number average MW of oxirane, 2-phenyl-, polymer with oxirane, mono(hydrogen 2-sulfobutanedioate), octyl ether, sodium salt (1:2) is 1,900 Daltons. Generally, a polymer of this size would be poorly absorbed through the intact gastrointestinal tract or through intact human skin. Since oxirane, 2-phenyl-, polymer with oxirane, mono(hydrogen 2-sulfobutanedioate), octyl ether, sodium salt (1:2) conforms to the criteria that identify a low-risk polymer, there are no concerns for risks associated with any potential exposure scenarios that are reasonably foreseeable. The Agency has determined that a tolerance is not necessary to protect the public health.

D. Cumulative Effects From Substances With a Common Mechanism of Toxicity

Section 408(b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider "available information" concerning the cumulative effects of a particular pesticide's residues and "other substances that have a common mechanism of toxicity."

EPA has not found oxirane, 2-phenyl-, polymer with oxirane, mono(hydrogen 2-sulfobutanedioate), octyl ether, sodium salt (1:2) to share a common mechanism of toxicity with any other substances, and oxirane, 2-phenyl-, polymer with oxirane, mono(hydrogen 2-sulfobutanedioate), octyl ether, sodium salt (1:2) does not appear to produce a toxic metabolite produced by other substances. For the purposes of

this tolerance exemption, therefore, EPA has assumed that oxirane, 2-phenyl-, polymer with oxirane, mono(hydrogen 2-sulfobutanedioate), octyl ether, sodium salt (1:2) does not have a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see EPA's website at <https://www.epa.gov/pesticide-science-and-assessing-pesticide-risks/cumulative-assessment-risk-pesticides>.

E. Additional Safety Factor for the Protection of Infants and Children

Section 408(b)(2)(C) of FFDCA provides that EPA shall apply an additional tenfold (10X) margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the database on toxicity and exposure unless EPA determines, based on reliable data, that a different margin of safety will be safe for infants and children. Due to the expected low toxicity of oxirane, 2-phenyl-, polymer with oxirane, mono(hydrogen 2-sulfobutanedioate), octyl ether, sodium salt (1:2), EPA has not used a safety factor analysis to assess the risk. For the same reasons no additional safety factor is needed for assessing risk to infants and children.

F. Determination of Safety

Based on the conformance to the criteria used to identify a low-risk polymer, EPA concludes that there is a reasonable certainty of no harm to the U.S. population, including infants and children, from aggregate exposure to residues of oxirane, 2-phenyl-, polymer with oxirane, mono(hydrogen 2-sulfobutanedioate), octyl ether, sodium salt (1:2).

G. Analytical Enforcement Methodology

An analytical method is not required for enforcement purposes since the Agency is establishing an exemption from the requirement of a tolerance without any numerical limitation.

H. Conclusion

Accordingly, EPA finds that exempting residues of oxirane, 2-phenyl-, polymer with oxirane, mono(hydrogen 2-sulfobutanedioate), octyl ether, sodium salt (1:2) from the requirement of a tolerance will be safe.

V. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be

found at <https://www.epa.gov/regulations/and-executive-orders>.

A. Executive Order 12866: Regulatory Planning and Review

This action is exempt from review under Executive Order 12866 (58 FR 51735, October 4, 1993), because it establishes or modifies a pesticide tolerance or a tolerance exemption under FFDCA section 408 in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866.

B. Executive Order 14192: Unleashing Prosperity Through Deregulation

Executive Order 14192 (90 FR 9065, February 6, 2025) does not apply because actions that establish a tolerance under FFDCA section 408 are exempted from review under Executive Order 12866.

C. Paperwork Reduction Act (PRA)

This action does not impose an information collection burden under the PRA 44 U.S.C. 3501 *et seq.*, because it does not contain any information collection activities.

D. Regulatory Flexibility Act (RFA)

This action is not subject to the RFA, 5 U.S.C. 601 *et seq.* The RFA applies only to rules subject to notice and comment rulemaking requirements under the Administrative Procedure Act (APA), 5 U.S.C. 553, or any other statute. This rule is not subject to the APA but is subject to FFDCA section 408(d), which does not require notice and comment rulemaking to take this action in response to a petition.

E. Unfunded Mandates Reform Act (UMRA)

This action does not contain an unfunded mandate of \$100 million or more (in 1995 dollars and adjusted annually for inflation) 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 Order 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.

H. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

This action is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it is not a significant regulatory action under section 3(f)(1) of Executive Order 12866 (See Unit VI.A.), and because EPA does not believe the environmental health or safety risks addressed by this action present a disproportionate risk to children.

However, EPA's 2026 *Policy on Children's Health* applies to this action. This rule finalizes tolerance actions under the FFDCA, which requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to "ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue . . ." (FFDCA 408(b)(2)(C)). The Agency's consideration is documented in the pesticide-specific registration review documents, located in the applicable docket at <https://www.regulations.gov>.

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 Advancement Act (NTTAA)

This action does not involve technical standards that would require Agency consideration under NTTAA section 12(d), 15 U.S.C. 272.

K. Congressional Review Act (CRA)

This action is subject to the CRA, 5 U.S.C. 801 *et seq.*, and EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: May 7, 2026.

Charles Smith,

Director, Registration Division, Office of Pesticide Programs.

For the reasons stated in the preamble, 40 CFR chapter I is amended as follows:

PART 180—TOLERANCES AND EXEMPTIONS FOR PESTICIDE CHEMICAL RESIDUES IN FOOD

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2. Amend § 180.960 by adding the polymer, "oxirane, 2-phenyl-, polymer with oxirane, mono(hydrogen 2-sulfobutanedioate), octyl ether, sodium salt (1:2). Minimum number average molecular weight (in amu), 1,900 Daltons", in alphabetical order to table 1 to read as follows:

§ 180.960 Polymers; exemptions from the requirement of a tolerance.

* * * * *

TABLE 1 TO § 180.960

Polymer	CAS No.
oxirane, 2-phenyl-, polymer with oxirane, mono(hydrogen 2-sulfobutanedioate), octyl ether, sodium salt (1:2). Minimum number average molecular weight (in amu), 1,900 Daltons	2983072–24–6

2. The benefits of our changes today may total well over \$2 billion, with capacity increases of 100% to 700% possible using the same number of in-orbit NGSO satellites. Allowing for more intensive spectrum use brings satellite broadband providers closer to the milestone of delivering *gigabit* service from space—a feat unimaginable only a few years ago. Such capability will bring greater competition to the broadband marketplace as space-based connectivity reaches speeds and latency similar to that of terrestrial fiber. And by reducing the number of satellites required to cover an area with a given capacity, our new framework will allow for lower unit costs to serve a geographic area, which in turn can reduce the price of broadband to consumers. In short, by removing an enormous regulatory constraint on NGSO systems, the Commission takes another step to unleash the American space industry to deliver for consumers.

3. Specifically, in the Order, we replace the EPFD framework with modern, performance-based GSO protection criteria that take account of the improved spectrum sharing possibilities that modern satellite technology has brought, including through use of adaptive coding and modulation (ACM). As the cornerstone of our new sharing regime, we extend our time-tested framework for good-faith coordination and allow NGSO and GSO operators to bargain for appropriate interference protections through voluntary, private agreement. We adopt the following technical backstops to protect GSO systems when coordination has not been reached:

- A long-term protection criterion of 3% time-weighted average throughput degradation for GSO satellite links using ACM;
- A short-term protection criterion of 0.1% absolute increase in link unavailability;
- A supplemental protection criterion of -10.5 dB interference-to-noise (I/N) for 80% of the time for GSO satellite links that do not use ACM, such as point-to-multipoint video transmissions; and
- A supplemental protection requirement for NGSO systems to observe a minimum 3-degree avoidance angle of the GSO arc.

4. Having taken a fresh look at today's satellite technology and operations, these new rules will promote more efficient and effective use of the shared spectrum, and support a more competitive market for satellite broadband and other in-demand services.

II. Background

5. *Overview.* The American space sector is booming. In the past few years alone, thousands of broadband-capable satellites have been launched into low-Earth orbit (LEO), connecting Americans with low-latency, high-speed services heretofore unavailable in many rural and underserved areas of the United States. By one estimate, the supply of high-throughput satellite capacity tripled between 2021 and 2023, with NGSO satellites accounting for over 90% of the net supply during that period, and projected to account for 97% of the increase in supply from 2023 to 2028. At the same time, GSO satellite operators have continued to deploy powerful, new satellites with enhanced capabilities. The space sector is helping bridge the digital divide.

6. These broadband satellite services rely on shared spectrum. In the most commonly used frequency bands, between 10.7 GHz and 30 GHz, NGSO systems share primary fixed-satellite service (FSS) allocations with GSO networks, and must also operate compatibly with broadcasting-satellite service (BSS) networks and stations in other services, including terrestrial services. NGSO FSS systems must comply with power limits expressed in EPFD to demonstrate that they meet their broader obligation not to cause unacceptable interference to GSO FSS and BSS networks. NGSO FSS systems must also meet separate power limits expressed in power-flux density (PFD) to protect terrestrial services. Within the 10.7–30 GHz range, EPFD downlink limits apply in the 10.7–12.7 GHz, 17.3–18.6 GHz, and 19.7–20.2 GHz bands in the United States. Applicants for NGSO FSS space station licenses, and non-U.S.-licensed satellite operators seeking access to the U.S. market, must certify that they will comply with the specified EPFD limits.

7. *EPFD History.* As reviewed in the *NPRM*, the current EPFD limits were developed in the late 1990s for the protection of GSO networks from then-proposed NGSO systems. They were adopted by the international community at the International Telecommunication Union's (ITU) World Radiocommunication Conference (WRC) in 2000, and subsequently incorporated into the Commission's rules. In 2019, the international community again considered sharing criteria among GSO and NGSO FSS systems, this time in the higher Q- and V-bands between 37.5 GHz and 51.4 GHz. WRC-19 did not adopt EPFD limits in these bands. Instead, given the expected use of ACM by GSO networks in these bands, it

required NGSO FSS systems to meet certain long-term and short-term GSO protection criteria that incorporate a degraded throughput methodology.

8. *Current ITU Work.* WRC-23 considered a proposal from the Inter-American Telecommunication Commission (CITEL) co-signed by ten member states, including the United States, to review the EPFD limits under a future agenda item for WRC-27. While the proposed agenda item was not adopted, WRC-23 invited ITU-R to conduct technical studies on the EPFD limits and to inform WRC-27 of the results of the studies, without any regulatory consequences. These studies are being carried out in ITU-R Working Party (WP) 4A.

9. *Waivers.* On January 9, 2026, the Space Bureau granted SpaceX a waiver of the EPFD limits in the United States to operate pursuant to its satellite configuration used during real-world testing of an Nco of 8 and a GSO-arc avoidance angle of 4 degrees. On February 20, 2026, the Space Bureau granted Amazon a similar waiver for its NGSO system.

10. *NPRM.* On April 28, 2025, the Commission launched this proceeding by granting a SpaceX petition for rulemaking to review the decades-old spectrum sharing regime between GSO and NGSO systems in downlink frequency bands between 10.7 GHz and 30 GHz that are subject to EPFD limits, and to amend §§ 25.146 and 25.289 of the Commission's rules. The *NPRM* sought to develop a substantial technical record concerning modern and efficient spectrum sharing among NGSO FSS systems and GSO FSS and BSS networks in the 10.7–12.7, 17.3–18.6, and 19.7–20.2 GHz bands, while ensuring that any rule changes do not affect the continued protection of other services. In response to the *NPRM*, 38 comments, 23 reply comments, and numerous *ex parte* presentations were filed.

III. Discussion

11. The voluminous record in this proceeding includes rarely available, real-world testing data assessing the impact of EPFD exceedances on operational GSO networks, along with technical and economic analyses and other comments. Based on this record, we conclude that technological advancements in the past three decades and the inherent issues in the EPFD limits themselves warrant the establishment of a new, performance-based spectrum sharing framework between GSO and NGSO systems in the 10.7–12.7, 17.3–18.6, and 19.7–20.2 GHz bands. Leveraging the latest

satellite technology, the U.S. space industry can make better use of spectrum resources to substantially expand and improve the broadband services available in the United States, thereby furthering “the policy of the United States to encourage the provision of new technologies and services to the public.”

12. As described below, we expect the modernized NGSO–GSO sharing framework to result in substantial benefits for American consumers, by enabling new NGSO systems to use more satellites to serve the same area, at potentially higher power, and over a wider portion of the visible sky. For example, when an NGSO system can employ eight satellites to provide service simultaneously in a given geographic area and frequency band, instead of being effectively limited to one satellite under current EPFD limits, and while continuing to protect GSO networks as supported by real-world testing, it immediately boosts capacity, which translates to faster broadband speeds for American consumers. Increasing the capacity available to any location can improve quality of service or allow competitors to provide the same quality of service with a smaller constellation, which could potentially lower prices to consumers. Expanded, low-latency satellite broadband at lower cost may also increase competition for broadband services in new areas, including some urban areas where prior satellite capacity constraints may have bounded consumers’ willingness to switch. This, in turn, results in greater societal welfare benefits, with one study estimating welfare to increase by between \$10 billion and \$100 billion globally if EPFD limits were widely replaced.

13. We replace the outdated and wooden EPFD limitations with a modern framework that gives NGSO and GSO operators the flexibility to reach protection criteria through good-faith coordination. It is at once a fundamental change in regulatory design, but at the same time consistent with the primacy we place on good-faith coordination across many other contexts. As the Commission has emphasized, private coordination among satellite operators, based on real-world operating parameters, offers the best opportunity for efficient spectrum sharing. The current EPFD limits do not accommodate such coordination because they must be met regardless of any agreements between particular NGSO and GSO satellite operators. Our approach not only encourages good-faith coordination efforts; it requires them. And the new, performance-based

protection criteria focus on what matters (*i.e.*, delivered service), allowing innovation in NGSO system designs which respect the new limits. Whereas EPFD limits categorically restricted an input, the approach we adopt today gives parties the flexibility to negotiate a more efficient outcome.

14. As a backstop to good-faith coordination, we adopt GSO protection criteria that take account of the improved spectrum sharing possibilities that modern satellite technology has brought, including through use of ACM. Specifically, we require NGSO satellites transmitting in the 10.7–12.7, 17.3–18.6, and 19.7–20.2 GHz bands to protect co-frequency GSO networks using a long-term protection criterion of 3% time-weighted average throughput degradation. We adopt a short-term GSO protection criterion of 0.1% absolute increase in link unavailability. For GSO satellite links that do not use ACM, we adopt a long-term protection criterion of -10.5 dB I/N for 80% of the time. As an additional measure of protection for GSO networks, we require NGSO systems to observe a minimum 3-degree avoidance angle of the GSO arc. We decline to establish aggregate limits or other limits on NGSO systems at this time. These new backstop provisions will ensure that NGSO broadband services can reap the benefits of significantly more efficient spectrum sharing while ensuring that NGSO systems continue not to cause “unacceptable interference” to GSO FSS and BSS networks.

15. Below, we outline the public-interest benefits of our decision, based on the extensive record in this proceeding. We then explain why the purported costs of modernizing our sharing rules are overstated, speculative, and, in any case, mitigated by the suite of additional protections we adopt today. Finally, we resolve assorted issues of implementation and compliance.

A. Benefits of Modernized Sharing Rules

16. Dramatically boosting the capacity of NGSO broadband systems serves the public interest. Adding more system capacity is the most impactful way for NGSO operators to address their most acute and recurring technical challenge: providing 5G-quality data rates to a growing number of users during periods of peak congestion, without sacrificing on signal reliability. Enabling that level of performance makes satellite broadband a more compelling alternative for consumers in areas with limited competitive options. And it lowers barriers to entry and potentially stranded investments by reducing the

need for new satellite launches and expensive infrastructure builds.

17. The record unambiguously demonstrates that legacy EPFD restrictions present perhaps the largest regulatory constraint on NGSO systems to deliver more capacity to consumers. As discussed below, we find that modernizing our NGSO–GSO sharing framework to boost NGSO capacity and reduce the necessary size of NGSO constellations will bring substantial public-interest benefits. We also note the broader macroeconomic benefits across America. One study, for example, has indicated that increases in NGSO system capacity of 74% to 180% could reduce average costs per unit of capacity of between 43% and 64%. The study further estimated increases in consumer welfare ranging from 11%, given a 10% reduction in price and a 25% increase in capacity, to 113%, assuming a 50% reduction in price and a 250% increase in capacity. And if revisions to the EPFD regime were adopted globally, they could result in welfare benefits to all customers ranging from \$10 billion to \$100 billion.

1. Boosting Capacity and Speeds

18. The ability of surging NGSO satellite deployments to meet the needs of Americans on the wrong side of the digital divide is limited by the design and operational restrictions placed on NGSO systems by the need to comply with EPFD limits. To meet these limits, NGSO operators have three primary strategies. First, NGSO operators limit the number of satellite beams that can serve any given location simultaneously using the same frequencies (*i.e.*, the number of co-frequency beams or Nco), limiting spectrum reuse and capacity. Second, NGSO operators implement wide “avoidance angles” of the GSO arc, which restrict satellites from transmitting when they are within a certain-degree separation from the transmission path of a GSO satellite. This technique increases the number of satellites NGSO operators need to provide full coverage and causes less efficient rerouting of network paths, which further reduces performance and increases latency. Third, NGSO operators reduce their power levels even outside the GSO-arc avoidance angle to ensure off-axis emissions remain below the EPFD limit, with lower power levels reducing data rates and leading to less robust connectivity for end users. In total, compliance with the current EPFD limits directly degrades the efficiency of spectrum use by NGSO systems.

19. The EPFD limits are coupled with the ITU’s software and methodology for assessing compliance with those limits,

which can further restrict real-world NGSO operations. For example, the ITU software considers a relatively sensitive reference antenna pattern for GSO earth stations, resulting in a greater calculated EPFD into GSO earth stations and therefore greater restrictions on NGSO operations to fall below the EPFD limits as calculated with reference to this antenna pattern. In addition, the ITU software uses a worst-case geometry selection algorithm when choosing among available NGSO satellites to transmit to a given location. This assumes that the NGSO operator will always select the satellite with the worst-case geometry (often, the satellite closest to the GSO arc), although it is unlikely that an operator would rely on such an algorithm to conduct actual operations. Rather, satellite operators rely on a complex, global resource management system for assigning satellite capacity to their customers. In total, according to one study, the assumed EPFD of an NGSO system was substantially below the maximum allowed EPFD in Ka-band at almost all points when using the ITU methodology, and up to 30 dB below the limits for short-term interference in the upper portion of the Ka-band specifically. By restricting EPFD below even the limits themselves, NGSO capacity, coverage, and service are further reduced. Beyond stating that EPFD limits rely on conservative or disputed assumptions, commenters also argue the current ITU process invites “regulatory gamesmanship.”

20. In contrast to legacy EPFD regulations, the record demonstrates substantial potential for enhanced NGSO service offerings under a modernized NGSO–GSO sharing framework. Analyses for current and planned Ku-band and Ka-band NGSO systems indicate that modernized sharing rules could deliver increases in NGSO system capacity of 100% to 700% in a given area in the United States, because NGSO operators would be able to increase the number of satellites operating simultaneously in a given area and a given frequency band from one to as many as eight. At the same time, a reduction in the GSO-arc avoidance angle would increase the number of satellites available to serve an earth station location and thereby increase coverage, potentially reducing the size and cost of NGSO systems.

a. Real-World Measurement Campaigns

21. This rulemaking has benefitted from rarely available, real-world measurement campaigns, which assessed the impact of the SpaceX Starlink NGSO system in different

operational configurations on typical GSO network mass-market terminals. These real-world test results demonstrate the potential for enhanced NGSO operations, in excess of current EPFD limits, and the resulting impacts on typical GSO service links.

22. In one set of testing, SpaceX operated the Starlink system with GSO-arc avoidance angles resembling typical GSO separation arcs in Ku-band and Ka-band, *e.g.*, 2, 3, 4 and 6 degrees. The test setup included a high-precision spectrum analyzer connected to a mass-market GSO terminal from a major GSO operator. The average de-sense to the GSO link resulting from eight co-frequency beams with an avoidance angle of 4 degrees from the GSO arc was less than 0.1 dB, which translates to a degraded throughput of less than approximately 0.7%. In another set of testing, using a different location and GSO network, SpaceX demonstrated that, for the Starlink system similarly configured to use eight co-frequency beams and a 4-degree GSO-arc avoidance angle, the long-term de-sense of the GSO link was negligible and the increase in short-term link unavailability was approximately 0.05%. In two other sets of testing, with different locations and GSO networks, operating the Starlink system with up to eight co-frequency beams and a 4- or 4.5-degree GSO-arc avoidance angle similarly showed minimal long-term signal de-sense (and associated degraded throughput) to the GSO links. And a fifth set of testing provided similar results. Further, the increase in absolute unavailability in a test using a very small, 35 cm user terminal was 0.0005%. Notably, SpaceX has conducted measurements in Jordan with a GSO-arc avoidance angle of 3 degrees and an Nco of 6 for a 60 cm earth station receiving antenna. The average co-polarized de-sense from this test was approximately 0.17 dB, which corresponds to an I/N of approximately –13.9 dB.

23. The results of these five extensive, months-long test campaigns offer direct, real-world evidence that a currently operating NGSO system could, in comparison with its configuration needed to meet current EPFD limits, increase by 700% its number of satellites (*i.e.*, from 1 satellite to 8 satellites) operating simultaneously co-frequency in the same area while reducing its GSO-arc avoidance angle by 60%—from 10 degrees to 4 degrees—with resultant effects on typical GSO networks of less than 3% degraded throughput and 0.1% absolute increase in unavailability. While commenters note certain limitations of the SpaceX

real-world testing—that it was only conducted in the Ku-band; that it does not reflect year-long rain fade effects; and that tested interference to a GSO earth station located in the center of the GSO beam, where the desired signal is strongest, would be lower than the interference to a GSO earth station located at the edge of the GSO beam, where the desired signal is weakest—no other commenter has presented alternative interference measurements on the record for consideration.

b. Simulations

24. Technical studies containing simulations further support the conclusion that NGSO systems could significantly improve capacity and coverage with limited effects on GSO networks. In one scenario analyzed for the Amazon system, for example, the NGSO system could operate at increased power levels, reduce its GSO-arc avoidance angle from 18 degrees to 3 degrees, and operate at an Nco of 4 (quadrupling its capacity in any given area), and the largest increase in unavailability for all ten studied GSO links would be 0.00000073%. The largest decrease in throughput was 1.27% for a customer terminal, with half of the ten links studied showing a decrease of 0.00956% or less. In another scenario analyzed for the Amazon system, the NGSO system could maintain its lower power level, reduce its GSO-arc avoidance angle to 2 degrees, and operate at an Nco of 8 (octupling the capacity), and the largest increase in unavailability would be 0.000001756%. At most, Amazon estimated GSO operators would experience a loss of 2.72% in throughput, with half of the ten links studied showing a throughput decrease of 0.175% or less. For SpaceX’s Starlink, simulations of interference from the NGSO system into a 46 cm Ku-band user terminal in Oregon showed an absolute increase in unavailability of 0.0047%, assuming an Nco of 15 and a GSO-arc avoidance angle of 18 degrees, and a 0.0251% increase if the avoidance angle were reduced to 4 degrees. Another simulation attempted to replicate the results of the SpaceX real-world testing in Bogota, Colombia and found compliance with a 0.1% absolute increase in unavailability limit.

25. Simulations on the record assessing the capacity gains of degraded throughput rely on varying assumptions, which we examine later from a GSO coexistence perspective. For present purposes, the simulations presented support the conclusion that the EPFD limits greatly constrain NGSO capacity. We disagree with suggestions

that the combined record of rarely available, real-world measurement data and numerous simulations is an insufficient technical basis on which to adopt a degraded throughput methodology aligned with the Commission's NGSO-NGSO sharing framework and the international NGSO-GSO sharing framework in Q- and V-bands. As the studies show, even a simple change of Nco from one to two could double the capacity available in a given area, while meeting GSO protection criteria proposed on the record.

2. Connecting the Unconnected

26. Satellite connections have long been a lifeline for Americans in rural and remote areas, where rugged terrain, sparse population, and economic realities have often kept terrestrial networks out of reach. Today, satellites are an increasingly powerful tool in the combined efforts to close the digital divide. The Federal Government has directed billions in funding for broadband deployment and adoption, culminating in the \$65 billion investment in the 2021 Bipartisan Infrastructure Law. Yet, in 2024, more than one third of Americans had only one provider of high-speed broadband or lacked access altogether.

27. This rulemaking has benefitted from the views and experiences of Americans living and working in rural and underserved areas, and those who advocate on their behalf, on the impact that modernization of the NGSO-GSO sharing framework could have for Americans on the wrong side of the digital divide. These citizens and non-profits note that in their communities, as in many rural areas, NGSO FSS satellites may offer the only viable broadband solution, enabling access to telehealth services, remote learning, digital job training, remote work opportunities, and emergency communications. These commenters argue that modernizing the NGSO-GSO sharing framework will enable NGSO providers to expand capacity, increase speeds, and improve service reliability, which are "transformational improvements for the communities we serve." Rural voices on the record uniformly urge us to update the NGSO-GSO spectrum sharing rules, without delay.

28. NGSO satellite operators are investing heavily as uptake grows, and the potential for low-latency, gigabit satellite broadband is on the horizon. High-throughput satellite capacity has been forecast to grow nine-fold between 2023 and 2028, with NGSO constellations driving 97% of the net

increase. And new NGSO satellite capacity is already being put to significant use—not only offering high-speed, low-latency broadband in rural areas, but also supporting critical industries, from aviation and shipping to manufacturing and agriculture, and providing network resiliency, delivering robust connectivity capable of supporting life-saving real-time communications. Yet supply constraints remain. It is imperative that we look at new ways to leverage the exploding growth of NGSO systems to aid the combined effort to expand access and competition in broadband and other services in the United States—starting with the most constraining regulatory requirement on NGSO broadband systems today.

3. Fostering New Competitive Entry

29. Modernizing the NGSO-GSO sharing regime would also bring particular benefits for new entrant LEO-satellite systems. With greater operational flexibility under revised sharing rules, new LEO systems would need smaller constellations and still have greater capacity to reach more customers, which would reflect a substantial reduction in launch costs, satellite costs, and costs of a new LEO constellation. For example, one analysis indicates that a constellation that would require 462 LEO satellites under existing EPFD rules to have a certain coverage could obtain the same coverage with updated rules with only 360 satellites. ICLE argues the EPFD limits impose "significant market distortions" that "translate directly into higher costs per unit of capacity delivered to consumers, as operators must deploy more satellites and infrastructure to achieve the same service levels." Lower costs from a revised NGSO-GSO sharing framework would encourage new entry as well as lower prices for customers. In addition, greater capacity would make LEO broadband more competitive vis-à-vis fixed broadband and bring greater choice to consumers.

4. Maximizing Efficient Spectrum Use

30. In modernizing the spectrum sharing framework between GSO and NGSO satellite systems, we seek to achieve abundance and reject technically unnecessary restrictions borne from a zero-sum mindset. We are guided by the Commission's policy statement on spectrum management in doing so. This policy, when applied to the current rulemaking, favors efficiency over absolute protection guarantees. As most pertinent to this rulemaking, the Commission noted that:

- The electromagnetic environment is highly variable, and zero risk of occasional service degradation or interruption cannot be guaranteed.

- Services should plan for the spectrum environment in which they intend to operate, the service they intend to provide, and the characteristics of spectrally and spatially proximate operations. Planning should be ongoing and account for changes in spectrum operating environments.

- Radio transmitter and receiver system operators and equipment manufacturers should plan for and design error tolerant systems, using good engineering practices, to mitigate degradation from interference.

- Quantitative analyses of interactions between services that are fact-and evidence-based, sufficiently robust, transparent, and reproducible are needed to better inform spectrum management decision-making.

31. Our decision making in this proceeding squarely aligns with these principles and is supported by the best-available, real-world data presented in the record as set forth below. Further, when considering more intensive use of spectrum for new and innovative services, we are acutely aware that "[a] uniform or absolute expectation of service availability could preclude the introduction of valuable new services in the RF [radiofrequency] environment and undermine the efficient use of spectrum resources." And we continue to expect proponents of interference claims "to supply sufficiently complete, transparent, and reproducible quantitative analytical models of the interactions between radio services, with respect to transmitter and receiver performance characteristics and the RF environment."

32. Even when considered in their own right, the current EPFD limits have raised significant concerns as to whether they constitute an efficient spectrum sharing regime for GSO and NGSO systems in the 10.7–12.7 GHz, 17.3–18.6 GHz, and 19.7–20.2 GHz bands. Most starkly, the differing treatment of Ka-band frequencies—where the EPFD limit in the upper portion of the band is substantially more restrictive than the EPFD limit in the lower portion of the band—is widely criticized in the record as technically unjustified. In addition, the overall methodology used to derive the current EPFD limits has been called into question, including the use of methodologies designed to address short-term interference to develop long-term EPFD limits, overly conservative modeling of rain attenuation, and the

inclusion of a large number of unstable links with negative link margin values in the set of GSO reference links used to derive the EPFD limits.

33. Compliance with the current EPFD limits results in spectrally inefficient, overprotection of modern GSO networks that exceeds the protection GSO operators afford each other. Indeed, the comparison with GSO–GSO protection is illustrative. As GSO satellites operate from fixed locations along the 360-degree GSO arc, a primary strategy for managing potential GSO–GSO interference is through orbital separation. Internationally, the GSO orbital separation provisions in the ITU Radio Regulations presume negligible interference beyond orbital separation of 6 degrees in the Ku-band and 8 degrees in Ka-band. The Commission’s own orbital spacing policy for GSO FSS networks in these bands is based on two-degree spacing. Yet, as noted in one U.S. study submitted to ITU WP 4A, maintaining a level of GSO–GSO protection equivalent to the ITU EPFD limits would require significantly larger orbital separations—estimated as at least 25 and 46 degrees in the Ku- and Ka-bands, respectively. Thus, the ITU EPFD limits are 4 to 5 times more restrictive than equivalent GSO–GSO protections that guard against all but negligible levels of interference—and 12 to 23 times more restrictive than the Commission’s equivalent separation rules.

34. Analyses on the record further quantify these current protection levels. According to one study modeling an NGSO system operating under current EPFD limits, short-term interference to a set of ten GSO reference links resulted in undetectable increases in absolute unavailability in both the lower and upper Ka-bands, while the maximum decrease in throughput in the lower Ka-band was 0.162%. Five of the other links showed throughput decreases of 0.0011% or less. In the upper Ka-band (where EPFD limits are significantly more restraining) the maximum decrease in throughput was 0.0148% with five of the other links having decreases of 0.000012% or less.

5. Encouraging Good-Faith Coordination

35. Beyond the improvements in technical efficiency of NGSO operations and attendant lower costs for consumers, a modernized NGSO–GSO sharing framework can encourage private negotiations where the current EPFD regime has prevented beneficial bargaining. While ITU Radio Regulations explicitly permit EPFD limits to be exceeded on the territory of

an administration that so agrees, coordination between any particular NGSO and GSO operator does not affect the NGSO operator’s obligation to demonstrate adherence to the EPFD limits at the ITU. Under revised NGSO–GSO sharing rules, private bargaining among GSO and NGSO operators will have greater relevance. And these benefits will be added to the significant improvements in NGSO system capacity and efficiency, with limited impact on GSO operations, and will combine with the explosive growth of the NGSO satellite industry (which further increases the benefits of efficiency gains) in comparison with the relatively stable, or declining, rate of growth of many GSO operations.

36. Other Commission precedent supports a requirement of good-faith coordination backstopped by performance-based interference metrics in the NGSO–GSO sharing context. Indeed, when recently considering protection requirements between NGSO FSS systems, which universally incorporate ACM, the Commission adopted a long-term protection criterion of 3% degraded throughput, and a short-term protection criterion based on the absolute increase in link unavailability (0.4%), and it declined to create aggregate limits on NGSO interference into other NGSO systems. Importantly, the Commission explained that notwithstanding its newly adopted default protection requirements, coordination among satellite operators in the first instance “offers the best opportunity for efficient spectrum sharing.” Similarly, when the Commission revised its two-degree orbital spacing rules for GSO satellites in 2015 it explicitly acknowledged the value of coordination agreements reached between GSO satellite operators and offered continued protection of coordinated operations even when they did not comply with default, two-degree spacing rules. In addition, there is no conflict between the comprehensive update to the NGSO–GSO sharing framework undertaken in this rulemaking based on a substantial technical record and the previous adoption—in the absence of any well-developed alternative—of ITU EPFD limits, including in the 17.3–17.8 GHz band, which reflected prior domestic alignment with ITU rules before a compelling reason to depart from those rules was developed.

37. We re-emphasize this fundamental principle—that private agreements, not heavy-handed regulation, lead to the most efficient satellite spectrum sharing outcomes—and firmly incorporate it into NGSO–GSO sharing in the 10.7–

12.7, 17.3–18.6, and 19.7–20.2 GHz bands. Unlike compliance with EPFD limits, which is assessed by the ITU BR and effectively replaces any coordination among GSO and NGSO operators in bands subject to EPFD limits, our default GSO protection criteria and framework will explicitly recognize and require good-faith coordination. This is facilitated by the fact that, while we adopt a default set of GSO reference links below to facilitate technical showings of compliance with the GSO protection criteria by NGSO applicants, the particular reference links are taken from particular satellite networks. We believe interference protections should ultimately be rooted in real-world interference realities. So when an NGSO operator completes coordination with a particular GSO network serving the United States, we will permit the NGSO operator to revise its technical compatibility showing by omitting the links of the GSO network with which coordination was completed. By doing so, we avoid the intractable barriers to coordination under the current regime while offering a transparent means for agreements between NGSO and GSO operators to be reflected in the authorized operating parameters of the NGSO system.

6. Keeping Pace With Technological Advancements

38. Satellite technology has advanced profoundly since EPFD limits were developed in the 1990s. Analog satellite transponders have been replaced by digital systems with onboard processors. Large, fixed beams have given way to smaller, steerable beams using phase array antennas. Adaptive coding and modulation techniques allow satellite links to be maintained despite interference (such as adverse weather) by varying throughput. Operators have incorporated dynamic beam pointing, uplink and downlink power control, and network protocols that provide greater resilience to environmental effects and interference. And on the earth station side, large dishes have given way to very small aperture terminals that allow for widespread, cost-effective connectivity.

39. These technological developments both allow NGSO systems to better control and limit interference into GSO networks and strengthen GSO operations’ ability to adapt to changing interference environments. Fundamentally, they have enabled more intensive, compatible shared use of the spectrum. Indeed, the availability of ACM with expected GSO networks in the Q- and V-bands was a significant

factor that led the international community to decline EPFD limits in the Q- and V-bands and instead adopt an NGSO–GSO sharing framework incorporating a long-term GSO protection criterion of 3% degraded throughput.

7. Promoting U.S. Leadership Globally

40. In launching the *NPRM* in this proceeding, we concluded it was appropriate to begin our domestic review of the NGSO–GSO sharing regime without awaiting the outcome of ongoing deliberations at the ITU. Experience to date has reinforced that judgment. While individual member states, including the United States, have continued to contribute to the ongoing technical studies on the current Article 22 EPFD limits in ITU WP 4A, needless procedural roadblocks and delay tactics have repeatedly ground international technical discussions to a halt.

Although some stakeholders have suggested deferring domestic action pending further ITU developments, we believe it is important to move forward in a timely manner to provide regulatory clarity and support connectivity for millions of Americans, even as the ITU process continues toward WRC–27.

41. At the same time, we believe our approach can promote global collaboration toward spectrum harmonization. We anticipate that the record developed in this proceeding, including technical analyses and, over time, real-world implementation outcomes, may serve as a useful reference point for the ITU’s ongoing work. We also hope that the Commission’s policy framework can contribute constructively to discussions leading up to WRC–27, as the international community explores approaches to NGSO–GSO sharing that enhance broadband performance, expand access in rural and remote areas, promote competition, and ultimately benefit consumers worldwide.

42. As we originally anticipated, this rulemaking has compiled an exceptional technical record—including real-world measurements and additional, detailed technical simulations not submitted to international fora—that enable us to make a forward-looking decision now in the best interests of Americans. While international deliberations may—and should—converge on a similar revision to the EPFD framework in the future, the ITU Radio Regulations explicitly recognize administrations’ rights to exceed EPFD limits on their own territory in the meantime. And such exceedances are technically feasible without altering EPFD compliance in neighboring countries with use of

narrow, spot beams and other modern NGSO satellite technologies. Our action will promote American leadership at a time of increasing global competition.

B. Modernized Sharing Rules for NGSO–GSO

1. Coordination Default and Degraded Throughput Backstop

43. We consider and ultimately reject countervailing arguments in favor of retaining the current EPFD limits. One argument is that GSO operations are uniquely prone to interference. SES, for example, asserts that the “EPFD framework is necessary because GSO satellites operate at fixed orbital positions in a specific orbital arc and cannot maneuver or switch satellites to mitigate the interference caused by NGSO systems operating in shared frequency bands.” However, the EPFD limits are not the only way to protect GSO networks from unacceptable interference, as shown by the international adoption of the degraded throughput methodology to protect GSO networks in Q- and V-bands. Eutelsat argues that EPFD limits are uniquely suited to protecting GSO operations, because “EPFD limits mitigate [the] risks [of dynamic, time-varying interference caused by NGSO systems] by placing strict bounds on both peak and aggregate interference levels” and “appropriately protect high-value links to support diverse applications by differentiating EPFD limits according to terminal characteristics.” However, the degraded throughput methodology also limits peak and aggregate interference (or short-term and long-term interference, in the terminology of a degraded throughput analysis) and accounts for differing terminal characteristics through a set of GSO reference links.

44. In addition, while Viasat argues that alternatives to EPFD limits are a hinderance to innovation by GSO operators, the degraded throughput methodology will allow continued innovation by protecting GSO operators from actual, unacceptable interference, as demonstrated by the NGSO applicant, while also significantly improving the efficiency of the NGSO system and use of the spectrum overall. Viasat also argues that calls for reform of the NGSO–GSO sharing framework are merely “calls to hobble competition” as they rest on “deeply flawed claims that eliminating the EPFD limits would not expose existing and future GSO operations to unacceptable levels of interference.” While it is unclear what level of interference Viasat would deem “acceptable,” especially considering its

support of the extremely restrictive upper Ka-band EPFD limits, the repeated, months-long, real-world measurements submitted by SpaceX have demonstrated that EPFD limits can be exceeded without significant impact to currently operating GSO networks. Viasat further claims that any reforms to the NGSO–GSO sharing framework “would frustrate efforts by GSO operators to introduce innovative service offerings.” To the extent this means the future deployment of earth station terminals particularly susceptible to interference that require the levels of protection offered by the upper Ka-band EPFD limits, the burdens on NGSO systems from such unequal spectrum sharing have not been justified. Viasat and other commenters also argue that the significant recent growth in NGSO systems is proof that EPFD limits are not unduly constraining. But the fact of such growth—spurred by technological advances and the inherent benefits of lower latency and potentially broader coverage derived from NGSO satellite constellations, especially in LEO—does not negate any of the benefits of NGSO–GSO sharing reform.

45. SES argues that eliminating EPFD protections would shift the burden of interference mitigation onto GSO operators and the Commission in administering a new framework. However, NGSO operators would still have a unilateral requirement to protect GSO networks under a degraded throughput framework the Commission is already administering in the NGSO–GSO sharing context. SES also raises concerns that, without EPFD limits in place, NGSO operators may tilt the competitive landscape in their favor and eventually monopolize shared spectrum bands. Yet as long as NGSO systems have a one-way requirement to protect GSO networks, and not claim protection from them, it is impossible for NGSO systems to monopolize the shared spectrum. SES further argues that moving away from the EPFD regime would devalue GSO service assets potentially to the point of stranding those assets, and discourage future GSO investments and innovation. SES provides no economic evidence in support of this strong claim, nor does it contend that the use of the degraded throughput methodology in Q- and V-bands has foreclosed future GSO use of those bands. We believe that under appropriate protection criteria in a degraded throughput framework GSO networks can continue to grow and provide valuable services.

46. Commenters also present technical simulations showing

exceedances of proposed protection criteria. For example, analyses of the Amazon system assuming an Nco of 16 and a GSO-arc avoidance angle as low as 2 degrees indicate exceedances of the proposed threshold limits at certain locations. An analysis of the Starlink system at a GSO network earth station in Lima, Peru, assuming an Nco of 8 and a GSO-arc avoidance angle of 4 degrees, also indicates exceedances of a 0.1% absolute increase in unavailability. Additionally, Eutelsat presents simulations in which the Starlink system, when using an EPFD-compliant configuration of an Nco of 1 and a GSO-arc avoidance angle of 18 degrees, would nonetheless exceed the thresholds of 3% degraded throughput and 0.1% absolute increase in unavailability for the four analyzed GSO links in Ku-band—thus indicating that the current EPFD limits may be *less* protective than the proposed new protection criteria, a conclusion not suggested by any other commenter and contrary to the real-world testing summarized above. Ultimately, compliance with the GSO protection criteria we are adopting must be demonstrated by the NGSO applicant. If certain NGSO operational parameters are not currently feasible while meeting those criteria for the set of GSO reference links, then they will not be permitted. Thus, simulations showing exceedances for certain NGSO operational parameters at certain locations do not undermine our conclusion that significant capacity and service improvements are possible under performance-based GSO protection criteria, as demonstrated by real-world testing and technical simulations.

47. Commenters also present simulations showing exceedances of proposed protection criteria that demonstrate the interplay between short-term and long-term interference protections. For example, studies of the Starlink system in Ka-band assuming an Nco of 40 and a GSO-arc avoidance angle of either 18 degrees or 4 degrees found less than a 0.1% absolute increase in unavailability at non-ACM GSO network user terminal locations in Oregon (0.016% and 0.03%, respectively), Utah (0.041% and 0.056%, respectively), Oklahoma (0.071% and 0.098%, respectively), Alabama (0.030% and 0.032%, respectively), and New Mexico (0.046% and 0.095%, respectively); and exceedances of the 0.1% limit in New York (0.104% and 0.171%, respectively). For the Amazon system, studies assuming an Nco of 16 and a

GSO-arc avoidance angle of either 6 degrees or 2 degrees in Ka-band showed compliance with a 0.1% absolute increase in unavailability limit for user terminals in Oregon (0.025% and 0.038%, respectively) and Alabama (0.01% and 0.035%, respectively); mixed results—compliance with an avoidance angle of 6 degrees and exceedances at 2 degrees—for earth stations in Oklahoma (0.024% and 0.566%, respectively), New York (0.03% and 0.39%, respectively), and New Mexico (0.01% and 1.37%, respectively); and exceedances for an earth station in Utah (0.14% and 1.47%, respectively). However, in all these cases for both the Starlink and Amazon systems, the separate long-term limit proposed for non-ACM GSO links such as these, -10.5 dB I/N for 80% of the time, was exceeded. Because both long-term and short-term limits would need to be met at all locations, the effect of the -10.5 dB I/N long-term limit would further reduce the expected short-term absolute increases in unavailability in all cases, even where a 0.1% short-term limit was met with a wide margin. With ACM networks, analyses for the Amazon Ka-band system, for example, similarly indicate that the proposed long-term protection criteria of 3% throughput degradation is the limiting factor even when a short-term 0.1% absolute increase in unavailability limit is met.

48. Having concluded that existing EPFD limits are needlessly prescriptive, outdated, and overprotective of GSO operations, and that they unreasonably constrain services by innovative new NGSO systems, we turn to their replacement. For FSS systems using ACM, we conclude—again—that the performance-based metrics of throughput degradation and increase in absolute unavailability represent efficient and appropriate protection criteria. Indeed, when recently establishing protection criteria for NGSO–NGSO sharing in bands including the 10.7–12.7, 17.3–18.6, and 19.7–20.2 GHz bands, the Commission likewise set long-term and short-term protection thresholds using these metrics. The Commission did so because, for ACM satellite systems, the degraded throughput methodology reflects modern technology, results in efficient spectrum sharing, and is readily administrable. The same reasoning now applies to the NGSO–GSO sharing context. Even the ITU, when more recently establishing protections for GSO networks from NGSO systems in bands between 37.5 GHz and 51.4 GHz, chose a degraded

throughput methodology, not EPFD limits. In contrast, pursuing merely different EPFD limits would sacrifice the benefits of performance-based metrics and needlessly delay reform, as parties proposing the development of new EPFD limits do not themselves propose definitive limits for adoption.

49. A degraded throughput methodology does not make enforceability more difficult than the current EPFD regime. As noted below, under our modernized framework, NGSO applicants will be required to submit transparent technical analyses of how they would meet the GSO protection criteria, which will be subject to public and Commission review. In contrast, the current ITU compliance assessments have been noted as “opaque” and encouraging “gamesmanship.” Nor is the degraded throughput analysis unduly complex given its benefits, as it is already used by satellite operators to assess NGSO–GSO interference. Nor would GSO operators lose the ability to control their service quality. As we discussed in response to similar concerns in the NGSO–NGSO sharing context, the interference criteria must be met at all analyzed locations. Since the worst-case locations will drive NGSO operators’ determinations of appropriate system parameters and any mitigation measures, the actual degradations in throughput, absolute increases in unavailability, and I/N levels will be less than the protection criteria in many circumstances. And studies on the record confirm these differing impacts. Thus, earth station equipment that is used for high-availability applications, and that is less sensitive to sidelobe interference than the most sensitive user terminals to be protected, will experience real-world effects significantly below the protection criteria. In a similar vein, Eutelsat raises concerns that the degraded throughput methodology inappropriately allows a gateway link to be degraded as much as a user link, although impacts to gateway links can impact service to numerous customers at once. Again, this is a theoretical concern that is unlikely, if ever, to occur in reality, because the NGSO system must be configured to cause no more interference than the most protective criteria for a GSO link, and because larger, gateway earth station antennas are inherently less susceptible to sidelobe interference than smaller user terminals and therefore will receive less, often substantially less, interference than the thresholds.

2. Long-Term Interference Backstop

50. We adopt a 3% time-weighted average degraded throughput threshold as the long-term interference metric that NGSO systems must comply with for the protection of GSO networks using ACM in the 10.7–12.7, 17.3–18.6, and 19.7–20.2 GHz bands.

51. Consistent with the Commission's decision making in the NGSO–NGSO sharing context for modern satellite systems using ACM, we conclude that adopting this value best furthers our goals of allowing for competitive new and improved services by NGSO operators while providing adequate protection of GSO networks. First, this value has been thoroughly developed, debated, and adopted for the protection of GSO networks using ACM in the Q- and V-bands internationally, as well as for the protection of NGSO systems using ACM in bands including the 10.7–12.7, 17.3–18.6, and 19.7–20.2 GHz bands. Second, the 3% value is the only degraded throughput value proposed, analyzed, and supported on the record. Third, the 3% throughput-degradation threshold limits the interference allowed at any analyzed GSO network earth station location, not the expected average of interference across all locations. Since the worst-case scenarios will drive the overall NGSO system parameters necessary to guarantee protection of the most sensitive link, actual interference will be less than 3% in many circumstances. Importantly, GSO satellite operators will be able to further reduce this level of throughput degradation for given customers by the use, or continued use, of appropriate earth station equipment that is less sensitive than the most sensitive links to be protected, considering geographic and other factors. And, GSO operators may coordinate directly with NGSO operators regarding accommodation of particular use cases, and we will require good-faith coordination efforts by both GSO and NGSO operators in the 10.7–12.7, 17.3–18.6, and 19.7–20.2 GHz bands. Finally, analysis on the record indicates that a 3% degraded throughput threshold is achievable by current and planned NGSO systems, and could enable significantly greater spectrum use and cost savings by NGSO systems in comparison to the current EPFD limits.

52. We find that objections expressed in the record with respect to the well-established 3% degraded throughput limit for ACM systems are technically unpersuasive. Despite its past support for a 3% threshold for ACM systems in the NGSO–NGSO context, Viasat argues that such a threshold would “leave GSO

networks and their end users exposed to significant interference risks.” Viasat's supporting study, however, focuses on the interplay between a roughly 3% degradation in throughput and the impact on non-performance-affecting static “reserve capacity”—a hypothetical concept contemplated in the 1990s that is ill-defined and does not reflect how actual ACM systems operate. The study indicates that ACM systems, which are specifically designed to better handle intermittent interference, will experience substantially more interference and worse performance than non-ACM systems. We believe that months of real-world testing are a better indicator of actual interference impacts than studies relying on the “reserve capacity” concept.

53. Eutelsat expresses concern that, even with a 3% time-weighted average throughput degradation threshold, throughput losses will exceed 3% at times. Eutelsat argues that if “a customer experiences a 13.62% degradation for 1% of a 24-hour period, that means they experience about 15 minutes a day of massively degraded service,” which is “especially problematic for enterprise level or business-to-business customer links.” This worst-case analysis, however, which could not be replicated by one other commenter, assumes that both the GSO and the NGSO customer would need the full capacity of all the spectrum at issue on all available satellites for that full 15 minutes at the same times, and that Eutelsat chooses an earth station antenna that is particularly susceptible to interference for its enterprise customer. As noted above, GSO operators can reliably reduce their expected interference through appropriate earth station antenna choice and network design. We need not devise general interference limits based on a combination of unlikely events and worst-case scenarios. Further, as a long-term protection criterion, the change in time-weighted average throughput has already been adopted internationally for the protection of GSO networks using ACM from NGSO systems in the Q- and V-bands. To the extent that an NGSO system complying with the long-term and short-term protection criteria still presents a realistic risk of such interference spikes to a GSO network, that possibility can be discussed during good-faith coordination between the operators.

3. Short-Term Interference Backstop

54. We adopt a 0.1% absolute increase in link unavailability as the short-term GSO interference metric. For the reasons

discussed below, we conclude that this 0.1% value, which is more protective than the alternative 0.4% value proposed on the record and adopted in the NGSO–NGSO sharing context, will provide adequate protection of GSO networks while offering substantially improved opportunities for efficient spectrum sharing with NGSO systems. Indeed, we expect the real-world short-term impact to be less than this 0.1% value in many instances given not only varying GSO network antenna performance but also technical studies indicating that it is the long-term protection criteria we are adopting that are the limiting factor, since it is the most restrictive protection criterion that will govern NGSO operational characteristics.

55. As an initial matter, as in the NGSO–NGSO sharing context, we considered both a *relative* measure of increase in link unavailability and an *absolute* measure of increase in unavailability. We again conclude that the use of an absolute increase in link unavailability as the short-term interference metric provides a more reliable measure of short-term interference that is not as susceptible to significant fluctuations as a relative increase metric would be. This is because, for satellite links with a high baseline availability, the relative measure of increase can prove incredibly sensitive. For example, if a GSO link with a baseline availability of 99.99% were reduced to 99.98%, this would represent an absolute change of only 0.01% but a relative change of 100%; while the same, relative 100% increase in unavailability for a GSO link with a baseline availability of 99.5% would represent a 50-times larger or 0.5% absolute change. Especially given the lower value of 0.1% increase that we are adopting in the NGSO–GSO sharing context in comparison with the 0.4% increase permitted in the NGSO–NGSO sharing context, we conclude that the absolute measure of unavailability will provide sufficient protection without the volatility and potential for extremely limiting protection requirements under a relative increase in unavailability metric.

56. We also find that the 0.1% unavailability increase criterion will adequately protect GSO networks. Indeed, it may approximate the maximum short-term interference a GSO satellite operator in Ku-band would expect from another GSO satellite operating 6.5 degrees away on the GSO arc, a distance at which no coordination between the GSO operators would be required under the ITU Radio Regulations because the interference is

expected to be negligible. Moreover, like the long-term interference metric adopted above, this short-term interference metric will limit the increase in link unavailability at any analyzed location. Since the worst-case locations will drive NGSO operators' determinations of appropriate system parameters and any mitigation measures, the actual increase in unavailability will be less than 0.1% in many circumstances. And importantly, GSO operators can realistically increase the availability of their links by choosing earth station equipment that is less sensitive to interference than the most sensitive GSO links being protected. In addition, GSO operators may coordinate directly with NGSO operators regarding any particular use cases. We also conclude that adopting a 0.1% absolute increase in unavailability metric will simultaneously support competitive new and expanded NGSO services because analyses on the record indicate it can accommodate current and planned NGSO systems.

57. Further, we note that, while the Commission does not guarantee privately negotiated service levels of GSO operators, we believe that concerns on the record about maintaining high availability GSO links are overstated. First, the 0.1% limit is inherently protective. Even the most sensitive GSO reference link, which typically represents a small, mass-market user terminal rather than an enterprise-level customer demanding high availability, could maintain a link availability near 99.9% in the presence of an operational NGSO system. Second, actual enterprise-level customers or others negotiating for high availability services will experience significantly less—perhaps exponentially less—reduction in unavailability than 0.1%. This is because the operating parameters of the NGSO system will be driven by the need to protect the most vulnerable GSO link, and because the inherent design of GSO links predicated on maintaining high availability renders them less susceptible to interference from NGSO systems, for example by use of earth station antennas with higher main-beam gain and lower sidelobes. Third, as we explained in the NGSO–NGSO context, we expect that any cumulative, real-world effects of two or more NGSO systems will likely be less than a simple multiplication of the 0.1% limit by the number of NGSO interferers—even for the most sensitive GSO link—because doing so fails to account for mitigation techniques or other spectrum-sharing measures that may be applied by the NGSO systems to reduce interference to

each other, and accordingly reduce their overall aggregate impact to GSO networks. Accordingly, our adoption of a 0.1% limit on absolute increase in unavailability considers the real-world implications of the limit in order to achieve an efficient and reasonable balance between expanded NGSO services and continued, competitive GSO services, rather than imposing arbitrary constraints on NGSO systems to guarantee a theoretical level of GSO service premised on simple, worst-case interference assumptions. We also consider the interplay of the 0.1% limit with our long-term protection criteria. As indicated in simulations, even NGSO system configurations that result in a 0.01% short-term impact to non-ACM GSO links, or a 0.03% impact to ACM GSO links, could exceed the applicable long-term limits of -10.5 dB for 80% of the time or 3% time-weighted average degraded throughput, and therefore the short-term impact would be reduced even further to comply with the long-term criteria. In this way, our choice of long-term GSO protection criteria, especially a limit of -10.5 dB for 80% of the time for GSO networks not using ACM, further addresses concerns raised about short-term impacts to GSO networks, and in particular to non-ACM networks.

4. Interference Backstop for GSOs Without ACM

58. As we move towards performance-based protection metrics for NGSO–GSO spectrum sharing in the 10.7–12.7, 17.3–18.6, and 19.7–20.2 GHz bands, we recognize that there are continuing GSO satellite operations that do not employ ACM because of the nature of the service they are providing—for example, video transmissions to geographically diverse areas of the country that cannot adapt to changing interference environments in particular areas—and for which a degraded throughput limit would be inappropriate. These GSO satellite services are more prominent in Ku-band, especially BSS, but also exist in Ka-band as well. For the protection of non-ACM GSO satellite links we adopt a protection threshold of -10.5 dB I/N for 80% of the time.

59. With an I/N threshold of -10.5 dB, the level of interference that a Ku-band GSO satellite would experience from an NGSO system is approximately equivalent to that of two GSO Ku-band satellites that are separated by approximately 6.5 degrees. As noted above, under the ITU coordination procedures, Ku-band GSO satellite networks that are separated by more than 6 degrees are not required to coordinate with each other because of

the presumed negligible interference effects. In addition, a -10.5 dB I/N limit for 80% of the time was assumed to be protective of FSS and BSS networks in the portions of the Ka-band (24.65–25.25 GHz and 27–27.5 GHz) during international studies with International Mobile Telecommunications (IMT) systems prior to WRC–19. And, the -10.5 dB I/N limit has been validated through real-world testing.

60. The long-term limit of -10.5 dB I/N for 80% of time will work in tandem with the 0.1% absolute increase in unavailability short-term limit to protect non-ACM GSO operations. While some commenters argue that a short-term metric alone is the most relevant for assessing interference to non-ACM links, we believe that including an additional, long-term interference metric will provide additional protection to GSO video distribution links without being overly constraining on NGSO operators, as it is supported by the largest NGSO operator in Ku-band, where non-ACM links are more prevalent.

61. We will require the -10.5 dB I/N for 80% of time limit to be met for non-ACM links in both Ku-band and Ka-band. While the record indicates the remaining non-ACM GSO networks are generally concentrated in Ku-band, non-ACM GSO networks are also deployed and providing video service to customers using Ka-band and at least for these networks, the choice of not using ACM is a result of the video distribution type of service being provided, not due to the use of older or less advanced earth station equipment alone. Noting that the only specific proposal on the record for the long-term protection of non-ACM GSO links is the -10.5 dB I/N limit, we will, as with our short-term limit and long-term ACM limit described above, apply this equally to GSO operations in the Ku-band and Ka-band.

5. GSO-Arc Avoidance Angle

62. Above, based on an exceptional technical record, we adopted protection criteria for modern GSO networks that will enable substantial improvements in spectrum use by NGSO systems, resulting in higher capacity and lower costs, using performance-based metrics that accommodate the gold standard of efficient satellite spectrum management—coordination. Nonetheless, we recognize that moving towards a modernized, degraded-throughput based spectrum sharing framework is a significant shift from the EPFD protections that GSO operators had been accustomed to receiving in the

10.7–12.7, 17.3–18.6, and 19.7–20.2 GHz bands in the United States.

63. Therefore, in addition to the specific protection criteria described above, we will require NGSO systems in the 10.7–12.7, 17.3–18.6, and 19.7–20.2 GHz bands to observe a 3-degree GSO-arc avoidance angle with respect to any operational co-frequency GSO satellite serving the United States. This angle, which was one of the angles used during the SpaceX real-world testing campaign, approximately reflects the widest main-beam width of GSO satellite earth station antennas currently listed and protected under ITU EPFD limits. Since NGSO operations near the GSO arc typically represent the greatest interfering scenario for a GSO network earth station, observing this 3-degree GSO-arc avoidance angle will provide an additional layer of assurance that NGSO satellite transmissions will not fall within the main beam of the receiving victim earth station and therefore the resulting increase in interference will be minimal. At the same time, it will facilitate NGSO deployment.

64. In the NGSO–NGSO sharing context, the Commission adopted protection criteria for NGSO systems authorized through an earlier processing round and required later-round applicants to demonstrate compliance with those limits if coordination agreements with the earlier-round operators had not yet been reached. While those technical demonstrations were pending before the Commission, however, NGSO operators are permitted to begin operating on a non-interference basis. In this instance, a minimum GSO-arc avoidance angle will achieve a similar balance of encouraging immediate services to the public and providing protection of other operators. Thus, we will allow NGSO satellite applicants to submit technical demonstrations of compliance with the GSO protection criteria, and begin operating on an unprotected, non-interference basis even if those technical demonstrations remain pending and not yet acted on by the Commission, provided they operate consistent both with the operational parameters reflected in the technical demonstrations and the 3-degree GSO-arc avoidance angle.

65. We note that the minimum 3-degree GSO-arc avoidance angle represents an additional layer of protection for GSO networks that may restrict NGSO systems more than is strictly necessary. Although an avoidance angle may not sufficiently protect GSO networks on its own, because it does not account for other

key variables such as transmit power and the number of co-frequency satellites transmitting to the same location at the same time, it should provide an added level of assurance to GSO network operators should NGSO systems need to begin operating while their technical demonstrations of compliance with the protection criteria remain pending. With greater experience implementing the new NGSO–GSO sharing framework, we may re-visit this requirement.

6. GSO Reference Links

66. To accompany the protection criteria above, we adopt a set of GSO reference links reflecting typical and widespread GSO operations in the United States, contained in Appendix B to the Order. Reference links are used by an NGSO operator to demonstrate that it will comply with the long-term and short-term interference metrics. Reference links provide transparency and regulatory certainty for both GSO and NGSO operators as to the types of operations that will be protected to the threshold levels.

67. As an initial matter, the GSO reference links we adopt include 328 links provided in the record and drawn from both ITU data and the Commission's licensing databases and filtered according to a filtering methodology. After review, we find these links are reasonably representative of a variety of widespread GSO operations and appropriate as an initial set of links to be tested against. While some commenters urge the Commission to seek further comment on development of GSO reference links, the Commission specifically did so in the *NPRM*, and those parties criticizing the GSO reference links provided on the record, without offering a set of links of their own, do not provide an alternative for consideration at this time.

68. In addition to the 328 links, Amazon performed an analysis of 3,944 Ka-band GSO links taken from the Commission's licensing database and selected four of the most sensitive links among these, which Amazon states are protectively representative of 97.6% of the links studied. Using a smaller set of the most sensitive links—which drive the interference analysis in any event—could well be a simpler and more efficient means of demonstrating compliance with the protection criteria. However, for our initial set of GSO reference links, we include a broader collection of links that may provide GSO operators greater confidence in the results of the compatibility demonstrations.

69. In adopting these reference links, we recognize the diversity of operating parameters that may inform the protection of small earth station terminals, such as those used in Earth Stations in Motion (ESIMs). And we recognize that GSO networks, and NGSO systems, will continue to evolve. Accordingly, we delegate authority to the Space Bureau to revisit the baseline set of links we identify today, and to remove, revise, or add appropriate GSO links in the future, after seeking comment. We direct the Bureau to initiate such a focused proceeding within 15 days after release of the Order, and to adopt a decision within 60 days after close of that comment period. We note that operating NGSO systems may be required to adjust their operations to protect any new GSO reference links added in the future.

7. Aggregate Interference Limits

70. As we look towards more efficient spectrum sharing between GSO and NGSO systems, we find no technical basis in the record—or compelling justification—to create and adopt aggregate limits on interference from NGSO systems into GSO networks. Indeed, as we noted when recently declining to create aggregate limits on NGSO interference into other NGSO systems, a host of unresolved questions remain, including: as to the need for any aggregate limits given the ongoing and, at times, uncertain deployment of newly authorized NGSO constellations; the derivation of any proposed aggregate limits that avoids simplistic, worst-case assumptions and accounts for mitigation techniques or other spectrum-sharing measures that may be applied by the NGSO systems and reduce their overall aggregate impact; and the implementation of any aggregate limits among operational NGSO systems, an issue that remains unresolved internationally more than 25 years after aggregate EPFD limits were adopted.

71. Limiting new entry while we wait and see which NGSO FSS systems will deploy, out of a fear of future aggregate interference that may never arise, would artificially and unreasonably inhibit competition contrary to the public interest. More fundamentally, as we move towards performance-based metrics based on real-world data and realistic interference concerns, any aggregate limits would run the stark risk of piling worst-case assumptions on top of one another to the detriment of efficiency and real-world costs. Parties advocating aggregate limits have not submitted aggregate interference studies or modeling or otherwise shown that any such limits—and none are proposed

on the record—would be justified. Nonetheless, should a demonstrated need arise in the future, we may revisit the question of aggregate limits. And, of course, operators are free to discuss and agree upon ways to account for any aggregate interference effects during their good-faith coordination discussions.

C. Other Technical and Procedural Considerations

1. Terrestrial Operations

72. Modernizing the NGSO–GSO spectrum sharing framework can be accomplished without affecting the required protection levels of terrestrial operations. Within the 10.7–12.7, 17.3–18.6, and 19.7–20.2 GHz bands subject to EPFD limits, NGSO systems must also adhere to PFD limits in the 10.7–11.7 GHz, 12.2–12.7 GHz, and 17.7–18.3 GHz band segments developed for the protection of co-primary fixed services. The EPFD limits and PFD limits address different geometries of the NGSO system's operation—the former addresses interference from NGSO operations near the GSO arc, whereas the latter addresses NGSO operations near the horizon. In addition, NGSO systems must meet PFD limits to protect terrestrial services in the 18.6–19.7 GHz portion of the Ka-band where EPFD limits do not apply.

73. We recognize that several terrestrial commenters propose a comprehensive re-evaluation of the protection afforded by current PFD limits—critiquing the assumptions about both fixed-service (FS) and FSS deployments underlying current limits, including FS deployments considered and the scale of NGSO satellite deployments; noting that, unlike Ka-band PFD limits, Ku-band PFD limits do not scale based on constellation size; seeking new demonstrations that NGSO systems complying with PFD limits will continue to protect terrestrial services from the risk of aggregate interference; and otherwise suggesting that the PFD limits adopted at WRC–2000 are outdated. Such comprehensive studies re-evaluating the Ku-band and Ka-band PFD limits may be warranted. However, the parties calling for such studies have neither begun them, provided necessary characteristics for them, or otherwise provided any technical basis for the conclusion that the current, required protection levels of terrestrial services are in fact inadequate, or that single-entry PFD limits should be newly evaluated based on potential aggregate interference. Accordingly, there is insufficient support in the record to indefinitely delay updating the NGSO–

GSO sharing framework in bands overlapping terrestrial allocations and in which PFD limits will continue to apply, especially where the substantial technical record indicates that eliminating the EPFD limits will not result in unacceptable interference to GSO networks as described above.

74. We also note that expanding more efficient and intensive spectrum use in the 10.7–12.7, 17.3–18.6, and 19.7–20.2 GHz bands is consistent with other Commission priorities, including in the Upper C-band, where the Commission has sought comment on repurposing at least 100 megahertz in the 3.98–4.2 GHz band from FSS use to next-generation wireless services and relocating some GSO FSS operations to other available FSS spectrum. Regarding the potential relocation of some high-availability services from C-band to Ku-band, in which rain fade plays a larger role in link design, we note that the combination of adaptive power control, appropriate earth station selection and link design, and our modest 0.1% absolute increase in unavailability metric will mean GSO satellite operators will face significantly lower than even a 0.1% change in unavailability at earth stations designed to support high availability links. For the protection of video distribution links specifically, we have adopted a limit of -10.5 dB I/N not to be exceeded 80% of the time, which will provide an extra layer of protection for these links in addition to the short-term absolute change in unavailability criterion. Further, at least 20 megahertz of C-band spectrum are proposed to remain for satellite services requiring C-band transmission characteristics under even the broadest repurposing of the band for which comment was sought in the Notice of Proposed Rulemaking. Accordingly, we reject arguments that revising the NGSO–GSO sharing framework will jeopardize any portion of an Upper C-band transition.

2. Radio Astronomy

75. Modernizing the NGSO–GSO sharing framework will also not affect ongoing obligations of NGSO licensees to successfully coordinate with radio astronomy service (RAS) sites. Indeed, the record details the close coordination and data sharing between RAS and NGSO satellite systems pursuant to Footnote US131 of the Table of Frequency Allocations. Given this successful record of coordination to date, we continue to expect that the obligation on NGSO licensees operating in the 10.7–11.7 GHz band to complete coordination with RAS prior to commencing operation will ensure the

continued protection of RAS sites. Furthermore, requirement of coordination for any related fixed infrastructure (*e.g.*, gateways) within the National Radio Quiet Zone (NRQZ) pursuant to § 1.924 accommodates coordination requirements for the federal facilities within the NRQZ. As NGSO licensees have different operating parameters, the general coordination requirement provides flexibility to adapt to specific scenarios. Accordingly, there is no basis in the record to adopt additional, specific technical requirements regarding the operational means NGSO systems may employ to protect RAS sites as agreed in coordination, or to require new studies or aggregate interference analyses at this time, or to simply convert existing single-entry PFD limits to aggregate limits, as some RAS commenters have suggested. It should be noted that for the specific case of NGSO's providing Supplemental Coverage from Space, the FCC Report and Order did note that SCS licenses would be considered on a case-by-case basis and encouraged applicants to conduct outreach and work with appropriate federal agency contacts (NSF for radio astronomy) in advance of submission of license applications to the Commission, including conducting Monte Carlo analyses of potential impacts to radio astronomy systems using their specific configurations, as appropriate. Should any difficulties arise in the future during coordination discussions among NGSO operators and RAS site operators the Commission may assist in finding a solution agreeable to all parties involved.

3. Cross-Border Considerations

76. The ITU Radio Regulations provide that EPFD limits may be exceeded on the territory of any country whose administration has authorized such operation, and doing so in the United States, to the benefit of American consumers, is fully consistent with our international and cross-border obligations. From a practical standpoint, modern NGSO systems are capable of keeping the energy from their downlink beams from spilling over into the territory of adjacent countries by using narrow beams with sharp roll-off while continuously monitoring and controlling the amount of power and location of the beams on the ground. The customer terminals associated with these systems also employ narrow beams with suppressed sidelobes that continuously track NGSO satellites at specific elevations, resulting in minimal exposure outside the main beam of the antenna. Thus, modern NGSO satellite systems have the technical capability to

exceed the EPFD limits within the territory of the United States while respecting the EPFD limits on the territory of adjacent countries that have not authorized exceedances of the limits. We will continue to require such international compliance from NGSO satellite systems notified by the United States, without requiring any additional measures or specific cross-border agreements to implement the updated NGSO-GSO sharing framework in the United States.

4. Implementation and Technical Demonstrations of Compatibility

77. In implementing the modernized NGSO-GSO sharing framework, the Commission's recently adopted degraded throughput framework in the NGSO-NGSO sharing context provides a ready example that we may draw from. Specifically, in 2024, the Commission adopted spectrum sharing requirements for NGSO FSS systems authorized in a later processing round to protect NGSO FSS systems authorized in an earlier processing round. As we are adopting here, the Commission adopted a long-term protection criteria of 3% time-weighted average throughput degradation and short-term protection criterion based on the absolute increase in link unavailability. In the NGSO-NGSO sharing context, prior to commencing operations, an NGSO FSS licensee or market access recipient must either certify that it has completed a coordination agreement with any operational NGSO FSS system licensed or granted U.S. market access in an earlier processing round, or submit for Commission approval a compatibility showing which demonstrates by use of a degraded throughput methodology that it will not cause harmful interference to any such system with which coordination has not been completed. Such compatibility showings must contain a demonstration that the later-round system will cause no more than 3% time-weighted average degraded throughput of the link to the earlier-round system, for links with a baseline link availability of 99.0% or higher at a C/N threshold of 0 dB; and a demonstration that the later-round system will cause no more than 0.4% absolute change in link availability to the earlier-round system using a C/N threshold value of 0 dB, for links with a baseline link availability of 99.0% link availability or higher. While a compatibility showing remains pending before the Commission, the submitting NGSO FSS licensee or market access recipient may commence operations on an unprotected, non-interference basis with respect to the operations of the

system that is the subject of the showing.

78. We believe that carrying over this implementation framework from the NGSO-NGSO context, where it was rigorously debated, will facilitate technical showings in the NGSO-GSO sharing context as well because NGSO operators will be familiar with its application. This implementation framework also includes adopting the same C/N threshold for ACM links and the specific C/(N+I) threshold from the GSO reference link database for non-ACM links, assumptions about additional sources of interference, rain-fade model flexibility using the rainfall rates from the GSO reference link database, ability to use information received through any coordination discussions, a set of parameters and assumptions to facilitate the compatibility analysis, and flexibility for NGSO operators in adopting mitigation techniques to ensure compliance with the protection thresholds. As part of this framework, NGSO applicants and operators would be required to submit a compatibility demonstration which shows that their results and proposed operational configuration (including key parameters such as N_{co} , GSO-arc avoidance angle, and power levels) will meet the protection criteria for all of the approved GSO reference links. Further, NGSO operators will be required to share relevant technical information, including the compatibility demonstration, as needed by the GSO operators in assessing interference or for performing their own technical analysis that can aid in the coordination. Thus, through coordination, GSO operators would be able to receive the most up-to-date and technically precise details of NGSO system operations for use in their own assessments, without involving Commission resources or incentives towards protracted disputes. The Commission, however, would be available if assistance is needed in coordination or to resolve real-world interference concerns.

79. We note that the latest developments in modeling NGSO and GSO systems may be used in the compatibility analyses. We also note that we will also consider arguments by NGSO satellite applicants and operators that, because of successful coordination with one or more GSO network operators, certain of the GSO reference links included in the set of standard reference links may no longer need to be demonstrated as protected because equivalent links are not used by any remaining GSO operators serving the

United States with whom coordination has not yet been reached.

5. Transition to New Rules

80. An immediate transition to the modernized NGSO-GSO sharing framework will offer immediate benefits without jeopardizing legacy services. Today, as discussed above, NGSO services are unreasonably constrained by EPFD limits based on decades-old proposed systems, assumptions, and methodologies, which results in protection levels for GSO networks significantly higher than the protection they expect from other co-primary GSO networks. Updating this framework to a set of protection criteria based on degraded throughput for ACM networks, absolute increase in unavailability, and an I/N limit for non-ACM networks, will adequately protect ongoing GSO operations while uncapping significant new NGSO capacity. Further delaying the transition to a modernized sharing framework, including for up to 18 years or through grandfathering provisions, would sacrifice the immediate economic and other benefits of the new framework. As supported by real-world testing, the new rules can be implemented without introducing unacceptable interference to GSO networks. Retaining the existing EPFD limits, even temporarily, would have a concrete and substantial impact on NGSO deployment and the ability of NGSO operators to deliver innovative new services to customers within the United States.

81. We will apply all rule changes adopted in the Order to current NGSO licensees and market access grantees, pending applicants and petitioners, as well as future applicants and petitioners. With respect to pending applications, applicants do not gain any vested right merely by filing an application, and the simple act of filing an application is not considered a "transaction already completed" for purposes of this analysis. Applying our new rules and procedures to pending space station applications will not impair the rights any applicant had at the time it filed its application. Nor will doing so increase an applicant's liability for past conduct. Similarly, with respect to current licensees and market access grantees, none of the actions we take here increase liability for past conduct, impair rights a party possessed when he acted, or impose new duties with respect to transactions already completed. Rather, all of these actions take effect in the future, after the rules become effective. Accordingly, applying these rule changes to existing licenses and grants of market access will not

upset any grantee's reasonable expectations.

6. Additional Frequency Bands and Other Issues

82. While the record provides ample basis to revise the NGSO-GSO sharing framework in the 10.7–12.7 GHz, 17.3–18.6 GHz, and 19.7–20.2 GHz bands of focus in this rulemaking, it does not provide a basis for action in other bands. Indeed, no NGSO system proponent advocates changes in additional frequency bands at this time, and commenters addressing other bands either request that we explicitly decline any changes in C-band, or raise issues in other bands that are beyond the scope of this rulemaking. Accordingly, we limit our actions to those areas of demonstrated need regarding NGSO operations in the 10.7–12.7 GHz, 17.3–18.6 GHz, and 19.7–20.2 GHz bands in the United States.

7. Alternative Sharing Frameworks and Sunseting

83. While we are modernizing the NGSO-GSO sharing framework based on the best available data today, we recognize that future revisions may be warranted to further refine this framework and maximize the benefits to American consumers. While some commenters propose to sunset the GSO protection criteria requirements and move towards a framework of coordination only between GSO and NGSO systems, or coordination with a “safe harbor” GSO-arc avoidance angle requirement, we believe that encouraging coordination under the new protection criteria that we are adopting will offer immediate benefits and provide a new record of experience on which we could re-consider GSO-NGSO sharing in the future. Accordingly, we decline to adopt any alternative NGSO-GSO sharing frameworks at this time.

D. Costs and Benefits

84. We have carefully reviewed the record in this proceeding, including all studies submitted therein. We conclude that the benefits of the changes we adopt today exceed the costs. Our evaluation of costs and benefits are contained in Section V below.

IV. Final Regulatory Flexibility Analysis

85. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the *NPRM*. The Federal Communications Commission (Commission) sought written public comment on the

proposals in the *Further NPRM*, including comment on the IRFA. No comments were filed addressing the IRFA. This Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.

A. Need for, and Objectives of, the Rules

86. The *NPRM* in this proceeding launched a much needed review of the long-standing spectrum sharing regime between GSO and NGSO satellite systems operating in the 10.7–12.7, 17.3–18.6, and 19.7–20.2 GHz bands. The decades-old spectrum sharing regime constitutes the primary restrictive regulatory requirement on NGSO satellite systems currently deploying at breakneck speed. Innovation in the satellite industry has witnessed new NGSO satellite operators launching thousands of satellites in the short span of a few years, and these operators are beginning to offer high-speed, low-latency broadband services. The *NPRM* sought to develop a substantial technical record concerning modern and efficient spectrum sharing among NGSO FSS (Fixed Satellite Service) systems, GSO FSS, and BSS (Broadcast Satellite Service) networks in the 10.7–12.7, 17.3–18.6, and 19.7–20.2 GHz bands, while ensuring that any rule changes continue to safeguard and maintain the protection of co-frequency terrestrial services.

87. In response to the record developed from the *NPRM*, the Order replaces the outdated framework of EPFD limits on NGSO systems with modern protection criteria that take account of the improved spectrum sharing possibilities that modern satellite technology has brought, including through use of adaptive coding and modulation. Specifically, the Order requires NGSO satellites transmitting in the 10.7–12.7, 17.3–18.6, and 19.7–20.2 GHz bands to protect co-frequency GSO networks using a long-term protection criteria of 3% time-weighted average throughput degradation as a long-term interference protection criterion. The Order adopts a short-term GSO protection criterion of 0.1% absolute increase in link unavailability. For GSO satellite links that do not use ACM, such as point-to-multipoint video transmissions, we adopt a protection criterion of -10.5 dB interference-to-noise (I/N) for 80% of the time. As an additional measure of protection for GSO networks, we require NGSO systems to observe a minimum 3-degree avoidance angle of the GSO arc. We decline to establish aggregate limits or other limits on NGSO systems at this time. Having taken a fresh look at today's satellite technology and operations, these new spectrum sharing

rules will promote more efficient and effective use of the shared spectrum, and support a more competitive market for satellite broadband and other in-demand services while uncapping the potential of satellite constellations that were unthinkable when the current regime was developed, to the ultimate benefit of American consumers.

B. Summary of Significant Issues Raised by Public Comments in Response to the IRFA

88. There were no comments filed that specifically addressed the proposed rules and policies presented in the IRFA.

C. Response to Comments by the Chief Counsel for Advocacy of the Small Business Administration

89. Pursuant to the Small Business Jobs Act of 2010, which amended the RFA, the Commission is required to respond to any comments the Chief Counsel for Advocacy of the Small Business Administration (SBA) filed in this proceeding, and provide a detailed statement of any change made to the proposed rules as a result those comments. The Chief Counsel did not file any comments in response to the proposed rules or policies in this proceeding.

D. Description and Estimate of the Number of Small Entities to Which the Rules Will Apply

90. The RFA directs agencies to provide a description of, and where feasible, an estimate of the number of small entities that may be affected by the adopted rules. The RFA generally defines the term “small entity” as having the same meaning as the terms “small business,” “small organization,” and “small governmental jurisdiction.” In addition, the term “small business” has the same meaning as the term “small business concern” under the Small Business Act. A “small business concern” is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA. The SBA establishes small business size standards that agencies are required to use when promulgating regulations relating to small businesses; agencies may establish alternative size standards for use in such programs, but must consult and obtain approval from SBA before doing so.

91. Our actions, over time, may affect small entities that are not easily categorized at present. We therefore describe three broad groups of small entities that could be directly affected

by our actions. In general, a small business is an independent business having fewer than 500 employees. These types of small businesses represent 99.9% of all businesses in the United States, which translates to 34.75 million businesses. Next, “small organizations” are not-for-profit enterprises that are independently owned and operated and are not dominant in their field. While we do not have data regarding the number of non-profits that meet that criteria, over 99 percent of nonprofits

have fewer than 500 employees. Finally, “small governmental jurisdictions” are defined as cities, counties, towns, townships, villages, school districts, or special districts with populations of less than fifty thousand. Based on the 2022 U.S. Census of Governments data, we estimate that at least 48,724 out of 90,835 local government jurisdictions have a population of less than 50,000. 92. The rules adopted in the Order will apply to small entities in the industries identified in the chart below

by their six-digit North American Industry Classification System (NAICS) codes and corresponding SBA size standard. Based on currently available U.S. Census data regarding the estimated number of small firms in each identified industry, we conclude that the adopted rules may impact a substantial number of small entities. Where available, we also provide additional information regarding the number of potentially affected entities in the identified industries below.

(footnotes specify potentially affected entities within a regulated industry where applicable)	Regulated industry	NAICS code	SBA size standard (million)	Total firms	Total small firms	% Small firms
Satellite Telecommunications		517410	\$44	332	195	58.73
All Other Telecommunications		517810	40	1,673	1,007	60.19

E. Description of Economic Impact and Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities

93. The RFA directs agencies to describe the economic impact of adopted rules on small entities, as well as projected reporting, recordkeeping and other compliance requirements, including an estimate of the classes of small entities which will be subject to the requirement and the type of professional skills necessary for preparation of the report or record. 94. The Order defines specific metrics for long-term interference and short-term interference that must be used in compatibility analyses demonstrating that a NGSO FSS system operating in the 10.7–12.7, 17.3–18.6, and 19.7–20.2 GHz bands in the United States will adequately protect co-frequency GSO networks. The Order adopts a long-term interference metric for GSO networks using ACM of 3% degraded throughput threshold and a 0.1% absolute increase in link unavailability as the short-term interference metric, along with a protection criterion for GSO networks not using ACM of – 10.5 dB interference-to-noise (I/N) for 80% of the time and a 3-degree minimum GSO-arc avoidance angle, based on the technical record developed in this proceeding. The Commission concludes that establishing a protection metrics consistent with the technical evidence in the record provides the benefit of a clear standard for new NGSO operators, and a benchmark that parties can use to negotiate any alternative protections mutually agreed to in coordination. 95. The adopted protection criteria will impact information NGSO system applicants are required to report to the Commission, and small NGSO system applicants may incur compliance costs

as a result of the Order. Specifically, NGSO system applicants may need to hire professionals or expend staff time on familiarization and implementation of the rules adopted in the Order. However, because of the costs involved in developing and deploying an NGSO satellite constellation in these bands, the Commission anticipates that few, if any, NGSO operators affected by this rulemaking would qualify under the SBA definition of “small entity,” and therefore small entities are not likely to have to hire professionals, or incur any compliance costs as a result of the Order. F. Discussion of Steps Taken To Minimize the Significant Economic Impact on Small Entities, and Significant Alternatives Considered 96. The RFA requires an agency to provide, “a description of the steps the agency has taken to minimize the significant economic impact on small entities . . . including a statement of the factual, policy, and legal reasons for selecting the alternative adopted in the final rule and why each one of the other significant alternatives to the rule considered by the agency which affect the impact on small entities was rejected.” 97. The Order amends rules that are applicable to space station operators requesting a license or grant of U.S. market access from the Commission. Specifically, the Order adopts changes to the spectrum sharing requirements among GSO and NGSO satellite systems operating in the United States in the 10.7–12.7, 17.3–18.6, and 19.7–20.2 GHz bands, and specifies details of the technical demonstration that NGSO space station applicants in these bands must submit to show that they will not cause harmful interference to co-

frequency GSO space station licensees and market access grantees. The technical demonstration of compatibility is based on a degraded throughput methodology, assessing absolute increase in link unavailability, and an I/N limit. 98. The Commission specifically considered, and declined, to adopt: a short-term interference criterion of 0.4% absolute increase in unavailability, an alternative of coordination or compliance with a GSO-arc avoidance angle only, or a sunset provision, because such proposals would provide less protection to GSO networks while not being shown to be technically necessary for the expansion of NGSO systems. The Commission also considered, but declined, to create new aggregate interference limits as none were proposed on the record. G. Report to Congress 99. The Commission will send a copy of the Order, including this Final Regulatory Flexibility Analysis, in a report to Congress pursuant to the Congressional Review Act. In addition, the Commission will send a copy of the Order, including this Final Regulatory Flexibility Analysis, to the Chief Counsel for the SBA Office of Advocacy and will publish a copy of the Order, and this Final Regulatory Flexibility Analysis (or summaries thereof) in the Federal Register. V. Regulatory Impact Analysis A. Executive Summary 1. Summary 100. In the Order, the Commission modernizes the spectrum sharing regime between GSO and NGSO satellite systems operating in the 10.7–12.7, 17.3–18.6, and 19.7–20.2 GHz bands.

The Order replaces EPFD limits on NGSO systems with performance-based GSO protection criteria. It also requires good-faith coordination efforts by both GSO and NGSO operators in the 10.7–12.7, 17.3–18.6, and 19.7–20.2 GHz bands. We adopt the following technical backstops to protect GSO systems when coordination has not been reached:

- A long-term protection criterion of 3% time-weighted average throughput degradation for GSO satellite links using adaptive coding and modulation (ACM);
- A short-term protection criterion of 0.1% absolute increase in link unavailability;
- A supplemental protection criterion of –10.5 dB interference-to-noise (I/N) for 80% of the time for GSO satellite

links that do not use ACM, such as point-to-multipoint video transmissions; and

- A supplemental protection requirement for NGSO systems to observe a minimum 3-degree avoidance angle of the GSO arc.

101. This economically significant regulatory action is submitted to the Office of Information and Regulatory Affairs (OIRA) for interagency review. The regulatory impact analysis (RIA) presents an assessment of the regulatory compliance costs and benefits associated with this action and is consistent with Executive Order 12866. Comparing the performance-based GSO protection criteria with other alternative policy options, Commission Staff

concludes that the adoption of these proposed rules will result in significant benefits that outweigh the associated costs. This rule is considered a deregulatory action under Executive Order 14192.

2. Table of Benefits and Costs

102. *Summary of Benefits and Costs.* Based on Staff analysis, the net present value of benefits—after netting out costs of doing business and compliance—over five years would be \$1.6 billion to \$19.9 billion using a 3% annual discount rate or \$1.4 billion to \$17.1 billion using a 7% annual discount rate. Given these net benefit estimates, Staff finds that the overall benefits of the regulatory action outweigh the total costs.

	Year	Method 1				Method 2			
		Present value (3% discount)		Present value (7% discount)		Present value (3% discount)		Present value (7% discount)	
		Lower bound	Upper bound	Lower bound	Upper bound	Lower bound	Upper bound	Lower bound	Upper bound
Benefits (\$ Billion)	2026	\$0.5	\$0.6	\$0.5	\$0.6	\$0.2	\$0.3	\$0.2	\$0.3
	2027	1.3	1.6	1.2	1.5	0.3	0.4	0.2	0.3
	2028	2.6	3.2	2.3	2.8	0.3	0.4	0.3	0.4
	2029	4.3	5.5	3.7	4.7	0.4	0.5	0.3	0.4
	2030	7.0	9.0	5.7	7.4	0.4	0.6	0.3	0.4
	Total	15.7	19.9	13.5	17.1	1.6	2.2	1.4	1.8
Quantifiable Costs (\$ Thousands)	2026	112	112	107	107	112	112	107	107
	2027	13	13	12	12	13	13	12	12
	2028	13	13	11	11	13	13	11	11
	2029	12	12	11	11	12	12	11	11
	2030	12	12	10	10	12	12	10	10
	Total	162	162	152	152	162	162	152	152
Qualitative Costs	Costs from negotiating agreements induced by new spectrum sharing framework.								
Net Gain (\$ Billions)	Total	15.7	19.9	13.5	17.1	1.6	2.2	1.4	1.8

B. Need for Regulatory Action

103. Wireless telecommunications devices function by transmitting signals over the electromagnetic spectrum, a finite public resource managed by the FCC. To promote efficient use of the spectrum and to minimize harmful interference, the FCC allocates spectrum into various bands. It designates some bands for exclusive, licensed use, while requiring shared use of other bands based on technical and other rules to mitigate harmful interference. In the most commonly used frequency bands used by satellite operators, between 10.7 GHz and 30 GHz, NGSO systems share primary fixed-satellite service (FSS) allocations with GSO networks, and they must also operate compatibly or coordinate with other federal and non-federal users of these bands.

104. NGSO FSS systems must comply with, among other rules, power limits expressed in EPFD to demonstrate that

they do not cause unacceptable interference to GSO FSS and Broadcasting Satellite Service (BSS) networks. As NGSO operators supply data to a growing number of users, however, the record has shown that EPFD restrictions present a significant and growing regulatory constraint on NGSO systems seeking to meet consumer capacity needs, particularly during periods of peak congestion. Technological advances in the past three decades and the inherent issues in the EPFD limits warrant the establishment of a new, performance-based spectrum sharing framework between GSO and NGSO systems in the 10.7–12.7, 17.3–18.6, and 19.7–20.2 GHz bands. By adopting the rules in the Order, the Commission would enable the U.S. space industry to make better use of spectrum resources. Specifically, the rules would enable NGSO systems to use more satellites to serve the same

area, at potentially higher power, and over a wider portion of the visible sky while continuing to protect GSO networks as supported by real-world testing. This would immediately boost capacity, translating to faster broadband speeds for American consumers.

C. Background on NGSO–GSO Sharing

105. Broadband satellite services rely on shared spectrum. In the most commonly used frequency bands, between 10.7 GHz and 30 GHz, NGSO systems share primary fixed-satellite service (FSS) allocations with GSO networks and must also operate compatibly with BSS networks and stations in other services, including terrestrial services. NGSO FSS systems must comply with power limits expressed in EPFD to demonstrate that they meet their broader obligation not to cause unacceptable interference to GSO FSS and BSS networks. NGSO FSS systems must also meet separate power

limits expressed in power-flux density (PFD) to protect terrestrial services. Applicants for NGSO FSS space station licenses, and non-U.S.-licensed satellite operators seeking access to the U.S. market, must certify that they will comply with the specified EPFD limits.

106. The current EPFD limits for the protection of GSO networks were developed in the late 1990s, adopted internationally in 2000, and subsequently incorporated into the Commission's rules in 2000 and 2017. In 2019, the international community required NGSO FSS systems operating in the higher Q- and V-bands between 37.5 GHz and 51.4 GHz to meet certain long-term and short-term GSO protection criteria that incorporate a degraded throughput methodology. The World Radiocommunication Conference (WRC) 2019 (WRC-19) did not adopt EPFD limits in these bands. WRC-23 considered, but ultimately did not adopt, a proposal to review the EPFD limits under a future agenda item for WRC-27. Instead, ITU-R Working Party 4A is studying EPFD limits and will report findings at WRC-27.

107. On April 28, 2025, the Commission, in response to a petition for rulemaking by SpaceX, released an NPRM that proposed to revise the spectrum sharing regime between GSO and NGSO systems in downlink frequency bands between 10.7 GHz and 30 GHz that are subject to EPFD limits, and to amend §§ 25.146 and 25.289 of the Commission's rules. The NPRM sought to develop a substantial technical record concerning modern and efficient spectrum sharing among NGSO FSS systems and GSO FSS and BSS networks in the 10.7–12.7, 17.3–18.6, and 19.7–20.2 GHz bands that could increase efficient use of the spectrum while protecting other services.

D. Regulatory Action

108. The Order establishes a new, performance-based spectrum sharing framework between GSO and NGSO systems in the 10.7–12.7, 17.3–18.6, and 19.7–20.2 GHz bands. The new GSO protection framework would require good-faith coordination between GSO and NGSO operators. Where good-faith coordination fails, the rule would require NGSO satellites transmitting in the 10.7–12.7, 17.3–18.6, and 19.7–20.2 GHz bands to protect co-frequency GSO networks using a long-term protection criteria of 3% time-weighted average throughput degradation. The Order adopts a short-term GSO protection criterion of 0.1% absolute increase in link unavailability. For GSO satellite links that do not use ACM, the Order would adopt a protection criterion of

–10.5 dB interference-to-noise (I/N) for 80% of the time. As an additional measure of protection for GSO networks, the Order would require NGSO systems to observe a minimum 3-degree avoidance angle of the GSO arc. To accompany these protection criteria, the Order adopts a realistic set of GSO reference links reflecting typical and widespread GSO operations in the United States. These GSO reference links are based on the set of 328 links provided in the record and drawn from both ITU data and the Commission's licensing databases.

E. Benefits

109. By modernizing the spectrum sharing framework between GSO and NGSO satellite systems, the rules adopted in the Order should deliver substantial economic benefits to American households, satellite competitors, and other stakeholders. As discussed in detail in the Order, these rules should increase capacity and broadband speeds, foster new competitive entry, and promote U.S. leadership globally. They should also strengthen the ability of NGSOs to serve as a lifeline to Americans in rural and remote areas. The record of this proceeding reflects broad support for modernizing satellite spectrum sharing. Commenters point out that, with greater operational flexibility under revised sharing rules, new NGSO systems would need smaller constellations and still have greater capacity to reach more customers, which would reflect a substantial reduction in launch costs, satellite costs, and costs of a new low-Earth orbit (LEO) constellation. Those lower costs should encourage new entry as well as lower prices for customers. The revised rules are also anticipated to support innovation through the availability of higher-throughput, lower-latency connectivity in rural and underserved areas. Accordingly, Staff is unpersuaded by arguments that the benefits of revising the EPFD limits are uncertain, speculative and overstated.

110. Certain commenters submitted studies concerning the benefits, with one providing quantitative estimates. An analysis by Harold Furchtgott-Roth suggests that the effects of moving away from the outdated EPFD rules would increase NGSO system capacity by 74% to 180%, which could reduce average costs per unit of capacity by 43% to 64%. The study further estimated that this would increase annual global consumer welfare by \$1.62 billion to \$16.2 billion, translating to a net present value increase in global welfare ranging from \$10 billion to \$100 billion. A second study submitted by the Phoenix

Center posited that a rising relative willingness to pay for NGSO broadband—even without growth in the overall satellite market—implies that today's spectrum sharing rules are too restrictive and should shift toward greater accommodation of NGSO systems. The intuition of the model presented in the study is that, as NGSO demand has grown far faster than demand for GSO services, an efficient regime must evolve to reflect this higher marginal valuation of NGSO connectivity. While the study did not provide quantitative estimates of benefits, Staff believes that the results of this study align with the steps we are taking today.

111. While Staff generally agrees with the conclusion of the Harold Furchtgott-Roth study, we find that the report does not adequately justify the assumptions underlying the consumer surplus calculations. For example, the report assumes price reductions ranging from 10% to 50% without providing a supporting rationale and provides no estimate of price elasticity of demand or passthrough rate, despite these assumptions being crucial in calculating consumer surplus. Furthermore, even setting aside methodological concerns with the consumer surplus calculations, it would still be necessary to appropriately scale any global consumer surplus estimates to derive a corresponding estimate of the change in domestic consumer surplus. If we assumed that U.S. consumers account for only one-quarter of the global benefits, the estimated annual benefits are reduced to approximately \$405 million to \$4.05 billion. If we conservatively take the lower bound estimate of \$405 million, the corresponding net present value of benefits accruing over the next five years is \$1.9 billion when using a discount rate of 3% and \$1.7 billion when using a discount rate of 7%. Under these revised assumptions, the overall increase in benefits to U.S. consumers nevertheless remains substantial.

112. Commission Staff conducted a separate internal assessment of benefits. Staff based its analysis on the potential relationship between the increase in supply of satellite capacity discussed in the Order and the projected overall growth in the size of satellite data services market. Based on support in the record, Staff assumed an increase in capacity in the foreseeable future of between 500% and 700%. Staff related these assumed increases in capacity to industry analyst projections of the market value of U.S. satellite data services as well as the supply of satellite

capacity using two alternative methodologies. First, we assume that the supply of NGSO high throughput satellite (HTS) capacity is 500–700% greater than it would be in 2030 absent the rule changes and infer that market value will expand proportionally based on the preexisting relationship between satellite market value and capacity. Second, we assume that the industry analyst's projected growth of HTS satellite capacity from 2025 to 2030 is correct, but that some fraction of that capacity growth is due to the 500% to 700% increase in HTS NGSO capacity due to the Order and that the fraction of market value growth due to the Order is also the same. For both methods, Staff then assumes that NGSO operators will earn 58% in profits on the gain in market value, and we use this as our estimate of gains in producer surplus. Staff did not attempt to estimate consumer surplus so that our estimate of benefits, which consists of gains in producer surplus, is conservative. We describe the two methods in detail below.

113. According to January 2025 analyst estimates for the years 2024–2034, the value of U.S. satellite data services will grow from \$3.40 billion to \$19.53 billion at a CAGR of 19.1%. Based on a separate April 2024 report estimating NGSO and GSO HTS capacity in 2023 and 2028, NGSO and GSO capacity will grow between 2023 and 2028 at a compound annual growth rate (CAGR) of 59.1% and 22.2%, respectively, leading to a total HTS CAGR of 56.1%.

114. *Method 1:* First, Staff assumes that analyst projections do not anticipate the capacity increase that Staff attributes to the revised spectrum sharing rules, such that 2030 capacity would be 500–700% more than the initial projections. Staff then calculates the new CAGR of capacity implied by the new 2030 level of capacity and then use the new CAGR to estimate the increase in the value of U.S. data services for the years 2025–2030. The markets value gains are then converted to gains in producer surplus by multiplying by the profit margin of 58%. Staff treats the net present value (NPV) increase in producer surplus as a public benefit. Total HTS throughput CAGR is 124.2% to 137.5%, which is significantly larger than the original CAGR of 56.1% for every year from 2026 to 2030, resulting in \$15.7 to \$19.9 billion in NPV at a 3% discount rate or \$13.5 billion to \$17.1 billion NPV at a 7% discount rate.

115. *Method 2:* Second, Staff assumes that the industry analysts anticipate some sort of regulatory change to

achieve the projected supply increase. In this scenario, Staff assumes that the Order is part of these anticipated regulatory changes, so that a fraction of the increase in capacity supply from 2025 to 2030 is attributable to the Order. Staff assumes that the Order will lead to an increase in NGSO HTS capacity of either 500% or 700% from 2025 to 2030. Based on the 2025 capacity of 60,009 Gbps, this is 300,045 Gbps or 420,063 Gbps, respectively. By comparison, a projection based on analyst reports indicates that total HTS capacity will increase by 560,846 Gbps from 2025 to 2030 (using a CAGR of 56.1%). This implies that either 300,045 Gbps/560,846 Gbps = 53.5% or 420,063/560,846 Gbps = 74.9% of growth is due to the Order. Staff then assumes the Order is responsible for the same fraction (either 53.5% or 74.9%) of the increase in satellite markets value each year between 2025 and 2030 and calculate the PV gain associated with that fraction of the increase in market value. After multiplying by the profit margin of 58%, this leads to a producer surplus gain in present value that is attributed to the Order ranging from \$1.6 billion to \$2.2 billion in benefits using a 3% discount rate, or \$1.4 to \$1.8 billion using a 7% discount rate.

116. Combining the results of the two approaches, Staff finds benefits ranging from \$1.6 billion to \$19.9 billion using a 3% discount rate and ranging from \$1.4 billion to \$17.1 billion using a 7% discount rate.

F. Costs

117. Staff accepts the findings of the Order that the rules adopted therein, including the long-term and short-term criteria for GSO satellite links using ACM, protection criteria for those that do not use ACM, and the minimum avoidance angle of the GSO arc will continue to provide sufficient protection to GSO operations from substantial interference, and therefore Staff concludes that they will not result in harm or substantial costs to GSO providers. Staff is therefore unpersuaded by arguments raised in a Brattle Group report submitted by Viasat, alleging that abandoning the long-standing EPFD framework would impose unacceptable interference costs on GSO operators, since, as the Order concludes, the performance-based GSO protection criteria that the Order adopts are sufficient to protect incumbent GSO operations and other incumbent users. Staff also is unpersuaded by Brattle's arguments that the new framework would undermine the property rights and market-driven approach of the EPFD framework. In contrast, the new

framework would improve these aspects as it makes the use of coordination explicit and allows for mutually beneficial outcomes above and beyond those that would be required by our backstop performance criteria. Rather than reduce innovation and investment through greater regulatory uncertainty and interference risk, as Brattle claims, the new rules will continue to protect existing spectrum users, while encouraging investment through more efficient spectrum use. Staff also finds Brattle concerns about international coordination unfounded because it is legally feasible for an administration to exceed the ITU EFPD limits and technologically feasible for service providers to operate both under and above those limits in adjacent countries.

118. Staff identifies two categories of costs: (1) increases in expenditures needed to serve a larger pool of customers, and (2) costs of complying with the revised rules. The analysis in the benefits section accounts for the category 1 costs—i.e., the costs to serve additional customers by multiplying estimated market value gains by an estimated profit margin. This amounts to subtracting incremental costs of serving new customers from incremental revenue. With respect to category 2, we recognize three kinds of potential costs of complying with the revised rules: familiarization costs, certification costs, and negotiation costs. Familiarization costs result from work that regulatees wishing to take advantage of the revised rules need to perform to familiarize themselves with the rule revisions. Certification costs are the labor costs that any NGSO operator wishing to take advantage of the new rules must incur in order to certify that it is using a degraded throughput methodology to avoid unacceptable interference. In the alternative, NGSO operators wishing to take advantage of the new rules may certify that they have a coordination agreement with any operational co-frequency GSO satellite network. Negotiation costs are costs that NGSO and GSO operators would need to incur to reach a coordination agreement. As there is a lack of information to estimate how frequent or long such negotiations would be, Staff is unable to quantify the costs of such negotiations. However, Staff concludes due to the relatively low number of negotiating partners in the industry coupled with the backstop option of a compatibility showing that associated costs would be relatively small compared to the volume of proposed benefits.

119. Staff estimates familiarization and certification costs by using needed

labor hours worked by engineers and attorneys to make sure that NGSO operators understand and comply with the new rules. Staff estimates that telecommunications aerospace engineers are compensated at a rate of \$100.26/hour and telecommunications attorneys are compensated at \$140.73/hour. Staff estimates that 26 NGSO constellations may be impacted by our rules, and conservatively assume that 26 NGSO regulatees will require familiarization and certification work. For familiarization, Staff assumes reading and understanding the order will take 6 engineer hours of work and 2 lawyer hours of work for each constellation, implying \$23,000 of costs for NGSO operators. Because these rules replace existing rules, future entrants into NGSO FSS operators would not be expected to incur additional familiarization costs because they would need to familiarize themselves with only one set of rules prior to entry. For certification, we conservatively assume that each of the 26 NGSO constellations would wish to submit a \$25.146 compatibility showing and therefore incur the certification cost. Additionally, because the \$25.146 compatibility showing is different from what new applicants would need to submit to the ITU to certify compliance with EPFD limits outside the United States, we assume that new applicants would likewise incur the certification cost. In these cases, Staff estimates that 26 operators incur a one-time certification cost and that in future years, 4 new operators would incur the certification cost. For each operator, we assume that certification comprises of 24 hours of engineering work and 8 hours of legal work. Therefore, Staff estimates then that the first year will result in \$92,000 in certification costs, and then every subsequent year will result in \$14,000 in certification costs. Adding the one-time familiarization costs to the first year certification costs, we have \$115,000 of costs in the first year of the new rules, followed by the \$14,000 of annual certification costs. Staff then finds that total costs, including familiarization and certification, from 2026 to 2030, sum to \$162,000 using a 3% discount rate, and \$152,000 using a 7% discount rate, respectively.

G. Alternate Policies

1. Alternative A—No Action

120. Under this alternative, the Commission would decline to revise the current sharing framework based on EPFD and PFD limits. The differing treatment of Ka-band frequencies in the

current rules—where the EPFD limit in the upper portion of the band is substantially more restrictive than the EPFD limit in the lower portion of the band—was widely criticized in the record as technically unjustified. In addition, the overall methodology used to derive the current EPFD limits has been called into question, including the use of methodologies designed to address short-term interference to develop long-term EPFD limits, overly conservative modeling of rain attenuation, and the inclusion of a large number of unstable links with negative link margin values in the set of GSO reference links used to derive the EPFD limits. For these reasons, as well as others identified in the record, Staff finds that the current limits were overly and unnecessarily restrictive.

121. Modern management practices allow more satellites to serve the same area, at potentially higher power, and over a wider portion of the visible sky. Failure to adopt newer standards would leave satellite spectrum underutilized relative to its potential economic and technological value. Without further action, the Commission would forgo an opportunity to promote more efficient use of spectrum, stimulate innovation, and bridge the digital divide.

2. Alternative B—Adopt Modern Performance-Based GSO Protection Rules as Bright-Line Rules To Replace Existing EPFD

122. Under this alternative, the Commission would replace the current sharing framework based on EPFD limits with performance-based GSO network protection requirements. These performance-based requirements would include: (1) a long-term protection criterion of 3% time-weighted average throughput degradation for GSO satellite links using ACM; (2) a short-term protection criterion of 0.1% absolute increase in link unavailability for GSO satellite links; (3) a protection criterion of -10.5 dB interference-to-noise (I/N) for 80% of the time for GSO satellite links that do not use ACM; and (4) an NGSO minimum 3-degree avoidance angle of the GSO arc. Given the overly conservative nature of the current sharing framework, these more modern and permissive requirements are an improvement over Alternative A, as they would result in an increase in satellite capacity, while protecting incumbent GSO providers. As discussed below, however, this alternative is inferior to the rules adopted, because it does not permit parties to negotiate a mutually beneficial coordination agreement that may be superior to what would exist from the mere application

of the modern performance-based requirements described above.

3. Alternative C (Adopted Rules)—Introduce A Coordination-Based Framework With a Backstop of Modern Performance-Based GSO Protection Rules as a Default Protection Regime Should the Parties Be Unable To Agree

123. The Commission has emphasized that private coordination among satellite operators, based on real-world operating parameters, offers the best opportunity for efficient spectrum sharing. The current EPFD limits do not accommodate such coordination because they must be met regardless of any agreements between particular NGSO and GSO satellite operators. Commission precedent also supports a requirement of good-faith coordination backstopped by performance-based interference metrics.

124. If the parties cannot agree on a coordination plan, then the performance-based GSO network protection requirements set forth in Alternative B would apply as a default protection requirement. Alternative C is superior to Alternative B, because it enables parties to negotiate a mutually beneficial coordination agreement if such an agreement is superior to what would result from the application of the performance-based GSO network protection requirements. Given this, the parties must be at least as well off under Alternative C compared to Alternative B.

H. Justification Determination

1. Benefits Exceed Costs

125. Staff finds that the changes adopted in the Order will generate large broad-based benefits to the public that exceed the relatively low compliance costs. Moving away from restrictive and outdated requirements will enable new uses and capabilities for NGSO satellites. Staff estimates large benefits in the form of increases in producer surplus from expanded economic activities in satellite telecommunications services. These activities will take the form of increased satellite deployment, expanded service and new innovations in technology that will spur economic activity and help close the digital divide. Staff estimates net benefits—after netting out compliance costs—ranging from \$1.6 billion to \$19.9 billion using a 3% discount rate and \$1.4 billion to \$17.1 billion using a 7% discount rate.

2. Highest Net-Benefit Alternative

126. Based on the record and economic analysis, Staff finds that

Alternative C—the coordination framework with default performance-based, bright-line rules offers the greatest net benefit among the three alternatives considered. This combination of encouraging coordination among parties buttressed by backstop protection requirements should the parties be unable to agree, generates the most protection of GSO satellite operations without hindering mutually beneficial coordination between GSO and NGSO satellite operators.

3. Small Entity Impacts

127. The rules adopted by the Commission in the Order will benefit many small entities by giving them greater access to satellite-based communication services, while imposing few direct compliance costs on small entities. The RFA, generally defines the term “small entity” as having the same meaning as under the Small Business Act. In addition, the term “small business” has the same meaning as the term “small business

concern” under the “Small Business Act.” A “small business concern” is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA. We divide small entities into two industries—identified in the chart below—that could be directly affected by our actions, satellite telecommunications and other telecommunications.

Regulated industry (footnotes specify potentially affected entities within a regulated industry where applicable)	NAICS Code	SBA size standard (million)	Total firms	Total small firms	% Small firms
Satellite Telecommunications	517410	\$44	332	195	58.73
All Other Telecommunications	517810	40	1,673	1,007	60.19

128. The adopted modern sharing rules replace an outdated, spectrally inefficient sharing framework, and will promote more efficient use of spectrum, stimulate innovation, and bridge the digital divide. Small entities that use or provide input for these services will benefit. Out of the existing small satellite telecommunications providers, few if any are satellite operators, given the high fixed costs of deploying and operating satellites, and thus subject to the rules. We conclude that little to no compliance costs will be imposed on small entities. Additionally, the Commission considered alternative proposals and weighed their benefits against their potential costs to small businesses and other entities. On balance, the adopted rules will result in significant economic benefits for small entities.

4. Impacts on Disadvantaged Populations

129. The new adopted sharing framework should help disadvantaged populations, such as the extremely rural, who lack current access to telecommunications services. More utilization of spectrum stimulated by the new rules is likely to result in expanded coverage by satellites telecommunications services. Coverage might then extend to areas that were economically unprofitable, such as areas with very low population densities. Other disadvantaged groups are likely to face the same benefits as the general population as the benefits are likely broad-based. As for costs, we expect them to entirely take the form compliance costs for satellite service providers and not the general public. As a result, disadvantaged populations are unlikely to incur disproportionate costs.

VI. Ordering Clauses

130. *It is ordered*, pursuant to Sections 4(i), 7(a), 303, 308(b), and 316 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 157(a), 303, 308(b), 316, that the Order *is adopted*, the policies, rules, and requirements discussed herein *are adopted*, and part 25 of the Commission’s rules *is amended* as set forth in the final rules.

131. *It is further ordered* that the Order *shall be* effective 60 days after publication in the **Federal Register**, except that §§ 25.146(a)(3) and 25.289(a)(2), which may contain new or modified information collection requirements, will not become effective until the Office of Management and Budget completes review of any information collection requirements that the Space Bureau determines is required under the Paperwork Reduction Act. The Commission directs the Space Bureau to announce the effective date for §§ 25.146(a)(3) and 25.289(a)(2) by publication of a document in the **Federal Register**.

132. *It is further ordered* that the Commission’s Office of Secretary *shall send* a copy of the Order, including the FRFA, to the Chief Counsel for the Small Business Administration (SBA) Office of Advocacy.

133. *It is further ordered* that the Commission’s Office of the Managing Director, Performance Program Management, *shall send* a copy of the Order in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

List of Subjects

47 CFR Part 25

Administrative practice and procedure, Incorporation by reference, Satellites.

Federal Communications Commission.

Marlene H. Dortch,
Secretary.

Final Rules

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 25 as follows:

PART 25—SATELLITE COMMUNICATIONS

■ 1. The authority citation for part 25 continues to read as follows:

Authority: 47 U.S.C. 154, 301, 302, 303, 307, 309, 310, 319, 332, 605, and 721, unless otherwise noted.

■ 2. Delayed indefinitely, amend § 25.146 by adding paragraph (a)(3) to read as follows:

§ 25.146 Licensing and operating provisions for NGSO FSS space stations.

(a) * * *

(3) For operation in the United States in the 10.7–12.7, 17.3–18.6, or 19.7–20.2 GHz bands, an NGSO FSS applicant may, as an alternative to certifying that it will comply with equivalent power-flux density limits in these bands, apply the following procedure: Prior to commencing operations, an NGSO FSS applicant must either certify that it has completed a coordination agreement with any operational co-frequency GSO satellite network, or submit for Commission approval a compatibility showing which demonstrates by use of a degraded throughput methodology

that it will not cause unacceptable interference to any such system with which coordination has not been completed.

(i) Compatibility showings must contain the following elements:

(A) A demonstration that the NGSO system will cause no more than 3% time-weighted average degraded throughput of any GSO reference link that uses adaptive coding and modulation;

(B) A demonstration that the NGSO system will cause no more than 0.1% absolute change in link availability to any GSO reference link;

(C) A demonstration that the NGSO system will cause no more than −10.5 dB I/N for 80% of time for any GSO reference link that does not use adaptive coding and modulation; and

(D) A certification that the NGSO system will use a minimum GSO-arc avoidance angle of 3 degrees with respect to any operational co-frequency

GSO space station serving the United States.

(ii) While a compatibility showing remains pending before the Commission, the submitting NGSO licensee or market access recipient may commence operations on an unprotected, non-interference basis with respect to the operations of any co-frequency GSO network with which coordination has not been completed.

* * * * *

■ 3. Revise § 25.289 to read as follows:

§ 25.289 Protection of GSO networks by NGSO systems.

(a) *Unacceptable interference.* Unless otherwise provided in this chapter, an NGSO system licensee must not cause unacceptable interference to, or claim protection from, a GSO FSS or GSO BSS network.

(1) An NGSO FSS licensee operating in compliance with the applicable equivalent power flux-density limits in Article 22, Section II of the ITU Radio

Regulations (incorporated by reference, § 25.108) will be considered as having fulfilled this obligation with respect to any GSO network.

(2) [Reserved]

(b) *Coordination.* GSO and NGSO satellite operators must coordinate in good faith the use of commonly authorized frequencies in the 10.7–12.7, 17.3–18.6, or 19.7–20.2 GHz bands in the United States.

■ 4. Delayed indefinitely, further amend § 25.289 by adding paragraph (a)(2) to read as follows:

§ 25.289 Protection of GSO networks by NGSO systems.

(a) * * *

(2) An NGSO FSS licensee authorized pursuant to § 25.146(a)(3) will be considered as having fulfilled this obligation with respect to any GSO network.

* * * * *

[FR Doc. 2026–09565 Filed 5–12–26; 8:45 am]

BILLING CODE 6712–01–P

Proposed Rules

Federal Register

Vol. 91, No. 92

Wednesday, May 13, 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 1218

[Doc. No. AMS–SC–26–0001]

Blueberry Promotion, Research, and Information Order; Continuance Referendum

AGENCY: Agricultural Marketing Service.

ACTION: Notification of referendum.

SUMMARY: This notice directs that a referendum be conducted among eligible producers and importers of highbush blueberries to determine whether they favor continuance of the Agricultural Marketing Service's (AMS) regulations regarding the National highbush blueberry research and promotion program.

DATES: This referendum will be conducted by express mail and electronic ballot from July 13, 2026, through July 24, 2026. Ballots delivered to AMS via express mail or electronic ballot must show proof of delivery by no later than 11:59 p.m. Eastern Time on July 24, 2026, to be included in the vote tabulation. Eligible persons will receive a ballot through the mail and may cast it either through express mail or electronic ballot. To be eligible to vote, blueberry producers and importers must have produced or imported 2,000 pounds or more of highbush blueberries during January 1 through December 31, 2025, and must currently be subject to assessment under the Blueberry Promotion, Research, and Information Order (Order).

ADDRESSES: Copies of the Blueberry Promotion, Research, and Information Order (Order) may be obtained from: Referendum Agent, Market Development Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW, Room 1406–S, Stop 0244, Washington, DC 20250–0244; by telephone: (202) 720–8085; or by contacting Jeanette Palmer at (202)

720–5976 or via electronic mail at Jeanette.Palmer@usda.gov.

FOR FURTHER INFORMATION CONTACT:

Jeanette Palmer, Marketing Specialist, or Alexandra Caryl, Branch Chief, mid-Atlantic Region Branch, Market Development Division, Specialty Crops Program; telephone: (202) 720–5976; or electronic mail: Jeanette.Palmer@usda.gov or Alexandra.Caryl@usda.gov.

SUPPLEMENTARY INFORMATION: Pursuant to the Commodity Promotion, Research and Information Act of 1996 (7 U.S.C. 7411–7425) (Act), it is hereby directed that a referendum be conducted to ascertain whether continuance of the Blueberry Promotion, Research, and Information Order (7 CFR part 1218) (the Order) is favored by a majority of eligible producers and importers of highbush blueberries.

The representative period for establishing voter eligibility is January 1, 2025, through December 31, 2025. Persons who produced or imported 2,000 pounds or more of highbush blueberries are eligible to vote. Persons who received an exemption from assessments for the entire representative period are ineligible to vote. USDA will conduct the referendum by express mail and electronic ballot from July 13, 2026, through July 24, 2026. Further details will be provided in the ballot instructions.

Section 518 of the Act authorizes continuance referenda. Under § 1218.71(b) of the Order, USDA must conduct a referendum every five years, at the request of 10 percent or more of the number of producers and importers eligible to vote in a referendum, or at any time as determined by the Secretary. The last referendum was held in 2021; therefore, a referendum must be held in 2026 to comply with the Order.

USDA would continue the Order if it is favored by a majority of the producers and importers voting in the referendum who also represent a majority of the volume of blueberries represented in the referendum who, during the representative period, have been engaged in the production or importation of blueberries. If not favored, USDA would comply with the suspension and termination procedures at § 1218.74.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the referendum ballot has been approved by the Office of

Management and Budget (OMB) and assigned OMB No. 0581–0093.

Approximately 1,400 persons will be eligible to vote in the referendum. It will take an average of 15 minutes for each voter to read the instructions and complete the ballot.

Referendum Order

Jeanette Palmer, Marketing Specialist; Victoria M. Carpenter, Marketing Specialist; and Alexandra Caryl, Branch Chief (Market Development Division, SCP, AMS, USDA, Stop 0244, Room 1406–S, 1400 Independence Avenue SW, Washington, DC 20250–0244) are designated as the referendum agents to conduct this referendum. The referendum procedures at 7 CFR 1218.100 through 1218.107, which were issued pursuant to the Act, shall be used to conduct the referendum.

The referendum agents will express mail ballots and voting instructions to all known, eligible producers and importers prior to the first day of the voting period. Any eligible producer or importer who does not receive a ballot should contact the referendum agent no later than three days before the end of the voting period. Ballots delivered via express mail or electronic ballot must show proof of delivery by no later than 11:59 p.m. Eastern Time on July 24, 2026.

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

Erin Morris,

Administrator, Agricultural Marketing Service.

[FR Doc. 2026–09500 Filed 5–12–26; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2026–4632; Project Identifier MCAI–2026–00036–A]

RIN 2120–AA64

Airworthiness Directives; Pilatus Aircraft Ltd. Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain Pilatus Aircraft Ltd. (Pilatus) Model PC-24 airplanes. This proposed AD was prompted by a report that a solid-state relay (SSR) used in the left-hand (LH) windshield heating system may allow reverse current flow when in the OFF position. This proposed AD would require modification of the airplane and replacement of the affected SSR with a serviceable part. The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this NPRM by June 29, 2026.

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

- *Federal eRulemaking Portal:* Go to [regulations.gov](https://www.regulations.gov). Follow the instructions for submitting comments.

- *Fax:* (202) 493-2251.

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

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

AD Docket: You may examine the AD docket at [regulations.gov](https://www.regulations.gov) under Docket No. FAA-2026-4632; 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 NPRM, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; phone: +49 221 8999 000; email: ADs@easa.europa.eu; website: easa.europa.eu. You may find this material on the EASA website at ad.easa.europa.eu.

- You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 1100 Main, Kansas City, MO 64105. For information on the availability of this material at the FAA, call (817) 222-5110.

FOR FURTHER INFORMATION CONTACT: Doug Rudolph, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: (816) 329-4059; email: doug.rudolph@faa.gov.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments using a method listed under **ADDRESSES**. Include “Docket No. FAA-2026-4632; Project Identifier MCAI-2026-00036-A” at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this proposal because of those comments.

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

Confidential Business Information

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

Background

EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2026-0008, dated January 15, 2026 (EASA AD 2026-0008) (also referred to as the MCAI), to correct an unsafe condition on certain Pilatus Model PC-24 airplanes. The MCAI states that the PC-24 windshield de-fog (low power windshield heating) is switched ON and

OFF by an SSR. The affected part allows current to flow in reverse direction when it is in the OFF position. If, during a dual generator failure, the emergency windshield heat button is pushed, the batteries power the windshield heating. The batteries also power the electrical power distribution units (EPDU) 1 and 3 via the affected part. A reversal of current flow could cause the function of the emergency windshield heat to fail when required. As a result, the LH side window may not be fully de-fogged, and ice may not be cleared from either the LH or the right-hand windshield. To address this unsafe condition, Pilatus issued service material to provide replacement instructions for the affected SSR. This condition, if not addressed, could lead to a failure of the emergency windshield heat function, which could result in the loss of outside visibility.

You may examine the MCAI in the AD docket at [regulations.gov](https://www.regulations.gov) under Docket No. FAA-2026-4632.

Material Incorporated by Reference Under 1 CFR Part 51

The FAA reviewed EASA AD 2026-0008, which specifies procedures for replacement of the LH windshield heating SSR with a serviceable part. This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA's Determination

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

Proposed AD Requirements in This NPRM

This proposed AD would require accomplishing the actions specified in the MCAI described previously, as incorporated by reference, except for any differences identified as exceptions in the regulatory text of this proposed AD.

Explanation of Required Compliance Information

In the FAA's ongoing efforts to improve the efficiency of the AD process, the FAA developed a process to use some CAA ADs as the primary

source of information for compliance with requirements for corresponding FAA ADs. The FAA has been coordinating with manufacturers and CAAs. As a result, the FAA proposes to incorporate EASA AD 2026–0008 by reference in the FAA final rule. This proposed AD would, therefore, require compliance with EASA AD 2026–0008 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 2026–0008 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 2026–0008.

Material required by EASA AD 2026–0008 for compliance will be available at *regulations.gov* under Docket No. FAA–2026–4632 after the FAA final rule is published.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 168 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
Replace SSR and cables (125 airplanes)	5 work-hours × \$85 per hour = \$425	\$1,032	\$1,457	\$182,125
Replace SSR (43 airplanes)	2.5 work-hours × \$85 per hour = \$212.50	32	244.50	10,513.50

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this proposed regulation:

(1) Is not a “significant regulatory action” under Executive Order 12866,

(2) Would not affect intrastate aviation in Alaska, and

(3) Would not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Pilatus Aircraft Ltd.: Docket No. FAA–2026–4632; Project Identifier MCAI–2026–00036–A.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by June 29, 2026.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Pilatus Aircraft Ltd. Model PC–24 airplanes, certificated in any category, as identified in European Union Aviation Safety Agency AD 2026–0008, dated January 15, 2026 (EASA AD 2026–0008).

(d) Subject

Joint Aircraft System Component (JASC) Code 3040, Windshield/Door Rain/Ice removal.

(e) Unsafe Condition

This AD was prompted by a report that a solid-state relay used in the left-hand windshield heating system may allow reverse current flow when in the OFF position. The FAA is issuing this AD to prevent failure of the emergency windshield heat function. The unsafe condition, if not addressed, could result in a failure of the emergency windshield heat function, which could result in the loss of outside visibility.

(f) Compliance

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

(g) Required Actions

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, EASA AD 2026–0008.

(h) Exceptions to EASA AD 2026–0008

(1) Where EASA AD 2026–0008 refers to its effective date, this AD requires using the effective date of this AD.

(2) This AD does not adopt the Remarks section of EASA AD 2026–0008.

(i) No Reporting Requirement

Although the material referenced in EASA AD 2026–0008 specifies to submit certain information, this AD does not include that requirement.

(j) Alternative Methods of Compliance (AMOCs)

The Manager, International Validation Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the International Validation Branch, send it to the attention of the person

identified in paragraph (k) of this AD and email to: AMOC@faa.gov. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office/certificate holding district office.

(k) Additional Information

For more information about this AD, contact Doug Rudolph, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: (816) 329-4059; email: doug.rudolph@faa.gov.

(l) Material Incorporated by Reference

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

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

(i) European Union Aviation Safety Agency (EASA) AD 2026-0008, dated January 15, 2026.

(ii) [Reserved]

(3) For EASA material identified in this AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; phone: +49 221 8999 000; email: ADs@easa.europa.eu; website: easa.europa.eu. You may find this EASA AD on the EASA website at ad.easa.europa.eu.

(4) You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 1100 Main, Kansas City, MO 64105. For information on the availability of this material at the FAA, call (817) 222-5110.

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

Issued on May 6, 2026.

Steven W. Thompson,

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

[FR Doc. 2026-09576 Filed 5-12-26; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2026-4633; Project Identifier MCAI-2025-01173-A]

RIN 2120-AA64

Airworthiness Directives; Diamond Aircraft Industries Inc. 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

Diamond Aircraft Industries Inc. (DAI) Model DA 40, DA 40 F, and DA 40 NG airplanes. This proposed AD was prompted by several reports of passenger door separation during flight. This proposed AD would require revising the existing airplane flight manual (AFM) to provide the flight crew with revised operating limitations, emergency procedures, and normal operating procedures; inspecting the passenger door latching mechanism and safety hook mechanism areas and performing corrective action, as applicable; inspecting the safety hook, latching bolts, front and rear door guide blocks, canopy and passenger door warning light, carbon hinges, tension spring, retaining block, safety hook push button, latching mechanism spring, gas spring, and door frame; measuring the passenger door handle actuation force; modifying the airplane with placards; replacing the gas spring; and replacing the hook assembly, retaining block, door guide blocks, and door sealant if necessary. The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this NPRM by June 29, 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-2026-4633; 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 Diamond Aircraft Industries material identified in this proposed AD, contact DAI, 1560 Crumlin Sideroad, London, Ontario, Canada, N5V 1S2; phone: (519) 457-4041; email: support-canada@diamondaircraft.com; website: diamondaircraft.com.

- You may view this material at the FAA, Airworthiness Products Section,

Operational Safety Branch, 901 Locust, Kansas City, MO 64106. For information on the availability of this material at the FAA, call (817) 222-5110.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments using a method listed under **ADDRESSES**. Include "Docket No. FAA-2026-4633; Project Identifier MCAI-2025-01173-A" at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this proposal because of those comments.

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

Confidential Business Information

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

Background

Transport Canada, which is the aviation authority for Canada, has issued Transport Canada AD CF–2025–30, dated June 23, 2025 (Transport Canada AD CF–2025–30) (also referred to as the MCAI), to correct an unsafe condition on all DAI Model DA 40, DA 40 D, DA 40 F, and DA 40 NG airplanes. The MCAI states that DAI received several reports of passenger door separation. DAI attributed the root cause of certain instances to the passenger door not being properly latched and subsequent attempts to latch the passenger door in flight. DAI was unable to find a definitive root cause of the remaining occurrences. Passenger door separation, if not addressed, could result in damage to the airplane structure and lead to loss of control of the airplane and injury to persons on the ground. The MCAI requires updating the AFM, modifying the airplane in the passenger door latching mechanism and safety hook mechanism areas, repetitively inspecting the door latching and safety hook mechanisms, and reporting all findings to DAI.

You may examine the MCAI in the AD docket at [regulations.gov](https://www.regulations.gov) under Docket No. FAA–2026–4633.

Material Incorporated by Reference Under 1 CFR Part 51

The FAA reviewed Diamond Aircraft Mandatory Service Bulletin MSB 40–103/MSB F4–042/MSB D4–114/MSB 40NG–084 REV. 2, dated June 5, 2025 (issued as one document), published with Diamond Aircraft Work Instruction WI–MSB 40–103/WI–MSB F4–042/WI–MSB D4–114/WI–MSB 40NG–084 REV. 2, dated June 5, 2025 (issued as one document). This material specifies procedures for inspecting the passenger door latching mechanism and safety hook mechanism areas and performing corrective action, as applicable; inspecting the safety hook, latching bolts, front and rear door guide blocks, canopy and passenger door warning light, carbon hinges, tension spring, retaining block, safety hook push

button, latching mechanism spring, gas spring, and door frame; measuring the passenger door handle actuation force; modifying the airplane with placards; replacing the gas spring; and replacing the hook assembly, retaining block, door guide blocks, and door sealant if necessary for Model DA 40, DA 40 F, and DA 40 NG airplanes.

The FAA also reviewed Diamond Aircraft DA 40 AFM Doc. No. 6.01.01–E Temporary Revision TR–MAM–40–1203, Door Latching and Locking, dated December 16, 2024; Diamond Aircraft DA 40 F AFM Doc. No. 6.01.02–E Temporary Revision TR–MAM–40–1203, Door Latching and Locking, dated December 16, 2024; and Diamond Aircraft DA 40 NG AFM Doc. No. 6.01.15–E Temporary Revision TR–MAM–40–1203/a, Door Latching and Locking, dated February 18, 2025. This material specifies procedures for amending the AFM by revising the operating limitations, emergency procedures, and normal operating procedures related to door latching and locking for Model DA 40, DA 40 F, and DA 40 NG airplanes.

This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the ADDRESSES section.

FAA’s Determination

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

Proposed AD Requirements in This NPRM

This proposed AD would require accomplishing the actions specified in

the material already described, except as discussed under “Differences Between this Proposed AD and the MCAI.” The owner/operator (pilot) holding at least a private pilot certificate may revise the existing AFM for the airplane and must enter compliance with the applicable paragraph of this proposed AD into the airplane maintenance records in accordance with 14 CFR 43.9(a) and 91.417(a)(2)(v). The pilot may perform this action because it only involves revising the existing AFM. This action could be performed equally well by a pilot or mechanic. This is an exception to the FAA’s standard maintenance regulations.

Differences Between This Proposed AD, the MCAI, and the Referenced Material

The MCAI applies to DAI Model DA 40 D airplanes, but this proposed AD would not include this model because it does not have an FAA type certificate.

The service bulletin referred to in the MCAI specifies to contact DAI for repair instructions, but this proposed AD would require contacting the Manager, International Validation Branch, FAA; Transport Canada; or DAI’s Transport Canada Design Organization Approval (DOA) instead.

The material referenced above specifies recording any findings in the execution report and submitting the execution report to DAI, but this proposed AD does not include that requirement.

Interim Action

The FAA considers that this proposed AD would be an interim action. This unsafe condition is still under investigation by the manufacturer and, depending on the results of that investigation, the FAA may consider further rulemaking action.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 987 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
AFM revision	1 work-hour × \$85 per hour = \$85.	\$0	\$85	\$83,895.
Initial inspection	3 work-hours × \$85 per hour = \$255.	76	\$331	\$326,697.
Repetitive inspections	1 work-hour × \$85 per hour = \$85 per inspection.	0	\$85 per inspection	\$83,895 per inspection.

The FAA estimates the following costs to do any replacements that would be required based on the results of the

proposed inspection. The agency has no way of determining the number of

airplanes that might need these replacements:

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Gas spring replacement	2 work-hours × \$85 per hour = \$170	\$489	\$659
Hook assembly replacement	4 work-hours × \$85 per hour = \$340	484	824
Retaining block replacement	1 work-hour × \$85 per hour = \$85	166	251
Door guide block replacement	1 work-hour × \$85 per hour = \$85	206	291
Door sealant replacement	1 work-hour × \$85 per hour = \$85	15	100

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this proposed regulation:

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

under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39 Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Diamond Aircraft Industries Inc.: Docket No. FAA-2026-4633; Project Identifier MCAI-2025-01173-A.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by June 29, 2026.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all Diamond Aircraft Industries Inc. (DAI) Model DA 40, DA 40 F, and DA 40 NG airplanes, certificated in any category.

(d) Subject

Joint Aircraft System Component (JASC) Code 5210, Passenger/Crew Doors.

(e) Unsafe Condition

This AD was prompted by several reports of passenger door separation during flight. The FAA is issuing this AD to address this unsafe condition. The unsafe condition, if not addressed, could result in damage to the airplane structure and lead to loss of control of the airplane and injury to persons on the ground.

(f) Definition

For the purposes of this AD, the Diamond Aircraft work instruction is defined as Diamond Aircraft Work Instruction WI-MSB 40-103/WI-MSB F4-042/WI-MSB D4-114/WI-MSB 40NG-084 REV. 2, dated June 5, 2025 (issued as one document), published with Diamond Aircraft Mandatory Service Bulletin MSB 40-103/MSB F4-042/MSB D4-114/MSB 40NG-084 REV. 2, dated June 5, 2025 (issued as one document).

(g) Applicable Airplane Flight Manual (AFM) Temporary Revisions

The following presents the AFM and temporary revisions that apply to this AD and each individual model.

(1) For Model DA 40 airplanes: Diamond Aircraft DA 40 AFM Doc. No. 6.01.01-E Temporary Revision TR-MAM-40-1203, Door Latching and Locking, dated December 16, 2024.

(2) For Model DA 40 F airplanes: Diamond Aircraft DA 40 F AFM Doc. No. 6.01.02-E Temporary Revision TR-MAM-40-1203, Door Latching and Locking, dated December 16, 2024.

(3) For Model DA 40 NG airplanes: Diamond Aircraft DA 40 NG AFM Doc. No. 6.01.15-E Temporary Revision TR-MAM-40-1203/a, Door Latching and Locking, dated February 18, 2025.

(h) Compliance

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

(i) Required Actions

(1) Within 100 hours time-in-service (TIS) or 100 days, whichever occurs first after the effective date of this AD, revise the existing AFM for the airplane to include the information specified in the applicable AFM temporary revision specified in paragraphs (g)(1) through (3) of this AD.

(i) The owner/operator (pilot) holding at least a private pilot certificate may revise the existing AFM for the airplane and must enter compliance with the applicable paragraph of this AD into the airplane maintenance records in accordance with 14 CFR 43.9(a) and 91.417(a)(2)(v). The record must be maintained as required by 14 CFR 91.417, 121.380, or 135.439.

(ii) The AFM revision required by paragraph (i)(1) of this AD may be accomplished before the initial inspection and modification required by paragraph (i)(2) or (3) of this AD for that airplane.

(2) For airplanes with less than 100 total hours TIS as of the effective date of this AD: Within 100 hours TIS or 100 days, whichever occurs first after the effective date of this AD, accomplish the initial inspection of the safety hook, latching bolts, front and rear door guide blocks and the modification of the airplane with placards in accordance with the instructions of Section III, steps 5, 20 through 23, 28, 30, 31, and 33 through 36 in the Diamond Aircraft Work Instruction specified in paragraph (f) of this AD, except accomplish the actions required by step 20(f) in accordance with paragraphs (i)(4) and (5) of this AD.

(3) For airplanes that have accumulated 100 or more total hours TIS as of the effective date of this AD: Within 100 hours TIS or 100 days, whichever occurs first after the effective date of this AD, accomplish the initial inspection of the canopy and passenger door warning light, carbon hinges, safety hook, tension spring, retaining block, safety hook push button, safety hook mechanism, latching mechanism spring, gas spring, latching bolts, front and rear door guide blocks, and door frame; measure the passenger door handle actuation force; and accomplish the modification of the airplane with placards in accordance with the instructions of Section III, steps 2 through 10, 12, 13, 15, 17, 18, 20 through 24, and 28 through 36 in the Diamond Aircraft Work Instruction specified in paragraph (f) of this AD, except accomplish the actions required by step 20(f) in accordance with paragraphs (i)(4) and (5) of this AD.

(4) If, during the inspection required by step 20(f) in the Diamond Aircraft Work Instruction specified in paragraph (f) of this AD, the force measured is less than 1.8 kg (18 N), and if the force measured during the inspection required by step 20(c) was between 2 kg (20 N) and 6 kg (60 N), perform the following:

(i) Repeat the inspection required by step 20(c) in the Diamond Aircraft Work Instruction specified in paragraph (f) of this AD every 100 hours TIS until the replacement of the gas spring required by paragraph (i)(4)(ii) of this AD is accomplished.

(ii) Within 12 months after the effective date of this AD, replace the gas spring in accordance with the Diamond Aircraft Work Instruction specified in paragraph (f) of this AD.

(5) If, during the inspection specified in step 20(f) in the Diamond Aircraft Work Instruction specified in paragraph (f) of this AD, the force measured is less than 1.8 kg (18 N), and if the force measured during the inspection required by step 20(c) was greater than 6 kg (60 N) or less than 2 kg (20 N), before further flight, replace the gas spring.

(6) If, during any inspection as required by paragraph (i)(2) or (3) of this AD, any findings, as defined in Section III, steps 5, 6, 9, 12, 20, and 23 are identified, before further flight, accomplish the applicable corrective action(s) in accordance with the instructions of Section IV, IV.1, steps 1 through 9, IV.2, steps 1 and 2, IV.3, steps 1 and 2, and IV.4, steps 1 through 5 in the Diamond Aircraft Work Instruction specified in paragraph (f) of this AD.

(7) Where the instructions of Section III or Section IV of the Diamond Aircraft Work Instruction specified in paragraph (f) of this AD state to contact the manufacturer “in case of doubt” or for approved instructions, this AD requires before further flight, using instructions approved by the Manager, International Validation Branch, FAA; Transport Canada; or DAI’s Transport Canada Design Organization Approval (DOA), and within the compliance time specified therein, accomplishing those instructions. If approved by the DOA, the approval must include the DOA-authorized signature.

(j) No Reporting Requirement

Although the material referenced in paragraph (f) of this AD specifies to submit information to the manufacturer, this AD does not require that action.

(k) Credit for Previous Actions

You may take credit for the actions required by paragraph (i) of this AD if you performed those actions before the effective date of this AD using Diamond Aircraft Mandatory Service Bulletin MSB 40–103/MSB F4–042/MSB D4–114/MSB 40NG–084 REV. 1, dated May 15, 2025 (issued as one document), published with Diamond Aircraft Work Instruction WI–MSB 40–103/WI–MSB F4–042/WI–MSB D4–114/WI–MSB 40NG–084 REV. 1, dated May 15, 2025 (issued as one document); or Diamond Aircraft Mandatory Service Bulletin MSB 40–103/MSB F4–042/MSB D4–114/MSB 40NG–084 REV. 0, dated March 20, 2025 (issued as one document), published with Diamond Aircraft Work Instruction WI–MSB 40–103/WI–MSB F4–042/WI–MSB D4–114/WI–MSB 40NG–084 REV. 0, dated March 20, 2025 (issued as one document).

(l) Alternative Methods of Compliance (AMOCs)

The Manager, International Validation Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the International Validation Branch, send it to the attention of the person identified in paragraph (m) of this AD and email to: AMOC@faa.gov. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(m) Additional Information

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

(n) 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) Diamond Aircraft Mandatory Service Bulletin MSB 40–103/MSB F4–042/MSB D4–114/MSB 40NG–084 REV. 2, dated June 5, 2025 (issued as one document), published with Diamond Aircraft Work Instruction WI–MSB 40–103/WI–MSB F4–042/WI–MSB D4–114/WI–MSB 40NG–084 REV. 2, dated June 5, 2025 (issued as one document).

(ii) Diamond Aircraft DA 40 Airplane Flight Manual (AFM) Doc. No. 6.01.01–E Temporary Revision TR–MAM–40–1203, Door Latching and Locking, dated December 16, 2024.

(iii) Diamond Aircraft DA 40 F AFM Doc. No. 6.01.02–E Temporary Revision TR–MAM–40–1203/a, Door Latching and Locking, dated December 16, 2024.

(iv) Diamond Aircraft DA 40 NG AFM Doc. No. 6.01.15–E Temporary Revision TR–MAM–40–1203/a, Door Latching and Locking, dated February 18, 2025.

(3) For Diamond Aircraft Industries material identified in this AD, contact Diamond Aircraft Industries Inc., 1560 Crumlin Sideroad, London, Ontario, Canada, N5V 1S2; phone: (519) 457–4041; email: support-canada@diamondaircraft.com; website: diamondaircraft.com.

(4) You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 901 Locust, Kansas City, MO 64106. For information on the availability of this material at the FAA, call (817) 222–5110.

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

Issued on May 6, 2026.

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

[FR Doc. 2026–09574 Filed 5–12–26; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2026–0561]

RIN 1625–AA00

Safety Zones; Fireworks Displays in the USCG East District

AGENCY: Coast Guard, Department of Homeland Security.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is proposing to amend its safety zones for fireworks displays in the USCG East District by adding safety zones for three recurring events and amending one recurring

event located in the Virginia Captain of the Port Zone. This Notice of Proposed Rule Making (NPRM) would provide for the safety of life on the navigable waters at the confluence of the James River and the Appomattox River, on the Hampton River, on the East River, and on the Elizabeth River at Town Point Reach during firework displays which are typically held on each of those rivers annually.

DATES: Comments and related material must be received by the Coast Guard on or before May 18, 2026.

ADDRESSES: To submit comments and view available documents, go to <https://www.regulations.gov> and search for USCG–2026–0561.

FOR FURTHER INFORMATION CONTACT: If you have questions about this proposed rule, contact LCDR Justin Z. Strassfield, Sector Virginia Waterways Management Division, U.S. Coast Guard; by phone, at (206) 815–7367, or by email, at VirginiaWaterways@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background and Authority

Within the USCG East District, the Coast Guard has compiled many recurring safety zones in one regulation, 33 CFR 165.506. Within § 165.506, these safety zones are arranged in tables, organized by Captain of the Port Zone. We are now proposing to add three recurring firework displays and amend one recurring firework display to the table for the Virginia Captain of the Port Zone. General provisions of § 165.506, such as definitions, controls on vessel movement, and Coast Guard contact information would apply to these safety zones. In past years, we have promulgated temporary final rules to address particular instances of one of these events. As we anticipate that these events will continue to occur annually for the foreseeable future, we are proposing a permanent safety zone for each of the events.

The Captain of the Port Sector Virginia (COTP) has determined that potential hazards include dangerous projectiles and falling debris. Therefore, the COTP is proposing this rule under the authority in 46 U.S.C. 70034, which is needed to protect personnel, vessels, and the marine environment in the navigable waters within these safety

zones. The regulatory text we are proposing appears at the end of this document.

III. Discussion of the Rule

The first proposed safety zone would establish a regulated area which would be subject to enforcement on the fourth or fifth Saturday in June of each year. This year, it would be subject to enforcement June 27, 2026, from 9 p.m. until 10 p.m. The safety zone would encompass the fallout zone located within a portion of the waters at the confluence of the Appomattox River and James River in Hopewell, VA.

The second proposed safety zone would establish a regulated area on July 3rd, 4th, 5th, or 6th of each year, beginning July 4, 2026, from 9 p.m. until 10 p.m. The safety zone would encompass two separate areas located on a portion of the Hampton River in Hampton, VA. One area would surround a fireworks barge on the Hampton River and the other area would provide for a landside launch adjacent to the Hampton River.

The third proposed safety zone would establish a regulated area on July 3rd, 4th, 5th, or 6th of each year, beginning July 5, 2026, from 9 p.m. until 10 p.m. The safety zone would encompass a portion of the East River in Mathews, VA.

The proposed amendment to an existing safety zone would update the date of enforcement for Item 13 in Table 3 to paragraph (h)(3) of § 165.506 to one Saturday in June or June 19th, and on July 4th of each year, beginning July 4, 2026, from 9 p.m. until 10 p.m.

As the dates and times of the events are subject to change, the dates and times that the proposed safety zones for the events would be subject to enforcement would also be subject to change, in accordance with regulatory text found in 33 CFR 165.506(c). In the event of a change, the Captain of the Port would provide notice to the public by publishing a Notification of Enforcement in the **Federal Register**, as well as by issuing a Broadcast Notice to Mariners.

As provided in 33 CFR 165.506(d), no vessel or person would be permitted to enter the safety zone without obtaining permission from the COTP or their designated representative. The regulatory text we are proposing appears at the end of this document.

IV. Regulatory Analyses

We developed this proposed rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses

based on a number of these statutes and Executive orders.

A. Impact on Small Entities

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

Vessel traffic would be able to safely transit around the regulated areas. This regulation would only impact a small area for 1 hour. The enforcement period is during a time when vessel traffic is normally low. In addition, the Coast Guard would issue a Broadcast Notice to Mariners via VHF FM marine channel 16, which would allow small entities to adjust their transit plans, and the rule allows vessels to request permission to enter the regulated area from the COTP.

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

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), if this proposed rule would affect your small business, organization, or governmental jurisdiction and you have questions, contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Small businesses may send comments to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards by calling 1–888–REG–FAIR (1–888–734–3247).

B. Collection of Information

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

C. Federalism and Indian Tribal Governments

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

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

D. Unfunded Mandates Reform Act

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

E. Environment

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

individually or cumulatively have a significant effect on the human environment.

This proposed rule is a safety zone. It is categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1.

V. Public Participation and Request for Comments

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

Submitting comments. We encourage you to submit comments at <https://www.regulations.gov>. To do so, go to <https://www.regulations.gov>, type USCG–2026–0561 in the search box and click “Search.” Next, look for this document in the Search Results column, and click on it. Then click on the Comment option. If you cannot submit your material by using <https://www.regulations.gov>, call or email the person in the **FOR FURTHER INFORMATION CONTACT** section of this proposed rule for alternate instructions.

Viewing material in the docket. To view available documents, find the docket as described in the previous paragraph, and then select “Supporting & Related Material” in the Document Type column. We will post public

comments in our online docket.

Additional information is on the <https://www.regulations.gov> Frequently Asked Questions webpage.

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

List of Subjects in 33 CFR Part 165

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

For the reasons discussed in the preamble, the Coast Guard is proposing to amend 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. In § 165.506, amend Table 3 to paragraph (h)(3) by adding entries for “Item 15” “Item 16”, and “Item 17” to read as follows:

§ 165.506 Safety Zones; Fireworks Displays in the USCG East District.

* * * * *

(3) Coast Guard Sector Virginia—COTP Zone

TABLE 3 TO PARAGRAPH (h)(3)

15	June—4th or 5th Saturday.	Confluence of the James River and the Appomattox River, Hopewell, VA; Safety Zone.	All navigable waters within 250 yards of a fireworks barge located at position 37°18'52" N, 077°17'12.5" W, at the confluence of the James River and the Appomattox River, near City Point in Hopewell, VA.	
16	July 3rd, 4th, 5th, or 6th	Hampton River, Hampton, VA, Safety Zone.	All navigable waters of the Hampton River, within a 250' radius of a fireworks barge located at position 37°01'21.3" N, 076°20'29.8" W and all waters within the following positions: 37°1'29" N, 076°20'19" W; 37°1'30" N, 076°20'25" W; 37°1'27" N, 076°20'28" W; 37°1'23" N, 076°20'29" W; 37°1'23" N, 076°20'26" W, in Hampton, VA.	
17	July 3rd, 4th, 5th, or 6th	East River, Mathews, VA; Safety Zone.	All navigable waters of the East River, within an 800' radius of position 37°24'02" N, 076°20'49" W, in Mathews, VA.	

■ 3. In § 165.506, amend Table 3 to paragraph (h)(3) by amending entries for “Item 13” to read as follows:

§ 165.506 Safety Zones; Fireworks Displays in the USCG East District.

* * * * *

(3) Coast Guard Sector Virginia—COTP Zone

TABLE 3 TO PARAGRAPH (h)(3)

13	June—One Saturday or June 19th; and July 4th.	Elizabeth River, Town Point Reach, Norfolk, VA; Safety Zone.	All waters of the Elizabeth River, Town Point Reach within a 500-yard radius of approximate position of the fireworks barge latitude 36°50'41" N, longitude 076°17'47" W, in vicinity of Town Point Park in Norfolk, VA.
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Peggy M. Britton,

Captain, U.S. Coast Guard, Captain of the Port, Sector Virginia.

[FR Doc. 2026–09492 Filed 5–12–26; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 49, 51, and 52

[EPA–HQ–OAR–2025–0618; FRL–12757–01–OAR]

RIN 2060–AW84

Begin Actual Construction in the New Source Review (NSR) Preconstruction Permitting Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The U.S. Environmental Protection Agency (EPA) is proposing revisions to the New Source Review (NSR) air permitting regulations. These regulatory revisions would distinguish between construction of a stationary source and construction of non-emitting components or structures, while clarifying and codifying that the latter can occur before an owner or operator obtains an NSR air permit for a new major stationary source or major modification of an existing major stationary source. The revisions will update the definition of “begin actual construction” and add a definition of “pollutant-emitting activities” in the Federal NSR regulations for both Nonattainment New Source Review (NNSR) and Prevention of Significant Deterioration (PSD); revise the definition of “begin construction” and “commence construction” in the Federal minor NSR regulations applicable in Indian country; and address the applicability procedures for “begin actual construction” in the NNSR regulations.

DATES: Comments must be received on or before June 29, 2026.

Public hearing: If anyone contacts us requesting a public hearing on or before May 18, 2026, the EPA will hold a virtual public hearing on May 28, 2026. See **SUPPLEMENTARY INFORMATION** for

information on requesting and registering for a public hearing.

ADDRESSES: You may send comments, identified by Docket ID No. EPA–HQ–OAR–2025–0618, by any of the following methods:

- **Federal eRulemaking Portal:** <https://www.regulations.gov> (our preferred method). Follow the online instructions for submitting comments. You can also find a plain language summary of the rule on the Federal eRulemaking Portal.
- **Email:** a-and-r-docket@epa.gov. Include Docket ID No. EPA–HQ–OAR–2025–0618 in the subject line of the message.
- **Fax:** (202) 566–9744.
- **Mail:** U.S. Environmental Protection Agency, EPA Docket Center, Docket ID No. EPA–HQ–OAR–2025–0618, Mail Code 28221T, 1200 Pennsylvania Avenue NW, Washington, DC 20460.
- **Hand Delivery or Courier (by scheduled appointment only):** EPA Docket Center, WJC West Building, Room 3334, 1301 Constitution Avenue NW, Washington, DC 20004. The Docket Center's hours of operations are 8:30 a.m. to 4:30 p.m., Monday through Friday (except Federal holidays).

Instructions: All submissions received must include the Docket ID No. EPA–HQ–OAR–2025–0618 for this rulemaking. Comments received may be posted without change to <https://www.regulations.gov>, including any personal information provided. For detailed instructions on sending comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document. For information on EPA Docket Center services, please visit us online at <https://www.epa.gov/dockets>.

FOR FURTHER INFORMATION CONTACT: For information about this proposed rule, contact Andrew Kormos, Permitting & Program Support Division, Office of State Air Partnerships, Environmental Protection Agency, Post Office Box 12055, Research Triangle Park, NC 27711; telephone number: (919) 541–4566; email address: kormos.andrew@epa.gov.

SUPPLEMENTARY INFORMATION:

Participation in virtual public hearing. To request a virtual public hearing, contact the public hearing team at 919–541–9782 or by email at OSAPpublichearing@epa.gov. If requested, the hearing will be held via virtual platform on May 28, 2026. The hearing will convene at 10 a.m. Eastern Time (ET) and will conclude at 4 p.m. ET; additional hearing hours may be added at the discretion of the EPA. The EPA may close a session 15 minutes after the last pre-registered speaker has testified if there are no additional speakers. The EPA will announce further details at <https://www.epa.gov/nsr/nsr-regulatory-actions>.

If a public hearing is requested, the EPA will begin pre-registering speakers for the hearing no later than one business day after a request has been received. To register to speak at the virtual hearing, please use the online registration form available at <https://www.epa.gov/nsr/nsr-regulatory-actions> or contact the public hearing team at 919–541–9782 or by email at OSAPpublichearing@epa.gov. The last day to pre-register to speak at the hearing will be May 25, 2026. Prior to the hearing, the EPA will post a general agenda that will list pre-registered speakers in approximate order at: <https://www.epa.gov/nsr/nsr-regulatory-actions>.

The EPA will make every effort to follow the schedule as closely as possible on the day of the hearing; however, please plan for the hearings to run either ahead of schedule or behind schedule.

Each commenter will have approximately four minutes to provide oral testimony. The EPA recommends submitting the text of your oral testimony as written comments to the rulemaking docket.

During the hearing, the EPA may ask clarifying questions but will not respond to comments made during oral testimonies. Written statements and supporting information submitted during the comment period will be considered with the same weight as oral testimony and supporting information presented at the public hearing.

Please note that any updates made to any aspect of the hearing will be posted

online at <https://www.epa.gov/nsr/nsr-regulatory-actions>. While the EPA expects the hearing to be conducted as set forth earlier, please monitor our website to determine if there are any updates. The EPA reserves the right to delay the date of the public hearing for any reason including scheduling conflicts. If this occurs, the comment period will be extended by the delayed number of days. The EPA does not intend to publish a document in the **Federal Register** announcing updates. All updates and announcements will be communicated on the web page listed above.

If you require the services of a translator or special accommodations, please pre-register for the hearing with the public hearing team and describe your needs by May 20, 2026. The EPA may not be able to arrange accommodations without advanced notice.

Docket. The EPA has established a docket for this action under Docket ID No. EPA-HQ-OAR-2025-0618. All documents in the docket are listed in <https://www.regulations.gov>. Although listed, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information the disclosure of which is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only as PDF versions that can only be accessed on the EPA computers in the docket office reading room. Certain databases and physical items cannot be downloaded from the docket but may be requested by contacting the docket office at 202-566-1744. With the exception of such material, publicly available docket materials are available electronically at <https://www.regulations.gov>.

Instructions: Direct your comments to Docket ID No. EPA-HQ-OAR-2025-0618. The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <https://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be CBI or other information the disclosure of which is restricted by statute. Do not submit electronically to <https://www.regulations.gov> any information that you consider to be CBI or other information the disclosure of which is restricted by statute. This type of information should be submitted as discussed below.

The EPA may publish any comment received to its public docket. Multimedia submissions (audio, video, etc.) must be accompanied by a written

comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e., on the Web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>.

The <https://www.regulations.gov> website allows you to submit your comment anonymously, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to the EPA without going through <https://www.regulations.gov>, your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment and with any digital storage media you submit. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the Agency may not be able to consider your comment. Electronic files should not include special characters or any form of encryption and should be free of any defects or viruses. For additional information about the EPA's public docket, visit the EPA Docket Center homepage at <https://www.epa.gov/dockets>.

Submitting CBI. Do not submit information containing CBI to the EPA through <https://www.regulations.gov>. Clearly mark the part or all of the information that you claim to be CBI. For CBI information on any digital storage media that you mail to the EPA, note the docket ID, mark the outside of the digital storage media as CBI, and identify electronically within the digital storage media the specific information that is claimed as CBI. In addition to one complete version of the comments that includes information claimed as CBI, you must submit a copy of the comments that does not contain the information claimed as CBI directly to the public docket through the procedures outlined in *Instructions* section above. If you submit any digital storage media that does not contain CBI, mark the outside of the digital storage media clearly that it does not contain CBI and note the docket ID. Information

not marked as CBI will be included in the public docket and the EPA's electronic public docket without prior notice. Information marked as CBI will not be disclosed except in accordance with procedures set forth in 40 Code of Federal Regulations (CFR) part 2.

Our preferred method to receive CBI is electronic transmission using email attachments, File Transfer Protocol (FTP), or other online file sharing services (e.g., Dropbox, OneDrive, Google Drive). Electronic submissions must be transmitted directly to the Office of State Air Partnerships (OSAP) CBI Office at the email address oaqps_cbi@epa.gov and, as described above, should include clear CBI markings and note the docket ID. If assistance is needed with submitting large electronic files that exceed the file size limit for email attachments, and if you do not have your own file sharing service, please email oaqps_cbi@epa.gov to request a file transfer link. If sending CBI information through the postal service, please send it to the following address: U.S. EPA, Attn: OSAP Document Control Officer, Mail Drop: C404-02, 109 T.W. Alexander Drive, P.O. Box 12055, Research Triangle Park, North Carolina 27711, Attention Docket ID No. EPA-HQ-OAR-2025-0618. The mailed CBI material should be double wrapped and clearly marked. Any CBI markings should not show through the outer envelope.

Preamble acronyms and abbreviations. Throughout this preamble the use of "we," "us," or "our" is intended to refer to the EPA. We use multiple acronyms and terms in this preamble. While this list may not be exhaustive, to ease the reading of this preamble and for reference purposes, the EPA defines the following terms and acronyms here:

APA Administrative Procedure Act
 BACT Best Available Control Technology
 CAA Clean Air Act
 CBI Confidential Business Information
 CFR Code of Federal Regulations
 EPA Environmental Protection Agency
 FIP Federal Implementation Plan
 FR Federal Register
 LAER Lowest Achievable Emissions Rate
 NAAQS National Ambient Air Quality Standard or Standards
 NSR New Source Review
 NNSR Nonattainment New Source Review
 OAQPS Office of Air Quality Planning and Standards, EPA
 OSAP Office of State Air Partnerships, EPA
 OMB Office of Management and Budget
 PBI Proprietary Business Information
 PRA Paperwork Reduction Act
 PSD Prevention of Significant Deterioration
 RFA Regulatory Flexibility Act
 SIP State Implementation Plan
 TIP Tribal Implementation Plan
 UMRA Unfunded Mandates Reform Act

U.S.C. United States Code

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I. Executive Summary

As currently written, the EPA's regulatory definitions of the terms "begin actual construction" and "begin construction" in the NSR regulations prohibit certain on-site construction activities on an emissions unit which are of a permanent nature. These activities include the installation of building supports and foundations, laying underground pipework, and the construction of permanent storage structures. The EPA has also construed the term "emissions unit" in these NSR regulations to include any installations necessary to accommodate that unit.¹ This regulatory language and its

interpretations have resulted in uncertainties, delays, and regulatory burdens that are not intended and do not represent the best reading or further the purposes of the Clean Air Act (CAA).

The EPA is proposing revisions to the Agency's NSR air permitting regulations to remove some of these restrictions to allow construction of components that do not emit air pollutants, such as utility service infrastructure for a site, concrete pads, and some types of buildings and building components, before obtaining an NSR air permit. These changes aim to foster economic growth by providing greater flexibility for owners and operators building or modifying stationary sources of air pollution to engage in certain construction activities prior to obtaining an NSR permit, while still ensuring the same degree of public health and welfare protection provided through the NSR permitting requirements. The proposed revisions are intended to clarify terms that apply to State and local air agency permitting programs included in State Implementation Plans (SIPs) and to Federal permitting programs administered by the EPA or a delegated permitting authority.

The proposed revisions are primarily contained in regulations applicable to major stationary sources subject to the PSD program or the NNSR program. As such, the EPA is proposing to revise the definition of "begin actual construction" and add a new definition for "pollutant-emitting activities" in 40 CFR 51.165, 51.166, 52.21, and 40 CFR part 51 appendix S. To be consistent across the NSR program, the EPA is also proposing to add the prohibition on beginning actual construction without a permit and relevant definitions to the NNSR applicability procedures of 40 CFR 51.165 and 40 CFR part 51 appendix S. Finally, the EPA is proposing to revise the definition of "begin construction" and "commence construction" in the Tribal NSR regulations at 40 CFR 49.152 and rename the term "begin construction" to "begin actual construction," which are terms that apply to minor sources and minor modifications at existing major sources of air pollution located in Indian country. The proposed definitions of "begin actual construction," "pollutant-emitting activities," and "commence construction" and the rationale for these proposed revisions to the NSR regulations can be found in section IV of this preamble.

II. Background

A. The New Source Review Program

In the CAA Amendments of 1977, Congress established the NSR preconstruction air permitting program to require stationary sources of air pollution with air emissions above certain thresholds to obtain permits prior to beginning construction. This component of the CAA is designed to, among other purposes, ensure that development will occur in a manner consistent with the preservation of air quality.²

The NSR permitting program applies to construction of new stationary sources and major modifications of existing major stationary sources, regardless of the designation of the area for the National Ambient Air Quality Standards (NAAQS) where the source is located (*i.e.*, attainment, unclassifiable, or nonattainment area). New stationary source construction and major modifications at existing major stationary sources that emit "regulated NSR pollutants" over certain thresholds are subject to major NSR requirements, while new stationary source construction of lower-emitting sources and modifications that increase emissions at existing sources in lower amounts may be subject to minor NSR requirements or be excluded from NSR permitting altogether.³

Major NSR permits for sources located in attainment or unclassifiable areas are referred to as PSD permits. As part of the CAA statutory framework for PSD applicability, "no major emitting facility . . . may be constructed in an area to which this part applies unless . . . a permit has been issued for such proposed facility" that meets specified requirements.⁴ Major NSR permits for sources located in nonattainment areas that emit pollutants above the specified thresholds are referred to as NNSR permits. Similar to PSD permits, NNSR permits are required for the construction and operation of major stationary sources in a nonattainment area. More specifically, the NNSR provisions in the CAA state that "[SIP] provisions shall require permits for the construction and operation of new or modified major stationary sources anywhere in the nonattainment area" in accordance with specific requirements.⁵

² 42 U.S.C. 7470(3); *see, e.g., New York v. EPA*, 413 F.3d 3, 13, 23–24 (D.C. Cir. 2005) (*per curiam*) (discussing multiple purposes of the program).

³ Definition of "Regulated NSR pollutant"—40 CFR 51.165(a)(1)(xxvii), 51.166(b)(49), and 52.21(b)(50).

⁴ 42 United States Code (U.S.C.) 7475(a)(1); CAA section 165(a)(1).

⁵ 42 U.S.C. 7502(c)(5); CAA section 172(c)(5).

¹ Definition of "Emissions unit"—40 CFR 51.165(a)(1)(vii), 51.166(b)(7), and 52.21(b)(7).

The air pollutant(s) emitted, the amount of those emissions, and the air quality designation of the area where the source is located or proposed to be built determines the specific permitting requirements. For example, the CAA requires major stationary sources subject to PSD to meet emission limits based on Best Available Control Technology (BACT) requirements specified by CAA section 165(a)(4), while major stationary sources subject to NNSR are required to meet Lowest Achievable Emissions Rate (LAER) requirements pursuant to CAA section 173(a)(2).

A new stationary source is subject to major NSR requirements if its potential to emit a regulated NSR pollutant exceeds statutory emission thresholds.⁶ If such emissions exceed the applicable threshold, the NSR regulations define the source as a “major stationary source.”⁷ An existing major stationary source triggers major NSR permitting requirements when it undergoes a “major modification,” which occurs when a source undertakes a physical change or change in method of operation (*i.e.*, a “project”) that would result in (1) a significant emissions increase from the project, and (2) a significant net emissions increase from the source (*i.e.*, the increase in emissions from the project and a source-wide “netting” analysis that considers creditable emission increases and decreases occurring at the source as a result of other projects over a 5-year contemporaneous period).⁸ For this two-step process, the NSR regulations define what emissions rate constitutes “significant,” *i.e.*, more than de minimis, for each NSR pollutant.⁹

In many cases, these requirements of the major NSR program (or equivalent requirements) are adopted through rulemaking by a State, local, Tribal, or other authorized reviewing authority, and the reviewing authority submits a SIP revision including these program requirements to the EPA for approval (the EPA is proposing in this action to revise the regulations at 40 CFR 51.165

and 51.166 that provide the minimum requirements of these programs). Upon the EPA approving the State or local permit program in the SIP, the reviewing authority becomes the NSR “permitting authority” for sources within its jurisdictional boundaries and the approved rules become federally enforceable. When a State, local, Tribal, or other agency lacks an EPA-approved program, either the EPA issues the major NSR permits based on its regulations at 40 CFR 52.21, or a State, local, or Tribal reviewing authority issues the major NSR permits on behalf of the Agency by way of a delegation of Federal authority to implement this provision.

New sources and modifications that do not require a major NSR permit may instead require a minor NSR permit prior to construction. Minor NSR requirements are approved into a SIP, Tribal Implementation Plan (TIP), or Federal Implementation Plan (FIP) to achieve and maintain the NAAQS.¹⁰ The CAA and the EPA’s regulations are less prescriptive regarding the minimum minor NSR program requirements. Therefore, reviewing authorities generally have flexibility in designing their minor NSR programs. Minor NSR permits are almost exclusively issued by State, local, and other authorized reviewing authorities, although the EPA issues minor NSR permits for most areas of Indian country where Tribes have not developed TIPs or requested delegation to administer minor NSR air permitting programs for their jurisdictions.¹¹

B. The EPA’s Initial NSR Implementing Regulations

In June 1978, the EPA promulgated implementing regulations for the PSD program enacted by the 1977 CAA Amendments (the “1978 PSD Regulations”).¹² The 1978 PSD Regulations contained a “source applicability” provision that specified that “[n]o major stationary source or major modification shall be *constructed* unless the requirements of paragraphs (j) through (r) of this section, as

applicable, have been met. . . .”¹³ The 1978 PSD Regulations did not include a definition of the term “constructed,” but the term “construction” was defined to mean “fabrication, erection, installation, or modification of a source.”¹⁴ The term “source” was then defined to mean “any structure, building, facility, equipment, installation, or operation (or combination thereof) which is located on one or more contiguous or adjacent properties and which is owned or operated by the same person (or by persons under common control).”¹⁵ The EPA did not promulgate similar implementing regulations for the NNSR program at that time.

Furthermore, the 1978 PSD Regulations defined the term “commence” as applied to construction of a major stationary source or major modification to mean that the “owner or operator has all necessary preconstruction approvals or permits and either” has:

(i) Begun, or caused to begin, a continuous program of actual on-site construction of the source, to be completed within a reasonable time; or

(ii) Entered into binding agreements or contractual obligations, which cannot be cancelled or modified without substantial loss to the owner or operator, to undertake a program of actual construction of the source to be completed within a reasonable time.¹⁶

This definition remains as the definition of “commence” in the major NSR regulations currently.

In neither the regulatory text nor in the accompanying preamble to the 1978 PSD Regulations did the EPA provide an explanation of the phrase “shall be constructed.” Moreover, the EPA did not identify what sort of physical on-site construction activities an owner or operator could permissibly undertake prior to receiving a PSD air permit. In an attempt to clarify these concepts, the EPA issued two guidance documents in 1978.

C. The EPA’s Initial Policy Guidance on Allowed and Prohibited Construction Activities

In October 1978, the EPA issued a memorandum titled: “Source Construction Prior to Issuance of PSD Permit” (the “October 1978 Memo”).¹⁷

⁶ For PSD, the statute uses the term “major emitting facility” which is defined as a stationary source that emits, or has a potential to emit, at least 100 tons per year (tpy) of “any air pollutant” if the source is in one of the listed source categories or at least 250 tpy if the source is not. 42 U.S.C. 7479(1); CAA section 169(1). For NNSR, the applicability threshold for a major stationary source is 100 tpy, although lower thresholds may apply depending on the degree of nonattainment and the pollutant. 40 CFR 51.165(a)(1)(iv)(A).

⁷ Definition of “major stationary source”—40 CFR 51.165(a)(1)(iv), 51.166(b)(1)(i), and 52.21(b)(1)(i).

⁸ Definition of “major modification,” “project,” and “net emissions increase”—40 CFR 52.21(b)(2)(i), (b)(52), and (b)(3).

⁹ Definition of “significant”—40 CFR 51.165(a)(1)(x), 51.166(b)(23), and 52.21(b)(23).

¹⁰ 42 U.S.C. 7410(a)(2)(C); CAA section 110(a)(2)(C).

¹¹ Tribes that developed TIPs or requested delegation to administer the minor NSR program within their jurisdictions include the St. Regis Mohawk Tribe in New York, the Mohegan Tribe of Indians in Connecticut, the Mashantucket Pequot Tribe in Connecticut, the Gila River Indian Community in Arizona, and the Southern Ute Indian Tribe in Colorado.

¹² 43 FR 26380, 26388 (June 19, 1978). The first set of regulations implementing the NNSR program enacted by the 1977 CAA Amendments were promulgated in January 1979. *See* 44 FR 3274 (January 16, 1979).

¹³ 40 CFR 52.21(i)(1) (1978) (emphasis added); 43 FR 26406.

¹⁴ 40 CFR 52.21(b)(7) (1978); 43 FR 26404.

¹⁵ 40 CFR 52.21(b)(4) (1978); 43 FR 26404.

¹⁶ 40 CFR 52.21(b)(8) (1978); 43 FR 26404.

¹⁷ U.S. Environmental Protection Agency. (1978). Memorandum by Edward Reich, Director, Division of Stationary Source Enforcement. Source Construction Prior to Issuance of PSD Permit,

In the October 1978 Memo, the EPA clarified to what “extent a company can legally construct, prior to PSD permit issuance, a building which will house both PSD-affected and non-PSD affected facilities.” The October 1978 Memo stated that “[i]n general, a structure which is to house independent facilities, some of which are subject to PSD and some which are not, may be constructed before a PSD permit is issued only if the building is a necessary part of the PSD-exempt project and if it is in no way modified to specifically accommodate the PSD-affected facilities.” The October 1978 Memo provided two examples. In the first example, the October 1978 Memo stated that a facility involving the construction of steam boilers and diesel engines which are to be housed in the same building “. . . may begin construction on the building which will hold the boilers and diesel [engines], before the PSD permit is issued, as long as the drains, piping, footings for the diesel [engines], and any other installations necessary to accommodate the diesel [engines] are not installed until the permit is issued” because the steam boilers were exempt from PSD requirements while the diesel engines were not. In the second example, a case involving municipal waste treatment plants, the October 1978 Memo stated the following: “. . . the question on whether construction of all parts of the treatment facility must await permit issuance depends on the reliance of the treatment facility on the incinerator [which is subject to PSD review]. That is, if the sludge incinerator is an integral part of the wastewater treatment facility (the facility would not be built without an incinerator), the PSD permit must be obtained before any work can begin on any portion of the treatment plant.”

To support this conclusion, the EPA expressed concern that it would be “extremely difficult to deny issuance of a permit when it results in a completed portion of a project having to remain idle.”¹⁸ The EPA reasoned that “in order to avoid any equity arguments at a later time, it is better to prevent any construction now rather than have a ‘white elephant’ on our hands later on.”¹⁹

On December 18, 1978, the EPA issued a second memorandum on this topic titled: “Interpretation of ‘Constructed’ as it Applies to Activities Undertaken Prior to Issuance of a PSD Permit” (the “December 1978

Memo”).²⁰ This memo sought to clarify “where on the continuum from planning to operation of a major emitting facility does a company or other entity violate PSD regulations if it has not yet received a PSD permit.” The December 1978 Memo abandoned what it described as the EPA’s prior approach of “mak[ing] the determination on a case-by-case basis, after considering all of the facts of the individual situation,” and established national policy for defining allowable and prohibited activities before a source is considered “constructed” in the context of PSD permitting. The allowable activities were planning, ordering of equipment and materials, site-clearing, grading, and on-site storage of equipment and materials. The December 1978 Memo also clarified that “[a]ny activities undertaken prior to issuance of a PSD permit would, of course, be solely at the owner’s or operator’s risk.” Furthermore, the December 1978 Memo stated that “[a]ll on-site activities of a permanent nature aimed at completing a PSD source for which a permit has yet to be obtained are prohibited under all circumstances.” The EPA further explained that “[t]hese prohibited activities include installation of building supports and foundations, paving, laying of underground pipework, construction of permanent storage structures, and activities of a similar nature.”

While the December 1978 Memo established the EPA’s initial policy on this matter and provided specific examples on activities prohibited before permit issuance, it also noted that the term “constructed,” as used in the CAA, is open to further interpretation by the Agency.

D. The 1980 PSD Regulations and Current Definition of “Begin Actual Construction”

In August 1980, the EPA codified the Agency’s 1978 policies in the NSR regulations, promulgating the definition of “begin actual construction” using some of the text reflected in prior policy guidance memorandums (the “1980 PSD Regulations”).²¹ This regulatory definition has not been amended since and thus still exists as the current definition for “begin actual construction” in both the PSD and NNSR regulations. The definition

delineates the point at which physical construction activities can begin at a facility. The definition is important for both regulatory compliance and operational planning, as it determines the point in time when a facility begins construction of a stationary source and may no longer proceed with construction-related activities until it obtains its NSR permit. The existing definition for “begin actual construction” can be found at 40 CFR 52.21(b)(11) and other parts of the EPA’s NSR regulations.²²

Furthermore, the 1980 PSD Regulations also amended the “source applicability” provision, introduced a definition for “emissions unit,” and amended the definition of “construction.” The revised “source applicability” provision, titled “*Review of Major Stationary Sources and Major Modifications—Source Applicability and Exemptions*,” prohibited beginning actual construction without a permit.²³ The term emissions unit was defined as “any part of a stationary source which emits or would have the potential to emit any pollutant subject to regulation under the Act.”²⁴ The term “emissions unit” has since been expanded and is now used in various places throughout the 1980 PSD Regulations, including in the definition of “begin actual construction.” Lastly, in the 1980 PSD Regulations, the revised definition of “construction” is “any physical change or change in the method of operation (including fabrication, erection, installation, demolition, or modification of an emissions unit) which would result in a change in actual emissions.”²⁵ While revising the definition of “construction” in 1980, the EPA also substituted the newly introduced term “emissions unit” for “source,” which had been used in the 1978 PSD Regulations definition of “construction.”²⁶

²² Definition of “begin actual construction”—40 CFR 51.165(a)(1)(xv), 51.166(b)(11), appendix S to part 51, and section II.A.17.

²³ 40 CFR 52.21(i)(1) (1980); 45 FR 52738 (August 7, 1980).

²⁴ 40 CFR 52.21(b)(7) (1980); 45 FR 52736 (August 7, 1980).

²⁵ 40 CFR 52.21(b)(8) (1980); 45 FR 52736 (August 7, 1980).

²⁶ The EPA in 1980 also replaced the defined term “source” (as had been used in the 1978 PSD Regulations) with the term “stationary source.” In so doing, the EPA removed the elements “equipment,” “operation,” and “combination thereof” that had appeared in the old definition of “source,” elements which the D.C. Circuit determined to be unlawful in *Alabama Power Co. v. Costle*, 636 F.2d 323, 395–96 (DC Cir. 1979). See 40 CFR 52.21(b)(5) (1980); 45 FR 52736 (defining “stationary source” to mean “any building, structure, facility, or installation which emits or may emit any pollutant subject to regulation under the Act.”).

available at: <https://www.epa.gov/sites/default/files/2015-07/documents/source.pdf>.

¹⁸ *Id.* at 2.

¹⁹ *Id.*

²⁰ U.S. Environmental Protection Agency. (1978). Memorandum from Edward Reich, Director, Division of Stationary Source Enforcement. Interpretation of “Constructed” as it Applies to Activities Undertaken Prior to Issuance of a PSD Permit, available at: <https://www.epa.gov/sites/default/files/2015-07/documents/cnstrctd.pdf>.

²¹ 45 FR 52676, 52736 (August 7, 1980).

E. Subsequent EPA Policy Guidance on "Begin Actual Construction"

In April 1981, the EPA issued a "begin actual construction" site-specific determination through a letter regarding the "City of Detroit/General Motors Corporation; Central Industrial Park Project," in which the Agency determined that "the cited demolition activities do not fall within the Federal definitions of 'begin actual construction' and are thus not prohibited by the Federal PSD or nonattainment regulations in question" (the "April 1981 Letter").²⁷ More specifically, the EPA determined that the "PSD regulations do not prohibit the site clearing activities . . . without a permit, since the actions do not fall within the Federal definition of 'begin actual construction.'" The letter further explained that the latter definition is consistent with the December 1978 Memo and was not affected by the 1980 PSD Regulations addition of the term "demolition" to the definition of "construction."

In March 1986, the EPA signed an additional memorandum related to "begin actual construction" titled "Construction Activities Prior to Issuance of a PSD Permit with Respect to 'Begin Actual Construction'" (the "March 1986 Memo").²⁸ The March 1986 Memo reiterated the December 1978 Memo policy and discussed the relevant 1980 PSD Regulations. The March 1986 Memo stated that, as used in the definition of "begin actual construction," the term "emission unit" should be construed to "include any installations necessary to accommodate that unit." Furthermore, the March 1986 Memo stated the following:

[B]efore issuance of the PSD permit, construction is prohibited on any emission unit or any installation designed to accommodate the emission unit. If the emissions unit (including any accommodating installation) is an integral part of the source or modification (*i.e.*, the source or modification would not serve in accordance with its original intent, except for the inclusion on the emission unit), the PSD permit must be obtained before construction on the entire source commences.

²⁷ U.S. Environmental Protection Agency. (1981). Letter from Valdas Adamkus, EPA Region 5 Acting Administrator, to Joseph Polito, Esq., "City of Detroit/General Motors Corporation; Central Industrial Park Project," available at: <https://www.epa.gov/sites/default/files/2015-07/documents/indspark.pdf>.

²⁸ U.S. Environmental Protection Agency. (1986). Memorandum from Edward Reich, Director, Stationary Source Compliance Division, Office of Air Quality Planning and Standards (OAQPS). Construction Activities Prior to Issuance of a PSD Permit with Respect to "Begin Actual Construction," available at: <https://www.epa.gov/sites/default/files/2015-07/documents/begin.pdf>.

Subsequent EPA guidance documents and letters reiterated and elaborated on the prior interpretations of the term "begin actual construction" and provided guidance to the EPA Regions and State air agencies. For example, a 1993 memorandum identified construction of a retaining wall and excavation for a specific scenario as a prohibited activity before obtaining an NSR permit (the "May 1993 Memo").²⁹ More specifically, the May 1993 Memo stated that "[i]f the construction activity is an integral part of the PSD source or modification, the source must obtain a PSD permit prior to undertaking that construction." The May 1993 Memo reasoned that "[c]onstruction of a retaining wall is considered an activity under 'begin actual construction' because it is of a permanent nature." Although the EPA had previously recognized site clearing and grading to be allowed prior to obtaining a permit, in this case the Agency considered "excavation activities" to be prohibited because they "are costly, they significantly alter the site, are an integral part of the overall construction project, and are clearly of a permanent nature." In the May 1993 Memo, the EPA reiterated the Agency's concern that a "permitting authority would be placed in a very difficult position when denying issuance of a permit when it results in a completed portion of a project having to remain idle."

Additionally, a 1995 letter provided a response to the Minnesota Pollution Control Agency stating that the "EPA agree[d] with Minnesota that site clearing and grading are not prohibited by [the regulatory definition of 'begin actual construction']" but that this definition "prohibited (permanent and/or preparatory) preconstruction activities . . . [and] would include any construction that is costly, significantly alters the site, and/or [is] permanent in nature" (the "December 1995 Letter").³⁰ The December 1995 Letter also stated that exemptions to "allow construction of footings for emissions units without a PSD permit in cold weather states . . . is not authorized under the Act or the Federal PSD rules." In support of this conclusion, the EPA reasoned that "absent a prohibition on any costly,

²⁹ U.S. Environmental Protection Agency. (1993). Memorandum from John Rasnic, Director, Stationary Source Compliance, OAQPS. Construction Activities at Georgia Pacific, available at: <https://www.epa.gov/sites/default/files/2015-07/documents/cnstrctn.pdf>.

³⁰ U.S. Environmental Protection Agency. (1995). Letter from John Seitz, Director, EPA OAQPS, to Mr. Charles Williams, Commissioner, Minnesota Pollution Control Agency, available at <https://www.epa.gov/sites/default/files/2015-07/documents/19951213.pdf>.

significant or permanent preconstruction," sources could "defeat" the "preconstruction requirement or its enforcement by making a costly, substantial, and/or permanent investment" and then "later argue that retrofitting of PSD requirements or a denial of the permit would unreasonably interfere with their investment."

F. The EPA's Request for Comment in 1996

In 1996, the EPA proposed numerous changes to the Agency's NSR rules (the "1996 Proposed Rule").³¹ These did not include any amendments to the definition of "begin actual construction." But at that time, the EPA took note of the fact that "[s]everal industry members" of the CAA Advisory Committee's Subcommittee on NSR Reform had "recommended that the EPA change the NSR regulations to enable sources to engage in a broader range of activities prior to receipt of an NSR permit in cases involving modifications to existing sources."³² These members, the EPA stated, had "asserted that it was unnecessary and inappropriate to prohibit preliminary activities to achieve the statutory purpose of requiring a permit before construction begins," and that "such prohibitions caused delay and added expense for no good purpose."³³ Recognizing that there was a "wide difference of opinion on these issues," the EPA solicited comment on the matter.³⁴

To "assist in formulating comments," the EPA set forth a summary of the Agency's interpretation of the CAA and policy. The EPA stated that the CAA "plainly bars construction without a permit." A policy rationale for this understanding, the EPA argued, is that if "companies were given unlimited ability to place 'equity in the ground' by constructing plants before a permit is issued, permitting authorities' discretion in making permit decisions may be compromised, and the ability of EPA and citizens to challenge the permit that is eventually issued may likewise be undermined."³⁵

The EPA proposed no revision of the definition of "begin actual construction" in the Agency's regulations on the grounds that the "regulations and EPA's longstanding policy clearly identify the scope of prohibited preconstruction activities."

³¹ 61 FR 38250 (July 23, 1996).

³² *Id.* at 38270.

³³ *Id.*

³⁴ *Id.*

³⁵ 61 FR 38270–71 (July 23, 1996).

The EPA said those “current regulations and policies” would “remain in effect regardless of today’s request for comment.”³⁶ The EPA demonstrated the Agency’s willingness to consider revisions to the definition of “begin actual construction” in rulemaking by soliciting public comments on all aspects of this issue, but ultimately did not alter its reading of the CAA or pursue amendment of the regulations on this topic.

G. Tribal NSR Rule

In July 2011, the EPA promulgated a final rule titled “Review of New Sources and Modifications in Indian Country” (the “Tribal NSR Rule”).³⁷ In the Tribal NSR Rule, the EPA created two air permitting regulatory programs for Indian Country: the Tribal Minor NSR and the Tribal Nonattainment NSR programs. The Tribal Minor NSR program applies to new and modified minor stationary sources and to minor modifications at existing major stationary sources throughout Indian country where there is no EPA-approved TIP in place. The Tribal Nonattainment NSR program applies to new and modified major sources in areas of Indian country that are designated as nonattainment areas.

In May 2014, the EPA finalized amendments to the Tribal NSR Rule that defined the term “begin construction” and revised the definition of the term “commence construction” for purposes of the Tribal minor NSR program.³⁸ The term “begin construction” was defined to include a list of preparatory activities that are not considered to be construction activities: “engineering and design planning, geotechnical investigation (surface and subsurface explorations), clearing, grading, surveying, ordering of equipment and materials, storing of equipment or setting up temporary trailers to house construction management or staff and contractor personnel.” The term “commence construction” was revised to be similar to the definition of “commence” in the Federal regulations for the PSD program.³⁹

H. Draft EPA Guidance Memorandum in 2020

In March 2020, in a draft guidance memorandum (the “March 2020 Memo”), the EPA described a revised interpretation of the definition of “begin actual construction” in the Agency’s regulations and solicited public

comment on that interpretation.⁴⁰ In the March 2020 Memo, the EPA stated the following:

[T]he Agency’s current interpretation . . . is considered by many industry stakeholders to be overly and unnecessarily restrictive. Some have asserted that, due to this interpretation, projects have been delayed and efforts to engage in construction pursuant to staged schedules (e.g., which seek to take account of seasonal conditions in cold-weather areas) have been frustrated.⁴¹

Under the revised interpretation of the EPA’s regulations articulated by the Agency in the March 2020 Memo, “a source owner or operator may, prior to obtaining an NSR permit, undertake physical on-site activities—including activities that may be costly, that may significantly alter the site, and/or are permanent in nature—*provided* that those actions do not constitute physical construction *on an emissions unit*, as the term is defined in 40 CFR 52.21(b)(7).” Under this revised interpretation, in contrast to the March 1986 Memo, “an ‘installation necessary to accommodate’ the emissions unit at issue is *not* considered part of that emissions unit, and those construction activities that may involve such ‘accommodating installations’ may be undertaken in advance of the source owner or operator obtaining a major NSR permit.”⁴² The EPA emphasized in the March 2020 Memo that, under the Agency’s regulations, there was a need to draw a distinction between an emissions unit and a major stationary source. During public comment on the March 2020 Memo, many commenters asked the EPA to provide guidance on how to distinguish between an emissions unit and stationary source. The EPA considered the public comments but ultimately did not issue, and does not presently intend to issue, a final version of the March 2020 Memo. For reasons described in this preamble, the EPA has instead chosen to propose revisions to the Agency’s NSR regulations as they pertain to beginning actual construction of a new major stationary source or major modification of an existing major stationary source.

⁴⁰ U.S. Environmental Protection Agency. (2020). Draft Memorandum from Anne Idsal, Principal Deputy Assistant Administrator for the Office of Air and Radiation. Interpretation of “Begin Actual Construction” Under the New Source Review Preconstruction Permitting Regulations, available at: https://19january2021snapshot.epa.gov/sites/static/files/2020-03/documents/begin_actual_construction_032520_1.pdf.

⁴¹ *Id.* at 2.

⁴² *Id.* at 2–3.

I. The EPA’s September 2025 Letter to Maricopa County Air Quality Department

On September 2, 2025, the EPA sent a letter to the Maricopa County Air Quality Department (MCAQD) to address an MCAQD request for clarification on the interpretation of “begin actual construction” as it pertains to a project by TSMC Arizona Corporation (TSMC) (the “September 2025 Letter”).⁴³ In the September 2025 Letter, the EPA summarized the factual scenario presented as follows:

[T]his company proposes to construct the core and shell of a building that will eventually house emission units without contemporaneously beginning construction on any semiconductor manufacturing equipment that could be classified as an emissions unit. TSMC also states that this phase of construction will not include air pollution capture or control equipment or foundations for any emission units.

In a letter to MCAQD, TSMC stated that “[t]he core and shell itself is neither an emissions unit nor is it a capture device, as all of the emissions ultimately produced by the fab are captured through control devices and duct systems meticulously designed to maintain a cleanroom environment. As tool hookup completes, semiconductor manufacturing equipment can only then begin installation.”⁴⁴

In its letter to the EPA, MCAQD stated that it “is inclined to agree with TSMC that if a structure contains no emissions unit(s) it is not a ‘source’ subject to CAA permitting authorities because it does not emit or have the potential to emit pollutants.” MCAQD stated its understanding that the building “shells” that TSMC sought to construct prior to obtaining an NSR permit “are not specifically configured for emissions units (e.g., there is no piping, ventilation ductwork or specific foundation work for any emissions units.”⁴⁵

After reviewing the provided information on TSMC’s proposed project and the applicable MCAQD regulations, the EPA concluded that “it is within MCAQD’s discretion to interpret its existing regulations to allow TSMC to undertake, prior to obtaining an NSR permit . . . [construction of] the core and shell of a building, provided that the construction of this

⁴³ U.S. Environmental Protection Agency. (2025). Letter from Aaron Szabo, EPA Assistant Administrator for the Office of Air and Radiation, to Philip McNeely, Director, MCAQD, available at: <https://www.epa.gov/system/files/documents/2025-09/tsmc-arizona-begin-actual-construction-epa-response-letter.pdf>.

⁴⁴ *Id.* at 2.

⁴⁵ *Id.* at 3.

³⁶ *Id.* at 38271.

³⁷ 76 FR 38748 (July 11, 2011).

³⁸ 79 FR 31035 (May 30, 2014).

³⁹ 40 CFR 52.21(b)(9).

core and shell of a building does not involve the physical construction on an emissions unit or the laying of underground piping or construction of supports and foundations that are part of any emissions unit.” Regarding the interpretation discussed in the March 2020 Memo, the EPA said the following:

Consistent with the views expressed in the March 2020 Draft Guidance, the EPA continues to recognize that the definition of the term “begin actual construction” in EPA’s regulation prohibits “the initiation of physical on-site construction on an emissions unit” and that this does not prohibit initiation of physical on-site construction of those parts of a facility that do not qualify as an emissions unit. The EPA also continues to view the 1986 Reich memo to have adopted an overly broad reading of the term “emissions unit” to suggest that it includes installations necessary to accommodate an emissions unit.⁴⁶

The September 2025 Letter stated further that “[a]ny construction activities undertaken by TSMC prior to issuance of an NSR permit by MCAQD would be solely at TSMC’s risk, as MCAQD would retain the discretion to deny any subsequent application to construct a stationary source of air pollution (including emissions units) if the applicable criteria are not met.”⁴⁷

J. Need for Regulatory Action

The EPA is initiating a rulemaking to revise the definition of “begin actual construction” to enhance clarity, regulatory certainty, and align the rule with statutory and policy directives. As noted in comments submitted to the EPA and discussed herein, the current definition has created significant uncertainty and inconsistent interpretations, leading to burdens on permitting authorities and industry stakeholders, complicating compliance, and delaying projects. The proposed revisions aim to align the definition with the best reading of the CAA and implement recent Executive Orders focused on regulatory reform and burden reduction. By clarifying permitting requirements, the EPA seeks to improve the efficiency and effectiveness of the regulations in a manner consistent with the CAA. These changes are designed to mitigate uncertainties, reduce regulatory burdens, and balance economic growth and environmental protection by allowing owners and operators the opportunity, when appropriate, to begin construction on non-emitting components before obtaining an NSR permit without increasing air pollutant emissions resulting from the subsequent

construction of a stationary source after such a permit is issued.

III. Legal Authority

The statutory authority for this proposed action is CAA sections 110(a)(2)(C), 165, 172(a)(5), 173, and 301(a)(1).⁴⁸ These provisions in the CAA require that States and the EPA regulate “construction” of stationary sources of air pollution and prohibit “construction” without a permit. For both major and minor sources, CAA section 110(a)(2)(C) requires that SIPs contain a program to provide for “regulation of the modification and construction of any stationary source within the areas covered by the plan as necessary to assure that [NAAQS] are achieved.”⁴⁹ This program, commonly called NSR, must include the major source PSD and NNSR permit program requirements under parts C and D of title I of the CAA, which include sections 165, 172, and 173.⁵⁰ Unless provided otherwise by statute, an agency may revise or rescind prior actions so long as it acknowledges the change in position, provides a reasonable explanation for the new position, and considers legitimate reliance interests in the prior position.⁵¹

CAA section 169(2)(C) defines the term “construction” for purposes of the part C PSD program to include “modification” but does not identify or define what constitutes construction of a source.⁵² There is no definition of the term “constructed” in this section or any other section of the CAA. CAA section 169(2)(A) defines “commenced” as applied to construction of a major emitting facility as occurring when the owner or operator has obtained all

necessary preconstruction approvals or permits and has done either of the following:

- (i) begun, or caused to begin, a continuous program of physical on-site construction of the facility; or
- (ii) entered into binding agreements or contractual obligations... to undertake a program of construction of the facility to be completed within a reasonable time.⁵³

None of these provisions identify a specific point “on the continuum from planning to operation of a major emitting facility” when “construction” of such a source begins or the source may be considered “constructed.”⁵⁴ The definition of “commenced” does not do so because its function was to identify construction projects pending in 1977 that had progressed to the point that they were exempt from the newly enacted requirement to obtain a PSD permit. The first sentence of CAA section 165(a) requires a permit for a “major emitting facility on which construction is commenced after August 7, 1977.”⁵⁵ As applied through this sentence in the CAA, the definition of “commenced” identifies the nature and extent of the construction activity a source owner or operator must have completed to avoid having to obtain an additional preconstruction approval under the PSD program after the source otherwise “has obtained all necessary preconstruction approvals or permits” under requirements other than the PSD program. This definition distinguishes between entering into contractual obligations and “physical on-site construction of the facility,” but it does not describe the type of activities that qualify as the latter.

The EPA’s December 1978 policy for identifying construction activities that are precluded without an NSR permit was based on the Agency’s view that the CAA provisions described above left a gap for the EPA to resolve the question of “where on the continuum from planning to operation of a major emitting facility does a company or other entity violate the PSD regulations if it has not yet received a PSD permit.”⁵⁶ The December 1978 Memo states that the “statute and regulations do not answer this question” and that the “term ‘constructed’ seems to be open to further interpretation by the EPA.”⁵⁷ In the December 1978 Memo, the EPA stated that the term “commenced” was “quite specifically

⁴⁸ 42 U.S.C. 7410(a)(2)(C), 7475(a), 7502(c)(5), 7503, 7601(a)(1).

⁴⁹ 42 U.S.C. 7410(a)(2)(C) (emphasis added); CAA section 110(a)(2)(C).

⁵⁰ For major sources located in attainment areas, one of the PSD provisions in Part C, CAA section 165(a), prohibits construction without a permit, stating that “[n]o major emitting facility on which construction is commenced after August 7, 1977, may be constructed in any area to which this part applies unless . . . a permit has been issued for such proposed facility in accordance with this part” 42 U.S.C. 7475(a) (emphasis added). The relevant NNSR provision in Part D, CAA section 172(c)(5), includes similar language: “plan provisions shall require permits for the construction and operation of new or modified major stationary sources anywhere in the nonattainment area in accordance with [CAA section 173].” 42 U.S.C. 7502(c)(5) (emphasis added).

⁵¹ See, *FDA v. Wages & White Lion Invs., L.L.C.*, 145 S. Ct. 898, 917 (2025); *FCC v. Fox Television Stations, Inc.*, 556 U.S. 502 (2009); *Motor Vehicle Mfrs. Ass’n v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29 (1983); *Clean Air Council v. Pruitt*, 862 F.3d 1, 8 (D.C. Cir. 2017) (“Agencies obviously have broad discretion to reconsider a regulation at any time.”).

⁵² 42 U.S.C. 7479(2)(C); CAA section 169(2)(C).

⁵³ 42 U.S.C. 7479(2)(A); CAA section 169(2)(A).

⁵⁴ December 1978 Memo at 1.

⁵⁵ 42 U.S.C. 7475(a); CAA section 165(a) (emphasis added).

⁵⁶ December 1978 Memo at 1.

⁵⁷ *Id.*

⁴⁶ *Id.* at 2.

⁴⁷ *Id.* at 3.

defined in . . . Section 169(2)(A) of the Clean Air Act” but that this term served only the “purpose of deciding the threshold question of the applicability of the PSD regulations.”⁵⁸ The EPA further stated “we are not bound by [the statutory and regulatory definitions of ‘commence’] in deciding what activities may be conducted prior to receiving a necessary PSD permit.”⁵⁹

Applying this discretion, the EPA adopted a policy in 1978 to prohibit “on-site activities of a permanent nature aimed at completing a PSD source for which a permit has yet to be obtained.” The EPA identified specific activities included in this formulation and said that this policy reflected the “most legally correct position.” But the December 1978 Memo did not explain how the CAA supported that conclusion.

The EPA essentially concluded in the December 1978 Memo that Congress had left a gap for the Agency to fill and made a policy decision on where to draw the line between construction that requires a permit and construction that does not. Two years later, in 1980, the EPA reflected this policy in the 1980 PSD Regulations by adding and defining the term “begin actual construction.” The 1980 PSD Regulations refined the 1978 policy by selecting the point on the continuum when “physical on-site construction activities of a permanent nature” are started “on an emissions unit.”⁶⁰ But the preamble to the 1980 PSD Regulations did not provide further justification for the conclusion that this policy was based on the most legally correct position.

The EPA added some detail to the Agency’s reading of the CAA in the 1996 Proposed Rule that proposed no amendment to the definition of “begin actual construction” but sought comment on the topic.⁶¹ The EPA stated in the 1996 Proposed Rule that the CAA “plainly bars construction without a permit” and that it was “clear that core activities at an industrial site, such as the fabrication or installation of pollution-generating equipment, constitute ‘construction’ within the meaning of the Act.”⁶² The EPA also acknowledged that “the statute does not address the details of the construction process, nor does it constrain the EPA’s discretion to fashion regulatory mechanisms to harmonize the needs of environmental protection and economic

growth in a manner consistent with the legislative purpose.”⁶³

The focus of the March 2020 Memo was on improving the EPA’s interpretation of the text in the Agency’s regulations, and this action reflected the same understanding of the CAA that the Agency had described in 1978 and 1996. The EPA discussed the relevant parts of the CAA,⁶⁴ but again stated that “given that Congress provided neither a statutory definition of ‘constructed’ nor a meaningful definition of ‘construction,’ EPA has discretion to determine where on that ‘continuum’ it should draw a reasonable line.”⁶⁵ The EPA noted and did not question the Agency’s additional 1996 interpretative statement that construction requiring a permit is “the core activities at an industrial site, such as the fabrication or installation of pollution-generating equipment.”⁶⁶

Under the *Chevron* doctrine, the U.S. Supreme Court maintained for several decades that regulatory agencies are implicitly authorized by statutory ambiguity to adopt permissible readings of the statute that effectuate the agencies’ reasonable policy goals.⁶⁷ But the Supreme Court recently altered its principles regarding review of agency interpretations of laws in *Loper Bright Enterprises v. Raimondo*.⁶⁸ The Court rejected its prior framework, which had required reviewing courts to defer to an agency’s interpretation of an ambiguous statute that it administers so long as that court agrees the agency’s chosen interpretation is a permissible one. In *Loper Bright*, the Court interpreted provisions in the Administrative Procedure Act (APA) and held that “courts need not and under the APA may not defer to an agency interpretation of the law simply because a statute is ambiguous.”⁶⁹ The Court concluded that “[c]ourts must exercise their independent judgment in deciding whether an agency has acted within its statutory authority.”⁷⁰ In this opinion, the Court rejected the idea that ambiguity in a statute reflects Congressional intent that an agency, as opposed to a court, resolve the resulting interpretive question.⁷¹ Rather, the Court reasoned that all statutes have “a single, best meaning” that it is the

responsibility of the courts to identify.⁷² But with this new framework, the Court also recognized that “the statute’s meaning may well be that the agency is authorized to exercise a degree of discretion” and that there may be cases when “the best reading of a statute is that it delegates discretionary authority to an agency.”⁷³

In *Loper Bright*, the Supreme Court observed that, to resolve ambiguities, “courts use every tool at their disposal to determine the best reading of the statute” and those include “traditional tools of statutory construction.”⁷⁴ One such tool is the “fundamental canon of statutory construction that the words of a statute must be read in their context and with a view to their place in the overall statutory scheme.”⁷⁵ A court may look to legislative history or other extrinsic material as an aid in statutory construction “only to the extent they shed a reliable light on the enacting Legislature’s understanding of otherwise ambiguous terms.”⁷⁶ The interpretation of an agency may be persuasive to the court based on “the thoroughness evident in its consideration, the validity of its reasoning, [and] its consistency with earlier and later pronouncements.”⁷⁷ The Supreme Court has also observed that “the informed judgment of the Executive Branch—especially in the form of an interpretation issued contemporaneously with the enactment of a statute—could be entitled to ‘great weight.’”⁷⁸

To date, Federal courts have not identified a best reading of the NSR provisions in the CAA regarding the line between construction that requires a permit and construction that does not. The U.S. Court of Appeals for the Third Circuit recently considered “what sort of construction triggers the need for a PSD permit,” but in a context involving restarting a stationary source that had been shut down.⁷⁹ In its decision, the Third Circuit held that the definition of “construction” in CAA section 169 does not allow the EPA to include resuming “operation” of a stationary source. Considering use of the term “construction” in CAA sections 165 and

⁷² *Id.*

⁷³ *Id.* at 394–95.

⁷⁴ *Id.* at 401–02.

⁷⁵ *Util. Air Regulatory Group v. EPA*, 573 U.S. 302, 320 (2014).

⁷⁶ *Exxon Mobil Corp. v. Allapattah Servs.*, 545 U.S. 546, 568 (2005).

⁷⁷ *Loper Bright*, 603 U.S. at 402 (quoting *Skidmore v. Swift & Co.*, 323 U.S. 134, 140 (1944)).

⁷⁸ *Loper*, 603 U.S. at 388–89 (citing and quoting *U.S. v. Am. Trucking Ass’n*, 310 U.S. 534, 549 (1940); see also, *id.*, 603 U.S. at 402).

⁷⁹ *Port Hamilton Refin. & Transp., LLLP v. EPA*, 87 F.4th 188, 194 (3rd Cir. 2023).

⁵⁸ *Id.* at 2.

⁵⁹ *Id.*

⁶⁰ 45 FR 52676, 52736 (August 7, 1980).

⁶¹ 61 FR 38270–71.

⁶² *Id.*

⁶³ *Id.* at 38271.

⁶⁴ March 2020 Memo at 3–4.

⁶⁵ *Id.* at 13.

⁶⁶ *Id.* at 11.

⁶⁷ *Chevron U.S.A., Inc. v. Natural Res. Def. Council*, 467 U.S. 837 (1984).

⁶⁸ 603 U.S. 369 (2024).

⁶⁹ *Id.* at 413.

⁷⁰ *Id.* at 412.

⁷¹ *Id.* at 399.

169 together, the Third Circuit wrote that “[t]he type of construction that requires a PSD permit is construction commenced after 1977 that brings a major facility into existence,”⁸⁰ but the Third Circuit did not attempt to identify when such construction on a major facility starts.

In the March 2020 Memo describing the revised interpretation of the term “begin actual construction” in the NSR regulations, the EPA observed that the phrase “may be constructed” in CAA section 165(a) “might reasonably be construed as precluding the initiation of any construction activity prior to the issuance of a permit.” The EPA continued as follows: “On the other hand, the phrase could also reasonably be read to allow construction to proceed right up to the point of near completion, before the source would be considered to have been ‘constructed.’” While these observations were sound when made, the Supreme Court has since clarified that the EPA’s task is not to choose among permissible interpretations within an open range of this nature. To discern the “single, best” meaning for purposes of this rulemaking, a more thorough examination of the statute is required.

The statutory prohibition on construction without a permit requires answering two questions. The first is “what” the CAA requires a permit to construct. The second is “when” construction of that “what” begins. The EPA’s past efforts to define and interpret the phrase “begin actual construction” have addressed both questions, at least implicitly. The EPA has expressly sought to determine “where on the continuum from planning to operation of a major emitting facility” prohibited construction begins. This continuum across a sequence of events suggests a focus on the point in time “when” construction begins. But the EPA has also identified specific activities that are permissible prior to (or without) a permit, which partly addressed the “what” question.

Therefore, the EPA begins by examining “what” the CAA requires a permit to construct. The relevant provisions of the CAA require a permit prior to construction of a “stationary source” of air pollution. The PSD provision at CAA section 165 prohibits construction of a “major emitting facility” without a permit.⁸¹ In turn, a “major emitting facility” is defined as “any of the following *stationary sources* of air pollutants” that emits more than 100 tpy or “any other source” that emits

more than 250 tpy.⁸² The latter definition lists categories of industrial facilities and thereby illustrates the type of facilities that Congress considered to be a stationary source in 1977, in the absence of a definition of “stationary source” in the CAA. In 1990, Congress added a definition of the term “stationary source” to the CAA. This term includes “generally any source of an air pollutant except those resulting directly from” engines and vehicles that are regulated as mobile sources under title II of the CAA.⁸³ The NSR provision at CAA section 172(c)(5) requires a permit “for the construction and operation of new or modified major stationary sources.”⁸⁴ Likewise, the term “major stationary source” is used in at least two places in CAA section 173.⁸⁵ Since 1977, the CAA has defined the term “major stationary source” to mean “any stationary facility or source of air pollutants which directly emits, or has the potential to emit, one hundred tons per year or more of any air pollutant”⁸⁶ CAA section 110(a)(2)(C) likewise requires a program to regulate “construction of any stationary source.”⁸⁷ So, it is clear that, under the NSR program for major sources, the “what” that the CAA requires a permit to construct is a stationary source that emits air pollutions in amounts greater than specified thresholds.

The essential characteristic of a stationary source under these statutory provisions is that it emits air pollutants. The three statutory definitions described above each use a variation of the phrase “source of air pollutants.”⁸⁸ The definitions of “major emitting facility” and “major source” each identify a source as “major” based on tonnage thresholds of “any air pollutant” that the source “emits, or has the potential emit.”⁸⁹

These provisions are best read to mean that the CAA does not require a permit for all activities that could be considered construction, consistent with the EPA’s longstanding interpretation. For major stationary sources, the statute clearly prohibits construction of the components of a

facility that “emit” or are a “source” of air pollution without a permit but does not require a permit for construction of something that does not have that characteristic. Consistent with this reading, in 1996, the EPA stated that it was “clear that core activities at an industrial site, such as the fabrication or installation of pollution-generating equipment, constitute ‘construction’ within the meaning of the Act.”⁹⁰ Furthermore, these CAA provisions do not clearly displace traditional State authority to regulate land use and require general building permits for construction.⁹¹

In addition, CAA section 110(a)(2)(C) requires regulation of construction “as necessary” to protect the NAAQS.⁹² This is not a mandate to regulate construction of something that does not emit air pollutants. While the decision on how much regulation is necessary is for a State to determine in the first instance in its plan, the EPA does not consider it clearly “necessary” to regulate something that does not emit air pollutants in order to protect the NAAQS.

The CAA provides less direct guidance on the question of “when” construction of something that emits air pollutants begins. There is no definition of the term “constructed,” and the definition of “construction” only makes clear that this term includes the “modification” of a facility that was previously constructed. The definitions of stationary source, major stationary source, and major emitting facility identify their essential characteristics as something that emits air pollutants, but these definitions do not provide insight on when construction begins on such sources or facilities. As discussed above, the definition of “commenced” does not function to identify permissible or prohibited construction in relation to the permit requirement.

Notwithstanding its role in Part C of title I of the CAA, the definition of “commenced” includes the following two categories of activities that fall on the continuum from planning to operation of a stationary source: “a continuous program of physical on-site construction of the facility” and entering into “binding agreements or contractual obligations . . . to undertake a program of construction of the facility.”⁹³ These stages of construction occur after planning and before operation, thus neither at the

⁸² 42 U.S.C. 7479(1); CAA section 169(1) (emphasis added).

⁸³ 42 U.S.C. 7602(z); CAA section 302(z).

⁸⁴ 42 U.S.C. 7502(c)(5); CAA section 172(c)(5).

⁸⁵ 42 U.S.C. 7503(a)(1)(B), (c); CAA section 173(a)(1)(B), (c).

⁸⁶ 42 U.S.C. 7602(j); CAA section 302(j).

⁸⁷ 42 U.S.C. 7410(a)(2)(c); CAA section 110(a)(2)(c).

⁸⁸ 42 U.S.C. 7479(1), 7602(j), 7602(z); CAA sections 169(1), 302(j), 302(z).

⁸⁹ 42 U.S.C. 7602(j); see 42 U.S.C. 7479(1); CAA sections 302(j), 169(1) (using the phrase “emit, or have the potential to emit”).

⁹⁰ 61 FR 38270–71 (July 23, 1996).

⁹¹ See, *Sackett v. EPA*, 598 U.S. 651, 679 (2023).

⁹² 42 U.S.C. 7410(a)(2)(c); CAA section 110(a)(2)(c).

⁹³ 42 U.S.C. 7479(2)(A); CAA section 169(2)(A).

⁸⁰ *Id.*

⁸¹ 42 U.S.C. 7475(a); CAA section 165(a).

beginning nor end of the continuum. Contracting will generally precede physical on-site construction because an owner or operator of a facility would typically need to hire construction services to begin physical on-site construction. While these parts of the definition of “commence” are not controlling on the question of “when” addressed in this proposed rule, they are part of the context of the NSR provisions.

While the EPA recognized the definition of “commenced” did not dictate which construction activities were permissible or prohibited prior to obtaining permit, the Agency nevertheless chose in 1980 to use a phrase from this definition (“physical on-site construction”) in the definition of “begin actual construction.” The EPA chose not to prohibit entering into contracts without a permit and had earlier stated that “planning” was permissible. Thus, the EPA’s initial interpretation, close in time to the 1977 enactment of the NSR provisions in the CAA, was that these provisions prohibited “physical on-site construction” without a permit but not the planning or contracting steps that would be expected to precede physical on-site construction.

The EPA suggested in the March 2020 Memo that the term “may be constructed” in section 165(a) of the CAA, when read in isolation, could support drawing the line of “when” construction begins to be a point near the completion of construction of a facility. At this point, the nature of the built structure should make clear that it is something that will generate and emit air pollutants. But other parts of the CAA support the EPA’s longstanding view that the NSR program is a “preconstruction” permitting program, meaning that a permit is required before construction begins. CAA sections 165(a)(4) and 173(a)(1) require a permitting authority to ensure that the proposed facility will apply advanced pollution control technology. It should be more cost-effective to install and integrate such pollution control technology into a pollutant-emitting facility before its construction is substantially completed.⁹⁴ In addition, under the PSD program, CAA section 167 empowers the EPA to “take such

measures, including issuance of an order, or seeking injunctive relief, as necessary to prevent the construction or modification of a stationary source that does not conform to the requirements of [the PSD provision in Part C of Title I of the CAA].”⁹⁵

Thus, in context, CAA section 165(a) should be read to require authorization for construction of a source of air pollution before construction starts, not when it is nearly complete.⁹⁶ But the nature of what is being constructed may be more ambiguous when construction-related activities begin on a particular site. Nevertheless, prohibiting physical construction of a source of air pollution without a permit requires identifying the nature of what is being constructed. That can be accomplished by considering the characteristics of the equipment or components being constructed that enable them to be identified as a source of air pollution and distinguished from something that is not.

The legislative history of the 1977 Amendments to the CAA does not shed additional light on the question of when construction that requires a permit begins on a stationary source.⁹⁷ The House, Senate, and Conference Committee reports associated with the enactment of the 1977 Amendments to the CAA do not speak to the point in the process of constructing a stationary source at which a permit must be obtained.⁹⁸ One notable takeaway from reviewing the discussion on the NSR permitting program in these reports is the emphasis on protecting air quality and promoting the development of pollution control technology.⁹⁹

Congress more directly identified in the statutory text the purposes of Part C of title I of the CAA, which include “to insure that economic growth will occur

in a manner consistent with the preservation of existing clean air resources.”¹⁰⁰ The Supreme Court has recognized that, in enacting the NSR program, “Congress sought to accommodate the conflict between the economic interest in permitting capital improvements to continue and the environmental interest in improving air quality.”¹⁰¹ Based on this opinion, the D.C. Circuit wrote that “there can be no doubt that EPA is entitled to balance environmental concerns with economic and administrative concerns, at least to a point.”¹⁰²

Based on these considerations, the EPA views the best reading of the CAA to be that an NSR permit is required “when” physical construction on a site begins on equipment or components that have characteristics that identify them as something that will emit air pollution, as distinguished from equipment or components that will not. This reading integrates the EPA’s understanding of “what” the statute requires a permit to construct with the Agency’s interpretation shortly after the 1977 enactment of statute that a permit is required prior to beginning physical on-site construction (not before entering into contracts). This reading reflects the context-based understanding that the CAA requires an NSR permit at the beginning of physical construction of a stationary source and provides a means to identify when construction of a stationary source begins. Finally, this reading serves to balance economic growth with environmental protection by enabling owners and operators to advance project development without an NSR permit until the point of physical construction begins on the elements of a project that have the characteristics of a stationary source.

The EPA has not identified text in the NSR provisions of the CAA or discussion in the legislative history that suggests the Agency or States should prohibit construction on a site because it may be costly or permanent beyond a certain point to change course. What is material under the CAA is whether the construction is something that emits air pollution, not whether it may be costly to install additional controls or difficult to remove. The phrase “equity in the ground” does not appear in the NSR provisions of the CAA or legislative history from 1977. Nothing suggests that Congress was motivated by concern about the balance of power between regulators and permit applicants. The focus is on protecting air quality from

⁹⁴ This is consistent with the understanding of legislators that drafted these laws, as reflected in a report of the Interstate and Foreign Commerce Committee of the House of Representatives. H.R. Rep. No. 95–294 at 136 (1977) (describing hearing testimony that “it costs 25 percent less to build flue gas desulfurization systems as part of a new source at time of construction than to retrofit that same source after construction”).

⁹⁵ 42 U.S.C. 7477; CAA section 167. This provision has most frequently been applied by the EPA to support orders and civil actions to enjoin specific construction activities by individuals or corporations at a particular location, since “issuance of an order, or seeking injunctive relief” is expressly identified as included within “such measures” and the title to this section of the CAA is “Enforcement.” But the term “including” does not restrict “such measures” to only the issuance of orders and civil actions in court seeking an injunction. This provision also supports rulemaking by the EPA to “prevent” construction that does not conform to the requirements of the CAA.

⁹⁶ See *United Sav. Assn of Tex. v. Timbers of Inwood Forest Assoc. Ltd.*, 484 U. S. 365, 371 (1988) (“A provision that may seem ambiguous in isolation is often clarified by the remainder of the statutory scheme . . . because only one of the permissible meanings produces a substantive effect that is compatible with the rest of the law.”).

⁹⁷ Public Law 95–95.

⁹⁸ *Id.*

⁹⁹ Rep. No. 95–127 at 18, 31–32; H.R. Rep. No. 95–294 at 145 (1977).

¹⁰⁰ 42 U.S.C. 7570(3).

¹⁰¹ *Chevron*, 467 U.S. at 851.

¹⁰² *New York*, 413 F.3d at 23.

increased emissions resulting from the construction and modification of stationary sources and stimulating improvement of pollution control technology without hampering economic growth. Regardless of its merits as a general matter, the EPA's prior objective to prevent owners from making costly investments before obtaining a permit was a policy choice not grounded in the CAA and not required by statute. The EPA did not previously identify a statutory foundation for this policy against owners placing "equity in the ground" before obtaining a permit. But if such "equity" is something that emits air pollutants, the provisions in the CAA described above require the EPA and States to prevent it from occurring before a permit is issued.

Owners or operators and permitting authorities should be mindful that engaging in some on-site construction activities that are allowed under this proposed rule prior to obtaining an NSR permit could otherwise be limited by other Federal, State, or local laws that may apply in certain circumstances. This could include compliance with other CAA requirements besides NSR, other environmental statutes administered by the EPA, and other types of permitting and licensing requirements within the jurisdiction of agencies other than the Agency. When applicable according to their terms, this may also include cross-cutting laws such as the Endangered Species Act or the National Historic Preservation Act. Compliance with such cross-cutting Federal laws is generally the responsibility of the Federal agency authorizing, funding, or carrying out such actions unless a non-Federal representative is designated to conduct such actions on behalf of the Federal agency. Furthermore, it will continue to be the responsibility of the owner and operator, and in some cases State and local permitting authorities, to ensure that their actions comply with all relevant and applicable Federal, State, and local laws. For example, occupational safety and health exposures relating to worker safety are regulated under different authorities, such as the Occupational Safety and Health Act of 1970, and it is the responsibility of the owner and operator to ensure that acts such as this and any applicable regulations are also complied with.

IV. Proposed Changes

Based on the best reading of the statute described above and the rationale that follows in section V of this preamble, the EPA is proposing to

change the Agency's policy (initially developed in 1978 and 1980) from requiring a permit to begin any construction that is of a permanent nature or costly to requiring a permit to begin only construction of components or equipment that emit air pollution. The Supreme Court recognized that agencies are free to change their existing policies if they acknowledge they are doing so, consider relevant factors including any serious reliance interests, and provide good reasons for the change.¹⁰³

To implement this proposed change in policy, the EPA is reconsidering in this rulemaking some of the Agency's prior classifications of particular activities as construction that requires a permit. The EPA's objective in this rulemaking is to replace the text in the NSR regulations that focused on the permanent nature of construction with criteria that identify those characteristics of construction-related activities that enable owners, permitting authorities, and citizens to distinguish something that generates and emits air pollution from something that does not emit air pollution. Since clearing vegetation and leveling land could precede the construction of a variety of things that are not stationary sources of air pollution, the EPA proposes to continue to allow such construction-related activities to proceed absent an NSR permit. In some cases, man-made surfaces and structures placed on clear and level land may likewise be a prelude to something that does not generate or emit air pollution. But surfaces or structures may also exhibit distinctive characteristics that enable them to be identified as part of a source of air pollutant emissions. This rulemaking by the EPA proposes revised regulations based on such characteristics, which are intended to be objective and not dependent on the intent of the owner or operator.

The EPA does not propose to require a permit to build surfaces or structures that are capable of supporting multiple uses (*e.g.*, either a retail store or storage building that does not emit air pollution or a factory that does). However, the EPA proposes that a permit will be required before beginning on-site construction of components with the single purpose of serving a factory or other type of facility that generates air pollution, or configuring general components on a site in a way that has no other purpose but to support a source of air pollution.

However, the EPA also recognizes that it will be difficult to draw a line in a regulation that addresses every circumstance when construction begins of something that emits air pollutants. Thus, States and local reviewing authorities will need to exercise their judgment to resolve questions on a case-by-case, project-specific basis in accordance with general criteria in the regulations that the EPA is proposing here to implement this policy and the best reading of the statute.

The EPA is proposing to revise the Agency's regulations implementing the NSR program to distinguish between construction of a stationary source and construction of non-emitting components or structures, while removing restrictions on the latter on the grounds that these restrictions are not supported by the text in the statute or necessary to protect air quality. The EPA's goal is to more clearly allow entities that plan to build or modify stationary sources of air pollution to engage in construction of non-emitting components (*e.g.*, infrastructure to provide utility service to a site, concrete pads, foundations and other parts of buildings that are not specifically configured for emitting equipment, and office buildings) at their own risk, without altering requirements to control air pollutant emissions from the stationary sources of air pollution that these owners or operators must obtain an NSR permit to construct. When the EPA states an entity may engage in construction of non-emitting components or structures "at their own risk," it means that the owner or operator assumes the risk that it will not realize a return on its investment in pre-permit construction of components or structures that do not emit air pollution if a permit application is ultimately denied or an issued permit requires additional construction to reduce air pollutant emissions.

To accomplish this, the EPA is proposing to revise the current definition of "begin actual construction" and add a new definition of "pollutant-emitting activities" to identify which on-site construction activities an owner or operator of a stationary source of air pollution may lawfully undertake for purposes of the CAA before obtaining an NSR air permit. The EPA is also proposing to revise the definition of "begin construction" and "commence construction" in the Tribal NSR regulations at 40 CFR 49.152 and rename the term "begin construction" to "begin actual construction," which are terms that apply to minor sources and minor modifications at existing major

¹⁰³ See *FDA v. Wages & White Lion Invs., LLC*, 604 U.S. 542, 567–69 (2025); *FCC v. Fox Television Stations, Inc.*, 556 U.S. 502 (2009).

sources of air pollution located in Indian country. As described previously, these changes reflect the best reading of the CAA and provide greater flexibility for owners and operators to engage in construction activities that are allowed under the CAA prior to obtaining an NSR permit, while still protecting public health and welfare through the NSR air permitting requirements.

More specifically, the EPA is proposing to define “begin actual construction” in the NSR regulations at 40 CFR 51.165; 51.166; Appendix S to Part 51, and 40 CFR 52.21 as follows:

Begin actual construction means, in general, initiation of physical on-site construction of pollutant-emitting activities on a stationary source. This does not include the following: (1) Engineering and design planning; (2) geotechnical investigation (surface and subsurface explorations); (3) clearing vegetation, grading, surveying, soil compacting and stabilization (including associated pile driving), and excavating land (including blasting or other removal of hardrock); (4) ordering of equipment and materials; (5) storing of equipment or setting up temporary trailers to house construction management or staff and contractor personnel; (6) paving surfaces. This list is not intended to be exhaustive. With respect to a change in method of operations, this term refers to those on-site activities other than preparatory activities which mark the initiation of the change.

The revised definition is intended to include a list of equipment, components, or processes excluded from the definition of “begin actual construction” to allow stakeholders to quickly and confidently recognize these listed construction-related activities as separate from the construction of a stationary source, thereby enabling owners or operators to begin these construction-related activities prior to obtaining an NSR permit. The EPA is soliciting comment on whether additional activities should be included in this exclusion list (recognizing it is not intended to be an exclusive list), if these revisions align with other existing NSR regulations, and any other general comments with this definition (*see* section VI of this preamble).

Additionally, the EPA is proposing to add a new definition of “pollutant-emitting activities” to the NSR regulations at 40 CFR 51.165; 51.166; Appendix S to Part 51, and 52.21 and define it as follows:

Pollutant-emitting activities, as used in 40 CFR 52.21(b)(6)(i) and (b)(11), include any equipment or component in a process or operation that emits or has the potential to emit a regulated NSR pollutant. Pollutant-emitting activities do not include the following: (1) office buildings; (2) retail

stores; (3) buildings or structures designed for storage if the product or material to be stored therein is not capable of producing airborne vapors or particles; (4) concrete pads and building foundations, walls, and roofs that are not closed in on the interior side and do not have design elements (e.g., piping, ductwork, wiring, anchor bolts) specifically and uniquely configured to serve or support any equipment or component in a process or operation that emits or has the potential to emit a regulated NSR pollutant; (5) equipment or components whose sole purpose is heating ventilation and air conditioning for human workspaces or spaces within a building used to store supplies related to the habitation of the building; (6) wiring, piping, and associated support structures that supply utility services (including electrical, water, wastewater, or telecommunications) to a property site or a building on a site; (7) sealed junctions or ties within one process that may serve equipment or components in another process constructed at a later time. This list is not intended to be exhaustive. For purposes of this definition, classification as pollutant-emitting is based on emissions from a process or operation after construction, not emissions of pollutants during the construction process.

The term “pollutant-emitting activity,” as used in the NSR regulatory definition of “building, structure, facility, or installation,” is used to determine whether an activity qualifies as a “building, structure, facility, or installation.”¹⁰⁴ Under the NSR regulations, a “stationary source means any building, structure, facility, or installation which emits or may emit a regulated NSR pollutant.”¹⁰⁵ Therefore, adding a definition for “pollutant-emitting activities” is crucial to determine if an activity meets the definition of “building, structure, facility, or installation” and therefore constitutes a stationary source. This proposed definition is intended to enhance clarity regarding the types of activities that may be classified as construction of a stationary source. This definition aims to provide regulatory certainty for stakeholders by more clearly delineating what construction-related activities on a stationary source are allowed prior to the issuance of an NSR permit. Additionally, and similar to the revisions in the definition of “begin actual construction,” the proposed additional definition includes a list of equipment or components of a process excluded from the definition of “pollutant-emitting activities.” This exclusion list is intended to enable stakeholders to quickly and confidently recognize these construction-related

activities as separate from the construction of a stationary source, thereby enabling owners to begin construction activities on these excluded items prior to (or in some cases without) obtaining an NSR permit. The EPA also is soliciting comment on whether additional activities should be included in this exclusion list (recognizing it is not intended to be an exclusive list), if these revisions align with other existing NSR regulations, and any other general comments with this definition (*see* section VI of this preamble).

Finally, the EPA is also proposing to revise the definition of “begin construction” and “commence construction” in the Tribal minor NSR regulations at 40 CFR 49.152 and rename the term “begin construction” to “begin actual construction” to have consistent definitions for the terms “begin actual construction” and “commence” or “commence construction” for all NSR programs governed by the EPA regulations. The EPA is also proposing to define the term “commence construction” in the Tribal minor NSR regulations at 40 CFR 49.152 to mirror the definition of “commence” in the major NSR Federal regulations and, therefore, would define it as follows:

Commence construction means, as applied to a new minor stationary source or minor modification at an existing stationary source subject to this subpart, that the owner or operator has all necessary preconstruction approvals or permits and either has: (i) Begun, or caused to begin, a continuous program of actual on-site construction of the source, to be completed within a reasonable time; or (ii) Entered into binding agreements or contractual obligations, which cannot be cancelled or modified without substantial loss to the owner or operator, to undertake a program of actual construction of the source to be completed within a reasonable time.¹⁰⁶

V. Policy Rationale and Implications for Proposing Changes to Regulations

In section III of this preamble, the EPA identifies what the Agency believes to be the best reading of the statute. That reading is not one that delegates to the EPA the discretion to determine “what” a permit is required to construct or “when” construction of a stationary source begins. If the EPA maintains this reading after considering public comments, the Agency must follow the Agency’s reading of how the statute answers these “what” and “when”

¹⁰⁴ Definition of “Building, structure, facility, or installation”—40 CFR 51.165(a)(1)(ii)(A), 51.166(b)(6)(i), and 52.21(b)(6)(i).

¹⁰⁵ Definition of “stationary source”—40 CFR 51.165(a)(1)(i), 51.166(b)(5), and 52.21(b)(5).

¹⁰⁶ The EPA regulatory definition of “commence” in the PSD regulations was proposed by the Agency in November 1977, finalized in June 1978, and remains as the existing, current definition in 40 CFR 52.21.

questions, regardless of the Agency's policy preferences.¹⁰⁷ That the law requires the proposed policy is a sufficiently good reason for the EPA to make a change. Nevertheless, there are other good reasons for the proposed change in policy, which the EPA articulates here for consideration.

Requiring a permit prior to constructing something that does not emit air pollutants can unnecessarily delay projects and has been viewed as an unduly restrictive and burdensome part of the NSR air permitting program. In the 1996 Proposed Rule, the EPA took note of the fact that "[s]everal industry members" of the CAA Advisory Committee's Subcommittee on NSR Reform had "recommended that EPA change the NSR regulations to enable sources to engage in a broader range of activities prior to receipt of an NSR permit in cases involving modifications to existing sources."¹⁰⁸ Commenters expressed concerns about the definition of "begin actual construction" in response to the 1996 Proposed Rule and the 2017 **Federal Register** publication titled "Evaluation of Existing Regulations," which sought input on the EPA regulations that may be appropriate for repeal, replacement, or modification.¹⁰⁹

In response to the 2017 **Federal Register** publication, one commenter stated that the EPA should "revise the definition of 'begin actual construction' contained in 40 CFR 52.21(b)(11) to provide for greater ability for conducting certain construction activities that are of a permanent nature in advance of obtaining a permit."¹¹⁰ In support, the commenter added the following: "Facilities should, at their own risk, be able to conduct time-consuming construction activities, e.g. installing foundations and running underground utilities, in advance of obtaining an NSR/PSD construction permit where it remains obvious that the source for which a permit is being sought cannot operate. As a reference for how this can work, many States have already incorporated such common-sense allowances in their minor source permitting programs."¹¹¹ Another commenter stated that: "'[b]egin actual construction' has, by policy, been

extended to prohibit construction on 'any installation necessary to accommodate the emissions unit.' Sources should be able to conduct early work up until the piece of equipment is actually emitting. This includes laying underground piping, excavating, bringing in fill to prepare the area where the emission unit(s) will sit, and other efforts until the point prior to installing the emissions unit."¹¹² Another commenter stated the following:

EPA should redefine the term 'begin actual construction' in 40 CFR 52.21(b)(11) to allow non-emitting activities (e.g., pouring foundations, electrical preparations) to begin before the final permit is issued. We believe this would hasten the commencement of major projects as permit applicants would be willing to assume the risk of stranding an investment in some of these preparatory, non-emitting activities in order to mitigate the effects of a potential lost construction season.¹¹³

Finally, one commenter stated that "[g]iven the length of time it takes to be issued NSR [p]ermits, preconstruction activities on non-emitting activities can help expedite construction (particularly in parts of the country with severe weather) and should be allowed at the manufacturers' own risk even though they may be related to the NSR affected emissions units."¹¹⁴

Furthermore, during the public comment period for the March 2020 Memo, the EPA received a total of 44 comments either in support or opposition. Several commenters on the March 2020 Memo contended that the revised policy reflected in the March 2020 Memo should be adopted through the notice and comment rulemaking process and not in a guidance memorandum.¹¹⁵ For example, one commenter argued the policy change in

the March 2020 Memo would fundamentally change existing requirements governing when construction can begin on a major source project and therefore cannot be adopted without following the rulemaking procedures specified in CAA section 307(d).¹¹⁶ Another commenter urged the EPA "to update the interpretation of the regulatory definition of the term 'begin actual construction' in 40 CFR 52.21(b)(11) to allow owners/operators to engage in a broader range of preparatory activities they might desire to undertake for the purpose of ensuring projects are positioned to move forward in an expedient manner, prior to obtaining a New Source Review (NSR) permit."¹¹⁷ Several commenters on the March 2020 Memo also requested regulatory clarity on how to distinguish between an emissions unit and major stationary source.¹¹⁸

After considering these comments and whether the EPA could provide guidance on how to differentiate between an emissions unit and stationary source, rather than attempting to provide such guidance in a final version of the March 2020 Memo, the Agency is proposing to revise the regulations to more clearly distinguish between construction that is prohibited by the CAA without a permit and construction that is not. Revising the NSR regulations will enable the EPA to provide greater clarity on the construction activities that are permissible under the CAA prior to obtaining an NSR permit (or without such a permit) and address the longstanding concerns of stakeholders that considered the NSR regulations unnecessarily restrictive.

These proposed changes would better reflect the best reading of the statute (discussed in section III of this preamble) and effectuate congressional intent to preserve and maintain air quality while facilitating economic

¹⁰⁷ *Loper Bright*, 603 U.S. at 401 ("In the business of statutory interpretation, if it is not the best, it is not permissible.")

¹⁰⁸ 61 FR 38270 (July 23, 1996).

¹⁰⁹ 82 FR 17793 (April 13, 2017).

¹¹⁰ Curt Wells, Director, Regulatory Affairs, The Aluminum Association (March 31, 2017), DOC-2017-0001-0101 available at: <https://www.regulations.gov/comment/DOC-2017-0001-0101>.

¹¹¹ *Id.*

¹¹² Kyle B. Isakower, Vice President, Regulatory and Economic Policy, American Petroleum Institute (March 31, 2017), DOC-2017-001-0126 available at: <https://www.regulations.gov/comment/DOC-2017-0001-0126>.

¹¹³ Robert L. Stout, Jr. Vice President and Head of Regulatory Affairs, BP America, Inc. (March 31, 2017), DOC-2017-0001-0125 available at: <https://www.regulations.gov/comment/DOC-2017-0001-0125>.

¹¹⁴ Leslie S. Ritts, Counsel, The National Environmental Development Association's Clean Air Project (March 31, 2017), DOC-2017-0001-0161 available at: <https://www.regulations.gov/comment/DOC-2017-0001-0161>.

¹¹⁵ Comment letters from the following: (1) Frank Kohlisch, Climate Director, Minnesota Pollution Control Agency (May 11, 2020); (2) David Baron, Attorney, Earth Justice. John Walke, Clean Air Director, Natural Resource Defense Council. Sanjay Narayan, Managing Attorney, Sierra Club Environmental Law Program (May 11, 2020); (3) Eric Stuart, Vice President, Environment Policy, Steel Manufacturers Association (May 11, 2020); and (4) Wayne Nastri, Executive Officer, South Coast Air Quality Management District (May 8, 2020).

¹¹⁶ Ursula Nelson and Ali Mirzakhilili, Co-Chairs, NACAA Permitting and NSR Committee (May 11, 2020).

¹¹⁷ James R. Plosay, Manager, Air Permits Program, Alaska Department of Environmental Conservation (April 17, 2020).

¹¹⁸ Comment letters from the following: (1) American Chemistry Council, American Forest & Paper Association, American Fuel & Petrochemical Manufacturers, American Petroleum Institute, American Wood Council, National Oilseed Processors Association, Portland Cement Association, Air Permitting Forum, and Auto Industry Forum (May 11, 2020); (2) Ram Singhal, Vice President of Technology & Environmental Strategy, Flexible Packaging Association (May 11, 2020); (3) Alec Davis, Executive Director, Illinois Environmental Regulatory Group (May 11, 2020); (4) Catharine Fitzsimmons, Chief, Iowa Air Quality Bureau (May 11, 2020); and (5) Plastics Industry Association (May 11, 2020).

growth. Allowing owners or operators to engage in construction activities on components that do not emit or have the potential to emit a regulated NSR pollutant(s) (*i.e.*, are not pollutant-emitting activities) before or during the permit application process may help enhance the overall project planning and management process, expedite completion of construction projects, and streamline permitting to allow for faster timelines between construction and operation of a stationary source of air pollution. These flexibilities do not authorize permit writers to allow a constructed stationary source to emit more air pollutants than would otherwise be allowed under the terms of any NSR permit. The general public also benefits from the overall economic development that is promoted by enabling businesses wishing to invest in new projects to complete them more efficiently. For example, some owners or operators may seek to construct in locations where construction must be planned around seasonal conditions. If constructing something that does not emit air pollutants, the owner or operator might be able to complete that phase of the project before seasonal conditions preclude it and then complete the permitting process before starting on the equipment and components that emit air pollutants.¹¹⁹

The proposed changes also recognize that the NSR provisions in the CAA are not intended to regulate decisions by businesses to accept economic risk. This rulemaking proposes to enable owners and operators of stationary source to make their own decisions about the degree of economic risk they are willing to bear from the possibility that an NSR permit application is ultimately denied or the possibility that completed construction may need to be reworked to comply with the conditions in an issued permit.

The EPA's existing regulations attempt to delineate when on the continuum from planning to operation of a major emitting facility a permit is required. But the structure of these regulations, and their interpretations, has led to ambiguity and inconsistent results that the EPA seeks to eliminate in this proposed rule.

To do so, the EPA proposes to amend the NSR regulations to more clearly distinguish between things that are stationary sources and things that are not (answering the "what" requires a

permit question described in section III of this preamble), rather than distinguishing between emission units and stationary sources. The EPA also proposes to more clearly identify "when" construction of that "what" begins.

In 1980, the EPA chose to identify "physical on-site construction" as the point on the continuum when the construction of stationary source begins and used that phrase (from the statutory definition of "commenced") in the regulatory definition of "begin actual construction." But not all physical on-site construction activities were prohibited—only physical onsite construction activities "on an emissions unit which are of a permanent nature." Forty years later, in the March 2020 Memo, the EPA emphasized how this definition creates the need to distinguish between an "emissions unit" and a "major stationary source." But the EPA's existing NSR regulations define both a stationary source and an emissions unit as something that emits air pollutants. The definition of emissions unit is "any part of a stationary source that emits or would have the potential to emit any regulated NSR pollutant."¹²⁰ The EPA defines a stationary source as "any building, structure, facility, or installation which emits or may emit a regulated NSR pollutant."¹²¹ Further, the EPA's regulations define a "building, structure, facility, or installation" to include a collection of "pollutant-emitting activities" that meet three specific characteristics: all of the pollutant-emitting activities belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control).¹²²

Given that all of these definitions include activities or things that emit air pollutants, the only unique feature in the definition of emissions unit is that it is a "part" of a stationary source (not the whole source). The current regulations do not anywhere suggest there could be a part of stationary source that is not an emissions unit. Under these regulations, something that does not emit is not an emissions unit or a stationary source. Therefore, it is understandable why commenters on the March 2020 Memo asked the EPA to provide more guidance to distinguish

between an emissions unit and a stationary source. In addition, some comments on the March 2020 Memo indicated that the relevant provision that prohibits the construction of a stationary source does not use the term "emissions unit." For these reasons, the EPA proposes to more clearly identify the characteristics of a stationary source and when construction of such a source begins, rather than attempting to further define an emission unit.

Because of the current form and function of the two existing definitions of "stationary source" and "building, structure, facility, or installation," the EPA prefers adding a definition of "pollutant-emitting activities" over amending the definition of "emissions unit." The existing definition of "emissions unit" serves an important function of distinguishing between new and existing emission units for purposes of determining how to calculate the increase in emissions from a modification to an existing source to determine if that modification requires a permit. The EPA is thus concerned that adding to that definition a list of construction-related activities that do not need an NSR permit prior to construction may have the unintended effect of causing confusion as to which projects require an NSR permit, rather than clarifying which construction-related activities constitute construction of a stationary source and which do not.

The proposed text identifies specific activities that are permissible without a permit but uses more general text to address activities that are prohibited. The EPA prefers this approach to ensure the regulations are adaptable to the broad range of stationary facilities across various industry sectors that may emit regulated NSR pollutants. However, the EPA is also considering whether to add more specific text to the NSR regulations to prohibit the construction of components that have characteristics unique to a source of air pollutants.

In the past, various stakeholders have submitted comments or requested further clarification on whether an industry-specific construction activity is allowed prior to "beginning actual construction" under the EPA's NSR air permitting regulations. For example, the refinery industry has suggested "tie-ins" as an activity that should be allowed before a modification to an existing source needs to obtain an NSR permit. To address this concern, the EPA has included specific text in the proposed definition of "pollutant-emitting activities" to address this topic (*i.e.*, see (7.) in the proposed definition of *pollutant-emitting activities*) and clarify

¹¹⁹ Permit applicants that choose to expedite projects by undertaking on-site construction activities that are allowed in advance of CAA permit issuance retain the obligation to follow a schedule that complies with other applicable laws that protect health and welfare, as discussed above.

¹²⁰ Definition of "Emissions unit"—40 CFR 51.165(a)(1)(vii), 51.166(b)(7), and 52.21(b)(7).

¹²¹ Definition of "Stationary source"—40 CFR 51.165(a)(1)(i), 51.166(b)(5), and 52.21(b)(5).

¹²² Definition of "Building, structure, facility, or installation"—40 CFR 51.165(a)(1)(ii)(A), 51.166(b)(6)(i), and 52.21(b)(6)(i).

that “tie-ins” can be undertaken prior to obtaining an NSR permit for a process that may be constructed at a later time. The EPA is soliciting comment on adding industry-specific activities, such as tie-ins, into the exclusion list to the definition and if any other industry-specific activities should be considered (see section VI of this preamble).

In the proposed revised definitions, the EPA’s focus is on whether “what” is being constructed is something that emits air pollutants and no longer focuses on whether the thing being constructed is permanent in nature or costly to change. The primary rationale that the EPA provided for the policy of requiring sources to obtain an NSR permit prior to undertaking any on-site construction activity “of a permanent nature” was first articulated in the October 1978 Memo. There, the EPA expressed concern that it would be “extremely difficult to deny issuance of a permit when it results in a completed portion of a project having to remain idle.”¹²³ “Therefore,” the EPA reasoned, “in order to avoid any equity arguments at a later time, it is better to prevent any construction now rather than have a ‘white elephant’ on our hands later on.”¹²⁴ The EPA has since reiterated this position in subsequent guidance and a proposed rulemaking.¹²⁵

Underpinning these concerns about an owner or operator being allowed to place “equity in the ground” by engaging in costly and permanent on-site construction activities prior to receiving an NSR permit is the presumption that, in doing so, the owner or operator would gain “leverage” in the permitting process. That is to say, in such circumstances, the permitting authority might feel compelled to issue a permit that was not as stringent in its terms as it otherwise would have been, or no permit at all.

However, in addition to not comporting with the best reading of the

statute (as discussed in section III of this preamble), the EPA no longer believes that this original rationale provides a sound policy basis for precluding any activity “of a permanent nature” regardless whether that activity involves construction of something that emits air pollution. While the EPA’s concerns over potential “equity” arguments may have had supported the Agency’s policy at the inception of the NSR permitting program in 1978, when both the Agency and State permitting authorities lacked experience in implementing the program, the Agency does not believe that such concerns are currently warranted given that permitting authorities have been implementing the NSR permitting program for nearly 50 years. Several permitting authorities commented in support of this position in response to the March 2020 Memo. NSR permitting authorities must continue to apply the applicable permitting criteria (such as determining BACT and LAER) for a new or modified stationary source based on the permit application submitted, without regard to the preparatory activities an applicant may conduct on the site of the eventual stationary source. The EPA also received comments in response to the March 2020 Memo that doing otherwise would divest States of their responsibility for safeguarding natural resources within their borders. Importantly, the revisions being proposed in this action are not intended to, and should not be construed as, establishing any equity or reliance arguments on the part of owners, operators, or permit applicants in the permitting process. In all instances, owners or operators accept risk for the actions they may take in advance of obtaining a permit. Owners or operators cannot expect that any site activities prior to permitting will alter or influence the BACT analysis for an emissions unit or other elements of a permitting decision. Permit applicants that choose to undertake on-site construction activities in advance of permit issuance do so at their own economic risk that a permit may be denied or issued with unanticipated conditions on operations, potentially resulting in a lost investment or increased construction costs. In sum, the EPA’s focus of the proposed revisions is on the best reading of the CAA and reflection of current source construction needs and expectations.

The revisions, if finalized, should also ensure that construction of stationary sources and pollutant-emitting activities are restricted until the permit authority has finalized the environmental

safeguards required by the NSR program. Notably, to meet the requirements of the CAA, the permitting authority must retain the discretion to deny any subsequent NSR permit application to construct a stationary source of air pollution if the applicable criteria are not met. Since the EPA cannot foresee all situations when a construction-related activity might constitute “begin[ning] actual construction” on a stationary source, the proposed rule, if finalized, is expected to afford reviewing authorities discretion to apply relevant provisions on a case-by-case basis. Reviewing authorities may consult with the EPA for case-by-case advice on applicability determinations. No matter how costly or permanent it may be, any on-site construction or preparatory activity that a permit applicant undertakes prior to receiving a final NSR permit remains a risk for the owner or operator. A permit applicant may not use time and resources expended on construction prior to obtaining an NSR permit to justify the reviewing authority decision on any applicable BACT or LAER determinations and/or to grant the final NSR air permit. Furthermore, if changes to the design of the permit applicant’s proposed stationary source are necessary to meet these control technology requirements or any other requirements of the permitting process (such as demonstrating that emissions from the stationary source will not cause or contribute to violations of air quality standards), the permitting authority may require the permit applicant to meet the requirements of such conditions in the final air permit, even if it means modifying or rebuilding permanent or costly structures that the permit applicant has built prior to obtaining a permit. As such, the EPA is requesting comment on whether regulatory text should be added to prohibit permitting authorities from considering economic losses from the permit applicant if a valid permit cannot be issued (see section VI of this preamble).

Permitting authorities must continue to apply the applicable permitting criteria to determine emissions limitations for a new proposed major stationary source or major modification based upon the BACT and LAER standards, without regard to the preparatory construction activities an applicant may conduct on the site. Accordingly, the permitting authority, in conducting an analysis of BACT and LAER should not include the cost of any adjustments or modifications to already constructed portions of the facility

¹²³ October 1978 Memo at 2.

¹²⁴ *Id.*

¹²⁵ See, e.g., May 1993 Memo at 2 (A “permitting authority would be placed in a very difficult position when denying issuance of a permit when it results in a completed portion of a project having to remain idle.”); December 1995 Letter at 2 (“[A]bsent a prohibition on any costly, significant or permanent preconstruction,” sources could “defeat” the “preconstruction requirement or its enforcement by making a costly, substantial, and/or permanent investment” and then “later argue that retrofitting of PSD requirements or a denial of the permit would unreasonably interfere with their investment.”); 61 FR 38270 (“If . . . companies were given unlimited ability to place ‘equity in the ground’ by constructing plants before a permit is issued,” then a permitting authority’s “discretion in making permit decisions may be compromised” and the “ability of EPA and citizens to challenge the permit that is eventually issued may likewise be undermined.”).

necessary to install any control device or technology when determining the cost of the controls. Owners or operators will not be allowed and cannot expect that any preparatory construction activities prior to permit issuance will alter or influence the BACT and LAER analysis for the stationary source or any other elements of the permitting decision. An applicant cannot use equity and resources expended to claim cost infeasibility or otherwise influence the BACT or LAER determinations.

Considering this, these proposed revisions should not allow greater emissions of air pollution from the operation of new or modified stationary sources than under existing rules. The definitions proposed herein do not change any requirements of the NSR permit programs pertaining to the control of air pollutant emissions resulting from the construction or operation of stationary sources. The proposed revisions are also not intended to relieve owners or operators of stationary sources from the requirement to obtain permits for new construction or modifications. Rather, the purpose of the proposed rule is to streamline the ability of the owners and operators of stationary sources that already require NSR permits to meet construction milestones by clarifying activities that may occur without a permit before construction on a stationary source begins. In other words, the proposed revisions are intended to reduce overall regulatory burdens associated with delay without a corresponding increase in relevant emissions or reductions in air quality.

The EPA's implementing regulations at 40 CFR 51.166(a)(6) provide permitting authorities with approved PSD programs up to three years to submit any required revisions to the PSD program requirements in a SIP. While the EPA establishes regulations that set minimum national stringency standards, State, local, or Tribal governments are not restricted from considering revisions to their EPA-approved plans that may include setting more stringent rules to meet the needs of such State, local, or Tribal air quality programs.¹²⁶ The EPA is also soliciting comments on whether revisions to existing approved plans reflecting the proposed changes (if finalized) should be required and if this provision (40 CFR 51.166(a)(6)), which is only in the PSD regulations, should be added into the NNSR provision in 40 CFR 51.165 (see section VI of this preamble).

Under CAA section 110(l), the EPA may not approve a revision to a State

plan "if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress."¹²⁷ Since the proposed revisions do not affect emissions, revisions to State plans that incorporate the proposed changes are not expected to interfere with attainment or reasonable further progress and, thus, CAA section 110(l) should not be implicated in any forthcoming SIP submission. If these proposed regulatory changes are finalized, any revisions to the Federal PSD regulations will automatically apply to the EPA and all permitting authorities that implement a PSD program that does not reference 40 CFR 52.21 as of a specific date.¹²⁸ Similarly, Appendix S to Part 51 contains the NNSR program requirements applicable in Indian country and applicable to other areas designated as nonattainment where an NNSR SIP has not yet been approved by the EPA. Thus, if these proposed regulatory changes are finalized, any revisions to Appendix S will immediately apply, as of the effective date in the final rule, to the EPA and all permitting authorities who implement regulations pursuant to this Appendix.

VI. Request for Comments

The EPA solicits comments on all aspects of this proposed action. In particular, the EPA seeks input on the following questions, which are not intended to preclude commenters from addressing other considerations. When addressing one of the particular questions below in a comment, or specific part of a comment, the EPA requests that commenters identify the question number to which they are responding.

Question #1: Are the proposed revisions appropriately aligned with other definitions within the NSR regulations, and might they have unintended impacts on other NSR requirements?

Question #2: Should the list of equipment, components, and processes excluded from "begin actual construction" and "pollutant-emitting activities" be included in the definitions of "emissions units" or "stationary source"? Which approach is preferable, and why?

Question #3: What additional activities should be included in the exclusion list for "begin actual construction" and "pollutant-emitting

activities," and what are the reasons for their inclusion?

Question #4: Are the proposed revisions too general or too specific? What suggestions do you have for enhancing clarity and certainty in these regulations?

Question #5: What industry-specific construction activities, such as refinery tie-ins, should or should not be allowed prior to the issuance of an NSR permit?¹²⁹ How might allowing these activities impact construction timelines, permitting timelines, regulatory compliance, enforcement, air pollution emissions, public health and welfare, and other permitting concerns for any industry sector?

Question #6: What are the expected economic benefits for industry (including small businesses) and for State and local economies of allowing specified construction activities to proceed prior to NSR permit issuance? Please provide supporting data and information that substantiates your response.

Question #7: Should the EPA add regulatory text to explicitly prohibit permitting authorities from considering economic losses for permit applicants if a valid permit cannot be issued? Should those economic losses include the cost of modifying or rebuilding specific facility components that were built without an NSR permit because they were initially considered not to generate or emit air pollutants but are later determined to require modification to enable the components or equipment that do produce emissions to meet NSR permitting requirements? Would such text help ensure that permitting authorities do not consider equity already invested or by permit applicants in determining the conditions in a permit or whether a final permit should be issued for a stationary source of air pollution or not?

Question #8: Should the EPA require revisions to existing approved plans to reflect any final revisions to the Agency's regulations if these proposed changes were to be finalized?

Question #9: Should the EPA's implementing regulations at 40 CFR 51.166(a)(6), which provide permitting authorities up to three years to submit required revisions to PSD program requirements in a SIP, be added to the NNSR planning requirement regulations in 40 CFR 51.165?

Question #10: Does the EPA articulate the best interpretation of the CAA in

¹²⁷ 42 U.S.C. 7410(l).

¹²⁸ Where the EPA has only delegated authority to implement a date-specific version of 40 CFR 52.21, the delegation agreement would need to be updated to incorporate the revisions in this rulemaking.

¹²⁹ Refinery "tie-ins" are connection points for new equipment or piping system to an existing refinery's infrastructure. A "tie-in" does not involve any construction on an unpermitted emissions unit.

¹²⁶ 40 CFR 51.165(a)(1) and 51.166(b).

this proposal? Is there additional statutory text, history, or judicial precedent that the EPA should consider?

Question #11: Have any parties taken actions in reliance on the current regulations, and do such parties have interests that would be affected by the proposed changes?

VII. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This proposed action is a significant regulatory action that was submitted to the Office of Management and Budget (OMB) for review. Any changes made in response to Executive Order 12866 review have been documented in the docket. As discussed above, these proposed revisions should not allow greater emissions of air pollutants from the construction, modification, or operation of new or modified stationary sources. The definitions proposed herein do not change any requirements of the NSR permit programs pertaining to the control of emissions resulting from the construction or operation of stationary sources. The proposed revisions are also not intended to relieve owners or operators of stationary sources from requirements to obtain permits for new construction or modification of a stationary source. Rather, the purpose of the proposed rule is to streamline the ability of the owners and operators of stationary sources that already require NSR permits to meet construction milestones by clarifying activities that may occur without a permit before construction on a stationary source begins.

B. Executive Order 14192: Unleashing Prosperity Through Deregulation

This proposed action would be an Executive Order 14192 deregulatory action. This proposed rule is expected to reduce burden by increasing flexibility to begin construction of non-emitting components or structures before an NSR permit is obtained.

C. Paperwork Reduction Act (PRA)

This proposed action does not impose any new information collection burden under the PRA. OMB has previously approved the information collection activities contained in the existing regulations and has assigned OMB control numbers 2060–0003 for the NSR permitting programs. The revisions to the regulations proposed in this action do not directly change any of the

information collection activities previously approved by OMB.

D. Regulatory Flexibility Act (RFA)

I certify that this proposed action will not have a significant economic impact on a substantial number of small entities under the RFA. This proposed action will not impose any requirements on small entities. Instead, the proposed rule revisions expand the range of permissible construction on non-emitting components or structures, and provide opportunity for owners or operators to expedite construction timelines before obtaining an NSR permit. This proposal also does not directly impose any requirements on the entities involved in these processes (including permitting authorities, permittees, and the members of the public). Owners or operators, at their own risk, may complete construction on non-emitting components or structures that might result in an economic impact. However, the revisions to the definition do not require any owners or operators to do anything additional before obtaining an NSR permit. As such, the EPA does not believe the increased flexibility to engage in some types of construction before obtaining an NSR permit will result in a significant economic impact on a substantial number of small entities.

E. Unfunded Mandates Reform Act (UMRA)

This proposed action does not contain an unfunded mandate of \$100 million or more as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. The proposed action imposes no enforceable duty on any State, local, or Tribal governments or the private sector. Nonetheless, if this rulemaking is finalized as proposed, the EPA expects that some authorized State, local, and Tribal reviewing authorities will want to revise their NSR permitting program provisions to incorporate the Agency's revised definitions. States that choose to revise their existing SIP-approved programs would need to submit a SIP revision to the EPA for review and approval.

F. Executive Order 13132: Federalism

This proposed action does not have federalism implications. 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 Order 13175: Consultation and Coordination With Indian Tribal Governments

This proposed action proposes to revise regulations applicable to stationary sources in Indian country, but it does not have Tribal implications of the nature specified in Executive Order 13175. The proposed regulatory revisions do not impose substantial direct compliance costs on Tribal governments and do not preempt Tribal law. The EPA has reviewed this proposed rule in accordance with the requirements of Executive Order 13175 and has determined that this proposed rule, if finalized, will not have substantial direct effects on Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes. The EPA is currently the reviewing authority for most PSD and NNSR permits issued on Tribal lands. At this time, two Indian Tribal governments have approved TIPs that authorize the Tribe to administer the PSD and NNSR programs within their jurisdiction. The proposed revisions are not expected to impose direct burdens on Tribal authorities. Thus, Executive Order 13175 does not apply to this action. However, because of Tribal interest on this proposed rule and consistent with the EPA Policy on Consultation with Indian Tribes, the EPA will offer consultation with Tribes.

H. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that the Agency has reason to believe may disproportionately affect children, per the definition of “covered regulatory action” in section 2–202 of the Executive Order. This action is not subject to Executive Order 13045 because it does not concern an environmental health risk or safety risk. Furthermore, since this action does not concern human health risks, the EPA's Policy on Children's Health also does not apply.

I. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

This proposed action is not a “significant energy action” because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The purpose of this proposed rule is to provide additional flexibility

for owners and operators to engage in construction on non-emitting components or structures before obtaining a final NSR permit and beginning actual construction of a stationary source of air pollution. The EPA does not expect these activities to adversely affect energy suppliers, distributors, or users.

J. National Technology Transfer Advancement Act (NTTAA)

This rulemaking does not involve technical standards.

VIII. Statutory Authority

The statutory authority for this action is provided by 42 U.S.C. 7401 *et seq.*

List of Subjects

40 CFR Part 49

Environmental protection, Administrative practice and procedure, Air pollution control, Indians, Indians—law, Indians—tribal government, Intergovernmental relations, New source review.

40 CFR Part 51

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, New source review, Preconstruction permitting.

40 CFR Part 52

Environmental protection, Administrative practice and procedure, Air pollution control, Incorporation by reference, Intergovernmental relations, New source review, Preconstruction permitting.

Lee Zeldin,

Administrator.

[FR Doc. 2026–09524 Filed 5–12–26; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL MARITIME COMMISSION

46 CFR Part 502

[FMC–2025–0074]

RIN 3072–AD06

Rulemaking Procedures

AGENCY: Federal Maritime Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Maritime Commission (FMC or the Commission) is proposing to revise its rulemaking procedures. The changes would: consolidate informal rulemaking and rulemaking petition requirements into subpart D, clarify ambiguities, remove unnecessary, overly restrictive

requirements (such as *ex parte* requirements), and allow for the FMC to integrate its rulemaking procedures into the Executive Order 12866 centralized regulatory review process, as directed by Executive Order 14215. This proposal would also make conforming changes associated with the FMC's transition to eRulemaking. The FMC invites public comment on all aspects of this proposed rule.

DATES: Comments and related material must be received by the FMC on or before June 12, 2026.

ADDRESSES: To view background documents or comments received, you may use the Federal eRulemaking Portal at www.regulations.gov under Docket No. FMC–2025–0074. See the “Public Participation and Request for Comments” portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments. This notice of proposed rulemaking with its plain-language, 100-word-or-less proposed rule summary will be available in this same docket.

FOR FURTHER INFORMATION CONTACT: David Eng, Secretary; Phone: (202) 523–5725; Email: secretary@fmc.gov.

SUPPLEMENTARY INFORMATION:

I. Background

A. Legal Authority

The Federal Maritime Commission is an agency of the United States Government responsible for regulating the U.S. international ocean transportation system for the benefit of U.S. exporters, importers, and consumers. The FMC administers subtitle IV (Parts A through D) of Title 46, United States Code, to ensure a competitive and reliable international ocean transportation supply system that supports the U.S. economy and protects the public from unfair and deceptive practices. It is authorized by 46 U.S.C. 46105 to prescribe regulations to carry out its duties and powers.

B. Formal Versus Informal Rulemaking

The Administrative Procedure Act (APA) provides the general procedures for agency rulemaking. Most rulemakings are conducted under the “informal rulemaking” procedures of 5 U.S.C. 553. In limited circumstances, federal agencies must engage in “formal rulemaking,” which has heightened procedural requirements. The formal rulemaking requirements of 5 U.S.C. 556 and 557 are only triggered when Congress explicitly requires rulemaking “on the record after opportunity for an

agency hearing.”¹ None of the statutes that the FMC administers require a rulemaking hearing “on the record.” Therefore, the Commission follows the informal, notice-and-comment rulemaking procedures under 5 U.S.C. 553, which does not require trial-type procedures.²

Section 553 requires: (1) publication of a notice of proposed rulemaking in the **Federal Register**, (2) opportunity for public participation by submission of written comments, and (3) publication of a final rule in the **Federal Register**, generally not less than 30 days before the rule's effective date. An agency may, but is typically not required to, offer an opportunity for oral presentation of comments in informal rulemaking.³ It was once more common for the FMC and its predecessor agencies to hold in-person hearings during informal rulemaking proceedings.⁴ That practice, however, is no longer routine. The purpose of a hearing in informal rulemaking “is to permit the agency to educate itself and not to allow interested parties to choose the issue or narrow the scope of the proceedings . . . to allow interested parties to make useful comment and not to allow them to assert their ‘rights’ to insist that the rule take a particular form,” and in making its final determination, the agency “can look beyond the particular hearing record.”⁵ Written comments generally achieve this same goal through more economical and more efficient methods while also providing interested

¹ *United States v. Allegheny-Ludlum Steel Corp.*, 406 U.S. 742, 757 (1972) (“Sections 556 and 557 need be applied ‘only where the agency statute, in addition to providing a hearing, prescribes explicitly that it be on the record.’”); *United States v. Florida E. Coast Ry.*, 410 U.S. 224, 251 (1973).

² This is also true historically. *E.g.*, Report of the Board on Motion to Dismiss: *Carrier-Imposed Time Limits on Presentation of Claims for Freight Adjustments*, 4 F.M.B. 29 (1952) (holding that the Administrative Procedure Act's formal rulemaking requirements were not applicable to the proceeding).

³ Occasionally advanced procedural requirements beyond those required by 5 U.S.C. 553, such as oral submissions and cross-examination, may be required by Due Process if critical issues cannot be otherwise resolved. Implementation of these procedures, however, does not require full adjudicatory procedures under 5 U.S.C. 556 and 557. *O'Donnell v. Schaffer*, 491 F.2d 59, 62 (D.C. Cir. 1974).

⁴ See *e.g.*, Report of the Commission: *Bills of Lading—Incorporation of Freight Charges*, 3 U.S.M.C. 112 (1949) (public hearings before examiner for proceeding under section 4 of the Administrative Procedure Act); Report of the Board on Motion to Dismiss: *Carrier-Imposed Time Limits on Presentation of Claims for Freight Adjustments*, 4 F.M.B. 29 (1952) (public hearings before an examiner for proceeding under section 4 of the Administrative Procedure Act).

⁵ *Pac. Coast Eur. Conf. v. United States*, 350 F.2d 197, 205 (9th Cir. 1965).

members of the public more equal access to the rulemaking proceeding.

C. *Ex Parte Communications in Informal Rulemaking*

In adjudicatory contexts, “*ex parte* communication” mean a communication “[o]n or from one party only, usually without notice to or argument from the adverse party,” Black’s Law Dictionary (12th ed. 2019). In a rulemaking context, an *ex parte* communication is a “[w]ritten or oral communication [] regarding the substance of an anticipated or ongoing rulemaking between . . . agency personnel and interested persons; and that are not placed in the rulemaking docket at the time they occur.”⁶

The Commission’s current regulations generally prohibit most informal communications between the Commission and interested persons concerning all FMC proceedings. Section 4 of the Government in the Sunshine Act, Public Law 94–409 (Sept. 13, 1976) expanded upon the original *ex parte* requirements located in section 5 of the Administrative Procedure Act by establishing specific prohibitions against interested persons outside the agency as well as agency members, administrative law judges, and employees involved in the decision process from engaging in *ex parte* communications. In the agency’s implementing regulations the Commission determined that the prohibition on *ex parte* communications should apply to informal rulemaking proceedings.⁷ That policy was supported by several contemporaneous court decisions which expressed the view that *ex parte* communications in informal rulemaking proceedings were inherently suspect.⁸ Accordingly, it has

long been the agency’s practice to prohibit meetings with individual stakeholders on issues that are the topic of pending informal rulemaking proceedings.⁹ In 1981, however, in *Sierra Club v. Costle*, 657 F.2d 298 (D.C. Cir. 1981), the U.S. Court of Appeals for the District of Columbia Circuit significantly clarified and liberalized treatment of this issue. In that case, the court considered the “timing, source, mode, content, and the extent of . . . disclosure” of numerous written and oral *ex parte* communications received after the close of the comment period to determine whether those communications violated the governing statute or due process. *Id.* at 391. The court held that, because the agency docketed most of the *ex parte* communications and none of the comments were docketed “so late as to preclude any effective public comment,” the agency satisfied its statutory requirements. *Id.* at 398. The court also declined to prohibit *ex parte* communications in informal rulemakings on constitutional due process grounds, and even held that not all *ex parte* communications must necessarily be docketed (implicitly concluding that whether such communications require docketing depends on case-specific circumstances). *Id.* at 402–04. Today, *Sierra Club* is considered the most definitive opinion on *ex parte* communications in informal rulemakings and is often cited by courts for the proposition that *ex parte* communications in informal agency rulemaking are generally permissible.¹⁰

review); *Sangamon Valley Television Corp. v. United States*, 269 F.2d 221, 224 (D.C. Cir. 1959) (finding that undisclosed *ex parte* communications between agency Commissioners and a stakeholder were unlawful because the informal rulemaking involved “resolution of conflicting private claims to a valuable privilege, and that basic fairness requires such a proceeding to be carried on in the open”).

⁹ See, e.g., *Action for Children’s Television v. Fed. Commc’ns Comm’n*, 564 F.2d 458 (D.C. Cir. 1977) (upholding the agency’s decision not to issue proposed rules and finding no APA violation for *ex parte* discussions where the agency provided a meaningful opportunity for public participation and the proceeding did not involve competing claims for a valuable privilege).

¹⁰ See, e.g., *Tex. Office of Pub. Util. Counsel v. Fed. Commc’ns Comm’n*, 265 F.3d 313, 327 (5th Cir. 2001) (“Generally, *ex parte* contact is not shunned in the administrative agency arena as it is in the judicial context. In fact, agency action often demands it.”); *Ammex, Inc. v. United States*, 23 Ct. Int’l Trade 549, 569 n.16 (1999) (noting that the decision at issue “constitutes an exercise of ‘informal’ rulemaking under the [APA] and, as such, is not subject to the prohibition on *ex parte* communications set forth in 5 U.S.C. 557(d)(1) (1994)”; *Portland Audubon Soc. v. Endangered Species Comm.*, 984 F.2d 1534, 1545–46 (9th Cir. 1993) (“The decision in [*Sierra Club*] that the contacts were not impermissible was based explicitly on the fact that the proceeding involved

More recently, in 2014, the Administrative Conference of the United States (ACUS), the body charged by Congress with recommending agency best practices, provided guidance to agencies indicating that a general prohibition on *ex parte* communications in informal rulemaking proceedings is neither required nor advisable. *Ex Parte Commc’ns in Informal Rulemaking Proceedings* (2014 ACUS Recommendation), 79 FR 35988, 35994 (June 25, 2014). ACUS concluded that *ex parte* communications in informal rulemaking proceedings “convey a variety of benefits to both agencies and the public,” although it acknowledged that fairness issues can arise if certain groups have, or are perceived to have, “greater access to agency personnel than others.” *Id.* However, in balancing these competing considerations, ACUS urged agencies to consider placing few, if any, restrictions on *ex parte* communications that occur *before* an NPRM is issued because communications at this early stage are less likely to cause harm and more likely to “help an agency gather essential information, craft better regulatory proposals, and promote consensus building among interested persons.” *Id.* ACUS further recommended that agencies establish clear procedures ensuring that all *ex parte* communications occurring *after* an NPRM is issued, whether planned or unplanned, be disclosed.

Based on the developments in case law related to *ex parte* communications and the Commission’s own experiences in proceedings, the Commission has determined that it is appropriate to revisit the agency’s strict prohibition on *ex parte* communications in informal rulemaking proceedings.

D. *Rules of Particular Applicability*

The APA distinguishes between rules of “general applicability” and rules of “particular applicability.” See 5 U.S.C. 551(4). Rules of particular applicability are rules that only impact the pre-existing legal rights or obligations of persons identified in the rule. A rule of general applicability, by contrast, impacts the legal rights or obligations of anyone within the agency’s jurisdiction engaging in activities covered within the scope of the rule. Unlike rules of general applicability, the APA does not require rules of particular applicability to be published in the **Federal Register**.

was informal rulemaking to which the APA restrictions on *ex parte* communications are not applicable.”).

⁶ 79 FR 35988, 35993 (June 25, 2014) (reflecting the Administrative Conference of the United States Recommendation 2014–4).

⁷ *Extraneous and Ex Parte Communications*, 42 FR 14110 (March 15, 1977). (A commenter on the notice of proposed rulemaking (NPRM) suggested that the agency’s rule should make clear that the *ex parte* requirements were not applicable to informal rulemaking. The Commission flatly rejected this suggestion, stating: “The proposed limitation is too narrow and could permit *ex parte* activity in proceedings intended [by the Government in the Sunshine Act] to be covered.”).

⁸ See, e.g., *Home Box Office v. Fed. Commc’ns Comm’n*, 567 F.2d 9, 51–59 (D.C. Cir. 1977) (finding that *ex parte* communications that occurred after the NPRM violated the due process rights of the parties who were not privy to the communications because the written administrative record would not reflect the possible “undue influence” exerted by those stakeholders who had engaged in *ex parte* communications); *Nat’l Small Shipments Traffic Conference v. ICC*, 590 F.2d 345, 351 (D.C. Cir. 1978) (finding *ex parte* communications “violate[d] the basic fairness of a hearing which ostensibly assures the public a right to participate in agency decision making,” foreclosing effective judicial

E. Petitions for Rulemaking

Under the APA, federal agencies are required to “give . . . interested person[s] the right to petition for the issuance, amendment, or repeal of a rule,” 5 U.S.C. 553(e). An agency is not required to grant a petition for rulemaking.¹¹ The APA generally does not establish procedures agencies must observe in connection with petitions for rulemaking. It does, however, require agencies to respond to petitions for rulemaking “within a reasonable time,” *id.* at 555(b), and to give petitioners “prompt notice” when a petition is denied in whole or in part, along with “a brief statement of the grounds for denial,” *id.* at 555(e). Agency denial of a rulemaking petition is subject to judicial review under an extremely deferential version of the arbitrariness and capriciousness standard.¹²

F. eRulemaking

In October 2002, the eRulemaking Program was established as a cross-agency E-Gov initiative under section 206 of the 2002 E-Government Act (Pub. L. 107–347). The General Services Administration (GSA) manages the eRulemaking Program and is responsible for the development and implementation of *Regulations.gov* (the public-access side) and the Federal Docket Management System (FDMS) (the agency-access side). The Commission began using FDMS for its rulemaking program in 2022. While the FMC had previously made rulemaking materials available online to the public through the Commission’s Electronic Reading room on *FMC.gov*, by using *Regulations.gov* the public can comment on rulemakings directly through the system rather than having to email comments to the FMC Secretary. In addition to the benefit to the public, FDMS provides significant benefits to the agency such as adding and managing dockets electronically and running deduplication to identify near-duplicate comments and mass mail campaigns. The FMC’s rulemaking regulations, however, have not been updated to reflect this procedural advancement.

¹¹ *WWHT, Inc. v. F.C.C.*, 656 F.2d 807, 813 (D.C. Cir. 1981) (“[a]lthough the legislative history accompanying section 4(d) makes it plain that an agency must receive and respond to petitions for rulemaking, it is equally clear from the legislative history that Congress did not intend to compel an agency to undertake rulemaking merely because a petition has been filed”).

¹² *Massachusetts v. E.P.A.*, 549 U.S. 497, 527–28 (2007) (removing doubt over the reviewability of denials of petitions for rulemaking; stating that “[r]efusals to promulgate rules are thus susceptible to judicial review, though such review is ‘extremely limited’ and ‘highly deferential’”).

G. Centralized Regulatory Review

Executive Order (E.O.) 12866 (Regulatory Planning and Review), issued in 1993, requires “significant regulatory actions” to be submitted for review to the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget (OMB). 58 FR 51735, Oct. 4, 1993. A “significant regulatory action,” as defined by the Executive Order, is generally any regulatory action that is likely to result in a rule that may:

- Have an annual effect on the economy of \$100 million or more; or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, territorial, or Tribal governments or communities;
- Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;
- Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or
- Raise novel legal or policy issues arising out of legal mandates, the President’s priorities, or the principles set forth in Executive Order 12866.

Executive Order 14215, *Ensuring Accountability for All Agencies*, recently amended Executive Order 12866 to make its centralized regulatory review requirements applicable to the FMC and most other similarly-structured agencies. 90 FR 10447 (Feb. 18, 2025). The FMC’s current prohibition on *ex parte* communications at 46 CFR 502.11, which applies to communications between federal agencies in informal rulemakings, is in direct conflict with this mandate.

III. Summary of Proposed Changes

A. Consolidation of Procedures for Petitions for Rulemaking and Informal Rulemaking Into Subpart D

While most FMC rulemaking procedures are currently located within subpart D, there are additional applicable procedural requirements, such as *ex parte* communication requirements, scattered throughout part 502. The FMC is proposing to consolidate petition for rulemaking and informal rulemaking procedures into subpart D. The one exception would be that alternative dispute resolution provisions in subpart U would not be transferred and would remain applicable to informal rulemaking proceedings. Consolidation would result in minor instances of duplication of regulatory text but would make it much easier for readers to locate requirements

for petitions for rulemaking and informal rulemaking proceedings. This can be particularly useful for individuals who do not routinely engage in these types of proceedings. The proposed changes also reflect the fact that informal rulemaking proceedings are fundamentally different than adjudicatory proceedings, which is the primary focus of most of part 502.¹³ Most importantly, the Administrative Procedure Act does not require formal, trial-like proceedings for petitions for rulemaking or informal rulemaking.

The FMC does not engage in formal rulemaking as it is not required by any of the statutory provisions that authorize Commission rulemaking.¹⁴ Although not currently in use, the Commission would retain formal rulemaking procedures in the FMC’s regulations in the event that any future FMC rulemaking is required to be conducted “on the record after opportunity for an agency hearing.” Current procedures would remain in their current form and location within part 502 outside of subpart D but would be revised as necessary to reflect that their application is limited to formal rulemakings conducted under sections 7 and 8 of the Administrative Procedure Act. The FMC is accordingly proposing to revise § 502.1 (*Scope of rules in this part*), § 502.14 (*Public hearings*), paragraphs (a) and (b) of § 502.61 (*Proceedings*), and § 502.115 (*Service in rulemaking and petition proceedings*).

Relevant language from § 502.14 and § 502.61(a) would be incorporated into subpart D. Consistent with current agency practice, the FMC would not incorporate the requirement of § 502.61(d) that requires the Commission to establish dates by which the initial and final decisions will be issued in an order instituting a proceeding. It is impracticable to establish dates by which a final rule will be issued in a notice of proposed rulemaking in informal rulemaking and is not required by the Administrative Procedure Act. The Commission’s best estimates for timeframes in rulemaking activities are announced to the public in

¹³ E.g., *Carrier-Imposed Time Limits for Freight Adjustments*, 4 F.M.B. at 35 (“We consider that rule making under section 204(b) of the 1936 Act and within the framework of the Administrative Procedure Act as here proposed is something different from investigation of actual or suspected violations of the 1916 Act pursuant to section 22 thereof.”)

¹⁴ See *United States v. Florida East Coast Railway*, 410 U.S. 224 (1973); see also *Pacific Coast European Conference v. FMC*, 350 F.2d 197, 205 (9th Cir. 1965) (sections 7 and 8 of the Administrative Procedure Act were inapplicable to hearings required by section 14b of the Shipping Act as the statute did not require a hearing “on the record”).

the Fall and Spring Unified Agenda. In accordance with the Administrative Procedure Act, within a reasonable time of filing, the Commission makes a final determination and promptly notifies the petitioner of the final action taken by the Commission.

Section 502.1 would also be revised to reflect potential application of additional subparts to formal rulemaking. This regulation has not been kept up-to-date as various subparts have been added to part 502.

B. Allowance of Ex Parte Communications in Informal Rulemakings

For the reasons discussed earlier in the document, the proposed revisions to § 502.1 would make the *ex parte* communication requirements of § 502.11 inapplicable to informal rulemaking. Consistent with applicable caselaw and ACUS's recommendation, the FMC is proposing to remove limitations on *ex parte* communications in informal rulemakings prior to a notice of proposed rulemaking. Communications, or a summary of those communications in the case of oral communications, received by the agency after the close of the public comment period would be required to be promptly placed into the docket and be made available to the public.

The Commission is proposing an additional change to the current *ex parte* regulation at § 502.11. Paragraph (a) directs readers to see the definition of "proceeding" at § 502.61. Section 502.61, however, does not define the term "proceeding". Rather, § 502.61 describes how a proceeding is commenced at the Commission. The FMC is proposing to remove this cross-reference. In its place, the Commission is proposing to insert at the end of § 502.1 a cross-reference to the Administrative Procedure Act's definitional section, 5 U.S.C. 551, which includes a definition of "agency proceeding" at 5 U.S.C. 551(12). The Commission believes it is important to specifically cite this definition in the regulatory text at the front of the part as the Commission is aware that from time to time persons have expressed the misconception that rulemaking is not a "proceeding" for purposes of part 502. Consistent with longstanding practice, the revised regulation would also identify non-adjudicatory investigations as "proceedings."

C. Rules of Particular Applicability

The Commission is proposing to remove the requirement that, in the event that replies or succeeding rounds of comments are permitted in either an

informal rulemaking of particular applicability or a petition for the amendment or repeal of a rule of particular applicability, the commenter must serve copies of their comment on all prior participants in the proceeding. Such service is not required under the APA. This is a pre-internet procedure from a time when the only option other than direct service was physically coming into the agency's reading room in Washington, D.C., to review supporting documents not published in the **Federal Register**. All comments to proposed rulemakings, replies to public comments (when permitted by the agency), and petitions (when public comments are solicited) are now posted to the applicable docket at *Regulations.gov* and are available for inspection by the person(s) named in the rule as well as the general public.

D. Petitions for Rulemaking

In conjunction with the consolidation of requirements into subpart D, the Commission is proposing to make certain substantive revisions to procedures for petitions for rulemaking.

As a matter of law, any change to the effective date of a rule is itself an action that is required to go through the Administrative Procedure Act's rulemaking process.¹⁵ To alert those seeking a modification to an effective date of a rulemaking action of this requirement, the Commission is proposing to revise its subpart D to clearly state that any request for a modification to the effective date of a final rule must be made through a petition for rulemaking.

Rulemaking petitions would no longer be required to be verified. Verification of petitions for rulemaking is not required by the Administrative Procedure Act and is unnecessary. The purpose of verification is to ensure that the information stated in such verified document is true and correct and makes sense for adjudicatory proceedings. However, in rulemaking "[t]ypically, the issues relate not to the evidentiary facts, as to which the veracity . . . would often be important, but rather to the policy-making conclusions to be drawn from the facts."¹⁶ As is general practice across the Government, the Commission

does not require verification of public comments submitted on rulemakings and petitions for rulemaking. There is no need for a higher standard for the rulemaking petition. In addition: (1) verification of any statements concerning legal authority for an existing rule, or for new rulemaking, must be undertaken independently by the agency regardless of whether a petition for rulemaking is verified; and (2) statements of facts asserted in the rulemaking petition, if necessary, can be verified through agency fact-gathering, including through the solicitation of public comments on the petition, and further verified, if necessary, in the rulemaking itself if the petition is granted. While the burdens imposed by § 502.6 are minimal, they could potentially dissuade someone from filing a petition for rulemaking. Documents, exhibits, or other papers or written materials written in a language other than English would still be required to be accompanied by an English translation thereof, duly verified under oath to be an accurate translation.

The Commission is proposing to remove the requirement that a petition for rulemaking for the amendment or repeal of a rule of particular applicability must be accompanied by proof of service on all persons subject to the requirements of the rule. Such service is not required by the APA, and a petition for rulemaking, if granted, does not affect the legal rights or obligations of the named party/parties—only the proceeding rulemaking, if finalized, has the potential to do that. The Commission may seek information from the party/parties subject to the rule of particular applicability during consideration of the petition if the Commission believes it would aid in the Commission's determination to accept or deny the petition for rulemaking.

The Commission is proposing to expand upon the previous requirement that the petition show the "nature of the relief desired" and require that the petition set forth the text or the substance of the proposed rule or amendment of the proposed rule. Draft regulatory text can be indispensable to understanding and evaluating a petition. For this reason, the Commission considered requiring proposed regulatory text for all petitions. Ultimately, however, this idea was rejected for two reasons. First, doing so might be a barrier to a less sophisticated participant in the rulemaking process. Second, in some situations it might be unnecessarily cumbersome.

The Commission is also proposing to prohibit the filing of confidential information in a petition for rulemaking.

¹⁵ See, e.g., *Clean Air Council v. Pruitt*, 862 F.3d 1 (D.C. Cir. 2017) ("EPA's stay, in other words, is essentially an order delaying the rule's effective date, and this court has held that such orders are tantamount to amending or revoking a rule."); see also *FCC v. Fox Television Stations, Inc.*, 556 U.S. 502 (2009) ("The [APA] makes no distinction, however, between initial agency action and subsequent agency action undoing or revising that action.").

¹⁶ *American Airlines, Inc. v. C.A.B.*, 359 F.2d 624, 630 (D.C. Cir. 1966).

We are not aware of any recent incidents where this has been an issue. The proposal is based on purely policy concerns. Confidential filings at this stage have the potential to stifle public participation in the process.

Finally, the Commission is proposing to eliminate filing fees for rulemaking petitions. The Commission attempted to eliminate these fees in 2016 while updating various other user fees. 81 FR 59141 (Aug. 29, 2016). The Commission stated in the 2016 rule that it was eliminating rulemaking petition filing fees to align with the practice of other agencies and to enhance access to the rulemaking process by making it fairer and more open. Unfortunately, to effectuate this change the Commission inadvertently only amended the regulatory text at 46 CFR 502.51(a), which pertained to the required filing fee for rulemaking petitions. Because the Commission did not make a corresponding change to 46 CFR 502.94, the regulation which establishes fees for petitions in the absence of more particular language in other portions of part 502, persons filing rulemaking petitions inadvertently became subject to the fee provisions of § 502.94(a). The Commission continues to believe that these fees should be eliminated for the same reason it stated in 2016. No change is required to § 502.94 as part of this rulemaking because the proposed changes to § 502.1 make § 502.94 inapplicable to subpart D.

E. e-Rulemaking and Public Commenting Procedures

The proposed revised regulations would codify that public dockets for petitions for rulemaking and informal rulemaking proceedings are now posted at *Regulations.gov*. Rulemaking dockets would no longer be posted to Proceedings on *FMC.gov*. Copies of proposed and final rules and regulations of the Commission would continue to be available without the requirement of a FOIA request by contacting the Office of the Secretary, Federal Maritime Commission in accordance with § 503.22.

Because public comments on rulemaking proceedings are available to the public at any time on *Regulations.gov*, the Commission is proposing to remove the requirements that copies of comments must be served on all prior participants in rulemaking proceedings in instances where replies or succeeding rounds of public comment are permitted (§ 502.57; see also § 502.53(a)). Corresponding proposed edits are being made in § 502.115. This is not a requirement of the APA and is a hold-over from when

members of the public needed to visit the agency's physical reading room to review comments. Service of comments on prior rulemaking participants would still be required under § 502.115 for formal rulemaking proceedings.

The current regulatory text of § 502.53(b) would not be incorporated into the revised regulations in subpart D. Not only is the cross-reference it contains to a regulation that no longer exists, but petitions to intervene are inherently inapplicable to informal rulemaking, regardless of whether they are rules of general or particular applicability. Paragraph (a) of § 502.68 would be revised to include a statement that in formal rulemaking proceedings involving rules of particular applicability, interested persons who wish to participate must file a motion to intervene.

The proposed regulations state that late comments would only be considered to the extent practicable. While the Commission is proposing to revise its *ex parte* policies to allow for communications following the close of a comment period, they are still generally disfavored in most instances. Typically, late-filed comments merely re-state issues that have been raised by previous commenters. A late-filed comment raising significant new issues runs the risk of causing significant delays in the rulemaking process and the further that the agency is in the drafting and review process, the more difficult it is to incorporate such comments. Agencies are required to conduct a variety of in-depth analysis for which the data inputs need to have a cut-off point if the project is ever to be finalized. The agency recognizes, however, that sometimes there are significant circumstances beyond a commenter's control that lead to missing a comment deadline.

F. Miscellaneous Changes

The Commission is proposing to eliminate the parenthetical rule identification number at the end of affected paragraphs where they appear (for example “[Rule 11]”). The CFR citation is sufficient to identify these requirements and retaining them imposes significant difficulty when updating and reorganizing regulations within part 502. This information will be removed from the other parts of 502 in future rulemakings as changes are made to the relevant sections.

IV. Public Participation and Requests for Comments

The FMC invites public comment on all aspects of this proposed rule, including the regulatory text and the

preliminary regulatory analyses. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data.

Please note that all comments received are considered part of the public record and will be made available for public inspection at <https://www.regulations.gov>. Such information includes personally identifiable information (“PII”) (such as your name and address). Any PII that is submitted is subject to being posted to the publicly accessible <https://www.regulations.gov> site without redaction. The Commission will not accept anonymous comments on this action.

The Commission may withhold from public viewing information provided in comments that it determines may impact the privacy of an individual, is offensive, or raises copyright or other legal concerns. For additional information, please read the Privacy Act notice that is available via the link in the footer of <https://www.regulations.gov>.

How do I submit confidential business information?

The Commission will provide confidential treatment for identified confidential information to the extent allowed by law. If you would like to request confidential treatment, pursuant to 46 CFR 502.5, you must submit the following, by email, to secretary@fmc.gov:

- A transmittal letter that identifies the specific information in the comments for which protection is sought and demonstrates that the information is a trade secret or other confidential research, development, or commercial information.
- A confidential copy of your comments, consisting of the complete filing with a cover page marked “Confidential-Restricted,” and the confidential material clearly marked on each page.
- A public version of your comments with the confidential information excluded. The public version must state “Public Version—confidential materials excluded” on the cover page and on each affected page and must clearly indicate any information withheld.

V. Rulemaking Analysis

Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory

approaches that maximize net benefits. This NPRM has been designated a “significant regulatory action” under section 3(f) of Executive Order 12866. Accordingly, OMB has reviewed this regulation.

Executive Order 14192

This action is not an “E.O. 14192 regulatory action” as defined under E.O. 14192.

Impact on Small Entities

When an agency issues a rulemaking proposal, the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612) requires the agency to prepare and make available for public comment an initial regulatory flexibility analysis” which will “describe the impact of the proposed rule on small entities.” Section 605 of the RFA allows an agency to certify a rule, in lieu of preparing an analysis, if the proposed rulemaking is not expected to have a significant economic impact on a substantial number of small entities.

This proposed rule impacts all persons subject to the FMC’s jurisdiction. The Commission presumes all Vessel Operating Common Carriers (VOCCs), Passenger Vessel Operators (PVOs), and Marine Terminal Operators (MTOs) to be large business entities. These organizations are generally very large companies with more than 500 employees and millions of dollars in revenues. The FMC presumes that all Ocean Transportation Intermediaries (OTIs) and Non-Vessel-Operating Common Carriers (NVOCCs) are small entities.

This proposed rulemaking would not impose a significant impact (positive or negative) on these small entities. The changes proposed relieve unnecessary regulatory burdens imposed by the current regulations and make it easier for interested parties to locate and understand the agency’s procedural requirements related to rulemaking and rulemaking petitions. These are very important benefits—especially for entities that do not regularly participate in the rulemaking process. The substance of the requirements would remain mostly the same; as a result, these changes are not expected to result in significant time or monetary savings for the public.

If you think that your business or organization qualifies as a small entity and that this proposed rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it. Under section 213(a) of the Small

Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule. If the proposed rule would affect your small business or organization and you have questions concerning its provisions or options for compliance, please call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

Paperwork Reduction Act

This amendment does not contain any collection of information requirements as defined by the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). See 5 CFR 1320.3(c).

Executive Order 12988 (Civil Justice Reform)

This rule meets the applicable standards in Executive Order 12988 (Civil Justice Reform) to minimize litigation, eliminate ambiguity, and reduce burden.

National Environmental Policy Act

This rulemaking is exempt from additional environmental review under 46 CFR 504.4(a)(4). The rule consists solely of the promulgation of procedural rules pursuant to 46 CFR part 502.

List of Subjects 46 CFR Part 502

Administrative practice and procedure, Claims, Equal access to justice, Investigations, Lawyers, Maritime carriers, Penalties, Reporting and recordkeeping requirements.

For the reasons set out above, the Federal Maritime Commission proposes to amend 46 CFR part 502 as follows:

PART 502—RULES OF PRACTICE AND PROCEDURE

- 1. The authority citation for part 502 continues to read as follows:

Authority: 5 U.S.C. 504, 551, 552, 553, 556(c), 559, 561–569, 571–584; 591–596; 18 U.S.C. 207; 28 U.S.C. 2112(a); 31 U.S.C. 9701; 46 U.S.C. 40103–40104, 40304, 40306, 40501–40503, 40701–40706, 41101–41109, 41301–41309, 44101–44106, 46105; 5 CFR part 2635.

- 2. Revise § 502.1 to read as follows:

§ 502.1 Scope of rules in this part.

(a) The rules in this part govern procedure before the Federal Maritime Commission, hereinafter referred to as the “Commission,” under 46 U.S.C. subtitle IV, the Administrative Procedure Act, and related acts. They shall be construed to secure the just, speedy, and inexpensive determination of every proceeding. To this end, all persons involved in proceedings conducted under the rules of this part

shall be required to consider at an early stage of the proceeding whether resort to alternative dispute resolution techniques would be appropriate or useful.

(b) Informal rulemaking proceedings conducted under section 4 of the Administrative Procedure Act (5 U.S.C. 553), including petitions for rulemaking, are governed only by subparts D (Rulemaking) and U (Alternative Dispute Resolution) of this part. Where rulemaking is required by statute to be made on the record after opportunity for a hearing, such hearing shall be conducted in accordance with 5 U.S.C. 556 and 557, and the procedure shall be governed by subparts G–J, L, N, and U of this part as the Commission determines applicable (Time, Service of Documents, Subpoenas, Disclosures and Discovery), (Presentation of Evidence) (Oral Argument; Submission for Final Decision) (Alternative Dispute Resolution).

(c) Subparts R (Nonadjudicatory Investigations) and S (Informal Procedure for Adjudication of Small Claims) of this part do not apply to proceedings under section 7 or 8 of the Administrative Procedure Act.

(d) The definitions in 5 U.S.C. 551 are applicable to this part. As used in this part, *proceeding* means an *agency proceeding* as defined at 5 U.S.C. 551(12) or a nonadjudicatory investigation.

- 3. Amend § 502.11 by:

- a. Removing the words “as defined in § 502.61” in paragraph (a); and
- b. Removing the words “[Rule 11.]” in paragraph (g).

- 4. Revise § 502.14 to read as follows:

§ 502.14 Public hearings.

The Commission may call informal public hearings not required by statute to be made on the record to obtain information necessary or helpful in the determination of its policies or the carrying out of its duties. The Commission may require the attendance of witnesses and the production of evidence to the extent permitted by law. Informal public hearings will be conducted under the rules in this part where applicable.

- 5. Revise subpart D to read as follows:

Subpart D—Rulemaking

Sec.

502.51a Commencement of rulemaking proceedings.

502.51b Petition for issuance, amendment, or repeal of a rule.

502.52a Notice of proposed rulemaking.

502.52b Public docket.

502.53a Where and when to file comments.

502.53b Ex parte communications.

- 502.54a Informal public hearings.
- 502.54b Negotiated rulemaking.
- 502.55a Contents of rules.
- 502.55b Authentication of rulemakings.
- 502.56a Rules of particular applicability—
compliance with rules of the
Commission.
- 502.56b Suspension, amendment, etc. of
rules.
- 502.57a Waiver of the rules

§ 502.51a Commencement of rulemaking proceedings.

Rulemaking proceedings are commenced by the Commission, either on its own motion or on the basis of a petition for rulemaking.

§ 502.51b Petition for issuance, amendment, or repeal of a rule.

(a) *Who may petition.* Any interested person may petition the Commission for the issuance, amendment, or repeal of a rule. A request to modify the effective date of a final rule must be made through a petition for rulemaking.

(b) *Format of petition.* A petition for rulemaking must be in writing and clearly indicate that it is a petition for rulemaking. In addition, the petition must include a statement setting forth the text or the substance of any proposed rule or amendment desired or specifying the rule the repeal of which is desired, and stating the nature of his or her interest and his or her reasons for seeking the issuance, amendment or repeal of the rule. Petitioners are encouraged to include in their submission any data, studies, or reports that support their petition. Any document, exhibit or other paper written in a language other than English must be accompanied by an English translation thereof, duly verified under oath to be an accurate translation. Petitioners may not include confidential information in a petition for rulemaking.

(c) *How to file.* A petition shall be electronically filed with the Secretary, Federal Maritime Commission, by emailing the petition to secretary@fmc.gov (preferred method), or by mailing an original hard copy to “Secretary, Federal Maritime Commission, 800 N Capitol Street NW, Washington, DC 20573–0001.” The Secretary shall acknowledge, in writing, receipt of a complete petition and refer it to the appropriate persons within the agency. Petitions and related documents shall not be filed with or separately submitted to the offices of individual Commissioners, or any other employee or office of the agency. The agency may reject and return an incomplete petition.

(d) *Docketing.* A petition for rulemaking becomes a proceeding when the Commission assigns a formal docket number to the petition. A copy of the

docketed petition for rulemaking will be posted on the FMC’s website and on the Federal rulemaking website at: <https://www.regulations.gov>. The Commission will publish a notice of docketing in the **Federal Register** informing the public that the Commission is reviewing the merits of the petition for rulemaking. The notice of docketing will include the docket number and explain how the public may track the status of the petition for rulemaking.

(e) *Public engagement.* Public engagement is not required prior to the Commission’s disposition of a petition for rulemaking. The Commission may solicit public comment or engage in other forms of public engagement if it believes that such action(s) will aid in the Commission’s determination of whether to accept or deny the petition.

(f) *Agency response.* Within a reasonable time of filing the Commission will make a final determination and promptly notify the petitioner of the final action taken by the Commission. If the Commission finds that the petition contains adequate justification, a rulemaking proceeding will be initiated. If the Commission finds that the petition does not contain adequate justification, the petition will be denied by letter or other notice, with a brief statement of the ground for denial. The Commission may consider new evidence at any time; however, repetitious petitions for rulemaking will not be considered.

(g) *Associated rulemaking.* Unless a rule is required by statute to be made on the record after opportunity for agency hearing, if the Commission decides to grant a rulemaking petition, such rulemaking will be conducted under the notice-and-comment rulemaking procedures of 5 U.S.C. 553.

§ 502.52a Notice of proposed rulemaking.

Except where otherwise required by law or when the Commission finds that notice and public procedure are impracticable, unnecessary, or contrary to the public interest, whenever the Commission proposes to issue, amend, or repeal any rule of general application other than an interpretive rule; general statement of policy; or rule of agency organization, procedure, or practice; or any matter relating to agency management or personnel, the agency shall first publish in the **Federal Register** a notice of the proposed rulemaking in accordance with 5 U.S.C. 553(b).

§ 502.52b Public docket.

(a) The Commission maintains an electronic public docket for each rulemaking and each petition for

rulemaking. Public dockets for petitions for rulemaking and informal rulemaking proceedings are available at <https://www.regulations.gov>.

(b) Each docket contains copies of every document published for the project, public comments received, summaries of public meetings or hearings, regulatory assessments, and other publicly-available information. The Commission may post only a single representative example of identical comments in the public docket, or break-out and post only the non-identical content.

§ 502.53a Where and when to file comments.

(a) *Where to file.* File comments in accordance with the directions provided in the applicable **Federal Register** notice. No replies to written submissions will be allowed unless, because of the nature of the proceeding, the Commission indicates that replies would be necessary or desirable for the formulation of a just and reasonable rule. The comment process is not a vote. The Commission attempts to formulate the best policy, which is not necessarily the most popular policy. Therefore, the most effective comments explain the commenter’s reasons for their position on each piece of a rulemaking action and provide supporting evidence.

(b) *When to file.* Comments should reach the Commission by the deadline set out in the rulemaking document on which you are commenting. The Commission is not required to consider comments filed after the deadline and will only consider such comments to the extent practicable.

(c) *Nonconforming comments.* The Commission may reject comments, or portions of comments, that are not filed in conformance with the instructions provided in the applicable **Federal Register** notice.

(d) *Confidential information.* You may not submit information whose disclosure is restricted by statute, such as trade secrets and commercial or financial information (hereinafter referred to as Confidential Business Information “CBI”) to *Regulations.gov*. Comments submitted through *Regulations.gov* cannot be claimed as CBI. Comments received through the website will waive any CBI claims for the information submitted. To file a comment containing confidential information, email the Secretary of the Commission, secretary@fmc.gov, a public version and a confidential version of comment. The confidential version must include a cover page marked “Confidential-Restricted,” and the specific confidential information

must be conspicuously and clearly marked on each page. If confidentiality will end as of a date certain or upon the occurrence of an event, this must be stated on the cover page.

(e) *False statements.*

(1) It is a violation of federal law to knowingly and willfully make a materially false, fictitious, or fraudulent statement or representation including false statements about your identity or your authority to submit a comment on someone else's behalf, in relation to the development of such federal regulations, including through comments submitted on *Regulations.gov* (see 18 U.S.C. 1001). By clicking the submit button on *Regulations.gov* or by hitting "send" when emailing the Commission, you are verifying that you are not making any materially false, fictitious, or fraudulent statement or representation regarding your identity or your authority to submit on someone else's behalf with regard to the comment you are submitting, and that you are not using, without lawful authority, a means of identification of another person, real or fictitious, in connection with any comment you are submitting.

(2) Individuals whose names or identifying information have been attached to comments they did not submit may email the Secretary, Federal Maritime Commission to request that the comment be anonymized or removed from the online rulemaking docket.

§ 502.53b Ex parte communications.

(a) *Definition.* For purposes of this section, *ex parte* communication means a written or oral communication, outside of written comments submitted to the public docket during the comment period, regarding the merits or substance of a rulemaking between a Commissioner or employee of the Federal Maritime Commission and a member of the public after the Commission's issuance of a notice of proposed rulemaking or interim final rule.

(b) *Policy.* *Ex parte* communications occurring in informal rulemaking proceedings are not prohibited, but do need to be disclosed.

(1) *Written ex parte communications.* The Commission shall promptly place in the rulemaking docket and make available for public inspection: the date and location of the communication; the names and titles of all persons who attended or otherwise participated in the meeting (including via phone or video); and, except as provided by paragraph (c) of this section, all written *ex parte* communications received after the close of the public comment period.

(2) *Oral ex parte communications.*

The Commission shall promptly place in the rulemaking docket, and make available for public inspection: the date and location of the communication; the names, titles, and contact information of all persons who attended or otherwise participated in the meeting (including via phone or video); and, except as provided by paragraph (c) of this section, a summary of all oral *ex parte* communications received after the close of the public comment period.

(c) *Confidentiality.* A member of the public engaging in *ex parte* communications must inform the Commission at the time of the *ex parte* communication of any information for which they are asserting confidentiality. If the presenter asserts confidentiality, the presenter must submit to the Commission within three business days of the communication both a public version and a confidential version of document (or summary memorandum in the case of oral *ex parte* communications). The confidential version must include a cover page marked "Confidential-Restricted," and the specific confidential information must be conspicuously and clearly marked on each page. If confidentiality will end as of a date certain or upon the occurrence of an event, this must be stated on the cover page.

502.54a Informal public hearings.

The Commission may call an informal public hearing for the purpose of rulemaking or a petition for rulemaking where such proceedings will aid in the Commission's final determination. Such hearings shall be in addition to any publication of notice of proposed rulemaking in the **Federal Register** required under section 4 of the Administrative Procedure Act (5 U.S.C. 553). The Commission may impose such procedural requirements on a hearing proceeding as it deems necessary for fairness and efficiency.

§ 502.54b Negotiated rulemaking.

The Commission, either upon petition of interested persons or upon its own motion, may establish a negotiated rulemaking committee to negotiate and develop consensus on a proposed rule, if, upon consideration of the criteria of 5 U.S.C. 563, use of such a committee is determined by the Commission to be in the public interest.

§ 502.55a Contents of rules.

The Commission will incorporate in any publication of proposed or final rules a concise and general statement of their basis and purpose.

§ 502.55b Authentication of rulemakings.

All rules issued by the Commission shall be signed by the Secretary, Federal Maritime Commission in the name of the Commission.

§ 502.56a Rules of particular applicability—compliance with rules of the Commission.

Person(s) subject to a rule of particular applicability (*i.e.*, named in the rule) shall notify the Commission during business hours on or before the day on which such rule becomes effective whether they have complied therewith, and if so, the manner in which compliance has been made.

§ 502.56b Suspension, amendment, etc. of rules.

To the extent allowable under law, the rules in this subpart may, from time to time, be suspended, amended, or revoked, in whole or in part. Notice of any such action will be published in the **Federal Register**.

§ 502.57a Waiver of the rules.

Except to the extent that such waiver would be inconsistent with any statute or other legal requirement, any of the rules in this subpart may be waived by the Commission to prevent undue hardship, manifest injustice, or if the expeditious conduct of business so requires.

■ 6. Amend § 502.61 by:

- a. Removing the words "for a rulemaking (Rule 51)," in paragraph (a);
- b. Inserting the word "formal" after "a proceeding for a" in paragraph (b); and
- c. Removing the words "[Rule 61.]" in paragraph (d).

■ 7. Amend § 502.68 by adding a sentence at the end of paragraph (a) to read as follows:

§ 502.68 Motion for leave to intervene.

(a) * * * In formal rulemaking proceedings in which respondents are named, interested persons who wish to participate must file a motion to intervene.

* * * * *

■ 8. Revise § 502.115 to read as follows:

§ 502.115 Service.

Service on all prior participants in a formal rulemaking proceeding must be shown when submitting comments or replies beyond the initial round, including those involving petitions for declaratory order, petitions general, proceedings under section 19 of the Merchant Marine Act, 1920 (46 U.S.C. 42101) (part 550), and proceedings under section 13(b)(6) of the Shipping Act of 1984 (46 U.S.C. 41108(d)) (part 560). A list of all participants may be

obtained from the Secretary, Federal
Maritime Commission.

By the Commission.

David Eng,

Secretary.

[FR Doc. 2026-09450 Filed 5-12-26; 8:45 am]

BILLING CODE 6730-02-P

Notices

Federal Register

Vol. 91, No. 92

Wednesday, May 13, 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

Agricultural Marketing Service

[Doc. No. AMS–SC–24–0079]

Revision of Seven U.S. Grade Standards for Canned Tomato Products

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final notice.

SUMMARY: The Agricultural Marketing Service (AMS) is revising seven U.S. grade standards for canned tomato products. AMS is updating the color sections in the grade standards, replacing the two-term grading system (dual-nomenclature) with a single term, and making editorial changes. AMS is also changing the spelling of “catsup” to the more commonly used term “ketchup.”

DATES: June 12, 2026.

FOR FURTHER INFORMATION CONTACT: Dana N. White, by phone at (202) 720–5021; fax at (540) 361–1199; or email to Dana.White@usda.gov. Copies of the current U.S. Standards for Grades of Tomato Ketchup, U.S. Standards for Grades of Tomato Sauce, U.S. Standards for Grades of Tomato Juice, U.S. Standards for Grades of Canned Tomato Paste, U.S. Standards for Grades of Canned Tomato Puree, U.S. Standards for Grades of Canned Tomatoes, and U.S. Standards for Grades of Concentrated Tomato Juice are available on the Specialty Crops Inspection

Division website at <https://www.ams.usda.gov/grades-standards/vegetables>.

SUPPLEMENTARY INFORMATION: Section 203(c) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1621–1627) as amended, directs and authorizes the Secretary of Agriculture “to develop and improve standards of quality, condition, quantity, grade, and packaging, and recommend and demonstrate such standards in order to encourage uniformity and consistency in commercial practices.”

AMS is committed to carrying out this authority in a manner that facilitates the marketing of agricultural commodities and makes copies of official standards available upon request. The U.S. Standards for Grades of Fruits and Vegetables that no longer appear in the Code of Federal Regulations are maintained by AMS at: <https://www.ams.usda.gov/grades-standards>. AMS is revising certain parts of these U.S. Standards for Grades using the procedures that appear in part 36 of title 7 of the Code of Federal Regulations (7 CFR part 36).

Background

AMS continually reviews all fruit and vegetable grade standards to ensure their usefulness to industry, modernize language, and remove duplicative terminology. AMS is revising seven grade standards: U.S. Standards for Grades of Tomato Catsup, U.S. Standards for Grades of Tomato Sauce, U.S. Standards for Grades of Tomato Juice, U.S. Standards for Grades of Canned Tomato Paste, U.S. Standards for Grades of Canned Tomato Puree, U.S. Standards for Grades of Canned Tomatoes, and U.S. Standards for Grades of Concentrated Tomato Juice. The color section of these grade standards references Munsell color discs that are no longer used to determine color. The color sections will be updated to remove specific references to the Munsell color discs and to instead

reference the USDA color chip information (A1, A2, C1, and C2) and use guidance. Color chip information is available on the Listing of Fresh and Processed Commodity Visual Aids on the AMS website at: <https://www.ams.usda.gov/grades-standards/how-purchase-equipment-and-visual-aids>. The color sections will note that the availability and procedure for using USDA color standards can be obtained by contacting USDA at the website above. AMS is also removing specific addresses for licensed suppliers of color standards. Contact information for current licensed suppliers is available in the Fresh and Processed Equipment Catalog at the website above.

More recently developed grade standards use a single term, such as “U.S. Grade A” or “U.S. Grade B,” to describe each level of quality within a grade standard. Older grade standards used dual nomenclature, such as “U.S. Grade A or U.S. Fancy,” “U.S. Grade B or U.S. Extra Standard,” and “U.S. Grade C or U.S. Standard,” to describe the same level of quality. The terms “U.S. Fancy,” “U.S. Extra Standard,” and “U.S. Standard” will be removed and the terms “U.S. Grade A,” “U.S. Grade B,” and “U.S. Grade C” will be used exclusively.

AMS is adding a table to section 52.5170 of the U.S. Standards for Grades of Canned Tomatoes named “Table II Low Individual Drained Weights for Canned Tomatoes and Stewed Tomatoes, All Grades, All Styles (ounces).” This table shows the individual drained weights allowed for each level of quality and container size.

Finally, AMS is making editorial changes, including inserting section headings and changing “catsup” to the more commonly used term “ketchup” to align with the Food and Drug Administration’s standard of identity and commercial practices.

The following table summarizes the revisions being made by AMS.

U.S. standards for grades of canned tomato products	Effective date	Color section revisions	Other revisions
Tomato Catsup	02/26/92	Remove text under section 52.2106, “Color,” pertaining to the use of the Munsell color discs. Add information about the USDA Color Standards for Tomato Products for determining color.	Add section headings from the previous version of the standards, which had been erroneously removed. Change “catsup” to “ketchup” throughout the standard.

U.S. standards for grades of canned tomato products	Effective date	Color section revisions	Other revisions
Tomato Sauce	11/17/94	Remove text under section 52.2372, "Color," pertaining to the use of the Munsell color discs. Add information about the USDA Color Standards for Tomato Products for determining color.	Add section headings from the previous version of the standards, which had been erroneously removed. Revise section 52.2371, "Product description," to highlight the refractive index criteria and include the low individual sample allowance. Revise table 1 of section 52.2375, column "U.S. Grade B" Reasonably Good Consistency to align with the definition, "3.0 to less than 4.0 or more than 12.0 but not more than 15.0."
Tomato Juice	07/22/85	Remove text under section 52.3622, "Definitions of terms," pertaining to the use of the Munsell color discs. Add information about the USDA Color Standards for Tomato Products for determining color. Remove Munsell address as a contact to order the tomato color standards.	Add section headings from the previous version of the standards, which had been erroneously removed.
Canned Tomato Paste.	09/19/77	Remove text under section 52.5048, "Color," pertaining to the use of the Munsell color discs. Add information about the USDA Color Standards for Tomato Products for determining color. Remove Munsell address as a contact to order the tomato color standards.	Add section headings from the previous version of the standards, which had been erroneously removed. Replace two-term grading language (dual nomenclature) with a single term to describe each quality level with the grade statements. For example, the term "U.S. Grade A or U.S. Fancy" would be revised to use the term "U.S. Grade A" under section 52.5044.
Canned Tomato Puree (Tomato Pulp).	05/01/78	Remove text under section 52.5088, "Color," pertaining to the use of the Munsell color discs. Add information about the USDA Color Standards for Tomato Products for determining color. Remove Munsell address as a contact to order the tomato color standards.	Add section headings from the previous version of the standards, which had been erroneously removed.
Canned Tomatoes	04/13/90	Remove text under section 52.5164, "Definitions of terms," pertaining to the use of the Munsell color discs. Add information about the USDA Color Standards for Canned Tomatoes for determining color.	Add section headings from the previous version of the standard, which had been erroneously removed. Revise section 52.5166, including changing the title from "Minimum drained weight averages" to "Drained weight" and reorganizing content into a better order. Reorganize section 52.5166 for clarity, including moving sections. Add a new table in section 52.5170 to show the low individual drained weights and re-number all subsequent tables.
Concentrated Tomato Juice.	02/25/70	Remove text under section 52.5205 pertaining to the use of the Munsell color discs. Add information about the USDA Color Standards for Tomato Products for determining color.	Add section headings from the previous version of the standards, which had been erroneously removed. Replace two-term grading language (dual nomenclature) with a single term to describe each quality level with the grade statements. For example, the term "U.S. Grade A or U.S. Fancy" would be revised to use the term "U.S. Grade A" under section 52.5202.

Comments

A 60-day period was provided for interested persons to submit comments on the proposed grade standards (90 FR 44360, September 15, 2025). In response to its request, AMS received two anonymous comments. All comments were posted on <http://www.regulations.gov>. One commenter offered support for changing the term "catsup" to "ketchup" as it "will allow the product to be more identifiable with the everyday consumer." The other commenter offered their support for updating "catsup" to "ketchup" stating

it "will improve consumer clarity." This commenter also offered support for removing dual nomenclature stating it "strengthens consistency within the entire food industry that follows USDA guidelines." While offering their support in the two aforementioned areas, the commenter questioned how these changes would: (1) "affect export or import requirements in terms of international standards already in place," and (2) "affect small and midsize producers in terms of implementation costs." In response to these questions: (1) This will not affect

export or import requirements as U.S. standards are voluntary and are standalone from international standards. Buyers will need to declare which standard they wish to use when doing business. (2) This is not expected to affect implementation costs for small and midsize producers since the revised content in the standard was all identified as being no longer applicable to industry, with the exception of "Table II Low Individual Drained Weights for Canned Tomatoes and Stewed Tomatoes, All Grades, All Styles (ounces)" for which the information

used to make the table was previously in the standard, but it's now added in table form for easy referencing.

AMS is moving forward with the revisions as proposed and determined by AMS since these grade standards will provide a common language for trade and better reflect the current marketing of fruits and vegetables.

Authority: 7 U.S.C. 1621–1627.

Erin Morris,

Administrator, Agricultural Marketing Service.

[FR Doc. 2026–09504 Filed 5–12–26; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2026–0431]

Notice of Request for Extension of Approval of an Information Collection; Federally Recognized State Managed Phytosanitary Program

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Extension of approval of an information collection; comment request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request an extension of approval of an information collection associated with Federal recognition of a State's plant pest containment, eradication, or exclusion program as a Federally Recognized State Managed Phytosanitary Program.

DATES: We will consider all comments that we receive on or before July 13, 2026.

ADDRESSES: You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to www.regulations.gov. Enter APHIS–2026–0431 in the Search field. Select the Documents tab, then select the Comment button in the list of documents.

- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2026–0431, Regulatory Analysis and Development, PPD, APHIS, 5601 Sunnyside Ave., #AP760, Beltsville, MD 20705.

Supporting documents and any comments we receive on this docket may be viewed at regulations.gov or in our reading room, which is located in Room 1620 of the USDA South Building, 14th Street and Independence

Avenue SW, Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799–7039 before coming.

FOR FURTHER INFORMATION CONTACT: For information on the Federally Recognized State Managed Phytosanitary Program, contact Mr. Allen Proxmire, National Policy Manager, Black Stem Rust, Pest Evaluation and Response, Emergency and Domestic Programs, PPQ, APHIS, USDA, 5601 Sunnyside Avenue, Beltsville, MD 20705; allen.proxmire@usda.gov; 480–392–8754. For more information on the information collection reporting process, contact Ms. Sheniqua Harris, APHIS' Paperwork Reduction Act Coordinator, at (301) 851–2528; APHIS.PRA@usda.gov.

SUPPLEMENTARY INFORMATION:

Title: Federally Recognized State Managed Phytosanitary Program.

OMB Control Number: 0579–0365.

Type of Request: Extension of approval of an information collection.

Abstract: The Plant Protection Act (7 U.S.C. 7701 *et seq.*) authorizes the Secretary of Agriculture to prohibit or restrict the importation, entry, or interstate movement of plant pests, plants, plant products, or other articles if the Secretary determines that the prohibition or restriction is necessary to prevent a plant pest or noxious weed from being introduced into or disseminated within the United States. This authority has been delegated to the Animal and Plant Health Inspection Service (APHIS).

As part of this mission, APHIS' Plant Protection and Quarantine program responds to introductions of plant pests to eradicate, suppress, or contain them through various programs to prevent their interstate spread. APHIS' plant pest containment and eradication programs qualify as “official control programs,” as defined by the International Plant Protection Convention (IPPC), recognized by the World Trade Organization as the standard-setting body for international plant quarantine issues. Official control is defined as the active enforcement of mandatory phytosanitary regulations and the application of mandatory phytosanitary procedures with the objective of containment or eradication of quarantine pests or for the management of regulated non-quarantine pests. As a contracting party to the IPPC, the United States has agreed to observe IPPC principles as they relate to international trade.

APHIS is aware that individual States enforce phytosanitary regulations and

procedures within their borders to address pests of concern, and that those pests are not always also the subject of an APHIS response program or activity. To strengthen APHIS' safeguarding system to protect agriculture and to facilitate agriculture trade through effective management of phytosanitary measures, APHIS initiated the Federally Recognized State Managed Phytosanitary (FRSMP) Program, which establishes an administrative process for granting Federal recognition to certain State-managed official control programs for plant pest eradication or containment and State-managed pest exclusion programs. (The FRSMP Program was previously referred to as the Official Control Program.) Federal recognition of a State's pest control activities will justify actions by Federal inspectors at ports of entry to help exclude pests that are under a phytosanitary program in a destination State. This process involves the use of information collection activities, including the submission of a petition for protocol for quarantine pests of concern, a petition for regulated non-quarantine pests, State cooperative agreements, and audit review annual accomplishment reports.

We are requesting the Office of Management and Budget (OMB) to approve the information collection activities for an additional 3 years.

The purpose of this notice is to solicit comments from the public (as well as affected agencies) concerning our information collection. These comments will help us:

- (1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

- (2) Evaluate the accuracy of our estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

- (3) Enhance the quality, utility, and clarity of the information to be collected; and

- (4) Minimize the burden of the collection of information on those who are to respond, through use, as appropriate, of automated, electronic, mechanical, and other collection technologies; e.g., permitting electronic submission of responses.

Estimate of burden: The public burden for this collection of information is estimated to average 34.7 hours per response.

Respondents: State Plant Health Regulatory Officials.

Estimated annual number of respondents: 1.

Estimated annual number of responses per respondent: 7.

Estimated annual number of responses: 7.

Estimated total annual burden on respondents: 243 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Done in Washington, DC, this 4th day of May 2026.

Kelly Moore,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2026-09519 Filed 5-12-26; 8:45 am]

BILLING CODE 3410-34-P

DEPARTMENT OF AGRICULTURE

U.S. Codex Office

Codex Alimentarius Commission: Meeting of the Codex Alimentarius Commission

AGENCY: U.S. Codex Office, USDA.

ACTION: Notice.

SUMMARY: The U.S. Codex Office is sponsoring a public meeting on June 22, 2026. The objective of the public meeting is to provide information and receive public comments on agenda items and draft U.S. position to be discussed at the 49th Session of the Codex Alimentarius Commission (CAC), which will meet in Geneva, Switzerland, from July 6 to July 10, 2026. The U.S. Manager for Codex Alimentarius and the Under Secretary for Trade and Foreign Agricultural Affairs recognize the importance of providing interested U.S. parties the opportunity to obtain background information on the 49th Session of the CAC and to address items on the agenda.

DATES: The public meeting is scheduled for June 22, 2026, from 1:00–4:00 p.m. ET.

ADDRESSES: The public meeting will take place via video teleconference only. Documents related to the 49th Session of the CAC will be accessible via the internet at the following address: <https://www.fao.org/fao-who-codexalimentarius/meetings/detail/en/?meeting=CAC&session=49>. Mr. Kenneth Lowery, the U.S. Delegate to the 49th Session of the CAC, invites interested U.S. parties to submit their comments electronically to the following email address: Ken.Lowery@usda.gov.

usda.gov and uscodex@usda.gov.

Comments should state that they relate to the activities of the 49th Session of the CAC.

Registration: Attendees may register to attend the public meeting at the following link: <https://www.zoomgov.com/meeting/register/Qpgxn2RER2iN-KYDN5BHeg>. After registering, you will receive a confirmation email containing information about joining the meeting.

For further information about the 49th Session of the CAC, contact the U.S. Delegate, Mr. Kenneth Lowery, Senior International Issues Analyst, U.S. Codex Office, by email at: Ken.Lowery@usda.gov. For additional information regarding the public meeting, contact the U.S. Codex Office by email at: uscodex@usda.gov.

SUPPLEMENTARY INFORMATION:

Background

The Codex Alimentarius Commission was established in 1963. Through adoption of food standards, codes of practice, and other guidelines developed by its committees, and by promoting their adoption and implementation by governments, Codex seeks to protect the health of consumers and ensure fair practices in the food trade.

Issues To Be Discussed at the Public Meeting

The following items from the Provisional Agenda for the 49th Session of the CAC will be discussed during the public meeting:

- Report by the Chairperson on the 90th Session of the Executive Committee (including matters referred)
- Amendments to the Procedural Manual
- Work of Codex Committees (adoption, new work, revocation, discontinuation, and amendments to Codex texts proposed by the following committees):
 - Codex Committee on Spices and Culinary Herbs
 - Codex Committee on Food Hygiene
 - Codex Committee on Fats and Oils
 - Codex Committee on Methods of Analysis and Sampling
 - Codex Committee on Residues of Veterinary Drugs in Foods
 - Codex Committee on Food Additives
 - Codex Committee on Food Labelling
 - Codex Committee on Fish and Fishery Products
- Standards from other Codex committees for which the endorsement requirements from

relevant committees have been fulfilled

- Other matters relating to Codex subsidiary bodies
- Codex Strategic Plan 2020–2025—Implementation report
- Codex budgetary and financial matters
- Matters arising from international organizations
- Election of the Chairperson and Vice-Chairpersons of the Codex Alimentarius Commission
- Designation of countries responsible for appointing the Chairpersons of Codex subsidiary bodies
- Other business
- Adoption of the Report

Public Meeting

At the June 22, 2026, public meeting, draft U.S. positions on the agenda items will be described and discussed, and attendees will have the opportunity to pose questions and offer comments. Written comments may be offered at the meeting or sent to Mr. Kenneth Lowery, U.S. Delegate to the 49th Session of the CAC, at Ken.Lowery@usda.gov and uscodex@usda.gov. Written comments should state that they relate to activities of the 49th Session of the CAC.

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, the U.S. Codex Office will announce this **Federal Register** publication on-line through the USDA Codex web page located at: <https://www.usda.gov/codex>.

(Authority: 19 U.S.C. 2578; Pres. Proc. 6780; 7 CFR part 2.602.)

Done at Washington, DC, on May 11, 2026.

Julie A. Chao,

Deputy U.S. Manager for Codex Alimentarius.

[FR Doc. 2026-09532 Filed 5-12-26; 8:45 am]

BILLING CODE 3420-3F-P

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

[Docket No. RUS-25-TELECOM-0267]

Notice of Funding Opportunity for the Community Connect Grant Program for Fiscal Year 2026

AGENCY: Rural Utilities Service, U.S. Department of Agriculture (USDA).

ACTION: Notice of funding opportunity.

SUMMARY: The Rural Utilities Service (RUS or the Agency), a Rural Development (RD) agency of the United States Department of Agriculture (USDA) is issuing a Notice of Funding

Opportunity (NOFO) to announce acceptance of applications under the Community Connect Grant Program (CCG) for fiscal year (FY) 2026. In future years this funding opportunity will only be announced on the Agency website and *grants.gov*, without a **Federal Register** notice. Therefore in future years, neither the funding opportunity nor reference to the funding opportunity in *grants.gov* will appear in the **Federal Register**. Please make a note of this change in location of the funding announcement in your records.

DATES: May 13, 2026.

ADDRESSES: Full funding notice is available on *grants.gov*. Program guidance and application forms may be obtained at <https://www.rd.usda.gov/community-connect>.

FOR FURTHER INFORMATION CONTACT:

Shekinah Pepper, Acting Deputy Assistant Administrator, Loan Origination and Approval Division, RUS, USDA, 1400 Independence Avenue SW, Mail Stop 1590, Room 4121-S, Washington, DC 20250-1590, telephone: (202) 720-0800, email: shekinah.pepper@usda.gov.

SUPPLEMENTARY INFORMATION: The full text of the Notice of Funding Opportunity (NOFO) is available on the Agency website and on *grants.gov* using Funding Opportunity Number RDRUS-CC-2026 or Assistance Listing Number 10.863.

Karl Elmschaeuser,

Administrator, Rural Utilities Service.

[FR Doc. 2026-09555 Filed 5-12-26; 8:45 am]

BILLING CODE 3410-15-P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[S-147-2026]

Approval of Subzone Status; Methods Machine Tools, Inc.; Acton and Sudbury, Massachusetts

On March 18, 2026, the Executive Secretary of the Foreign-Trade Zones (FTZ) Board docketed an application submitted by the Massachusetts Port Authority, grantee of FTZ 27, requesting subzone status subject to the existing activation limit of FTZ 27, on behalf of Methods Machine Tools, Inc., in Acton and Sudbury, Massachusetts.

The application was processed in accordance with the FTZ Act and Regulations, including notice in the **Federal Register** inviting public comment (91 FR 13818, March 23, 2026). The FTZ staff examiner reviewed the application and determined that it

meets the criteria for approval. Pursuant to the authority delegated to the FTZ Board Executive Secretary (15 CFR 400.36(f)), the application to establish Subzone 27T was approved on May 8, 2026, subject to the FTZ Act and the Board's regulations, including section 400.13, and further subject to FTZ 27's 129-acre activation limit.

Dated: May 8, 2026.

Elizabeth Whiteman,

Executive Secretary.

[FR Doc. 2026-09451 Filed 5-12-26; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

[Docket No. 260428-0115]

X-RIN 0694-XC155

Procedures To Apply for Company-Specific Onshoring Agreements To Obtain Tariff Adjustments for Pharmaceuticals and Pharmaceutical Ingredients Under Proclamation 11020

AGENCY: Bureau of Industry and Security, Office of Strategic Industries and Economic Security, U.S. Department of Commerce.

ACTION: Notice.

SUMMARY: This notice announces the procedures for companies that manufacture pharmaceutical products to apply for company-specific agreements with the Department of Commerce (Commerce) to onshore manufacturing of pharmaceutical products and their ingredients. Companies that enter into such agreements are eligible for a reduced Section 232 duty rate for imports of their pharmaceutical products and associated ingredients. Companies are requested to submit applications within 30 days of publication in the **Federal Register**.

DATES: Applications are requested by June 12, 2026.

ADDRESSES: Applications must be submitted electronically to: pharma232@bis.doc.gov. Applications can be found at www.bis.gov/about-bis/bis-leadership-and-offices/SIES/section-232-investigations.

FOR FURTHER INFORMATION CONTACT:

Stephen Astle, Director, Defense Industrial Base Division, Office of Strategic Industries and Economic Security, Bureau of Industry and Security, U.S. Department of Commerce (202) 482-4506, pharma232@bis.doc.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On April 2, 2026, the President issued Proclamation 11020 (91 FR 18183), "Adjusting Imports of Pharmaceuticals and Pharmaceutical Ingredients Into the United States," (Proclamation 11020) finding that imports of pharmaceuticals and pharmaceutical ingredients threaten to impair the national security of the United States and imposing tariffs to adjust imports of such products pursuant to Section 232 of the Trade Expansion Act of 1962 (Section 232). Proclamation 11020 imposed a 100 percent ad valorem tariff on certain imports of patented pharmaceuticals and associated pharmaceutical ingredients, effective September 29, 2026, for companies not listed in Annex III to Proclamation 11020. Lower rates apply to patented pharmaceutical products and associated ingredients from certain jurisdictions. At this time, Section 232 tariffs do not apply to generic pharmaceutical products and associated ingredients.

In clause (2) of Proclamation 11020, the President authorized the Secretary of Commerce (Secretary) to enter into company-specific onshoring agreements. Subparagraph (b) of clause (3) provides that companies with onshoring plans approved by the Secretary will receive a reduced duty rate of 20 percent. In addition, subparagraph (e) of clause (3) provides that this rate of duty shall be zero until January 20, 2029, for those companies that also enter into Most Favored Nation (MFN) deals with the U.S. Department of Health and Human Services (HHS).

Clause (6) orders the Secretary to establish a process by which companies can submit onshoring plans supporting eligibility for reduced duty rates. All onshoring plans are subject to approval, monitoring, and enforcement by the Secretary. Companies with qualifying onshoring plans must submit periodic reports to Commerce regarding progress towards fulfilling onshoring milestones. Commerce may require that such reports be audited by an external auditing firm.

The Proclamation authorizes the Secretary to monitor and enforce onshoring agreements. It also provides that in cases where the executive branch assesses that a company engaged in fraud or deliberately misled the United States Government with respect to its onshoring commitments, Commerce may reimpose the tariffs introduced in Proclamation 11020 both prospectively and retroactively on imports from the relevant company, and it may impose other tariffs and penalties to the extent consistent with applicable law.

Consistent with Proclamation 11020, this notice establishes the criteria for company-specific agreements for the tariff adjustment program, including the application process, documentation and certification requirements, and eligibility conditions.

II. Application Process

Companies that market foreign-made patented pharmaceutical products and associated ingredients into the United States, which are subject to tariffs under Proclamation 11020, may apply to enter an onshoring agreement. Applications can be found at www.bis.gov/about-bis/bis-leadership-and-offices/SIES/section-232-investigations. Applicants must submit the application and associated documentation to pharma232@bis.doc.gov. The complete application should include the following information, with reference, as appropriate, to the relevant application section:

1. *Section 1—Organization Information*: Full legal name, address, ownership structure and beneficial ownership, including the country where the company's headquarters is located. The name, title, and contract information of the authorized representative submitting the application should also be included. The company should also provide information about the products it manufactures and where such manufacturing takes place, and whether the manufacturing occurs in facilities that the company owns, contract manufacturers, or other.

2. *Section 2—Total Investment*: The grand total of new investments to be made in the United States from January 20, 2025, to January 20, 2029. Specify the portion of the investment amount that pertains to new capital expenditure, such as brick-and-mortar manufacturing plants and buildings where research and development will take place, in the United States.

3. *Section 3—Onshoring Commitment*: A comprehensive explanation of what part of the company's existing patented product portfolio it will onshore (products, volume, and value), including through the use of contract manufacturers. Companies are encouraged to onshore as much of their global production of pharmaceuticals, APIs, and upstream pharmaceutical ingredients as possible, by January 20, 2029. Companies may stipulate that projected onshoring timelines depend on expected Food and Drug Administration regulatory approval timelines, which should be described in the application.

4. *Section 4—Percentage of U.S. and Global Sales Produced in U.S.*: The percentage of the company's U.S. sales of patented pharmaceuticals whose APIs are produced in the United States as of January 20, 2025, and the expected percentage of its U.S. sales that will be U.S.-made as of January 20, 2029. Companies should also state the percentage of their global sales that are U.S.-made as of January 20, 2025, and the expected percentage of their global sales that will be U.S.-made as of January 20, 2029. Information should be provided on both a unit and revenue basis.

5. *Section 5—Investment Commitment*: The application should include the following:

(1) a description of what part of its patented product portfolio the company proposes not to onshore (products, value, and percentage) by January 20, 2029;

(2) a statement that it is commercially unfeasible to onshore these products, and an explanation as to why this is the case. Near-term expiration of patents, and pharmaceutical products with an extremely small market in the United States are relevant factors in this context;

(3) the estimated hypothetical cost to establish production facilities in the United States for these products described in paragraph (1) (without reducing the production of other products);

(4) a statement of the amount that the company commits to spend on new brick-and-mortar facilities in the United States by January 20, 2029, over and above and in addition to the onshoring commitment described in section 2 ("Onshoring Commitment") above. This expenditure can include new production machinery and retooling of existing facilities. However, it should not include research and development expenses or other operating expenses;

(5) investment and production milestones in Annex A through January 20, 2029, which are associated with the investment commitments in paragraph (4). For example, companies should indicate the expected start date, completion date, and location of any new construction projects. They should also indicate the total amounts of money associated with the Total Investment and Onshoring Commitment that they project to be spent by the end of each calendar year;

(6) a commitment to submit audited reports to Commerce at least semiannually regarding the company's progress towards fulfilling these milestones, as well as the U.S. investment commitments;

(7) a statement of whether the company has entered into, or is pursuing, a Most Favored Nation Pricing Agreement with the HHS; and

(8) a commitment to provide supporting information upon request by Commerce, whether before or after entering into the onshoring agreement.

5. *Annex A—Planned Pharmaceutical Production Investments*: This annex provides a template for companies to submit the information described above.

6. *Annex B—Tariff Adjustment*: In this annex, companies should provide the following information, with respect to products for which they request preferential treatment:

- HTSUS code (10-digit, if possible) for each product
- Advertised name and brand of product, as well as active ingredient (or combination of active ingredients)
- Country of origin of products imported under each HTSUS code
- Importer of record names and importer of record numbers
- Name and address of exporters
- Name, owner, and address of foreign manufacturing facilities
- U.S. Customs and Border Protection (CBP) Manufacturer Identification Code (MID) used for importations of products

Only patented pharmaceutical products and associated pharmaceutical ingredients should be included in Annex B.

7. *Certification*: Company applications should be signed by a senior official in the company. Applications shall include a certification, such as a sworn statement, from a senior officer of the company confirming that the submission is true, accurate, and complete to the best of the company's knowledge, under penalty of perjury, and confirming that the company has conducted reasonable diligence to verify the accuracy of the assertions and facts contained in its submissions.

8. *Representations and Acknowledgments To Be Included in the Application*: "[Drug Manufacturer] understands that any preferential treatment resulting from the submission of this application will apply only to Section 232 Tariffs (*i.e.*, tariffs pursuant to Proclamation 11020) on [Drug Manufacturer]'s-branded pharmaceutical products and associated pharmaceutical ingredients that [Drug Manufacturer] imports into the United States, as specified in this application. Furthermore, unless otherwise approved by Commerce, this preferential treatment shall not apply to any products produced by companies that

[Drug Manufacturer] acquires after April 2, 2026, nor shall it apply to products that [Drug Manufacturer] may acquire or license after April 2, 2026, nor shall it apply to products that [Drug Manufacturer] has not itself developed as a majority participant. Any preferential tariff treatment that [Drug Manufacturer] receives pursuant to an onshoring agreement with Commerce is contingent on the President's grant of authority to Commerce under Section 232 of the Trade Expansion Act of 1962 to adjust imports of certain pharmaceutical products through the imposition of tariffs and the President's determination to authorize the entry into force of agreements such as this one."

9. *Additional Information:* Any other information the applicant believes is necessary to facilitate Commerce's decision-making. If companies believe that any of the requirements outlined above are not appropriate for their particular situation, they should provide a detailed explanation.

C. Review and Approval Process

Commerce may request supplemental documentation or clarification. Commerce will make an individual, fact-specific, company-specific decision for each applicant. Commerce may respond to individual applications with questions, revisions, conditional approval pending applicant's acceptance of proposed modifications to the proposal, or approval of the proposal as submitted. There is no time limit for Commerce's decisions. Approved applicants will be notified in writing of approval. Relevant information from Annex B will be transmitted by Commerce to CBP. CBP will administer the tariff adjustment at the time of entry summary filing and may request additional documentation to validate entries.

D. Usage and Enforcement

Unless otherwise approved by Commerce, the reduced tariff treatment:

- Shall be used only by importers that the Drug Manufacturer identifies as approved to import its products, and that Commerce approves;
- Shall not apply to any products produced by a company that the Drug Manufacturer acquires after April 2, 2026; and
- Shall not apply to products that the Drug Manufacturer may acquire or license after April 2, 2026, nor shall it apply to products that the Drug Manufacturer has not itself developed as a majority participant.

E. Oversight and Adjustments

In accordance with clause (6) of Proclamation 11020, all onshoring plans are subject to approval, monitoring, and enforcement by Commerce. Commerce will monitor manufacturer and importer compliance and communicate information regarding noncompliance to CBP, where appropriate.

F. Confidentiality

Commerce will protect the confidentiality of all information submitted by companies pursuing an onshoring agreement. The onshoring application as well as any eventual agreements will include the following confidentiality provision:

The Department of Commerce will protect the confidentiality of confidential, trade secret, and/or proprietary information excluding information in the public domain ("confidential information") provided by the Drug Manufacturer to the fullest extent allowed by law. For example, subject to applicable laws, such information would be protected from disclosure by the Trade Secrets Act, 18 U.S.C. 1905, and under Exemptions 3 and/or 4 of the Freedom of Information Act ("FOIA") (5 U.S.C. 552(b)(3), (4)). The Department of Commerce shall limit dissemination of Drug Manufacturer's confidential information to those persons within its organization and other executive branch agencies and entities who have a need to know such information to fulfill the purpose of this Commerce Agreement and who agree to be subject to the restrictions of this Commerce Agreement.

Drug Manufacturer may disclose the terms of this Commerce Agreement and make any other public written disclosure regarding the existence of, or performance under, this Commerce Agreement, to the extent required, in the reasonable opinion of Drug Manufacturer's legal counsel, to comply with applicable law, including without limitation the rules and regulations promulgated by the United States Securities and Exchange Commission or any other governmental authority, securities exchange or securities regulator to which it is subject.

These provisions are consistent with and do not supersede, conflict with, or otherwise alter the employee obligations, rights, or liabilities created by existing statute or Executive order relating to (1) classified information, (2) communications to Congress, (3) the reporting to an Inspector General or the Office of Special Counsel of a violation of any law, rule, or regulation, or mismanagement, a gross waste of funds,

an abuse of authority, or a substantial and specific danger to public health or safety, or (4) any other whistleblower protection. The definitions, requirements, obligations, rights, sanctions, and liabilities created by controlling Executive orders and statutory provisions are incorporated into this Commerce Agreement and are controlling.

III. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) provides that an agency generally cannot conduct or sponsor a collection of information, and no person is required to respond to nor be subject to a penalty for failure to comply with a collection of information, unless that collection has obtained Office of Management and Budget (OMB) approval and displays a currently valid OMB Control Number.

In Proclamation 11020 of April 2, 2026, "Adjusting Imports of Pharmaceuticals and Pharmaceutical Ingredients into the United States" the President determined it was necessary and appropriate to direct the Secretary of Commerce and the Secretary of Health and Human Services to pursue negotiations of agreements or continue any current negotiations of agreements to address the threatened impairment of the national security with respect to imported patented pharmaceuticals and associated pharmaceutical ingredients. The President authorized the Secretary of Commerce to enter into and implement company-specific onshoring agreements.

Because the Proclamation requires timely implementation of the onshoring agreements to further U.S. economic and national security interests by making pharmaceuticals more accessible and affordable in the United States and by strengthening the domestic manufacturing base, and reduce the national security risk posed by imports of patented pharmaceuticals and associated pharmaceutical ingredients, BIS cannot reasonably comply with the normal clearance procedures. Delaying this collection would impede the ability of companies to enter into onshoring agreements and compromise the effectiveness of the Proclamation's implementation. The implementation of an *ad valorem* tariff on imports of certain patented pharmaceuticals and pharmaceutical ingredients, consistent with the intent of Proclamation 11020, also requires creating a process to allow any individual or organization in the United States to submit onshoring agreement applications for tariff adjustments. The

Department has determined the following conditions have been met:

a. The collection of information is needed prior to the expiration of time periods normally associated with a routine submission for review under the provisions of the Paperwork Reduction Act in view of Proclamation 11020, <https://www.federalregister.gov/documents/2026/04/09/2026-06956/adjusting-imports-of-pharmaceuticals-and-pharmaceutical-ingredients-into-the-united-states>.

b. The collection of information is essential to the mission of the Department, in particular to allow companies seeking to obtain tariff adjustments from the *ad valorem* tariff by submitting onshoring agreements to effectuate the terms outlined by Proclamation 11020. These collection requirements include detailed onshoring plans across product portfolios, percentage of U.S. sales that are made in the United States, investment and production milestones, and other information required to substantiate the applications for reduced tariff treatment under Section 232, hereby referenced as Onshoring Agreements. The Onshoring Agreements, as described in this FRN, must be submitted in electronic form via email to the BIS Section 232 Pharmaceuticals Investigation Inbox (pharma232@bis.doc.gov). Onshoring Agreements may be submitted within 30 days of this FRN publication and all submissions are entirely voluntary on the part of the requesting companies.

c. Public harm is reasonably likely to result if BIS were to follow the normal clearance procedures before issuing this information collection. BIS needs time to get onshoring agreements in place before September 29, 2026, when the Section 232 tariffs for most companies will become effective. This information collection allows companies to apply for onshoring agreements to increase domestic manufacturing of pharmaceutical products and their ingredients, which will increase the stability of the industry. A delay in Commerce's ability to begin immediate information collection from companies seeking an onshoring agreement and inability to issue decisions before the 100 percent tariff rate is in effect could lead to companies delaying decisions to increase domestic manufacturing of pharmaceuticals, which would further import dependence that the Presidential Proclamation is seeking to reduce.

Agency: Commerce Department.

Type of Information Collection: New Collection.

Title of the Collection: Section 232 National Security Adjustments to Imports of Pharmaceuticals.

Affected Public: Private Sector—Businesses.

Total Estimated Number of Respondents: [450].

Average Responses per Year: [1].

Total Estimated Number of Responses: [450].

Average Time per Response: 8 hours.

Total Annual Time Burden: [3,600].

OMB Control Number: [0694–0147].

Jessica Curyto,

Deputy Assistant Secretary for Technology Security.

[FR Doc. 2026–09489 Filed 5–11–26; 11:15 am]

BILLING CODE 3510–33–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–533–907]

Sodium Nitrite From India: Preliminary Results and Intent To Rescind, in Part, of Countervailing Duty Administrative Review; 2024

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

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily determines that countervailable subsidies were provided to producers and exporters of Sodium Nitrite from India. The period of review (POR) is January 1, 2024, through December 31, 2024. In addition, Commerce intends to rescind this review with respect to three companies. Interested parties are invited to comment on these preliminary results.

DATES: Applicable May 13, 2026.

FOR FURTHER INFORMATION CONTACT: Joshua Jacobson, AD/CVD Operations, Office IV, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–0266.

SUPPLEMENTARY INFORMATION:

Background

On March 28, 2025, based on timely requests for review, in accordance with 19 CFR 351.221(c)(1)(i), we initiated an administrative review of the countervailing duty order on sodium nitrite from India.¹ On May 19, 2025,

¹ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 90 FR 14081, 14100 (March 28, 2025); see also *Sodium Nitrite From India: Antidumping Duty and Countervailing Duty Orders*, 88 FR 12313 (February 27, 2023) (Order).

Commerce selected Deepak Nitrite Limited (DNL) and Kutch Chemical Industries Limited (Kutch Chemical) as the mandatory respondents in this review.²

Due to the lapse in appropriations and Federal Government shutdown, on November 14, 2025, Commerce tolled all deadlines in administrative proceedings by 47 days.³ Additionally, due to a backlog of documents that were electronically filed via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS) during the Federal Government shutdown, on November 24, 2025, Commerce tolled all deadlines in administrative proceedings by an additional 21 days.⁴ On December 22, 2025, we extended the deadline for the preliminary results of this review until May 7, 2026.⁵

For a complete description of the events that followed the initiation of this review, see the Preliminary Decision Memorandum.⁶ A list of topics included in the Preliminary Decision Memorandum is provided as the appendix to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via ACCESS. ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at <https://access.trade.gov/frnotices>.

Scope of the Order

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

Intent To Rescind Administrative Review, in Part

It is Commerce's practice to rescind an administrative review of a countervailing duty order, pursuant to 19 CFR 351.213(d)(3), when there are no reviewable entries of subject merchandise during the POR for which liquidation is suspended. Normally,

² See Memorandum, "Respondent Selection," dated May 19, 2025.

³ See Memorandum, "Deadlines Affected by the Shutdown of the Federal Government," dated November 14, 2025.

⁴ See Memorandum, "Tolling of all Case Deadlines," dated November 24, 2025.

⁵ See Memorandum, "Extension of Deadline for Preliminary Results of Countervailing Duty Administrative Review," dated December 22, 2025.

⁶ See Memorandum, "Decision Memorandum for the Preliminary Results of the Administrative Review of the Countervailing Duty Order on Sodium Nitrite from India; 2024," dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

upon completion of an administrative review, the suspended entries are liquidated at the CVD assessment rate calculated for the POR.⁷ Therefore, for an administrative review of a company to be conducted, there must be a reviewable, suspended entry that Commerce can instruct U.S. Customs and Border Protection (CBP) to liquidate at the CVD assessment rate calculated for the POR.⁸

According to the CBP import data on the record, the following three companies subject to this review did not have reviewable entries of subject merchandise during the POR for which liquidation is suspended: Buradon Inc.; Palvi Industries Limited; and Lotus Global Pvt. Ltd.⁹ Accordingly, in the absence of reviewable, suspended entries of subject merchandise found during the POR, we intend to rescind this administrative review with respect to these three companies, in accordance with 19 CFR 351.213(d)(3).

Methodology

Commerce is conducting this administrative review in accordance with 751(a)(1)(A) of the Tariff Act of 1930, as amended (the Act). For each of the subsidy programs found countervailable, Commerce preliminarily determines that there is a subsidy, *i.e.*, a financial contribution by an “authority” that gives rise to a benefit to the recipient, and that the subsidy is specific.¹⁰ For a full description of the methodology underlying our conclusions, including our reliance, in part, on facts otherwise available with adverse inferences pursuant to sections 776(a) and (b) of the Act, see the Preliminary Decision Memorandum.

Rate for Non-Individually Examined Companies

The Act and Commerce’s regulations do not address the establishment of a rate to apply to companies not selected for individual examination when Commerce limits its examination in an administrative review pursuant to section 777A(e)(2) of the Act. Generally, Commerce looks to section 705(c)(5) of the Act, which provides instructions for calculating the all-others rate in a CVD investigation. Section 777A(e)(2) of the Act provides that “the individual countervailable subsidy rates

determined under subparagraph (A) shall be used to determine the all-others rate under section 705(c)(5) {of the Act}.”

Under section 705(c)(5)(A)(i) of the Act, the all-others rate is normally an amount equal to the weighted average countervailable subsidy rates established for each of the companies individually investigated, excluding any rates that are zero, *de minimis* (*i.e.*, less than 0.5 percent), or determined entirely on the basis of facts available. Where the countervailable subsidy rates for each of the individually examined companies is zero, *de minimis*, or based entirely on facts available, section 705(c)(5)(A)(ii) of the Act provides that Commerce may use “any reasonable method to establish an all-others rate for exporters and producers not individually investigated, including averaging the weighted average countervailable subsidy rates determined for the exporters and producers individually investigated.”

For these preliminary results, because the rate calculated for Kutch Chemical is based entirely on facts available, we are preliminarily assigning to the company under review (*i.e.*, Kronox Lab Sciences Pvt Ltd.) that was not selected for individual examination a countervailable subsidy rate based on the rate calculated for DNL.

Preliminary Results of Review

As a result of this review, we preliminarily determine the following net countervailable subsidy rates exist for the POR, January 1, 2024, through December 31, 2024:

Company	Subsidy rate (percent <i>ad valorem</i>)
Deepak Nitrite Limited	2.26
Kronox Lab Sciences Pvt Ltd	2.26
Kutch Chemical Industries Limited	63.60

Disclosure

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

Verification

Commerce received a timely request from Chemtrade Chemicals US LLC (the petitioner) to verify the information submitted in this administrative review, pursuant to 19 CFR 307(b)(1)(iv).¹¹

¹¹ See Petitioner’s Letter, “Chemtrade Request for On-Site Verification,” dated July 7, 2025.

Commerce does not intend to verify the information submitted by the mandatory respondents in the course of this administrative review.

Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance. Pursuant to 19 CFR 351.309(c)(1)(ii), we have modified the deadline for interested parties to submit case briefs to Commerce to no later than 21 days after the date of the publication of this notice.¹² Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than five days after the date for filing case briefs.¹³ Interested parties who submit case briefs or rebuttal briefs in this proceeding must submit: (1) a table of contents listing each issue; and (2) a table of authorities.¹⁴ All briefs must be filed electronically using ACCESS. An electronically filed document must be received successfully in its entirety in ACCESS by 5:00 p.m. Eastern Time on the established deadline.

As provided under 19 CFR 351.309(c)(2)(iii) and (d)(2)(iii), we request that interested parties provide at the beginning of their briefs a public executive summary for each issue raised in their briefs.¹⁵ Further, we request that interested parties limit their executive summary of each issue to no more than 450 words, not including citations. We intend to use the executive summaries as the basis of the comment summaries included in the issues and decision memorandum that will accompany the final results in this administrative review. We request that interested parties include footnotes for relevant citations in the executive summary of each issue. Note that Commerce has amended certain of its requirements pertaining to the service of documents in 19 CFR 351.303(f).¹⁶

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, filed electronically via ACCESS by 5:00 p.m. Eastern Time within 30 days after the date of publication of this notice. Requests should contain: (1) the party’s name,

¹² See 19 CFR 351.309.

¹³ See 19 CFR 351.309(d); see also *Administrative Protective Order, Service, and Other Procedures in Antidumping and Countervailing Duty Proceedings*, 88 FR 67069, 67077 (September 29, 2023) (*APO and Service Procedures*).

¹⁴ See 19 CFR 351.309(c)(2) and (d)(2).

¹⁵ We use the term “issue” here to describe an argument that Commerce would normally address in a comment of the Issues and Decision Memorandum.

¹⁶ See *APO and Service Procedures*.

⁷ See 19 CFR 351.212(b)(2).

⁸ See 19 CFR 351.213(d)(3).

⁹ See Memorandum, “Release of Customs and Border Protection Data,” dated April 3, 2025.

¹⁰ See sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

address, and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. Oral presentations at the hearing will be limited to issues raised in the briefs. If a request for a hearing is made, Commerce will inform parties of the scheduled date for the hearing.¹⁷

Assessment Rates

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

For the companies listed above for which Commerce intend to rescind review, Commerce will instruct CBP to assess countervailing duties on all appropriate entries at a rate equal to the cash deposit of estimated countervailing duties required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(1)(i). Commerce intends to issue rescission instructions to CBP no earlier than 35 days after the date of publication of this notice in the **Federal Register**.

Commerce intends to issue assessment instructions to CBP regarding DNL, Kutch Chemical, and Kronox Lab Sciences Pvt Ltd. no earlier than 35 days after the date of publication of the final results of this review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.*, within 90 days of publication).

Cash Deposit Requirements

Pursuant to section 751(a)(2)(C) of the Act and 19 CFR 351.107(e), Commerce intends to instruct CBP to collect cash deposits of estimated countervailing duties with regard to shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this review, as follows: (1) the cash deposit rate for the companies listed above will be equal to the company-specific estimated individual countervailable subsidy rates determined in the final results of this review, except if the rate is less than 0.50 percent and, therefore, *de minimis* within the meaning of 19 CFR 351.106(c)(1), in which case the cash deposit rate will be zero; (2) if both the producer and exporter of the subject

merchandise have company-specific estimated subsidy rates assigned, and their rates differ, then the applicable cash deposit rate will be the higher of these two rates; (3) if either the producer or the exporter, but not both, of the subject merchandise has a company-specific estimated subsidy rate assigned, the applicable cash deposit rate will be that company's company-specific rate; and (4) the cash deposit rate for all other producers and exporters will be continue to be 2.40 percent, the all-others subsidy rate established in the investigation.¹⁸ These cash deposit instructions, when imposed, shall remain in effect until further notice.

Notification to Interested Parties

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

Dated: May 7, 2026.

Christopher Abbott,

Deputy Assistant Secretary, for Policy and Negotiations, performing the Non-exclusive Functions and Duties of the Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Preliminary Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the *Order*
- IV. Intent to Rescind Review, In Part
- V. Diversification of India's Economy
- VI. Subsidies Valuation
- VII. Use of Facts Otherwise Available and Application of Adverse Inference
- VIII. Benchmarks and Discount Rates
- IX. Analysis of Programs
- X. Recommendation

[FR Doc. 2026–09454 Filed 5–12–26; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–906]

Sodium Nitrite From India: Preliminary Results and Notice of Intent To Rescind, in Part, of Antidumping Duty Administrative Review; 2024–2025

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

SUMMARY: The U.S. Department of Commerce (Commerce) is conducting an administrative review of the antidumping duty (AD) order on sodium nitrite from India. The period of review (POR) is February 1, 2024, through

January 31, 2025. Commerce preliminarily determines that Deepak Nitrite Limited (DNL) did not make sales of subject merchandise at less than normal value during the POR. We invite interested parties to comment on these preliminary results.

DATES: Applicable May 13, 2026.

FOR FURTHER INFORMATION CONTACT: Joy Zhang, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–1168.

SUPPLEMENTARY INFORMATION:

Background

On February 27, 2023, Commerce published in the **Federal Register** the AD order on sodium nitrite from India.¹ On February 3, 2025, Commerce published in the **Federal Register** a notice of opportunity to request an administrative review of the *Order* for the POR.² On March 28, 2025, pursuant to section 751(a)(1) of the Tariff Act of 1930, as amended (the Act), Commerce initiated an administrative review of the *Order* covering six entities.³

Due to the lapse in appropriations and Federal Government shutdown, on November 14, 2025, Commerce tolled all deadlines in administrative proceedings 47 days.⁴ Additionally, due to a backlog of documents that were electronically filed via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS) during the Federal Governmental shutdown, on November 24, 2025, Commerce tolled all deadlines in administrative proceedings by an additional 21 days.⁵ On December 17, 2025, Commerce extended the deadline for these preliminary results to May 7, 2026.⁶

For a complete description of the events that followed the initiation of this review, see the Preliminary

¹ See *Sodium Nitrite from India: Antidumping Duty and Countervailing Duty Orders*, 88 FR 12313 (February 27, 2023) (*Order*).

² See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review and Join Annual Inquiry Service List*, 90 FR 8785 (February 3, 2025).

³ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 90 FR 14081 (March 28, 2025) (*Initiation Notice*).

⁴ See Memorandum, "Deadlines Affected by the Shutdown of the Federal Government," dated November 14, 2025.

⁵ See Memorandum, "Tolling of all Case Deadlines," dated November 24, 2025.

⁶ See Memorandum, "Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review," dated December 16, 2026.

¹⁷ See 19 CFR 351.310(d).

¹⁸ See *Order*.

Decision Memorandum.⁷ A list of topics discussed in the Preliminary Decision Memorandum is attached as Appendix I to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via ACCESS. ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at <https://access.trade.gov/frnotices>.

Scope of the Order

The product covered by this *Order* is sodium nitrite from India. For a full description of the scope, see the Preliminary Decision Memorandum.⁸

Notice of Intent To Rescind the Review, in Part

Commerce initiated this review with respect to six companies.⁹ For three companies listed in the *Initiation Notice*—Buradon Inc., Palvi Industries Limited, and Lotus Global Pvt. Ltd.—U.S. Customs and Border Protection (CBP) data released for the purposes of respondent selection reflected no entries of subject merchandise during the POR.¹⁰ Therefore, we are announcing our intent to rescind this review with respect to Buradon Inc., Palvi Industries Limited, and Lotus Global Pvt. Ltd. Parties may submit comments on Commerce's intent to rescind the review of these firms within seven days of publication of this notice. If no comment in opposition is received, Commerce will rescind the review, in part, in its final results of review.

Methodology

Commerce is conducting this review in accordance with section 751(a)(1)(B) of the Act. Commerce has calculated export prices in accordance with section 772(a) of the Act. Normal value is calculated in accordance with section 773 of the Act. For a full description of the methodology underlying our conclusions, see the Preliminary Decision Memorandum.

Rate for Non-Examined Companies

The Act and Commerce's regulations do not address the establishment of a rate to be applied to companies not selected for individual examination when Commerce limits its examination

in an administrative review pursuant to section 777A(c)(2) of the Act. Generally, Commerce looks to section 735(c)(5) of the Act, which provides instructions for calculating the all-others rate in a market economy investigation, for guidance when calculating the rate for companies which were not selected for individual examination in an administrative review. Under section 735(c)(5)(A) of the Act, the all-others rate is normally "an amount equal to the weighted average of the estimated weighted average dumping margins established for exporters and producers individually investigated, excluding any zero or *de minimis* margins, and any margins determined entirely {on the basis of facts available}."

The SAA provides Commerce with additional guidance as to what the agency should do when the only margins calculated for individually-investigated exporters are zero/*de minimis* and/or determined entirely through facts available:

In such situations, Commerce may use any reasonable method to calculate the all others rate. The expected method in such cases will be to weight-average the zero and *de minimis* margins and margins determined pursuant to the facts available, provided that volume data is available. However, if this method is not feasible, or if it results in an average that would not be reasonably reflective of potential dumping margins for non-investigated exporters or producers, Commerce may use other reasonable methods.¹¹

In this review, we preliminary calculated a dumping margin of zero percent for DNL, the sole respondent individually examined. Therefore, there is no non-zero weighted-average dumping margins established for exporters and producers individually examined in this POR. Further, DNL is the only producer and/or exporter with a history of individual examination in this *Order*, and the two non-individually examined respondents under review, Kronox Lab Sciences Pvt Ltd. (Kronox) and Kutch Chemical Industries Ltd. (Kutch), have no history of review. Given the lack of history of review of applicable rates for firms other than DNL, Commerce determines it is feasible and appropriate to look to other reasonable methods to determine the applicable rate for non-selected respondents. The only rate established for exporters or producers in the history of the *Order* which is not zero, *de minimis*, or based entirely on adverse facts available is the 42.76 percent rate

calculated for DNL and assigned as the all-others rate in the less-than-fair-value (LTFV) investigation. We find use of this rate to reflect the most reasonable method to approximate the exporting experience of the non-reviewed respondents, as it reflects the rate established for respondents with no prior history of individual review. Accordingly, we have selected the 42.76 percent rate calculated for DNL and assigned to all other producers and exporters in the LTFV investigation as the rate applicable to the non-individually examined respondents in this review.

Preliminary Results of Review

We preliminarily determine that the following estimated weighted-average dumping margins exist for the period February 1, 2024, through January 31, 2025:

Exporter/producer	Weighted-average dumping margin (percent)
Deepak Nitrite Limited	0.00
Kronox Lab Sciences Pvt Ltd	42.76
Kutch Chemical Industries Ltd ...	42.76

Disclosure

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

Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance. Pursuant to 19 CFR 351.309(c)(1)(ii), we have modified the deadline for interested parties to submit case briefs to Commerce to no later than 21 days after the date of the publication of this notice.¹² Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than five days after the date for filing case briefs.¹³ Interested parties who submit case briefs or rebuttal briefs in this proceeding must submit: (1) a table of contents listing

⁷ See Memorandum, "Decision Memorandum for the Preliminary Results of the Administrative Review of the Antidumping Duty Order on Sodium Nitrite from India; 2024–2025," dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

⁸ See Preliminary Decision Memorandum at 2–4.

⁹ See *Initiation Notice*.

¹⁰ See Memorandum, "Release of Customs and Border Protection Data," dated on April 1, 2025.

¹¹ See Statement of Administrative Action accompanying the Uruguay Round Agreements Act, H.R. Doc. 103–316, Vol. I (1994) (SAA) at 873 (emphasis added).

¹² See 19 CFR 351.309.

¹³ See 19 CFR 351.309(d); see also *Administrative Protective Order, Service, and Other Procedures in Antidumping and Countervailing Duty Proceedings*, 88 FR 67069, 67077 (September 29, 2023) (*APO and Service Final Rule*).

each issue; and, (2) a table of authorities.¹⁴

As provided under 19 CFR 351.309(c)(2)(iii) and (d)(2)(iii), we request that interested parties provide at the beginning of their briefs a public, executive summary for each issue raised in their briefs.¹⁵ Further, we request that interested parties limit their public executive summary of each issue to no more than 450 words, not including citations. We intend to use the public executive summaries as the basis of the comment summaries included in the issues and decision memorandum that will accompany the final results in this administrative review. We request that interested parties include footnotes for relevant citations in the public executive summary of each issue. Note that Commerce has amended certain of its requirements pertaining to the service of documents in 19 CFR 351.303(f).¹⁶

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, filed electronically via ACCESS by 5:00 p.m. Eastern Time within 30 days after the date of publication of this notice.¹⁷ Requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants, and whether any participant is a foreign national; and (3) a list of issues to be discussed. Issues raised in the hearing will be limited to those raised in the respective case briefs. If a request for a hearing is made, parties will be notified of the time and date for the hearing.¹⁸ Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

All submissions, including case and rebuttal briefs, as well as hearing requests, must be filed via ACCESS.¹⁹ An electronically filed document must be received successfully in its entirety in ACCESS by 5:00 p.m. Eastern Time on the established deadline. Note that Commerce has amended certain of its requirements pertaining to the service of documents in 19 CFR 351.303(f).²⁰

Assessment Rate

Upon issuance of the final results, Commerce shall determine, and CBP

shall assess, antidumping duties on all appropriate entries covered by this review. The final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by this review and for future deposits of estimated duties, where applicable.²¹

Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of the final results of this review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.*, within 90 days of publication).

If the respective weighted-average dumping margins are above *de minimis* (*i.e.*, 0.50 percent) in the final results of this review, we will calculate importer-specific *ad valorem* AD assessment rates based on the ratio of the total amount of dumping calculated for the importer's examined sales to the total entered value of those same sales in accordance with 19 CFR 351.212(b)(1).²² If the respondent has not reported entered values, we will calculate a per-unit assessment rate for each importer by dividing the total amount of dumping calculated for the examined sales made to that importer by the total quantity associated with those sales. Where either the respondent's weighted-average dumping margin is zero or *de minimis*, or an importer-specific assessment rate is zero or *de minimis*, we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties.

In accordance with Commerce's "automatic assessment" practice, for entries of subject merchandise during the POR produced by the respondents for which they did not know that the merchandise was destined for the United States, we will instruct CBP to liquidate entries not reviewed at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction.

For the companies which were not selected for individual examination, we will instruct CBP to assess antidumping duties at an *ad valorem* assessment rate equal to the company-specific weighted-average dumping margin determined in

these final results. For the companies for which the administrative review will be rescinded, antidumping duties shall be assessed at a rate equal to the cash deposit of estimated antidumping duties required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(1)(i). Commerce intends to issue these rescission instructions to CBP no earlier than 35 days after the date of publication of this notice in the **Federal Register**.

Cash Deposit Requirements

The following cash deposit requirements for estimated antidumping duties will be effective upon publication of the notice of final results of this review for all shipments of sodium nitrite from India entered, or withdrawn from warehouse, for consumption on or after the date of publication as provided by section 751(a)(2)(C) of the Act: (1) the cash deposit rate for companies subject to this review will be equal to the dumping margin established in the final results of the review; (2) for merchandise exported by companies not covered in this review but covered in a prior segment of this proceeding, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the LTFV investigation but the producer is, the cash deposit rate will be the rate established for the most recently completed segment for the producer of the merchandise; (4) the cash deposit rate for all other producers or exporters will continue to be the 42.76 percent, the all-others rate established in the LTFV investigation.²³ These cash deposit requirements, when imposed, shall remain in effect until further notice.

Final Results of Review

Unless otherwise extended, Commerce intends to issue the final results of this administrative review, including the results of our analysis of issues raised by the parties in any written briefs, within 120 days of publication of these preliminary results in the **Federal Register**, pursuant to section 751(a)(3)(A) of the Act and 19 CFR 351.213(h)(1).

Notification to Interested Parties

We are issuing and publishing these preliminary results in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.213(h)(2) and 19 CFR 351.221(b)(4).

²³ See Order, 88 FR at 12314.

¹⁴ See 19 CFR 351.309(c)(2) and (d)(2).

¹⁵ We use the term "issue" here to describe an argument that Commerce would normally address in a comment of the Issues and Decision Memorandum.

¹⁶ See APO and Service Procedures.

¹⁷ See 19 CFR 351.310(c).

¹⁸ See 19 CFR 351.310(d).

¹⁹ See 19 CFR 351.303.

²⁰ See APO and Service Final Rule.

²¹ See section 751(a)(2)(C) of the Act.

²² In these preliminary results, Commerce applied the assessment rate calculation method adopted in *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings; Final Modification*, 77 FR 8101 (February 14, 2012).

Dated: May 7, 2026.

Christopher Abbott,

Deputy Assistant Secretary for Policy and Negotiations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Preliminary Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the Order
- IV. Discussion of Methodology
- V. Currency Conversion
- VI. Recommendation

[FR Doc. 2026–09510 Filed 5–12–26; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–469–824]

Thermal Paper From Spain: Preliminary Results of Antidumping Duty Administrative Review; 2023–2024

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

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily determines that Torraspapel S.A. (Torraspapel), made sales of subject merchandise at less than normal value (NV) during the period of review (POR), November 1, 2023, through October 31, 2024. Interested parties are invited to comment on these preliminary results of review.

DATES: Applicable May 13, 2026.

FOR FURTHER INFORMATION CONTACT: Stephanie Trejo, AD/CVD Operations, Office IV, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–4390.

SUPPLEMENTARY INFORMATION:

Background

On December 18, 2024, based on timely requests for review, in accordance with 19 CFR 351.221(c)(1)(i), we initiated an administrative review of the antidumping duty (AD) order on thermal paper from Spain.¹ On December 9, 2024, Commerce tolled the deadline to issue the preliminary results

in this administrative review by 90 days.² Due to the lapse in appropriations and Federal Government shutdown, on November 14, 2025, Commerce tolled all deadlines in administrative proceedings by 47 days.³ Additionally, due to a backlog of documents that were electronically filed via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS) during the Federal Government shutdown, on November 24, 2025, Commerce tolled all deadlines in administrative proceedings by an additional 21 days.⁴ On December 23, 2025, Commerce extended the deadline for issuing the preliminary results of this review to no later than May 7, 2026.⁵

For a complete description of the events that followed the initiation of this review, *see* the Preliminary Decision Memorandum.⁶ A list of the topics included in the Preliminary Decision Memorandum is attached as an appendix to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via ACCESS. ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at <https://access.trade.gov/frnotices>.

Scope of the Order

The merchandise covered by the Order is thermal paper from Spain. For a complete description of the scope of the Order, *see* the Preliminary Decision Memorandum.

Methodology

Commerce is conducting this review in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act). Export price and constructed export price are calculated in accordance with section 772 of the Act. NV is calculated in accordance with section 773 of the Act. For a full description of the methodology underlying our

conclusions, *see* the Preliminary Decision Memorandum.

Preliminary Results of Review

As a result of this review, we preliminarily determine the following estimated weighted-average dumping margin exists for the period November 1, 2023, through October 31, 2024:

Exporter/producer	Dumping margin (percent)
Torraspapel S.A.	7.69

Disclosure

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

Verification

As provided in section 782(i)(3) of the Act, Commerce intends to verify the information relied upon in the final results of review.

Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the date on which Commerce issues its last verification report. Rebuttal briefs, limited to issues raised in the case briefs, may be filed no later than five days after the date for filing case briefs.⁷ Interested parties who submit case briefs or rebuttal briefs in this proceeding must submit: (1) a table of contents listing each issue; and (2) a table of authorities.⁸ All briefs must be filed electronically using ACCESS. An electronically filed document must be received successfully in its entirety in ACCESS by 5:00 p.m. Eastern Time on the established deadline.

As provided under 19 CFR 351.309(c)(2)(iii) and (d)(2)(iii), we request that interested parties provide at the beginning of their briefs a public executive summary for each issue raised in their briefs.⁹ Further, we request that interested parties limit their public executive summary of each issue to no

² See Memorandum, “Tolling of Deadlines for Antidumping and Countervailing Duty Proceedings,” dated December 9, 2024.

³ See Memorandum, “Deadlines Affected by the Shutdown of the Federal Government,” dated November 14, 2025.

⁴ See Memorandum, “Tolling of all Case Deadlines,” dated November 24, 2025.

⁵ See Memorandum, “Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review,” dated December 23, 2025.

⁶ See Memorandum, “Decision Memorandum for the Preliminary Results of the Administrative Review of the Antidumping Duty Order on Thermal Paper from Spain: 2023–2024,” dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

⁷ See 19 CFR 351.309(d); *see also* *Administrative Protective Order, Service, and Other Procedures in Antidumping and Countervailing Duty Proceedings*, 88 FR 67069, 67077 (September 29, 2023) (*APO and Service Procedures*).

⁸ See 19 CFR 351.309(c)(2) and (d)(2).

⁹ We use the term “issue” here to describe an argument that Commerce would normally address in a comment of the Issues and Decision Memorandum.

¹ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 89 FR 102856 (December 18, 2024) (*Initiation Notice*); *see also* *Thermal Paper from Germany, Japan, the Republic of Korea, and Spain: Antidumping Duty Orders*, 86 FR 66284 (November 22, 2021) (*Order*).

more than 450 words, not including citations. We intend to use the public executive summaries as the basis of the comment summaries included in the issues and decision memorandum that will accompany the final results in this administrative review. We request that interested parties include footnotes for relevant citations in the public executive summary of each issue. Note that Commerce has amended certain of its requirements pertaining to the service of documents in 19 CFR 351.303(f).¹⁰

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, filed electronically via ACCESS by 5:00 p.m. Eastern Time within 30 days after the date of publication of this notice. Requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants, and whether any participant is a foreign national; and (3) a list of issues to be discussed. Oral presentations at the hearing will be limited to issues raised in the briefs. If a request for a hearing is made, Commerce will inform parties of the scheduled date for the hearing.¹¹

Assessment Rates

Pursuant to section 751(a)(2)(A) of the Act and 19 CFR 351.212(b)(1), Commerce will determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries of subject merchandise upon completion of the final results of this review.

If Torraspapel's weighted-average dumping margin is not zero or *de minimis* (i.e., less than 0.50 percent) in the final results of this review, Commerce intends to calculate importer-specific assessment rates on the basis of the ratio of the total amount of dumping calculated for each importer's examined sales to the total entered value of those sales. Where we do not have entered values for all U.S. sales to a particular importer, we will calculate an importer-specific, per-unit assessment rate on the basis of the ratio of the total amount of dumping calculated for the importer's examined sales to the total quantity of those sales.¹² To determine whether an importer-specific, per-unit assessment rate is *de minimis*, in accordance with 19 CFR 351.106(c)(2), we also will calculate an importer-specific *ad*

valorem ratio based on estimated entered values. If Torraspapel's weighted-average dumping margin is zero or *de minimis* or where an importer-specific *ad valorem* assessment rate is zero or *de minimis*, we will instruct CBP to liquidate appropriate entries without regard to antidumping duties.¹³

In accordance with Commerce's "automatic assessment" practice, for entries of subject merchandise during the POR produced by Torraspapel for which it did not know that the merchandise was destined for the United States, we intend to instruct CBP to liquidate those entries at the all-others rate calculated in the less-than-fair-value (LTFV) investigation if there is no rate for the intermediate company(ies) involved in the transaction.¹⁴ If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (i.e., within 90 days of publication).

Cash Deposit Requirements

The following deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review in the **Federal Register**, as provided by section 751(a)(2)(C) of the Act: (1) the cash deposit rate for Torraspapel will be the rate established in the final results of this review, except if the rate is less than 0.50 percent and, therefore, *de minimis* within the meaning of 19 CFR 351.106(c)(1), in which case the cash deposit rate will be zero; (2) for previously investigated or reviewed companies not covered by this review, the cash deposit rate will continue to be the company-specific cash deposit rate published for the most recently completed segment of this proceeding in which the company participated; (3) if the exporter is not a firm covered in this review, or the LTFV investigation, but the manufacturer is, then the cash deposit rate will be the rate established

for the most recent segment for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 37.07 percent, the all-others rate established in the LTFV investigation.¹⁵ These cash deposit requirements, when imposed, shall remain in effect until further notice.

Final Results of the Review

Unless the deadline is otherwise extended, Commerce intends to issue the final results of this administrative review, including the results of its analysis of issues raised by interested parties in the written brief, within 120 days after the publication of this notice in the **Federal Register**, pursuant to section 751(a)(3)(A) of the Act and 19 CFR 351.213(h)(1).

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Notification to Interested Parties

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

Dated: May 7, 2026.

Christopher Abbott,

Deputy Assistant Secretary for Policy and Negotiations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Preliminary Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the Order
- IV. Discussion of the Methodology
- V. Currency Conversion
- VI. Recommendation

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¹⁵ See Order.

¹⁰ See APO and Service Procedures.

¹¹ See 19 CFR 351.310(d).

¹² See 19 CFR 351.212(b)(1).

¹³ See 19 CFR 351.106(c)(2); see also *Antidumping Proceeding: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings; Final Modification*, 77 FR 8101, 8103 (February 14, 2012).

¹⁴ For a full discussion of this practice, see *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003).

DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-117]

Wood Mouldings and Millwork Products From the People's Republic of China: Preliminary Results and Rescission, in Part, of Antidumping Duty Administrative Review; 2024–2025

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

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily determines that exporters subject to this review made sales of subject merchandise at less than normal value during the period of review (POR), February 1, 2024, through January 31, 2025. In addition, we are rescinding this review with respect to 26 companies. Interested parties are invited to comment on these preliminary results of review.

DATES: Applicable May 13, 2026.

FOR FURTHER INFORMATION CONTACT: Brian Smith or Hannah Lee, AD/CVD Operations, Office VIII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-1766 or (202) 482-1216, respectively.

SUPPLEMENTARY INFORMATION:**Background**

On March 28, 2025, based on timely requests for an administrative review, in accordance with 19 CFR

351.221(c)(1)(i), we initiated an administrative review of the antidumping duty order on wood mouldings and millwork products (millwork products) from the People's Republic of China (China) with respect to 35 companies.¹ On May 20, 2025, and June 26, 2025, Weston Wood Solutions (Weston) and the Coalition of American Millwork Producers (CAMP) timely withdrew their review requests for review of seven companies.² These preliminary results cover nine companies, including the mandatory respondents, Fujian Hongjia Craft Products Co., Ltd. (Hongjia) and

Nanping Huatai Wood & Bamboo Co., Ltd. (Nanping Huatai).

Due to the lapse in appropriations and Federal Government Shutdown, on November 14, 2025, Commerce tolled all deadlines in administrative proceedings by 47 days.³ On November 18, 2025, Commerce extended the deadline for issuing the preliminary results of this review until April 16, 2025.⁴ Additionally, due to a backlog of documents that were electronically filed via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS) during the Federal Government shutdown, on November 24, 2025, Commerce tolled all deadlines in administrative proceedings by an additional 21 days.⁵ The deadline for the preliminary results of this review is now May 7, 2026.

For a complete description of the events that followed the initiation of this review, see the Preliminary Decision Memorandum.⁶ The Preliminary Decision Memorandum is a public document and is on file electronically via ACCESS. A list of topics included in the Preliminary Decision Memorandum is included as Appendix I to this notice. ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at <https://access.trade.gov/frnotices>.

Scope of the Order

The products covered by the *Order* are wood mouldings and millwork products, subject to certain exceptions.⁷ For a complete description of the scope of the *Order*, see the Preliminary Decision Memorandum.

Rescission of Administrative Review, in Part

Pursuant to 19 CFR 351.213(d)(1), Commerce will rescind an administrative review, in whole or in

³ See Memorandum, "Deadlines Affected by the Shutdown of Federal Government," dated November 14, 2025.

⁴ See Memorandum, "Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review," dated November 18, 2025.

⁵ See Memorandum, "Tolling of all Case Deadlines," dated November 24, 2025.

⁶ See Memorandum, "Decision Memorandum for the Preliminary Results of Antidumping Duty Administrative Review of Wood Mouldings and Millwork Products from the People's Republic of China; 2024–2025," dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

⁷ See *Wood Mouldings and Millwork Products from the People's Republic of China: Amended Final Antidumping Duty Determination and Antidumping Duty Order*, 86 FR 9486 (February 16, 2021) (*Order*).

part, if a party that requested a review withdraws its request within 90 days of the date of publication of the notice of initiation. As noted above, CAMP timely withdrew their review requests for review of seven companies. Thus, we are rescinding the review for these seven companies.

Pursuant to 19 CFR 351.213(d)(3), it is Commerce's practice to rescind an administrative review of an antidumping duty order where it concludes that there were no suspended entries of subject merchandise during the POR.⁸ Normally, upon completion of an administrative review, the suspended entries are liquidated at the antidumping duty assessment rate for the review period.⁹ Therefore, for an administrative review to be conducted, there must be a reviewable, suspended entry that Commerce can instruct U.S. Customs and Border Protection (CBP) to liquidate at the calculated antidumping duty assessment rate for the review period.¹⁰ On April 14, 2026, we notified parties of our intent to rescind this administrative review for 19 companies with no entries of subject merchandise during the POR and invited interested parties to comment.¹¹ We received no comments. In the absence of any suspended entries of subject merchandise from these companies during the POR, we are rescinding this administrative review for the companies listed in Appendix IV, in accordance with 19 CFR 351.213(d)(3).

Methodology

Commerce is conducting this review in accordance with section 751(a)(1)(B) of the Tariff Act of 1930, as amended

⁸ See, e.g., *Certain Cargon and Alloy Steel Cut-to-Length Plate from the Federal Republic of Germany: Rescission of Antidumping Administrative Review; 2020–2021*, 88 FR 4154 (January 24, 2023).

⁹ See 19 CFR 351.212(b)(1).

¹⁰ See e.g., *Shanghai Sunbeauty Trading Co. v. United States*, 380 F.Supp.3d 1328, 1337 (CIT 2019), at 12 (referring to section 751(a) of the Act, the U.S. Court of International Trade held that "[w]hile the statute does not explicitly require that an entry be suspended as a prerequisite for establishing entitlement to a review, it does explicitly state the determined rate will be used as the liquidation rate for the reviewed entries. This result can only obtain if the liquidation of entries has been suspended"; see also *Certain Frozen Fish Fillets from the Socialist Republic of Vietnam; Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2018–2019*, 86 FR 36102 (July 8, 2021), and accompanying Issues and Decision Memorandum at Comment 4; and *Solid Fertilizer Grade Ammonium Nitrate from the Russian Federation: Notice of Rescission of Antidumping Duty Administrative Review*, 77 FR 65532 (October 29, 2012) (noting that "for an administrative review to be conducted, there must be a reviewable, suspended entry to be liquidated at the newly calculated assessment rate").

¹¹ See Memorandum, "Notice of Intent to Rescind Review, In Part," dated April 14, 2026.

¹ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 90 FR 14081 (March 28, 2025) (*Initiation Notice*).

² See Westons' Letter's, "Request for Administrative Review," Dated May 20, 2025; see also CAMP's Letter, "Partial Withdrawal of Request for Administrative Review," dated June 26, 2025.

(the Act). Because China is a non-market economy (NME) country within the meaning of section 771(18) of the Act, we calculated normal value in accordance with section 773(c) of the Act. For a full description of the methodology underlying our preliminary results, *see* the Preliminary Decision Memorandum.

Separate Rates

We preliminarily determine that, in addition to Hongjia and Nanping Huatai, two companies not individually examined are eligible for separate rates in this administrative review.¹² The Act and Commerce's regulations do not address the establishment of a separate rate to be applied to companies not selected for individual examination when Commerce limits its examination in an administrative review pursuant to section 777A(c)(2) of the Act. Generally, Commerce looks to section 735(c)(5) of the Act, which provides instructions for calculating the all-others rate in an investigation, for guidance when calculating the rate for separate-rate respondents which Commerce did not examine individually in an administrative review.

For the preliminary results of this review, Commerce determined the estimated dumping margins for Hongjia and Nanping Huatai to be 31.82 percent and 58.45 percent, respectively. For the reasons explained in the Preliminary Decision Memorandum, we are assigning a 42.04 percent rate to the non-examined respondents that qualify for a separate rate in this review.¹³

China-Wide Entity

Commerce's policy regarding conditional review of the China-wide entity applies to this administrative review.¹⁴ Under this policy, the China-wide entity will not be under review unless a party specifically requests, or Commerce self-initiates, a review of the entity. Because no party requested a review of the China-wide entity, the entity is not under review, and the entity's rate (*i.e.*, 220.87 percent)¹⁵ is not subject to change. For reasons explained in the Preliminary Decision

Memorandum, Commerce considers companies for which a review was initiated, but failed to respond to our requests for information, to be part of the China-wide entity.¹⁶

Preliminary Results of Review

Commerce preliminarily determines that the following estimated weighted-average dumping margins exist for the period February 1, 2024, through January 31, 2025:

Exporter	Weighted-average dumping margin (percent)
Fujian Hongjia Craft Products Co., Ltd	31.82
Nanping Huatai Wood & Bamboo Co., Ltd	58.45
Non-Individually Examined Companies Receiving a Separate Rate	
Bel Trade Wood Industrial Co., Ltd. Youxi Fujian	42.04
Tim Feng Manufacturing Co., Ltd	42.04

Disclosure

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

Verification

As provided in section 782(i)(3) of the Act, Commerce intends to verify the information relied upon in making its final results.

Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the date on which the last verification report is issued in this administrative review. Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than five days after the date for filing case briefs.¹⁷ Interested parties who submit case briefs or rebuttal briefs in this review must submit: (1) a table of contents listing each issue; and (2) a table of authorities.¹⁸

¹⁶ See Appendix V.

¹⁷ See 19 CFR 351.309(d); *see also* Administrative Protective Order, Service, and Other Procedures in Antidumping and Countervailing Duty Proceedings, 88 FR 67069, 67077 (September 29, 2023) (APO and Service Final Rule).

¹⁸ See 19 CFR 351.309(c)(2) and (d)(2). We use the term "issue" here to describe an argument that

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

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, filed electronically via ACCESS by 5:00 p.m. Eastern Time within 30 days after the date of publication of this notice. Requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. Oral presentations at the hearing will be limited to issues raised in the briefs. If a request for a hearing is made, Commerce will inform parties of the scheduled date for the hearing.²⁰

Assessment Rates

Pursuant to section 751(a)(2)(A) of the Act and 19 CFR 351.212(b)(1), Commerce will determine, and CBP shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the final results of this review.

If Hongjia's and Nanping Huatai's weighted-average dumping margins are not zero or *de minimis* (*i.e.*, less than 0.50 percent) in the final results of this review, Commerce intends to calculate importer-specific assessment rates on the basis of the ratio of the total amount of dumping calculated for each importer's examined sales to the total entered value of those sales. Where we do not have entered values for all U.S. sales to a particular importer, we will calculate an importer-specific, per-unit assessment rate on the basis of the ratio of the total amount of dumping calculated for the importer's examined

Commerce would normally address in a comment of the Issues and Decision Memorandum.

¹⁹ See APO and Service Procedures.

²⁰ See 19 CFR 351.310(d).

¹² See Preliminary Decision Memorandum at the "Separate Rate Determinations" section for more details.

¹³ See Memorandum, "Preliminary Separate Rate for Respondents Not Selected for Individual Examination," dated concurrently with the Preliminary Decision Memorandum.

¹⁴ See *Antidumping Proceedings: Announcement of Change in Department Practice for Respondent Selection in Antidumping Duty Proceedings and Conditional Review of the Nonmarket Economy Entity in NME Antidumping Duty Proceedings*, 78 FR 65963 (November 4, 2013).

¹⁵ See Order, 86 FR at 9488.

sales to the total quantity of those sales.²¹ To determine whether an importer-specific, per-unit assessment rate is *de minimis*, in accordance with 19 CFR 351.106(c)(2), we also will calculate an importer-specific *ad valorem* ratio based on estimated entered values. If Hongjia's and Nanping Huatai's weighted-average dumping margins are zero or *de minimis* or where an importer-specific *ad valorem* assessment rate is zero or *de minimis*, we will instruct CBP to liquidate appropriate entries without regard to antidumping duties.²²

For the respondents that were not selected for individual examination in this administrative review but qualified for a separate rate, the assessment rate will be equal to the weighted-average dumping margins calculated for the mandatory respondents consistent with section 735(c)(5)(A) of the Act. Consequently, the rate established for the non-individually examined companies is an *ad valorem* rate of 42.02 percent.

For entries that were not reported in the U.S. sales database submitted by the mandatory respondents during this review, Commerce will instruct CBP to liquidate such entries at the China-wide rate.

For the companies listed in Appendices III and IV for which the review is being rescinded, Commerce will instruct CBP to assess antidumping duties on all appropriate entries. Antidumping duties shall be assessed at rates equal to the cash deposit rate for estimated antidumping duties required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(1)(i). Commerce intends to issue rescission instructions to CBP no earlier than 35 days after the date of publication of this notice in the **Federal Register**.

For the final results, if we continue to treat the companies identified in Appendix V as part of the China-wide entity, we will instruct CBP to apply an *ad valorem* assessment rate of 220.87 percent to all entries of subject merchandise during the POR which were produced and/or exported by those companies.

The final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the final results

of this review and for future deposits of estimated duties, where applicable.

If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.*, within 90 days of publication).

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for shipments of the subject merchandise from China entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by sections 751(a)(2)(C) of the Act: (1) for the companies listed above, which have a separate rate, the cash deposit rate will be that established in the final results of this review (except, if the rate is zero or *de minimis*, then zero cash deposit will be required); (2) for previously investigated or reviewed Chinese and non-Chinese exporters not listed above that received a separate rate in a prior segment of this proceeding, the cash deposit rate will continue to be the existing exporter-specific rate; (3) for all Chinese exporters of subject merchandise that have not been found to be entitled to a separate rate, the cash deposit rate will be the existing rate for the China-wide entity of 220.87 percent; and (4) for all non-Chinese exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the Chinese exporter that supplied that non-Chinese exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

Final Results of Review

Unless otherwise extended, Commerce intends to issue the final results of this administrative review, which will include the results of its analysis of issues raised in case and rebuttal briefs, within 120 days of publication of these preliminary results of review in the

Federal Register, pursuant to section 751(a)(3)(A) of the Act.

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping and/or countervailing duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in Commerce's

presumption that reimbursement of antidumping and/or countervailing duties occurred and the subsequent assessment of double antidumping duties, and/or an increase in the amount of antidumping duties by the amount of the countervailing duties.

Notification to Interested Parties

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

Dated: May 7, 2026.

Christopher Abbott,

Deputy Assistant Secretary for Policy and Negotiations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

Appendix I

List of Topics Discussed in the Preliminary Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the Order
- IV. Rescission of Administrative Review, In Part
- V. Discussion of the Methodology
- VI. Currency Conversion
- VII. Recommendation

Appendix II

Companies Under Review Receiving a Separate Rate

1. Bel Trade Wood Industrial Co., Ltd. Youxi Fujian
2. Fujian Hongjia Craft Products Co., Ltd.
3. Nanping Huatai Wood & Bamboo Co., Ltd.
4. Tim Feng Manufacturing Co., Ltd.

Appendix III

Companies Rescinded From Review With No Outstanding Review Request

1. Anji Huaxin Bamboo & Wood Products Co., Ltd.
2. Fotiou Frames Limited
3. Gaomi Hongtai Home Furniture Co., Ltd.
4. Longquan Jiefeng Trade Co., Ltd.
5. Shuyang Kevin International Co., Ltd.
6. Sun Valley Shade Co., Ltd.
7. Zhangzhou Wangjiamei Industry & Trade Co. Ltd.

Appendix IV

Companies With No Reviewable Entries Rescinded From Review

1. Baixing Import and Export Trading Co., Ltd Youxi Fujian
2. Fujian Sanming City Donglai Wood Co., Ltd.
3. Fujian Youxi Best Arts & Crafts Co. Ltd.
4. Fujian Zhangping Kimura Forestry Products Co., Ltd.
5. Homebuild Industries Co., Ltd.
6. Huanan Longda Wood Industry Co., Ltd.
7. Jiangsu Chensheng Forestry Development Co., Ltd.
8. Jiangsu Wenfeng Wood Co., Ltd.
9. Jim Fine Wooden Products Co., Ltd.
10. Omni One Co., Limited

²¹ See 19 CFR 351.212(b)(1).

²² See 19 CFR 351.106(c)(2); see also *Antidumping Proceeding: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings; Final Modification*, 77 FR 8101, 8103 (February 14, 2012).

11. Raoping HongRong Handicrafts Co., Ltd. (d.b.a. Chen Chui Global Corp.)
12. Sanming Lingtong Trading Co., Ltd.
13. Shandong Miting Household Co., Ltd.
14. Shaxian Hengtong Wood Industry Co., Ltd.
15. Shaxian Shiyiwood, Ltd.
16. Suqian Sulu Import & Export Trading Co., Ltd.
17. Wuxi Boda Bamboo & Wood Industrial Co., Ltd.
18. Xiamen Zihua Industry & Trade Co., Ltd.
19. Zhangzhou Yihong Industrial Co., Ltd.

Appendix V

Companies Considered To Be Part of the China-Wide Entity

1. Fujian Jinquan Trade Co., Ltd.
2. Fujian Wangbin Decorative Material Co., Ltd.
3. Fujian Yinfeng Imp & Exp Trading Co., Ltd.
4. Putian Yihong Wood Industry Co., Ltd.
5. Shenzhen Xijintai Industrial Co., Ltd.

[FR Doc. 2026–09509 Filed 5–12–26; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–552–802]

Certain Frozen Warmwater Shrimp From the Socialist Republic of Vietnam: Preliminary Results and Rescission, in Part, of Antidumping Duty Administrative Review; 2024–2025

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

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily determines that sales of certain frozen warmwater shrimp (shrimp) from the Socialist Republic of Vietnam (Vietnam) by Sao Ta Foods Joint Stock Company/ FIMEX VN/Sao Ta Seafood Factory/ Khang An Foods Joint Stock Company (collectively, Fimex Group) and Soc Trang Seafood Joint Stock Company (STAPIMEX) were made at prices below normal value (NV) and that 29 exporters are eligible for separate rates. Commerce is also rescinding the review with respect to certain exporters that had no reviewable entries of subject merchandise during the period of review (POR), February 1, 2024, through January 31, 2025. Interested parties are invited to comment on these preliminary results of review.

DATES: Applicable May 13, 2026.

FOR FURTHER INFORMATION CONTACT: Jonathan Schueler or Matthew Lipka, AD/CVD Operations, Office VIII, Enforcement and Compliance, International Trade Administration,

U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–9175 or (202) 482–7976, respectively.

SUPPLEMENTARY INFORMATION:

Background

On February 1, 2005, Commerce published in the **Federal Register** the antidumping duty order on shrimp from Vietnam.¹ On February 3, 2025, Commerce published a notice of opportunity to request an administrative review of the antidumping duty *Order*.² Based on timely requests for review, in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act) and 19 CFR 351.221(c)(1)(i), on March 28, 2025, Commerce initiated an administrative review of the *Order*, covering 177 companies, including multiple companies with name variations/abbreviations.³ Between April 9 and April 21, 2025, 29 companies filed timely separate rate applications (SRAs) or separate rate certifications (SRCs). On May 22, 2025, Commerce selected the Fimex Group and STAPIMEX as the mandatory respondents in this review.⁴ On March 17, 2026, Commerce notified interested parties of its intent to rescind the administrative review with respect to eight companies.⁵

On August 26, 2025, Commerce postponed the deadline to issue the preliminary results of this review, in accordance with section 751(a)(3)(A) of the Act and 19 CFR 351.213(h)(2).⁶ Due to the lapse in appropriations and Federal Government shutdown, on November 14, 2025, Commerce tolled all deadlines in administrative proceedings by 47 days.⁷ Additionally, due to a backlog of documents that were electronically filed via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized

¹ See *Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam*, 70 FR 5152 (February 1, 2005) (*Order*).

² See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review and Join Annual Inquiry Service List*, 90 FR 8785 (February 3, 2025).

³ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 90 FR 14081 (March 28, 2025) (*Initiation Notice*).

⁴ See Memorandum, “Respondent Selection,” dated May 22, 2025 (Respondent Selection Memorandum).

⁵ See Memorandum, “Notice of Intent to Rescind Review, In Part,” dated March 17, 2026.

⁶ See Memorandum, “Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review,” dated August 26, 2025.

⁷ See Memorandum, “Deadlines Affected by the Shutdown of the Federal Government,” dated November 14, 2025.

Electronic Service System (ACCESS) during the Federal Government shutdown, on November 24, 2025, Commerce tolled all deadlines in administrative proceedings by an additional 21 days.⁸ The deadline for issuing the preliminary results is now May 7, 2025.

For a complete description of the events that followed the initiation of this review, see the Preliminary Decision Memorandum.⁹ A list of the topics discussed in the Preliminary Decision Memorandum is attached as Appendix I to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via ACCESS. ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at <https://access.trade.gov/frnotices>.

Scope of the Order

The merchandise subject to the *Order* is shrimp. For a complete description of the scope of the *Order*, see the Preliminary Decision Memorandum.

Rescission of Administrative Review, in Part

Pursuant to 19 CFR 351.213(d)(3), when there are no reviewable entries of subject merchandise during the POR subject to the antidumping duty order for which liquidation is suspended, Commerce may rescind an administrative review, in whole or only with respect to a particular exporter or producer.¹⁰ Normally, upon completion of the administrative review, any suspended entries are liquidated at the assessment rate computed for the review period.¹¹ Therefore, for an administrative review to be conducted, there must be at least one reviewable, suspended entry that Commerce can instruct U.S. Customs and Border Protection to liquidate at the calculated assessment rate for the review period. On March 17, 2026, Commerce notified all interested parties of its intent to rescind this review with respect to 8 companies because those companies had no reviewable, suspended entries of subject merchandise, and invited parties

⁸ See Memorandum, “Tolling of all Case Deadlines,” dated November 24, 2025.

⁹ See Memorandum, “Decision Memorandum for the Preliminary Results of the Antidumping Duty Administrative Review of Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam; 2024–2025,” dated concurrently with this notice (Preliminary Decision Memorandum).

¹⁰ See, e.g., *Certain Carbon and Alloy Steel Cut-to Length Plate from the Federal Republic of Germany: Rescission of Antidumping Administrative Review*; 2020–2021, 88 FR 4154 (January 24, 2023).

¹¹ See 19 CFR 351.212(b)(1).

to comment.¹² We received no comments regarding our intent to rescind this review, in part.

Accordingly, in the absence of suspended entries of subject merchandise during the POR for eight companies/entities that currently have a separate rate for which this review was initiated, we are hereby rescinding this administrative review, in part, with respect to these companies, in accordance with 19 CFR 351.213(d)(3).¹³

Separate Rates

We preliminarily determine that, in addition to STAPIMEX and the Fimex Group, 27 companies not individually examined¹⁴ are eligible for separate rates in this administrative review.¹⁵ The Act and Commerce's regulations do not address the establishment of a separate rate to be applied to companies not selected for individual examination when Commerce limits its examination in an administrative review pursuant to section 777A(c)(2) of the Act. Generally, Commerce looks to section 735(c)(5) of the Act, which provides instructions for calculating the all-others rate in an

investigation, for guidance when calculating the rate for separate-rate respondents which Commerce did not examine individually in an administrative review.

For the preliminary results of this review, Commerce has determined the estimated dumping margin for the Fimex Group to be 10.76 percent and STAPIMEX to be 6.30 percent.¹⁶ For the reasons explained in the Preliminary Decision Memorandum, we are assigning the weighted-average of the dumping margins calculated for the Fimex Group and STAPIMEX to the non-examined respondents which qualify for a separate rate in this review.¹⁷

The Vietnam-Wide Entity

Commerce finds that 132 companies under review have not established eligibility for a separate rate and are considered to be part of the Vietnam-wide entity for these preliminary results.¹⁸ Commerce's policy regarding conditional review of the Vietnam-wide entity applies to this administrative review.¹⁹ Under this policy, the Vietnam-wide entity will not be under

review unless a party specifically requests, or Commerce self-initiates, a review of the entity. Because no party requested a review of the Vietnam-wide entity, the entity is not under review and the entity's rate of 25.76 percent is not subject to change.

Methodology

Commerce is conducting this review in accordance with section 751(a)(1)(B) of the Act. We have calculated export price in accordance with section 772 of the Act. Because Vietnam is a non-market economy country within the meaning of section 771(18) of the Act, we have calculated NV in accordance with section 773(c) of the Act. For a full description of the methodology underlying our conclusions, see the Preliminary Decision Memorandum.

Preliminary Results of Review

Commerce preliminarily determines that the following estimated weighted-average dumping margins exist for the period February 1, 2024, through January 31, 2025:

Exporter	Weighted-average dumping margin (percent)
Sao Ta Foods Joint Stock Company/FIMEX VN/Sao Ta Seafood Factory/Khang An Foods Joint Stock Company	10.76
Soc Trang Seafood Joint Stock Company; STAPIMEX	6.30
Non-Individually Examined Companies Receiving a Separate Rate ²⁰	7.56

Disclosure

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

Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance. Pursuant to 19 CFR 351.309(c)(1)(ii), we have modified the deadline for interested parties to submit

a case brief to no later than 21 days after the date of publication of this notice.²¹ Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than five days after the date for filing case briefs.²² Interested parties who submit case briefs or rebuttal briefs in this proceeding must submit: (1) a table of contents listing each issue; and (2) a table of authorities.²³ Case and rebuttal briefs should be filed electronically via ACCESS.

As provided under 19 CFR 351.309(c)(2) and (d)(2), we request that interested parties provide at the beginning of their briefs a public, executive summary for each issue raised

in their briefs.²⁴ Further, we request that interested parties limit their executive summary of each issue to no more than 450 words, not including citations. We intend to use the executive summaries as the basis of the comment summaries included in the issues and decision memorandum that will accompany the final results in this administrative review. We request that interested parties include footnotes for relevant citations in the executive summary of each issue. Note that Commerce has amended certain of its requirements pertaining to the service of documents in 19 CFR 351.303(f).²⁵

¹² See Memorandum, "Notice of Intent to Rescind Review, In Part," dated March 17, 2026 (Intent to Rescind Memorandum).

¹³ See Appendix IV for a list of these companies.

¹⁴ See Appendix II for a list of these companies.

¹⁵ See Preliminary Decision Memorandum at the "Separate Rate Analysis" section for more details.

¹⁶ See Memorandum, "Preliminary Results Analysis Memorandum for the Fimex Group," dated concurrently with this notice; see also Memorandum, "Preliminary Results Analysis Memorandum for STAPIMEX," dated concurrently with this notice.

¹⁷ See Memorandum, "Calculation of the Dumping Margin for Respondents Not Selected for Individual Examination," dated concurrently with this notice.

¹⁸ See Appendix III for a list of these companies.

¹⁹ See *Antidumping Proceedings: Announcement of Change in Department Practice for Respondent Selection in Antidumping Duty Proceedings and Conditional Review of the Nonmarket Economy Entity in NME Antidumping Duty Proceedings*, 78 FR 65963 (November 4, 2013).

²⁰ See Appendix II.

²¹ See 19 CFR 351.309(c)(1)(ii).

²² See 19 CFR 351.309(d); see also *Administrative Protective Order, Service, and Other Procedures in Antidumping and Countervailing Duty Proceedings*, 88 FR 67069, 67077 (September 29, 2023) (*APO and Service Final Rule*).

²³ See 19 CFR 351.309(c)(2) and (d)(2).

²⁴ We use the term "issue" here to describe an argument that Commerce would normally address in a comment of the Issues and Decision Memorandum.

²⁵ See *APO and Service Final Rule*.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, filed electronically via ACCESS. Requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants and whether any participant is a foreign national; and (3) a list of issues to be discussed. Issues raised in the hearing will be limited to those raised in the respective case briefs. If a request for a hearing is made, Commerce intends to hold the hearing at a date and time to be determined. Parties should confirm the date, time, and location of the hearing two days before the scheduled date. An electronically filed hearing request must be received successfully in its entirety by Commerce's electronic records system, ACCESS, by 5 p.m. Eastern Time within 30 days after the date of publication of this notice.

Assessment Rates

Pursuant to section 751(a)(2)(A) and (C) of the Act and 19 CFR 351.212(b)(1), Commerce will determine, and CBP shall assess, antidumping duties on all appropriate entries of subject merchandise covered by this review. For the companies for which this review is rescinded with these preliminary results, we will instruct CBP to assess antidumping duties on all appropriate entries at rates equal to the cash deposit of antidumping duties required at the time of entry, or withdrawal from warehouse, for consumption, during the POR in accordance with 19 CFR 351.212(c)(1)(i). Commerce intends to issue these rescission instructions to CBP no earlier than 35 days after the date of publication of this notice in the **Federal Register**.

For the remaining companies under review, Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of the final results of this review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.*, within 90 days of publication).

If a respondent's weighted-average dumping margin is not zero or *de minimis* in the final results of this administrative review, Commerce will calculate importer or customer-specific assessment rates on the basis of the ratio of the total amount of dumping

calculated for each importer's examined sales and the total entered value of such sales in accordance with 19 CFR 351.212(b)(1).²⁶ Where the respondent reported entered value, Commerce intends to calculate importer or customer-specific *ad valorem* assessment rates by aggregating the amount of dumping calculated for all U.S. sales to the importer or customer and dividing this amount by the total entered value of the merchandise sold to the importer or customer.²⁷ Where the respondent did not report entered values, Commerce will calculate a per-unit importer or customer-specific assessment rate by dividing the amount of dumping for reviewed sales to the importer or customer by the total quantity of those sales.²⁸ Commerce will calculate an estimated *ad valorem* importer or customer-specific assessment rate to determine whether the per-unit assessment rate is *de minimis*; however, Commerce will use the per-unit assessment rate where entered values were not reported. We will instruct CBP to assess antidumping duties on all appropriate entries covered by this review when the importer-specific *ad valorem* assessment rate calculated in the final results of this review is not zero or *de minimis*.

Where a respondent's weighted average dumping margin is zero or *de minimis*, Commerce will instruct CBP to liquidate appropriate entries without regard to antidumping duties.²⁹ For entries that were not reported in the U.S. sales data submitted by the mandatory respondents, but that entered under the case number of the respondents, Commerce will instruct CBP to liquidate such entries at the rate for the Vietnam-wide entity.³⁰

For the respondents that were not selected for individual examination in this administrative review but qualified for a separate rate, the assessment rate will be equal to the dumping margin assigned to these companies in the final results of this review, consistent with section 735(c)(5) of the Act.

For the final results, if we continue to treat the 127 companies identified in

Appendix III as part of the Vietnam-wide entity, we will instruct CBP to apply an *ad valorem* assessment rate of 25.76 percent to all entries of subject merchandise during the POR which were produced and/or exported by those companies. The final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the final results of this review and for future deposits of estimated duties, where applicable.

If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.*, within 90 days of publication).

Cash Deposit Requirements

These cash deposit requirements, when imposed, shall remain in effect until further notice. The following cash deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(2)(C) of the Act: (1) for the exporters listed above, the cash deposit rate will be equal to the weighted-average dumping margins established in the final results of this review, except if the rate is *de minimis*, in which case the cash deposit rate will be zero; (2) for previously-examined Vietnamese and non-Vietnamese exporters not listed above that at the time of entry are eligible for a separate rate based on a prior completed segment of this proceeding, the cash deposit rate will continue to be the existing exporter-specific cash deposit rate; (3) for all non-Vietnamese exporters of subject merchandise which at the time of entry do not have a separate rate, the cash deposit rate will be the rate applicable to the Vietnamese exporter that supplied the non-Vietnamese exporter; and (4) for all Vietnamese exporters of subject merchandise that have not been found to be entitled to a separate rate at the time of entry, the cash deposit rate will be that for the Vietnam-wide entity (*i.e.*, 25.76 percent *ad valorem*). These cash deposit requirements, when imposed, shall remain in effect until further notice.

Final Results of Review

Unless otherwise extended, Commerce intends to issue the final results of this administrative review, including the results of its analysis of issues raised by the parties in the written comments, within 120 days of

²⁶ See *Antidumping Proceedings: Calculation of the Weighted Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings: Final Modification*, 77 FR 8101 (February 12, 2012) (*Final Modification*).

²⁷ See 19 CFR 351.212(b)(1).

²⁸ *Id.*

²⁹ See *Antidumping Proceedings: Calculation of the Weighted Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings: Final Modification*, 77 FR 8101, 8103 (February 12, 2012) (*Final Modification*).

³⁰ For a full discussion of this practice, see *Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties*, 76 FR 65694 (October 24, 2011).

publication of these preliminary results in the **Federal Register**, pursuant to section 751(a)(3)(A) of the Act and 19 CFR 351.213(h)(1).

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping and/or countervailing duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping and/or countervailing duties occurred and the subsequent assessment of double antidumping duties, and/or an increase in the amount of duties by the amount of the countervailing duties.

Notification to Interested Parties

These preliminary results are issued and published in accordance with sections 751(a)(1)(B) and 777(i)(1) of the Act, and 19 CFR 351.221(b)(4).

Dated: May 7, 2026.

Christopher Abbott,

Deputy Assistant Secretary for Policy and Negotiations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

Appendix I

List of Topics Discussed in the Preliminary Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the Order
- IV. Affiliation And Single Entity Treatment
- V. Application Of Facts Available And Use Of Adverse Inference
- VI. Discussion of the Methodology
- VII. Adjustment Under Section 777(A)(F) of the Act
- VIII. Recommendation

Appendix II

Companies Eligible for Separate Rate Status³¹

1. Bac Lieu Fisheries Joint Stock Company; Bac Lieu Fis
2. Camau Seafood Processing and Service Joint Stock Corporation; Camau Seafood Processing and Joint-Stock Corporation; CASES
3. Camimex Group Joint Stock Company; Camimex Group³²

³¹ We have included in this list certain name variations that are included in the SRA/SRC, and, thus are included in the separate rate, but were listed separately in the *Initiation Notice*, or not at all.

³² Interested parties requested a review of, and we listed in the *Initiation Notice*, Camau Frozen Seafood Processing Import Export Corporation, but Commerce has previously determined that Camimex Group Joint Stock Company is the

4. Cantho Import Export Fishery Limited Company; CAFISH
5. Cuulong Seaproducts Company; Cuulong Seapro
6. Hai Viet Corporation; HAVICO
7. Khanh Sung Company, Ltd.; Khanh Sung Co., LTD
8. Minh Hai Joint-Stock Seafoods Processing Company; Seaprodex Minh Hai; Sea Minh Hai
9. Ngoc Tri Seafood Joint Stock Company; Ngoc Tri Seafood Company
10. Q N L Company Limited
11. Sao Ta Foods Joint Stock Company; FIMEX VN; Sao Ta Seafood Factory; Khang An Foods Joint Stock Company³³
12. Seaprimexco Vietnam; Seaprimexco
13. Seavina Joint Stock Company; Seavina
14. Soc Trang Seafood Joint Stock Company; STAPIMEX
15. Thong Thuan Company Limited; T&T Co., LTD; Thong Thuan Cam Ranh Seafood Joint Stock Company³⁴
16. Tai Kim Anh Seafood Joint Stock Corporation; TAIKA Seafood Corporation
17. Thuan Phuoc Seafoods and Trading Corporation; Thuan Phuoc Corp
18. Frozen Seafoods Factory No. 32
19. Seafoods and Foodstuff Factory
20. Trang Khanh Trading Company Limited.; Trang Khanh Seafood Co., Ltd.
21. Trong Nhan Seafood Company Limited; Trong Nhan Seafood
22. UTXI Aquatic Products Processing Corporation; UTXICO
23. Viet I-Mei Frozen Foods Co., Ltd.; Viet I-Mei
24. Viet Nam Clean Seafood Corporation; Vietnam Clean Seafood Corporation; Vina Cleanfood
25. New Generation Seafood Joint Stock Company
26. Nha Trang Seafoods—F89 Joint Stock Company; NTSF Seafoods Joint Stock Company; NT Seafoods Corporation; Nha Trang Seaproduct Company³⁵

successor-in-interest to Camau Frozen Seafood Processing Import Export Corporation, so has only listed Camimex Group Joint Stock Company in this notice. *See Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam: Notice of Final Results of Antidumping Duty Changed Circumstances Review*, 86 FR 47617, (August 26, 2021).

³³ As noted above, Commerce has preliminarily determined that these entities are affiliated within the meaning of section 771(33) of the Act and comprise a single entity pursuant to 19 CFR 351.401(f).

³⁴ Commerce has previously determined that these entities are affiliated within the meaning of section 771(33) of the Act and comprise a single entity pursuant to 19 CFR 351.401(f). *See Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam: Final Results of and Final Rescission of Review, in Part, of Antidumping Duty Administrative Review; 2023–2024*, 91 FR 8429 (February 23, 2026).

³⁵ Commerce has previously determined that these entities are affiliated within the meaning of section 771(33) of the Act and comprise a single entity pursuant to 19 CFR 351.401(f). *See Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam: Preliminary Results, Partial Rescission, and Request for Revocation, In Part, of the Fifth Administrative Review*, 76 FR 12054, 12056 (March 4, 2011), unchanged in *Certain*

27. Quang Minh Seafood Limited Liability Company; Quang Minh Seafood Co., Ltd³⁶
28. Thong Thuan Tra Vinh Seafood Joint Stock Company
29. Viet Shrimp Corporation

Appendix III

Companies Under Review Determined To Be Part of the Vietnam-Wide Entity³⁷

1. AFoods
2. Amanda Seafood Co., Ltd.
3. An Nguyen Investment Production and Group
4. Anh Khoa Seafood
5. Anh Minh Quan Corp
6. APT Co.
7. Au Vung One Seafood
8. Baclieuifis
9. Bentre Forestry and Aquaproduct Import-Export Joint Stock Company aka FAQUIMEX Bentre Seafood Joint Stock Company
10. Beseaco
11. Bien Dong Seafood Co., Ltd.
12. Binh Dong Fisheries Joint Stock Company
13. Binh Thuan Import-Export Joint Stock Company
14. Blue Bay Seafood Co., Ltd.
15. Ca Mau Frozen Seafood Processing Import Export Corporation
16. Ca Mau Seafood Joint Stock Company
17. Ca Mau Seafood Processing and Services Joint Stock Company
18. Cadovimex
19. Cadovimex II Seafood Import Export and Processing Joint Stock Company
20. Cadovimex Seafood Import-Export and Processing Joint Stock Company³⁸
21. Camimex Foods Joint Stock Company
22. Caseamex
23. CASES Kien Giang Branch Camau Seafood Processing & Service Joint Stock Corporation
24. CJ Cau Tre Foods Joint Stock Company
25. Coastal Fisheries Development Corporation
26. COFIDEC
27. Dai Phat Tien Seafood Co., Ltd.

Frozen Warmwater Shrimp from the Socialist Republic of Vietnam: Final Results and Final Partial Rescission of Antidumping Duty Administrative Review, 76 FR 56158 (September 12, 2011).

³⁶ We inadvertently listed this company along with Quoc Ai Seafood Processing Import Export Co., Ltd, but it is a separate company that was requested separately by interested parties. *See the US Shrimpers Coalition's Letter, "Request for Administrative Review,"* dated February 28, 2025 (USSC's Review Request) at 4; *see also the American Shrimp Processors Association's Letter, "America Shrimp Processors Association's Request for Administrative Reviews,"* dated February 25, 2025 (ASPA's Review Request) at 7; and the Ad Hoc Shrimp Trade Action Committee's Letter, "Request for Administrative Reviews," dated February 28, 2025 (AHSTAC's Review Request) at 3.

³⁷ *See Memorandum, "Names Not Granted Separate Rate Status at the Preliminary Results,"* dated concurrently with this *Notice*.

³⁸ We inadvertently listed this company along with Cafatex Fishery Joint Stock Corporation/ Cafatex Corporation, but it is a separate company that was requested separately by interested parties. *See ASPA's Review Request at 2; see also USSC's Review Request at 3.*

28. Danang Seafood Import Export
29. Danang Seaproducts Import-Export Corporation
30. Domenal Joint Stock Company
31. Dong Hai Seafood Limited Company
32. Dong Phuong Seafood Co., Ltd.
33. Duc Cuong Seafood Trading Co., Ltd.
34. Duong Hung Seafood
35. FFC/Fine Foods Company
36. Gallant Dachan Seafood Co., Ltd.
37. Gallant Ocean (Vietnam) Joint Stock Company
38. GN Foods Joint Stock Company
39. Go Dang Joint Stock Company
40. GODACO Seafood
41. Green Farms Seafood Joint Stock Company
42. Hanh An Trading Service Co., Ltd.
43. Hoang Anh Fisheries Trading Company Limited
44. Hoang Phong Seafood Co.
45. Hong Ngoc Seafood Co., Ltd.
46. Hung Bang Company Limited
47. Hung Dong Investment Service Trading Co., Ltd.
48. HungHau Agricultural Joint Stock Company
49. Investment Commerce Fisheries Corporation
50. JK Fish Co., Ltd.
51. Khang An Foods Aquatic Products Joint Stock Company
52. Khang An Foods Joint Stock Company
53. Khanh Hoa Seafoods Exporting Company
54. KHASPEXCO
55. Kim Phat Seafood Import Export Company
56. Long Toan Frozen Aquatic Products Joint Stock Company
57. MC Seafood
58. Minh Anh Seafood Import Export
59. Minh Bach Seafood Company Limited
60. Minh Cuong Seafood Import Export Processing Joint Stock Company
61. Minh Hai Export Frozen Seafood Processing Joint-Stock Company, aka Minh Hai Jostoco
62. Minh Phat Seafood Company Limited³⁹
63. Minh Phu Hau Giang Seafood⁴⁰
64. Minh Phu Seafood Corporation⁴¹

³⁹ Shrimp produced and exported by Minh Phat Seafood Company Limited were excluded from the antidumping duty order on certain frozen warmwater shrimp from Vietnam, effective July 18, 2016. *See Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam: Notice of Implementation of Determination Under Section 129 of the Uruguay Round Agreements Act and Partial Revocation of the Antidumping Duty Order*, 81 FR 47756, 47757–47758 (July 22, 2016).

Accordingly, we initiated this administrative review for this exporter only with respect to subject merchandise produced by another entity.

⁴⁰ Shrimp produced and exported by Minh Phu Hau Giang Seafood were excluded from the antidumping duty order on certain frozen warmwater shrimp from Vietnam, effective July 18, 2016. *See Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam: Notice of Implementation of Determination Under Section 129 of the Uruguay Round Agreements Act and Partial Revocation of the Antidumping Duty Order*, 81 FR 47756, 47757–47758 (July 22, 2016).

Accordingly, we initiated this administrative review for this exporter only with respect to subject merchandise produced by another entity.

⁴¹ Shrimp produced and exported by Minh Phu Seafood Corporation were excluded from the

65. Minh Qui Seafood Company Limited⁴²
66. My Son Seafoods Factory
67. Nam Hai Foodstuff and Export Company Ltd.
68. Nam Phuong Foods Import Export Company Limited
69. Nam Viet Seafood Import Export Joint Stock Company/NAVIMEXCO
70. Namcan Seaproducts Import Export Joint Stock Company
71. New Wind Seafood Company Limited
72. Ngoc Trinh Bac Lieu Seafood Co., Ltd.
73. Nguyen Chi Aquatic Product Trading Company Limited
74. Nhat Duc Co., Ltd.
75. Nigico Co., Ltd.
76. Phuong Nam Foodstuff Corp.
77. QAIMEXCO
78. QNL One Member Company
79. Quoc Ai Seafood Processing Import Export Co., Ltd.⁴³
80. Quoc Toan PTE
81. Quoc Toan Seafood Processing Factory
82. Quy Nhon Frozen Seafoods Joint Stock Company
83. Safe And Fresh Aquatic Products Joint Stock Company
84. Saigon Aquatic Product Trading Joint Stock Company
85. Saigon Food Joint Stock Company
86. Savvy Seafood Vietnam Co., Ltd.
87. SEADANANG
88. Seafood Direct 2012 One Member Limited
89. Seafood Joint Stock Company No. 4
90. Seafood Travel Construction Import-Export Joint Stock Company
91. Seanamico
92. Seaprodex Min Hai
93. Seaprodex Minh Hai Factory No. 69
94. Seaprodex Minh Hai Factory No. 78
95. Seaprodex Minh Hai Workshop 1
96. Seaproducts Joint Stock Company No. 5/ Vietrosco
97. Seaspimex Vietnam
98. Simmy Seafood Company Limited
99. South Ha Tinh Seaproducts Import-Export Joint Stock Company
100. South Vina Shrimp-SVS
101. Southern Shrimp Joint Stock Company

antidumping duty order on certain frozen warmwater shrimp from Vietnam, effective July 18, 2016. *See Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam: Notice of Implementation of Determination Under Section 129 of the Uruguay Round Agreements Act and Partial Revocation of the Antidumping Duty Order*, 81 FR 47756, 47757–47758 (July 22, 2016). Accordingly, we initiated this administrative review for this exporter only with respect to subject merchandise produced by another entity.

⁴² Shrimp produced and exported by Minh Qui Seafood Company Limited were excluded from the antidumping duty order on certain frozen warmwater shrimp from Vietnam, effective July 18, 2016. *See Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam: Notice of Implementation of Determination Under Section 129 of the Uruguay Round Agreements Act and Partial Revocation of the Antidumping Duty Order*, 81 FR 47756, 47757–47758 (July 22, 2016). Accordingly, we initiated this administrative review for this exporter only with respect to subject merchandise produced by another entity.

⁴³ We inadvertently listed this company along with Quang Minh Seafood Co., Ltd, but it is a separate company that was requested separately by interested parties. *See Preliminary Decision Memorandum.*

102. Special Aquatic Products Joint Stock Company
103. T & P Seafood Company Limited
104. T&T Cam Ranh
105. Tai Nguyen Seafood Co., Ltd.
106. Tan Phong Phu Seafood Co., Ltd.
107. Tan Thanh Loi Frozen Food Co., Ltd.
108. THADIMEXCO
109. Thai Hoa Foods Joint Stock Company
110. Thai Minh Long Seafood Company Limited
111. Thaimex
112. Thanh Doan Fisheries Import-Export Joint Stock Company
113. Thanh Doan Sea Products Import & Export Processing Joint-Stock Company
114. Thanh Doan Seafood Import Export Trading Joint-Stock Company
115. The Light Seafood Company Limited
116. Thien Phu Export Seafood
117. Thinh Hung Co., Ltd.
118. Thinh Phu Aquatic Products Trading Co., Ltd.
119. Thuan Thien Producing Trading Ltd. Co.
120. Tin An Seafood Factory
121. TPP Co. Ltd.
122. Trang Corporation (Vietnam)
123. Trung Son Seafood Processing Joint Stock Company
124. Van Duc Food Company Limited
125. Viet Asia Foods Company Limited (VAFCO)
126. Viet Phu Foods and Fish Corp.
127. Vietnam Rich Beauty Food Co., Ltd.
128. VIFAFOOD
129. Vinh Hoan Corp.
130. Vinh Phat Food Joint Stock Company
131. Western Foods Company Limited
132. XNK Thinh Phat Processing Company

Appendix IV

Companies With Respect to Which Commerce Is Rescinding the Review

1. BIM Foods Joint Stock Company
2. C.P. Vietnam Corporation
3. Cafatex Fishery Joint Stock Corporation/ Cafatex Corporation; Tay Do Seafood Enterprise; Cantho Seafood Processing Company⁴⁴
4. Kim Anh Company Limited
5. Quoc Viet Seaproducts Processing Trading and Import-Export Co., Ltd.
6. Tacvan Frozen Seafood Processing Export Company; Tacvan Seafoods Co
7. Viet Foods Co., Ltd.⁴⁵

⁴⁴ We inadvertently listed Tay Do Seafood Enterprise separately in the *Initiation Notice*, but this name was granted “aka” status in the most recently completed review in which this company was granted a separate rate. Similarly, we inadvertently listed Cadovimex Seafood Import-Export and Processing Joint Stock Company as an “aka” name for this company in the *Initiation Notice*, but it was not granted “aka” status in the most recently completed review in which this company was granted a separate rate. *See Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam: Notice of Court Decision Not in Harmony With Final Results of Administrative Review and Notice of Amended Final Results* 82 FR 39760 (August 22, 2017).

⁴⁵ We note that although Viet Foods Co., Ltd. claims that Nam Hai Foodstuff and Export Company Ltd. is an “aka” name and should also be rescinded on. *See Viet Foods Co., Ltd.’s Letter*, “Notice of No Shipments (02/01/2024–01/31/2025),” dated April 11, 2025; Commerce has

8. Vietnam Fish One Co., Ltd.; Viet Hai Seafood Co., Ltd.

[FR Doc. 2026–09465 Filed 5–12–26; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–910]

Paper File Folders From India: Preliminary Results and Rescission, in Part, of Antidumping Duty Administrative Review; 2023–2024

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

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily determines that Navneet Education Limited (Navneet), a producer/exporter subject to this review, made sales of subject merchandise at less than normal value (NV) during the period of review (POR), May 17, 2023, through October 31, 2024. In addition, we are rescinding the review, in part, with respect to Kokuyo Riddhi Paper Products Private Limited (Kokuyo). Interested parties are invited to comment on these preliminary results of review.

DATES: Applicable May 13, 2026.

FOR FURTHER INFORMATION CONTACT: Eliza DeLong, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington DC 20230; telephone: (202) 482–3878.

SUPPLEMENTARY INFORMATION:

Background

On November 21, 2023, based on timely requests for review, in accordance with 351.221(c)(1)(i), we initiated an administrative review of the antidumping duty (AD) order on paper file folders from India.¹ On December 19, 2024, Commerce stated its intent to rescind this administrative review, in part, with respect to Kokuyo because this company had no reviewable entries

determined that it has no “aka” names in the most recent segment in which Viet Foods Co., Ltd. was granted a separate rate *see Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam: Final Results of Antidumping Duty Administrative Review, 2017–2018*, 84 FR 44859 (August 27, 2019).

¹ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 89 FR 102856 (December 18, 2024); *see also Paper File Folders from the People’s Republic of China, India, and the Socialist Republic of Vietnam: Antidumping Duty Orders; and Paper File Folders from India: Countervailing Duty Order*, 88 FR 81048 (November 21, 2023) (Order).

of subject merchandise during the POR.² On January 16, 2025, we issued the initial AD questionnaire to Navneet.³

Due to the lapse in appropriations and Federal Government shutdown, on November 14, 2025, Commerce tolled all deadlines in administrative proceedings by 47 days.⁴ Additionally, due to a backlog of documents that were electronically filed via Enforcement and Compliance’s Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS) during the Federal Government shutdown, on November 24, 2025, Commerce tolled all deadlines in administrative proceedings by an additional 21 days.⁵ On December 9, 2025, in accordance with section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), Commerce extended the deadline for these preliminary results by 120 days.⁶ Accordingly, the deadline for these preliminary results is now May 7, 2026.

For a complete description of the events that followed the initiation of this review, *see* the Preliminary Decision Memorandum.⁷ A list of the topics discussed in the Preliminary Decision Memorandum is included as an appendix to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via ACCESS. ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at <https://access.trade.gov/frnotices>.

Scope of the Order

The product covered by the scope of this Order is paper file folders from India. For a complete description of the scope, *see* the Preliminary Decision Memorandum.

Rescission of Administrative Review, in Part

Pursuant to 19 CFR 351.213(d)(3), it is Commerce’s practice to rescind an

administrative review of an AD order where it concludes that there were no suspended entries of subject merchandise during the POR.⁸ Normally, upon completion of an administrative review, the suspended entries are liquidated at the AD assessment rate for the review period.⁹ Therefore, for an administrative review to be conducted, there must be a reviewable, suspended entry that Commerce can instruct U.S. Customs and Border Protection (CBP) to liquidate at the AD assessment rate calculated for the POR.¹⁰

Commerce notified all interested parties of its intent to rescind the instant review for Kokuyo because there were no reviewable, suspended entries of subject merchandise from it during the POR.¹¹ We received no comments from interested parties. Therefore, in the absence of any suspended entries of subject merchandise from this company during the POR, we are rescinding this administrative review for Kokuyo, in accordance with 19 CFR 351.213(d)(3).

Methodology

Commerce is conducting this review in accordance with section 751(a) of the Act. We calculated export price in accordance with section 772 of the Act. NV is calculated in accordance with section 773 of the Act. For a full description of the methodology underlying our conclusions, *see* the Preliminary Decision Memorandum.

Preliminary Results of the Review

As a result of this review, we preliminarily determine the following estimated weighted-average dumping

⁸ See, e.g., *Certain Carbon and Alloy Steel Cut-to Length Plate from the Federal Republic of Germany: Rescission of Antidumping Administrative Review; 2020–2021*, 88 FR 4154 (January 24, 2023).

⁹ See 19 CFR 351.212(b)(1).

¹⁰ See, e.g., *Shanghai Sunbeauty Trading Co. v. United States*, 380 F. Supp. 3d 1328, 1337 (CIT 2019), at 12 (referring to section 751(a) of the Act, the U.S. Court of International Trade held that “[w]hile the statute does not explicitly require that an entry be suspended as a prerequisite for establishing entitlement to a review, it does explicitly state the determined rate will be used as the liquidation rate for the reviewed entries. This result can only obtain if the liquidation of entries has been suspended”; *see also Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2018–2019*, 86 FR 36102 (July 8, 2021), and accompanying Issues and Decision Memorandum at Comment 4; and *Solid Fertilizer Grade Ammonium Nitrate from the Russian Federation: Notice of Rescission of Antidumping Duty Administrative Review*, 77 FR 65532, 65533 (October 29, 2012) (noting that “for an administrative review to be conducted, there must be a reviewable, suspended entry to be liquidated at the newly calculated assessment rate”).

¹¹ See Intent to Rescind Memorandum.

margin exists for the period May 17, 2023, through October 31, 2024:

Exporter/producer	Weighted-average dumping margin (percent)
Navneet Education Limited	5.65

Disclosure

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

Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance. Pursuant to 19 CFR 351.309(c)(1)(ii), we have modified the deadline for interested parties to submit case briefs to Commerce no later than 21 days after the date of the publication of this notice.¹² Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than five days after the date for filing case briefs.¹³ Interested parties who submit case or rebuttal briefs in this proceeding must submit: (1) a table of contents listing each issue; and (2) a table of authorities.¹⁴

As provided under 19 CFR 351.309(c)(2)(iii) and (d)(2)(iii), we request that interested parties provide at the beginning of their briefs a public executive summary for each issue raised in their briefs.¹⁵ Further, we request that interested parties limit their public executive summary of each issue to no more than 450 words, not including citations. We intend to use the public executive summaries as the basis of the comment summaries included in the issues and decision memorandum that will accompany the final results in this administrative review. We request that interested parties include footnotes for relevant citations in the public executive summary of each issue. Note that Commerce has amended certain of its requirements pertaining to the

service of documents in 19 CFR 351.303(f).¹⁶

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, filed electronically via ACCESS by 5:00 p.m. Eastern Time within 30 days after the date of publication of this notice.¹⁷ Requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants, and whether any participant is a foreign national; and (3) a list of issues to be discussed. Issues raised in the hearing will be limited to those raised in the respective case briefs. If a request for a hearing is made, parties will be notified of the time and date for the hearing.¹⁸ Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

All submissions, including case and rebuttal briefs, as well as hearing requests, must be filed via ACCESS.¹⁹ An electronically filed document must be received successfully in its entirety in ACCESS by 5:00 p.m. Eastern Time on the established deadline. Note that Commerce has amended certain of its requirements pertaining to the service of documents in 19 CFR 351.303(f).²⁰

Assessment Rates

Pursuant to section 751(a)(2)(A) of the Act and 19 CFR 351.212(b)(1), Commerce will determine, and CBP shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the final results of this review. If Navneet's weighted-average dumping margin is not zero or *de minimis* (i.e., less than 0.50 percent) in the final results of this review, Commerce intends to calculate importer-specific assessment rates on the basis of the ratio of the total amount of dumping calculated for each importer's examined sales to the total entered value of those same sales. Where we do not have entered values for all U.S. sales to a particular importer, we will calculate an importer-specific, per-unit assessment rate on the basis of the ratio of the total amount of dumping calculated for the importer's examined sales to the total quantity of those sales.²¹ To determine whether an importer-specific, per-unit assessment rate is *de minimis*, in accordance with 19 CFR 351.106(c)(2), we also will

calculate an importer-specific *ad valorem* ratio based on estimated entered values. If Navneet's weighted-average dumping margin is zero or *de minimis* or where an importer-specific *ad valorem* assessment rate is zero or *de minimis*, we will instruct CBP to liquidate appropriate entries without regard to antidumping duties.²²

In accordance with Commerce's "automatic assessment" practice, for entries of subject merchandise during the POR produced by Navneet for which it did not know that the merchandise was destined for the United States, we intend to instruct CBP to liquidate those entries at the all-others rate calculated in the less-than-fair-value (LTFV) investigation if there is no rate for the intermediate company(ies) involved in the transaction.²³

For Kokuyo, for which the review is being rescinded, Commerce will instruct CBP to assess antidumping duties on all appropriate entries. Antidumping duties shall be assessed at rates equal to the cash deposit rate for estimated antidumping duties required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(1)(i). Commerce intends to issue rescission instructions to CBP no earlier than 35 days after the date of publication of this notice in the **Federal Register**.

If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (i.e., within 90 days of publication of this notice).

Cash Deposit Requirements

The following deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(2)(C) of the Act: (1) the cash deposit rate Navneet will be that established in the final results of this review, except if the rate is less than 0.50 percent and, therefore, *de minimis* within the meaning of 19 CFR 351.106(c)(1), in which case the cash deposit rate will be zero; (2) for

¹² See 19 CFR 351.309.

¹³ See 19 CFR 351.309(d); see also *Administrative Protective Order, Service, and Other Procedures in Antidumping and Countervailing Duty Proceedings*, 88 FR 67069, 67077 (September 29, 2023) (APO and Service Procedures).

¹⁴ See 19 CFR 351.309(c)(2) and (d)(2).

¹⁵ We use the term "issue" here to describe an argument that Commerce would normally address in a comment of the Issues and Decision Memorandum.

¹⁶ See APO and Service Procedures.

¹⁷ See 19 CFR 351.310(c).

¹⁸ See 19 CFR 351.310(d).

¹⁹ See 19 CFR 351.303.

²⁰ See APO and Service Final Rule.

²¹ See 19 CFR 351.212(b)(1).

²² See 19 CFR 351.106(c)(2); see also *Antidumping Proceeding: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings; Final Modification*, 77 FR 8101, 8103 (February 14, 2012).

²³ For a full discussion of this practice, see *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003).

previously investigated or reviewed companies not covered by this review, the cash deposit rate will continue to be the company-specific cash deposit rate published for the most recently completed segment of this proceeding in which the company participated; (3) if the exporter is not a firm covered in this review, or the LTFV investigation, but the manufacturer is, then the cash deposit rate will be the rate established for the most recent segment for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 13.44 percent, the all-others rate established in the LTFV investigation.²⁴ These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping and/or countervailing duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping and/or countervailing duties occurred and the subsequent assessment of double antidumping duties, and/or an increase in the amount of antidumping duties by the amount of the countervailing duties.

Notification to Interested Parties

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

Dated: May 7, 2026.

Christopher Abbott,

Deputy Assistant Secretary for Policy and Negotiations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Preliminary Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the *Order*
- IV. Partial Rescission of Administrative Review
- V. Discussion of the Methodology
- VI. Currency Conversion
- VII. Recommendation

[FR Doc. 2026–09455 Filed 5–12–26; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–810]

Stainless Steel Bar From India: Preliminary Results and Rescission of Antidumping Duty Administrative Review, in Part; 2024–2025

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

SUMMARY: The U.S. Department of Commerce (Commerce) is conducting an administrative review of the antidumping duty (AD) order on stainless steel bar from India. The period of review (POR) is February 1, 2024, through January 31, 2025. This review covers eight producers/exporters of the subject merchandise. We preliminarily determine that the collapsed entity, Atlas Stainless Corporation Private Limited (Atlas), Astrabright LLP, Bahubali Steel Industries, Eurostahl Tech LLP, Venus Metal Corporation, Precision Metals, Venus Wire Industries Private Limited, Hindustan Inox Limited, and Sieves Manufactures (India) Private Limited (collectively, Venus Group), sold subject merchandise at less than at normal value (NV) during the POR. We also preliminarily determine that Laxcon Steels Private Limited (Laxcon) did not make sales of subject merchandise at less than NV during the POR. We invite interested parties to comment on these preliminary results.

DATES: Applicable May 13, 2026.

FOR FURTHER INFORMATION CONTACT: Hermes Pinilla, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–3477.

SUPPLEMENTARY INFORMATION:

Background

On February 21, 1995, Commerce published the AD order on stainless steel bar from India.¹ On February 3, 2025, Commerce published a notice of opportunity to request an administrative review of the *Order*.² On April 9, 2024, based on timely requests for administrative reviews, Commerce initiated an administrative review of the

Order,³ and subsequently selected the Venus Group and Laxcon as the mandatory respondents.

Due to the lapse in appropriations and Federal Government shutdown, on November 14, 2025, Commerce tolled all deadlines in administrative proceedings by 47 days.⁴ Additionally, due to a backlog of documents that were electronically filed via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS), Commerce tolled all deadlines in administrative proceedings by an additional 21 days.⁵ On December 8, 2025, Commerce extended the deadline for the preliminary results by 120 days.⁶ Thus, the deadline for the preliminary results of this administrative review is May 7, 2026.

Scope of the Order

The product covered by this *Order* is stainless steel bar from India. For a full description of the scope, see the Preliminary Decision Memorandum.⁷

Methodology

Commerce is conducting this review in accordance with section 751(a)(1)(B) of the Tariff Act of 1930, as amended (the Act). Export price and constructed export price are calculated in accordance with section 772 of the Act. NV is calculated in accordance with section 773 of the Act.

For a full description of the methodology underlying our conclusions, see the Preliminary Decision Memorandum. A list of the topics discussed in the Preliminary Decision Memorandum is included as the appendix to this notice. The Preliminary Decision Memorandum is a public document and is made available to the public via ACCESS. ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at <https://access.trade.gov/frnotices>.

³ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 90 FR 14081 (March 28, 2025).

⁴ See Memorandum, “Deadlines Affected by the Shutdown of the Federal Government,” dated November 14, 2025.

⁵ See Memorandum, “Tolling of all Case Deadlines,” dated November 24, 2025.

⁶ See Memorandum, Extension of Deadline for Preliminary Results,” dated December 8, 2025.

⁷ See Memorandum, “Stainless Steel Bar from India: Decision Memorandum for Preliminary Results of Antidumping Duty Administrative Review; 2023–2024,” dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum), at 2–3.

²⁴ See *Order*.

¹ See *Antidumping Duty Orders: Stainless Steel Bar from Brazil, India and Japan*, 60 FR 9661 (February 21, 1995) (*Order*).

² See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation: Opportunity to Request Administrative Review and Join Annual Inquiry Service List*, 90 FR 8785 (February 3, 2025).

Rescission of Administrative Review, in Part

Pursuant to 19 CFR 351.213(d)(1), Commerce will rescind an administrative review, in whole or in part, if the parties that requested the review withdraw their review requests within 90 days of the date of publication of the notice of initiation for the requested review.⁸ On June 26, 2025, the petitioners⁹ withdrew their request for the review of Ambica Steel Limited within the 90-day deadline.¹⁰ No other parties requested an administrative review of this company. Therefore, in accordance with 19 CFR 351.213(d)(1), Commerce is rescinding the administrative review of Ambica Steel Limited.

Rate for Non-Examined Companies

The statute and Commerce's regulations do not address the establishment of a rate to be applied to companies not selected for examination when Commerce limits its examination in an administrative review pursuant to section 777A(c)(2) of the Act. Generally, Commerce looks to section 735(c)(5) of

the Act, which provides instructions for calculating the all-others rate in a market economy investigation, for guidance when calculating the rate for companies which were not selected for individual examination in an administrative review. Under section 735(c)(5)(A) of the Act, the all-others rate is normally an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero or *de minimis* margins, and any margins determined entirely on the basis of facts available. Where the rates for individually investigated companies are all zero or *de minimis*, or determined entirely using facts otherwise available, section 735(c)(5)(B) of the Act instructs Commerce to rely on "any reasonable method to establish the estimated all-others rate for exporters and producers not individually investigated, including averaging the estimated weighted-average dumping margins determined for exporters and producers individually investigated."

In this review, Commerce has preliminarily determined to apply

adverse facts available (AFA) to the Venus Group, pursuant to section 776 of the Act, and assign it a 30.92 percent dumping margin, and calculated an estimated weighted-average dumping margin for Laxcon, and its affiliates, Ocean Steels Private Limited, Metlax International Private Limited, Parvati Private Limited, and Mega Steels Private Limited, and Meltroll Engineering Pvt. Ltd of 0.00 percent. Thus, we are preliminarily applying to the non-examined companies, Aamor Inox Limited, Bhansali Bright Bars Pvt. Ltd., Chandan Steel Limited, Mangalam Alloys Limited, and Welspun Specialty Solutions, Ltd., the rate of 15.46 percent, which is the simple average of the rate we preliminarily calculated for Laxcon and the dumping margin we preliminarily assigned to the Venus Group, determined entirely under section 776 of the Act.¹¹

Preliminary Results of Review

We preliminarily determine that the following weighted-average dumping margins exist for the period February 1, 2024, through January 31, 2025:

Producer/exporter	Weighted-average dumping margin (percent)
Atlas Stainless Corporation Private Limited, Astrabright LLP., Bahubali Steel Industries, Eurostahl Tech LLP, Venus Metal Corporation, Venus Wire Industries Pvt. Ltd., Precision Metals, Hindustan Inox Ltd., and Sieves Manufacturers (India) Pvt. Ltd. ¹²	30.92
Laxcon Steels Limited, and its affiliates, Ocean Steels Private Limited, Metlax International Private Limited, Parvati Private Limited, and Mega Steels Private Limited ¹³	0.00

Review-Specific Rates for Non-Examined Companies

Aamor Inox Limited	15.46
Bhansali Bright Bars Pvt. Ltd	15.46
Chandan Steel Limited	15.46
Mangalam Alloys Limited	15.46
Welspun Specialty Solutions, Ltd	15.46

Disclosure

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

Public Comment

Interested parties will be provided an opportunity to submit written comments (*i.e.*, case briefs) at a date to be determined by Commerce, pursuant to 19 CFR 351.309(c) Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than five days after the date for filing case briefs.¹⁴ Interested parties who submit

case or rebuttal briefs in this proceeding must submit: (1) a table of contents listing each issue; and (2) a table of authorities.¹⁵

As provided under 19 CFR 351.309(c)(2)(iii) and (d)(2)(iii), we request that interested parties provide at the beginning of their briefs a public, executive summary for each issue raised in their briefs.¹⁶ Further, we request that interested parties limit their executive

⁸ See *Initiation Notice*, 90 FR at 14082.

⁹ The petitioners are Carpenter Technology Corporation, Electralloy, a Division of G.O. Carlson, Inc., North American Stainless, and Valbruna Slater Stainless, Inc.

¹⁰ See Petitioners' Letter, "Petitioners' Partial Withdrawal of Review Request for the 2024/23 Administrative Review," dated June 26, 2025.

¹¹ See *Baroque Timber Indus. (Zhonghan) Co. v. United States*, 971 F.Supp.2d 1333, 1341 (CIT 2014) ("it is not per se unreasonable for Commerce to use a simple average of zero and AFA rates to calculate the separate rate"); see also, *Solianus, Inc. v. United States*, 391 F.Supp.3d 1331, 1339 (CIT 2019).

¹² Collectively, these companies are now known as the Venus Group.

¹³ Collectively, these companies are known as Laxcon.

¹⁴ See 19 CFR 351.309(d); see also *Administrative Protective Order, Service, and Other Procedures in Antidumping and Countervailing Duty Proceedings*, 88 FR 67069, 67077 (September 29, 2023).

¹⁵ See 19 CFR 351.309(c)(2) and (d)(2).

¹⁶ We use the term "issue" here to describe an argument that Commerce would normally address in a comment of the Issues and Decision Memorandum.

summary of each issue to no more than 450 words, not including citations. We intend to use the executive summaries as the basis of the comment summaries included in the issues and decision memorandum that will accompany the final results in this administrative review. We request that interested parties include footnotes for relevant citations in the executive summary of each issue. Note that Commerce has amended certain of its requirements pertaining to the service of documents in 19 CFR 351.303(f).¹⁷

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, filed electronically via ACCESS. Requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants and whether any participant is a foreign national; and (3) a list of issues to be discussed. Issues raised in the hearing will be limited to those raised in the respective briefs. If a request for a hearing is made, parties will be notified of the time and date for the hearing.¹⁸ Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

All submissions, including case and rebuttal briefs, as well as hearing requests, must be filed via ACCESS.¹⁹ An electronically filed document must be received successfully in its entirety in ACCESS by 5:00 p.m. Eastern Time on the established deadline. Note that Commerce has amended certain of its requirements pertaining to the service of documents in 19 CFR 351.303(f).²⁰

Assessment Rates

Upon issuance of the final results, Commerce shall determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries covered by this review.²¹ If a respondent's weighted-average dumping margin is above *de minimis* in the final results of this review, we will calculate an importer-specific assessment rate based on the ratio of the total amount of dumping calculated for each importer's examined sales and the total entered value of the sales in accordance with 19 CFR

351.212(b)(1).²² If a respondent's weighted-average dumping margin or an importer-specific assessment rate is zero or *de minimis* in the final results of review, we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties in accordance with the *Final Modification for Reviews*.²³

For entries of subject merchandise during the POR produced by the Venus Group or Laxcon for which they did not know their merchandise was destined for the United States, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction.

For the company for which this review is rescinded with these preliminary results, we will instruct CBP to assess antidumping duties on all appropriate entries at a rate equal to the cash deposit of antidumping duties required at the time of entry, or withdrawal from warehouse, for consumption, during the POR in accordance with 19 CFR

351.212(c)(1)(i). Commerce intends to issue these rescission instructions to CBP no earlier than 35 days after the date of publication of this notice in the **Federal Register**.

The final results of this administrative review shall be the basis for the assessment of antidumping duties on entries of merchandise under review and for future deposits of estimated duties, where applicable.

We intend to issue assessment instructions to CBP no earlier than 35 days after the date of publication of the final results of this review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.*, within 90 days of publication).

Cash Deposit Requirements

The following cash deposit requirements for estimated antidumping duties will be effective upon publication of the notice of final results of this review for all shipments of stainless steel bar from India entered, or withdrawn from warehouse, for

consumption on or after the date of publication as provided by section 751(a)(2)(C) of the Act: (1) the cash deposit rate for the companies listed above will be established in the final results of this review, except if the rate is less than 0.50 percent and, therefore, *de minimis* within the meaning of 19 CFR 351.106(c)(1), in which case the cash deposit rate will be zero; (2) for merchandise exported by companies not covered in this review but covered in a prior segment of this proceeding, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original less-than-fair-value (LTFV) investigation but the producer is, the cash deposit rate will be the rate established for the most recently completed segment for the producer of the merchandise; (4) the cash deposit rate for all other producers or exporters will continue to be the 12.45 percent, the all-others rate established in the LTFV investigation.²⁴ These cash deposit requirements, when imposed, shall remain in effect until further notice.

Final Results of Review

Unless otherwise extended, Commerce intends to issue the final results of this administrative review, including the results of its analysis of issues raised in written briefs, no later than 120 days after the date of publication of this notice in the **Federal Register**, pursuant to 751(a)(3)(A) of the Act and 19 CFR 351.213(h)(1).

Notification to Importers

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Notification to Interested Parties

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

¹⁷ See *Administrative Protective Order, Service, and Other Procedures in Antidumping and Countervailing Duty Proceedings; Final Rule*, 88 FR 67069 (September 29, 2023).

¹⁸ See 19 CFR 351.310(d).

¹⁹ See 19 CFR 351.303.

²⁰ See *APO and Service Final Rule*.

²¹ See 19 CFR 351.212(b).

²² In these preliminary results, Commerce applied the assessment rate calculation method adopted in *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Modification*, 77 FR 8101 (February 14, 2012) (*Final Modification for Reviews*).

²³ *Id.*, 77 FR at 8103; see also 19 CFR 351.106(c)(2).

²⁴ See *Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Bar from India*, 59 FR 66915, 66921 (December 28, 1994).

Dated: May 7, 2026.
Christopher Abbott,
Deputy Assistant Secretary for Policy and Negotiations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Preliminary Decision Memorandum

I. Summary
II. Background
III. Scope of the *Order*
IV. Affiliation and Collapsing
V. Application of Facts Available and Use of Adverse Inference
VI. Rate for Non-Examined Companies
VII. Discussion of the Methodology
VIII. Currency Conversion
IX. Recommendation

[FR Doc. 2026–09463 Filed 5–12–26; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–580–837]

Certain Cut-To-Length Carbon-Quality Steel Plate From the Republic of Korea: Preliminary Results and Partial Rescission of Countervailing Duty Administrative Review; 2024

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

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily determines that countervailable subsidies were provided to Dongkuk Steel Mill Co., Ltd. and Hyundai Steel Company, producers and exporters of certain cut-to-length carbon-quality steel plate (CTL plate) from the Republic of Korea (Korea). The period of review (POR) January 1, 2024, through December 31, 2024. In addition, Commerce is rescinding this review, in part, with respect to two companies. Interested parties are invited to comment on these preliminary results.

DATES: Applicable May 13, 2026.

FOR FURTHER INFORMATION CONTACT: Kristen Johnson or Elizabeth Talbot Russ, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–4793 or (202) 482–5516, respectively.

SUPPLEMENTARY INFORMATION:

Background

On March 28, 2025, based on timely requests for review, in accordance with 19 CFR 351.221(c)(1)(i), we initiated an

administrative review of the countervailing duty order on CTL plate from Korea.¹ On May 9, 2025, Commerce selected DSM and Hyundai Steel as the mandatory respondents in this review.²

On September 2, 2025, Commerce extended the deadline for the preliminary results of this administrative review by 120 days, in accordance with 19 CFR 351.213(h)(2).³ Due to the lapse in appropriations and Federal Government shutdown, on November 14, 2025, Commerce tolled all deadlines in administrative proceedings by 47 days.⁴ Additionally, due to a backlog of documents that were electronically filed via Enforcement and Compliance’s Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS) during the Federal Government shutdown, on November 24, 2025, Commerce tolled all deadlines in administrative proceedings by an additional 21 days.⁵ Accordingly, the deadline for these preliminary results is now May 7, 2026.

For a complete description of the events that followed the initiation of this review, *see* the Preliminary Decision Memorandum.⁶ A list of topics included in the Preliminary Decision Memorandum is provided as the appendix to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via ACCESS. ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at <https://access.trade.gov/frnotices>.

¹ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 90 FR 14081, 14100 (March 28, 2025); *see also Notice of Amended Final Determinations: Certain Cut-to-Length Carbon-Quality Steel Plate from India and the Republic of Korea; and Notice of Countervailing Duty Orders: Certain Cut-To-Length Carbon-Quality Steel Plate from France, India, Indonesia, Italy, and the Republic of Korea*, 65 FR 6587 (February 10, 2000) (*Order*).

² See Memorandum, “Respondent Selection,” dated May 9, 2025.

³ See Memorandum, “Extension of Deadline for Preliminary Results of Countervailing Duty Administrative Review, 2024,” dated September 2, 2025.

⁴ See Memorandum, “Deadlines Affected by the Shutdown of the Federal Government,” dated November 14, 2025.

⁵ See Memorandum, “Tolling of all Case Deadlines,” dated November 24, 2025.

⁶ See Memorandum, “Decision Memorandum for the Preliminary Results of the Administrative Review of the Countervailing Duty Order on Certain Cut-To-Length Carbon-Quality Steel Plate from the Republic of Korea; 2024,” dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

Scope of the Order

The product covered by this *Order* is CTL plate from Korea. For a complete description of the scope of the *Order*, *see* the Preliminary Decision Memorandum.

Rescission of Administrative Review, in Part

Pursuant to 19 CFR 351.213(d)(1), Commerce will rescind an administrative review, in whole or in part, if all parties that requested the review withdraw their requests within 90 days of the date of publication of the notice of initiation. On June 26, 2025, the domestic interested parties⁷ timely withdrew their request for an administrative review of Daeik Eng Co., Ltd. and MAIKO International,⁸ and no other party requested a review of these companies. Therefore, we are rescinding this review, in part, with respect to these companies, pursuant to 19 CFR 351.213(d)(1).

Methodology

Commerce is conducting this administrative review in accordance with 751(a)(1)(A) of the Tariff Act of 1930, as amended (the Act). For each of the subsidy programs found countervailable, Commerce preliminarily determines that there is a subsidy, *i.e.*, a financial contribution by an “authority” that gives rise to a benefit to the recipient, and that the subsidy is specific.⁹ For a full description of the methodology underlying our conclusions, including our reliance, in part, on facts otherwise available with adverse inferences pursuant to sections 776(a) and (b) of the Act, *see* the Preliminary Decision Memorandum.

Preliminary Results of Review

As a result of this review, we preliminarily determine the following net countervailable subsidy rates exist for the POR, January 1, 2024, through December 31, 2024:

Company	Subsidy rate (percent <i>ad valorem</i>)
Dongkuk Steel Mill Co., Ltd. ¹⁰	1.89
Hyundai Steel Company ¹¹ ...	1.39

⁷ The domestic interested parties are Nucor Corporation, SSAB Enterprises, LLC, and Cleveland-Cliffs Inc.

⁸ See Domestic Interested Parties’ Letter, “Partial Withdrawal of Request for Administrative Review,” dated June 26, 2025.

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

Disclosure

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

Public Comment

Interested parties will be notified of the timeline for the submission of case briefs and written comments at a later date. Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than five days after the date for filing case briefs.¹² Interested parties who submit case briefs or rebuttal briefs in this proceeding must submit: (1) a table of contents listing each issue; and (2) a table of authorities.¹³ All briefs must be filed electronically using ACCESS. An electronically filed document must be received successfully in its entirety in ACCESS by 5:00 p.m. Eastern Time on the established deadline.

As provided under 19 CFR 351.309(c)(2)(iii) and (d)(2)(iii), we request that interested parties provide at the beginning of their briefs a public executive summary for each issue raised in their briefs.¹⁴ Further, we request that interested parties limit their executive summary of each issue to no more than 450 words, not including citations. We intend to use the executive summaries as the basis of the comment summaries included in the issues and decision memorandum that will accompany the final results in this administrative review. We request that interested parties include footnotes for relevant citations in the executive summary of each issue. Note that Commerce has amended certain of its requirements pertaining to the service of documents in 19 CFR 351.303(f).¹⁵

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request to

the Assistant Secretary for Enforcement and Compliance, filed electronically via ACCESS by 5:00 p.m. Eastern Time within 30 days after the date of publication of this notice. Requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. Oral presentations at the hearing will be limited to issues raised in the briefs. If a request for a hearing is made, Commerce will inform parties of the scheduled date for the hearing.¹⁶

Assessment Rates

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

For the companies listed for which the review is being rescinded, Commerce will instruct CBP to assess countervailing duties on all appropriate entries at a rate equal to the cash deposit of estimated countervailing duties required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(1)(i). Commerce intends to issue rescission instructions to CBP no earlier than 35 days after the date of publication of this notice in the **Federal Register**.

Commerce intends to issue assessment instructions to CBP regarding DSM and Hyundai Steel no earlier than 35 days after the date of publication of the final results of this review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.*, within 90 days of publication).

Cash Deposit Requirements

Pursuant to section 751(a)(2)(C) of the Act and 19 CFR 351.107(e), Commerce intends to instruct CBP to collect cash deposits of estimated countervailing duties with regard to shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this review, as follows: (1) the cash deposit rate for the companies listed above will be equal to the company-specific estimated individual countervailable subsidy rates determined in the final results of this review, except if the rate

is less than 0.50 percent and, therefore, *de minimis* within the meaning of 19 CFR 351.106(c)(1), in which case the cash deposit rate will be zero; (2) if both the producer and exporter of the subject merchandise have company-specific estimated subsidy rates assigned, and their rates differ, then the applicable cash deposit rate will be the higher of these two rates; (3) if either the producer or the exporter, but not both, of the subject merchandise has a company-specific estimated subsidy rate assigned, the applicable cash deposit rate will be that company's company-specific rate; and (4) the cash deposit rate for all other producers and exporters will be continue to be 3.26 percent, the all-others subsidy rate established in the investigation.¹⁷ These cash deposit instructions, when imposed, shall remain in effect until further notice.

Final Results of Review

Unless the deadline is extended, Commerce intends to issue the final results of this administrative review, which will include the results of Commerce's analysis of the issues raised in the case briefs, within 120 days of publication of these preliminary results in the **Federal Register**, pursuant to section 751(a)(3)(A) of the Act and 19 CFR 351.213(h)(1).

Notification to Interested Parties

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

Dated: May 7, 2026.

Christopher Abbott,

Deputy Assistant Secretary for Policy and Negotiations, performing the non-exclusive functions and duties of the Assistant Secretary For Enforcement and Compliance.

Appendix

List of Topics Discussed in the Preliminary Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the Order
- IV. Diversification of Korea's Economy
- V. Use of Facts Otherwise Available and Adverse Inferences
- VI. Subsidies Valuation Information
- VII. Benchmarks and Discount Rates
- VIII. Analysis of Programs
- IX. Recommendation

[FR Doc. 2026–09457 Filed 5–12–26; 8:45 am]

BILLING CODE 3510–DS–P

¹⁰ Commerce preliminarily finds the following company to be cross-owned with DSM: Dongkuk Holdings Co., Ltd.

¹¹ Commerce preliminarily finds the following companies to be cross-owned with Hyundai Steel: Hyundai Green Power Co., Ltd. and Hyundai ITC Co., Ltd.

¹² See 19 CFR 351.309(d); see also *Administrative Protective Order, Service, and Other Procedures in Antidumping and Countervailing Duty Proceedings*, 88 FR 67069, 67077 (September 29, 2023) (*APO and Service Procedures*).

¹³ See 19 CFR 351.309(c)(2) and (d)(2)

¹⁴ We use the term "issue" here to describe an argument that Commerce would normally address in a comment of the Issues and Decision Memorandum.

¹⁵ See *APO and Service Procedures*.

¹⁶ See 19 CFR 351.310(d).

¹⁷ See *Order*, 65 FR at 6589.

DEPARTMENT OF COMMERCE

International Trade Administration

[A–560–846]

Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, From Indonesia: Postponement of Final Determination of Sales at Less Than Fair Value Investigation and Extension of Provisional Measures

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

SUMMARY: The U.S. Department of Commerce (Commerce) is postponing the deadline for issuing the final determination in the less-than-fair-value (LTFV) investigation of crystalline silicon photovoltaic cells, whether or not assembled into modules, (solar cells) from Indonesia and is extending the provisional measures from a four-month period to a period of not more than six months.

DATES: Applicable May 13, 2026.

FOR FURTHER INFORMATION CONTACT: Myrna Lobo or Thomas Cloyd, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–2371 or (202) 482–1246, respectively.

SUPPLEMENTARY INFORMATION:

Background

On August 12, 2025, Commerce initiated an LTFV investigation of imports of solar cells from Indonesia.¹ The period of investigation is July 1, 2024, through June 30, 2025. On April 28, 2026, Commerce published its preliminary determination in this LTFV investigation of solar cells from Indonesia.²

Postponement of Final Determinations

Section 735(a)(2) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.210(b)(2) provide that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary

determination if, in the event of an affirmative preliminary determination, a request for such postponement is made by the exporters or producers who account for a significant proportion of exports of the subject merchandise, or in the event of a negative preliminary determination, a request for such postponement is made by the petitioners. Further, 19 CFR 351.210(e)(2) requires that such postponement requests by exporters be accompanied by a request for extension of provisional measures from a four-month period to a period of not more than six months, in accordance with section 733(d) of the Act.

On April 24, 2026, REC Solar Energy Indonesia and PT Blue Sky Solar Indonesia, the mandatory respondents in this investigation, requested that Commerce postpone the deadline for the final determination until no later than 135 days from the publication of the *Preliminary Determination*, and extend the application of the provisional measures from a four-month period to a period of not more than six months.³

In accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii), because: (1) the preliminary determination was affirmative; (2) the request was made by the exporters and producers who account for a significant proportion of exports of the subject merchandise; and (3) no compelling reasons for denial exist, Commerce is postponing the final determination until no later than 135 days after the date of the publication of the *Preliminary Determination*, and extending the provisional measures from a four-month period to a period of not more than six months. Accordingly, Commerce will issue its final determination no later than September 10, 2026.

This notice is issued and published pursuant to section 735(a)(2)(A) of the Act and 19 CFR 351.210(g).

Dated: May 7, 2026.

Christopher Abbott,

Deputy Assistant Secretary for Policy and Negotiations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2026–09456 Filed 5–12–26; 8:45 am]

BILLING CODE 3510–DS–P

¹ See *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, from India, Indonesia and the Lao People's Democratic Republic: Initiation of Less-Than-Fair-Value Investigations*, 90 FR 38736 (August 12, 2025).

² See *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules, from Indonesia: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Preliminary Affirmative Determination of Critical Circumstances, in Part*, 91 FR 22802 (April 28, 2026) (*Preliminary Determination*).

³ See PT REC Solar Energy Indonesia and PT Blue Sky Solar Indonesia's Letter, "Request to Postpone Final Determination," dated April 24, 2026.

DEPARTMENT OF COMMERCE

International Trade Administration

[A–201–856]

Certain Oil Country Tubular Goods From Mexico: Preliminary Results and Recission, in Part, of Antidumping Duty Administrative Review; 2023–2024

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

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily determines that the producer/exporter subject to this review Tubos de Acero de Mexico, S.A. (TAMSA) made sales of subject merchandise at less than normal value (NV) during the period of review (POR), November 1, 2023, through October 31, 2024. In addition, we are rescinding the review with respect to two companies. Interested parties are invited to comment on these preliminary results.

DATES: Applicable May 13, 2026.

FOR FURTHER INFORMATION CONTACT: Tyler Weinhold, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–1121.

SUPPLEMENTARY INFORMATION:

Background

On December 18, 2024, based on timely requests for review, in accordance with 19 CFR 351.221(c)(1)(i), we initiated an administrative review of the antidumping duty (AD) order on certain oil country tubular goods (OCTG) from Mexico.¹ On February 5, 2025, Commerce selected Tubos de Acero de Mexico, S.A. (TAMSA) as the mandatory respondent in this review.² Due to the lapse in appropriations and Federal Government shutdown, on November 14, 2025, Commerce tolled all deadlines in administrative proceedings by 47 days.³ Additionally, due to a backlog of documents that were electronically filed via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS)

¹ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 89 FR 102856, 102860 (December 18, 2024).

² See Memorandum, "Administrative Review of Antidumping Duty Order on Oil Country Tubular Goods from Mexico; 2023–2024: Respondent Selection," dated February 5, 2025.

³ See Memorandum, "Deadlines Affected by the Shutdown of the Federal Government," dated November 14, 2025.

during the Federal Government shutdown, on November 24, 2025, Commerce tolled all deadlines in administrative proceedings by an additional 21 days.⁴ Between December 30, 2025, and February 27, 2026, we extended the preliminary results of this review to no later than May 7, 2026.⁵

For a complete description of the events that followed the initiation of this review, *see* the Preliminary Decision Memorandum.⁶ A list of the topics discussed in the Preliminary Decision Memorandum is attached as an appendix to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via ACCESS. ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at <https://access.trade.gov/frnotices>.

Scope of the Order

The product covered by the *Order* is OCTG from Mexico. For a complete description of the scope of the *Order*, *see* the Preliminary Decision Memorandum.⁷

Rescission of Administrative Review, In Part

Pursuant to 19 CFR 351.213(d)(3), it is Commerce's practice to rescind an administrative review of an AD order where it concludes that there were no suspended entries of subject merchandise during the POR.⁸ Normally, upon completion of an administrative review, the suspended entries are liquidated at the AD assessment rate for the review period.⁹ Therefore, for an administrative review to be conducted, there must be a

reviewable, suspended entry that Commerce can instruct U.S. Customs and Border Protection (CBP) to liquidate at the AD assessment rate calculated for the POR.¹⁰ Commerce notified all interested parties of its intent to rescind the instant review regarding Siderca S.A.I.C. and Vallourec Oil & Gas Mexico, S.A. de C.V. because there were no reviewable, suspended entries of subject merchandise from these companies during the POR and invited interested parties to comment.¹¹ No party commented on this memorandum. In the absence of any suspended entries of subject merchandise from these companies during the POR, we are rescinding this administrative review for Siderca S.A.I.C. and Vallourec Oil & Gas Mexico, S.A. de C.V., in accordance with 19 CFR 351.213(d)(3).

Methodology

Commerce is conducting this review in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act). Constructed export price is calculated in accordance with section 772 of the Act. NV is calculated in accordance with section 773 of the Act. For a full description of the methodology underlying our conclusions, *see* the Preliminary Decision Memorandum.

Preliminary Results of Review

As a result of this review, we preliminarily determine the following estimated weighted-average dumping margin exists for the period November 1, 2023, through October 31, 2024:

Exporter/producer	Weighted-average dumping margin (percent)
Tubos de Acero de Mexico, S.A	1.62

Disclosure

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

Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance. Pursuant to 19 CFR 351.309(c)(1)(ii), we have modified the deadline for interested parties to submit

case briefs to Commerce to no later than 21 days after the date of publication of this notice.¹² Rebuttal briefs, limited to issues raised in the case briefs, may be filed no later than five days after the date for filing case briefs.¹³ Interested parties who submit case briefs or rebuttal briefs in this proceeding must submit: (1) a table of contents listing each issue; and (2) a table of authorities.¹⁴ All briefs must be filed electronically using ACCESS. An electronically filed document must be received successfully in its entirety in ACCESS by 5:00 p.m. Eastern Time on the established deadline.

As provided under 19 CFR 351.309(c)(2)(iii) and (d)(2)(iii), we request that interested parties provide at the beginning of their briefs a public, executive summary for each issue raised in their briefs.¹⁵ Further, we request that interested parties limit their public executive summary of each issue to no more than 450 words, not including citations. We intend to use the public executive summaries as the basis of the comment summaries included in the issues and decision memorandum that will accompany the final results of this administrative review. We request that interested parties include footnotes for relevant citations in the public executive summary of each issue. Note that Commerce has amended certain of its requirements pertaining to the service of documents in 19 CFR 351.303(f).¹⁶

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, filed electronically via ACCESS by 5:00 p.m. Eastern Time within 30 days after the date of publication of this notice. Requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants, and whether any participant is a foreign national; and (3) a list of issues to be discussed. Issues raised in the hearing will be limited to those raised in the respective case briefs. If a request for a hearing is made, parties will be notified of the time and

⁴ See Memorandum, "Tolling of all Case Deadlines," dated November 24, 2025.

⁵ See Memoranda, "Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review," dated December 30, 2025., "Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review," dated February 27, 2026, and "Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review," dated April 30, 2026; "Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review," dated February 27, 2026; and "Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review," dated April 30, 2026.

⁶ See Memorandum, "Decision Memorandum for the Preliminary Results of the Administrative Review of the Antidumping Duty Order on Certain Oil Country Tubular Goods from Mexico; 2023–2024," dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

⁷ See Preliminary Decision Memorandum.

⁸ See, e.g., *Certain Carbon and Alloy Steel Cut-to-Length Plate from the Federal Republic of Germany: Rescission of Antidumping Administrative Review; 2020–2021*, 88 FR 4154 (January 24, 2023).

⁹ See 19 CFR 351.212(b)(1).

¹⁰ See 19 CFR 351.213(d)(3).

¹¹ See Memorandum, "Notice of Intent to Rescind Review, In Part," dated January 8, 2026.

¹² See 19 CFR 351.303 (for general filing requirements).

¹³ See 19 CFR 351.309(d); *see also Administrative Protective Order, Service, and Other Procedures in Antidumping and Countervailing Duty Proceedings*, 88 FR 67069, 67077 (September 29, 2023) (*APO and Service Final Rule*).

¹⁴ See 19 CFR 351.309(c)(2) and (d)(2).

¹⁵ We use the term "issue" here to describe an argument that Commerce would normally address in a comment of the Issues and Decision Memorandum.

¹⁶ See *APO and Service Final Rule*.

date for the hearing.¹⁷ Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

Assessment Rates

Upon issuance of the final results, Commerce shall determine, and CBP shall assess, antidumping duties on all appropriate entries covered by this review. The final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by this review and for future deposits of estimated duties, where applicable.¹⁸

If TAMSA's weighted-average dumping margin for a mandatory respondent is not zero or *de minimis* (i.e., less than 0.50 percent) in the final results of this review, Commerce intends to calculate an importer-specific assessment rate on the basis of the ratio of the total amount of dumping calculated for each importer's examined sales and the total entered value of those sales. Where we do not have entered values for all U.S. sales to a particular importer, we will calculate an importer-specific, per-unit assessment rate on the basis of the ratio of the total amount of dumping calculated for the importer's examined sales to the total quantity of those sales.¹⁹ To determine whether an importer-specific, per-unit assessment rate is *de minimis*, in accordance with 19 CFR 351.106(c)(2), we also will calculate an importer-specific *ad valorem* ratio based on estimated entered values. If TAMSA's weighted-average dumping margin is zero or *de minimis* or where an importer-specific assessment rate is zero or *de minimis*, we will instruct CBP to liquidate appropriate entries without regard to antidumping duties.²⁰

In accordance with Commerce's "automatic assessment" practice, for entries of subject merchandise during the POR produced by TAMSA for which it did not know that the merchandise was destined for the United States, we intend to instruct CBP to liquidate those entries at the all-others rate calculated in the less-than-fair-value (LTFV) investigation if there is no rate for the intermediate company(ies) involved in the transaction.²¹

For Siderca S.A.I.C. and Vallourec Oil & Gas Mexico, S.A. de C.V., for which this administrative review is rescinded, Commerce will instruct CBP to assess antidumping duties on all appropriate entries. Antidumping duties shall be assessed at rates equal to the cash deposit rate for estimated antidumping duties required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(1)(i). Commerce intends to issue these rescission instructions to CBP no earlier than 41 days after the date of publication of this notice in the **Federal Register**.

Commerce intends to issue assessment instructions to CBP regarding TAMSA, Siderca S.A.I.C., and Vallourec Oil & Gas Mexico, S.A. de C.V. no earlier than 41 days after the date of publication of the final results of this review in the **Federal Register**, in accordance with 19 CFR 356.8(a). If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (i.e., within 90 days of publication).

Cash Deposit Requirements

The following deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(2)(C) of the Act: (1) the cash deposit rate for the company listed above will that established in the final results of this administrative review, except if the rate is less than 0.50 percent and, therefore, *de minimis* within the meaning of 19 CFR 351.106(c)(1), in which case the cash deposit rate will be zero; (2) for previously investigated or reviewed companies not covered by this review, the cash deposit rate will continue to be the company-specific cash deposit rate published for the most recently completed segment of this proceeding in which the company participated; (3) if the exporter is not a firm covered in this review, a prior review, or the LTFV investigation, but the manufacturer is, then the cash deposit rate will be the rate established in the most recent segment for the manufacturer of the merchandise; and (4) the cash deposit

rate for all other manufacturers or exporters will continue to be 44.93 percent, the all-others rate established in the LTFV investigation.²² These cash deposit requirements, when imposed, shall remain in effect until further notice.

Final Results of Review

Unless otherwise extended, Commerce intends to issue the final results of this administrative review, including the results of our analysis of issues raised by the parties in any written briefs, within 120 days of publication of these preliminary results in the **Federal Register**, pursuant to section 751(a)(3)(A) of the Act and 19 CFR 351.213(h)(1).

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping and/or countervailing duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping and/or countervailing duties occurred and the subsequent assessment of double antidumping duties, and/or an increase in the amount of antidumping duties by the amount of the countervailing duties.

Notification to Interested Parties

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

Dated: May 7, 2026.

Christopher Abbott,

Deputy Assistant Secretary for Policy and Negotiations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Preliminary Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the Order
- IV. Discussion of Methodology
- V. Currency Conversion
- VI. Recommendation

[FR Doc. 2026–09464 Filed 5–12–26; 8:45 am]

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²² See *Order*, 87 FR at 70786.

¹⁷ See 19 CFR 351.310(d).

¹⁸ See section 751(a)(2)(C) of the Act.

¹⁹ See 19 CFR 351.212(b)(1).

²⁰ *Id.*, 77 FR at 8102–03; see also 19 CFR 351.106(c)(2).

²¹ For a full description of this practice, see *Antidumping and Countervailing Duty Proceedings*:

Assessment of Antidumping Duties, 68 FR 23954 (May 6, 2003).

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B-45-2026]

**Foreign-Trade Zone (FTZ) 21
Notification of Proposed Production
Activity; Patheon API, Inc.;
(Meloxicam, Xeloda, and Tamiflu);
Florence, South Carolina**

Patheon API, Inc. submitted a notification of proposed production activity to the FTZ Board (the Board) for its facility in Florence, South Carolina within Subzone 21J. The notification conforming to the requirements of the Board's regulations (15 CFR 400.22) was received on April 15, 2026.

Pursuant to 15 CFR 400.14(b), FTZ production activity would be limited to the specific foreign-status material(s)/ component(s) and specific finished product(s) described in the submitted notification (summarized below) and subsequently authorized by the Board. The benefits that may stem from conducting production activity under FTZ procedures are explained in the background section of the Board's website—accessible via www.trade.gov/ftz. The proposed finished products and materials/components would be added to the production authority that the Board previously approved for the operation, as reflected on the Board's website.

The proposed finished products include: Oseltamivir Phosphate Shikimic Acid; Capecitabine; and Meloxicam Spray Dried Intermediate (duty free).

The proposed foreign-status materials/components include: Eecetamidoazide Shikimic Acid; Aromatic crystalline acetylfuranoside; Non-aromatic crystalline acetylfuranoside; Sulphobutyl-ether-b cyclodextrin; Flucytosine; and Meloxicam (duty free).

The request indicates that certain materials/components are subject to duties under section 122 of the Trade Act of 1974 (Section 122) or section 301 of the Trade Act of 1974 (section 301), depending on the country of origin. The applicable section 122 and section 301 decisions require subject merchandise to be admitted to FTZs in privileged foreign status (19 CFR 146.41).

Public comment is invited from interested parties. Submissions shall be addressed to the Board's Executive Secretary and sent to: ftz@trade.gov. The closing period for their receipt is June 22, 2026.

A copy of the notification will be available for public inspection in the "Online FTZ Information System" section of the Board's website.

For further information, contact John Frye at John.Fyre@trade.gov.

Dated: May 11, 2026.

Elizabeth Whiteman,

Executive Secretary.

[FR Doc. 2026-09513 Filed 5-12-26; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[C-523-816]

**Certain Aluminum Foil From the
Sultanate of Oman: Preliminary
Results of Countervailing Duty
Administrative Review; 2023**

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

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily determines that countervailable subsidies were provided to Oman Aluminium Rolling Company SPC (OARC), a producer and exporter of certain aluminum foil (aluminum foil) from the Sultanate of Oman (Oman). The period of review (POR) is January 1, 2023, through December 31, 2023. Interested parties are invited to comment on these preliminary results.

DATES: Applicable May 13, 2026.

FOR FURTHER INFORMATION CONTACT: Kristen Johnson, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-4793.

SUPPLEMENTARY INFORMATION:**Background**

On December 18, 2024, based on timely requests for review, in accordance with 19 CFR 351.221(c)(1)(i), we initiated an administrative review of the countervailing duty order on aluminum foil from Oman covering OARC.¹

On December 9, 2024, Commerce tolled the deadline to issue the preliminary results in administrative reviews for which the opportunity to request the review was published in November or December 2024, by 90 days.² The opportunity notice to request

this administrative review was published on November 1, 2024.³ On September 2, 2025, Commerce extended the deadline for issuance of the preliminary results of this review.⁴ Due to the lapse in appropriations and Federal Government shutdown, on November 14, 2025, Commerce tolled all deadlines in administrative proceedings by 47 days,⁵ and, due to a backlog of documents that were electronically filed via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS) during the Federal Government shutdown, on November 24, 2025, Commerce tolled all deadlines in administrative proceedings by an additional 21 days.⁶ Accordingly, the deadline for these preliminary results is now May 7, 2026.

For a complete description of the events that followed the initiation of this review, *see* the Preliminary Decision Memorandum.⁷ A list of topics discussed in the Preliminary Decision Memorandum is provided as the appendix to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via ACCESS. ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at <https://access.trade.gov/frnotices>.

Scope of the Order

The product covered by the *Order* is aluminum foil from Oman. For a complete description of the scope of the *Order*, *see* the Preliminary Decision Memorandum.

Methodology

Commerce is conducting this administrative review in accordance with section 751(a)(1)(A) of the Tariff Act of 1930, as amended (the Act). For each of the subsidy programs found countervailable, Commerce

³ *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review*, 89 FR 87338, 87339 (November 1, 2024).

⁴ *See* Memorandum, "Extension of Deadline for Preliminary Results of Countervailing Duty Administrative Review, 2023," dated September 2, 2025.

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

⁶ *See* Memorandum, "Tolling of all Case Deadlines," dated November 24, 2025.

⁷ *See* Memorandum, "Decision Memorandum for the Preliminary Results of the Countervailing Duty Administrative Review of Certain Aluminum Foil from the Sultanate of Oman; 2023," dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

¹ *See Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 89 FR 102856, 102862 (December 18, 2024); *see also Certain Aluminum Foil from the Sultanate of Oman and the Republic of Turkey: Countervailing Duty Orders*, 86 FR 62782 (November 12, 2021) (*Order*).

² *See* Memorandum, "Tolling of Deadlines for Antidumping and Countervailing Duty Proceedings," dated December 9, 2024.

preliminarily determines that there is a subsidy, *i.e.*, a financial contribution by an “authority” that gives rise to a benefit to the recipient, and that the subsidy is specific.⁸ For a full description of the methodology underlying our conclusions, including our reliance, in part, on facts otherwise available with adverse inferences pursuant to sections 776(a) and (b) of the Act, *see* the Preliminary Decision Memorandum.

Preliminary Results of Review

As a result of this review, we preliminarily determine the following net countervailable subsidy rate exists for the POR, January 1, 2023, through December 31, 2023:

Company	Subsidy rate (percent <i>ad valorem</i>)
Oman Aluminium Rolling Company SPC ⁹	14.15

Disclosure

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

Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance. Pursuant to 19 CFR 351.309(c)(1)(ii), we have modified the deadline for interested parties to submit case briefs to Commerce to no later than 21 days after the date of the publication of this notice.¹⁰ Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than five days after the date for filing case briefs.¹¹ Interested parties who submit case or rebuttal briefs in this proceeding must submit: (1) a table of contents listing each issue; and (2) a table of authorities.¹² All briefs must be filed electronically using ACCESS. An electronically filed

document must be received successfully in its entirety in ACCESS by 5:00 p.m. Eastern Time on the established deadline.

As provided under 19 CFR 351.309(c)(2)(iii) and (d)(2)(iii), we request that interested parties provide at the beginning of their briefs a public executive summary for each issue raised in their briefs.¹³ Further, we request that interested parties limit their executive summary of each issue to no more than 450 words, not including citations. We intend to use the executive summaries as the basis of the comment summaries included in the issues and decision memorandum that will accompany the final results in this administrative review. We request that interested parties include footnotes for relevant citations in the executive summary of each issue. Note that Commerce has amended certain of its requirements pertaining to the service of documents in 19 CFR 351.303(f).¹⁴

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, filed electronically via ACCESS by 5:00 p.m. Eastern Time within 30 days after the date of publication of this notice. Requests should contain: (1) the party’s name, address, and telephone number; (2) the number of participants, and whether any participant is a foreign national; and (3) a list of issues to be discussed. Oral presentations at the hearing will be limited to issues raised in the briefs. If a request for a hearing is made, Commerce will inform parties of the scheduled date for the hearing.¹⁵ Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

All submissions, including case and rebuttal briefs, as well as hearing requests, must be filed via ACCESS.¹⁶ An electronically filed document must be received successfully in its entirety in ACCESS by 5:00 p.m. Eastern Time on the established deadline. Note that Commerce has amended certain of its requirements pertaining to the service of documents in 19 CFR 351.303(f).¹⁷

Assessment Rate

Consistent with section 751(a)(1) of the Act and 19 CFR 351.212(b)(2), upon issuance of the final results, Commerce

shall determine, and U.S. Customs and Border Protection (CBP) shall assess, countervailing duties on all appropriate entries covered by this review.

Commerce intends to issue assessment instructions to CBP regarding OARC no earlier than 35 days after the date of publication of the final results of this review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.*, within 90 days of publication).

Cash Deposit Requirements

Pursuant to section 751(a)(2)(C) of the Act and 19 CFR 351.107(e), Commerce intends to instruct CBP to collect cash deposits of estimated countervailing duties with regard to shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this review, as follows: (1) the cash deposit rate for the company listed above will be equal to the company-specific estimated individual countervailable subsidy rates determined in the final results of this review, except if the rate is less than 0.50 percent and, therefore, *de minimis* within the meaning of 19 CFR 351.106(c)(1), in which case the cash deposit rate will be zero; (2) if both the producer and exporter of the subject merchandise have company-specific estimated subsidy rates assigned, and their rates differ, then the applicable cash deposit rate will be the higher of these two rates; (3) if either the producer or the exporter, but not both, of the subject merchandise has a company-specific estimated subsidy rate assigned, the applicable cash deposit rate will be that company’s company-specific rate; and (4) the cash deposit rate for all other producers and exporters will be continue to be 1.93 percent, the all-others subsidy rate established in the investigation.¹⁸ These cash deposit instructions, when imposed, shall remain in effect until further notice.

Final Results of Review

Unless the deadline is extended, Commerce intends to issue the final results of this administrative review, which will include the results of Commerce’s analysis of the issues raised in the case briefs, within 120 days of publication of these preliminary results in the **Federal Register**, pursuant to section 751(a)(3)(A) of the Act and 19 CFR 351.213(h)(1).

⁸ See sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

⁹ Commerce preliminarily determines that Oman Aluminium Rolling Company SPC is cross-owned with Sohar Paper Cores LLC, Takamul Investment Company LLC, and OQ SAOC.

¹⁰ See 19 CFR 351.309.

¹¹ See 19 CFR 351.309(d); *see also Administrative Protective Order, Service, and Other Procedures in Antidumping and Countervailing Duty Proceedings*, 88 FR 67069, 67077 (September 29, 2023) (*APO and Service Procedures*).

¹² See 19 CFR 351.309(c)(2) and (d)(2).

¹³ We use the term “issue” here to describe an argument that Commerce would normally address in a comment of the Issues and Decision Memorandum.

¹⁴ See *APO and Service Procedures*.

¹⁵ See 19 CFR 351.310(d).

¹⁶ See 19 CFR 351.303.

¹⁷ See *APO and Service Final Rule*.

¹⁸ See *Order*, 86 FR at 62783.

Notification to Interested Parties

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

Dated: May 7, 2026.

Christopher Abbott,

Deputy Assistant Secretary for Policy and Negotiations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Preliminary Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the Order
- IV. Subsidies Valuation Information
- V. Upstream Subsidy Analysis
- VI. Use of Facts Otherwise Available and Adverse Inferences
- VII. Analysis of Programs
- VIII. Recommendation

[FR Doc. 2026-09458 Filed 5-12-26; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[C-580-913]

Oil Country Tubular Goods From the Republic of Korea: Preliminary Results, Intent To Rescind, in Part, and Rescission, in Part, of Countervailing Duty Administrative Review; 2023

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

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily determines that countervailable subsidies were not provided to SeAH Steel Corporation (SeAH Steel), a producer and exporter of oil country tubular goods (OCTG) from the Republic of Korea (Korea). The period of review (POR) is January 1, 2023, through December 31, 2023. In addition, Commerce is rescinding this review, in part, with respect to four companies. Further, Commerce intends to rescind this review with respect to Hyundai Steel Pipe Co., Ltd. (Hyundai Pipe). Interested parties are invited to comment on these preliminary results.

DATES: Applicable May 13, 2026.

FOR FURTHER INFORMATION CONTACT: Rebecca Janz, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-2972.

SUPPLEMENTARY INFORMATION:

Background

On December 18, 2024, based on timely requests for review and in accordance with 19 CFR 351.221(c)(1)(i), we initiated an administrative review of the countervailing duty (CVD) order on OCTG from Korea.¹ In January and February 2025, AJU Besteel Co., Ltd. (AJU Besteel); ILJIN Steel Corporation (ILJIN); Kumkang Kind Co., Ltd. (Kumkang Kind); and NEXTEEL Co., Ltd. (NEXTEEL) timely withdrew their requests for review.²

On December 9, 2024, Commerce tolled the deadline to issue the preliminary results in administrative reviews for which the opportunity to request the review was published in November or December 2024 by 90 days.³ The opportunity notice to request this administrative review was published on November 1, 2024.⁴ On September 29, 2025, Commerce extended the time period for issuing these preliminary results by 120 days, in accordance with section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act).⁵

Additionally, due to the lapse in appropriations and Federal Government shutdown, on November 14, 2025, Commerce tolled all deadlines in administrative proceedings by 47 days,⁶ and, due to a backlog of documents that were electronically filed via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS) during the Federal Government shutdown, on November 24, 2025, Commerce tolled all deadlines in administrative proceedings by an

¹ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 89 FR 102856 (December 18, 2024); see also *Oil Country Tubular Goods from the Republic of Korea and the Russian Federation: Countervailing Duty Orders*, 87 FR 70782 (November 21, 2022) (*Order*).

² See AJU Besteel's Letter, "Withdrawal Request for Administrative Review," dated February 3, 2025; see also ILJIN's Letter, "Withdrawal Request for Administrative Review," dated February 3, 2025; Kumkang Kind's Letter, "Withdrawal of Request for Administrative Review," dated February 4, 2025; and NEXTEEL's Letter, "Withdrawal of Request for Administrative Review," dated January 22, 2025.

³ See Memorandum, "Tolling of Deadlines for Antidumping and Countervailing Duty Proceedings," dated December 9, 2024.

⁴ See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review and Join Annual Inquiry Service List*, 89 FR 87338 (November 1, 2024).

⁵ See Memorandum, "Extension of Deadline for Preliminary Results of Countervailing Duty Administrative Review," dated September 29, 2025.

⁶ See Memorandum, "Deadlines Affected by the Shutdown of the Federal Government," dated November 14, 2025.

additional 21 days.⁷ Accordingly, the deadline for these preliminary results is now May 7, 2026.

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

Scope of the Order

The merchandise covered by the Order is OCTG from Korea. For a complete description of the scope of the Order, see the Preliminary Decision Memorandum.

Rescission of Administrative Review, in Part

Pursuant to 19 CFR 351.213(d)(1), Commerce will rescind an administrative review, in whole or in part, if all parties that requested the review withdraw their requests within 90 days of the date of publication of the notice of initiation. As noted above, Commerce received timely-filed withdrawal requests with respect to the following companies: AJU Besteel, ILJIN, Kumkang Kind, and NEXTEEL. Therefore, we are rescinding this administrative review with respect to these companies, pursuant to 19 CFR 351.213(d)(1).

Intent To Rescind the Review, in Part

Pursuant to 19 CFR 351.213(d)(3), Commerce's practice is to rescind an administrative review of a CVD order, pursuant to 19 CFR 351.213(d)(3), when there are no reviewable entries of subject merchandise during the POR for which liquidation is suspended. Normally, upon completion of an administrative review, the suspended entries are liquidated at the CVD assessment rate calculated for the POR.⁹ Therefore, for an administrative review of a company to be conducted, there must be a reviewable, suspended entry that Commerce can instruct U.S.

⁷ See Memorandum, "Tolling of all Case Deadlines," dated November 24, 2025.

⁸ See Memorandum, "Decision Memorandum for the Preliminary Results of the Administrative Review of the Countervailing Duty Order on Oil Country Tubular Goods from the Republic of Korea; 2022," dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

⁹ See 19 CFR 351.212(b)(2).

Customs and Border Protection (CBP) to liquidate at the CVD assessment rate calculated for the POR.¹⁰

According to the CBP import data on the record, Hyundai Pipe did not have reviewable entries of subject merchandise during the POR for which liquidation is suspended.¹¹ Accordingly, in the absence of reviewable, suspended of entries of subject merchandise during the POR, we intend to rescind this administrative review with respect to Hyundai Pipe, in accordance with 19 CFR 351.213(d)(3).

Methodology

Commerce is conducting this administrative review in accordance with section 751(a)(1)(A) of the Act. For each of the subsidy programs found countervailable, Commerce preliminarily determines that there is a subsidy, *i.e.*, a financial contribution by an “authority” that gives rise to a benefit to the recipient, and the subsidy is specific.¹² For a full description of the methodology underlying our conclusions, *see* the Preliminary Decision Memorandum.

Preliminary Results of Review

As a result of this review, we preliminarily determine the following net countervailable subsidy rate exists for the POR, January 1, 2023, through December 31, 2023:

Company	Subsidy rate (percent <i>ad valorem</i>)
SeAH Steel Corporation ¹³ .	0.13 (<i>de minimis</i>).

Disclosure

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

Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and

Compliance. Pursuant to 19 CFR 351.309(c)(1)(ii), we have modified the deadline for interested parties to submit case briefs to Commerce to no later than 21 days after the date of the publication of this notice.¹⁴ Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than five days after the date for filing case briefs.¹⁵ Interested parties who submit case or rebuttal briefs in this proceeding must submit: (1) a table of contents listing each issue; and (2) a table of authorities.¹⁶ All briefs must be filed electronically using ACCESS. An electronically filed document must be received successfully in its entirety in ACCESS by 5:00 p.m. Eastern Time (ET) on the established deadline.

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

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, filed electronically via ACCESS by 5:00 p.m. ET within 30 days after the date of publication of this notice. Requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants and whether any participant is a foreign national; (3) a list of the issues to be discussed. Issues raised in the hearing will be limited to those raised in the respective case briefs. If a request for a

hearing is made, parties will be notified of the time and date for the hearing.¹⁹

Assessment Rates

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

For the companies listed above for which this review is being rescinded, Commerce will instruct CBP to assess countervailing duties on all appropriate entries at a rate equal to the cash deposit of estimated countervailing duties required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(1)(i). Commerce intends to issue rescission instructions to CBP no earlier than 35 days after the date of publication of this notice in the **Federal Register**.

Commerce intends to issue assessment instructions to CBP regarding SeAH Steel and Hyundai Pipe no earlier than 35 days after the date of publication of the final results of this review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.*, within 90 days of publication).

Cash Deposit Requirements

Pursuant to section 751(a)(2)(C) of the Act, Commerce intends to instruct CBP to collect cash deposits of estimated countervailing duties in the amount indicated above with regard to shipments of subject merchandise produced and/or exported by SeAH Steel entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review. If the rate calculated in the final results is zero or *de minimis*, no cash deposit will be required on shipments of the subject merchandise produced and/or exported by SeAH Steel entered or withdrawn from warehouse, for consumption on or after the date of publication of this review.

For all non-reviewed firms, CBP will continue to collect cash deposits of estimated countervailing duties at the all-others rate of the most recent company-specific rate applicable to the company or the all-others rate, as appropriate. These cash deposit instructions, when imposed, shall remain in effect until further notice.

¹⁰ See 19 CFR 351.213(d)(3).

¹¹ See Memorandum, “Release of U.S. Customs and Border Protection Entry Data,” dated January 7, 2025.

¹² See sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

¹³ As discussed in the Preliminary Decision Memorandum, Commerce has found the following company to be cross-owned with SeAH Steel: SeAH Steel Holding Corporation.

¹⁴ See 19 CFR 351.309.

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

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

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

¹⁸ See *APO and Service Procedures*.

¹⁹ See 19 CFR 351.310(d).

Final Results of Review

Unless the deadline is extended, Commerce intends to issue the final results of administrative review, including the results of our analysis of the issues raised by the parties in their written briefs, no later than 120 days after publication of these preliminary results, pursuant to section 751(a)(3)(A) of the Act.

Notification to Interested Parties

We are issuing and publishing these preliminary results in accordance with sections 751(a)(1) and 777(i)(1) of the Act, 19 CFR 351.213(d)(4), and 19 CFR 351.221(b)(4).

Dated: May 7, 2026.

Christopher Abbott,

Deputy Assistant Secretary for Policy and Negotiations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Preliminary Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the Order
- IV. Diversification of Korea's Economy
- V. Intent to Rescind, In Part
- VI. Subsidies Valuation Information
- VII. Benchmarks and Interest Rates
- VIII. Analysis of Programs
- IX. Recommendation

[FR Doc. 2026-09459 Filed 5-12-26; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A-433-813]

Strontium Chromate From Austria: Preliminary Results of Antidumping Duty Administrative Review; 2023–2024

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

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily determines that strontium chromate from Austria was sold by Habich GmbH (Habich) in the United States at less than normal value (NV) during the period of review (POR), November 1, 2023, through October 31, 2024. Interested parties are invited to comment on these preliminary results.

DATES: Applicable May 13, 2026.

FOR FURTHER INFORMATION CONTACT: Jaron Moore, AD/CVD Operations, Office VIII, Enforcement and Compliance, International Trade

Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–3640.

SUPPLEMENTARY INFORMATION:

Background

On November 27, 2019, Commerce published the antidumping duty order on strontium chromate from Austria.¹ On November 1, 2024, Commerce published in the **Federal Register** a notice of opportunity to request an administrative review of the *Order*.² On December 18, 2024, based on a timely review request, in accordance with 19 CFR 351.221(c)(1)(i), Commerce published the initiation of an administrative review of the *Order*, covering one producer/exporter, Habich.³

On December 9, 2024, Commerce tolled the deadline to issue the preliminary results in this administrative review by 90 days.⁴ Additionally, due to the lapse in appropriations and Federal Government shutdown, on November 14, 2025, Commerce tolled all deadlines in administrative proceedings by 47 days,⁵ and, due to a backlog of documents that were electronically filed via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS) during the Federal Government shutdown, on November 24, 2025, Commerce tolled all deadlines in administrative proceedings by an additional 21 days.⁶ On November 24, 2025, we extended the deadline by 120 days.⁷ Accordingly, the deadline for the preliminary results of this review is now May 7, 2026.

For a detailed description of the events that followed the initiation of this review, *see* the Preliminary Decision Memorandum.⁸ A list of topics

¹ *See Strontium Chromate from Austria and France: Antidumping Duty Orders*, 84 FR 65349 (November 27, 2019) (*Order*).

² *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review and Join Annual Inquiry Service List*, 89 FR 87338 (November 1, 2024).

³ *See Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 89 FR 102856 (December 18, 2024).

⁴ *See* Memorandum, “Tolling of Deadlines,” dated September 17, 2025 at attachment.

⁵ *See* Memorandum, “Deadlines Affected by the Shutdown of the Federal Government,” dated November 14, 2025.

⁶ *See* Memorandum, “Tolling of all Case Deadlines,” dated November 24, 2025.

⁷ *See* Memorandum, “Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review,” dated November 24, 2025.

⁸ *See* Memorandum, “Decision Memorandum for the Preliminary Results of the Antidumping Duty

discussed in the Preliminary Decision Memorandum is attached as an appendix to this notice. The Preliminary Decision Memorandum is a public document and is available via ACCESS. ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at <https://access.trade.gov/frnotices>.

Scope of the Order

The merchandise covered by the *Order* is strontium chromate, regardless of form (including but not limited to, powder (sometimes known as granular), dispersions (sometimes known as paste), or in any solution). The merchandise subject to the *Order* is currently classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) under subheading 2841.50.9100. Subject merchandise may also enter under HTSUS subheading 3212.90.0050. While the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope is dispositive. For a complete description of the scope of the *Order*, *see* the Preliminary Decision Memorandum.

Methodology

Commerce is conducting this administrative review in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act). Export price is calculated in accordance with section 772 of the Act. NV is calculated in accordance with 773(a)(4) of the Act. For a full description of the methodology underlying these preliminary results, *see* the Preliminary Decision Memorandum.

Preliminary Results of Review

We preliminarily determine the following weighted-average dumping margin exists for the period November 1, 2023, through October 31, 2024:

Exporter/producer	Weighted-average dumping margin (percent)
Habich GmbH	11.01

Disclosure

Commerce intends to disclose its calculations and analysis performed to interested parties in these preliminary results within five days of any public

Administrative Review: Strontium Chromate from Austria, 2023–2024,” dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

announcement or, if there is no public announcement, within five days of the date of publication of this notice in the **Federal Register**, in accordance with 19 CFR 351.224(b).

Public Comment

Pursuant to 19 CFR 351.309(c), Commerce intends to set a case brief schedule at a later date, after the publication of these preliminary results in the **Federal Register**.⁹ Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than five days after the date for filing case briefs.¹⁰ Interested parties who submit case briefs or rebuttal briefs in this proceeding must submit: (1) a table of contents listing each issue; and (2) a table of authorities.¹¹

As provided under 19 CFR 351.309(c)(2)(iii) and (d)(2)(iii), we request that interested parties provide at the beginning of their briefs a public, executive summary for each issue raised in their briefs.¹² Further, we request that interested parties limit their executive summary of each issue to no more than 450 words, not including citations. We intend to use the executive summaries as the basis of the comment summaries included in the issues and decision memorandum that will accompany the final results in this administrative review. We request that interested parties include footnotes for relevant citations in the executive summary of each issue. Note that Commerce has amended certain of its requirements pertaining to the service of documents in 19 CFR 351.303(f).¹³

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, filed electronically via ACCESS by 5:00 p.m. Eastern Time within 30 days after the date of publication of this notice.¹⁴ Requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants, and whether any participant is a foreign national; and (3) a list of issues to be discussed. Issues raised in the hearing will be limited to those raised in the respective case briefs. If a request for a hearing is made,

parties will be notified of the time and date for the hearing.¹⁵ Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

All submissions, including case and rebuttal briefs, as well as hearing requests, must be filed via ACCESS.¹⁶ An electronically filed document must be received successfully in its entirety in ACCESS by 5:00 p.m. Eastern Time on the established deadline. Note that Commerce has amended certain of its requirements pertaining to the service of documents in 19 CFR 351.303(f).¹⁷

Assessment Rates

Pursuant to section 751(a)(2)(A) of the Act and 19 CFR 351.212(b)(1), upon issuance of the final results, Commerce shall determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries covered by this review. The final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by this review and for future deposits of estimated duties, where applicable.

If Habich's weighted-average dumping margin is not zero or *de minimis* (i.e., less than 0.5 percent) in the final results of this review, and because Habich reported entered values for all of its sales, we intend to calculate importer-specific *ad valorem* assessment rates based on the ratio of the total amount of dumping calculated for each importer's examined sales to the total entered value of those sales, in accordance with 19 CFR 351.212(b)(1). We intend to instruct CBP to assess antidumping duties on all appropriate entries covered by this review when the importer-specific assessment rate calculated in the final results of this review is above *de minimis* (i.e., 0.50 percent). If Habich's overall weighted-average dumping margin is zero or *de minimis* or where an importer-specific *ad valorem* assessment rate is zero or *de minimis*, in the final results of review, we intend to instruct CBP to liquidate the appropriate entries without regard to antidumping duties.¹⁸

In accordance with Commerce's "automatic assessment" practice, for entries of subject merchandise during the POR produced by Habich for which

it did not know that the merchandise was destined for the United States, we intend to instruct CBP to liquidate those entries at the all-others rate established in the original less-than-fair-value (LTFV) investigation¹⁹ if there is no rate for the intermediate company(ies) involved in the transaction.²⁰

Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of the final results of this administrative review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (i.e., within 90 days of publication).

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the notice of final results of this administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the notice of the final results of this administrative review in the **Federal Register**, as provided by section 751(a)(2)(C) of the Act: (1) the cash deposit rate for Habich will be that established in the final results of this administrative review, except if the rate is less than 0.50 percent and, therefore, *de minimis* within the meaning of 19 CFR 351.106(c)(1), in which case the cash deposit rate will be zero; (2) for previously investigated companies not participating in this review, the cash deposit rate will continue to be the company-specific cash deposit rate published for the most recently completed segment of this proceeding in which the company participated; (3) if the exporter is not a firm covered in this review, a prior review, or the underlying investigation, but the producer is, then the cash deposit rate will be the rate established for the most recently completed segment of this proceeding for the producer of the merchandise; and (4) the cash deposit rate for all other producers or exporters will continue to be 25.90 percent, the all-others rate established in the LTFV investigation.²¹ These cash deposit requirements, when imposed, shall remain in effect until further notice.

⁹ See 19 CFR 351.309(c)(1)(ii).

¹⁰ See 19 CFR 351.309(d); see also *Administrative Protective Order, Service, and Other Procedures in Antidumping and Countervailing Duty Proceedings*, 88 FR 67069, 67077 (September 29, 2023) (*APO and Service Final Rule*).

¹¹ See 19 CFR 351.309(c)(2) and (d)(2).

¹² We use the term "issue" here to describe an argument that Commerce would normally address in a comment of the Issues and Decision Memorandum.

¹³ See *APO and Service Final Rule*.

¹⁴ See 19 CFR 351.310(c).

¹⁵ See 19 CFR 351.310(d).

¹⁶ See 19 CFR 351.303.

¹⁷ See *APO and Service Final Rule*.

¹⁸ See 19 CFR 351.106(c)(2); see also *Antidumping Proceeding: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings; Final Modification*, 77 FR 8101, 8103 (February 14, 2012).

¹⁹ See *Order*, 84 FR at 65349.

²⁰ For a full discussion of this practice, see *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003).

²¹ See *Order*, 84 FR at 65350.

Final Results of Review

Unless otherwise extended, Commerce intends to issue the final results of this administrative review, including the results of our analysis of issues raised by the parties in any written briefs, within 120 days of publication of these preliminary results in the **Federal Register**, pursuant to section 751(a)(3)(A) of the Act and 19 CFR 351.213(h)(1).

Notification to Importers

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

Notification to Interested Parties

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

Dated: May 7, 2026.

Christopher Abbott,

Deputy Assistant Secretary for Policy and Negotiations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Preliminary Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the Order
- IV. Discussion of the Methodology
- V. Currency Conversion
- VI. Recommendation

[FR Doc. 2026–09468 Filed 5–12–26; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–198, C–570–199]

Temporary Steel Fencing From the People's Republic of China: Antidumping Duty Order and Countervailing Duty Order

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

SUMMARY: Based on affirmative final determinations by the U.S. Department of Commerce (Commerce) and the U.S. International Trade Commission (ITC),

Commerce is issuing antidumping duty (AD) and countervailing duty (CVD) orders on temporary steel fencing from the People's Republic of China (China).

DATES: Applicable May 13, 2026.

FOR FURTHER INFORMATION CONTACT:

Noah Wetzel (AD) or Janaé Martin (CVD), AD/CVD Operations, Offices VIII and VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–7466 or (202) 482–0238, respectively.

SUPPLEMENTARY INFORMATION:

Background

In accordance with sections 705(d) and 735(d) of the Tariff Act of 1930, as amended (the Act), on March 16, 2026, Commerce published its affirmative final determination of sales at less than fair value (LTFV) of temporary steel fencing from China¹ and its affirmative final determination that countervailable subsidies are being provided to producers and exporters of temporary steel fencing from China.²

On April 30, 2026, in accordance with sections 705(d) and 735(d) of the Act, the ITC notified Commerce of its final affirmative determinations that an industry in the United States is materially injured by reason of dumping imports of temporary steel fencing from China, and subsidized imports of temporary steel fencing from China, within the meaning of sections 705(b)(1)(A)(i) and 735(b)(1)(A)(i) of the Act.³

Scope of the Orders

The product covered by these orders is temporary steel fencing from China. For a complete description of the scope of the orders, *see* the Appendix to this notice.

AD Order

On April 30, 2026, in accordance with section 735(d) of the Act, the ITC notified Commerce of its final determination that an industry in the United States is materially injured within the meaning of section

735(b)(1)(A)(i) of the Act by reason of imports of temporary steel fencing from China that are sold in the United States at LTFV.⁴ Therefore, in accordance with sections 735(c)(2) and 736 of the Act, Commerce is issuing this AD order. Because the ITC determined that imports of temporary steel fencing from China are materially injuring a U.S. industry, unliquidated entries of such merchandise from China, entered or withdrawn from warehouse for consumption, are subject to the assessment of antidumping duties.

Therefore, in accordance with section 736(a)(1) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to assess, upon further instruction by Commerce, antidumping duties equal to the amount by which the normal value of the merchandise exceeds the export price (or constructed export price) of the merchandise on all relevant entries of temporary steel fencing from China. Antidumping duties will be assessed on unliquidated entries of temporary steel fencing entered, or withdrawn from warehouse, for consumption on or after August 19, 2025, the date of publication of the *LTFV Preliminary Determination*,⁵ but will not include entries occurring after the expiration of provision measures period and before the publication of the ITC's final injury determination under section 735(b) of the Act, as further described below.

Critical Circumstances—AD

In addition, the ITC found that critical circumstances do not exist with respect to imports of temporary steel fencing from China. As a result, we intend to instruct CBP to lift the suspension of liquidation and to refund all cash deposits for estimated antidumping duties with respect to entries of subject merchandise entered, or withdrawn from warehouse, for consumption on or after May 21, 2025 (*i.e.*, 90 days prior to the date of publication of the affirmative *LTFV Preliminary Determination*), but before August 19, 2025 (*i.e.*, the date of publication of the *LTFV Preliminary Determination*).⁶

Suspension of Liquidation and Cash Deposits—AD

Except as noted in the “Provisional Measures—AD” section of this notice,

⁴ *Id.*

¹ *See Temporary Steel Fencing from the People's Republic of China: Final Affirmative Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances, in Part*, 91 FR 12577 (March 16, 2026) (*LTFV Final Determination*).

² *See Temporary Steel Fencing from the People's Republic of China: Final Affirmative Countervailing Duty Determination and Final Affirmative Determination of Critical Circumstances, in Part*, 91 FR 12567 (March 16, 2026) (*CVD Final Determination*).

³ *See* ITC's Letter, “Notification of ITC Final Determinations,” dated April 30, 2026 (ITC Notification Letter).

⁵ *See Temporary Steel Fencing from the People's Republic of China: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Preliminary Affirmative Determination of Critical Circumstances, in Part, Postponement of Final Determination and Extension of Provisional Measures*, 90 FR 40332 (August 19, 2025) (*LTFV Preliminary Determination*).

⁶ *Id.*

Commerce intends to instruct CBP to reinstitute the suspension of liquidation of temporary steel fencing from China, effective on the date of publication of the ITC's final affirmative injury determination in the **Federal Register** in accordance with section 736 of the Act. These instructions suspending liquidation will remain in effect until further notice.

Commerce also intends to instruct CBP to require cash deposits equal to

the estimated weighted-average dumping margins listed in the table below, adjusted by the relevant export subsidy offsets. Accordingly, effective on the date of publication in the **Federal Register** of the notice of the ITC's final affirmative injury determination, CBP will require, at the same time as importers would normally deposit estimated customs duties on subject merchandise, a cash deposit equal to the rates listed in the table below. The rate

for the China-wide entity applies to all producers and exporters not specifically listed, as appropriate.

These instructions suspending liquidation and cash deposit requirements will remain in effect until further notice.

Estimated Weighted-Average Dumping Margins

The estimated weighted-average dumping margins are as follows:

Exporter	Producer	Weighted-average dumping margin (percent)	Cash deposit rate (adjusted for subsidy offsets) (percent)
Hebei Minmetals Co., Ltd	Huanghua Wangang Hardware Co., Ltd	129.70	129.68
Hebei Minmetals Co., Ltd	Huanghua Taiyue Hardware Co., Ltd	129.70	129.68
Hebei Minmetals Co., Ltd	Hebei Wuxin Garden Products Co., Ltd	129.70	129.68
Hebei Minmetals Co., Ltd	Huanghua Qingxin Metal Products Co., Ltd	129.70	129.68
Hebei Minmetals Co., Ltd	Huanghua Xingyu Hardware Products Co., Ltd.	129.70	129.68
Hebei Minmetals Co., Ltd	Huanghua Deyue Hardware Co., Ltd	129.70	129.68
Hebei Minmetals Co., Ltd	Cangzhou Hualing Metal Products Co., Ltd	129.70	129.68
Hebei Minmetals Co., Ltd	Huanghua Huanyu Hardware Factory	129.70	129.68
Tianjin Linkwel International Trading Co., Ltd ..	Tianjin Lianhao Metal Products Co., Ltd	129.70	129.68
Tianjin Linkwel International Trading Co., Ltd ..	Changzhou Lianrui Metal Products Co., Ltd	129.70	129.68
Shantou Jiayu Trading Co., Ltd	Huanghua Juntai Hardware Products Co., Ltd	129.70	129.68
Shijiazhuang Shuangming Trade Co., Ltd	Huanghua Wangang Hardware Co., Ltd	129.70	129.68
Shijiazhuang Shuangming Trade Co., Ltd	Huanghua Taiyue Hardware Co., Ltd	129.70	129.68
Shijiazhuang Shuangming Trade Co., Ltd	Hebei Wuxin Garden Products Co., Ltd	129.70	129.68
Shijiazhuang Shuangming Trade Co., Ltd	Huanghua Qingxin Metal Products Co., Ltd	129.70	129.68
Shijiazhuang Shuangming Trade Co., Ltd	Huanghua Xingyu Hardware Products Co., Ltd.	129.70	129.68
Metaltec Group Co., Limited	Shijiazhuang Shuangming Trade Co., Ltd	129.70	129.68
Metaltec Group Co., Limited	Huanghua Wangang Hardware Co., Ltd	129.70	129.68
Metaltec Group Co., Limited	Huanghua Taiyue Hardware Co., Ltd	129.70	129.68
Metaltec Group Co., Limited	Hebei Wuxin Garden Products Co., Ltd	129.70	129.68
Metaltec Group Co., Limited	Huanghua Qingxin Metal Products Co., Ltd	129.70	129.68
Metaltec Group Co., Limited	Huanghua Xingyu Hardware Products Co., Ltd.	129.70	129.68
Hebei Yelang Imp. & Exp. Trade Co., Ltd	Huanghua Pengxiang Hardware Products Co., Ltd.	129.70	129.68
Joint Force Int'l Co., Limited	Hebei Minmetals Co., Ltd	129.70	129.68
Joint Force Int'l Co., Limited	Huanghua Wangang Hardware Co., Ltd	129.70	129.68
Joint Force Int'l Co., Limited	Huanghua Taiyue Hardware Co., Ltd	129.70	129.68
Joint Force Int'l Co., Limited	Hebei Wuxin Garden Products Co., Ltd	129.70	129.68
Joint Force Int'l Co., Limited	Huanghua Qingxin Metal Products Co., Ltd	129.70	129.68
Joint Force Int'l Co., Limited	Huanghua Xingyu Hardware Products Co., Ltd.	129.70	129.68
Joint Force Int'l Co., Limited	Huanghua Deyue Hardware Co., Ltd	129.70	129.68
Joint Force Int'l Co., Limited	Huanghua Huanyu Hardware Factory	129.70	129.68
Hebei Jinshi Industrial Metal Co., Ltd	Tangshan ZhongRui Industrial Co., Ltd	129.70	129.68
Hebei Jinshi Industrial Metal Co., Ltd	Huanghua Tianhang Hardware Products Co., Ltd.	129.70	129.68
Hebei Jinshi Industrial Metal Co., Ltd	Hebei Tinlin Metal Products Co., Ltd	129.70	129.68
Hebei Jinshi Industrial Metal Co., Ltd	Huanghua Xindarui Hardware Products Co., Ltd.	129.70	129.68
Hebei Haiao Wire Mesh Products Co., Ltd	Raoyang Shengshi Metal Products Co., Ltd	129.70	129.68
Anping Chengxin Metal Mesh Co., Ltd	Anping Chengxin Metal Mesh Co., Ltd	129.70	129.68
Hebei Houtuo Co., Ltd	Huanghua Aiyuan Hardware Products Co., Ltd.	129.70	129.68
Hebei Neweast Yilong Trading Co., Ltd	Huanghua City Deyue Hardware Co., Ltd	129.70	129.68
Hebei Giant Metal Technology Co., Ltd	Hebei Giant Metal Technology Co., Ltd	129.70	129.68
China-wide Entity .....	.....	* 184.27	184.25

* This rate is based on facts available with adverse inferences.

Provisional Measures—AD

Section 733(d) of the Act states that suspension of liquidation pursuant to an affirmative preliminary determination may not remain in effect for more than four months, except where exporters representing a significant proportion of export of the subject merchandise request that Commerce extend the four-month period to no more than six months. At the request of exporters that accounted for a significant proportion of exports of temporary steel fencing from China, Commerce extended the four-month period to no more than six months.⁷ In the underlying investigation, Commerce published the *LTFV Preliminary Determination* on August 19, 2025. Therefore, the six-month period beginning on the date of publication ended on February 14, 2026. Pursuant to section 737(b) of the Act, the collection of cash deposits will begin on the date of publication of the ITC's final injury determinations. Therefore, in accordance with section 733(d) of the Act, Commerce will instruct CBP to terminate the suspension of liquidation and to liquidate, without regard to antidumping duties, unliquidated entries of temporary steel fencing from China entered, or withdrawn from warehouse, for consumption on or after February 15, 2026, the first day provisional measures were no longer in effect, until and through the day preceding the date of publication of the ITC's final injury determination in the **Federal Register**. Suspension of liquidation and the collection of cash deposits will resume on the date of publication of the ITC's final determination in the **Federal Register**.

CVD Order

As stated above, on April 30, 2026, the ITC notified Commerce of its final determination that an industry is materially injured within the meaning of section 705(b)(1)(A)(i) of the Act by reason of subsidized imports of temporary steel fencing from China.⁸ Therefore, in accordance with section 705(c)(2) of the Act, Commerce is issuing this CVD order. Moreover, because the ITC determined that imports of temporary steel fencing from China are materially injuring a U.S. industry, unliquidated entries of subject merchandise from China, entered, or withdrawn from warehouse, for consumption, are subject to the assessment of countervailing duties.

Therefore, in accordance with section 706(a) of the Act, Commerce intends to

direct CBP to assess, upon further instructions by Commerce, countervailing duties on all relevant entries of temporary steel fencing from China entered, or withdrawn from warehouse, for consumption on or after June 20, 2025, the date of publication of the *CVD Preliminary Determination*,⁹ but will not include entries occurring after the expiration of the provisional measures period and before the publication of the ITC's final injury determination under section 705(b) of the Act, as further described below.

Critical Circumstances—CVD

In addition, the ITC found that critical circumstances do not exist with respect to imports of temporary steel fencing from China. As a result, we intend to instruct CBP to lift suspension and to refund any cash deposits made to secure the payment of estimated countervailing duties with respect to entries of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after March 22, 2025 (*i.e.*, 90 days prior to the date of the publication of the *CVD Preliminary Determination*), but before June 20, 2025 (*i.e.*, the date of publication of the *CVD Preliminary Determination*).¹⁰

Suspension of Liquidation and Cash Deposits—CVD

In accordance with section 706 of the Act, Commerce intends to instruct CBP to reinstitute the suspension of liquidation of temporary steel fencing from China, effective on the date of publication of the ITC's final affirmative injury determination in the **Federal Register**, and to assess, upon further instruction by Commerce, pursuant to section 706(a)(1) of the Act, countervailing duties on each entry of subject merchandise in an amount based on the net countervailable subsidy rates below. These instructions suspending liquidation will remain in effect until further notice.

Commerce also intends, pursuant to section 706(a)(1) of the Act, to instruct CBP to require cash deposits equal to the amounts as indicated below. Accordingly, effective on the date of publication of the ITC's final affirmative injury determination in the **Federal Register**, CBP will require, at the same time as importers would normally deposit estimated duties on the subject

merchandise, a cash deposit equal to the rates listed in the table below.¹¹ The all-others rate applies to all producers or exporters not specifically listed, as appropriate. These instructions suspending liquidation will remain in effect until further notice.

Estimated Countervailing Duty Subsidy Rates

The estimated countervailing duty subsidy rates are as follows:

Company	Subsidy rate (percent <i>ad valorem</i>)
Hebei Minmetals Co., Ltd	49.19
Shijiazhuang SD Company Ltd	* 178.97
Anping County Xingpeng Hardware Co., Ltd	* 178.97
Shenzhou Yuelei Metal Products Co., Ltd	* 178.97
Sichuan Gold-Link Industry ..	* 178.97
Sourcing Solution Co., Ltd ..	* 178.97
Tianjin Mengsheng Metal Products	* 178.97
All Others	49.19

* This rate is based on facts available with adverse inferences.

Provisional Measures—CVD

Section 703(d) of the Act states that the suspension of liquidation pursuant to an affirmative preliminary determination may not remain in effect for more than four months. In underlying investigations, Commerce published the *CVD Preliminary Determination* on June 20, 2025.¹² Therefore, entries of temporary steel fencing from China made on or after October 18, 2025, and prior to the date of publication of the ITC's final determinations in the **Federal Register**, are not subject to the assessment of countervailing duties due to Commerce's discontinuation of the suspension of liquidation.

In accordance with section 703(d) of the Act, Commerce instructed CBP to terminate the suspension of liquidation and to liquidate, without regard to countervailing duties, certain unliquidated entries of temporary steel fencing from China entered, or withdrawn from warehouse, for consumption, on or after October 18, 2025, the date on which the provisional measures expired, until and through the day preceding the date of publication of the ITC's final injury determination in the **Federal Register**. Suspension of liquidation and the collection of cash deposits will resume on the date of publication of the ITC's affirmative final

⁷ *Id.*, 90 FR at 40335.

⁸ See ITC Notification Letter.

⁹ See *Temporary Steel Fencing from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination, Preliminary Affirmative Critical Circumstances Determination, in Part, and Alignment of Final Determination with the Final Antidumping Determination*, 90 FR 26268 (June 20, 2025) (*CVD Preliminary Determination*).

¹⁰ *Id.*

¹¹ See section 706(a)(3) of the Act.

¹² See *CVD Preliminary Determination*.

injury determination in the **Federal Register**.

Establishment of the Annual Inquiry Service Lists

On September 20, 2021, Commerce published the *Final Rule* in the **Federal Register**.¹³ On September 27, 2021, Commerce also published the *Procedural Guidance* in the **Federal Register**.¹⁴ The *Final Rule* and *Procedural Guidance* provide that Commerce will maintain an annual inquiry service list for each order or suspended investigation, and any interested party submitting a scope ruling application or request for circumvention inquiry shall serve a copy of the application or request on the persons on the annual inquiry service list for that order, as well as any companion order covering the same merchandise from the same country of origin.¹⁵

In accordance with the *Procedural Guidance*, for orders published in the **Federal Register** after November 4, 2021, Commerce will create an annual inquiry service list segment in Commerce's online e-filing and document management system, Antidumping and Countervailing Duty Electronic Service System (ACCESS), available at <https://access.trade.gov>, within five business days of publication of the notice of the order. Each annual inquiry service list will be saved in ACCESS, under each case number, and under a specific segment type called "AISL-Annual Inquiry Service List."¹⁶

Interested parties who wish to be added to the annual inquiry service list for an order must submit an entry of appearance to the annual inquiry service list segment for the order in ACCESS within 30 days after the date of publication of the order. For ease of administration, Commerce requests that law firms with more than one attorney representing interested parties in an order designate a lead attorney to be

included on the annual inquiry service list. Commerce will finalize the annual inquiry service list within five business days thereafter. As mentioned in the *Procedural Guidance*,¹⁷ the new annual inquiry service list will be in place until the following year, when the Opportunity Notice for the anniversary month of the order is published.

Commerce may update an annual inquiry service list at any time as needed based on interested parties' amendments to their entries of appearance to remove or otherwise modify their list of members and representatives, or to update contact information. Any changes or announcements pertaining to these procedures will be posted to the ACCESS website.

Special Instructions for Petitioner and Foreign Governments

In the *Final Rule*, Commerce stated that, "after an initial request and placement on the annual inquiry service list, both petitioners and foreign governments will automatically be placed on the annual inquiry service list in the years that follow."¹⁸ Accordingly, as stated above, the petitioner and the Government of China (GOC) should submit their initial entries of appearance after publication of this notice in order to appear in the first annual inquiry service lists for these orders for which they qualify as interested parties. Pursuant to 19 CFR 351.225(n)(3), the petitioner and the GOC will not need to resubmit their entries of appearance each year to continue to be included on the annual inquiry service list. However, the petitioner and the GOC are responsible for making amendments to their entries of appearance during the annual update to the annual inquiry service list in accordance with the procedures described above.

Notification to Interested Parties

This notice constitutes the AD and CVD orders with respect to temporary steel fencing from China, pursuant to sections 706(a) and 736(a) of the Act. Interested parties can find a list of AD and CVD orders currently in effect at <https://www.trade.gov/data-visualization/adcvd-orders-and-suspension-agreements>.

These orders are published in accordance with sections 706(a) and 736(a) of the Act and 19 CFR 351.211(b).

Dated: May 7, 2026.

Christopher Abbott,

Deputy Assistant Secretary for Policy and Negotiations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

Appendix

Scope of the Orders

The merchandise subject to these orders is temporary steel fencing. Temporary steel fencing consists of temporary steel fence panels and temporary steel fence stands. Temporary steel fence panels, when assembled with temporary steel fence stands or other types of stands outside of the scope, with each other, or with posts, create a free-standing fence. Temporary steel fence panels are covered by the scope regardless of whether they attach to a stand or the type of stand to which they connect.

Temporary steel fence panels have a welded frame of steel tubing and an interior consisting of chain link, steel wire mesh, or other steel materials that are not more than ten millimeters in actual diameter or width. The steel tubing may surround all edges of the temporary steel fence panel or only be attached along two parallel sides of the panel. All temporary steel fence panels with at least two framed sides are covered by the scope, regardless of the number of edges framed with steel tubing.

Temporary steel fence panels are typically between 10 and 12 feet long and six to eight feet high, though all temporary steel fence panels are covered by the scope regardless of dimension or weight as long as a single panel meets each of the three following criteria: (1) it has over seven and a half square feet in actual surface area; (2) it weighs more than four pounds; and (3) it weighs less than 1.92 pounds per square foot. Temporary steel fence panels may be square, rectangular, or have rounded edges, and may or may not have gates, doors, wheels, or barbed wire or other features, though all temporary steel fence panels are covered by the scope regardless of shape and other features. Temporary steel fence panels may have one or more horizontal, vertical, or diagonal reinforcement tubes made of steel welded to the inside frame, though all temporary steel fence panels are covered by the scope regardless of the existence, number, or type of reinforcement tubes attached to the panel. Temporary steel fence panels may have extensions, pins, tubes, or holes at the bottom of the panel, but all temporary steel fence panels are covered regardless of the existence of such features.

Steel fence stands are shapes made of steel that stand flat on the ground and have one or two open tubes or solid pins into which temporary steel fence panels are inserted to stand erect. The steel fence stand may be made of welded steel tubing or may be a flat steel plate with one or two tubes or pins welded onto the plate for connecting the panels.

Temporary steel fencing is covered by the scope regardless of coating, painting, or other finish. Both temporary steel fence panels and temporary steel fence stands are covered by the scope, whether imported assembled or

¹³ See *Regulations to Improve Administration and Enforcement of Antidumping and Countervailing Duty Laws*, 86 FR 52300 (September 20, 2021) (*Final Rule*).

¹⁴ See *Scope Ruling Application; Annual Inquiry Service List; and Informational Sessions*, 86 FR 53205 (September 27, 2021) (*Procedural Guidance*).

¹⁵ *Id.*

¹⁶ This segment will be combined with the ACCESS Segment Specific Information (SSI) field which will display the month in which the notice of the order or suspended investigation was published in the **Federal Register**, also known as the anniversary month. For example, for an order under case number A-000-000 that was published in the **Federal Register** in January, the relevant segment and SSI combination will appear in ACCESS as "AISL-January Anniversary." Note that there will be only one annual inquiry service list segment per case number, and the anniversary month will be pre-populated in ACCESS.

¹⁷ See *Procedural Guidance*, 86 FR at 53206.

¹⁸ See *Final Rule*, 86 FR at 52335.

unassembled, and whether imported together or separately.

Subject merchandise includes material matching the above description that has been finished, assembled, or packaged in a third country, including by coating, painting, assembling, attaching to, or packaging with another product, or any other finishing, assembly, or packaging operation that would not otherwise remove the merchandise from the scope of these orders if performed in the country of manufacture of the temporary steel fencing.

Temporary steel fencing is included in the scope of these orders whether or not imported attached to, or in conjunction with, other parts and accessories such as posts, hooks, rings, brackets, couplers, clips, connectors, handles, brackets, or latches. If temporary steel fencing is imported attached to, or in conjunction with, such non-subject merchandise, only the temporary steel fencing is included in the scope.

Excluded from the scope of these orders are decorative steel fence panels. Decorative steel fence panels are steel fence panels that have all of the following characteristics: (i) the panel's long ends are no more than 48 inches; (ii) the panel's short ends are no more than 38 inches; (iii) the panel weighs 7 pounds or less; (iv) the panel is framed on all sides with steel tubing no wider than 10 mm; and (v) the panel's the interior contains a decorative pattern (meaning a pattern other than square, rectangular, diamond, or hexagonal meshing) accounting for at least 5 percent of the area within the frame.

Merchandise covered by these orders is currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under the subheading 7308.90.9590. Subject merchandise may also enter under subheadings 7326.90.8688 and 7323.99.9080 of the HTSUS. The HTSUS subheadings set forth above are provided for convenience and U.S. Customs purposes only. The written description of the scope is dispositive.

[FR Doc. 2026-09460 Filed 5-12-26; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[C-570-991]

Chlorinated Isocyanurates From the People's Republic of China: Preliminary Results and Rescission, in Part, of Countervailing Duty Administrative Review; 2023

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

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily determines that countervailable subsidies are being provided to Heze Huayi Chemical Co. Ltd. (Heze Huayi), a producer and exporter of chlorinated isocyanurates (chlorinated isos) from the People's Republic of China (China).

The period of review (POR) is January 1, 2023, through December 31, 2023. In addition, Commerce is rescinding this review, in part, with respect to 41 companies. Interested parties are invited to comment on these preliminary results.

DATES: Applicable May 13, 2026.

FOR FURTHER INFORMATION CONTACT: Sun Cho, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-6458.

SUPPLEMENTARY INFORMATION:

Background

On December 18, 2024, based on timely requests for review, in accordance with 19 CFR 351.221(c)(1)(i), we initiated an administrative review of the countervailing duty (CVD) order on chlorinated isos from China.¹

Due to the lapse in appropriations and Federal Government shutdown, on November 14, 2025, Commerce tolled all deadlines in administrative proceedings by 47 days.² Further, due to a backlog of documents that were electronically filed via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS) during the Federal Government shutdown, on November 24, 2025, Commerce tolled all deadlines in administrative proceedings by an additional 21 days.³ On December 9, 2025, we further extended the deadline for the preliminary results of this review until May 7, 2026.⁴ Accordingly, the deadline for these preliminary results is now May 7, 2026.

For a complete description of the events that followed the initiation of this review, see the Preliminary Decision Memorandum.⁵ A list of topics included in the Preliminary Decision

Memorandum is provided as Appendix I to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via ACCESS. ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at <https://access.trade.gov/frnotices>.

Scope of the Order

The product covered by the Order is chlorinated isos from China. For a complete description of the scope of the Order, see the Preliminary Decision Memorandum.

Rescission of Administrative Review, in Part

Pursuant to 19 CFR 351.213(d)(3), it is Commerce's practice to rescind an administrative review of a countervailing duty order where it concludes that there were no suspended entries of subject merchandise during the POR.⁶ Normally, upon completion of an administrative review, the suspended entries are liquidated at the CVD assessment rate calculated for the POR.⁷ Therefore, for an administrative review to be conducted, there must be a reviewable, suspended entry that Commerce can instruct U.S. Customs and Border Protection (CBP) to liquidate at the CVD rate calculated for the POR.⁸ Commerce notified all interested parties of its intent to rescind this administrative review regarding the companies listed in Appendix II.⁹ No party commented on this memorandum. In the absence of any suspended entries of subject merchandise from these

⁶ See, e.g., *Certain Non-Refillable Steel Cylinders from the People's Republic of China: Rescission of Countervailing Duty Administrative Review; 2024*, 90 FR 48043 (October 3, 2025).

⁷ See 19 CFR 351.212(b)(2).

⁸ See, e.g., *Shanghai Sunbeauty Trading Co. v. United States*, 380 F.Supp.3d 1328, 1337 (CIT 2019), at 12 (referring to section 751(a) of the Act, the U.S. Court of International Trade held that “[w]hile the statute does not explicitly require that an entry be suspended as a prerequisite for establishing entitlement to a review, it does explicitly state the determined rate will be used as the liquidation rate for the reviewed entries. This result can only obtain if the liquidation of entries has been suspended”; see also *Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2018–2019*, 86 FR 36102, and accompanying Issues and Decision Memorandum at Comment 4; and *Solid Fertilizer Grade Ammonium Nitrate from the Russian Federation: Notice of Rescission of Antidumping Duty Administrative Review*, 77 FR 65532 (October 29, 2012) (noting that “for an administrative review to be conducted, there must be a reviewable, suspended entry to be liquidated at the newly calculated assessment rate”).

⁹ See Memorandum, “Notice of Intent to Rescind Review, in Part” dated March 18, 2026.

¹ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 89 FR 102856 (December 18, 2024) (*Initiation Notice*); see also *Chlorinated Isocyanurates from the People's Republic of China: Countervailing Duty Order*, 79 FR 67424 (November 13, 2014) (*Order*).

² See Memorandum, “Deadlines Affected by the Shutdown of the Federal Government,” dated November 14, 2025.

³ See Memorandum, “Tolling of all Case Deadlines,” dated November 24, 2025.

⁴ See Memorandum, “Extension of Deadline for Preliminary Results of Countervailing Duty Administrative Review,” dated December 9, 2025.

⁵ See Memorandum, “Decision Memorandum for the Preliminary Results of the Administrative Review of the Countervailing Duty Order on Chlorinated Isocyanurates from the People's Republic of China; 2023,” dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

companies during the POR, we are rescinding this administrative review for the companies listed in Appendix II, in accordance with 19 CFR 351.213(d)(3).

Methodology

Commerce is conducting this administrative review in accordance with 751(a)(1)(A) of the Tariff Act of 1930, as amended (the Act). For each of the subsidy programs found countervailable, Commerce preliminarily determines that there is a subsidy, *i.e.*, a financial contribution by an “authority” that gives rise to a benefit to the recipient, and that the subsidy is specific.¹⁰ For a full description of the methodology underlying our conclusions, including our reliance, in part, on facts otherwise available with adverse inferences pursuant to sections 776(a) and (b) of the Act, *see* the Preliminary Decision Memorandum.

Preliminary Results of Review

As a result of this review, we preliminarily determine the following net countervailable subsidy rate exists for the POR, January 1, 2023, through December 31, 2023:

Company	Subsidy rate (percent <i>ad valorem</i>)
Heze Huayi Chemical Co., Ltd	18.71

Disclosure

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

Verification

As provided in section 782(i)(3) of the Act, Commerce intends to verify the information relied upon in making its final results.

Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the date on which the last verification report is issued in this review. Rebuttal briefs, limited to issues raised in the case briefs, may be filed

¹⁰ See sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

not later than five days after the date for filing case briefs.¹¹ Interested parties who submit case briefs or rebuttal briefs in this proceeding must submit: (1) a table of contents listing each issue; and (2) a table of authorities.¹² All briefs must be filed electronically using ACCESS. An electronically-filed document must be received successfully in its entirety in ACCESS by 5:00 p.m. Eastern Time on the established deadline.

As provided under 19 CFR 351.309(c)(2)(iii) and (d)(2)(iii), we request that interested parties provide at the beginning of their briefs a public, executive summary for each issue raised in their briefs.¹³ Further, we request that interested parties limit their executive summary of each issue to no more than 450 words, not including citations. We intend to use the executive summaries as the basis of the comment summaries included in the issues and decision memorandum that will accompany the final results in this administrative review. We request that interested parties include footnotes for relevant citations in the executive summary of each issue. Note that Commerce has amended certain of its requirements pertaining to the service of documents in 19 CFR 351.303(f).¹⁴

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, filed electronically via ACCESS by 5:00 p.m. Eastern Time within 30 days after the date of publication of this notice. Requests should contain: (1) the party’s name, address, and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. Oral presentations at the hearing will be limited to issues raised in the briefs. If a request for a hearing is made, Commerce will inform parties of the scheduled date for the hearing.¹⁵

Assessment Rates

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

¹¹ See 19 CFR 351.309(d); *see also Administrative Protective Order, Service, and Other Procedures in Antidumping and Countervailing Duty Proceedings*, 88 FR 67069, 67077 (September 29, 2023) (*APO and Service Procedures*).

¹² See 19 CFR 351.309(c)(2) and (d)(2)

¹³ We use the term “issue” here to describe an argument that Commerce would normally address in a comment of the Issues and Decision Memorandum.

¹⁴ See *APO and Service Procedures*.

¹⁵ See 19 CFR 351.310(d).

For the companies listed in Appendix II for which the review is being rescinded, Commerce will instruct CBP to assess countervailing duties on all appropriate entries at a rate equal to the cash deposit of estimated countervailing duties required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(1)(i). Commerce intends to issue rescission instructions to CBP no earlier than 35 days after the date of publication of this rescission in the **Federal Register**.

Commerce intends to issue assessment instructions to CBP regarding Heze Huayi no earlier than 35 days after the date of publication of the final results of this review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.*, within 90 days of publication of this notice).

Cash Deposit Requirements

Pursuant to section 751(a)(2)(C) of the Act and 19 CFR 351.107(e), Commerce intends to instruct CBP to collect cash deposits of estimated countervailing duties with regard to shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this review, as follows: (1) the cash deposit rate for the company listed above will be equal to the company-specific estimated individual countervailable subsidy rates determined in the final results of this review, except if the rate is less than 0.50 percent and, therefore, *de minimis* within the meaning of 19 CFR 351.106(c)(1), in which case the cash deposit rate will be zero; (2) if both the producer and exporter of the subject merchandise have company-specific estimated subsidy rates assigned, and their rates differ, then the applicable cash deposit rate will be the higher of these two rates; (3) if either the producer or the exporter, but not both, of the subject merchandise has a company-specific estimated subsidy rate assigned, the applicable cash deposit rate will be that company’s company-specific rate; and (4) the cash deposit rate for all other producers and exporters will be continue to be 10.81 percent, the all-others subsidy rate established in the investigation.¹⁶ These cash deposit instructions, when imposed, shall remain in effect until further notice.

¹⁶ See *Order*.

Final Results of Review

Unless the deadline is extended, Commerce intends to issue the final results of this administrative review, which will include the results of Commerce's analysis of the issues raised in the case briefs, within 120 days of publication of these preliminary results in the **Federal Register**, pursuant to section 751(a)(3)(A) of the Act and 19 CFR 351.213(h)(1).

Notification to Interested Parties

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

Dated: May 7, 2026.

Christopher Abbott,

Deputy Assistant Secretary for Policy and Negotiations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

Appendix I

List of Topics Discussed in the Preliminary Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the Order
- IV. Rescission of Administrative Review, In Part
- V. Diversification of China's Economy
- VI. Use of Facts Otherwise Available and Application of Adverse Inference
- VII. Subsidies Valuation
- VIII. Benchmarks
- IX. Analysis of Programs
- X. Recommendation

Appendix II

List of Companies Rescinded From Review

1. A.H.A International Co., Ltd
2. Anhui Hongze New Material Technology
3. Canaxy Asia Limited
4. Centurion Chemicals Co Ltd.
5. Chemball (Hangzhou) Chemicals Co., Ltd.
6. Dalian Trico Chemical Co Ltd.
7. Eastar International Trading (Shanghai)
8. Gigacloud Technology (Suzhou) Company
9. Hangzhou Keli Chemical Co., Ltd.
10. Hebei Ferturea Trade Co., Ltd.
11. Hebei Fuhui Water Treatment Co., Ltd.
12. Hebei Haida Chemical Industry Co Ltd.
13. Hebei Higwi Trade Co Ltd.
14. Hebei Jiheng Chemical Co., Ltd.
15. Henan QX Trade Co., Ltd.
16. Henan Saifu Trading Co., Ltd.
17. Henan Zerui New Material
18. Huangshan Jinfeng Industrial Co., Ltd.
19. Hydrotech Investment Corporation
20. Jinchang International Forwarding
21. Juancheng Kangtai Chemical Co., Ltd.
22. Orient Express Container (Shanghai)
23. Presafer Qingyuan Phosphor Chemical
24. Qingdao Best Chemical Company Limited
25. Qingdao Hot Chemicals Co., Ltd.
26. Qingdao Huaxijin Industry and Trade
27. Qingdao Sinosalt Chemical Co., Ltd.
28. RS Logistics Limited
29. Safety Shield (Qingdao) Technology
30. Shandong Jianbang New Material

31. Shandong Lichen Chemical Co., Ltd.
32. Shandong Orange Joy Co., Ltd.
33. Shandong QC Industry Co., Ltd.
34. Shandong Wolan Biologic Group Co.
35. Shanghai JiuHan Trading Co Ltd.
36. Tech-Power (Huangshan) Ltd.
37. Tianjin DSC International Trade Co.
38. Ultrafast Chemical Logistics (Shanghai)
39. Weifang Longshuo Chemical Co., Ltd.
40. Yiwu Leixi Trading Company
41. Ynnovate Sanzheng (Yingkou)

[FR Doc. 2026–09461 Filed 5–12–26; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–809]

Circular Welded Non-Alloy Steel Pipe From the Republic of Korea: Preliminary Results and Rescission, in Part, of Antidumping Duty Administrative Review; 2023–2024

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

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily determines that Hyundai Steel Company (Hyundai Steel) and Hyundai Steel Pipe Co., Ltd. (HSP) made sales of subject merchandise at less than normal value (NV) during the period of review (POR), November 1, 2023, through October 31, 2024. Commerce preliminarily determines that Husteel Co., Ltd. (Husteel) did not make sales of subject merchandise at less than NV during the POR. In addition, we are rescinding the review with respect to 14 companies. Interested parties are invited to comment on these preliminary results of review.

DATES: Applicable May 13, 2026.

FOR FURTHER INFORMATION CONTACT: Benjamin Nathan or Mira Warrior, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–3834 or (202) 482–8031, respectively.

SUPPLEMENTARY INFORMATION:

Background

On December 18, 2024, based on timely requests for review, in accordance with 19 CFR 351.221(c)(1)(i), we initiated an administrative review of the antidumping duty order on circular welded non-alloy steel pipe (CWP) from the Republic of Korea (Korea).¹ On

February 6, 2025, Commerce selected Hyundai Steel/HSP² and Husteel as the mandatory respondents in this review.³

Due to the lapse in appropriations and Federal Government shutdown, on November 14, 2025, Commerce tolled all deadlines in administrative proceedings by 47 days.⁴ On November 21, 2025, Commerce postponed the preliminary determination of this administrative review by 120 days.⁵ Additionally, due to a backlog of documents that were electronically filed via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS) during the Federal Government shutdown, on November 24, 2025, Commerce tolled all deadlines in administrative proceedings by an additional 21 days.⁶ Accordingly, the deadline for the preliminary results is now May 7, 2026.

On March 30, 2026, Commerce notified interested parties of our intent to rescind this administrative review with respect to 14 companies that have no reviewable suspended entries.⁷

For a complete description of the events that followed the initiation of this review, see the Preliminary Decision Memorandum.⁸ A list of the topics discussed in the Preliminary Decision Memorandum is attached as appendix I to this notice. The Preliminary Decision Memorandum is a

102860 (December 18, 2024); see also *Notice of Antidumping Orders: Certain Circular Welded Non-Alloy Steel Pipe from Brazil, the Republic of Korea (Korea), Mexico, and Venezuela, and Amendment to Final Determination of Sales at Less Than Fair Value: Certain Circular Welded Non-Alloy Steel Pipe from Korea*, 57 FR 49453 (November 2, 1992). (Order).

² See *Circular Welded Non-Alloy Steel Pipe from the Republic of Korea; Certain Oil Country Tubular Goods from the Republic of Korea; Welded Line Pipe from the Republic of Korea; and Large Diameter Welded Pipe from the Republic of Korea: Notice of Final Results of Antidumping Duty Changed Circumstances Reviews*, 89 FR 89962 (November 14, 2024) (*Hyundai Steel CCR*), determining that Hyundai Steel Pipe Co., Ltd. is the successor-in-interest to Hyundai Steel Company.

³ See Memorandum, "Respondent Selection," dated February 6, 2026.

⁴ See Memorandum, "Deadlines Affected by the Shutdown of the Federal Government," dated November 14, 2025.

⁵ See Memorandum, "Extension of Deadline for Preliminary Results of 2023–2024 Antidumping Duty Administrative Review," dated November 21, 2025.

⁶ See Memorandum, "Tolling of all Case Deadlines," dated November 24, 2025.

⁷ See Memorandum, "Notice of Intent to Rescind Review, in Part," dated March 27, 2026 (Intend to Rescind Memorandum).

⁸ See Memorandum, "Decision Memorandum for the Preliminary Results in Antidumping Administrative Review of Circular Welded Non-Alloy Steel Pipe from the Republic of Korea; 2023–2024," dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

¹ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 89 FR

public document and is on file electronically via ACCESS. ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at <https://access.trade.gov/frnotices>.

Scope of the Order

The merchandise subject to the *Order* is CWP from Korea. For a complete description of the scope of the *Order*, see the Preliminary Decision Memorandum.

Rescission of Administrative Review, in Part

Pursuant to 19 CFR 351.213(d)(3), it is Commerce’s practice to rescind an administrative review of an antidumping duty order where it concludes that there were no suspended entries of subject merchandise during the POR.⁹ Normally, upon completion of an administrative review, the suspended entries are liquidated at the antidumping duty assessment rate for the review period.¹⁰ Therefore, for an administrative review to be conducted, there must be a reviewable, suspended entry that Commerce can instruct U.S. Customs and Border Protection (CBP) to liquidate at the AD assessment rate calculated for the POR.¹¹ Commerce notified all interested parties of its intent to rescind the instant review regarding the 14 companies listed in Appendix III because there were no reviewable, suspended entries of subject

merchandise from these companies during the POR and invited interested parties to comment.¹² No party commented on this memorandum. In the absence of any suspended entries of subject merchandise from these companies during the POR, we are rescinding this administrative review for the companies listed in Appendix III, in accordance with 19 CFR 351.213(d)(3).

Methodology

Commerce is conducting this review in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act). Constructed export price is calculated in accordance with section 772 of the Act. NV is calculated in accordance with section 773 of the Act. For a full description of the methodology underlying our conclusions, see the Preliminary Decision Memorandum.

Rate for Non-Individually Examined Companies

The Act and Commerce’s regulations do not address the establishment of a rate to apply to companies not selected for individual examination when Commerce limits its examination in an administrative review pursuant to section 777A(c)(2) of the Act. Generally, Commerce looks to section 735(c)(5) of the Act, which provides instructions for calculating the all-others rate in a market economy investigation, for guidance when calculating the rate for companies which were not selected for

individual examination in an administrative review.

Under section 735(c)(5)(A) of the Act, the all-others rate is normally an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any rates that are zero, *de minimis* (i.e., less than 0.5 percent), or determined entirely on the basis of facts available. Where the weighted-average dumping margin for each of the individually examined companies is zero, *de minimis*, or based entirely on facts available, section 735(c)(5)(B) of the Act provides that Commerce may use “any reasonable method to establish the estimated all-others rate for exporters and producers not individually investigated, including averaging the estimated weighted-average dumping margins determined for the exporters and producers individually investigated.”

For these preliminary results, because the rate calculated for Husteel is zero, we are preliminarily assigning to the six companies under review that were not selected for individual examination a dumping margin based on the rate calculated for HSP.¹³

Preliminary Results of Review

As a result of this review, we preliminarily determine the following estimated weighted-average dumping margins exist for the period November 1, 2023, through October 31, 2024:

Producer/exporter	Weighted-average dumping margin (percent)
Husteel Co., Ltd	0.00
Hyundai Steel Company; Hyundai Steel Pipe Co., Ltd. ¹⁴	4.19
Companies Not Selected for Individual Review ¹⁵	4.19

Disclosure

Commerce intends to disclose its calculations and analysis performed to interested parties for these preliminary results within five days of any public announcement or, if there is no public announcement, within five days of the

date of publication of this notice in accordance with 19 CFR 351.224(b).

Verification

As provided in section 782(i)(3) of the Act, Commerce intends to verify the

information relied upon in making its final results.

Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and

⁹ See, e.g., *Certain Carbon and Alloy Steel Cut-to Length Plate from the Federal Republic of Germany: Rescission of Antidumping Administrative Review; 2020–2021*, 88 FR 4154 (January 24, 2023).
¹⁰ See 19 CFR 351.212(b)(1).
¹¹ See, e.g., *Shanghai Sunbeauty Trading Co. v. United States*, 380 F.Supp.3d 1328, 1337 (CIT 2019), at 12 (referring to section 751(a) of the Act, the U.S. Court of International Trade held that “[w]hile the statute does not explicitly require that an entry be suspended as a prerequisite for establishing entitlement to a review, it does explicitly state the determined rate will be used as the liquidation rate for the reviewed entries. This

result can only obtain if the liquidation of entries has been suspended”; see also *Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2018–2019*, 86 FR 36102, and accompanying Issues and Decision Memorandum at Comment 4; and *Solid Fertilizer Grade Ammonium Nitrate from the Russian Federation: Notice of Rescission of Antidumping Duty Administrative Review*, 77 FR 65532 (October 29, 2012) (noting that “for an administrative review to be conducted, there must be a reviewable, suspended entry to be liquidated at the newly calculated assessment rate”).

¹² See Intend to Rescind Memorandum.
¹³ See Appendix II for a list of the companies not selected for individual examination.
¹⁴ For information pertaining to the status of Hyundai Steel’s successor-in-interest, see *Hyundai Steel CCR*. As explained above, following the completion of the final results of this review, the cash deposit rate applicable to Hyundai Steel will be applicable to Hyundai Steel’s successor-in-interest, Hyundai Steel Pipe Co., Ltd.
¹⁵ The exporters or producers not selected for individual review are listed in Appendix II.

Compliance no later than seven days after the date on which the last verification report is issued in this review. Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than five days after the date for filing case briefs.¹⁶ Interested parties who submit case briefs or rebuttal briefs in this proceeding must submit: (1) a table of contents listing each issue; and (2) a table of authorities.¹⁷ All briefs must be filed electronically using ACCESS. An electronically filed document must be received successfully in its entirety in ACCESS by 5:00 p.m. Eastern Time on the established deadline.

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

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, filed electronically via ACCESS by 5:00 p.m. Eastern Time within 30 days after the date of publication of this notice. Requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. Oral presentations at the hearing will be limited to issues raised in the briefs. If a request for a hearing is made, Commerce will inform parties of the scheduled date for the hearing.²⁰

Assessment Rates

Pursuant to section 751(a)(2)(A) of the Act and 19 CFR 351.212(b)(1), Commerce will determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the final results of this review.

If Husteel or Hyundai Steel/HSP's weighted-average dumping margin is not zero or *de minimis* (i.e., less than 0.50 percent) in the final results of this review, Commerce intends to calculate importer-specific assessment rates on the basis of the ratio of the total amount of dumping calculated for each importer's examined sales to the total entered value of those sales. Where we do not have entered values for all U.S. sales to a particular importer, we will calculate an importer-specific, per-unit assessment rate on the basis of the ratio of the total amount of dumping calculated for the importer's examined sales to the total quantity of those sales.²¹ To determine whether an importer-specific, per-unit assessment rate is *de minimis*, in accordance with 19 CFR 351.106(c)(2), we also will calculate an importer-specific *ad valorem* ratio based on estimated entered values. If Husteel or Hyundai Steel/HSP's weighted-average dumping margin is zero or *de minimis* or where an importer-specific *ad valorem* assessment rate is zero or *de minimis*, we will instruct CBP to liquidate appropriate entries without regard to antidumping duties.²²

In accordance with Commerce's "automatic assessment" practice, for entries of subject merchandise during the POR produced by Husteel or Hyundai Steel/HSP for which they did not know that the merchandise was destined for the United States, we intend to instruct CBP to liquidate those entries at the all-others rate calculated in the less-than-fair-value (LTFV) investigation if there is no rate for the intermediate company(ies) involved in the transaction.²³

For the companies listed in Appendix II which were not selected for individual review, we will assign an assessment rate based on the review-specific rate, calculated as noted in the

"Rate for Non-Individually Examined Companies" section, above. The final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the final results of this review and for future deposits of estimated duties, where applicable.²⁴

For the companies listed in Appendix III for which the review is being rescinded, Commerce will instruct CBP to assess antidumping duties on all appropriate entries. Antidumping duties shall be assessed at rates equal to the cash deposit rate for estimated antidumping duties required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(1)(i). Commerce intends to issue rescission instructions to CBP no earlier than 35 days after the date of publication of this notice in the **Federal Register**.

Commerce intends to issue assessment instructions to CBP regarding Hyundai Steel/HSP and Husteel and the companies listed in Appendix II no earlier than 35 days after the date of publication of the final results of this review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (i.e., within 90 days of publication).

Cash Deposit Requirements

The following deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(2)(C) of the Act: (1) the cash deposit rate for the companies listed above will be that established in the final results of this review, except if the rate is less than 0.50 percent and, therefore, *de minimis* within the meaning of 19 CFR 351.106(c)(1), in which case the cash deposit rate will be zero; (2) for previously investigated or reviewed companies not covered by this review, the cash deposit rate will continue to be the company-specific cash deposit rate published for the most recently completed segment of this proceeding in which the company participated; (3) if the exporter is not a firm covered in this review, or the LTFV investigation, but the manufacturer is, then the cash deposit rate will be the rate established for the most recent segment for the manufacturer of the

¹⁶ See 19 CFR 351.309(d); see also *Administrative Protective Order, Service, and Other Procedures in Antidumping and Countervailing Duty Proceedings*, 88 FR 67069, 67077 (September 29, 2023) (APO and Service Procedures).

¹⁷ See 19 CFR 351.309(c)(2) and (d)(2).

¹⁸ We use the term "issue" here to describe an argument that Commerce would normally address in a comment of the Issues and Decision Memorandum.

¹⁹ See APO and Service Procedures.

²⁰ See 19 CFR 351.310(d).

²¹ See 19 CFR 351.212(b)(1).

²² See 19 CFR 351.106(c)(2); see also *Antidumping Proceeding: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings; Final Modification*, 77 FR 8101, 8103 (February 14, 2012).

²³ For a full discussion of this practice, see *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003).

²⁴ See section 751(a)(2)(C) of the Act.

merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 4.80 percent, the all-others rate established in the LTFV investigation.²⁵ These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Notification to Interested Parties

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

Dated: May 7, 2026.

Christopher Abbott,

Deputy Assistant Secretary for Policy and Negotiations, performing the non-exclusive functions of the Assistant Secretary for Enforcement and Compliance.

Appendix I

List of Topics Discussed in the Preliminary Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the Order
- IV. Discussion of the Methodology
- V. Currency Conversion
- VI. Recommendation

Appendix II

Review-Specific Rate Applicable to Companies Not Selected for Individual Review

1. Aju Besteel
2. Kumkang Kind Co., Ltd.
3. Miju Steel Manufacturing
4. NEXTEEL Co., Ltd.
5. SeAH FS
6. SeAH Steel Corporation

Appendix III

Companies Rescinded From Review

1. Bookook Steel
2. Chang Won Bending
3. Dae Ryung Corporation
4. Daiduck Piping Co. Ltd.
5. Dongbu Steel Co., Ltd.
6. Dong Yang Steel Pipe
7. EEW Korea Company
8. HiSteel Co., Ltd.

9. Hyundai RB
10. Kiduck Industries
11. Kumsoo Connecting Co., Ltd.
12. Samkang M&T
13. Steel Flower Co., Ltd.
14. YCP Co., Ltd.

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BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648-XF753]

Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The Pacific Fishery Management Council's (Pacific Council) Habitat Committee (HC) will hold an online public meeting.

DATES: The online meeting will be held Tuesday, June 2 and Wednesday June 3, 2026, from 9 a.m. to 4 p.m. Pacific Time each day or until business for each day has been completed.

ADDRESSES: This meeting will be held online. Specific meeting information, including a proposed agenda and instructions on how to attend the meeting and system requirements, will be provided in the meeting announcement on the Pacific Council's website (see www.pcouncil.org). You may send an email to Mr. Hayden York (hayden.york@pcouncil.org) or contact him at 503-820-2424 for technical assistance.

Council address: Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 101, Portland, Oregon 97220-1384.

FOR FURTHER INFORMATION CONTACT: Kerry Griffin, Staff Officer, Pacific Council; telephone: (503) 820-2409.

SUPPLEMENTARY INFORMATION: The purpose of this online meeting is for the HC to consider items on the Pacific Council's June 2026 meeting agenda and to prepare supplemental reports as necessary. The HC will discuss current habitat issues including deep sea mineral mining, oil and gas development on the U.S. West Coast, and other habitat-related issues. The HC will also continue work on developing a habitat issues tracking tool and a draft template letter for use when comment letters require quick turnaround.

Although non-emergency issues not contained in the meeting agenda may be

discussed, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this document and any issues arising after publication of this document that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

Special Accommodations

Requests for sign language interpretation or other auxiliary aids should be directed to Mr. Hayden York (hayden.york@pcouncil.org; 503-820-2424) at least 10 days prior to the meeting date.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: May 11, 2026.

Key Israel Marquez,

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

[FR Doc. 2026-09539 Filed 5-12-26; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648-XF736]

Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The Pacific Fishery Management Council's (Pacific Council) Economics Subcommittee of the Scientific and Statistical Committee (SSC) will hold an online meeting. This meeting is open to the public.

DATES: The online meeting will be held Tuesday, June 2, 2026, 12 p.m. to 3 p.m., Pacific Time (PT), or until business for the day has been completed.

ADDRESSES: This meeting will be held online. Specific meeting information, including directions on how to join the meeting and system requirements, will be provided in the meeting announcement on the Pacific Council's website (see www.pcouncil.org). You may send an email to Mr. Hayden York (Hayden.York@pcouncil.org) or contact him at (503) 820-2424 for technical assistance.

Council address: Pacific Fishery Management Council, 7700 NE

²⁵ See Order.

Ambassador Place, Suite 101, Portland, OR 97220–1384.

FOR FURTHER INFORMATION CONTACT: Ms. Gilly Lyons, Staff Officer, Pacific Council; telephone: (503) 820–2427.

SUPPLEMENTARY INFORMATION: The Economics Subcommittee will review draft methodology for a Community Resilience Decision Support Tool, which is being developed with the goal of enhancing the Pacific Council's ability to measure and understand the impacts of its decisions on fishing community resilience.

No management actions will be decided by the meeting participants. The participants' role will be the development of recommendations and reports for consideration by the SSC and the Pacific Council at a future Pacific Council meeting. The SSC and Pacific Council are scheduled to consider the Community Resilience Decision Support Tool draft methodology at their June 2026 meeting in Spokane, Washington.

Although non-emergency issues not contained in the meeting agenda may be discussed, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this document and any issues arising after publication of this document that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

Special Accommodations

Requests for sign language interpretation or other auxiliary aids should be directed to Mr. Hayden York (Hayden.York@pcouncil.org; (503) 820–2424) at least 10 days prior to the meeting date.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: May 11, 2026.

Rey Israel Marquez,

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

[FR Doc. 2026–09540 Filed 5–12–26; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XF750]

North Pacific Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and

Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of hybrid conference.

SUMMARY: The North Pacific Fishery Management Council (Council) and its advisory committees will meet June 1, 2026, through June 9, 2026.

DATES: The Council's Scientific and Statistical Committee (SSC) will begin at 8 a.m. on Monday, June 1, 2026, and continue through Wednesday, June 3, 2026. The Council's Advisory Panel (AP) will begin at 8 a.m. on Tuesday, June 2, 2026, and continue through Friday, June 5, 2026. The Council's Executive/Finance Committee will meet in closed session on Wednesday June 3, 2026, from 1 p.m. to 5 p.m. The Council will begin at 8 a.m. on Thursday, June 4, 2026, and continue through Tuesday, June 9, 2026. All listed times are Pacific Daylight Time.

ADDRESSES: The meetings will be a hybrid conference. The in-person component of the meeting will be held at the Hilton Vancouver Washington, 301 W 6th St., Vancouver, WA 98660, or join the meeting online through the links at <https://www.npfmc.org/current-or-next-council-meeting>.

Council address: North Pacific Fishery Management Council, 1007 W 3rd Ave., Suite 400, Anchorage, AK 99501–2252; telephone: (907) 271–2809. Instructions for attending the meeting via web conference are given under Connection Information, below.

FOR FURTHER INFORMATION CONTACT: Anna Henry, Council staff; email: ahenry@npfmc.org; telephone: (907) 271–2809. For technical support please contact our Council administrative staff, email: support@npfmc.org.

SUPPLEMENTARY INFORMATION:

Agenda

Monday, June 1, 2026, Through Wednesday, June 3, 2026

The SSC agenda will include the following issues:

- (1) Administrative Issues
- (2) BSAI Crab specifications—review AIGKC, PIGKC SAFE report chapters and adopt ABC/OFL; BSAI Crab Plan Team report
- (3) Scallop harvest specifications—review SAFE report and adopt ABC/OFL; Scallop Plan Team report
- (4) Economic and community indicator reports—Review
- (5) GOA Tanner crab protection measures—Initial Review
- (6) GOA 2025 survey—Review changes, guidance for SAFE report
- (7) Climate workplan: (a) Workplan update, (b) Discussion Paper on

development of alternative harvest control rules (HCRs)—Review

The agenda is subject to change, and the latest version will be posted at <https://meetings.npfmc.org/Meeting/Details/5132> prior to the meeting, along with meeting materials.

In addition to providing ongoing scientific advice for fishery management decisions, the SSC functions as the Council's primary peer review panel for scientific information, as described by the Magnuson-Stevens Act section 302(g)(1)(e), and the National Standard 2 guidelines (78 FR 43066, July 19, 2013). The peer-review process is also deemed to satisfy the requirements of the Information Quality Act, including the OMB Peer Review Bulletin guidelines.

Tuesday, June 2, 2026, Through Friday, June 5, 2026

The Advisory Panel agenda will include the following issues:

- (1) Administrative Issues
- (2) Observer Program Annual Report for 2025—Review, FMAC report
- (3) Cost recovery report and program improvements—Initial Review
- (4) BSAI Crab specifications—review AIGKC, PIGKC SAFE report chapters and adopt ABC/OFL; BSAI Crab Plan Team report
- (5) Scallop harvest specifications—review SAFE report and adopt ABC/OFL; Scallop Plan Team report
- (6) Pelagic trawl gear research updates—Review, consider performance standard if appropriate
- (7) GOA Tanner crab protection measures—Initial Review
- (8) Groundfish FMP objectives triennial report—Review, Ecosystem Committee report
- (9) Climate workplan: (a) Workplan update, (b) Discussion Paper on development of alternative harvest control rules (HCRs)—Review, Ecosystem Committee report
- (10) Staff Tasking

Wednesday, June 3, 2026

The Executive/Finance Committee will meet in closed session to discuss internal financial and administrative matters.

Thursday, June 4, 2026, Through Tuesday, June 9, 2026

The Council agenda will include the following issues. The Council may take appropriate action on any of the issues identified.

- (1) Administrative Issues
- (2) Reports: Executive Director (including CCC report), NMFS

- Management Report (including Protected Resources report, E.O. 14276 update, Salmon EFP update), NOAA General Counsel (GC), Alaska Fisheries Science Center (AFSC), NOAA Enforcement, Alaska Department of Fish and Game (ADF&G), United States Coast Guard (USCG), United States Fish and Wildlife Service (USFWS), Cooperative reports, IPA reports, SeaShare report, and Trawl EM report, Salmon bycatch genetic stock composition reports, Scientific and Statistical Committee (SSC) Report, Advisory Panel (AP) Report
- (3) Observer Program Annual Report for 2025—Review, FMAC report
 - (4) BSAI Crab specifications—review AIGKC, PIGKC SAFE report chapters and adopt ABC/OFL; BSAI Crab Plan Team report
 - (5) Scallop harvest specifications—review SAFE report and adopt ABC/OFL; Scallop Plan Team report
 - (7) Cost recovery report and program improvements—Initial Review
 - (8) GOA Tanner crab protection measures—Initial Review
 - (9) Pelagic trawl gear research updates—Review, consider performance standard if appropriate
 - (10) Groundfish FMP objectives triennial report—Review, Ecosystem Committee report
 - (11) Climate workplan: (a) Workplan update, (b) Discussion Paper on development of alternative harvest control rules (HCRs)—Review, Ecosystem Committee report
 - (12) Staff Tasking

The agenda is subject to change, and the latest version will be posted at <https://meetings.npfmc.org/Meeting/Details/5131> prior to the meeting, along with meeting materials.

Connection Information

You can attend the meeting online using a computer, tablet, or smart phone; or by phone only. Connection information will be posted online at: <https://www.npfmc.org/upcoming-council-meetings>. For technical support please contact our administrative staff, email: support@npfmc.org.

Public Comment

Public comment letters will be accepted and should be submitted electronically through the links at <https://www.npfmc.org/current-or-next-council-meeting/>. The Council strongly encourages written public comment for this meeting, to avoid any potential for technical difficulties to compromise oral testimony. The written comment period

is open from May 8, 2026, and closes at 12 p.m. Alaska Time on Friday, May 29, 2026.

Although other non-emergency issues not on the agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Actions will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under Section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: May 11, 2026.

Rey Israel Marquez,

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

[FR Doc. 2026–09538 Filed 5–12–26; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XF716]

New England Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Joint Groundfish Committee and Advisory Panel via webinar to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate. **DATES:** This meeting will be held on Wednesday, May 27, 2026 at 9 a.m. EDT Webinar registration URL information: <https://nefmc-org.zoom.us/join/register/N22DwopzShaFupPwSZbTMA>.

ADDRESSES:

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Cate O'Keefe, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION:

Agenda

The Groundfish Committee and Advisory Panel will meet to receive a draft report on the review of Amendment 21. They will discuss other business as necessary.

Although non-emergency issues not contained on the agenda may come before this Council for discussion, those issues may not be the subject of formal action during this meeting. Council action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency. The public also should be aware that the meeting will be recorded. Consistent with 16 U.S.C. 1852, a copy of the recording is available upon request.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Cate O'Keefe, Executive Director, at (978) 465–0492, at least 5 days prior to the meeting date.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: May 11, 2026.

Rey Israel Marquez,

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

[FR Doc. 2026–09541 Filed 5–12–26; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DOD–2026–OS–1025]

Proposed Collection; Comment Request

AGENCY: Office of the Under Secretary of Defense for Personnel and Readiness (OUSD(P&R)), Department of Defense (DoD).

ACTION: 60-Day information collection notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995*, the OUSD(P&R) announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: 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; the accuracy of the

agency's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by July 13, 2026.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.

Mail: Department of Defense, Office of the Director of Administration and Management, Privacy, Civil Liberties, and Transparency Directorate, Regulatory Division, 4800 Mark Center Drive, Mailbox #24, Suite 05F16, Alexandria, VA 22350-1700.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at <http://www.regulations.gov> as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to Office of Spouse Employment, 4800 Mark Center Drive, Suite 3G15, Alexandria, VA 22350, Eryn Wagnon, (703) 697-9130.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Military Spouse Employment Partnership (MSEP) Career Portal; OMB Control Number 0704-0563.

Needs and Uses: The information collection requirement is necessary to allow MSEP Partners to directly search for employment opportunities with MSEP Partners.

Affected Public: Individuals or households; Business or Other For-Profit.

Annual Burden Hours:
Military Spouses: 16,500.
MSEP Partners: 125.
Businesses/Companies: 38.
Total: 16,663.
Number of Respondents:
Military Spouses: 22,000.
MSEP Partners: 300.
Businesses/Companies: 150.
Total Respondents: 22,450.

Responses per Respondent: 1.
Annual Responses: 22,450.
Average Burden per Response:
Military Spouses: 45 minutes.
MSEP Partners: 25 Minutes.
Businesses/Companies: 15 minutes.
Frequency:
Military Spouses: On occasion.
MSEP Partners: On occasion.
Businesses/Companies: Once.

The MSEP Career Portal is the sole web platform utilized to connect military spouses with companies seeking to hire military spouse employees. Participating companies, called MSEP Partners, are vetted and approved participants in the MSEP Program and have pledged to recruit, hire, promote and retain military spouses in portable careers. MSEP is a targeted recruitment and employment partnership that connects American businesses with military spouses who possess essential 21st-century workforce skills and attributes and are seeking portable, fulfilling careers. The MSEP program is part of the overall Spouse Education and Career Opportunities program which falls under the auspices of the office of the Deputy Assistant Secretary of Defense for Military Community & Family Policy.

Dated: May 8, 2026.

Stephanie J. Bost,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2026-09486 Filed 5-12-26; 8:45 am]

BILLING CODE 6001-FR-P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD-2026-OS-0496]

Submission for OMB Review; Comment Request

AGENCY: Pentagon Force Protection Agency (PFPA), Department of Defense (DoD).

ACTION: 30-Day information collection notice.

SUMMARY: The DoD has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

DATES: Consideration will be given to all comments received by June 12, 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:

Reginald Lucas, (571) 372-7574, whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: PFPA Recruitment, Medical, and Fitness Division Forms; PFPA Form 1400, PFPA Form 1407, PFPA Form 1408, PFPA Form 1409, PFPA Form 1410, PFPA Form 6040; OMB Control Number 0704-0588.

Type of Request: Extension.

Number of Respondents: 3,600.

Responses per Respondent: 1.

Annual Responses: 3,600.

Average Burden per Response: PFPA Form 1400: 5 minutes; PFPA Form 1407: 5 minutes; PFPA Form 1408: 5 minutes; PFPA Form 1409: 10 minutes; PFPA Form 1410: 10 minutes; PFPA Form 6040: 20 minutes.

Annual Burden Hours: 520.

Needs and Uses: This information collection is essential to the Pentagon Force Protection Agency and is used to make a determination of eligibility for federal employment in the field of law enforcement. To that end, criminal, background and medical information is collected on the applicants. There are four respondent populations for this collection. Applicants are the first population—they are certified by USAJOBS for law enforcement positions in PFPA. The medical, background, and criminal history information that they are providing is necessary in order to ensure their eligibility for the position. The second population is current/former supervisors who act as references for the applicants. The third population is character references. The fourth population is other law enforcement agencies that these applicants have applied to.

All of this information is filled out over six PFPA forms. The information collected from these forms is stored in Salesforce. The Salesforce system is not the point of entry for any of these forms.

(1) *Authorization for Release of Information—PFPA Form 1400 (applicant):* This form is sent from a PFPA employee to the applicant via email. The form gives PFPA permission to begin the background/evaluation process. This form must be printed and signed in ink then uploaded by the applicant to Salesforce. This form is then reviewed and processed by a PFPA employee.

(2) *Supplemental History Questionnaire—PFPA Form 6040 (applicant):* This form is also completed

by applicant. It is sent to the applicants via email and returned via Salesforce. This form is then sent to a PFPA medical review officer to make a final determination on whether an applicant meets the necessary health requirements. The PFPA Form 6040 is administered after the applicant accepts a tentative job offer. This form also must be printed and signed in ink then uploaded by the applicant to Salesforce.

(3) *Internal Affairs Request—PFPA Form 1407 (former and current supervisors)*: This information is important to ensure an applicant does not have any past professional issues. Recruiters gather information for this form via phone or email from former/current supervisors. The information is then entered into Salesforce.

(4) *Employer Reference Questionnaire—PFPA Form 1410 (former and current supervisors)*: This form is also filled out by recruiters based on information obtained from applicant's current/former supervisors. The answers to the questions are obtained via phone or email. The information is then entered into Salesforce.

(5) *Application Status Request—PFPA Form 1408 (other law enforcement agencies)*: This form is sent to other law enforcement agencies that the PFPA applicants have applied to via email. These law enforcement agencies fill out the forms and respond back via email or fax. These forms are then reviewed and processed by a PFPA employee.

(6) *Character Reference Questionnaire—PFPA Form 1409 (references)*: This form is filled out by recruiters based on information obtained from applicant's character references. The answers to the questions are obtained via phone or email. These forms are then reviewed and processed by a PFPA employee. The questions on this form are not asked of the applicant, but of the applicant's Character References. These phone and email scripts will be included with this package.

Affected Public: Individuals or households.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

DOD Clearance Officer: Mr. Reginald Lucas.

Dated: May 8, 2026.

Stephanie J. Bost,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2026-09483 Filed 5-12-26; 8:45 am]

BILLING CODE 6001-FR-P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DOD-2026-OS-1024]

Proposed Collection; Comment Request

AGENCY: Office of the Under Secretary of Defense for Personnel and Readiness (OUSD(P&R)), Department of Defense (DoD).

ACTION: 60-Day information collection notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995*, the OUSD(P&R) announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: 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; the accuracy of the agency's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by July 13, 2026.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.

Mail: Department of Defense, Office of the Director of Administration and Management, Privacy, Civil Liberties, and Transparency Directorate, Regulatory Division, 4800 Mark Center Drive, Mailbox #24, Suite 05F16, Alexandria, VA 22350-1700.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at <http://www.regulations.gov> as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to 4800 Mark Center Drive,

Alexandria, VA 22350, Military Community and Family Policy, Office of Military Readiness, Melissa Haas, (571) 256-7031.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: DoD Child Development Program (CDP)—Family Information; Department of Defense Child Development Program Request for Care Record (DD Form 2606) & Application for Department of Defense Child Care Fees (DD Form 2652); OMB Control Number 0704-0515.

Needs and Uses: The DoD requires the information in the proposed collection for program planning and management purposes. This includes two collection instruments: DD Form 2606, "Department of Defense Child Development Program Request for Care Record," which is required for all patrons to apply for childcare and collects general information regarding the sponsor and family, and DD Form 2652 "Application for Department of Defense Child Care Fees," which is utilized for patrons to apply for DoD childcare subsidies based on total family income.

Affected Public: Individuals and households.

Annual Burden Hours: 7,917.

Number of Respondents: 95,000.

Responses per Respondent: 1.

Annual Responses: 95,000.

Average Burden per Response: 5 minutes.

Frequency: Biennially.

Respondents for the information collection through DD Form 2606 and DD Form 2652 are patrons requesting childcare and patrons enrolled in Child Development Programs (CDPs). DoD CDP requires the information in the proposed collections for program planning, management purposes and the determination of childcare fees.

DD Form 2606 is used to collect information for the type of care needed and sponsor status which determines eligibility and priority for child development program services. It is also used to assist management in the planning of present and future program requirements. The information from DD Form 2652 is used to determine total family income to determine childcare fees for families enrolled in the DoD CDP.

Dated: May 8, 2026.

Stephanie J. Bost,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2026-09482 Filed 5-12-26; 8:45 am]

BILLING CODE 6001-FR-P

DEPARTMENT OF DEFENSE**Office of the Secretary****[Docket ID: DoD–2026–OS–0497]****Submission for OMB Review;
Comment Request****AGENCY:** Pentagon Force Protection Agency (PFPA), Department of Defense (DoD).**ACTION:** 30-Day information collection notice.**SUMMARY:** The DoD has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act.**DATES:** Consideration will be given to all comments received by June 12, 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:** Reginald Lucas, (571) 372–7574, whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.**SUPPLEMENTARY INFORMATION:***Title; Associated Form; and OMB Number:* Pentagon Facilities Access Control System: DD Form 2249, Pentagon Access Enrollment Form and Visitor Management System (VMS); OMB Control Number 0704–0648.*Type of Request:* Extension.*Number of Respondents:**DD Form 2249, Pentagon Access Enrollment Form:* 47,200.*PFPA Visitor Management System—Registration Portal:* 211,000.*Total:* 258,200.*Responses per Respondent:* 1.*Annual Responses:**DD Form 2249, Pentagon Access Enrollment Form:* 47,200.*PFPA Visitor Management System—Registration Portal:* 211,000.*Total:* 258,200.*Average Burden per Response:**DD Form 2249, Pentagon Access Enrollment Form:* 10 minutes.*PFPA Visitor Management System—Registration Portal:* 7 minutes.*Total:* 12.6 minutes.*Annual Burden Hours:**DD Form 2249, Pentagon Access Enrollment Form:* 7,867.*PFPA Visitor Management System—Registration Portal:* 24,617.*Total:* 32,484.*Needs and Uses:* The information will be used by the Pentagon Pass Office to conduct a National Crime Information Center check of all members of the public 18 years and older who request access to the Pentagon or a Pentagon facility. The method for collecting the required information varies depending on the status of the individual making the request and the length of time that they require access.**A. Privilege Management Program (PMP), DD Form 2249, Pentagon Access Enrollment Form**

a. Personnel who require swipe access to the Pentagon or any of its leased facilities must enroll in the PMP. To enroll, personnel must electronically submit the DD Form 2249, Pentagon Access Enrollment Form to gain access via a Personal Identity Verification (PIV) Card or Common Access Card (CAC). The electronic submission is mandatory. The DD Form 2249 was a paper-based form that was printed and physically carried to the pass office for enrollment of the person's CAC into PMP. As of November 1, 2024, PFPA requires the DD Form 2249 be submitted electronically by Authorizing Officials, using the Access Management Portal, located at <https://access.pfpa.mil/>. The same information contained on the hardcopy is now electronically submitted, stored, and processed using AMP and is commonly referred to as an “e2249” authorization.

b. For personnel who do not meet the criteria for a PIV card or a CAC but require swipe access into the Pentagon or any of its leased facilities, DD Form 2249 can also be used to request access.

B. Visitor Management System (VMS) Registration Portal

a. The VMS is a component of the aforementioned PMP. Personnel who do not have swipe access into the Pentagon or its leased facilities are deemed visitors and must be registered by a sponsor. Sponsors initiate visits by submitting the visitor's name and email address at <https://visitorsponsor.pfpa.mil/>. The visitor will then receive a link via the email provided, allowing the visitor to navigate to the VMS Registration Portal and complete the application for adjudication. Once it is complete and PFPA reviews the submission, the visitor and sponsor will receive a system-generated email on the adjudication decision. The system can also be used to request issuance of a Pentagon Facility Alternate Credential.

C. Alternative Methods for Submission

a. Visitors may provide the required information in the body of a properly protected email when technical limitations prevent them from accessing the Visitor Management System's Web Portal. Pentagon Pass Office personnel will enter this information in the Visitor Management Web Portal.

Affected Public: Individuals or households.*Frequency:* On occasion.*Respondent's Obligation:* Voluntary.*DoD Clearance Officer:* Mr. Reginald Lucas.

Dated: May 8, 2026.

Stephanie J. Bost,*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 2026–09484 Filed 5–12–26; 8:45 am]

BILLING CODE 6001–FR–P**DEPARTMENT OF DEFENSE****Department of the Navy****[Docket ID: USN–2026–HQ–0036]****Submission for OMB Review;
Comment Request****AGENCY:** Department of the Navy, Department of Defense (DoD).**ACTION:** 30-Day information collection notice.**SUMMARY:** DoD has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act.**DATES:** Consideration will be given to all comments received by June 12, 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:**Reginald Lucas, (571) 372–7574, whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.**SUPPLEMENTARY INFORMATION:***Title; Associated Form; and OMB Number:* Camp Lejeune Notification Database; OMB Control Number 0712–0011.*Type of Request:* Revision.*Number of Respondents:* 3,000.*Responses per Respondent:* 1.*Annual Responses:* 3,000.*Average Burden per Response:* 6 minutes.

Annual Burden Hours: 300.

Needs and Uses: The United States Marine Corps is collecting this information to identify and notify individuals who may have been exposed to contaminated drinking water at Marine Corps Base Camp Lejeune between 1953 and 1987. This collection is necessary to comply with Section 315 of the 2008 Defense Authorization Act (Pub. L. 110–181), which mandates that the Secretary of the Navy notify all persons, including residents and workers, who were potentially affected.

The information is used to build and maintain the Camp Lejeune Notification Database. The Marine Corps uses this database to send an official notification letter and provide registrants with current information and research updates. The collected information may also be used by federal health agencies, such as the Department of Veteran Affairs and the Agency for Toxic Substances and Diseases Registry, to assist with future health studies related to exposure.

The respondents are former residents and workers of Camp Lejeune during the specified timeframe who voluntarily register for the database via the official website, email, or toll-free number. Without this information collection, the Marine Corps would be unable to fulfill its legal obligation to directly contact and inform this population about their potential exposure and related health information.

Affected Public: Individuals or households.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

DoD Clearance Officer: Mr. Reginald Lucas.

Dated: May 8, 2026.

Stephanie J. Bost,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2026–09485 Filed 5–12–26; 8:45 am]

BILLING CODE 6001–FR–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2026–SCC–0001]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; State Authorization

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 a

reinstatement without change of a previously approved information collection request (ICR).

DATES: Interested persons are invited to submit comments on or before June 12, 2026.

ADDRESSES: Written comments and recommendations for proposed information collection requests should be submitted within 30 days of publication of this notice. Click on this link www.reginfo.gov/public/do/PRAMain to access the site. Find this information collection request (ICR) by selecting “Department of Education” under “Currently Under Review,” then check the “Only Show ICR for Public Comment” checkbox. Reginfo.gov provides two links to view documents related to this information collection request. Information collection forms and instructions may be found by clicking on the “View Information Collection (IC) List” link. Supporting statements and other supporting documentation may be found by clicking on the “View Supporting Statement and Other Documents” link.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Carolyn Rose, 202–453–5967.

SUPPLEMENTARY INFORMATION: The Department is especially interested in public comment addressing the following issues: (1) is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: State Authorization.

OMB Control Number: 1845–0144.

Type of Review: A reinstatement of a previously approved ICR.

Respondents/Affected Public: Private Sector; State, Local, and Tribal Governments.

Total Estimated Number of Annual Responses: 5,428.

Total Estimated Number of Annual Burden Hours: 2,714.

Abstract: The regulations in § 600.9(c)(2)(i) require an institution to determine in accordance with the institution’s policies and procedures in which State a student is located while enrolled in a distance education or

correspondence course, under either State jurisdiction or when the institution participates in a State authorization reciprocity agreement under which it is covered.

The Department of Education requests reinstatement of this information collection regarding Institutional Eligibility regulations in § 600.9—State Authorization. The requirements to these regulations have not changed.

Ross Santy,

Chief Data Officer, Office of Planning, Evaluation and Policy Development.

[FR Doc. 2026–09449 Filed 5–12–26; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Competition Announcement; Comprehensive Centers

AGENCY: Department of Education.

ACTION: Notice.

SUMMARY: The Department of Education (ED) announces the opportunity to apply for competitive grants for the Fiscal Year (FY) 2026 under the Comprehensive Centers program, Assistance Listing Numbers (ALNs) 84.283B and 84.283D.

DATES: Complete proposals must be submitted electronically through the *Grants.gov* “APPLY” function by 11:59:59 p.m. Eastern time June 30, 2026.

FOR FURTHER INFORMATION CONTACT: Dr. Michelle Daley. Telephone: (202) 987–1057. Email:

OESE.ComprehensiveCenters@ed.gov.

SUPPLEMENTARY INFORMATION: The purpose of the Comprehensive Centers program is to provide capacity-building services to state educational agencies, regional educational agencies, local educational agencies, and schools that improve educational opportunities and student outcomes, close achievement gaps, and improve the quality of instruction for all students, particularly for groups of students with the greatest need. The FY 2026 competition includes six absolute priorities and three competitive preference priorities, selection criteria, and requirements. The absolute priorities are: National Center, Regional Centers, National Comprehensive Center on Improving Literacy for Students with Disabilities, Field-Initiated Content Centers, Emerging Needs Content Centers, and Meaningful Learning Opportunities. The competitive preference priorities are: Returning Education to the States, Meaningful Learning Opportunities, and Promoting Evidence-Based Literacy.

To Apply: The complete funding opportunity announcement and all information needed to apply, including the priorities and program requirements, are available on ED's website at <https://www.ed.gov/grants-and-programs/grants-birth-grade-12/school-and-community-improvement-grants/comprehensive-centers-program#applicant-information>. The information for the National Center, Regional Centers, Field-Initiated

Content Centers, and Emerging Needs Center (ALN 84.283B) is also available on *Grants.gov* at <https://grants.gov/search-results-detail/362342>. The information for the National Comprehensive Center on Improving Literacy for Students with Disabilities (ALN 84.283D) is also available on *Grants.gov* at <https://grants.gov/search-results-detail/362346>. There are separate application notice and instructions documents for the National Center; for

Regional Centers; for Field-Initiated and Emerging Needs Content Centers, and for the National Comprehensive Center on Improving Literacy for Students with Disabilities. The application notice and instructions documents on *Grants.gov* are the official documents governing the grant competitions under this program.

Maximum Award: The Department will not make an award exceeding the following amount for each Center below in a single budget period of 12 months.

Comprehensive Center type	Maximum annual award
National Center	\$6,750,000
National Comprehensive Center on Improving Literacy for Students with Disabilities	1,500,000
Field-Initiated Content Centers	1,150,000
Emerging Needs Content Center	1,150,000
Region 1 (Northeast)	2,548,041
Region 2 (Islands)	1,250,000
Region 3 (Mid-Atlantic)	2,293,378
Region 4 (Appalachia)	1,991,002
Region 5 (Southeast)	2,626,321
Region 6 (Gulf)	2,866,431
Region 7 (Great Lakes)	2,524,549
Region 8 (Midwest)	2,342,815
Region 9 (Central)	2,355,596
Region 10 (Southwest)	5,265,052
Region 11 (West)	4,712,583
Region 12 (Northwest)	3,024,323
Region 13 (Pacific East)	1,250,000
Region 14 (Pacific West)	1,250,000
Region 15 (Bureau of Indian Education)	1,000,000

Eligible Entities: Research organizations, institutions, agencies, institutes of higher education, or partnerships among such entities, or individuals, with the demonstrated ability or capacity to carry out the activities described in this notice, including regional entities that carried out activities under the Educational Research, Development, Dissemination, and Improvement Act of 1994 (as such Act existed on the day before November 5, 2002) and title XIII of the Elementary and Secondary Education Act of 1965 (as such title existed on the day before January 8, 2002).

Program Authority: 20 U.S.C. 9601 *et seq.* and 20 U.S.C. 6674.

Accessible Format: On request to the person listed under **FOR FURTHER INFORMATION CONTACT**, individuals with disabilities can obtain this document in an accessible format.

Kirsten Baesler,

Assistant Secretary, Office of Elementary and Secondary Education.

[FR Doc. 2026–09557 Filed 5–12–26; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 7887–019]

Ashuelot River Hydro, Inc.; Notice of Intent To Prepare an Environmental Assessment

On June 28, 2024, Ashuelot River Hydro, Inc. filed an application to relicense the 1,000-kilowatt Minnewawa Hydroelectric Project No. 7887. The project is located on the Minnewawa Brook in the Town of Marlborough in Cheshire County, New Hampshire.

In accordance with the Commission's regulations, on February 13, 2026, Commission staff issued a notice that the project was ready for environmental analysis (REA notice). Based on the information in the record, including comments filed on the REA notice, staff does not anticipate that licensing the project would constitute a major federal action significantly affecting the quality of the human environment. Therefore, staff intends to prepare an environmental assessment (EA) on the application to relicense the project.¹

¹ For tracking purposes under the National Environmental Policy Act, the unique identification

The EA will be issued and circulated for review by all interested parties. All comments filed on the EA will be analyzed by staff and considered in the Commission's final licensing decision.

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.

The application will be processed according to the following schedule. The EA will be issued for a 30-day comment period. Revisions to the schedule may be made as appropriate.

Milestone	Target date
Commission issues EA	February 26, 2027.

Any questions regarding this notice may be directed to Justin R. Robbins by telephone at (202) 502–8308 or by email at justin.robbs@ferc.gov.

(Authority: 18 CFR 2.1)

number for documents relating to this environmental review is EAXX–019–20–000–1768993568.

Dated: May 8, 2026.
Debbie-Anne A. Reese,
 Secretary.
 [FR Doc. 2026-09559 Filed 5-12-26; 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 Complaints and Compliance filings in EL Dockets:

Docket Numbers: EL26-62-000.
Applicants: Basin Electric Power Cooperative.
Description: Petition for Declaratory Order of Basin Electric Power Cooperative.

Filed Date: 4/30/26.
Accession Number: 20260430-5657.
Comment Date: 5 p.m. ET 6/1/26.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10-2906-025; ER19-1716-013; ER24-2581-003; ER24-2611-003; ER25-2182-003; ER25-2184-003; ER26-496-003; ER26-576-003; ER26-863-001; ER26-864-001; ER26-865-001; ER26-866-001; ER26-867-001; ER26-868-001; ER26-869-001; ER26-870-001.

Applicants: Energy Prepay XX, LLC, Energy Prepay XIX, LLC, Energy Prepay XVIII, LLC, Energy Prepay XVII, LLC, Energy Prepay XVI, LLC, Energy Prepay XV, LLC, Energy Prepay XIV, LLC, Energy Prepay XII, LLC, Energy Prepay XI, LLC, Energy Prepay X, LLC, Energy Prepay IX, LLC, Energy Prepay VIII, LLC, Energy Prepay IV, LLC, Energy Prepay III, LLC, Morgan Stanley Energy Structuring, L.L.C., Morgan Stanley Capital Group Inc.

Description: Notice of Non-Material Change in Status of Morgan Stanley Capital Group Inc., et al.

Filed Date: 4/30/26.
Accession Number: 20260430-5661.
Comment Date: 5 p.m. ET 5/21/26.

Docket Numbers: ER20-2314-002; ER23-1501-003; ER23-1494-002; ER23-1493-002; ER24-832-002.

Applicants: RWE Trading Americas Inc., RWE Clean Energy Wholesale Services, Inc., RWE Clean Energy Solutions, Inc., RWE Supply & Trading Americas, LLC, RWE Renewables QSE, LLC.

Description: Notice of Change in Status of RWE Renewables QSE, LLC, et al.

Filed Date: 4/30/26.
Accession Number: 20260430-5659.

Comment Date: 5 p.m. ET 5/21/26.
Docket Numbers: ER26-527-001.
Applicants: PJM Interconnection, L.L.C.
Description: Compliance filing: Compliance Filing to Order on Market Mitigation for Advanced Scheduled Resources to be effective 5/26/2026.
Filed Date: 5/8/26.
Accession Number: 20260508-5044.
Comment Date: 5 p.m. ET 5/29/26.
Docket Numbers: ER26-570-002.
Applicants: New York Independent System Operator, Inc.
Description: Compliance filing: NYISO Compliance re: CHPE MTF April 2026 Order to be effective 2/16/2026.
Filed Date: 5/8/26.
Accession Number: 20260508-5149.
Comment Date: 5 p.m. ET 5/29/26.
Docket Numbers: ER26-1606-001.
Applicants: ZPD-PT Solar Project 2017-040 LLC.
Description: Tariff Amendment: Response to Deficiency Notice to be effective 3/5/2026.

Filed Date: 5/8/26.
Accession Number: 20260508-5035.
Comment Date: 5 p.m. ET 5/29/26.
Docket Numbers: ER26-2466-001.
Applicants: El Paso Electric Company.
Description: Tariff Amendment: Open Access Transmission Tariff Provisions—Attachment M to be effective 7/6/2026.
Filed Date: 5/7/26.

Accession Number: 20260507-5122.
Comment Date: 5 p.m. ET 5/28/26.
Docket Numbers: ER26-2489-000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: 205(d) Rate Filing: 2026-05-08 SA 4755 Minnesota Power-Red Butte Wind GIA (E0027) to be effective 5/1/2026.

Filed Date: 5/8/26.
Accession Number: 20260508-5021.
Comment Date: 5 p.m. ET 5/29/26.
Docket Numbers: ER26-2490-000.
Applicants: Midcontinent Independent System Operator, Inc.

Description: 205(d) Rate Filing: 2026-05-08 SA 4756 METC-Liberty Crossing Energy Storage GIA (S1063) to be effective 5/4/2026.

Filed Date: 5/8/26.
Accession Number: 20260508-5023.
Comment Date: 5 p.m. ET 5/29/26.
Docket Numbers: ER26-2491-000.
Applicants: Midcontinent Independent System Operator, Inc., International Transmission Company.

Description: 205(d) Rate Filing: International Transmission Company submits tariff filing per 35.13(a)(2)(iii): 2026-05-08 SA 4758 ITCTransmission-DTE Electric E&P (E0008) to be effective 5/6/2026.

Filed Date: 5/8/26.
Accession Number: 20260508-5025.
Comment Date: 5 p.m. ET 5/29/26.
Docket Numbers: ER26-2493-000.
Applicants: PJM Interconnection, L.L.C.
Description: 205(d) Rate Filing: Amendment to ISA, SA No. 6688; Queue No. AE1-105 to be effective 7/8/2026.
Filed Date: 5/8/26.
Accession Number: 20260508-5038.
Comment Date: 5 p.m. ET 5/29/26.
Docket Numbers: ER26-2494-000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: 205(d) Rate Filing: 2026-05-08 SA 4757 NSP-Plum Creek Wind 1st Rev E&P Cert. of Concurrence (J2104) to be effective 4/28/2026.
Filed Date: 5/8/26.
Accession Number: 20260508-5039.
Comment Date: 5 p.m. ET 5/29/26.
Docket Numbers: ER26-2495-000.
Applicants: Southern California Edison Company.

Description: Tariff Amendment: Termination of GIA & DSA, SPADRA Gas-To-Energy (WDT997QFC/SA Nos. 673-674) to be effective 7/8/2026.

Filed Date: 5/8/26.
Accession Number: 20260508-5060.
Comment Date: 5 p.m. ET 5/29/26.
Docket Numbers: ER26-2496-000.
Applicants: AEP Oklahoma Transmission Company, Inc.

Description: Tariff Amendment: AEPOTC-White Rock Wind West (Tonkawa Creek) Maintenance Agreement Cancellation to be effective 7/8/2026.

Filed Date: 5/8/26.
Accession Number: 20260508-5141.
Comment Date: 5 p.m. ET 5/29/26.
Docket Numbers: ER26-2497-000.

Applicants: Midcontinent Independent System Operator, Inc.
Description: 205(d) Rate Filing: 2026-05-08 SA 1736 NSP-Invenery Cannon Falls 1st Rev GIA (G405 E0026) to be effective 4/30/2026.

Filed Date: 5/8/26.
Accession Number: 20260508-5174.
Comment Date: 5 p.m. ET 5/29/26.

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: May 8, 2026.

Debbie-Anne A. Reese,
Secretary.

[FR Doc. 2026-09564 Filed 5-12-26; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: CP26-449-000.

Applicants: Louisville Gas and Electric Company.

Description: Abbreviated Application of Louisville Gas and Electric Company for Abandonment of Limited Jurisdiction Certificate.

Filed Date: 4/30/26.

Accession Number: 20260430-5592.

Comment Date: 5 p.m. ET 5/21/26.

Docket Numbers: PR26-56-000.

Applicants: Black Hills/Kansas Gas Utility Company, LLC.

Description: 284.123 Rate Filing: Black Hills Kansas Gas Utility Revised Currently Effective Rates to be effective 5/1/2026.

Filed Date: 5/8/26.

Accession Number: 20260508-5091.

Comment Date: 5 p.m. ET 5/29/26.

Docket Numbers: RP26-792-000.

Applicants: Hudson Gas LLC.

Description: Application for Blanket Marketing Certificate of Hudson Gas LLC of.

Filed Date: 4/28/26.

Accession Number: 20260428-5298.

Comment Date: 5 p.m. ET 5/13/26.

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: May 8, 2026.

Debbie-Anne A. Reese,
Secretary.

[FR Doc. 2026-09563 Filed 5-12-26; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP26-478-000]

Kinetica Energy Express, LLC; Notice of Request Under Blanket Authorization and Establishing Intervention and Protest Deadline

Take notice that on May 1, 2026, Kinetica Energy Express, LLC (Kinetica), 1001 McKinney, Suite 900, Houston, Texas 77002, filed in the above referenced docket, a prior notice request pursuant to sections 157.205, 157.208, and 157.210 of the Commission's regulations under the Natural Gas Act (NGA), and Kinetica's blanket certificate issued in Docket No. CP12-489-000, for authorization to construct and install one compressor unit of 11,110 horsepower and appurtenant facilities, and metering facilities. All of the above facilities are located in Pecan Island and Acadia Parish, Louisiana (KP-FIN Project). The project will alleviate system deliverability constraints, allow for stabilized gas pressure on the mainline, improve reliability and flexibility of existing service, and eliminate pressure constraints to restore Kinetica's deliverability capability to existing customers. The estimated cost

for the project is \$40 million, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (<http://www.ferc.gov>). From the Commission's Home Page on the internet, this information is available on eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field.

User assistance is available for eLibrary and the Commission's website during normal business hours from FERC Online Support at 202-502-6652 (toll free at 1-866-208-3676) or email at ferconlinesupport@ferc.gov, or the Public Reference Room at (202) 502-8371, TTY (202) 502-8659. Email the Public Reference Room at public.referenceroom@ferc.gov.

Any questions concerning this request should be directed to Bill Prentice, General Counsel, Kinetica Energy Express, LLC, 1001 McKinney, Houston, Texas 77002, by phone at (713) 228-3347, or by email at bill.prentice@kineticallc.com.

Public Participation

There are three ways to become involved in the Commission's review of this project: you can file a protest to the project, you can file a motion to intervene in the proceeding, and you can file comments on the project. There is no fee or cost for filing protests, motions to intervene, or comments. The deadline for filing protests, motions to intervene, and comments is 5:00 p.m. Eastern Time on July 7, 2026. How to file protests, motions to intervene, and comments is explained below.

For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, contact the Office of Public Participation (OPP) at (202) 502-6595 or OPP@ferc.gov.

Protests

Pursuant to section 157.205 of the Commission's regulations under the

NGA,¹ any person² or the Commission's staff may file a protest to the request. If no protest is filed within the time allowed or if a protest is filed and then withdrawn within 30 days after the allowed time for filing a protest, the proposed activity shall be deemed to be authorized effective the day after the time allowed for protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request for authorization will be considered by the Commission.

Protests must comply with the requirements specified in section 157.205(e) of the Commission's regulations,³ and must be submitted by the protest deadline, which is 5:00 p.m. Eastern Time on July 7, 2026. A protest may also serve as a motion to intervene so long as the protestor states it also seeks to be an intervenor.

Interventions

Any person has the option to file a motion to intervene in this proceeding. Only intervenors have the right to request rehearing of Commission orders issued in this proceeding and to subsequently challenge the Commission's orders in the U.S. Circuit Courts of Appeal.

To intervene, you must submit a motion to intervene to the Commission in accordance with Rule 214 of the Commission's Rules of Practice and Procedure⁴ and the regulations under the NGA⁵ by the intervention deadline for the project, which is 5:00 p.m. Eastern Time on July 7, 2026. As described further in Rule 214, your motion to intervene must state, to the extent known, your position regarding the proceeding, as well as your interest in the proceeding. For an individual, this could include your status as a landowner, ratepayer, resident of an impacted community, or recreationist. You do not need to have property directly impacted by the project in order to intervene. For more information about motions to intervene, refer to the FERC website at <https://www.ferc.gov/resources/guides/how-to/intervene.asp>.

All timely, unopposed motions to intervene are automatically granted by operation of Rule 214(c)(1). Motions to intervene that are filed after the intervention deadline are untimely and may be denied. Any late-filed motion to intervene must show good cause for

being late and must explain why the time limitation should be waived and provide justification by reference to factors set forth in Rule 214(d) of the Commission's Rules and Regulations. A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies (paper or electronic) of all documents filed by the applicant and by all other parties.

Comments

Any person wishing to comment on the project may do so. The Commission considers all comments received about the project in determining the appropriate action to be taken. To ensure that your comments are timely and properly recorded, please submit your comments on or before 5:00 p.m. Eastern Time on July 7, 2026. The filing of a comment alone will not serve to make the filer a party to the proceeding. To become a party, you must intervene in the proceeding.

How To File Protests, Interventions, and Comments

There are two ways to submit protests, motions to intervene, and comments. In both instances, please reference the Project docket number CP26-478-000 in your submission.

(1) You may file your protest, motion to intervene, and comments by using the Commission's eFiling feature, which is located on the Commission's website (www.ferc.gov) under the link to Documents and Filings. New eFiling users must first create an account by clicking on "eRegister." You will be asked to select the type of filing you are making; first select "General" and then select "Protest", "Intervention", or "Comment on a Filing"; or⁶

(2) You can file a paper copy of your submission by mailing it to the address below. Your submission must reference the Project docket number CP26-478-000.

To file via USPS: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

To file via any other courier: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852.

The Commission encourages electronic filing of submissions (option

1 above) and has eFiling staff available to assist you at (202) 502-8258 or FercOnlineSupport@ferc.gov.

Protests and motions to intervene must be served on the applicant either by mail at: Bill Prentice, General Counsel, Kinetica Energy Express, LLC, 1001 McKinney, Houston, Texas 77002, or by email (with a link to the document) at bill.prentice@kineticallc.com. Any subsequent submissions by an intervenor must be served on the applicant and all other parties to the proceeding. Contact information for parties can be downloaded from the service list at the eService link on FERC Online.

Tracking the Proceeding

Throughout the proceeding, additional information about the project will be available from OPP at (202) 502-6595 or on the FERC website at www.ferc.gov using the "eLibrary" link as described above. The eLibrary link also provides access to the texts of all formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. 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. For more information and to register, go to www.ferc.gov/docs-filing/esubscription.asp.

(Authority: 18 CFR 2.1)

Dated: May 8, 2026.
Debbie-Anne A. Reese,
Secretary.

[FR Doc. 2026-09561 Filed 5-12-26; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP26-24-000]

Texas Eastern Transmission, LP; Notice of Availability of the Environmental Assessment for the Proposed Kosciusko Compressor Station Replacement Project

The staff of the Federal Energy Regulatory Commission (FERC or Commission) has prepared an environmental assessment (EA) for the Kosciusko Compressor Station Replacement Project, proposed by Texas Eastern Transmission, LP (Texas

¹ 18 CFR 157.205.

² Persons include individuals, organizations, businesses, municipalities, and other entities. 18 CFR 385.102(d).

³ 18 CFR 157.205(e).

⁴ 18 CFR 385.214.

⁵ 18 CFR 157.10.

⁶ Additionally, you may file your comments electronically by using the eComment feature, which is located on the Commission's website at www.ferc.gov under the link to Documents and Filings. Using eComment is an easy method for interested persons to submit brief, text-only comments on a project.

Eastern) in the above-referenced docket.¹ Texas Eastern requests authorization to abandon by removal 14 reciprocating compressor units and install three new natural gas turbine units at the Kosciusko Compressor Station in Attala County, Mississippi. According to Texas Eastern, its project would ensure the continued safe and reliable operation of the station while meeting current air emissions requirements and minimizing disruption to customers.

Any person wishing to comment on the EA may do so. To ensure consideration of your comments on the proposal prior to making a decision on the project, it is important that the Commission receive your comments on or before 5:00 p.m. Eastern Time on June 8, 2026. Instructions for filing comments are provided on page 3.

FERC is the lead federal agency for authorizing interstate natural gas transmission facilities under the Natural Gas Act of 1938 (NGA) and the lead federal agency for preparation of the EA. The EA assesses the potential environmental effects of the Kosciusko Compressor Station Replacement Project in accordance with the requirements of the National Environmental Policy Act (NEPA)² and the Commission's implementing regulations.³ The principal purposes of the EA are to: identify and assess the potential effects on the natural and human environment; describe and evaluate reasonable alternatives; identify and recommend mitigation measures; and facilitate public involvement in the environmental review process. The EA concludes that approval of the proposed project would not constitute a major federal action significantly affecting the quality of the human environment.

The EA addresses the potential environmental effects of the following project activities:

- abandonment by removal of the following facilities:
 - five 2,500-horsepower Cooper Bessemer GMW series reciprocating units;
 - nine 2,500-horsepower Cooper Bessemer GMWA series reciprocating units;

- associated buildings and enclosures that currently house the reciprocating units; and

- other associated appurtenant facilities.

- abandonment in place of all below-grade facilities, or associated facilities, such as piping, piping supports, foundations, conduits, and cables, while aboveground facilities and piping would be demolished and removed from the site; and

- installation of the following facilities:

- one 20,500-horsepower Solar Titan 130 natural gas-fired turbine unit and two 11,110-horsepower Solar Taurus 70 natural gas-fired turbine units;

- enclosures to house the new units, one electrical control building, and one low voltage switchgear building; and
- other appurtenant facilities.

The Commission mailed a copy of the *Notice of Availability* of the EA to federal, state, and local government representatives and agencies; elected officials; Native American tribes; environmental and public interest groups; potentially affected landowners and other interested individuals and groups; and newspapers and libraries in the project area. The EA is only available in electronic format. It may be viewed and downloaded from the FERC's website (www.ferc.gov), on the natural gas environmental documents page (<https://www.ferc.gov/industries-data/natural-gas/environment/environmental-documents>). In addition, the EA may be accessed by using the eLibrary link on the FERC's website. Click on the eLibrary link (<https://elibrary.ferc.gov/eLibrary/search>), select "General Search" and enter the docket number in the "Docket Number" field, excluding the last three digits (*i.e.* CP26–24). Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at FercOnlineSupport@ferc.gov or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659.

The EA is not a decision document. It presents Commission staff's independent analysis of the environmental issues for the Commission to consider when addressing the merits of all issues in this proceeding. Under section 7(c) of the NGA, the Commission determines whether interstate natural gas transportation facilities are in the public convenience and necessity and, if so, grants a Certificate of Public Convenience and Necessity to construct and operate them. Section 7(b) of the NGA specifies that no natural gas company shall abandon any portion of its facilities subject to the Commission's

jurisdiction without the Commission first finding that the abandonment will not negatively affect the present or future public convenience and necessity. The Commission bases its decisions on both economic issues, including need, and environmental effects.

Your comments should focus on the EA's disclosure and discussion of potential environmental effects, reasonable alternatives, and measures to avoid or lessen environmental effects. The more specific your comments, the more useful they will be. For your convenience, there are three methods you can use to file your comments to the Commission. The Commission encourages electronic filing of comments and has staff available to assist you at (866) 208–3676 or FercOnlineSupport@ferc.gov. Please carefully follow these instructions so that your comments are properly recorded.

(1) You can file your comments electronically using the eComment feature on the Commission's website (www.ferc.gov) under the link to FERC Online. This is an easy method for submitting brief, text-only comments on a project;

(2) You can also file your comments electronically using the eFiling feature on the Commission's website (www.ferc.gov) under the link to FERC Online. With eFiling, you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on "eRegister." You must select the type of filing you are making. If you are filing a comment on a particular project, please select "Comment on a Filing"; or

(3) You can file a paper copy of your comments by mailing them to the Commission. Be sure to reference the project docket number (CP26–24–000) on your letter. Submissions sent via the U.S. Postal Service must be addressed to: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852.

Filing environmental comments will not give you intervenor status, but you do not need intervenor status to have your comments considered. Only intervenors have the right to seek rehearing or judicial review of the Commission's decision. At this point in this proceeding, the timeframe for filing timely intervention requests has

¹ For tracking purposes under the National Environmental Policy Act, the unique identification number for documents relating to this environmental review is EAXX–019–20–000–1765965341.

² National Environmental Policy Act of 1969, as amended (Public Law [Pub. L.] 91–190, 42 U.S.C. 4321–4347, as amended by Pub. L. 94–52, July 3, 1975; Pub. L. 94–83, August 9, 1975; Pub. L. 97–258, 4(b), September 13, 1982; Pub. L. 118–5, June 3, 2023; Pub. L. 119–21, July 4, 2025).

³ 18 Code of Federal Regulations (CFR) 380.

expired. Any person seeking to become a party to the proceeding must file a motion to intervene out-of-time pursuant to Rule 214(b)(3) and (d) of the Commission’s Rules of Practice and Procedures (18 CFR 385.214(b)(3) and (d)) and show good cause why the time limitation should be waived. Motions to intervene are more fully described at <https://www.ferc.gov/how-intervene>.

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. The eLibrary link also provides access to the texts of all formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. 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.

(Authority: 18 CFR 2.1)

Dated: May 8, 2026.

Debbie-Anne A. Reese,
Secretary.

[FR Doc. 2026–09562 Filed 5–12–26; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory
Commission

[Docket No. IC26–31–000]

Commission Information Collection
Activities (FERC–923); Comment
Request; Extension

AGENCY: Federal Energy Regulatory
Commission, DOE.

ACTION: Notice of information collection
and request for comments.

SUMMARY: In compliance with the requirements of the Paperwork Reduction Act of 1995, the Federal Energy Regulatory Commission (Commission or FERC) is soliciting public comment on the requirements and burden of the information collection FERC–923 (Communication of Operational Information between Natural Gas Pipelines and Electric Transmission Operators).

DATES: Comments on the collection of information are due July 13, 2026.

ADDRESSES: Please submit comments via email to DataClearance@FERC.gov. You must specify the Docket No. (IC26–31–000) and the FERC Information Collection number (FERC–923) in your email. If you are unable to file electronically, comments may be filed by USPS mail or by hand (including courier) delivery:

- Mail via U.S. Postal Service only, addressed to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE, Washington, DC 20426.

- Hand (including courier) delivery to: Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, MD 20852.

Docket: To view comments and issuances in this docket, please visit <https://elibrary.ferc.gov/eLibrary/search>.

FOR FURTHER INFORMATION CONTACT:
Kayla Williams may be reached by

email at DataClearance@FERC.gov and telephone at (202) 502–6468.

SUPPLEMENTARY INFORMATION:

Title: FERC–923, Communication of Operational Information between Natural Gas Pipelines and Electric Transmission Operators.

OMB Control No.: 1902–0265.

Type of Request: Three-year extension of the information collection requirements described below with no changes to the current reporting requirements.

Abstract: In 2013, the Commission revised its regulations to provide explicit authority to interstate natural gas pipelines and public utilities that own, operate, or control facilities used for the transmission of electric energy in interstate commerce to voluntarily share non-public, operational information with each other for the purpose of promoting reliable service and operational planning on either the pipeline’s or public utility’s system. This helped ensure the reliability of natural gas pipeline and public utility transmission services by permitting transmission operators to share with each other the information that they deem necessary to promote the reliability and integrity of their systems. FERC removed actual or perceived prohibitions to the information sharing and communications between industry entities. The information shared is not submitted to FERC. Rather, the non-public information is shared voluntarily between industry entities. FERC does not prescribe the content, medium, format, or frequency for the information sharing and communications. Those decisions are made by the industry entities, depending on their needs and the situation.

Type of Respondent: Natural gas pipelines and public utilities.

Estimate of Annual Burden:¹ The Commission estimates the annual public reporting burden and cost² for FERC–923 as:

FERC–923—COMMUNICATION OF OPERATIONAL INFORMATION BETWEEN NATURAL GAS PIPELINES AND ELECTRIC TRANSMISSION OPERATORS

	Number of respondents	Annual number of responses per respondent	Total number of responses	Average burden hrs. & cost (\$) per response	Total annual burden hrs. & total annual cost (\$)	Cost per respondent (\$)
	(1)	(2)	(1) * (2) = (3)	(4)	(3) * (4) = (5)	(5) ÷ (1)
Public Utility Transmission Operator, communications.	³ 156	12	1,872	0.5 hrs.; \$51.00	936 hrs.; \$95,472	\$612

¹ Burden is defined as the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a federal agency. See 5 CFR

1320 for additional information on the definition of information collection burden.

² Commission staff estimates that the industry’s skill set (wages and benefits) for FERC–923 is

comparable to the Commission’s skill set. The FERC 2026 average salary plus benefits for one FERC full-time equivalent (FTE) is \$213,003 year (or \$102 per hour).

FERC-923—COMMUNICATION OF OPERATIONAL INFORMATION BETWEEN NATURAL GAS PIPELINES AND ELECTRIC TRANSMISSION OPERATORS—Continued

	Number of respondents	Annual number of responses per respondent	Total number of responses	Average burden hrs. & cost (\$) per response	Total annual burden hrs. & total annual cost (\$)	Cost per respondent (\$)
	(1)	(2)	(1) * (2) = (3)	(4)	(3) * (4) = (5)	(5) ÷ (1)
Interstate Natural Gas Pipelines, communications.	4 189	12	2,268	0.5 hrs.; \$51.00	1,134 hrs.; \$115,668	612
Total .....	.....	.....	4,140	.....	2,070 hrs.; 211,140 .....	.....

Comments: Comments are invited on: (1) whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Dated: May 8, 2026.

Debbie-Anne A. Reese,
Secretary.

[FR Doc. 2026-09560 Filed 5-12-26; 8:45 am]

BILLING CODE 6717-01-P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060-0149, OMB 3060-0741; FR ID 345583]

Information Collections Being Reviewed by the Federal Communications Commission

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 the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection.

³ The estimate for the number of respondents is based on the North American Electric Reliability Corporation (NERC) Compliance Registry as of March 31, 2026, minus the Transmission Operators within ERCOT.

⁴ The estimate is based on the number of respondents to the 2024 FERC Forms 2 and 2A (Major and Non-major Natural Gas Pipeline Annual Reports).

Comments are requested concerning: whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

DATES: Written PRA comments should be submitted on or before July 13, 2026. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicole Ongele, FCC, via email PRA@fcc.gov and to nicole.ongele@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Nicole Ongele, (202) 418-2991.

SUPPLEMENTARY INFORMATION: The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number.

OMB Control Number: 3060-0149.

Title: Part 63, Reducing Barriers to Network Improvements and Service Changes, Accelerating Network Modernization, WC Docket Nos. 25-208, 25-209, FCC 26-19.

Form Number(s): N/A.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for profit.

Number of Respondents and Responses: 78 respondents; 90 responses.

Estimated Time per Response: 6-10 hours per response.

Frequency of Response: One-time reporting requirement and third-party disclosure requirements.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this collection of information is contained in 47 U.S.C. 214 and 402 of the Communications Act of 1934, as amended.

Total Annual Burden: 648 hours.

Total Annual Cost: No Cost.

Needs and Uses: The Commission is seeking the Office of Management and Budget (OMB) approval for a revision of a currently approved collection to OMB. The Commission will submit this information collection to OMB after this 60-day comment period. Section 214 of the Communications Act of 1934, as amended, requires that a carrier must first obtain FCC authorization either to (1) construct, operate, or engage in transmission over a line of communications; or (2) discontinue, reduce or impair service over a line of communications. Part 63 of Title 47 of the Code of Federal Regulations (CFR) implements Section 214. Part 63 also implements provisions of the Cable Communications Policy Act of 1984 pertaining to video which was approved under this OMB Control Number 3060-0149. In 2009, the Commission modified Part 63 to extend to providers of interconnected Voice of Internet Protocol (VoIP) service the discontinuance obligations that apply to domestic non-dominant telecommunications carriers under Section 214 of the Communications Act of 1934, as amended. In 2014, the Commission adopted improved administrative filing procedures for domestic transfers of control, domestic discontinuances and notices of network changes, and among other adjustments, modified Part 63 to require electronic filing for applications for authorization to discontinue, reduce, or impair service under Section 214(a) of the Act.

In July 2016, the Commission concluded that applicants seeking to discontinue a legacy time division multiplexing (TDM)-based voice service as part of a transition to a new technology, whether Internet Protocol (IP), wireless, or another type (technology transition discontinuance application) must demonstrate that an adequate replacement for the legacy service exists in order to be eligible for streamlined treatment and revised part 63 accordingly. The Commission concluded that an applicant for a technology transition discontinuance may demonstrate that a service is an adequate replacement for a legacy voice service by certifying or showing that one or more replacement service(s) offers all of the following: (i) Substantially similar levels of network infrastructure and service quality as the applicant service; (ii) compliance with existing federal and/or industry standards required to ensure that critical applications such as 911, network security, and applications for individuals with disabilities remain available; and (iii) interoperability and compatibility with an enumerated list of applications and functionalities determined to be key to consumers and competitors (the “adequate replacement test”).

In November 2017, the Commission further modified the rules applicable to Section 214(a) discontinuance applications by (1) *expediting applications that “grandfather” low speed legacy services for existing customers*; (2) *expediting applications to discontinue previously grandfathered legacy data services*; and (3) *expediting applications to discontinue legacy voice or data services below 1.544 Mbps for which the carrier has had no customers and no request for service for at least a 30-day period immediately preceding submission of the application*.

In June 2018, the Commission again modified the rules applicable to Section 214(a) discontinuance applications. First, all carriers, whether dominant or non-dominant, that seek approval to grandfather data services below speeds of 25 Mbps download speed and 3 Mbps upload speed are subject to a uniform reduced public comment period of 10 days and an automatic grant period of 25 days. Second, all carriers, whether dominant or nondominant, seeking authorization to discontinue data services below speeds of 25 Mbps download speed and 3 Mbps upload speed that have previously been grandfathered for a period of at least 180 days are subject to a uniform reduced public comment period of 10 days and an automatic grant period of 31 days, provided they submit a statement as

part of their discontinuance application that they have received Commission authority to grandfather the services at issue at least 180 days prior to the filing of the discontinuance application. The statement must reference the file number of the prior Commission authorization to grandfather the services the carrier then seeks to permanently discontinue. Third, carriers are no longer required to file an application to discontinue, reduce, or impair any service for which it has had no customers and no request for service for at least a 30-day period immediately preceding the discontinuance. Fourth, all carriers, whether dominant or nondominant, that seek approval to discontinue legacy voice service can obtain further streamlined processing with a public comment period of 15 days and an automatic grant period of 31 days, provided (1) they offer a standalone interconnected VoIP service throughout the service area, and (2) at least one alternative stand-alone, facilities-based voice service is available from an unaffiliated provider throughout the affected service area (the “alternative options test”). Finally, all carriers, whether dominant or nondominant, that seek approval to grandfather legacy voice service are subject to a uniform reduced public comment period of 10 days and an automatic grant period of 25 days. Certain rules are now modified as described below.

In March 2026, the Commission further modified the rules applicable to Section 214(a) discontinuance applications by: (1) adopting one consolidated rule applicable to all technology transitions discontinuance applications, whereby an application to discontinue a currently offered retail voice service as part of a technology transition is eligible for streamlined processing if the applicant certifies that one or more of five specified categories of replacement services is available in every location throughout the affected service area; (2) granting blanket section 214(a) authority for carriers to grandfather legacy voices services, lower-speed data telecommunications services (defined as those operating at speeds below 25/3 Mbps), and interconnected Voice over internet Protocol (VoIP) service provisioned over copper wire, thus eliminating the need for carriers to file a section 214(a) application when grandfathering these services; (3) adopting requirements providing that carriers seeking authority to discontinue a service supporting interconnection trunks or the exchange of traffic must specifically identify the

service to be discontinued, not just the branded name of the service being discontinued, and that they must include in such discontinuance applications a statement that at least 90 days prior to the planned discontinuance filing, the carrier provided a designated point of contact with authority to facilitate the orderly transition from legacy facilities that support 911 to the 911 Authorities, 911 service providers, and directly interconnecting local exchange service providers that support essential functions within 911 networks, including delivering 911 traffic to selective routers for transmission to public safety answering points (PSAPs) in the affected service area for coordination of the transition to ensure continued 911 connectivity, and a list of providers that received notice in the affected service area with which the carrier has coordinated and the date(s) of that coordination; (4) granting conditional forbearance relief from section 214(a) discontinuance requirements for resellers discontinuing resold services where the reseller’s wholesale provider is engaging in a technology transitions discontinuance, with the condition that the discontinuing resellers provide reasonable notice to their customers; (5) applying the 31-day automatic grant period to all discontinuance applications; (6) setting forth content requirements for discontinuance applications; and (6) providing that a carrier may permanently discontinue a service after a showing that it has previously obtained emergency discontinuance authority for the service in question, that the service is one for which the requesting carrier has had no customers or reasonable requests for service during the 60-day period immediately preceding the permanent discontinuance, and that an adequate replacement service is available throughout the affected service area. The Commission also eliminated 47 CFR 63.66, 63.90, 63.100, 63.504, 63.601, and 63.602, and revised 47 CFR 63.60, 63.62, and 63.63 to account for any references or cross-references in those sections caused by the elimination of the previously enumerated rule provisions.

OMB Control Number: 3060–0741.

Title: Reducing Barriers to Network Improvements and Service Changes, Accelerating Network Modernization, WC Docket Nos. 25–209, 25–208.

Form Number(s): N/A.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents and Responses: 4,452 respondents; 450,838 responses.

Estimated Time per Response: 0.5–4.5 hours.

Frequency of Response: On occasion reporting requirements; recordkeeping and third-party disclosure requirements.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. 222 and 251.

Total Annual Burden: 452,623 hours.

Total Annual Cost: No cost.

Needs and Uses: Section 251 of the Communications Act of 1934, as amended, 47 U.S.C. 251, is designed to accelerate private sector development and deployment of telecommunications technologies and services by spurring competition. Section 222(e) is also designed to spur competition by prescribing requirements for the sharing of subscriber list information. These information collection requirements are designed to help implement certain provisions of sections 222(e) and 251, and to eliminate operational barriers to competition in the telecommunications services market. Specifically, these information collection requirements will be used to implement (1) local exchange carriers' (LECs) obligations to provide their competitors with dialing parity and non-discriminatory access to certain services and functionalities; (2) incumbent local exchange carriers' (ILECs) duty to make network information disclosures; and (3) numbering administration. In November 2017, the Commission adopted new rules concerning certain information collection requirements implemented under section 251(c)(5) of the Act, pertaining to network change disclosures. Most of the changes to those rules applied specifically to a certain subset of network change disclosures, namely notices of planned copper retirements. In addition, the changes removed a rule that prohibits incumbent LECs from engaging in useful advanced coordination with entities affected by network changes. In June 2018, the Commission revised its network change disclosure rules to (1) revise the types of network changes that trigger an incumbent LEC's public notice obligation, and (2) extend the force majeure provisions applicable to copper retirements to all types of network changes. On March 26, 2026, the Commission adopted a Report and Order that modified certain recordkeeping or reporting requirements that relate to the obligations of ILECs planning to retire copper communications facilities or make other changes to their networks that might

impact interoperability. Specifically, the Commission: (1) eliminated all filing requirements in the Commission's network change disclosure rules and the Commission's process of issuing public notices for short-term network changes and copper retirements and the associated objection process for interconnected service providers, (2) required that the method of notice the incumbent LEC uses be publicly accessible, and (3) expanded the direct notice requirement for copper retirements and short-term network changes to include 911 service providers and directly interconnecting LECs that support essential functions within 911 networks, including providers delivering 911 traffic to selective routers for transmission to public safety answering points. The changes were aimed at removing unnecessary regulatory barriers to the deployment of high-speed broadband networks while providing reasonable public notice of planned network changes to impacted stakeholders and ensuring continued 911 connectivity.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2026–09568 Filed 5–12–26; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL MARITIME COMMISSION

Notice of Agreements Filed

The Commission hereby gives notice of filing of the following agreements under the Shipping Act of 1984. Interested parties may submit comments, relevant information, or documents regarding these agreements to the Secretary by email at Secretary@fmc.gov, or by mail to Federal Maritime Commission, 800 North Capitol Street, Washington, DC 20573. Comments will be most helpful to the Commission if received within 12 days of the date this notice appears in the **Federal Register**, and the Commission requests that comments be submitted within 7 days on agreements that request expedited review. Copies of these agreements are available through the Commission's website (www.fmc.gov) or by contacting the Office of General Counsel at (202)-523–5740 or GeneralCounsel@fmc.gov.

Agreement No.: 201437–001.

Agreement Name: ONE/WHL Slot Exchange Agreement.

Parties: ONE Ocean Network Express Pte. Ltd.; and Wan Hai Lines Ltd. and Wan Hai Lines (Singapore) Pte. Ltd. (acting as a single party).

Filing Party: Joshua Stein, Cozen O'Connor.

Synopsis: The Amendment clarifies that, in addition to space from the AP1 service operated by the parties under FMC Agreement No. 201419, WHL may also exchange space to ONE from the AP2 service operated by the Parties under FMC agreement No. 201460. It also extends the term of the Agreement through May 18, 2026.

Proposed Effective Date: 5/5/2026.

Location: <https://www2.fmc.gov/FMC.Agreements.Web/Public/AgreementHistory/86583>.

Agreement No.: 201469.

Agreement Name: Husky-WUT Marine Terminal Cooperative Working Agreement.

Parties: Husky Terminal & Stevedoring, Inc.; and Washington United Terminals, Inc.

Filing Party: Bryant Gardner, Winston & Strawn.

Synopsis: The Agreement authorizes the parties to cooperate and coordinate the use and operation of their marine terminal facilities and related assets, including through the exchange of information and agreement on operational, logistical, environmental, security, and efficiency-related matters such as vessel scheduling, berth utilization including during dredging-related unavailability, equipment use, and cargo handling practices. The Agreement further permits the parties to enter into implementing arrangements, allocate resources and costs, and coordinate services and related administrative activities.

Proposed Effective Date: 6/21/2026.

Location: <https://www2.fmc.gov/FMC.Agreements.Web/Public/AgreementHistory/92670>.

Dated: May 8, 2026.

Jennifer Everling,

Assistant Secretary.

[FR Doc. 2026–09452 Filed 5–12–26; 8:45 am]

BILLING CODE 6730-02-P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (Act) (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the applications are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

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 paragraph 7 of the Act.

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 May 28, 2026.

A. Federal Reserve Bank of Kansas City (Jeffrey Imgarten, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198-0001. Comments can also be sent electronically to KCApplicationComments@kc.frb.org:

1. *Robert V. Pinnick, Bend, Oregon, and Kaya S. Wells, Haven, Kansas*; to join the Pinnick Family Control Group, a group acting in concert, to retain voting shares of Resource One, Inc., and thereby indirectly retain voting shares of Grant County Bank, both of Ulysses, Kansas.

2. *Tara Holder, Eldorado, Oklahoma, and Haley Pannell, Olustee, Oklahoma*; to join the Holder Family Control Group, a group acting in concert, to retain voting shares of Reeves Bancshares, Inc., Gould, Oklahoma, and thereby indirectly retain voting shares of Cattlemens Bank, Altus, Oklahoma.

Board of Governors of the Federal Reserve System.

Michele Taylor Fennell,

Associate Secretary of the Board.

[FR Doc. 2026-09529 Filed 5-12-26; 8:45 am]

BILLING CODE 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. 9000-0199; Docket No. 2026-0103; Sequence No. 1]

Information Collection; Prohibition on Contracting With Entities Using Certain Telecommunications and Video Surveillance Services or Equipment

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 and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 and OMB regulations, OFPP, DoD, GSA, and NASA invite the public to comment on an extension concerning the prohibition on contracting with entities using certain telecommunications and video surveillance services. OFPP, DoD, GSA, and NASA invite comments on: whether the proposed collection of information is necessary for the proper performance of the functions of Federal Government acquisitions, including whether the information will have practical utility; the accuracy of the estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including the use of automated collection techniques or other forms of information technology. OMB has approved this information collection for use through December 31, 2026. OFPP, DoD, GSA, and NASA propose that OMB extend its approval for use for three additional years beyond the current expiration date.

DATES: OFPP, DoD, GSA, and NASA will consider all comments received by July 13, 2026.

ADDRESSES: OFPP, DoD, GSA, and NASA invite interested persons to submit comments on this collection through <https://www.regulations.gov> and follow the instructions on the site. This website provides the ability to type

short comments directly into the comment field or attach a file for lengthier comments. If there are difficulties submitting comments, contact the GSA Regulatory Secretariat Division at 202-501-4755 or GSARegSec@gsa.gov.

Instructions: All items submitted must cite OMB Control No. 9000-0199, Prohibition on Contracting with Entities Using Certain Telecommunications and Video Surveillance Services or Equipment. Comments received generally will be posted without change to <https://www.regulations.gov>, including any personal and/or business confidential information provided. To confirm receipt of your comment(s), please check www.regulations.gov, approximately two-to-three days after submission to verify posting.

FOR FURTHER INFORMATION CONTACT: FARPolicy@gsa.gov or call 202-969-4075.

SUPPLEMENTARY INFORMATION:

A. OMB Control Number, Title, and Any Associated Form(s)

9000-0199, Prohibition on Contracting with Entities Using Certain Telecommunications and Video Surveillance Services or Equipment.

B. Need and Uses

This clearance covers the information that offerors and contractors must submit to comply with the following Federal Acquisition Regulation (FAR) requirements listed in the order in which offerors and contractors provide the information:

- *FAR 52.204-26, Covered Telecommunications Equipment or Services—Representation.* This provision requires offerors to:
 - Review the list of excluded parties in SAM for entities excluded from receiving Federal awards for “covered telecommunications equipment or services”.
 - Represent whether it does or does not *provide* covered telecommunications equipment or services as a part of its offered products or services to the Government in the performance of any contract, subcontract, or other contractual instrument.
 - Represents whether it does, or does not *use* covered telecommunications equipment or services, or any equipment, system, or service that uses covered telecommunications equipment or services.

• *FAR 52.204-24, Representation Regarding Certain Telecommunications and Video Surveillance Services or Equipment.* This provision requires

offerors to respond only if the offeror represented that it “does *provide* or *use* covered telecommunications equipment or services as a part of its offered products or services to the Government in the performance of any contract, subcontract, or other contractual instrument” in paragraphs (c)(1) or (c)(2) of the FAR provision at 52.204–26, or in paragraphs (v)(2)(i) or (ii) of the provision at 52.212–3.

If the offeror is required to respond to this provision, offerors are required to:

- Review the list of excluded parties in SAM for entities excluded from receiving Federal awards for “covered telecommunications equipment or services,”
- Represent whether it “will” or “will not” *provide* the covered telecommunications equipment or services to the Government in the performance of any contract, subcontract or other contractual instrument resulting from the solicitation.
 - If the offeror responded that it “will” in the representation in paragraph (d)(1) of this provision, the offeror must provide the following additional disclosure information found at 52.204–24(e)(1) as part of its offer:
 - For covered equipment—
 - The entity that produced the covered telecommunications equipment (including entity name, unique entity identifier, CAGE code, and whether the entity was the OEM or a distributor, if known);
 - A description of all covered telecommunications equipment offered (including brand; model number, such as OEM number, manufacturer part number, or wholesaler number; and item description, as applicable); and
 - An explanation of the proposed use of covered telecommunications equipment and any factors relevant to determining if such use would be permissible under the prohibition in paragraph (b)(1) of the provision at 52.204–24.
 - For covered services—
 - If the service is related to item maintenance: A description of all covered telecommunications services offered (include on the item being maintained: Brand; model number, such as OEM number, manufacturer part number, or wholesaler number; and item description, as applicable); or
 - If not associated with maintenance, the Product Service Code (PSC) of the service being provided; and an explanation of the proposed use of covered telecommunications services and any factors relevant to determining

if such use would be permissible under the prohibition in paragraph (b)(1) of the provision at 52.204–24.

- Represent whether it “does” or “does not” *use* covered telecommunications equipment or services, or use any equipment, system, or service that uses covered telecommunications equipment or services.
 - If the offeror has responded “does” in the representation in paragraph (d)(2) of this provision, the offeror must provide the following additional disclosure information found at 52.204–24(e)(2):
 - For covered equipment—
 - The entity that produced the covered telecommunications equipment (including entity name, unique entity identifier, CAGE code, and whether the entity was the OEM or a distributor, if known);
 - A description of all covered telecommunications equipment offered (including brand; model number, such as OEM number, manufacturer part number, or wholesaler number; and item description, as applicable); and
 - An explanation of the proposed use of covered telecommunications equipment and any factors relevant to determining if such use would be permissible under the prohibition in paragraph (b)(2) of the provision at 52.204–24.
 - For covered services—
 - If the service is related to item maintenance: A description of all covered telecommunications services offered (include on the item being maintained: Brand; model number, such as OEM number, manufacturer part number, or wholesaler number; and item description, as applicable); or
 - If not associated with maintenance, the PSC of the service being provided; and an explanation of the proposed use of covered telecommunications services and any factors relevant to determining if such use would be permissible under the prohibition in paragraph (b)(2) of the provision at 52.204–24.
- **FAR 52.204–25, Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment.** In the event a contractor identifies covered telecommunications equipment or services used as a substantial or essential component of any system, or as critical technology as part of any system, during contract performance, or a contractor is notified of such by a subcontractor at any tier or by any other source, this clause requires contractors to:
- Report the information in paragraph 52.204–25(d)(2) to the

contracting officer, unless the contract has established other procedures for reporting the information; in the case of DoD, the contractor shall report to the website at <https://dibnet.dod.mil>.

- For indefinite delivery contracts, the contractor shall report to the contracting officer for the indefinite delivery contract and the contracting officer(s) for any affected order or, in the case of DoD, identify both the indefinite delivery contract and any affected orders in the report provided at <https://dibnet.dod.mil>.

- Report the following within one business day from the date of such identification or notification:

- The contract number;
 - The order number(s), if applicable;
 - Supplier name;
 - Supplier unique entity identifier (if known);
 - Supplier CAGE code (if known);
 - Brand;
 - Model number (original equipment manufacturer number, manufacturer part number, or wholesaler number);
 - Item description;
 - And any readily available information about mitigation actions undertaken or recommended.
- Report the following within 10 business days of submitting the information in paragraph(d)(2)(i) of this clause:
 - Any further available information about mitigation actions undertaken or recommended.
 - Describe efforts undertaken to prevent use or submission of covered telecommunications equipment or services, and any additional efforts that will be incorporated to prevent future use or submission of covered telecommunications equipment or services.

The information collected is used by contracting officers to identify if an offeror *provides* or *uses* any covered telecommunications equipment or services as a part of its offered products or services to the Government in the performance of any contract, subcontract, or other contractual instrument. In the event that offerors are required to disclose further information, the contracting officer uses the collected information to ensure compliance with the FAR as implemented by statute and consult with legal counsel and the program office on next steps regarding the prohibited equipment or services.

C. Annual Burden

Respondents: 987,978.

Total Annual Responses: 990,206.

Total Burden Hours: 1,844,850.

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. 9000-0199, Prohibition on Contracting with Entities Using Certain Telecommunications and Video Surveillance Services or Equipment.

Janet Fry,

*Director, Federal Acquisition Policy Division,
Office of Governmentwide Acquisition Policy,
Office of Acquisition Policy, Office of
Governmentwide Policy.*

[FR Doc. 2026-09526 Filed 5-12-26; 8:45 am]

BILLING CODE 6820-EP-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. 9000-0138; Docket No. 2026-0100; Sequence No. 1]

Information Collection; Contract Financing

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 and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 and OMB regulations, OFPP, DoD, GSA, and NASA invite the public to comment on an extension concerning contract financing. OFPP, DoD, GSA, and NASA invite comments on: whether the proposed collection of information is necessary for the proper performance of the functions of Federal Government acquisitions, including whether the information will have practical utility; the accuracy of the estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including the use of automated collection techniques or other forms of information technology. OMB has approved this information collection for use through October 31, 2026. OFPP, DoD, GSA, and NASA

propose that OMB extend its approval for use for three additional years beyond the current expiration date.

DATES: OFPP, DoD, GSA, and NASA will consider all comments received by July 13, 2026.

ADDRESSES: OFPP, DoD, GSA, and NASA invite interested persons to submit comments on this collection through <https://www.regulations.gov> and follow the instructions on the site. This website provides the ability to type short comments directly into the comment field or attach a file for lengthier comments. If there are difficulties submitting comments, contact the GSA Regulatory Secretariat Division at 202-501-4755 or GSARegSec@gsa.gov.

Instructions: All items submitted must cite OMB Control No. 9000-0138, Contract Financing. Comments received generally will be posted without change to <https://www.regulations.gov>, including any personal and/or business confidential information provided. To confirm receipt of your comment(s), please check www.regulations.gov, approximately two-to-three days after submission to verify posting.

FOR FURTHER INFORMATION CONTACT: FARPolicy@gsa.gov or call 202-969-4075.

SUPPLEMENTARY INFORMATION:

A. OMB Control Number, Title, and Any Associated Form(s)

9000-0138, Contract Financing.

B. Need and Uses

This clearance covers the information that offerors and contractors must submit to comply with the following Federal Acquisition Regulation (FAR) requirements:

- FAR 52.232-28, Invitation to Propose Performance-Based Payments.

This provision requires an offeror, when invited to propose terms under which the Government will make performance-based contract financing payments during contract performance, to include the following: the proposed contractual language describing the performance-based payments; information addressing the contractor's investment in the contract and a listing of—

(i) The projected performance-based payment dates and the projected payment amounts; and

(ii) The projected delivery date and the projected payment amount.

- FAR 52.232-29, Terms for Financing of Purchases of Commercial Products and Commercial Services.

- FAR 52.232-30, Installment Payments for Commercial Products and Commercial Services.

These clauses require contractors, under commercial purchases pursuant to FAR part 12, to include with their payment requests an appropriately itemized statement of the financing payments requested and other supporting information, prepared in concert with the contracting officer.

- FAR 52.232-31, Invitation to Propose Financing Terms.

This provision requires an offeror, when invited to propose terms under which the Government will make contract financing payments during contract performance under commercial purchases pursuant to FAR part 12, to include the following: the proposed contractual language describing the contract financing; and a listing of the earliest date and greatest amount at which each contract financing payment may be payable and the amount of each delivery payment.

- FAR 52.232-32, Performance-Based Payments.

This clause requires the contractor's request for performance-based payment to include any information and documentation as required by the contract's description of the basis for payment; and a certification by a contractor official authorized to bind the contractor.

The contracting officer uses the collected information to review and approve contract financing requests, and establish and administer contract financing terms.

C. Common Form

The General Services Administration is the sponsor agency of this common form. All executive agencies covered by the FAR will use this common form. Each executive agency will report their agency burden separately, and the reported information will be available at [Reginfo.gov](https://www.reginfo.gov).

D. Annual Burden

General Services Administration

Respondents: 47.

Total Annual Responses: 340.

Total Burden Hours: 680.

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. 9000–0138, Contract Financing.

Janet Fry,

*Director, Federal Acquisition Policy Division,
Office of Governmentwide Acquisition Policy,
Office of Acquisition Policy, Office of
Governmentwide Policy.*

[FR Doc. 2026–09525 Filed 5–12–26; 8:45 am]

BILLING CODE 6820–EP–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. 9000–0011; Docket No. 2026–0101; Sequence No. 1]

Information Collection; Preaward Survey Forms (Standard Forms 1403, 1404, 1405, 1406, 1407, and 1408)

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 and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 and OMB regulations, OFPP, DoD, GSA, and NASA invite the public to comment on an extension concerning preaward survey forms. OFPP, DoD, GSA, and NASA invite comments on: whether the proposed collection of information is necessary for the proper performance of the functions of Federal Government acquisitions, including whether the information will have practical utility; the accuracy of the estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including the use of automated collection techniques or other forms of information technology. OMB has approved this information collection for use through October 31, 2026. OFPP, DoD, GSA, and NASA

propose that OMB extend its approval for use for three additional years beyond the current expiration date.

DATES: OFPP, DoD, GSA, and NASA will consider all comments received by July 13, 2026.

ADDRESSES: OFPP, DoD, GSA, and NASA invite interested persons to submit comments on this collection through <https://www.regulations.gov> and follow the instructions on the site. This website provides the ability to type short comments directly into the comment field or attach a file for lengthier comments. If there are difficulties submitting comments, contact the GSA Regulatory Secretariat Division at 202–501–4755 or GSARegSec@gsa.gov.

Instructions: All items submitted must cite OMB Control No. 9000–0011, Preaward Survey Forms (Standard Forms 1403, 1404, 1405, 1406, 1407, and 1408). Comments received generally will be posted without change to <https://www.regulations.gov>, including any personal and/or business confidential information provided. To confirm receipt of your comment(s), please check www.regulations.gov, approximately two-to-three days after submission to verify posting.

FOR FURTHER INFORMATION CONTACT: FARPolicy@gsa.gov or call 202–969–4075.

SUPPLEMENTARY INFORMATION:

A. OMB Control Number, Title, and Any Associated Form(s)

9000–0011, Preaward Survey Forms (Standard Forms 1403, 1404, 1405, 1406, 1407, and 1408).

B. Need and Uses

Contracting officers, prior to award, must make an affirmative determination that the prospective contractor is responsible, *i.e.*, capable of performing the contract. Before making such a determination, the contracting officer must have or obtain sufficient information to establish that the prospective contractor: has adequate financial resources; or the ability to obtain such resources; is able to comply with required delivery schedule; has a satisfactory record of performance; has a satisfactory record of integrity; and is otherwise qualified and eligible to receive an award under appropriate laws and regulations. If such information is not readily available to the contracting officer, it is obtained

through a preaward survey conducted by the contract administration office or another organization designated by the agency to conduct the surveys. The necessary data is collected from available data or through plant visits, phone calls, and correspondence in detail commensurate with the dollar value and complexity of the procurement. This clearance covers the information that prospective contractors must provide to ensure proper completion of the following preaward survey forms prescribed by the Federal Acquisition Regulation (FAR):

- Standard Form 1403 Preaward Survey of Prospective Contractor (General)
- Standard Form 1404 Preaward Survey of Prospective Contractor (Technical)
- Standard Form 1405 Preaward Survey of Prospective Contractor (Production)
- Standard Form 1406 Preaward Survey of Prospective Contractor (Quality Assurance)
- Standard Form 1407 Preaward Survey of Prospective Contractor (Financial Capability)
- Standard Form 1408 Preaward Survey of Prospective Contractor (Accounting System)

C. Common Form

The General Services Administration is the sponsor agency of this common form. All executive agencies covered by the FAR will use this common form. Each executive agency will report their agency burden separately, and the reported information will be available at [Reginfo.gov](https://www.reginfo.gov).

D. Annual Burden

General Services Administration

Respondents: 239.

Total Annual Responses: 239.

Total Burden Hours: 5,736.

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. 9000–0011, Preaward Survey Forms (Standard Forms 1403, 1404, 1405, 1406, 1407, and 1408).

Janet Fry,

*Director, Federal Acquisition Policy Division,
Office of Governmentwide Acquisition Policy,
Office of Acquisition Policy, Office of
Governmentwide Policy.*

[FR Doc. 2026–09527 Filed 5–12–26; 8:45 am]

BILLING CODE 6820–EP–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. 9000–0135; Docket No. 2026–0102; Sequence No. 1]

Information Collection; Prospective Subcontractor Requests for Bonds

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 and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 and OMB regulations, OFPP, DoD, GSA, and NASA invite the public to comment on an extension concerning prospective subcontractor requests for bonds. OFPP, DoD, GSA, and NASA invite comments on: whether the proposed collection of information is necessary for the proper performance of the functions of Federal Government acquisitions, including whether the information will have practical utility; the accuracy of the estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including the use of automated collection techniques or other forms of information technology. OMB has approved this information collection for use through October 31, 2026. OFPP, DoD, GSA, and NASA propose that OMB extend its approval for use for three additional years beyond the current expiration date.

DATES: OFPP, DoD, GSA, and NASA will consider all comments received by July 13, 2026

ADDRESSES: OFPP, DoD, GSA, and NASA invite interested persons to submit comments on this collection through <https://www.regulations.gov> and follow the instructions on the site. This website provides the ability to type short comments directly into the comment field or attach a file for lengthier comments. If there are

difficulties submitting comments, contact the GSA Regulatory Secretariat Division at 202–501–4755 or GSARegSec@gsa.gov.

Instructions: All items submitted must cite OMB Control No. 9000–0135, Prospective Subcontractor Requests for Bonds. Comments received generally will be posted without change to <https://www.regulations.gov>, including any personal and/or business confidential information provided. To confirm receipt of your comment(s), please check www.regulations.gov, approximately two-to-three days after submission to verify posting.

FOR FURTHER INFORMATION CONTACT: FARPolicy@gsa.gov or call 202–969–4075.

SUPPLEMENTARY INFORMATION:**A. OMB Control Number, Title, and Any Associated Form(s)**

9000–0135, Prospective Subcontractor Requests for Bonds.

B. Need and Uses

Part 28 of the Federal Acquisition Regulation (FAR) contains guidance related to obtaining financial protection against losses under Federal contracts (e.g., bonds, bid guarantees, etc.). Part 52 contains the corresponding provisions and clauses. These collectively implement the statutory requirement for Federal contractors to furnish payment bonds under construction contracts subject to 40 U.S.C. chapter 31, subchapter III, Bonds.

This information collection is mandated by section 806(a)(3) of Public Law 102–190, as amended by sections 2091 and 8105 of the Federal Acquisition Streamlining Act of 1994 (10 U.S.C. 4601 note prec.) (Pub. L. 103–335). Accordingly, the FAR clause at 52.228–12, Prospective Subcontractor Requests for Bonds, requires prime contractors to promptly provide a copy of a payment bond, upon the request of a prospective subcontractor or supplier offering to furnish labor or material under a construction contract for which a payment bond has been furnished pursuant to 40 U.S.C. chapter 31.

C. Common Form

The General Services Administration is the sponsor agency of this common form. All executive agencies covered by the FAR will use this common form. Each executive agency will report their agency burden separately, and the reported information will be available at [Reginfo.gov](https://www.reginfo.gov).

D. Annual Burden*General Services Administration*

Respondents: 279.

Total Annual Responses: 698.

Total Burden Hours: 238.

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. 9000–0135, Prospective Subcontractor Requests for Bonds.

Janet Fry,

Director, Federal Acquisition Policy Division, Office of Governmentwide Acquisition Policy, Office of Acquisition Policy, Office of Governmentwide Policy.

[FR Doc. 2026–09523 Filed 5–12–26; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES**Centers for Medicare & Medicaid Services**

[CMS–9169–N]

Healthcare Advisory Committee (HAC); Announcement of the HAC Meeting—May 18, 2026

AGENCY: Centers for Medicare & Medicaid Services (CMS), Department of Health and Human Services (HHS).

ACTION: Notice of meeting.

SUMMARY: This meeting notice announces the first public meeting of the Healthcare Advisory Committee (HAC or Committee). The purpose of the Committee is to advise the Secretary of HHS and the CMS Administrator on programs and policies that can improve the United States (U.S.) healthcare system consistent with the Executive Order Establishing the President's Make American Healthy Again Commission. This virtual meeting is open to the public.

DATES:

Virtual meeting date: Monday, May 18, 2026, from 2:00 p.m. to 4:30 p.m. Eastern Daylight Time (EDT). The meeting time listed in this notice is approximate. Consequently, the meeting may be longer or shorter than the times listed in this notice but will not begin before the posted time.

Deadline for comments: Comment letters must be received by 5:00 p.m. EDT on Wednesday, May 13, 2026. Comment letters must be submitted via email as specified in the **ADDRESSES** section of this notice.

Deadline for request for special accommodations: Requests for special

accommodations must be received by 5:00 p.m. EDT on Wednesday, May 13, 2026.

ADDRESSES:

Virtual meeting location and webinar: The meeting will be held virtually via Zoom only and participants do not have to register. Closed captioning will be available on the webinar. Webinar information will appear on the final meeting agenda, which will be posted on the Committee website when available at <https://www.cms.gov/priorities/healthcare-advisory-committee/overview>.

Virtual meeting registration: There is no meeting registration required for participants who plan to view the Committee meeting via Zoom webinar or who may wish to make a public comment during the meeting.

Requests for special accommodations: Requests for special accommodations should be emailed to HAC@cms.hhs.gov.

FOR FURTHER INFORMATION CONTACT: For questions regarding the HAC meeting, please send an email to HAC@cms.hhs.gov.

SUPPLEMENTARY INFORMATION:**I. Background**

On February 13, 2025, President Trump issued the Executive Order Establishing the President's Make America Healthy Again Commission.¹ The Healthcare Advisory Committee (HAC or Committee) is authorized under 42 U.S.C. 217a, section 222 of the Public Health Service Act, as amended. The Committee is governed by the Federal Advisory Committee Act (FACA) (Pub. L. 92-463), as amended (5 U.S.C. chapter 10) and its implementing regulations (41 CFR 102-3 *et seq.*). On August 19, 2025, the charter establishing the HAC was signed by the Secretary of the U.S. Department of Health and Human Services (HHS). On August 22, 2025, HHS announced the request for nominations of members to serve on the HAC. After HHS published the August 2025 **Federal Register** notice (90 FR 41089) requesting nominations, and closing submissions on September 22, 2025, HHS began to review all nominations for selection.

Additional information on the Committee can be found in the August 2025 **Federal Register** notice at <https://www.federalregister.gov/documents/>

[2025/08/22/2025-16136/request-for-nominations-of-members-to-serve-on-the-healthcare-advisory-committee](https://www.federalregister.gov/documents/2025/08/22/2025-16136/request-for-nominations-of-members-to-serve-on-the-healthcare-advisory-committee) and on the Committee website at <https://www.cms.gov/priorities/healthcare-advisory-committee/overview>.

On March 16, 2026, the HAC charter was amended and approved by the Secretary of HHS, increasing the number of members to the Committee. Information on accessing the amended charter is provided in section VI of this notice.

II. Agenda

This meeting will be the first meeting of the HAC. Items and topics to be discussed include public introduction of Committee members, Committee vision, and establishment of Committee bylaws. A detailed final agenda will be available approximately 1 week prior to the meeting date on the Committee's website at <https://www.cms.gov/priorities/healthcare-advisory-committee/overview>.

III. Meeting Participation

The meeting will be held virtually via Zoom only. Closed captioning will be available on the webinar. Webinar information will appear on the final meeting agenda, which will be posted on our website when available at <https://www.cms.gov/priorities/healthcare-advisory-committee/overview>.

IV. Registration Instructions

There is no meeting registration required for participants who plan to view the Committee meeting via Zoom webinar or who may wish to make a public comment during the meeting.

V. Special Accommodations

Individuals attending, viewing, or listening to the meeting who are hearing or visually impaired and have special requirements, or a condition that requires special assistance, should send an email as specified in the **ADDRESSES** section of this notice by the deadline specified in the **DATES** section of this notice.

VI. Copies of the Charter

The Secretary's charter for the HAC is available on the CMS website at <https://www.cms.gov/priorities/healthcare-advisory-committee/overview>.

The Administrator of the Centers for Medicare & Medicaid Services (CMS), Mehmet Oz, having reviewed and approved this document, authorizes Evell Barco Holland, who is the Federal Register Liaison, to electronically sign

this document for purposes of publication in the **Federal Register**.

Evell Barco Holland,

Federal Register Liaison, Centers for Medicare & Medicaid Services.

[FR Doc. 2026-09444 Filed 5-8-26; 4:15 pm]

BILLING CODE 4120-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES**Administration for Children and Families**

[Office of Management and Budget #: 0970-0426]

Proposed Information Collection Activity; Child and Family Services Plan, Annual Progress and Services Report, and Annual Budget Expenses Request and Estimated Expenditures (Child and Family Services-101)

AGENCY: Children's Bureau, Administration for Children and Families, Department of Health and Human Services.

ACTION: Request for public comments.

SUMMARY: The Children's Bureau (CB), Administration for Children and Families (ACF) is requesting a 3-year extension of the collection of information under the Child and Family Services Plan (CFSP), the Annual Progress and Services Report (APSR), and the Annual Budget Expenses Request and Estimated Expenditures (CFS-101) collection (Office of Management and Budget #: 0970-0426, expiration July 31, 2026). There are minor changes to the CFS-101 form and changes to the way the information is collected in narrative form to reduce burden and duplicative reporting.

DATES: Comments due July 13, 2026.

ADDRESSES: In compliance with the requirements of the Paperwork Reduction Act (PRA) 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: Currently under title IV-B, subparts 1 and 2 of the Social Security Act (the Act), states, territories, and tribes are required to submit a CFSP. The CFSP lays the groundwork for a system of coordinated and integrated family services for the subsequent 5 years (45 CFR 1357.15(a)(1)). The CFSP outlines

¹ Trump, D.J. (2025, February 13). *Establishing the President's Make America Healthy Again Commission* (Exec. Order No. 14212). The White House. Available at: <https://www.whitehouse.gov/presidential-actions/2025/02/establishing-the-presidents-make-america-healthy-again-commission/>.

activities the state, tribe, or territory will carry out in administering programs and services to promote the safety, permanency, and well-being of children and families, including, as applicable, those activities conducted under the John H. Chafee Foster Care Program for Successful Transition to Adulthood (section 477 of the Act) and the state grant authorized by the Child Abuse Prevention and Treatment Act. By June 30 of each year, states, territories, and tribes are also required to submit an APSR and a financial report called the CFS-101. The APSR is a yearly report that discusses progress made by a state, territory, or tribe in accomplishing the goals and objectives cited in its CFSP (45 CFR 1357.16(a)). The APSR contains updated information about service needs and organizational capacities throughout the 5-year plan period and includes information on the use of other grant programs where annual reporting is required. The CFS-101 has three

parts. Part I is an annual budget request for the upcoming fiscal year (FY). Part II includes a summary of planned expenditures by program area for the upcoming FY, the estimated number of individuals or families to be served, and the geographical service area. Part III includes actual expenditures by program area, numbers of families and individuals served by program area, and the geographic areas served for the last complete FY.

The Supporting America's Children and Families Act, Public Law 118-258, was signed into law on January 4, 2025. This law reauthorizes and amends title IV-B programs. New requirements under title IV-B, subpart 3 require that CB reduce administrative burden on the title IV-B program to eliminate duplication and streamline reporting requirements to reduce the number of hours required for compliance by at least 15 percent in coordination with activities required under PRA. CB has already begun these activities to gather

input and to streamline reporting and reduce burden.

Respondents: Currently, states, territories, and tribes must complete the CFSP, APSR, and CFS-101. There are approximately 180 tribal entities that currently receive IV-B funding. There are 53 states (including the Commonwealth of Puerto Rico, the District of Columbia, and the Virgin Islands) that must complete the CFSP, APSR, and CFS-101.

Annual Burden Estimates

Burden estimates have been adjusted to reflect the updates to the APSR and the CFSP and the elimination of the caseworker visit data. The average burden per response for the APSR has been reduced from 82 hours to 50 hours and for the CFSP it has been reduced from 123 hours to 90 hours. Overall, this is a 48 percent reduction in burden associated with this information collection.

Instrument	Total number of respondents	Total number of responses per respondent	Average burden hours per response	Total burden hours	Annual burden hours
APSR	233	3	50	34,950	11,650
CFSP	47	1	90	4,230	1,410
CFS-101, Part I, Part II, and III	233	3	5	3,495	1,165
Estimated Total Annual Burden Hours					14,225

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 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: Title IV-B, subparts 1, 2, and 3 of the Social Security Act (the Act), and title IV-E, section 477 of the Act; sections 106 and 108 of CAPTA (42 U.S.C. 5106a. and 5106d.); and Supporting America's Children and

Families Act, Pub. L. 118-258, signed into law on January 4, 2025.

Mary C. Jones,
ACF/OPRE Certifying Officer.
[FR Doc. 2026-09512 Filed 5-12-26; 8:45 am]
BILLING CODE 4184-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA-2026-N-2526]

Butylated Hydroxytoluene (BHT); Request for Information

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; request for information.

SUMMARY: The Food and Drug Administration (FDA or we) is requesting information on the current uses and safety data for butylated hydroxytoluene (BHT) in human food and as a food contact substance. We are requesting this information as part of our systematic process for conducting post-market assessments of chemicals in

food. We are conducting a post-market assessment of the safety of BHT in food, considering the latest state of the science. We intend to use the information received and any other available, relevant information to determine if BHT remains safe under its current conditions of use in food and as a food contact substance.

DATES: Either electronic or written comments and scientific data and information on the notice must be submitted by July 13, 2026.

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 July 13, 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 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-2026-N-2526] for "Butylated hydroxytoluene (BHT); Request for Information." Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as "Confidential Submissions," publicly viewable at <https://www.regulations.gov> or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240-402-7500.

• **Confidential Submissions—**To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states "THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION." 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.

FOR FURTHER INFORMATION CONTACT: John Steele, Office of Food Chemical Safety, Dietary Supplements, and Innovation, Human Foods Program, Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740, 301-796-1976, or Lauren Kleinman, Office of Policy and International Engagement, Human Foods Program, Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740, 240-402-2378.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is requesting information on the current uses and safety data for butylated hydroxytoluene (BHT) in human food and as a food contact substance as part of a post-market assessment. As described below, BHT (CAS No. 128-37-0) is used as an antioxidant in food to prevent the spoilage of fats and oils and as an antioxidant in food contact materials. Antioxidants are substances used to preserve food by retarding deterioration, rancidity, or discoloration due to oxidation (21 CFR 170.3(o)(3)).

All uses of BHT in food or as a food contact substance must be authorized for that use through a food additive regulation or an effective food contact notification, or be excluded from

regulation as a food additive, for example, because such use is generally recognized as safe (GRAS) or is prior sanctioned (see Sections 201(s) and 409 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(s) and 348)). As described below, BHT is authorized for use in food and as a food contact substance in the U.S. through multiple regulatory pathways.

FDA lists BHT as GRAS for use as an antioxidant in food generally, with the limitation that the total antioxidant content cannot exceed 0.02% of the total fat or oil content of the food (21 CFR 182.3173) (these uses also appear to be the subject of uncodified prior sanctions (see Ref. 1)). FDA also lists this antioxidant use of BHT as GRAS in food for animals (21 CFR 582.3173); however, the focus of our post-market assessment of BHT is on its safety for use in human food. BHT has a prior-sanctioned use as an antioxidant when migrating from food packaging material with a limit of addition to food of 0.005% (21 CFR 181.24). We are not aware of any other GRAS conclusions or prior sanctions for the use of BHT in food or as a food contact substance.

BHT is authorized as a direct food additive when used as an antioxidant, alone or in combination with butylated hydroxyanisole (BHA), in certain foods with specified limitations (21 CFR 172.115). BHT is also permitted as a direct food additive in chewing gum base when used as an antioxidant, alone or in combination with BHA or propyl gallate, such that the total antioxidant content does not exceed 0.1% of the gum base (21 CFR 172.615(a)) (we have also issued a Request for Information as part of our post-market assessment of the safety of BHA in food (see 91 FR 6227, Feb. 11, 2026)).

BHT is authorized as an indirect or secondary direct food additive or a constituent of food additives for use as an antioxidant in food contact materials, including in defoaming agents for processing beet sugar and yeast, such that the total antioxidant content does not exceed 0.1% by weight of defoamer (21 CFR 173.340(a)(3)); adhesives (21 CFR 175.105(c)(5)); pressure sensitive adhesives in labels and/or tapes applied to poultry, dry food, and processed, frozen, dried, partially dehydrated fruits or vegetables, or raw fruits or vegetables (21 CFR 175.125)(a)(4),(b)(2)); resinous and polymeric coatings (21 CFR 175.300(b)(3)(xxx), 175.380(a), 175.390(b)(2)); components of paper and paperboard in contact with aqueous and fatty foods (21 CFR 176.170(a)(4)); defoaming agents used in the manufacture of paper and paperboard (21 CFR 176.210(d)(3)); semirigid and

rigid acrylic and modified acrylic plastics (21 CFR 177.1010(a)(5)); closures with sealing gaskets for food containers (21 CFR 177.1210(b)); ethylene-vinyl acetate copolymers (21 CFR 177.1350(a)(1)(iii)); resin-bonded filters (21 CFR 177.2260(d)(2)); rubber articles intended for repeated use (21 CFR 177.2600(c)(4)(iii)); polymers used in the manufacture of articles or components of articles intended for use in producing, manufacturing, packing, processing, preparing, treating, packaging, transporting, or holding food, such that it does not exceed 5% by weight of stabilizer formulation (21 CFR 178.2010(b)); defoaming agents used as optional adjuvants in the production of animal glue (21 CFR 178.3120(d)(3)); machinery lubricants with incidental food contact (21 CFR 178.3570(a)(3)); polyethylene film, such that it does not exceed 1% by weight of polyethylene polymer and such that the film is not subjected to a dose of radiation exceeding 60 kilograys by gamma, electron beam, or X-radiation (21 CFR 179.45(d)(2)(i)).

We also note that BHT is listed as an optional ingredient in enriched parboiled rice (21 CFR 137.350(a)(4)). BHT is also listed for use in the United States Department of Agriculture (USDA)'s specifications for butteroil (7 CFR 58.305(b)), and USDA's and FDA's standards of identity for margarine (9 CFR 319.700(b)(6), 21 CFR 166.110(b)(5)). These uses are within the scope of the GRAS regulation at 21 CFR 182.3173 or uncodified prior sanctions (Ref. 1).

As part of our systematic review of select chemicals in food, FDA is beginning a post-market assessment of the safety of BHT as used in food and as a food contact substance (see <https://www.fda.gov/food/food-chemical-safety/list-select-chemicals-food-supply-under-fda-review>). This assessment supports the Make America Healthy Again Commission's recommendation to implement an evidence-based systematic process for post-market assessment of chemicals in food (see <https://www.whitehouse.gov/wp-content/uploads/2025/09/The-MAHA-Strategy-WH.pdf>). The objective of our assessment is to determine if BHT is safe under its conditions of use in food or as a food contact substance considering the most recent science. While FDA previously concluded the authorized uses to be safe, new information may require reconsideration of the regulatory status or the safe uses of a substance in or on food.

II. Request for Information

FDA is requesting information on uses, use levels, dietary exposure, and safety data on BHT currently used in food and as a food contact substance. Information from food manufacturers on uses and levels is crucial for food chemical assessments. We encourage food manufacturers to participate in this data call, with options for aggregated submissions through trade groups or other collaborations. We do not need information about individual products and their recipes, but rather data about the levels of use in general product categories. Voluntary submission of data and information on current uses and use levels will help to refine our dietary exposure assessments. We use maximizing assumptions to estimate dietary exposure (see, e.g., "Guidance for Industry: Estimating Dietary Intake of Substances in Food," available at <https://www.fda.gov/regulatory-information/search-fda-guidance-documents/guidance-industry-estimating-dietary-intake-substances-food>). Without refinements assisted by manufacturer-use information, this may lead to overestimation of dietary exposure that could impact authorizations for the chemical's use in food or as a food contact substance.

Specifically, FDA requests the following:

1. General food categories in which BHT is used (for example, cookies, soft drinks, other categories listed in 21 CFR 170.3(n)), USDA's What We Eat in America survey (Ref. 2), the Codex General Standard for Food Additives (Ref. 3);
2. Typical and maximum use levels of BHT in each applicable general food category;
3. Information on the current food contact uses of BHT, including data on migration of BHT from food contact materials into food;
4. Subpopulations with high BHT dietary exposure or particular safety concerns relevant to food and food contact uses of BHT;
5. Other dietary sources of BHT, such as dietary supplements, natural occurrence in common foods, residues in animal products, or as a contaminant in food or drinking water;
6. Market share of foods in each applicable general food category and food contact materials that are formulated with BHT;
7. Biomonitoring data for BHT or its metabolites;
8. Updated market disappearance or poundage data for BHT;
9. Information on potential chemically or pharmacologically related substances used in food or as food contact substances;
10. Safety data relevant to use of BHT in food or as a food contact substance, especially unpublished data;
11. Documentation of GRAS conclusions or prior sanctions for uses of BHT in food or as a food contact substance that are different from those described above;

12. Information that may support the conclusion that BHT is no longer used for one or more of its authorized intended uses in food or as a food contact substance.

III. References

The following references 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 are also available electronically at <https://www.regulations.gov>. Although FDA verified the website addresses in this document, please note that websites are subject to change over time.

1. Citizen Petition from Roger D. Middlekauff, dated December 23, 1986, available at [regulations.gov](https://www.regulations.gov) in Docket No. FDA-2026-N-2526.
2. What We Eat in America Food Categories, available at <https://www.ars.usda.gov/northeast-area/beltsville-md-bhnrc/beltsville-human-nutrition-research-center/food-surveys-research-group/docs/dmr-food-categories/>.
3. Codex General Standard for Food Additives, available at <https://www.fao.org/gsfaonline/foods/index.html>.

Grace R. Graham,

Deputy Commissioner for Policy, Legislation, and International Affairs.

[FR Doc. 2026-09507 Filed 5-12-26; 8:45 am]

BILLING CODE 4164-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA-2026-N-0005]

Biomarker Incubator: Urinary Kidney Safety Biomarkers; Request for Information

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; request for information.

SUMMARY: The Center for Drug Evaluation and Research (CDER) of the Food and Drug Administration (FDA or Agency) is announcing a request for information regarding a regulatory science initiative. The aims of the initiative are to advance biomarker validation through the compilation of data from multiple sources and through a specific pilot project focused on aggregating data for biomarkers of drug-induced kidney injury. The purpose of this notice is to inform the public of the aims of this initiative, to encourage human data submission and sharing, and to identify opportunities to enhance interactions between relevant stakeholders and FDA. The Agency

intends to use the information submitted to inform future activities related to data sharing, biomarker development, and broader translation of biomarkers of drug-induced kidney injury.

DATES: Either electronic or written comments on the notice must be submitted by July 13, 2026.

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 July 13, 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 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-2026-N-0005 for "Biomarker Incubator: Urinary Kidney Safety Biomarkers; Request for Information." Received comments filed in a timely manner (see **ADDRESSES**) will be placed in the docket and, except for those submitted as "Confidential Submissions," will be 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.

FOR FURTHER INFORMATION CONTACT: Yvonne Knight, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 2142, Silver Spring, MD 20993, 301-796-2133, Yvonne.Knight@fda.hhs.gov, with

the subject line "Kidney Biomarker for CDER."

SUPPLEMENTARY INFORMATION:

I. Background

CDER in partnership with the Quantitative Medicine Center of Excellence is undertaking a regulatory science initiative to aggregate biomarker data from multiple sources (e.g., clinical trials from multiple drug development programs) for the purpose of validating biomarkers for use in drug development. This notice seeks to: (1) inform the public of this initiative, herein referred to as the "Biomarker Incubator"; (2) request voluntary submission of human data to support the goals of the pilot phase of the Biomarker Incubator initiative; and (3) obtain input on the scope and direction of the Biomarker Incubator initiative.

The 21st Century Cures Act established a formal pathway for biomarker qualification, codified under section 507 of the Federal Food, Drug, and Cosmetic Act, through which FDA may qualify a biomarker for a specific context of use in drug development following a structured evidentiary review process. The qualification process often relies on assembly of data from academic or industry-sponsored studies, typically through consortia. Biomarker data are commonly generated within individual drug development programs for various purposes, such as to evaluate pharmacodynamic responses and safety in early phase trials or to complement assessments of efficacy in later phase trials. FDA may identify a need to characterize a biomarker to inform regulatory decision-making where qualification activities are not being considered. As such, FDA staff often undertake research efforts to assemble human data from different programs to better characterize biomarker relationships with outcomes and develop endpoints that may be used to expedite drug development.

Examples of disease areas where these efforts have been undertaken by the Agency include pulmonary hypertension, schizophrenia, and hepatitis C (Chen et al. 2013; Kalaria et al. 2021; Kalaria et al. 2020). However, these biomarker characterization studies are complicated by heterogeneity in data collection protocols, the possibility that assays used to measure the biomarker or biomarkers may not be valid, the absence of standardized submission formats, and a limited volume of data (because such data are viewed as exploratory and not uniformly submitted to FDA). Therefore, CDER is seeking to develop infrastructure that

could help us understand best practices for biomarker data generation, streamline processes for requesting voluntary data submission, and create a platform to analyze data. Ultimately, improving CDER’s ability to evaluate novel biomarkers could facilitate the generation of higher quality biomarker data, expanded use of novel biomarkers, more consistent interpretation of findings from biomarker studies, and development of novel endpoints that can support a range of regulatory and drug development decisions. The initiative outlined in this notice is intended to complement FDA’s existing qualification framework by strengthening FDA’s review of formal qualification submissions and advancing the use of biomarkers that may not be in the qualification pipeline.

II. Pilot Project

FDA has focused on advancing the use of biomarkers of drug-induced kidney injury (DIKI) as a pilot project under this Biomarker Incubator initiative. In 2018, FDA qualified a panel of biomarkers (including the six biomarkers listed in this notice) for use in conjunction with traditional measures to aid in the detection of kidney tubular injury in phase 1 trials with healthy volunteers when there is an a priori concern that the drug may cause renal tubular injury in humans. The qualification submission was based on data submitted jointly by the Foundation for the National Institutes of Health Biomarkers Consortium and the Predictive Safety Testing Consortium of the Critical Path Institute (C-Path).

Following the qualification of the panel of six biomarkers, other efforts were made to advance biomarker use in drug development. C-Path created the Biomarker Data Repository (BmDR) in 2019, starting with a focus on urinary kidney safety biomarkers with intent to expand to other organ safety biomarkers. The goal of the BmDR is to compile and provide stakeholders with large, reliable datasets containing masked, deidentified nonclinical and clinical study data on translational safety biomarkers. In May 2022, C-Path also convened the “International 2022 Drug-induced Kidney Injury Biomarker Workshop.” Participants in this workshop highlighted an unmet need for better tools to detect DIKI at earlier

and reversible stages, which would protect study participants by reducing clinically significant DIKI. Further, patient representatives attending the workshop expressed desire to share their data to support safety and drug development.

As part of CDER’s efforts to assess the performance and use of qualified and exploratory biomarkers of DIKI in drug development, and to complement the data accumulating through the BmDR, FDA began aggregating data on urinary kidney safety biomarkers that had previously been submitted to FDA. The Agency also requested voluntary submission of data from specific companies that had generated such data but had not yet submitted those data to FDA. These data were not expected to be in the BmDR already and were limited in size and scope. Specific urinary kidney safety biomarkers of interest for the previously mentioned efforts and the current request include cystatin C (CysC), osteopontin (OPN), kidney injury molecule-1 (KIM–1), N-acetyl-β-D-glucosaminidase (NAG), lipocalin-2 (LCN2)/neutrophil gelatinase-associated lipocalin (NGAL), and apolipoprotein J (APOJ)/clusterin (CLU). The specific objectives of FDA’s pilot project for urinary kidney safety biomarker data are to: (1) assess data availability and quality; (2) pool data from a range of clinical trial participants, drug programs, and phases of development; (3) perform analyses characterizing intersubject and intrasubject variability, expected ranges for subpopulations, time-course for changes, use and quality of different assay methodologies, and the predictive performance compared to conventional biomarkers; and (4) establish a process and platform for identifying, requesting, receiving, storing, and analyzing data to support biomarker use in drug development.

III. Request for Information

This request for information aims to provide an opportunity for stakeholders—including both commercial drug developers and academic investigators—to share with FDA deidentified subject-level data on these biomarkers and experiences and challenges in applying these biomarkers in drug development.

A. Voluntary Data Submission

If data use agreements allow and data owners are willing, FDA is requesting that data owners submit any shareable human data that have not already been or are not in the process of being submitted to FDA or C-Path’s BmDR. This submission can be accomplished under an existing Investigational New Drug (IND) application, with a cover letter indicating any data use restrictions, or under a new pre-IND (for submissions that are not associated with an existing IND or need to be isolated and deidentified from an existing IND). Additionally, data owners may submit a response to this information request, including a desired approach to facilitate voluntary submission of exploratory data.

FDA emphasizes the importance of storing and sharing data using the most updated terminology standards as outlined in the final guidance for industry *Providing Regulatory Submissions in Electronic Format—Standardized Study Data* (June 2021). Adherence to data standards may improve data quality and reliability. The Agency requests that datasets be submitted in Clinical Data Interchange Standards Consortium (CDISC) format and contain deidentified subject-level data that includes clinical and demographic information, pharmacokinetic data, and urinary kidney safety biomarker data. Any dataset submitted should follow the format of one record per subject per parameter per treatment group per time point (if applicable). An example of a data structure that would be acceptable is provided in Table 1. The study protocol or a protocol synopsis, and NCT number, if available, should be included to aid in data interpretation. A description of the assay for each biomarker should also be submitted along with any available analytical validation reports that support the reliability, accuracy, and precision of assays used to measure the various urinary kidney safety biomarkers. The assay description should include the analytical method (e.g., ELISA), manufacturer, controls, lower limit of quantitation, within- and between-run precision, assay linearity, and percent recovery.

TABLE 1—DATA STRUCTURE EXAMPLE
[Requested Data File Formats: .csv, .xlsx, .xpt, or .xml]

Variable name	Description	Format	Comment
STUDYID	Study ID	Char.	
USUBJID	Unique subject ID	Char.	

TABLE 1—DATA STRUCTURE EXAMPLE—Continued

[Requested Data File Formats: .csv, .xlsx, .xpt, or .xml]

Variable name	Description	Format	Comment
TRTP	Planned treatment	Char.	M or F. Years.
TRTA	Actual treatment	Char.	
SEX	Sex	Char ...	
AGE	Age at baseline	Num ...	
RACE	Race	Char.	
ETHNIC	Ethnicity	Char ...	
COUNTRY	Country	Char ...	Country of the investigational site in which the subject participated in the trial.
ARM	Description of planned arm ...	Char ...	Name of the arm to which the subject was assigned. If the subject was not assigned to an arm, ARM is null, and ARMNRS is populated. With the exception of studies that use multistage arm assignments, the name provided must be a value of ARM in the Trial Arms Dataset.
ARMNRS	Reason ARM is Null	Char ...	A coded reason that Arm variables and/or actual Arm variables are null. Examples: "SCREEN FAILURE", "NOT ASSIGNED", "ASSIGNED, NOT TREATED", "UN-PLANNED TREATMENT". It is assumed that if the Arm and actual Arm variables are null, the same reason applies to both Arm and actual Arm.
HGT	Baseline height	Num ...	cm.
WGT	Baseline weight	Num ...	kg.
BMI	Body mass index	Num ...	kg/m ² .
EGFR	Baseline eGFR	Num ...	ml/min per 1.73 m ² .
CMAX	Cmax	Num ...	ng/ml, if collected for a drug.
TMAX	Tmax	Num ...	H, if collected for a drug.
AUCLAST	AUC 0–last	Num ...	ng*h/ml, if collected for a drug.
AUCINF	AUC 0–INF	Num ...	ng*h/ml, if collected for a drug.
ATP	Analysis time point	Char ...	e.g., Baseline, day 1, (add time points per schedule of assessments).
LBNAM	Vender name	Char ...	The name or identifier of the laboratory/machine that performed the test.
PARAMCD	Parameter code	Char ...	From CDISC SDTM standards—2024: KIM1: Kidney injury molecule 1. LCN2: Lipocalin-2, also known as NGAL/neutrophil gelatinase-associated lipocalin. NAGASE: N-acetyl-beta-D-glucosaminidase. APOJ: Apolipoprotein J, also known as CLU/clusterin. CYSTATC: Cystatin C. OPN: Osteopontin. CREAT: Creatinine. eGFR: Estimated glomerular filtration rate. UACR: Urine albumin-to-creatinine ratio. UPCR: Urinary protein-to-creatinine ratio.
UNITS	Parameter units	Char ...	CDISC standards—2024 (parameter—urine creatinine normalized parameter): KIM1: ng/mL—ng/mg. LCN2: ng/mL—ng/mg. NAGASE: U/mL—U/mg. APOJ: ng/mL—ng/mg. CYSTATC: ng/mL—ng/mg. OPN: ng/mL—ng/mg. CREAT: mg/mL.
BASE	Baseline parameter value	Num.	The medical history dataset includes the subject's prior history at the start of the trial. Examples of subject medical history information could include general medical history, gynecological history, and primary diagnosis.
AVAL	Parameter value	Num.	
AVALU	Parameter unit	Char.	
CHG	Change from baseline	Num.	
MHSEQ	Sequence number	Char ...	
LBCAT	Category for lab test	Char ...	
LBSPEC	Specimen type	Char ...	e.g., urine, serum.
LBLLOQ	Lower limit of quantitation	Num ...	Same units as parameter.
LBULOQ	Upper limit of quantitation	Num ...	Same units as parameter.

B. Additional Information

CDER requests that stakeholders comment on the following topics:

1. To improve public health and more optimally inform drug development, the Agency is interested in derisking the process for data sharing, overall, and specifically, with regulatory authorities.

For this Biomarker Incubator initiative, efforts to request data voluntarily have been piloted on a small scale (at the individual IND level). If there are considerations or barriers that could be addressed to support future data-sharing efforts, the Agency is interested in

addressing those considerations in future voluntary data requests.

2. FDA seeks to identify and prioritize potential topics related to voluntary data sharing with interested parties for possible future inclusion in public workshops. Please comment on specific topics that may be of value for public

discussion. Topics can be related to specific data-sharing matters or specific biomarkers of interest where discussion of translation would facilitate coordinated research efforts.

3. Please provide input on specific biomarkers that are commonly collected but not yet accepted as an endpoint and have the potential to significantly support regulatory decisions related to safety or efficacy, for which aggregation of data across multiple programs may advance drug development.

IV. References

The following references 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; these are not available electronically at <https://www.regulations.gov> as these references are copyright protected. Some may be available at the website address, if listed. Although FDA verified the website addresses in this document, please note that websites are subject to change over time.

Chen J, J Florian, W Carter, RD Fleischer, TS Hammerstrom, PR Jadhav, W Zeng, J Murray, and D Birnkrant, 2013, Earlier Sustained Virologic Response End Points for Regulatory Approval and Dose Selection of Hepatitis C Therapies, *Gastroenterology*, 144(7):1450–1455.e2, epub ahead of print March 5, 2013, doi: 10.1053/j.gastro.2013.02.039.

Kalaria SN, TR Farchione, R Uppoor, M Mehta, Y Wang, and H Zhu, 2021, Extrapolation of Efficacy and Dose Selection in Pediatrics: A Case Example of Atypical Antipsychotics in Adolescents With Schizophrenia and Bipolar I Disorder, *Journal of Clinical Pharmacology*, 61: S117–S124, doi: 10.1002/jcph.1836.

Kalaria SN, TR Farchione, MV Mathis, M Gopalakrishnan, I Younis, R Uppoor, M Mehta, Y Wang, and H Zhu, 2020, Assessment of Similarity in Antipsychotic Exposure-Response Relationships in Clinical Trials Between Adults and Adolescents With Acute Exacerbation of Schizophrenia, *Journal of Clinical Pharmacology*, 60(7): 848–859, doi: 10.1002/jcph.1580.

(Authority: 21 CFR part 10 and 21 U.S.C. 357.)

Grace R. Graham,

Deputy Commissioner for Policy, Legislation, and International Affairs.

[FR Doc. 2026–09533 Filed 5–12–26; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2026–N–4126]

Azodicarbonamide (ADA); Request for Information

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; request for information.

SUMMARY: The Food and Drug Administration (FDA or we) is requesting information on the current uses and safety data of azodicarbonamide (ADA) in human food and as a food contact substance. We are requesting this information as part of our systematic process for conducting post-market assessments of chemicals in food. We are conducting a post-market assessment of the safety of ADA in food, considering the latest state of the science. We intend to use the information received and any other available, relevant information to determine if ADA remains safe under its current conditions of use in food and as a food contact substance.

DATES: Either electronic or written comments and scientific data and information on the notice must be submitted by July 13, 2026.

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 July 13, 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 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–2026–N–4126 for “Azodicarbonamide (ADA); Request for Information.” Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as “Confidential Submissions,” publicly viewable at <https://www.regulations.gov> or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

- **Confidential Submissions—**To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states “THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.” We will review this copy, including the claimed confidential information, in our 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.

FOR FURTHER INFORMATION CONTACT: Daniel Hlavaty, Office of Food Chemical Safety, Dietary Supplements, and Innovation, Human Foods Program, Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740, 301-796-1481, or Lauren Kleinman, Office of Policy and International Engagement, Human Foods Program, Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740, 240-402-2378.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is requesting information on the current uses and safety data for azodicarbonamide (ADA) in human food and as a food contact substance as part of a post-market assessment. ADA (CAS No. 123-77-3) is used as a whitening agent in cereal flour and as a dough conditioner in breadmaking and has applications in manufacturing food contact materials.

All uses of ADA in food or as a food contact substance must be authorized for that use through a food additive regulation or an effective food contact notification, or be excluded from regulation as a food additive, for example, because such use is generally recognized as safe (GRAS) or is prior sanctioned (see Sections 201(s) and 409 of the Federal Food, Drug, and Cosmetic Act). As described below, these uses of ADA in food and as a food contact substance in the U.S. are authorized by FDA's food additive regulations.

ADA is authorized as a direct food additive when used as an aging and bleaching ingredient in cereal flour and as a dough conditioner in bread baking in a total amount not to exceed 0.0045 percent (45 parts per million; 2.05 grams per 100 pounds of flour) (21 CFR 172.806). It is listed as an optional ingredient in the standards of identity for bread, rolls, and buns (21 CFR 136.110); flour (21 CFR 137.105); and whole wheat flour (21 CFR 137.200)

when used in accordance with the regulations for ADA in 21 CFR 172.806. ADA is also permitted as an indirect food additive when used in closures with sealing gaskets for food containers (21 CFR 177.1210), rubber articles intended for repeated use (21 CFR 177.2600), and adjuvant substances used in the manufacture of foamed plastics (21 CFR 178.3010). We are not aware of any prior sanctions or conclusions that the use of ADA is GRAS in food or for food contact use.

As part of our systematic review of chemicals in food, FDA is beginning a post-market assessment of the safety of ADA as used in food and as a food contact substance. (see <https://www.fda.gov/food/food-chemical-safety/list-select-chemicals-food-supply-under-fda-review>). This assessment supports the Make America Healthy Again Commission's recommendation to implement an evidence-based systematic process for post-market assessment of chemicals in food (see <https://www.whitehouse.gov/wp-content/uploads/2025/09/The-MAHA-Strategy-WH.pdf>). The objective of our assessment is to determine if ADA is safe under its conditions of use in food or as a food contact substance considering the most recent science. While FDA previously concluded authorized uses to be safe, new information may require reconsideration of the regulatory status or the safe uses of a substance in or on food.

II. Request for Information

FDA is requesting information on uses, use levels, dietary exposure, and safety data on ADA currently used in food and as a food contact substance. This includes decomposition products of ADA, which are the chemicals formed when ADA breaks down, such as during breadmaking. Information from food manufacturers on uses and levels is crucial for food chemical assessments. We encourage food manufacturers to participate in this data call, with options for aggregated submissions through trade groups or other collaborations. We do not need information about individual products and their recipes, but rather data about the levels of use in general product categories. Voluntary submission of data and information on current uses and use levels will help to refine our dietary exposure assessments. We use maximizing assumptions to estimate dietary exposure (see, e.g., "Guidance for Industry: Estimating Dietary Intake of Substances in Food," available at <https://www.fda.gov/regulatory-information/search-fda-guidance-documents/guidance-industry-estimating-dietary-intake-substances-food>).

estimating-dietary-intake-substances-food). Without refinements assisted by manufacturer use information, this may lead to overestimation of dietary exposure that could impact authorizations for the chemical's use in food or as a food contact substance.

Specifically, FDA requests the following:

1. General food categories in which ADA is used (for example, cookies, soft drinks, other categories listed in 21 CFR 170.3(n)), USDA's What We Eat in America survey (Ref. 1), or the Codex General Standard for Food Additives (Ref. 2));
2. Typical and maximum use levels of ADA in each applicable general food category;
3. Information on actual or expected residual levels of decomposition products of ADA (including semicarbazide and ethyl carbamate) in foods and food contact materials where ADA is used;
4. Information on the current food contact uses of ADA, including data on migration of ADA or its decomposition products from food contact materials into food;
5. Subpopulations with high dietary exposure to ADA or its decomposition products or particular safety concerns relevant to food and food contact uses of ADA;
6. Other dietary sources of ADA or its decomposition products, such as dietary supplements, natural occurrence in common foods, residues in animal products, or as contaminants in food or drinking water;
7. Market share of foods in each applicable general food category and food contact materials that are formulated with ADA;
8. Biomonitoring data for ADA, its decomposition products, or its metabolites;
9. Updated market disappearance or poundage data for ADA;
10. Information on potential chemically or pharmacologically related substances used in food or as a food contact substance;
11. Safety data relevant to use of ADA in food or as a food contact substance, including data pertaining to its decomposition products, and especially unpublished data;
12. Documentation of GRAS conclusions or prior sanctions for uses of ADA in food or as a food contact substance;
13. Information that may support the conclusion that ADA is no longer used for one or more of its authorized intended uses in food or as a food contact substance.

III. References

The following references 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 are also available electronically at <https://www.regulations.gov>. Although FDA verified the website addresses in this document, please note that websites are subject to change over time.

1. What We Eat in America Food Categories, available at <https://www.ars.usda.gov/>

*northeast-area/beltsville-md-bhnrc/
beltsville-human-nutrition-research-
center/food-surveys-research-group/
docs/dmr-food-categories/.*

2. Codex General Standard for Food Additives, available at <https://www.fao.org/gsfaonline/foods/index.html>.

Grace R. Graham,

*Deputy Commissioner for Policy, Legislation,
and International Affairs.*

[FR Doc. 2026-09508 Filed 5-12-26; 8:45 am]

BILLING CODE 4164-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA-2025-N-1600]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; The Real Cost Campaign Outcomes Evaluation Study: Cohort 3

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Submit written comments (including recommendations) on the collection of information by June 12, 2026.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be submitted 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. The OMB control number for this information collection is 0910-0915. Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Amber Barrett, Office of Operations, Food and Drug Administration, Three White Flint North, 10A-12M, 11601 Landsdown St., North Bethesda, MD 20852, 301-796-8867, PRASStaff@fda.hhs.gov.

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed

collection of information to OMB for review and clearance.

The Real Cost Campaign Outcomes Evaluation Study: Cohort 3

*OMB Control Number 0910-0915—
Revision*

This information collection supports the development and implementation of FDA public education campaigns related to tobacco use. FDA’s Center for Tobacco Products (CTP) was created to carry out the authorities granted under the Family Smoking Prevention and Tobacco Control Act (Tobacco Control Act) (Pub. L. 111-31) to educate the public about the dangers of tobacco use and to serve as a public health resource for tobacco and health information. CTP’s tobacco education mission directly contributes to advancing the goals of Executive Order 14212: Establishing the President’s Make America Healthy Again Commission, including the Make Our Children Healthy Again assessment, in three ways. First, CTP works to reduce tobacco use, the leading cause of chronic disease and mortality in the United States. Second, CTP protects the health of children; public education campaigns and other CTP efforts decrease the likelihood that youth initiate or escalate tobacco use. Third, CTP uses gold-standard science to develop, implement, and evaluate its programs.

FDA launched “The Real Cost” educational campaigns in February 2014, seeking to reduce tobacco use among at-risk youth in the United States who are open to using or have already experimented with cigarettes or electronic nicotine delivery systems (ENDS). As with CTP as a whole, FDA’s “The Real Cost” Youth Cigarette and E-Cigarette Prevention Campaigns aim to reduce chronic disease and protect the health of children. “The Real Cost” campaigns use evidence-based messaging distributed through multiple channels, including paid media advertising, to highlight the negative health consequences of tobacco use to U.S. youth. The Real Cost Campaign Outcomes Evaluation Study, also known as the Evaluation of FDA’s Public Education Campaign on Teen Tobacco (ExPECTT) study, uses gold-standard science to measure exposure, awareness, and impact of “The Real Cost” campaigns among youth in the United States.

The first ExPECTT study (Cohort 1) assessed the campaign’s impact on outcome variables of interest from November 2013 to November 2016. The second ExPECTT study (Cohort 2; OMB Control No. 0910-0753) assessed the

campaign’s impact on outcome variables of interest from June 2018 to August 2022. The third ExPECTT study (Cohort 3; OMB Control No. 0910-0915) has been assessing the campaign’s impact on outcome variables of interest starting in February 2023. To continue assessing the impact of “The Real Cost” campaigns, FDA intends to extend implementation of the ExPECTT Cohort 3 study. The study consists of multiple waves of data collection, including a baseline survey and up to eight continuing follow-up (FU) surveys, conducted approximately 6–9 months apart. The online surveys are conducted with youth ages 11–17 at baseline (for mail-based recruitment).

The purpose of FDA’s ExPECTT Cohort 3 study is to provide credible evidence that changes in key outcomes can be attributed to exposure to the campaign. Using gold-standard science, FDA can determine the strength of the attribution and rule out alternative explanations for observed changes in key outcomes. In the ExPECTT study, FDA has been measuring variation in both potential campaign exposure (*e.g.*, market-level delivery) and self-reported campaign exposure to media advertising and how those exposures relate to key outcomes.

The goal of ExPECTT Cohort 3 is to determine whether future waves of “The Real Cost” public education campaigns will continue to influence the following key outcomes:¹

- Awareness of campaign messages
- Tobacco use behaviors (such as initiation, escalation, cessation)
- Specific beliefs targeted by messages (message-targeted beliefs)
- Psychosocial predictors or precursors of tobacco use behavior
 - Health and addiction risk perceptions
 - Perceived loss of control or threat to freedom expected from tobacco use
 - Anticipated guilt, shame, and regret from tobacco use
 - Perceptions of prevalence, approval, and popularity of tobacco use
 - Pro-health changes in normative beliefs about tobacco product use
 - Tobacco use susceptibility
 - Intention or willingness to use tobacco
 - Intention to quit and/or reduce daily consumption

In support of the provisions of the Tobacco Control Act (Pub. L. 111-31) that require FDA to protect the public health and to reduce tobacco use by

¹ MacMonegle, A., Zarndt, A.N., Wang, Y., Bennett, M., Malo, V., Pitzer, L., . . . & Duke, J. (2025). The Impact of “The Real Cost” on E-cigarette Initiation among US Youth. *American Journal of Preventive Medicine*.

minors, FDA requested and received OMB approval to collect information to evaluate CTP's public education campaign "The Real Cost" through the Evaluation Study: Cohort 3 under the OMB control number 0910–0915. This notice requests an extension of the currently approved data collection.

In the **Federal Register** of July 14, 2025 (90 FR 31229), FDA published a 60-day notice requesting public comment on the proposed collection of information. One PRA-related comment was received.

(Comment) The commenter strongly supported FDA's proposed "Real Cost" Campaign Outcomes Evaluation Study (Cohort 3), emphasizing the campaign's proven effectiveness and urges continued funding of the campaigns and evaluation studies. The comment highlights that "The Real Cost" Youth E-Cigarette Prevention Campaign has been "instrumental in reversing the trajectory of youth vaping, driving rates down from a peak of 5.4 million in 2019 to about 1.6 million today" and that "The Real Cost" Youth Cigarette Prevention Campaign demonstrated exceptional cost-effectiveness by generating "\$180 in savings for every dollar of the nearly \$250 million invested in its first two years." The commenter recommends that the proposed information collection reaches communities historically targeted by the tobacco industry. Finally, the commenter advocated for inclusion of questions related to gender in the information collection.

(FDA Response) FDA appreciates the comment in response to the 60-day notice. FDA agrees with the commenter that continued campaign evaluation is "crucial to maintaining the ongoing success of 'The Real Cost'" campaigns through rigorous gold standard research, and that this information collection has strong practical utility. Specifically, the proposed information collection will

continue to assess the campaign's impact on reducing chronic disease among youth through decreased tobacco initiation and identify opportunities to enhance program effectiveness and adapt to changing public health challenges. The proposed information collection is designed to collect high-quality data with a longitudinal cohort design that will follow youth participants over time to assess changes in tobacco-relevant outcomes due to campaign exposure. The data collected has strong practical utility and will provide essential insights for campaign optimization by identifying messages that are most effective in preventing and reducing youth tobacco use and while providing vital campaign evaluation data to ensure FDA is advancing public health goals in protecting children from the harmful effects of tobacco use.

The goal of the current information collection is to assess the reach and impact of "The Real Cost" Youth E-Cigarette and Cigarette Prevention campaigns for the general population of youth (aged 12–17) in the United States who are at risk of tobacco use. This information collection focuses on all U.S. youth (ages 12–17) because, as the commenter states, the tobacco industry has historically targeted young people in their marketing strategies (U.S. DHHS, 2012), and most adult tobacco users begin using during this critical age range (U.S. DHHS, 2014).

FDA's approach to this evaluation study is conducted in full compliance with all applicable Executive Orders and current Administration priorities regarding federal research and data collection activities. Preventing tobacco initiation among U.S. youth is essential to combat the chronic disease caused by tobacco use. The focus of this proposed information collection is the general population U.S. youth. While examining specific racial, ethnic, or demographic

subgroups is not a primary aim of the study, FDA is able to assess campaign reach and impact for various population segments among the youth sample. The study collects demographic data that can support examination of campaign effectiveness among different groups of youth who may be at varying levels of risk for tobacco initiation and use. For example, the survey collects data on participant race and ethnicity items in compliance of Office of Management and Budget's Statistical Policy Directive No. 15: Standards for Maintaining, Collecting, and Presenting Federal Data on Race and Ethnicity.

Additionally, the commenter requests for the inclusion of survey items to assess gender in the information collection, which would not be in compliance with Executive Order 14168 "Defending Women from Gender Ideology Extremism and Restoring Biological Truth to the Federal Government." FDA does not assess or examine gender or gender identity in this study. To be in compliance with Executive Order 14168 "Defending Women from Gender Ideology Extremism and Restoring Biological Truth to the Federal Government," we are unable to assess or examine gender or gender identity in this study. We include one item on sexual orientation: "Which of the following best represents how you think of yourself?" (Response options: Straight or heterosexual, Bisexual, Gay or lesbian). We also include one item on sex: "Are you female or male?" (Response options: Male, Female). The inclusion of these two items enables us to examine differences in exposure and responses to campaign messages among demographic groups in a manner that is compliant with Executive Orders.

FDA estimates the burden of this collection of information during the extension period as follows.

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN^{1 3}

Respondent/activity	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Household Recruitment Study Materials—Mail: Baseline Recruitment & Follow-up Replenishments.	305,000	1	305,000	0.05 (9 mins)	15,250
Household Screener—Mail: Baseline Recruitment & Follow-up Replenishments.	65,000	1	65,000	0.08 (5 mins)	5,200
Household Roster—Mail: Baseline Recruitment & Follow-up Replenishments	7,661	1	7,661	0.08 (5 mins)	613
Parent Permission at Recruitment-Mail: Baseline Recruitment & Follow-up Replenishments.	12,245	1	12,245	0.08 (5 mins)	980
Invitation Emails-Mail: Baseline Recruitment & Follow-up Replenishments	9,738	1	9,738	0.02 (1 min)	195
Eligibility Letter/Emails-Mail: Baseline Recruitment & Follow-up Replenishments.	280	1	280	0.03 (2 mins)	8
Email/Text Reminder-Mail: Baseline Recruitment & Follow-up Replenishments.	9,738	1	9,738	0.03 (2 mins)	292
Invitations and Study Materials: Follow-up waves	57,729	1	57,729	0.17 (10 mins)	9,814
Youth Assent: Baseline and Follow-up waves	44,768	1	44,768	0.08 (5 mins)	3,581
Parent Permission at Recontact: Follow-up waves	7,336	1	7,336	0.08 (5 mins)	587
Youth Survey: Baseline and Follow-up waves	44,768	1	44,768	0.50 (30 mins)	22,384

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN^{1 3}—Continued

Respondent/activity	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Youth Incentive Thank You Letter: Baseline and Follow-up waves	44,768	1	44,768	0.02 (1 min)	895
Total .....	.....	.....	.....	.....	59,799

* We received a waiver of parental permission from IRB for youth 14+, so not all respondents require parental permission at recontact.
¹ Note that all values in the table are rounded to the nearest hundredths place (for the Average Burden per Response column) or to the nearest whole number (for all other columns); therefore, sums may not equal the exact totals due to rounding.
² Note that values in the table are not annualized. These values reflect the full burden hours required for the study.
³ There are no capital costs or operating and maintenance costs associated with this collection of information.

Four waves of data collection (a baseline survey and 3 follow-up surveys) are scheduled to be conducted prior to the start of the extension period. The extension period includes up to 5 additional follow-up surveys with sample replenishment at 2 of those waves of data collection. We detail below the recruitment activities and data collection materials for the full range of the study, including data collections prior to the extension period and during the extension period.

Data Collection Recruitment

Baseline Recruitment

This study includes a baseline survey and up to eight continuing follow-up surveys, conducted approximately 6–9 months apart. There are two ways that we recruited initial participants to the study at baseline, which took place in 2023: mail-based recruitment (the primary mode of recruitment) and supplemental social media-based recruitment. The recruitment sample for the mail-based data collection included youth ages 11–17. We mailed 326,709 recruitment/study material packages to households at baseline (3 minutes per response) and received 64,314 completed screeners (5 minutes per response) by adults within those households. For the 8,207 households identified as eligible for the study during the screening process (*i.e.*, the presence of one or more youth ages 11 to 17), we asked the adult completing the screener to list all eligible youth in their households for study selection, a process called rostering (5 minutes per response). We randomly selected up to 2 eligible youth per household. We asked parents to provide permission for each eligible youth to participate in the study (5 minutes). If more than one youth was selected, parental permission was required for each child. In some cases, the adult taking the screener was not the parent of the eligible youth(s). We then reached out by email and/or with a letter to notify the parent of their child(ren)s’ eligibility (2 minutes) and a request parental permission (N = 300). All youth with parental permission (n =

10,431) were sent an invitation email to participate in the study (1 minute). We also sent reminder emails and texts out to eligible youth during data collection who had not yet completed the survey (2 minutes).

In addition to the primary mail-based data collection at baseline in 2023, we recruited an additional sample using a social media-based recruitment from a subpopulation of respondents at increased risk for initiating use of cigarettes and ENDS products. This supplemental data collection consisted of online self-administered surveys of participants recruited through social media advertisements. The recruitment sample for this data collection was youth ages 14 to 20 who met the subpopulation criteria. At baseline, 13,888 respondents were invited to take the screener through social media ads (1 minute). We screened 9,444 respondents (5 minutes per screener response) and identified 1,501 eligible respondents. This is a longitudinal study, so participants from the social media sample will be retained in the sample because they were members of the original study cohort.

Follow-Up (Replenishment) Recruitment

We estimate that we will lose approximately 15 percent of the original baseline sample at each follow-up wave. Replenishing the sample will ensure we maintain an adequate longitudinal sample at each study wave and continue to have representation from younger respondents in our aging sample. We will replenish the sample up to 4 times during the study period. We will send out recruitment/study material packages to an additional 450,000 households in total (3 minutes per response) over the course of the study period. We expect to receive an estimated 95,000 completed screeners (5 minutes per response). For households identified as eligible for the study during the replenishment screening process (*i.e.*, the presence of 1 or more youth ages 11 to 17), we will ask the parent/guardian to list all eligible youth in their households for

study selection, a process called rostering (5 minutes per response). We will randomly select up to 2 eligible youth per household. We will ask parents to provide permission for each eligible youth to participate in the study (5 minutes). If more than one youth is selected, parental permission will be required for each child. In some cases, where the adult taking the screener is not the parent of the eligible youth(s), we will reach out by email and/or letter with a notice of eligibility (2 minutes) and a request to provide parental permission. All youth with parental permission will be sent an invitation email to participate in the study (1 minute). We will also send reminder emails and texts out to eligible youth during data collection who have not yet completed the survey (2 minutes). We will not use social media to recruit any respondents for the replenishment samples.

Youth Survey Materials

Baseline

For the main data collection at baseline in 2023, we collected data from 5,354 youth respondents recruited by mail. For the supplemental social media data collection at baseline in 2023, we collected data from 1,501 youth respondents. These 6,855 youth respondents provided baseline assent (5 minutes per response) and completed the survey (30 minutes per response). Following completion of the study, we mailed an incentive letter (1 minute). For the 5,354 youth respondents recruited for the main data collection, we asked the parent/guardian to provide permission (5 minutes per response) for the youth to participate in the study. We received a waiver of parental permission for youth 14+ and did not require parental permission for respondents from the social media data collection.

Follow-Up Waves

As this is a longitudinal data collection, participants who complete the baseline survey or any follow-up replenishment survey will be recontacted for each subsequent follow-

up wave. We will send invitations and study materials to sample respondents for up to eight follow-up waves (10 minutes per respondent). Including youth recruited in the replenishment, this will be up to 14,053 youth at each wave. At each of the eight follow-up waves, respondents are estimated to provide assent (5 minutes per respondent) and complete the survey (30 minutes per respondent). Where required, we will ask the parent/guardian to provide permission (5 minutes per respondent) for the youth to participate in the study. For youth who complete the survey, we will also mail an incentive letter (1 minute per respondent).

To align with Executive Order 14168, Defending Women From Gender Ideology Extremism and Restoring Biological Truth to the Federal Government, we are revising this information collection to remove questions relating to gender. Since publication of the 60-day notice, the burden estimates have been updated. Overall, the estimated burden reflects a decrease of 455 burden hours and an increase of 507,886 responses.

Grace R. Graham,

Deputy Commissioner for Policy, Legislation, and International Affairs.

[FR Doc. 2026-09448 Filed 5-12-26; 8:45 am]

BILLING CODE 4164-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA-2026-N-3098]

Agency Information Collection Activities; Proposed Collection; Comment Request; Postmarketing Adverse Experience Reporting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on postmarketing reporting and recordkeeping of adverse

experiences for drug and biological products.

DATES: Either electronic or written comments on the collection of information must be submitted by July 13, 2026.

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 July 13, 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 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-

2026-N-3098 for "Agency Information Collection Activities; Proposed Collection; Comment Request; Postmarketing Adverse Experience Reporting." Received comments, those filed in a timely manner (see

ADDRESSES), will be placed in the docket and, except for those submitted as "Confidential Submissions," publicly viewable at <https://www.regulations.gov> or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240-402-7500.

- **Confidential Submissions**—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states "THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION." 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.

FOR FURTHER INFORMATION CONTACT: Anne Taylor, Office of Operations, Food and Drug Administration, Three White Flint North, 10A-12M, 11601 Landsdown St., North Bethesda, MD 20852, 240-402-5683, PRASStaff@fda.hhs.gov.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3521), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. “Collection of information” is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) whether the proposed collection of information is necessary for the proper performance of FDA’s functions, including whether the information will have practical utility; (2) the accuracy of FDA’s estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Postmarketing Adverse Experience Reporting

OMB Control Number 0910–0230—Revision

This information collection helps support provisions found in sections 201, 502, 505, 701, and 760 of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 321, 352, 355, 371, and 379aa) governing adverse experience reporting (AER) and associated recordkeeping for FDA-regulated drug products. FDA has

issued applicable regulations in part 4 and §§ 310.305, 314.80, 314.81, 314.98, and 329.100 (21 CFR part 4 and 21 CFR 310.305, 314.80, 314.81, 314.98, and 329.100) that implement the statutory requirements, identify specific content and format elements, and establish reporting and retention schedules for the required information. Postmarketing safety data collection and adverse event reporting are critical elements of FDA’s monitoring of drugs. For more information, please visit <https://www.fda.gov/drugs/surveillance/postmarketing-adverse-event-reporting-compliance-program>.

Respondents to the information collection are manufacturers, packers, distributors, and applicants of FDA-regulated drug and biologic products marketed with or without an FDA-approved application, including over-the-counter (OTC) drug products marketed without an approved application; OTC drug products marketed under the OTC Drug Monograph Review process (whether subject to a final monograph or not); and drug products marketed outside the monograph system. All reports and followup reports must be submitted to FDA in electronic format, although waivers of the electronic requirements are available for good cause.

Adverse experience reporting for products associated with drug marketing applications are governed by regulations in §§ 314.80, 314.81, and 314.98. The regulations identify required reporting content and format elements, as well as establish followup reporting requirements and mandatory reporting schedules. The regulations also establish associated recordkeeping and require that written procedures be developed for the surveillance, receipt, evaluation, and reporting of postmarketing adverse experiences to FDA. The regulations require reporting in an electronic format that FDA can process, review, and archive, although temporary waivers may be granted on a limited basis for good cause. A final guidance for industry entitled “Providing Submissions in Electronic Format—Postmarketing Safety Reports” (April 2022) is available for general information pertaining to electronic submission of postmarketing safety

reports for certain human drugs, biological products, and combination products. The guidance is available at <https://www.fda.gov/regulatory-information/search-fda-guidance-documents/providing-submissions-electronic-format-postmarketing-safety-reports>.

We have established and maintain the FDA Adverse Event Monitoring System (AEMS), formerly the FDA Adverse Event Reporting System (FAERS). The FDA AEMS Electronic Submissions web page is available at <https://www.fda.gov/drugs/fda-adverse-event-monitoring-system-aems/fda-adverse-event-monitoring-system-aems-electronic-submissions>. Information may be submitted via FDA’s Electronic Submissions Gateway Next Generation or utilizing the FDA Safety Reporting Portal, developed by FDA and the National Institutes of Health to streamline reporting and review of adverse events.

The primary purpose of FDA’s adverse drug experience reporting system is to enable identification of signals for potentially serious safety problems with marketed drugs. Although premarket testing discloses a general safety profile of a new drug’s comparatively common adverse effects, the larger and more heterogenous patient populations exposed to the marketed product provide the opportunity to collect information on rare, latent, and long-term effects. Data that contribute to signals are obtained from a variety of sources, including reports from patients, treating physicians, foreign regulatory agencies, clinical investigators, and literature. Information derived from the adverse drug experience reporting system contributes directly to increased public health protection because the information enables FDA to make important changes to the product’s labeling (such as adding a new warning), to make decisions about risk evaluation and mitigation strategies; to determine the need for postmarketing studies or clinical trials; and, when necessary, to initiate removal of a product from the market.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN ^{1 2 3}

21 CFR section or guidance; activity	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
310.305(c)(5); AERs for prescription products not the subject of a marketing application	36	88.8	3,197	1	3,197
314.80(c)(1); 15-day alerts for approved products	682	1,832.84	1,250,000	1	1,250,000

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN^{1 2 3}—Continued

21 CFR section or guidance; activity	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
314.80(c)(2); ICSRs for serious, expected, and nonserious adverse drug experiences	682	1,228.73	838,000	1	838,000
314.80(c)(2); periodic reports for approved products	682	33.72	23,000	60	1,380,000
329.100; AERs for non-prescription drug products	312	62.522	19,507	6	117,042
<i>ICH E2C(R2) Guidance</i> ; Periodic safety updates; Applicants with waiver for an approved application (section III.A.)	471	8.885	4,185	1	4,185
<i>ICH E2C(R2) Guidance</i> ; Periodic safety updates; Applicants with no waiver for an approved application (section III.B.)	1,115	16.254	18,123	2	36,246
<i>AER During Pandemic Guidance</i> ; notifying FDA when normal reporting is not feasible (section III.C.)	1	1	1	8	8
4.102, 4.103, 4.104, 4.105, 310.305, 314.80, 314.98, 329.100(c); Waiver requests from electronic reporting requirements	1	1	1	24	24
<i>Best Practices for FDA Staff in the Postmarketing Safety Surveillance of Human Drug and Biological Products</i> ; Use of a targeted data collection tool to gather detailed case information specific to the product (section 9.4.)	1	23	23	1	23
<i>Best Practices for FDA Staff in the Postmarketing Safety Surveillance of Human Drug and Biological Products</i> ; Expediently submit AERs of interest beyond minimum reporting requirements (section 9.4.)	12	55	660	0.1	66
<i>Best Practices for FDA Staff in the Postmarketing Safety Surveillance of Human Drug and Biological Products</i> ; Summarize and assess AERs of interest at a frequency defined by FDA (e.g., in periodic safety reports or in some other form) (section 9.4.)	15	4	60	15	900
Total			2,156,757		3,629,691

¹ There are no capital costs associated with this collection. The operating and maintenance costs associated with this collection of information are approximately \$25,000 annually.

² The reporting burdens for § 310.305(c)(1), (2), and (3), and voluntary reports by healthcare providers received under §§ 314.80(c)(1)(i) and (ii) are covered under OMB control number 0910–0291.

³ Totals may not sum due to rounding.

TABLE 2—ESTIMATED ANNUAL RECORDKEEPING BURDEN^{1 2}

21 CFR section or guidance section; activity	Number of recordkeepers	Number of records per recordkeeper	Total annual records	Average burden per recordkeeping	Total hours
310.305; AER records—prescription product not the subject of a marketing application.	36	88.8	3,197	16	51,152
314.80(j); AER records—product associated w/ marketing application.	841	1,814.0606	1,525,625	16	24,410,000
<i>Postmarket AER for Nonprescription Drug Products Guidance</i> ; (§ 329.100).	312	62.5224	19,507	8	156,056
<i>AERs During Pandemic Guidance</i> ; Continuity of operations planning (section III.B.).	100	1	100	50	5,000
<i>AERs During Pandemic Guidance</i> ; documenting conditions and resultant high absenteeism (section III.C.2).	350	1	350	8	2,800
<i>AERs During Pandemic Guidance</i> ; documenting AER process (section III.C.1.).	350	1	350	8	2,800
4.105; Postmarketing safety recordkeeping for combination products and constituent parts.	11	18	198	0.1 (6 minutes)	20
Total			1,549,327		24,627,828

¹ There are no capital costs associated with this collection of information. There are operating and maintenance costs associated with this collection of information of approximately \$22,000 annually.

² Totals may not sum due to rounding.

TABLE 3—ESTIMATED ANNUAL THIRD-PARTY DISCLOSURE BURDEN^{1 2}

21 CFR section; activity	Number of respondents	Number of disclosures per respondent	Total annual disclosures	Average burden per disclosure	Total hours
4.103; Postmarketing Safety reporting for combination products—Sharing information with other constituent part applicants.	11	18	198	0.35 (21 minutes)	69

¹ There are no capital costs or operating and maintenance costs associated with this collection of information.

² Totals may not sum due to rounding.

Our estimates of the number of respondents and the total annual responses are based on reports submitted to the Agency. All applicants who have received marketing approval for drug products (including combination products that are administered as drug products) are required to report serious, unexpected adverse drug experiences (15-day “Alert reports”) (§ 314.80(c)(1)(i)), as well as followup reports (§ 314.80(c)(1)(ii)) to FDA. These include all foreign or domestic AERs as well as AERs based on information from applicable scientific literature and certain reports from post marketing studies. Section 314.80(c)(1)(iii) pertains to AERs submitted by nonapplicants. This information collection and burden table includes all 15-day alert reports submitted by applicants, manufacturers, packers, and distributors. Voluntary reports from healthcare providers are included under OMB control number 0910–0291.

Under § 314.80(c)(2), applicants (including combination products that are administered as drug products) must also provide periodic reports of adverse drug experiences. For the reporting interval, a periodic report includes reports of serious, expected adverse drug experiences, all nonserious adverse drug experiences, and an index of these reports; a narrative summary and analysis of adverse drug experiences; an analysis of the 15-day Alert reports submitted during the reporting interval; and a history of actions taken because of adverse drug experiences. Under § 314.80(j), applicants must keep records of all adverse drug experience reports known to the applicant for 10 years.

For marketed prescription drug products without approved new drug applications (NDAs) or abbreviated new drug applications (ANDAs), manufacturers, packers, and distributors of these products are required to report to FDA serious, unexpected adverse drug experiences as well as followup reports (§ 310.305(c)). Section 310.305(c)(5) pertains to the submission

of followup reports to reports forwarded to the manufacturers, packers, and distributors by FDA. Under § 310.305(g), each manufacturer, packer, and distributor shall maintain records of all adverse drug experiences required to be reported for 10 years. All 15-day Alert reports and followup reports must be submitted to FDA in electronic format.

Section 760 of the FD&C Act also provides for mandatory safety reporting for over-the-counter human drug products not subject to applications approved under section 505 of the FD&C Act (NDAs or ANDAs). These requirements apply to all OTC drug products marketed without an approved application, including those marketed under the OTC Drug Monograph Review process (whether or not subject to a final monograph), those marketed outside the monograph system, and including those that have been discontinued from marketing but for which a report of an adverse event was received. Under § 329.100, respondents must submit reports according to section 760 of the FD&C Act in an electronic format.

To assist respondents with implementation of section 760 of the FD&C Act, FDA developed the guidance for industry entitled “Postmarketing Adverse Event Reporting for Nonprescription Human Drug Products Marketed Without an Approved Application,” (July, 2009) available at <https://www.fda.gov/regulatory-information/search-fda-guidance-documents/postmarketing-adverse-event-reporting-nonprescription-human-drug-products-marketed-without-approved>. The guidance document discusses what should be included in a serious adverse drug event report submitted under section 760(b)(1) of the FD&C Act, including how to submit these reports and followup reports under section 760(c)(2) of the FD&C Act. Section 760(e) of the FD&C Act also requires that responsible persons maintain records of nonprescription drug adverse event reports, whether the event is serious or not, for a period of 6 years. FDA’s guidance recommends that respondents maintain records of

efforts to obtain the minimum data elements for a report of a serious adverse drug event and any followup reports.

In addition, this information collection includes an *International Council for Harmonisation of Technical Requirements for Pharmaceuticals for Human Use (ICH)* guidance for industry entitled “Providing Postmarketing Periodic Safety Reports in the ICH E2C(R2) Format (Periodic Benefit-Risk Evaluation Report), (November 2016)” available at <https://www.fda.gov/regulatory-information/search-fda-guidance-documents/providing-postmarket-periodic-safety-reports-ich-e2cr2-format-periodic-benefit-risk-evaluation>. The ICH E2C(R2) guidance describes the conditions under which applicants may use the ICH E2C(R2) Periodic Benefit-Risk Evaluation Report format for certain types of adverse event reporting.

FDA regulations in §§ 314.80(c)(2) and 600.80(c)(2) require applicants to submit postmarketing periodic safety reports for each approved application. The reports must be submitted quarterly for the first 3 years following the U.S. approval date and annually thereafter and must contain the information described in §§ 314.80(c)(2)(ii) and 600.80(c)(2)(ii) (the information collection associated with 21 CFR part 600—Biological Products, is approved under OMB control number 0910–0308). The Agency guidance assists respondents with satisfying the regulatory requirements in an alternative format, noting that the process differs depending on whether an applicable periodic safety update report waiver is in place.

Similarly, this information collection accounts for burden that may be applicable to the guidance document, “Postmarketing Adverse Event Reporting for Medical Products and Dietary Supplements During a Pandemic (May 2020),” available at <https://www.fda.gov/regulatory-information/search-fda-guidance-documents/postmarketing-adverse-event-reporting-medical-products-and-dietary-supplements-during-pandemic>.

In response to the Coronavirus Disease 2019 public health emergency, we revised the Agency guidance document to provide recommendations for recordkeeping applicable to any pandemic, not just influenza, including recommendations for planning, notification, and documentation for continuity of operations for firms that report postmarketing adverse events during any pandemic.

We include burden attributable to provisions related to postmarketing safety reporting for combination products as outlined in 21 CFR part 4, subpart B. When information regarding an event that involves a death or serious injury, or an adverse event, associated with the use of a combination product that includes a drug product, is received by the product applicant, the information must be provided to the other constituent part applicant(s) no later than 5 calendar days after receipt under § 4.103 (21 CFR 4.103). Relatedly, 21 CFR 4.104 explains how and where to submit reports for combination products, and 21 CFR 4.105 provides for associated recordkeeping. For combination products that are administered as drug products with a constituent part, adverse event reports are submitted to the drug application under 21 CFR part 314, and constituent applicants are notified of the AER under § 4.103. These provisions are also described in the guidance document “Postmarketing Safety Reporting for Combination Products” (July 2019), available at <https://www.fda.gov/regulatory-information/search-fda-guidance-documents/postmarketing-safety-reporting-combination-products>.

We are revising this information collection to account for burden that may be attributable to the best practice document entitled “Best Practices for FDA Staff in the Postmarketing Safety Surveillance of Human Drug and Biological Products” (January 2024), available at <https://www.fda.gov/media/130216/download>. The best practice document describes enhanced pharmacovigilance activities which FDA may request of an applicant. For a specific product, these activities may include use of a targeted data collection tool to gather detailed case information regarding adverse experiences of interest, expeditious submission of adverse experiences of interest beyond minimum reporting requirements, and/or summarization and assessment of adverse experiences of interest at a frequency defined by FDA. Accordingly, we are revising this information collection to include burden in Table 1, rows 10 through 12, that we attribute to the enhanced pharmacovigilance

activities regarding a subset of adverse experience reports (adverse experiences of interest) which include submitting adverse experiences which would otherwise be submitted within a different timeframe, utilizing a targeted data collection tool for those adverse experiences and/or providing a summary and assessment of those adverse experiences for human drug and biological products. In addition, we revised Table 1, rows 3 and 4, to more accurately describe the two types of reports that are submitted under 314.80(c)(2). In doing so, we corrected an overreporting. We estimate no increase in the recordkeeping burden associated with enhanced pharmacovigilance activities because, although the reported contents or timeline may change slightly, the recordkeeping burden associated with the reporting vehicle remains unchanged.

We are also revising this information collection to account for the mandatory electronic submission of individual case safety reports (ICSRs) for drugs, biologics, and combination products using the data standards specified in the ICH E2B(R3) guideline when submitting ICSR via the Electronic Submissions Gateway Next Generation (ESG NextGen). FDA adopted the ICH Implementation Guide (IG) for Electronic Transmission of Individual Case Safety Reports (ICSRs): E2B(R3) Data Elements and Message Specification (ICH ICSR IG) in February 2014. At present, FDA allows submitters to voluntarily use the E2B(R3) data standards in their ESG NextGen submissions. In January 2024, FDA began accepting electronic submissions of postmarketing ICSR for human drug products, biological products, and drug- or biologic-led combination products submitted to AEMS via the ESG NextGen in electronic format using the ICH E2B(R3) data standards and announced that submitters could continue to submit using E2B(R2) standards for an additional two years during the E2B(R3) implementation period. On April 6, 2026, we announced that to facilitate implementation and enhance efficiency and alignment with internationally harmonized data standards, we are requiring that ICSR submitted through ESG NextGen must be in the ICH E2B(R3) data standards beginning on October 1, 2026, unless earlier transition to ICH E2B(R3) data standards is needed to accommodate reporting requirements (see, for example, 21 CFR 314.81(b)(3)(v), added by the final rule entitled “Nonprescription Drug Product With an

Additional Condition for Nonprescription Use” (89 FR 105288, December 26, 2024)). See: <https://www.federalregister.gov/documents/2026/04/06/2026-06660/electronic-submission-of-postmarketing-individual-case-safety-reports-to-the-food-and-drug>.

The information provided by the ICH E2B(R3) standard is needed to improve the quality of data in ICSR submissions. We use the information to enable improved handling and analyses of ICSRs. Differences between ICH E2B(R2) and ICH E2B(R3) include, for example: new, changed, and expanded data elements; assessment of seriousness at the event level, rather than the case level; and embedding of attachments in the ICSR rather than providing separately.

We announced the adoption of the ICH E2B(R3) standard in February 2014 (79 FR 9908). In June of 2014, we amended our postmarketing safety reporting regulations for human drug and biological products to require that persons subject to mandatory reporting requirements submit safety reports in an electronic format that FDA can process, review, and archive (79 FR 33072). This revision reaffirmed our intention to continue to rely on ICH standards while also providing other options for providing electronic submissions to FDA. In this revision, we stated that it has been FDA’s practice to accept both the latest version of the ICH E2B standard in addition to the previous version to allow applicants reasonable time to transition to the updated ICH E2B standard. In this revision, we also stated that further changes to submission standards will be provided in guidance, as appropriate. In January 2024, we provided a transition period allowing voluntary use of the ICH E2B(R3) standard to minimize burden resulting from changes to the ICSR format. The purpose of the 2014 announcement and the 2024 transition period was to mitigate burden by allowing respondents time to implement changes to their submission systems. We note that many respondents that use the ESG NextGen are global industry participants and may have already adopted the ICH E2B(R3) standard for their submissions. Therefore, we believe that there is no change in the estimated burden associated with ICSR submissions over the ESG NextGen. Accordingly, we seek OMB approval of the mandatory implementation of the ICH E2B(R3) standard.

This information collection incorporates revisions to include the best practice document entitled “Best Practices for FDA Staff in the

Postmarketing Safety Surveillance of Human Drug and Biological Products” and its enhanced pharmacovigilance activities and to correct an unrelated overreporting error. We are otherwise retaining the burden hour estimates approved by OMB in this collection on July 31, 2025. As a result of this revision, the total burden hours of the information collection have decreased by 48,061,011 hours and increased by 23,743 responses.

Grace R. Graham,

Deputy Commissioner for Policy, Legislation, and International Affairs.

[FR Doc. 2026-09543 Filed 5-12-26; 8:45 am]

BILLING CODE 4164-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA-2019-N-0994]

Modified Risk Tobacco Product Application: Renewal Applications for VLN® King and VLN® Menthol King, Cigarette Products Submitted by 22nd Century Group Inc.

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability; request for comments.

SUMMARY: The Food and Drug Administration (FDA or the Agency) is announcing the availability for public comment of modified risk tobacco product applications (MRTPAs) for renewal of existing MRTP orders for two cigarette products submitted by 22nd Century Group Inc.

DATES: Electronic or written comments on the application may be submitted beginning May 13, 2026. FDA will establish a closing date for the comment period as described in section I.

ADDRESSES: You may submit comments as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal:* <https://www.regulations.gov>. Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to <https://www.regulations.gov> will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or

anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on <https://www.regulations.gov>.

- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see “Written/Paper Submissions” and “Instructions”).

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA-305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in “Instructions.”

Instructions: All submissions received must include the Docket No. FDA-2019-N-0994 for “Modified Risk Tobacco Product Application: Renewal Applications for VLN® King and VLN® Menthol King, Cigarette Products Submitted by 22nd Century Group Inc.” 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.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf>.

Docket: For access to the docket to read 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:

Dhanya John or Justin Sherren, Office of Regulations, Center for Tobacco Products, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. G335, Silver Spring, MD 20993-0002, 1-877-287-1373, email: CTPRRegulations@fda.hhs.gov.

SUPPLEMENTARY INFORMATION:

I. Background

Section 911 of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 387k) addresses the marketing and distribution of modified risk tobacco products (MRTPs). MRTPs are tobacco products that are sold or distributed for use to reduce harm or the risk of tobacco-related disease associated with commercially marketed tobacco products. Section 911(a) of the FD&C Act prohibits the introduction or delivery for introduction into interstate commerce of any MRTP unless an order issued by FDA pursuant to section 911(g) of the FD&C Act is effective with respect to such product.

Section 911(d) of the FD&C Act describes the information that must be included in a MRTPA, which must be filed and evaluated by FDA before an applicant can receive an order from FDA. FDA is required by section 911(e) of the FD&C Act to make a MRTPA available to the public (except for matters in the application that are trade secrets or otherwise confidential commercial information) and to request comments by interested persons on the information contained in the application and on the label, labeling, and advertising accompanying the application. The determination of whether an order is appropriate under section 911 of the FD&C Act is based on

the scientific information submitted by the applicant as well as the scientific evidence and other information that is made available to the Agency, including through public comments.

Section 911(g) of the FD&C Act describes the demonstrations applicants must make to obtain an order from FDA under either section 911(g)(1) or (g)(2). The applicant, 22nd Century Group Inc., is seeking a renewal of an order previously issued under section 911(g)(2) of the FD&C Act.

FDA may issue an order under Section 911(g)(2) of the FD&C Act with respect to a tobacco product that does not satisfy the section 911(g)(1) standard. A person seeking an order under section 911(g)(2) of the FD&C Act must show that:

- Such an order would be appropriate to promote the public health;
- any aspect of the label, labeling, and advertising for the product that would cause the product to be an MRTP is limited to an explicit or implicit representation that the tobacco product or its smoke does not contain or is free of a substance or contains a reduced level of a substance, or presents a reduced exposure to a substance in tobacco smoke;
- scientific evidence is not available and, using the best available scientific methods, cannot be made available without conducting long-term epidemiological studies for an application to meet the standards for obtaining an order under section 911(g)(1);
- the scientific evidence that is available without conducting long-term epidemiological studies demonstrates that a measurable and substantial reduction in morbidity or mortality among individual tobacco users is reasonably likely in subsequent studies;
- the magnitude of overall reductions in exposure to the substance or substances which are the subject of the application is substantial, such substance or substances are harmful, and the product as actually used exposes consumers to the specified reduced level of the substance or substances;
- the product as actually used by consumers will not expose them to higher levels of other harmful substances compared to similar types of tobacco products then on the market unless such increases are minimal and the reasonably likely overall impact of use of the product remains a substantial and measurable reduction in overall morbidity and mortality among individual tobacco users;
- testing of actual consumer perception shows that, as the applicant

proposes to label and market the product, consumers will not be misled into believing that the product is or has been demonstrated to be less harmful or presents or has been demonstrated to present less of a risk of disease than one or more other commercially marketed tobacco products; and

- issuance of an order with respect to the application is expected to benefit the health of the population as a whole taking into account both users of tobacco products and persons who do not currently use tobacco products.

Section 911(g)(4) of the FD&C Act describes factors that FDA must take into account in evaluating whether a tobacco product benefits the health of individuals and the population as a whole.

FDA is issuing this notice to inform the public that MRTPAs for the following products submitted by 22nd Century Group Inc. have been filed and are being made available for public comment:

- MR0000296.PD1: VLN® King
- MR0000296.PD2: VLN® Menthol King

The applicant is seeking renewal of the authorization to market VLN® King and VLN® Menthol King, both combusted, filtered cigarettes, as modified risk tobacco products under section 911(g)(2) of the FD&C Act.¹ These products previously received such authorization on December 23, 2021, and the applicant is including information from the previous MRTPAs by cross-reference.

FDA will post the application documents, including any amendments, to its website for the MRTPAs (see section II) for public comment on a rolling basis as they are redacted in accordance with applicable laws. In this document, FDA is announcing the availability of the first batch of application documents for public comment. FDA intends to establish a closing date for the comment period that is both at least 120 days after the date this notice and at least 30 days after the final documents from the application are made available for public comment. FDA will announce the closing date at least 30 days in advance. FDA believes that this comment period is appropriate given the volume and complexity of the applications being posted.

FDA will notify the public about the availability of additional application documents and comment period closing

¹ The notice of availability for the VLN® MRTPAs that received a modified risk granted order appeared in the *Federal Register* on July 25, 2019 (84 FR 35869) and the docket containing notices and public comments, FDA-2019-N-0994, is accessible at: <https://www.regulations.gov/search?filter=FDA-2019-N-0994>.

date via the Agency's web page for the MRTPAs (see section II) and by other means of public communication, such as by email to individuals who have signed up to receive email alerts. To receive email alerts, visit FDA's email subscription service management website (<https://www.fda.gov/about-fda/contact-fda/get-email-updates>), provide an email address, scroll down to the "Tobacco" heading, select "Modified Risk Tobacco Product Application Updates", and click "Submit." To encourage public participation consistent with section 911(e) of the FD&C Act, FDA is making the redacted MRTPAs that are the subject of this notice available electronically (see section II).

II. Electronic Access

Persons with access to the internet may obtain the document(s) at <https://www.fda.gov/tobacco-products/advertising-and-promotion/22nd-century-group-inc-modified-risk-tobacco-product-mrtp-applications>.

Grace R. Graham,

Deputy Commissioner for Policy, Legislation, and International Affairs.

[FR Doc. 2026-09544 Filed 5-12-26; 8:45 am]

BILLING CODE 4164-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

[Document Identifier: OS-0990-0407-30D]

Agency Information Collection Request. 30-Day Public Comment Request

AGENCY: Office of Minority Health, Office of the Secretary, Department of Health and Human Services.

ACTION: Notice.

SUMMARY: In compliance with the requirement of the Paperwork Reduction Act of 1995, the Office of Minority Health, U.S. Department of Health and Human Services, is announcing that the following summary of a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance.

DATES: Submit written comments (including recommendations) on the information collection request (ICR) on or before June 12, 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: Submit requests to *minorityhealthinfo@hhs.gov* or (240) 453–0492. When submitting comments or requesting information, please include the document identifier OS–0990–0407–30D and project title for reference.

SUPPLEMENTARY INFORMATION: Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency’s functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Title of the Collection: OMH Think Cultural Health.

Type of Collection: Extension of a Currently Approved Collection.
OMB No.: 0990–0407.

Abstract: The Office of Minority Health (OMH), Department of Health and Human Services (HHS), is requesting approval by the Office of Management and Budget (OMB) on an extension of a currently approved collection of information. The Think Cultural Health (TCH) website is an initiative of HHS OMH that provides resources and tools to promote cultural and linguistic competency in health and health care. The TCH website offers a suite of e-learning programs that afford health and health care professionals the ability to earn continuing education credits through training in cultural and linguistic competency. A 60-Day **Federal Register** Notice was published in the **Federal Register** on February 20, 2026, vol. 91, No. 34; pp. 8259.

Need and Proposed Use of the Information: The data will be used to enable health and health care professionals to register for courses, obtain accredited continuing education

credits, and help ensure that TCH offerings remain relevant, useful, and responsive to the needs of their target audiences. The findings from the data collection will be of interest to HHS OMH in supporting maintenance and revisions of the offerings on the TCH website.

Likely Respondents: Likely respondents are users of the TCH e-learning program(s) and/or e-resource(s). There are no requirements for annual, quarterly or monthly responses. A single respondent completes the registration process to access an e-learning program or e-resource on the website only once and completes a course-specific evaluation form for each e-learning program course/unit or e-resource per completion. A respondent may be invited to participate in the follow-up survey, a focus group, or a key informant interview and will not be asked to participate in more than one follow-up activity (*i.e.*, survey, focus group, or key informant interview).

TOTAL ESTIMATED ANNUALIZED BURDEN—HOURS

Forms	Respondents	Number of respondents	Number of responses per respondents	Average burden per response (hours)	Total burden hours
Registration Form	Health and Health Care Professionals	118,352	1	0.05	5,918
Course/unit Evaluation Form	Health and Health Care Professionals	118,352	1	0.05	5,918
Follow-Up Survey	Health and Health Care Professionals	4,208	1	0.17	701
Focus Groups	Health and Health Care Professionals	15	1	2	30
Key Informant Interviews	Health and Health Care Professionals	13	1	1	13
Total .....	.....	240,940	.....	.....	12,580

Catherine Howard,
Paperwork Reduction Act Reports Clearance Officer, Office of the Secretary.
[FR Doc. 2026–09567 Filed 5–12–26; 8:45 am]
BILLING CODE 4150–29–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; PAR Panel: Integrated Approaches in Neurodegeneration.
Date: June 16–17, 2026.
Time: 8:00 a.m. to 8:30 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: Bernard Rajeev Srambical Wilfred, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 480–6813, *bernard.srambicalwilfred@nih.gov*.

Name of Committee: Population Sciences and Epidemiology Integrated Review Group;

Social and Environmental Determinants of Health Study Section.
Date: June 16, 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: Gheda Khodr Temsah, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 402–2342, *temsahgk@csr.nih.gov*.

Name of Committee: Biobehavioral and Behavioral Processes Integrated Review Group; Language and Communication Study Section.
Date: June 16–17, 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: Natalie S. Dailey, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 827-4451, daileyns@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Skeletal Structure Physiology and Disease.

Date: June 16, 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: Amber Taylor Collins, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (301), 827-5245, amber.collins@nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Imaging for Clinical Decision Making.

Date: June 16, 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: Ivan K. Navarro, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 827-2061, ivan.navarro@nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Training and Career Development: Musculoskeletal and Oral Sciences.

Date: June 16, 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: Yasuko Furumoto, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, 301-827-7835, yasuko.furumoto@nih.gov.

Name of Committee: Bioengineering Sciences & Technologies Integrated Review Group; Biomaterials and Biointerfaces Study Section.

Date: June 16, 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: Jennifer Fiori O'Connell, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (410) 454-8478, jennifer.oconnell@nih.gov.

Name of Committee: Infectious Diseases and Immunology A Integrated Review Group; Viral Pathogenesis and Immunity Study Section.

Date: June 16, 2026.

Time: 9:30 a.m. to 6:30 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Neerja Kaushik-Basu, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3198, MSC 7808, Bethesda, MD 20892, (301) 435-1742, kaushikbasun@csr.nih.gov.

Name of Committee: Applied Immunology and Disease Control Integrated Review Group; Transmission of Vector-Borne and Zoonotic Diseases Study Section.

Date: June 16, 2026.

Time: 10:00 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: Haruhiko Murata, Ph.D., Scientific Review Officer, Center for Scientific Review, 6701 Rockledge Drive, National Institutes of Health, Bethesda, MD 20892, (301) 594-3245, muratah@csr.nih.gov.

Name of Committee: Oncology 2—Translational Clinical Integrated Review Group; Clinical Oncology Study Section.

Date: June 17, 2026.

Time: 8:00 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: Laura Asnaghi, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockville Drive, Room 6200, MSC 7804, Bethesda, MD 20892, (301) 443-1196, laura.asnaghi@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: May 8, 2026.

Margaret N. Vardanian,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2026-09447 Filed 5-12-26; 8:45 am]

BILLING CODE 4167-05-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG-2026-0216]

Certificates of Alternative Compliance for the Coast Guard Heartland District

AGENCY: Coast Guard, DHS.

ACTION: Notification of issuance of a certificates of alternative compliance.

SUMMARY: The Coast Guard announces that the Coast Guard Heartland District's Prevention Division has issued certificates of alternative compliance from the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to vessels of special construction or purpose that cannot fully comply with the light, shape, and sound signal provisions of 72 COLREGS without interfering with the vessel's design and construction. We are issuing this notice because its publication is required by statute. This notification of issuance of a certificate of alternative compliance promotes the Coast Guard's marine safety mission.

DATES: The Certificates of Alternative Compliance were issued between July 2025 and January 2026.

FOR FURTHER INFORMATION CONTACT: For information or questions about this notice call or email Lieutenant Natalie Cordes, Heartland District, Prevention Division, U.S. Coast Guard, telephone 571-608-4791, email Natalie.R.Cordes@uscg.mil.

SUPPLEMENTARY INFORMATION: The United States is signatory to the International Maritime Organization's International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), as amended. The special construction or purpose of some vessels makes them unable to comply with the light, shape, or sound signal provisions of the 72 COLREGS. Under statutory law, however, specified 72 COLREGS provisions are not applicable to a vessel of special construction or purpose if the Coast Guard determines that the vessel cannot comply fully with those requirements without interfering with the special function of the vessel.¹

The owner, builder, operator, or agent of a special construction or purpose vessel may apply to the Coast Guard District Office in which the vessel is being built or operated for a determination that compliance with alternative requirements is justified,² and the Chief of the Prevention Division

¹ 33 U.S.C. 1605.

² 33 CFR 81.5.

will then issue the applicant a certificate of alternative compliance (COAC) if he or she determines that the vessel cannot comply fully with 72 COLREGS light, shape, and sound signal

provisions without interference with the vessel's special function.³ If the Coast Guard issues a COAC, it must publish notice of this action in the **Federal Register**.⁴

The Heartland District has issued COACs to the following vessels from July 2025 to January 2026:

Year	Vessel name	Details
2025	VOYAGER	This certificate authorized the placement of the vessel's after masthead light to be on the main mast, 20–11½" aft and 27'–3½" above the forward masthead light; the sidelights to be on the pilothouse 21'–6" outboard from the centerline of the vessel; and the stern light to be placed on the starboard quarter of the stern 4'–2" above the main deck.
2025	THOMAS C. MORAN.	This certificate authorized the placement of the vessel's masthead light to be centerline on the elevated pilothouse, 40'–3½" above the main deck when upright, and 27'–2" above the main deck when mast is in the lowered position during ship assist work to prevent damage when working in close proximity to a ship's bow/stern flare; the sidelights to be on the elevated pilothouse 13'–2" from the side of the vessel and 21'–1" above the main deck; the stern light to be placed on the aft side of the elevated pilothouse, 1'–4" starboard of centerline and 6'–9½" aft of amidships; and the restricted in ability to maneuver and not under command (RAM/NUC) lights placed 6" forward of the masthead lights starting at 28'–9¼" above the main deck and vertically spaced at 3'–3¾".
2025	NEWT MORAN	This certificate authorized the placement of the vessel's masthead light to be centerline on the elevated pilothouse, 40'–3½" above the main deck when upright, and 27'–2" above the main deck when mast is in the lowered position during ship assist work to prevent damage when working in close proximity to a ship's bow/stern flare; the sidelights to be on the elevated pilothouse 13'–2" from the side of the vessel and 21'–1" above the main deck; the stern light to be placed on the aft side of the elevated pilothouse, 1'–4" starboard of centerline and 6'–9½" aft of amidships; and the restricted in ability to maneuver and not under command (RAM/NUC) lights placed 6" forward of the masthead lights starting at 28'–9¼" above the main deck and vertically spaced at 3'–3¾".
2025	J THEMISTOCLIS MORAN.	This certificate authorized the placement of the vessel's masthead light to be centerline on the elevated pilothouse, 40'–3½" above the main deck when upright, and 27'–2" above the main deck when mast is in the lowered position during ship assist work to prevent damage when working in close proximity to a ship's bow/stern flare; the sidelights to be on the elevated pilothouse 13'–2" from the side of the vessel and 21'–1" above the main deck; the stern light to be placed on the aft side of the elevated pilothouse, 1'–4" starboard of centerline and 6'–9½" aft of amidships; and the restricted in ability to maneuver and not under command (RAM/NUC) lights placed 6" forward of the masthead lights starting at 28'–9¼" above the main deck and vertically spaced at 3'–3¾".
2025	JANE	This certificate authorized the placement of the vessel's masthead light to be centerline on the elevated pilothouse, 40'–3½" above the main deck when upright, and 27'–2" above the main deck when mast is in the lowered position during ship assist work to prevent damage when working in close proximity to a ship's bow/stern flare; the sidelights to be on the elevated pilothouse 13'–2" from the side of the vessel and 21'–1" above the main deck; the stern light to be placed on the aft side of the elevated pilothouse, 1'–4" starboard of centerline and 6'–9½" aft of amidships; and the restricted in ability to maneuver and not under command (RAM/NUC) lights placed 6" forward of the masthead lights starting at 28'–9¼" above the main deck and vertically spaced at 3'–3¾".
2025	JILL	This certificate authorized the placement of the vessel's masthead light to be centerline on the elevated pilothouse, 40'–3½" above the main deck when upright, and 27'–2" above the main deck when mast is in the lowered position during ship assist work to prevent damage when working in close proximity to a ship's bow/stern flare; the sidelights to be on the elevated pilothouse 13'–2" from the side of the vessel and 21'–1" above the main deck; the stern light to be placed on the aft side of the elevated pilothouse, 1'–4" starboard of centerline and 6'–9½" aft of amidships; and the restricted in ability to maneuver and not under command (RAM/NUC) lights placed 6" forward of the masthead lights starting at 28'–9¼" above the main deck and vertically spaced at 3'–3¾".
2026	MARAUDER	This certificate authorized the placement of the vessel's masthead light to be aft centerline on the pilothouse, 40'–3½" above the main deck when upright, and 23'–7" above the main deck when mast is in the lowered position during ship assist work to prevent damage when working in close proximity to a ship's bow/stern flare; the sidelights to be on the pilothouse 14'–6½" from the side of the vessel and 20'–6¼" above the main deck; the stern light to be placed on the aft side of the pilothouse, 4" starboard of centerline; and the restricted in ability to maneuver and not under command (RAM/NUC) lights placed 18" starboard and 10" aft of the masthead lights starting at 25'–9" above the main deck and vertically spaced at 6'–7".
2026	MAX CHOUEST	This certificate authorized the placement of the vessel's forward masthead light on the forward portion of the helicopter landing deck, positioned 78'–5" forward of the vessel's pilothouse and 58'–3¾" above the main deck; the aft masthead light positioned on the main mast, 106'–8¾" aft of the forward masthead light, and 26'–7" above the forward masthead light; and the stern light positioned centerline on the top part of the pilothouse.

The Chief of Prevention Division of the Heartland District, U.S. Coast Guard, certifies that the vessels listed above are of special construction or purpose, and are unable to comply fully with the

requirements of the provisions enumerated in the 72 COLREGS, without interfering with the normal operation, construction, or design of the vessel. The Chief of Prevention Division

further finds and certifies that the listed vessels are in the closest possible compliance with the applicable provisions of the 72 COLREGS.⁵

³ 33 CFR 81.9.

⁴ 33 U.S.C. 1605(c) and 33 CFR 81.18.

⁵ 33 U.S.C. 1605(a); 33 CFR 81.9.

This notice is issued under authority of 33 U.S.C. 1605(c) and 33 CFR 81.18.

Dated: May 8, 2026.

J.B. Wheeler,

Captain, U.S. Coast Guard, Chief of Prevention, Coast Guard Heartland District.

[FR Doc. 2026–09498 Filed 5–12–26; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2025–0097]

Notification of the Revocation of Facility Exemptions From the Port Security Advisory

AGENCY: Coast Guard, DHS.

ACTION: Notice.

SUMMARY: The U.S. Coast Guard announces that it is revoking port facility exemptions from the Port Security Advisory for Equatorial Guinea.

DATES: The policy announced in this notice is effective on May 27, 2026.

FOR FURTHER INFORMATION CONTACT: For information about this document call or email Mr. Edward Munoz, Division Chief, International Port Security Assessments, U.S. Coast Guard, telephone 202–372–2122, *HQS-DG-IPSPProgramHQS@uscg.mil*.

SUPPLEMENTARY INFORMATION:

Background and Purpose

The authority for this notice is 5 U.S.C. 552(a) (“Administrative Procedure Act”), 46 U.S.C. 70110 (“Maritime Transportation Security Act”), and Department of Homeland Security Delegation No. 0170.1(II)(97)(f). As delegated, section 70110(a) authorizes the U.S. Coast Guard to impose conditions of entry on vessels arriving in U.S. waters from ports that the U.S. Coast Guard has not found to maintain effective antiterrorism measures.

Effective antiterrorism measures require government oversight and security functions like risk assessments, drills, enforcement, and intelligence sharing cannot be delegated to individual facilities. Without proper oversight, exempted facilities may lack the necessary approvals, enforcement mechanisms, and broader security coordination, increasing vulnerabilities to the marine transportation system. The U.S. Coast Guard has determined that the government of Equatorial Guinea lacks proper oversight of its facilities. Accordingly, the U.S. Coast Guard is

revoking port facility exemptions for Equatorial Guinea. With this notice, the current list of countries assessed and not maintaining effective antiterrorism measures is as follows: Cambodia, Cameroon, Comoros, Cuba, Democratic People’s Republic of Korea (North Korea), Equatorial Guinea, Gambia (The), Guinea-Bissau, Iran, Iraq, Libya, Madagascar, Micronesia (Federated States of), Nauru, Nigeria, Sao Tome and Principe, Seychelles, Sudan, Suriname, Syria, Timor-Leste, Venezuela, and Yemen. The current Port Security Advisory is available at: <http://www.dco.uscg.mil/Our-Organization/Assistant-Commandant-for-Prevention-Policy-CG-5P/International-Domestic-Port-Assessment/>.

Nathan A. Moore,

Vice Admiral, Deputy Commandant for Operations, U.S. Coast Guard.

[FR Doc. 2026–09503 Filed 5–12–26; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–0092]

Agency Information Collection Activities; Revision of a Currently Approved Collection: E-Verify Program

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security.

ACTION: 60-Day notice.

SUMMARY: The Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS) invites the general public and other Federal agencies to comment upon this proposed revision of a currently approved collection of information. In accordance with the Paperwork Reduction Act (PRA) of 1995, the information collection notice is published in the **Federal Register** to obtain comments regarding the nature of the information collection, the categories of respondents, the estimated burden (*i.e.*, the time, effort, and resources used by the respondents to respond), the estimated cost to the respondent, and the actual information collection instruments.

DATES: Comments are encouraged and will be accepted for 60 days until July 13, 2026.

ADDRESSES: All submissions received must include the OMB Control Number 1615–0092 in the body of the letter, the agency name and Docket ID USCIS–

2007–0023. Submit comments via the Federal eRulemaking Portal website at <https://www.regulations.gov> under e-Docket ID number USCIS–2007–0023.

FOR FURTHER INFORMATION CONTACT: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, John R. Pfirrmann-Powell, Acting Deputy Chief, telephone number (240) 721–3000 (This is not a toll-free number. Comments are not accepted via telephone message). Please note contact information provided here is solely for questions regarding this notice. It is not for individual case status inquiries. Applicants seeking information about the status of their individual cases can check Case Status Online, available at the USCIS website at <https://www.uscis.gov>, or call the USCIS Contact Center at 800–375–5283 (TTY 800–767–1833).

SUPPLEMENTARY INFORMATION:

Comments

You may access the information collection instrument with instructions or additional information by visiting the Federal eRulemaking Portal site at: <https://www.regulations.gov> and entering USCIS–2007–0023 in the search box. Comments must be submitted in English, or an English translation must be provided. All submissions will be posted, without change, to the Federal eRulemaking Portal at <https://www.regulations.gov>, and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make to DHS. DHS may withhold information provided in comments from public viewing that it determines may impact the privacy of an individual or is offensive. For additional information, please read the Privacy Act notice that is available via the link in the footer of <https://www.regulations.gov>.

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) 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;

(2) 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;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, 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:* Revision of a Currently Approved Collection.

(2) *Title of the Form/Collection:* E-Verify Program.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* G-1617; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Business or other for-profit. E-Verify is a web-based system which allows employers to electronically confirm the employment eligibility of newly hired employees.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of annual respondents for the information collection E-Verify Program for New Users Entry (Employer Enrollment) is 66,330 and the estimated hour burden per response is 2.26 hours; the estimated total number of annual respondents for the information collection E-Verify Program for New User Training is 66,330 and the estimated hour burden per responses is 1 hour; the estimated total number of annual respondents for the information collection E-Verify Program for Existing User Annual Training is 358,670 and the estimated hour burden per responses is 0.5 hours; the estimated total number of annual respondents for the information collection E-Verify Program for Terms of Service Training is 119,557 and the estimated hour burden per responses is 0.55 hours; the estimated total number of annual respondents for the information collection E-Verify Program for Queries and Initial Cases is 235,985 and the estimated hour burden per responses is 0.121 hours; and the estimated total number of annual respondents for the information collection E-Verify Program for Reverification is 232,900 and the estimated hour burden per responses is 0.06 hours.

(6) *An estimate of the total public burden (in hours) associated with the*

collection: The estimated total annual hour burden associated with this collection is 2,045,781 hours.

(7) *An estimate of the total public burden (in cost) associated with the collection:* The estimated total annual cost burden associated with this collection of information is \$1,887,000.

Dated: May 8, 2026.

John R. Pfirrmann-Powell,

Acting Deputy Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2026-09530 Filed 5-12-26; 8:45 am]

BILLING CODE 9111-97-P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS-WASO-CR-NPS0042340; OMB Control Number 1024-0037; PPWOCRADIO, PCU00RP15.R50000, 267P104215]

Agency Information Collection Activities; Archeology Permit Applications and Reports

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 July 13, 2026.

ADDRESSES: Send your comments on this information collection request (ICR) by mail to NPS Information Collection Clearance Officer (ADIR-ICCO), National Park Service, 12201 Sunrise Valley Drive, (MS-263) Reston, VA 20191 (mail); or to *phadrea.ponds@ios.doi.gov* (email). Please reference Office of Management and Budget (OMB) Control Number 1024-0037 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: Kristen Martine, National Park Service Bureau Archeologist/Department Consulting Archeologist by at *kristen_martine@nps.gov* (email); or (771) 200-0613 (telephone). Please reference OMB Control Number 1024-0037 in the subject line of your comment. 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.

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 personally identifiable information in your comment, you should be aware that your entire comment—including your personally identifiable information—may be made publicly available at any time. While you can ask us in your comment to withhold your personally identifiable information from public review, we cannot guarantee that we will be able to do so.

Abstract: Federal law—specifically Section 4 of the Archaeological Resources Protection Act of 1979 (ARPA) (16 U.S.C. 470cc) and Section 3 of the Antiquities Act of 1906 (54 U.S.C. 320302)—allow people or organizations to apply for permission to scientifically

study, excavate, or remove archaeological resources from public or Indian lands. Any archaeological work on National Park Service (NPS) lands conducted by non-NPS personnel requires a permit, regardless of whether the project is tied to regulatory compliance. This requirement covers activities such as excavations, shovel tests, coring, pedestrian surveys (with or without collecting artifacts), underwater archaeology, photogrammetry, and rock-art documentation.

Individuals from universities, museums, scientific institutions, businesses, or other organizations must obtain a permit before beginning any fieldwork. To do this, applicants submit Form DI-1926, the Application for Permit for Archeological Investigations. Along with the form, applicants provide a statement of work, statements describing their capabilities and past performance, curriculum vitae for the principal investigator and field director, written consent from State or Tribal authorities when required, authorization identifying a curation facility, and a detailed schedule of all project activities.

Permit holders must then submit preliminary reports, annual reports, and final reports throughout the life of the project.

Title of Collection: Archeology Permit Applications and Reports.

OMB Control Number: 1024-0037.

Form Number: Form DI-1926.

Type of Review: Renewal of a currently approved collection.

Respondents/Affected Public: Individuals or organizations wishing to excavate or remove archeological resources from public or Indian lands.

Total Estimated Number of Annual Respondents: 172.

Total Estimated Number of Annual Responses: 172.

Estimated Completion Time per Response: Varies; up to 8 hours, depending on activity.

Total Estimated Number of Annual Burden Hours: 1,032.

Respondent's Obligation: Required to obtain or retain a benefit.

Frequency of Collection: On occasion.

Total Estimated Annual Nonhour 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. 2026-09517 Filed 5-12-26; 8:45 am]

BILLING CODE 4312-52-P

DEPARTMENT OF THE INTERIOR

National Park Service

**[NPS-WASO-NRNL-DTS#-42777;
PPWOCRADIO, PCU00RP14.R50000]**

National Register of Historic Places; Notification of Pending Nominations and Related Actions

AGENCY: National Park Service, Interior.
ACTION: Notice.

SUMMARY: The National Park Service is soliciting electronic comments on the significance of properties nominated before May 2, 2026, for listing or related actions in the National Register of Historic Places.

DATES: Comments should be submitted by May 28, 2026.

ADDRESSES: Comments are encouraged to be submitted electronically to *National_Register_Submissions@nps.gov* with the subject line "Public Comment on <property or proposed district name, (County) State>." If you have no access to email, you may send them via U.S. Postal Service and all other carriers to the National Register of Historic Places, National Park Service, 1849 C Street NW, MS 2013, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Sherry A. Frear, Chief, National Register of Historic Places/National Historic Landmarks Program, 1849 C Street NW, MS 2013, Washington, DC 20240, *sherry_frear@nps.gov*, 202-913-3763.

SUPPLEMENTARY INFORMATION: The properties listed in this notice are being considered for listing or related actions in the National Register of Historic Places. Nominations for their consideration were received by the National Park Service before May 2, 2026. Pursuant to 36 CFR 60.13, comments are being accepted concerning the significance of the nominated properties under the National Register criteria for evaluation.

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.

Nominations submitted by State or Tribal Historic Preservation Officers
Key: State, County, Property Name, Multiple Name(if applicable), Address/Boundary, City, Vicinity, Reference Number.

CONNECTICUT

Middlesex County

Beman Historic District
Cross Street, Knowles Avenue and Vine Street, Middletown, SG100013098

MAINE

Cumberland County

Little Diamond Island Casino, 0 Fessenden Avenue, Little Diamond Island, Portland, SG100013104

Franklin County

Reeds Mill Church, 995 Reeds Mill Road, Madrid Township, SG100013106

NEW YORK

Kings County

Nostrand Houses, Generally bounded by Batchelder St; Bragg St; Avenue W; Avenue X, Brooklyn, SG100013099

New York County

Ralph J. Rangel Houses, 159-16 Harlem River Drive, et. al., New York, SG100013100

NORTH CAROLINA

Orange County

Coker Hills Historic District, Allard, Audubon, Clayton, Curtis, Lyons, Michaux, North Elliott, and Velma Roads; South Lakeshore Drive; Wood Circle, Chapel Hill, SG100013116

SOUTH CAROLINA

Abbeville County

J.S. Wright High School, (Equalization Schools in South Carolina, 1951-1960), 700 Branch Street, Abbeville, MP100013097

TEXAS

Cass County

Atlanta-Miller Grade School, 200 W. Miller Street, Atlanta, SG100013125

Gillespie County

Mittel-Kraus Rural Historic District, 554 and 1291 Shorty Crenwelge Dr., Fredericksburg, SG100013111

VERMONT

Bennington County

Dellwood Cemetery, 2950 Main Street, Manchester, SG100013118

Grand Isle County

Providence Island Canal Sloop, (Canal Boat Wrecks of Lake Champlain in Vermont and New York MPS), Lake Champlain, South Hero vicinity, MP100013117

WISCONSIN**Racine County**

Thomas H. Smith Shipwreck (Steambarge), (Great Lakes Shipwreck Sites of Wisconsin MPS), Address Restricted, Town of Caledonia vicinity, MP100013123

Walworth County

East Troy Electric Railroad Historic District, A corridor beginning west of Division Street in East Troy and ending in Indianhead Park in Mukwonago, East Troy, SG100013124

A request for removal has been made for the following resource(s):

GEORGIA**Gilmer County**

Gilmer County Courthouse, (Georgia County Courthouses TR), Courthouse Sq. Ellijay, OT80001081

Hart County

Gulley-Vickery-Blackwell House, (Hartwell MRA), 115 Franklin St., Hartwell, OT86002014

Warren County

Roberts-McGregor House, Depot St., Warrenton, OT79000750

A request to move has been received for the following resource(s):

MAINE**Washington County**

McCurdy Smokehouse, East side of Water Street 350' south of current location, Lubec tax map 15, lot 30 (New Location), Lubec, MV93000638

Additional documentation has been received for the following resource(s):

PENNSYLVANIA**Allegheny County**

Mt. Lebanon Historic District (Additional Documentation), Roughly bounded by Gilkeson, Washington, Scott & Pine Tree Rds., Mt. Lebanon, Castle Shannon & Cedar Blvds., Mt. Lebanon, AD14000813

Nomination(s) submitted by Federal Preservation Officers: The State Historic Preservation Officer reviewed the following nomination(s) and responded to the Federal Preservation Officer within 45 days of receipt of the nomination(s) and supports listing the properties in the National Register of Historic Places.

CALIFORNIA**San Bernardino County**

Cow Cove, Address Restricted, Essex vicinity, SG100013110

COLORADO**Mesa County**

White Rocks, (Colorado National Monument MPS), Address Restricted, Fruita, MP100013108
Saddlehorn Recreation and Headquarters Historic District, (Colorado National

Monument MPS), Address Restricted, Fruita vicinity, MP100013109

Nomination(s) submitted by Federal Preservation Officers: The State Historic Preservation Officer did not respond to the Federal Preservation Officer within 45 days of receipt of the nomination(s). In accordance with the National Park Service Centennial Act (Pub. L. 114–289), the State Historic Preservation Officer's "failure to meet this deadline shall constitute a recommendation to not support the nomination(s)."

ALASKA**Yukon-Koyukuk Borough**

Rohn CCC Cabin and Tatina Aviation Field Reserve, Confluence of the South Fork of the Kuskokwim River and the Tatina (formerly Rohn) river, Yukon-Koyukuk Census Area, SG100013113

Authority: 36 CFR 60.13.

Sherry A. Frear,

Chief, National Register of Historic Places/ National Historic Landmarks Program.

[FR Doc. 2026–09558 Filed 5–12–26; 8:45 am]

BILLING CODE 4312–52–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–506 and 508 and 731–TA–1238–1243 (Second Review)]

Non-Oriented Electrical Steel From China, Germany, Japan, South Korea, Sweden, and Taiwan; Determinations

On the basis of the record ¹ developed in the subject five-year reviews, the United States International Trade Commission ("Commission") determines, pursuant to the Tariff Act of 1930 ("the Act"), that revocation of the countervailing duty orders on non-oriented electrical steel ("NOES") from China and Taiwan and revocation of the antidumping duty orders on NOES from China, Germany, Japan, South Korea, Sweden, and Taiwan would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

Background

The Commission instituted these reviews on November 3, 2025 (90 FR 55159, December 1, 2025) and determined on March 6, 2026 that it would conduct expedited reviews (91 FR 17306, April 6, 2026).

The Commission made these determinations pursuant to section

¹ The record is defined in § 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

751(c) of the Act (19 U.S.C. 1675(c)). It completed and filed its determinations in these reviews on May 8, 2026. The views of the Commission are contained in USITC Publication 5736 (May 2026), entitled *Non-Oriented Electrical Steel from China, Germany, Japan, South Korea, Sweden, and Taiwan: Investigation Nos. 701–TA–506 and 508 and 731–TA–1238–1243 (Second Review)*.

By order of the Commission.

Issued: May 8, 2026.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2026–09445 Filed 5–12–26; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–772–774 and 731–TA–1756–1758 (Final)]

Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, From India, Indonesia, and Laos; Scheduling of the Final Phase of Antidumping and Countervailing Duty Investigations

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice of the scheduling of the final phase of antidumping and countervailing duty investigation Nos. 701–TA–772–774 and 731–TA–1756–1758 (Final) pursuant to the Tariff Act of 1930 to determine whether an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of crystalline silicon photovoltaic products from India, Indonesia, and Laos, provided for in subheadings 8541.42.00 and 8541.43.00 of the Harmonized Tariff Schedule of the United States, preliminarily determined by the Department of Commerce ("Commerce") to be subsidized and sold at less-than-fair-value.

DATES: April 28, 2026.

FOR FURTHER INFORMATION CONTACT: Celia Feldpausch (202) 205–2387, Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special

assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (<https://www.usitc.gov>). The public record for these investigations may be viewed on the Commission's electronic docket (EDIS) at <https://edis.usitc.gov>.

SUPPLEMENTARY INFORMATION:

Scope.—For purposes of these investigations, Commerce has defined the subject merchandise as “crystalline silicon photovoltaic cells, and modules, laminates, and panels, consisting of crystalline silicon photovoltaic cells, whether or not partially or fully assembled into other products, including, but not limited to, modules, laminates, panels and building integrated materials.

This investigation covers crystalline silicon photovoltaic cells of thickness equal to or greater than 20 micrometers, having a p/n junction formed by any means, whether or not the cell has undergone other processing, including, but not limited to, cleaning, etching, coating, and/or addition of materials (including, but not limited to, metallization and conductor patterns) to collect and forward the electricity that is generated by the cell.

Merchandise under consideration may be described at the time of importation as parts for final finished products that are assembled after importation, including, but not limited to, modules, laminates, panels, building-integrated modules, building integrated panels, or other finished goods kits. Such parts that otherwise meet the definition of merchandise under consideration are included in the scope of the investigation.

Excluded from the scope of the investigation are thin film photovoltaic products produced from amorphous silicon (a-Si), cadmium telluride (CdTe), or copper indium gallium selenide (CIGS).

Also excluded from the scope of the investigation are crystalline silicon photovoltaic cells, not exceeding 10,000 mm² in surface area, that are permanently integrated into a consumer good whose function is other than power generation and that consumes the electricity generated by the integrated crystalline silicon photovoltaic cell. Where more than one cell is permanently integrated into a consumer good, the surface area for purposes of this exclusion shall be the total combined surface area of all cells that are integrated into the consumer good.

Additionally, excluded from the scope of the investigation are panels

with surface area from 3,450 mm² to 33,782 mm² with one black wire and one red wire (each of type 22 AWG or 24 AWG not more than 206 mm in length when measured from panel extrusion), and not exceeding 2.9 volts, 1.1 amps, and 3.19 watts. For the purposes of this exclusion, no panel shall contain an internal battery or external computer peripheral ports.

Also excluded from the scope of the investigation are:

(1) Off grid CSPV panels in rigid form with a glass cover, with the following characteristics: (A) a total power output of 100 watts or less per panel; (B) a maximum surface area of 8,000 cm² per panel; (C) do not include a built-in inverter; (D) must include a permanently connected wire that terminates in either an 8 mm male barrel connector, or a two-port rectangular connector with two pins in square housings of different colors; (E) must include visible parallel grid collector metallic wire lines every 1–4 millimeters across each solar cell; and (F) must be in individual retail packaging (for purposes of this provision, retail packaging typically includes graphics, the product name, its description and/or features, and foam for transport); and

(2) Off grid CSPV panels without a glass cover, with the following characteristics: (A) a total power output of 100 watts or less per panel; (B) a maximum surface area of 8,000 cm² per panel; (C) do not include a built-in inverter; (D) must include visible parallel grid collector metallic wire lines every 1–4 millimeters across each solar cell; and (E) each panel is (1) permanently integrated into a consumer good; (2) encased in a laminated material without stitching, or (3) has all of the following characteristics: (i) the panel is encased in sewn fabric with visible stitching, (ii) includes a mesh zippered storage pocket, and (iii) includes a permanently attached wire that terminates in a female USB–A connector.

In addition, the following CSPV panels are excluded from the scope of the investigation: off-grid CSPV panels in rigid form with a glass cover, with each of the following physical characteristics, whether or not assembled into a fully completed off-grid hydropanel whose function is conversion of water vapor into liquid water: (A) a total power output of no more than 80 watts per panel; (B) a surface area of less than 5,000 square centimeters (cm²) per panel; (C) do not include a built-in inverter; (D) do not have a frame around the edges of the panel; (E) include a clear glass back

panel; and (F) must include a permanently connected wire that terminates in a twoport rectangular connector.

Additionally excluded from the scope of this investigation are off-grid small portable crystalline silicon photovoltaic panels, with or without a glass cover, with the following characteristics: (1) a total power output of 200 watts or less per panel; (2) a maximum surface area of 16,000 cm² per panel; (3) no built-in inverter; (4) an integrated handle or a handle attached to the package for ease of carry; (5) one or more integrated kickstands for easy installation or angle adjustment; and (6) a wire of not less than 3 meters either permanently connected or attached to the package that terminates in an 8 mm diameter male barrel connector.

Also excluded from the scope of this investigation are off-grid crystalline silicon photovoltaic panels in rigid form with a glass cover, with each of the following physical characteristics, whether or not assembled into a fully completed off-grid hydropanel whose function is conversion of water vapor into liquid water: (A) a total power output of no more than 180 watts per panel at 155 degrees Celsius; (B) a surface area of less than 16,000 square centimeters (cm²) per panel; (C) include a keep-out area of approximately 1,200 cm² around the edges of the panel that does not contain solar cells; (D) do not include a built-in inverter; (E) do not have a frame around the edges of the panel; (F) include a clear glass back panel; (G) must include a permanently connected wire that terminates in a two-port rounded rectangular, sealed connector; (H) include a thermistor installed into the permanently connected wire before the twoport connector; and (I) include exposed positive and negative terminals at opposite ends of the panel, not enclosed in a junction box.

Further excluded from the scope of the investigation are:

(1) Off grid rigid CSPV panels with a glass cover, with the following characteristics: (A) a total power output of 200 watts or less per panel, (B) a maximum surface area of 10,500 cm² per panel, (C) do not include a built-in inverter, (D) must include a permanently connected wire that terminates in waterproof connector with a cylindrical positive electrode and a rectangular negative electrode with the positive and negative electrodes having an interlocking structure, (E) must include visible parallel grid collector metallic wire lines every 1–4 millimeters across each solar cell, and (F) must be in individual retail

packaging (for purposes of this provision, retail packaging typically includes graphics, the product name, its description and/or features); and

(2) Off-grid small portable crystalline silicon photovoltaic panels, with or without a glass cover, with the following characteristics: (A) a total power output of 200 watts or less per panel, (B) a maximum surface area of 16,000 cm² per panel, (C) no built-in inverter, (D) an integrated handle or a handle attached to the package for ease of carry, (E) one or more integrated kickstands for easy installation or angle adjustment, and (F) a wire either permanently connected or attached to the package terminates in waterproof connector with a cylindrical positive electrode and a rectangular negative electrode with the positive and negative electrodes having an interlocking structure.

Also excluded from the scope of the investigation are:

(1) Off grid rigid CSPV panels with a glass cover, with the following characteristics: (A) a total power output of 200 watts or less per panel, (B) a maximum surface area of 10,500 cm² per panel, (C) do not include a built-in inverter, (D) must include a permanently connected wire that terminates in waterproof connector with a cylindrical positive electrode and a rectangular negative electrode with the positive and negative electrodes having an interlocking structure, (E) must include visible parallel grid collector metallic wire lines every 1–4 millimeters across each solar cell, and (F) must be in individual retail packaging (for purposes of this provision, retail packaging typically includes graphics, the product name, its description and/or features); and

(2) Small off-grid panels with glass cover, with the following characteristics: (A) surface area from 3,450 mm² to 33,782 mm², (B) with one black wire and one red wire (each of type 22AWG or 28 AWG not more than 350 mm in length when measured from panel extrusion), (C) not exceeding 10 volts, (D) not exceeding 1.1 amps, (E) not exceeding 6 watts, and (F) for the purposes of this exclusion, no panel shall contain an internal battery or external computer peripheral ports.

Additionally excluded from the scope of the investigation are:

(1) Off grid rigid CSPV panels with a glass cover, with the following characteristics: (A) a total power output of 175 watts or less per panel, (B) a maximum surface area of 9,000 cm² per panel, (C) do not include a built-in inverter, (D) must include a permanently connected wire that

terminates in waterproof connector with a cylindrical positive electrode and a rectangular negative electrode with the positive and negative electrodes having an interlocking structure; (E) must include visible parallel grid collector metallic wire lines every 1–4 millimeters across each solar cell, and (F) must be in individual retail packaging (for purposes of this provision, retail packaging typically includes graphics, the product name, its description and/or features); and

(2) Off grid CSPV panels without a glass cover, with the following characteristics, (A) a total power output of 220 watts or less per panel, (B) a maximum surface area of 16,000 cm² per panel, (C) do not include a built-in inverter, (D) must include visible parallel grid collector metallic wire lines every 1–4 millimeters across each solar cell, and (E) each panel is encased in a laminated material without stitching.

Also excluded from the scope of this investigation are off-grid CSPV panels in rigid form, with or without a glass cover, permanently attached to an aluminum extrusion that is an integral component of an automation device that controls natural light, whether or not assembled into a fully completed automation device that controls natural light, with the following characteristics:

(1) a total power output of 20 watts or less per panel;

(2) a maximum surface area of 1,000 cm² per panel;

(3) does not include a built-in inverter for powering third party devices.

Modules, laminates, and panels produced in a third-country from cells produced in a subject country are covered by the investigation; however, modules, laminates, and panels produced in a subject country from cells produced in a third-country are not covered by the investigation.

Also excluded from the scope of this investigation are all products covered by the scope of the antidumping and countervailing duty orders on Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules, from the People's Republic of China: Amended Final Determination of Sales at Less Than Fair Value, and Antidumping Order, 77 FR 73018 (December 7, 2012); and Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules, from the People's Republic of China: Countervailing Duty Order, 77 FR 73017 (December 7, 2012).

Also excluded from the scope of this investigation are all products covered by the scope of the antidumping and countervailing duty orders on

Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules from the Socialist Republic of Vietnam: Amended Final Antidumping Duty Determination; Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules from Cambodia, Malaysia, Thailand, and the Socialist Republic of Vietnam: Antidumping duty Orders, 90 FR 26786 (June 24, 2025);

Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules from the Socialist Republic of Vietnam: Amended Final Antidumping Duty Determination; Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules from Cambodia, Malaysia, Thailand, and the Socialist Republic of Vietnam: Antidumping Duty Orders; Correction, 90 FR 29843 (July 7, 2025); and Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules, from Malaysia and Thailand: Amended Final Countervailing Duty Determinations; Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules, from Cambodia, Malaysia, Thailand, and the Socialist Republic of Vietnam: Countervailing Duty Orders, 90 FR 26791 (June 24, 2025)."

Background.—The final phase of these investigations is being scheduled pursuant to sections 705(b) and 731(b) of the Tariff Act of 1930 (19 U.S.C. 1671d(b) and 1673d(b)), as a result of affirmative preliminary determinations by Commerce that certain benefits which constitute subsidies within the meaning of § 703 of the Act (19 U.S.C. 1671b) are being provided to manufacturers, producers, or exporters in India, Indonesia, and Laos of crystalline silicon photovoltaic products, and that such products are being sold in the United States at less than fair value within the meaning of § 733 of the Act (19 U.S.C. 1673b). The investigations were requested in petitions filed on July 17, 2025, by the Alliance for American Solar Manufacturing and Trade.¹

For further information concerning the conduct of this phase of the investigations, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A and B (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

Participation in the investigations and public service list.—Persons, including industrial users of the subject merchandise and, if the merchandise is

¹ Members include Hanwha Q CELLS USA, Inc., First Solar Inc., and Mission Solar Energy LLC.

sold at the retail level, representative consumer organizations, wishing to participate in the final phase of these investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's rules, no later than 21 days prior to the hearing date specified in this notice. A party that filed a notice of appearance during the preliminary phase of the investigations need not file an additional notice of appearance during this final phase. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations.

Please note the Secretary's Office will accept only electronic filings during this time. Filings must be made through the Commission's Electronic Document Information System (EDIS, <https://edis.usitc.gov>). No in-person paper-based filings or paper copies of any electronic filings will be accepted until further notice.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to § 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in the final phase of these investigations available to authorized applicants under the APO issued in the investigations, provided that the application is made no later than 21 days prior to the hearing date specified in this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the investigations. A party granted access to BPI in the preliminary phase of the investigations need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff report.—The prehearing staff report in the final phase of these investigations will be placed in the nonpublic record on August 18, 2026, and a public version will be issued thereafter, pursuant to § 207.22 of the Commission's rules.

Hearing.—The Commission will hold a hearing in connection with the final phase of these investigations beginning at 9:30 a.m. on September 9, 2026. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before September 2, 2026. Any requests to appear as a witness via videoconference must be included with your request to appear. Requests to appear via videoconference must include a statement explaining why the witness cannot appear in

person; the Chairman, or other person designated to conduct the investigation, may in their discretion for good cause shown, grant such a request. Requests to appear as remote witness due to illness or a positive COVID-19 test result may be submitted by 3:00 p.m. the business day prior to the hearing. Further information about participation in the hearing will be posted on the Commission's website at <https://www.usitc.gov/calendarpad/calendar.html>.

A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference, if deemed necessary, to be held at 9:30 a.m. on September 4, 2026. Parties shall file and serve written testimony and presentation slides in connection with their presentation at the hearing by no later than noon on September 8, 2026. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), and 207.24 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 business days prior to the date of the hearing.

Written submissions.—Each party who is an interested party shall submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of § 207.23 of the Commission's rules; the deadline for filing is August 26, 2026. Parties shall also file written testimony in connection with their presentation at the hearing, and posthearing briefs, which must conform with the provisions of § 207.25 of the Commission's rules. The deadline for filing posthearing briefs is September 16, 2026. In addition, any person who has not entered an appearance as a party to the investigations may submit a written statement of information pertinent to the subject of the investigations, including statements of support or opposition to the petition, on or before September 16, 2026. On October 6, 2026, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before October 8, 2026, but such final comments must not contain new factual information and must otherwise comply with § 207.30 of the Commission's rules. All written submissions must conform with the provisions of § 201.8 of the

Commission's rules; any submissions that contain BPI must also conform with the requirements of §§ 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's *Handbook on Filing Procedures*, available on the Commission's website at https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf, elaborates upon the Commission's procedures with respect to filings.

Additional written submissions to the Commission, including requests pursuant to § 201.12 of the Commission's rules, shall not be accepted unless good cause is shown for accepting such submissions, or unless the submission is pursuant to a specific request by a Commissioner or Commission staff.

In accordance with §§ 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to § 207.21 of the Commission's rules.

By order of the Commission.

Issued: May 11, 2026.

Susan Orndoff,

Supervisory Attorney.

[FR Doc. 2026–09531 Filed 5–12–26; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

Notice of Receipt of Complaint; Solicitation of Comments Relating to the Public Interest

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has received a complaint entitled *Certain GPU Computing Systems, Data Processing Unit (DPU) Technologies, and Associated Components Thereof, and Products Containing the Same, DN 3907*; the Commission is soliciting comments on any public interest issues raised by the complaint or complainant's filing pursuant to the Commission's Rules of Practice and Procedure.

FOR FURTHER INFORMATION CONTACT: Lisa R. Barton, Secretary to the Commission,

U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–2000. The public version of the complaint can be accessed on the Commission's Electronic Document Information System (EDIS) at <https://edis.usitc.gov>. For help accessing EDIS, please email EDIS3Help@usitc.gov.

General information concerning the Commission may also be obtained by accessing its internet server at United States International Trade Commission (USITC) at <https://www.usitc.gov>. The public record for this investigation may be viewed on the Commission's Electronic Document Information System (EDIS) at <https://edis.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission has received a complaint and a submission pursuant to § 210.8(b) of the Commission's Rules of Practice and Procedure filed on behalf of Xockets, Inc. on May 8, 2026. The complaint alleges violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain GPU computing systems, data processing Unit (DPU) technologies, and associated components thereof, and products containing the same. The complaint names as respondents: NVIDIA Corporation of Santa Clara, CA; Microsoft Corporation of Redmond, WA; Amazon.com, Inc. of Seattle, WA; Amazon Web Services, Inc. of Seattle, WA; and Annapurna Labs (U.S.), Inc. of Austin, TX. The complainant requests that the Commission issue a limited exclusion order, cease and desist orders, and impose a bond upon respondents' alleged infringing articles during the 60-day Presidential review period pursuant to 19 U.S.C. 1337(j).

Proposed respondents, other interested parties, members of the public, and interested government agencies are invited to file comments on any public interest issues raised by the complaint or § 210.8(b) filing.

Comments should address whether issuance of the relief specifically requested by the complainant in this investigation would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) explain how the articles potentially subject to the requested remedial orders are used in the United States;

(ii) identify any public health, safety, or welfare concerns in the United States relating to the requested remedial orders;

(iii) identify like or directly competitive articles that complainant, its licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded;

(iv) indicate whether complainant, complainant's licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to the requested exclusion order and/or a cease and desist order within a commercially reasonable time; and

(v) explain how the requested remedial orders would impact United States consumers.

Written submissions on the public interest must be filed no later than by close of business, eight calendar days after the date of publication of this notice in the **Federal Register**. There will be further opportunities for comment on the public interest after the issuance of any final initial determination in this investigation. Any written submissions on other issues must also be filed by no later than the close of business, eight calendar days after publication of this notice in the **Federal Register**. Complainant may file replies to any written submissions no later than three calendar days after the date on which any initial submissions were due, notwithstanding § 201.14(a) of the Commission's Rules of Practice and Procedure. No other submissions will be accepted, unless requested by the Commission. Any submissions and replies filed in response to this Notice are limited to five (5) pages in length, inclusive of attachments.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above. Submissions should refer to the docket number ("Docket No. 3907") in a prominent place on the cover page and/or the first page. (See Handbook for Electronic Filing Procedures, Electronic Filing Procedures¹). Please note the Secretary's Office will accept only electronic filings during this time. Filings must be made through the Commission's Electronic Document

Information System (EDIS, <https://edis.usitc.gov>.) No in-person paper-based filings or paper copies of any electronic filings will be accepted until further notice. Persons with questions regarding filing should contact the Secretary at EDIS3Help@usitc.gov.

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. See 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this Investigation may be disclosed to and used: (i) by the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel,² solely for cybersecurity purposes. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.³

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and of §§ 201.10 and 210.8(c) of the Commission's Rules of Practice and Procedure (19 CFR 201.10, 210.8(c)).

By order of the Commission.

Issued: May 11, 2026.

Susan Orndoff,

Supervisory Attorney.

[FR Doc. 2026–09537 Filed 5–12–26; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

[CPCLO Order No. 005–2026]

Privacy Act of 1974; Systems of Records

AGENCY: Federal Bureau of Investigation, United States Department of Justice.

² All contract personnel will sign appropriate nondisclosure agreements.

³ Electronic Document Information System (EDIS): <https://edis.usitc.gov>.

¹ Handbook for Electronic Filing Procedures: https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf.

ACTION: Notice of a modified system of records.

SUMMARY: Pursuant to the Privacy Act of 1974 and Office of Management and Budget (OMB) Circular No. A-108, notice is hereby given that the Federal Bureau of Investigation (FBI), a component within the United States Department of Justice (DOJ or Department), proposes to modify a system of records notice titled National Crime Information Center (NCIC), JUSTICE/FBI-001, 84 FR 47533 (Sep. 10, 2019). The NCIC serves as a central information repository to assist criminal justice professionals in apprehending fugitives, locating missing persons, recovering stolen property, and identifying known or suspected terrorists. Law enforcement officers also use the information within the NCIC to help protect the general public and themselves when carrying out their official duties. This system of records notice is being updated to better inform the public about the types of information within the NCIC and the uses of this information to further criminal justice purposes.

DATES: In accordance with 5 U.S.C. 552a(e)(4) and (11), this notice is effective upon publication, subject to a 30-day period in which to comment on the routine uses, described below. Therefore, please submit any comments by June 12, 2026.

ADDRESSES: The public, OMB, and Congress are invited to submit any comments: by mail to the United States Department of Justice, Office of Privacy and Civil Liberties, ATTN: Privacy Analyst, National Place Building, 1331 Pennsylvania Avenue NW, Suite 1000, Washington, DC 20530; by facsimile at 202-307-0693; or by email at privacy.compliance@usdoj.gov. To ensure proper handling, please reference the above CPCLD Order No. on your correspondence.

FOR FURTHER INFORMATION CONTACT: Katherine M. Bond, Assistant General Counsel, Privacy and Civil Liberties Unit, Office of the General Counsel, FBI, 935 Pennsylvania Avenue NW, Washington, DC 20535-0001; telephone 202-324-3000.

SUPPLEMENTARY INFORMATION: The FBI has revised this system of records notice to update information about this system. Established in 1967, the NCIC is a national criminal justice information system linking criminal (and authorized non-criminal) justice agencies located in the 50 states, the District of Columbia, U.S. territories and possessions, as well as selected foreign countries to facilitate the cooperative sharing of criminal

justice information. See 28 CFR. Sections 20.3(b) & (g) for definitions of “administration of criminal justice” and “criminal justice agency.” The NCIC provides a system to receive and maintain information contributed by participating agencies relating to criminal justice and national security missions. Information maintained in the NCIC is readily accessible for authorized purposes by authorized users via text-based queries (*i.e.*, using names and other descriptive data). The purposes of maintaining records in the NCIC include combatting acts of terrorism; apprehending fugitives; solving crimes; locating missing persons; locating and returning stolen property; protecting individuals during declared emergency situations; protecting victims of domestic violence; monitoring registered sex offenders; conducting firearms, licensee, and explosive background checks; and enhancing the safety of law enforcement officers.

This Notice modifies the previous publication of the NCIC System of Records Notice to (1) include new categories of records and individuals, (2) update routine uses, and (3) update the system location and the policies and practice for storage of records.

Since the September 10, 2019, publication of notice of this System of Records, 84 FR 47533, criminal justice agencies have requested that additional information be included in the NCIC to meet their needs. In recent years, mass shootings and other types of gun violence have prompted states to enact legislation attempting to prevent gun tragedies before they occur. Many states have passed “red flag” laws which permit law enforcement or family members to petition state courts to order the temporary removal of firearms from a person based on the belief they may present a danger to themselves or others. Many states have identified these orders as Extreme Risk Protection Orders. At the request of the law enforcement community, the FBI established the Extreme Risk Protection Order File within the NCIC to facilitate the nationwide sharing of such orders for officer and public safety purposes. The FBI is updating the category of individuals and category of records sections in this System of Records Notice to provide greater transparency that, in addition to individuals named in traditional protection orders, the NCIC also contains information about individuals named in extreme risk protection and similar type orders.

In addition, the FBI is updating the description of individuals in category of individuals “A(3)” to expand the category of Temporary Wants to include

individuals subject to temporary wants for misdemeanor crimes of violence. The NCIC Wanted Person File was established in 1967 as part of the original NCIC. As initially implemented, the NCIC included the ability to enter temporary felony want records in the Wanted Person File. The FBI has updated the policy regarding the types of records that may be entered into the Wanted Person File many times throughout the years. However, when the FBI modified NCIC policy to allow the entry of all misdemeanor warrants into the Wanted Person File, the corresponding policy restricting temporary wants to felony crimes was not modified to include misdemeanor crimes of violence. Therefore, current policy restricts temporary wants to felony crimes. The law enforcement community has expressed concerns that the absence of temporary want records for misdemeanor crimes of violence in the NCIC creates a gap which could ultimately endanger lives. Consequently, at the request of the law enforcement community, the FBI has modified the policy for the NCIC Wanted Person File to include the entry of temporary wants for misdemeanor crimes of violence.

The FBI is also modifying the description of individuals in category of individuals “P” to clarify that any individual for whom the National Instant Criminal Background Check System (NICS) records a “denied” response may be included in the NICS Denied Transaction File within the NCIC.

The FBI is revising the description of the individuals in category of individuals “R” to remove “FBI.” Criminal justice agencies at all levels of government (*e.g.*, federal, state, local, tribal, territorial) use the NCIC to assist with their investigative efforts. Consequently, to support criminal justice agencies’ investigative efforts, the FBI is expanding the language of category of individuals “R” to provide clarity that NCIC may contain information about any individual named in active investigations by authorized NCIC users.

This System of Records Notice also updates the routine uses for the information contained within the NCIC. Specifically, the FBI is updating the routine uses to reflect the change to 28 U.S.C. 534 that permits individuals licensed as an importer, manufacturer, or dealer of firearms to receive NCIC information when necessary to verify whether a firearm offered for sale to such licensee has been stolen. This routine use applies only to information from the NCIC Gun File.

In addition, the FBI is adding a routine use to account for providing missing and unidentified person information to the National Institute of Justice and the National Missing and Unidentified Persons System (NamUs), as required by Public Law 117–327, for the purposes of case validation and data reconciliation with the NamUs system, which serves as a national information clearinghouse and resource center for missing, unidentified, and unclaimed person cases across the United States.

Finally, this modified System of Record Notice updates the system location and policies and practice for storage of records sections to reflect the transition of the NCIC to a FedRAMP approved cloud environment, updates the language in categories of records “Q” to reflect a name change to the Known or Suspected Terrorist File, and updates the language of categories of records “AA” to provide more precise notice about the NCIC transaction log.

In accordance with 5 U.S.C. 552a(r), the Department has provided a report to OMB and Congress on this notice of a modified system of records.

Dated: May 7, 2026.

Peter A. Winn,

Chief Privacy and Civil Liberties Officer,
United States Department of Justice.

Justice/FBI–001

SYSTEM NAME AND NUMBER:

National Crime Information Center (NCIC), JUSTICE/FBI–001

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM MANAGER(S):

Director, Federal Bureau of Investigation, 935 Pennsylvania Avenue NW, Washington, DC 20535–0001; 202–324–3000.

* * * * *

SYSTEM LOCATION:

[Delete existing paragraph and replace with the following:]

Records may be maintained in secure cloud computing environments. The cloud computing service provider on the date of this publication is Amazon Web Services, located at 12900 Worldgate Drive, Herndon, VA 20170. Cloud computing service providers may change. For information about the current cloud computing service provider, please contact the Unit Chief, Privacy and Civil Liberties Unit, Office of the General Counsel, FBI, 935 Pennsylvania Avenue NW, Washington, DC 20535–0001; telephone 202–324–3000. Records may also be maintained at all locations at which the FBI

operates or at which FBI operations are supported, including: J. Edgar Hoover Building, 935 Pennsylvania Avenue NW, Washington, DC 20535–0001; FBI Academy and FBI Laboratory, Quantico, VA 22135; FBI Criminal Justice Information Services (CJIS) Division, 1000 Custer Hollow Road, Clarksburg, WV 26306; FBI Information Management Division, 170 Marcel Drive, Winchester, VA 22602–4843; and FBI field offices, legal attaches, information technology centers, and other components listed on the FBI’s website, <https://www.fbi.gov>. Some or all system information may also be duplicated at other locations where the FBI has granted direct access for support of FBI missions, for purposes of system backup, emergency preparedness, and/or continuity of operations.

* * * * *

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

* * * * *

[Delete existing paragraph A(3) and replace with the following:]

Individuals for whom a “Temporary Want” has been entered. Temporary want records allow a law enforcement agency to take prompt action to apprehend a person suspected of committing a felony or violent misdemeanor when circumstances prevent the agency from immediately obtaining a warrant. Procedural safeguards for these Temporary Wants include that they may only be entered in NCIC for the apprehension of a person who has committed, or the officer has reasonable grounds to believe has committed, a felony or violent misdemeanor; the person may seek refuge by fleeing across jurisdictional boundaries; and (as noted) circumstances preclude the immediate procurement of an arrest warrant. A Temporary Want shall be specifically identified as such and automatically expires 48 hours after entry.

* * * * *

[Delete existing paragraph P and replace with the following:]

Individuals who have been denied as a result of a National Instant Criminal Background Check System (NICS) check.

* * * * *

[Delete existing paragraph R and replace with the following:]

Individuals associated with active investigations such as suspects, subjects of interest, witnesses, or victims.

* * * * *

[Add the following paragraph]

Y. Individuals subject to orders issued by a criminal or civil court temporarily

restricting an individual from purchasing or possessing a firearm, ammunition, or other related items, based on a finding that they may pose a significant danger of personal injury to themselves or others, and individuals petitioning for such orders.

CATEGORIES OF RECORDS IN THE SYSTEM:

* * * * *

[Delete existing paragraph “Q” and replace with the following:]

Threat Screening Center File: Described in “Categories of Individuals Covered by the System: I, J, and K.”

* * * * *

[Delete existing paragraph “AA” and replace with the following:]

Transaction Log: All transactions that enter, update, query, access, clear, or cancel the records described above; rejected transactions; and system administrative messages. The Transaction Log now maintains the transaction history for the life of the system; however, the transaction history prior to 1990 was maintained for 10 years. Transaction logs may contain information regarding all “Categories of Individuals.” Search criteria from queries initiated by the National Instant Criminal Background Check System (NICS), JUSTICE/FBI–018 for background checks, are not logged.

[Add the following paragraph]

BB. Extreme Risk Protection Order File: Described in “Categories of Individuals Covered by the System: Y.”

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

* * * * *

[Add the following paragraphs]

SS. To the National Institute of Justice (or any successor agency) or its designee administering the National Missing and Unidentified Persons (NamUs) program for the purpose of reviewing missing and unidentified person records in NCIC for case validation and NamUs data reconciliation, and to the NamUs system (or any successor system) for the purpose of, among other uses, serving as a national information clearinghouse and resource center for missing, unidentified, and unclaimed person cases across the United States. This routine use applies only to records in the Missing Persons File and the Unidentified Persons File.

TT. To a person licensed as an importer, manufacturer, or dealer of firearms when necessary to verify whether a firearm offered for sale to such licensee has been stolen. This routine use applies only to information in the NCIC Gun File.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

[Delete existing paragraph and replace with the following:]

Computerized records are stored electronically in a government approved cloud computing infrastructure (e.g., FedRAMP approved) offered by a cloud service provider (e.g., Amazon Web Services), on hard disk, removable storage devices, or other digital media. Some information may be retained in hard copy format and stored in individual file folders and file cabinets with controlled access, and/or other appropriate GSA-approved security containers.

* * * * *

HISTORY:

National Crime Information Center (NCIC), JUSTICE/FBI-001, 84 FR 47533 (Sep. 10, 2019).

[FR Doc. 2026-09522 Filed 5-12-26; 8:45 am]

BILLING CODE 4410-02-P

DEPARTMENT OF JUSTICE

[CPCLO Order No. 004-2026]

Privacy Act of 1974; System of Records

AGENCY: United States Department of Justice.

ACTION: Notice of modified systems of records.

SUMMARY: Pursuant to the Privacy Act of 1974 and Office of Management and Budget (OMB) Circular No. A-108, notice is hereby given that the United States Department of Justice (Department or DOJ) proposes to modify the DOJ System of Records Notices for the DOJ systems of records listed below.

DATES: In accordance with 5 U.S.C. 552a(e)(4) and (11), this notice is subject to a 30-day notice and comment period. Please submit any comments by June 12, 2026.

ADDRESSES: The public, OMB, and Congress are invited to submit any comments to the U.S. Department of Justice, Office of Privacy and Civil Liberties, ATTN: Privacy Analyst, Two Constitution Square, 145 N St. NE, Suite 8W-300, Washington, DC 20530; by facsimile at 202-307-0693; or by email at privacy.compliance@usdoj.gov. To ensure proper handling, please

reference the above CPCLO Order No. on your correspondence.

FOR FURTHER INFORMATION CONTACT:

Kameron Cox, Counsel, Office of Privacy and Civil Liberties, Two Constitution Square, 145 N St. NE, Suite 8W-300, Washington, DC 20530; by facsimile at 202-307-0693; or by email at privacy.compliance@usdoj.gov. To ensure proper handling, please reference the above CPCLO Order No. on your correspondence.

SUPPLEMENTARY INFORMATION: On March 25, 2025, the President issued Executive Order (E.O.) 14249, *Protecting America's Bank Account Against Fraud, Waste, and Abuse* (90 FR 14011), to promote the financial integrity and operational efficiency of the Federal Government. Therein the President mandated all Federal Departments and agencies include a routine use in relevant systems of records notices to allow for the disclosure of records to the Department of Treasury for the purposes of identifying, preventing, or recouping fraud and improper payments. On August 20, 2025, OMB issued Memorandum M-25-32, *Preventing Improper Payments and Protecting Privacy Through Do Not Pay*, to the heads of all executive departments and agencies. In its memorandum, OMB provided guidance to Departments and agencies regarding the requirements of both E.O. 14249 and The Payment Integrity Information Act of 2019 (31 U.S.C. 3551). M-25-32 contained proposed language for agencies to use for their new or modified routine uses, while clarifying that the new requirements applied to any agency's system of records that "maintains information about applicants for, or recipients of, Federal funds that agencies use to make eligibility determinations for payments to beneficiaries, award and loan recipients, vendors, contractors, and other payees."

DOJ as an agency has participated in Treasury's "Do Not Pay" program since 2017 through disclosures to Treasury from DOJ-001, Accounting Systems for the Department of Justice, 69 FR 31406 (June 3, 2004, and updates), utilizing current applicable routine uses for this purpose. Some DOJ Components have also vetted their payments to payees through Treasury prior to award or disbursement to ensure that payments were only made to eligible individuals

or entities; or they conducted post-payment checks to facilitate any necessary recoupment, which were authorized by appropriate routine uses in the Components' SORNs. The proposed modification of DOJ Component SORNs reflects a standardized implementation of the verification requirements across all DOJ Components as required by the E.O.. The proposed modification will provide notice to the public of DOJ's sharing of information with Treasury through source systems and programs that might not route through DOJ-001; and thus to allow for the eventual vetting of applicant eligibility earlier in a program's lifecycle.

To satisfy the routine use requirements in OMB Memorandum M-25-32, DOJ is issuing a notice in the **Federal Register** to modify the routine uses in all potentially relevant Department System of Records Notices. For those DOJ systems of records currently participating in "Do Not Pay" through existing routine uses, this notice modifies their current routine use with the language required by OMB Memorandum M-25-32. For those systems of records determined applicable in OMB Memorandum M-25-32 that do not yet contain routine uses to facilitate Do Not Pay Program sharing, this notice adds the routine use language required by M-25-32. As system of records notices are updated during the normal course of Department operations, the routine use allowing for full participation in "Do Not Pay" will be fully incorporated without need to reference this notice.

In accordance with 5 U.S.C. 552a(r), the Department has provided a report to OMB and to Congress on this notice of modified systems of records.

Dated: May 7, 2026.

Peter A. Winn,

Acting Chief Privacy and Civil Liberties Officer, United States Department of Justice.

SYSTEM NAME AND NUMBER:

United States Department of Justice System of Records Notices and citations follow. An asterisk (*) designates the last full **Federal Register** notice that includes all of the elements that are required to be in a System of Records Notice.

System No. and name	Federal Register, citations	Whether this is a new routine use, or the modification of a current routine use
JUSTICE/DOJ-001, Accounting Systems for the Department of Justice.	69 FR 31406 *, 71 FR 142, 72 FR 3410, 75 FR 13575, 82 FR 24147.	Modify RU #25.

System No. and name	Federal Register, citations	Whether this is a new routine use, or the modification of a current routine use
JUSTICE/DOJ-016, Debt Collection Enforcement System.	77 FR 9965 *, 80 FR 14407, 82 FR 24151, 24154	New.
JUSTICE/DOJ-021, HAVANA Act Compensation Records.	88FR 40331 *	New.
JUSTICE/ATF-001, Administrative Record System	68 FR 3551, 3552 *, 72 FR 3410, 82 FR 24147	New.
JUSTICE/ATF-007, Personnel Record System	68 FR 3551, 3556 *, 72 FR 3410, 82 FR 24147	New.
JUSTICE/BOP-006, Inmate Trust Fund Accounts and Commissary Record System.	67 FR 11711 *, 72 FR 3410, 82 FR 24147	New.
JUSTICE/BOP-008, Inmate Safety and Accident Compensation Record System.	67 FR 41452 *, 72 FR 3410, 82 FR 24147	New.
JUSTICE/BOP-009, Administrative Claims Record System.	67 FR 41453 *, 72 FR 3410, 82 FR 24147	New.
JUSTICE/CIV-001, Civil Division Case File System	63 FR 8659, 8665 *, 66 FR 8425, 66 FR 17200, 66 FR 36593, 72 FR 3410, 82 FR 24147.	New.
JUSTICE/CIV-003, Office of Alien Property File System	42 FR 53288, 53324 *, 66 FR 8425, 66 FR 17200, 66 FR 36593, 72 FR 3410, 82 FR 24147.	New.
JUSTICE/CIV-004, Swine Flu Administrative Claim File System.	43 FR 44708 *, 66 FR 8425, 66 FR 17200, 66 FR 36593, 72 FR 3410, 82 FR 24147.	New.
JUSTICE/CIV-008, September 11th Victim Compensation Fund of 2001 File System.	66 FR 65991, * 66 FR 8425, 72 FR 3410, 82 FR 24147	New.
JUSTICE/COPS-002, Online Ordering System	77 FR 28898 *, 82 FR 24151, 24155	New.
JUSTICE/COPS-003, COPS Management System: NexGen (CMS:NxG).	85 FR 3421 *	New.
JUSTICE/CRM-001, Central Criminal Division Index File and Associated Records.	72 FR 44182 *, 82 FR 24151	New.
JUSTICE/CRM-029, United States Victims of State Sponsored Terrorism Fund (USVSSTF) File System.	81 FR 45539 *, 82 FR 24151, 24156, 84 FR 26901	Modify RU (a).
JUSTICE/CRT-001, Central Civil Rights Division Index File and Associated Records.	68 FR 47610, 47611 *, 70 FR 43904, 72 FR, 82 FR 24147.	New.
JUSTICE/ENRD-003, Environment and Natural Resources Division Administrative and Case Related Files.	65 FR 8990, 66 FR 8425, 70 FR 61159, 72 FR 3410, 82 FR 24147, 89 FR 30392 *.	New.
JUSTICE/FBI-002, The FBI Central Records System	63 FR 8659, 8671 *, 66 FR 8425, 66 FR 17200, 72 FR 3410, 82 FR 24147.	New.
JUSTICE/FBI-008, Bureau Personnel Management System.	58 FR 51875, * 66 FR 8425, 72 FR 3410, 82 FR 24147	New.
JUSTICE/FBI-010, Employee Travel Vouchers and Individual Earning Records.	52 FR 47248 *, 66 FR 8425, 72 FR 3410, 82 FR 24147	New.
JUSTICE/FBI-012, Time Utilization Record-Keeping (TURK) System.	76 FR 65535 *	New.
JUSTICE/FBI-022, FBI Data Warehouse System	77 FR 40630, * 82 FR 24151	New.
JUSTICE/FCSC-033, Claims Received and Adjudicated by the Foreign Claims Settlement Commission.	84 FR 55587 *	New.
JUSTICE/INTERPOL-001, INTERPOL-United States National Central Bureau (USNCB) Records System.	75 FR 27821 *, 82 FR 24151, 24158	New.
JUSTICE/JMD-003, Department of Justice Payroll System.	69 FR 107 *, 72 FR 3410, 72 FR 51663, 82 FR 24151, 24158.	New.
JUSTICE/JMD-024, Attorney Student Loan Repayment Program Applicant Files.	71 FR 64740 *, 72 FR 3410, 82 FR 24147	New.
JUSTICE/OIG-001, Office of the Inspector General Investigative Records.	72 FR 36725 *, 82 FR 24151, 24160	New.
JUSTICE/OIG-006, Data Analytics Program Records System.	83 FR 13309 *	New.
JUSTICE/OJP-004, Grants Management Information System.	53 FR 40526 *, 66 FR 8425, 72 FR 3410, 82 FR 24147	New.
JUSTICE/OJP-012, Public Safety Officers Benefit System.	64 FR 25070 *, 66 FR 8425, 72 FR 3410, 82 FR 24147, 84 FR 53749.	New.
JUSTICE/OJP-013, Denial of Federal Benefits Clearinghouse System (DEBAR).	64 FR 25071 *, 66 FR 8425, 72 FR 3410, 82 FR 24147	New.
JUSTICE/OJP-014, Victims of International Terrorism Expense Reimbursement Program.	71 FR 44709 *, 72 FR 3410, 82 FR 24147	New.
JUSTICE/OJP-016, Justice Grants System (JustGrants)	85 FR 81517 *	New.
JUSTICE/OJP-020, Peer Review Management System (PRMS).	89 FR 93656 *	New.
JUSTICE/OVW-001, Peer Reviewer Database	79 FR 28774 *, 82 FR 24151, 161	New.
JUSTICE/TAX-001, Criminal Tax Case Files, Special Project Files, Docket Cards, and Associated Records.	71 FR 11446, 11447 *, 72 FR 3410, 82 FR 24147	New.
JUSTICE/TAX-002, Tax Division Civil Tax Case Files, Docket Cards, and Associated Records.	71 FR 11446, 11449 *, 72 FR 3410, 82 FR 24147	New.
JUSTICE/USA-020, Child Pornography Victims Reserve Records.	89 FR 44707 *	New.

System No. and name	Federal Register, citations	Whether this is a new routine use, or the modification of a current routine use
JUSTICE/USM-016, U.S. Marshals Service (USMS) Key Control Record System.	72 FR 33515, 33530 *, 82 FR 24151, 24165	New.

SECURITY CLASSIFICATION:

All systems listed above are designated as unclassified. For information regarding the security classification for each system, please refer to the last full **Federal Register** notice indicated by an asterisk in the table above. Any substantive changes to a system's classification will be updated in a subsequent SORN update particular to that individualized system.

SYSTEM LOCATION:

For information regarding system locations of their respective systems of record, please refer to the last full **Federal Register** notice indicated by an asterisk in the table above. Any substantive changes to a system's location will be updated in a subsequent SORN update particular to that individualized system.

SYSTEM MANAGER(S):

For information regarding system managers, please refer to the last full **Federal Register** notice indicated by an asterisk in the table above. Any substantive changes to a system's system manager will be updated in a subsequent SORN update particular to that individualized system.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The DOJ systems of records as indicated above either replace existing Do Not Pay routine uses, or add a Do Not Pay routine use, with the following language:

* * * * *

To the U.S. Department of the Treasury when disclosure of the information is relevant to review payment and award eligibility through the Do Not Pay Working System for the purposes of identifying, preventing, or recouping improper payments to an applicant for, or recipient of, Federal funds, including funds disbursed by a state (meaning a state of the United States, the District of Columbia, a territory or possession of the United States, or a federally recognized Indian tribe) in a state-administered, federally funded program.

HISTORY:

System histories are detailed in the above table.

[FR Doc. 2026-09518 Filed 5-12-26; 8:45 am]

BILLING CODE 4410-NW-P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[NASA Document Number: 26-026; NASA Docket Number: NASA-2026-0232]

Name of Information Collection: Community Surveys on Noise From a Supersonic Plane

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of new 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 July 13, 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 NASA-2026-0232.

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, email hq-ocio-pra-program@mail.nasa.gov.

SUPPLEMENTARY INFORMATION:**I. Abstract**

Supersonic passenger flight over land is currently restricted in the U.S. and many countries because sonic booms have been known to disturb people on the ground. The potential exists for a change in federal and international regulations if supersonic flight can occur at reduced noise levels. NASA is preparing a series of Community

Surveys coupled with research flights by the X-59 supersonic plane to gather data on the public acceptability of reduced noise supersonic flight.

In preparation for these Community Surveys, NASA conducted a check of the overall survey process without accompanying flights to minimize the risk of problems or errors. Additionally, NASA has supported two prior field tests to evaluate data collection methods for community response to reduced noise supersonic flight; one test involved a small military community on Edwards Air Force Base in California, and the other involved a larger urban community in Galveston, Texas. The findings from these prior tests were not intended for gathering data supporting regulatory changes but to provide lessons learned in the survey methodology that will be employed in this study.

NASA plans to conduct up to five Community Surveys in different areas of the contiguous U.S. Each Community Survey will have approximately 175 responses per respondent, spread across an approximately 30-day period. Some responses are collected up to six times per day, while other responses are collected once per day.

NASA is committed to effectively performing the Agency's communication function in accordance with Section 203(a)(3) of the National Aeronautics and Space Act of 1958 (as amended) dictates that NASA "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.

II. Methods of Collection

Participants from the public will receive mailings prompting them to complete a web survey that will be available through a direct URL or through a custom app that they will have the option of downloading to their phone or mobile device.

III. Data

Title: Community Surveys on Noise from a Supersonic Plane.

OMB Number: 2700-xxxx.

Type of review: New information collection.

Affected Public: Individuals and Households.

Estimated Annual Number of Activities: Up to 2 Community Surveys per year in different areas with approximately 175 responses per respondent.

Estimated Number of Respondents per Activity: 1000 respondents per Community Survey.

Annual Responses: Approximately 350,000 annual responses.

Estimated Time per Response: 1 minute.

Estimated Total Annual Burden Hours: Approximately 5,834 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. 2026-09495 Filed 5-12-26; 8:45 am]

BILLING CODE 7510-13-P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts

Arts Advisory Panel Meetings

AGENCY: National Endowment for the Arts.

ACTION: Notice of meetings.

SUMMARY: Pursuant to the Federal Advisory Committee Act, as amended, notice is hereby given that 24 meetings of the Arts Advisory Panel to the National Council on the Arts will be held by teleconference or videoconference.

DATES: See the **SUPPLEMENTARY INFORMATION** section for individual

meeting times and dates. All meetings are Eastern time and ending times are approximate:

ADDRESSES: National Endowment for the Arts, Constitution Center, 400 7th St. SW, Washington, DC 20506.

FOR FURTHER INFORMATION CONTACT: Further information with reference to these meetings can be obtained from Daniel Beattie, Office of Guidelines & Panel Operations, National Endowment for the Arts, Washington, DC 20506; ogpo@arts.gov, or call 202-682-5688.

SUPPLEMENTARY INFORMATION: The closed portions of meetings are for the purpose of panel review, discussion, evaluation, and recommendations on financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency. In accordance with the determination of the Chair of April 30, 2026, these sessions will be closed to the public pursuant to 5 U.S.C. 10.

The upcoming meetings are:

Locals (review of applications): This meeting will be closed.

Date and time: June 16, 2026; 11:00 a.m. to 1:00 p.m.

Locals (review of applications): This meeting will be closed.

Date and time: June 16, 2026; 1:00 p.m. to 3:00 p.m.

Opera (review of applications): This meeting will be closed.

Date and time: June 22, 2026; 12:00 p.m. to 2:00 p.m.

Folk and Traditional Arts (review of applications): This meeting will be closed.

Date and time: June 22, 2026; 1:00 p.m. to 3:00 p.m.

Opera (review of applications): This meeting will be closed.

Date and time: June 22, 2026; 3:00 p.m. to 5:00 p.m.

Arts Education (review of applications): This meeting will be closed.

Date and time: June 23, 2026; 11:00 a.m. to 1:00 p.m.

Design & Our Town (review of applications): This meeting will be closed.

Date and time: June 23, 2026; 11:30 a.m. to 1:30 p.m.

Music (review of applications): This meeting will be closed.

Date and time: June 23, 2026; 12:00 p.m. to 2:00 p.m.

Folk and Traditional Arts (review of applications): This meeting will be closed.

Date and time: June 23, 2026; 1:00 p.m. to 3:00 p.m.

Design & Our Town (review of applications): This meeting will be closed.

Date and time: June 23, 2026; 2:30 p.m. to 4:30 p.m.

Music (review of applications): This meeting will be closed.

Date and time: June 23, 2026; 3:00 p.m. to 5:00 p.m.

Arts Education (review of applications): This meeting will be closed.

Date and time: June 24, 2026; 11:00 a.m. to 1:00 p.m.

Music (review of applications): This meeting will be closed.

Date and time: June 24, 2026; 12:00 p.m. to 2:00 p.m.

Folk and Traditional Arts (review of applications): This meeting will be closed.

Date and time: June 24, 2026; 1:00 p.m. to 3:00 p.m.

Arts Education (review of applications): This meeting will be closed.

Date and time: June 24, 2026; 2:00 p.m. to 3:00 p.m.

Music (review of applications): This meeting will be closed.

Date and time: June 24, 2026; 3:00 p.m. to 5:00 p.m.

Arts Education (review of applications): This meeting will be closed.

Date and time: June 25, 2026; 11:00 a.m. to 1:00 p.m.

Visual Arts (review of applications): This meeting will be closed.

Date and time: June 25, 2026; 11:30 a.m. to 1:30 p.m.

Music (review of applications): This meeting will be closed.

Date and time: June 25, 2026; 12:00 p.m. to 2:00 p.m.

Arts Education (review of applications): This meeting will be closed.

Date and time: June 25, 2026; 2:00 p.m. to 3:00 p.m.

Visual Arts (review of applications): This meeting will be closed.

Date and time: June 25, 2026; 2:30 p.m. to 4:30 p.m.

Music (review of applications): This meeting will be closed.

Date and time: June 25, 2026; 3:00 p.m. to 5:00 p.m.

Music (review of applications): This meeting will be closed.

Date and time: June 26, 2026; 12:00 p.m. to 2:00 p.m.

Visual Arts (review of applications): This meeting will be closed.

Date and time: June 26, 2026; 2:30 p.m. to 4:30 p.m.

Dated: May 11, 2026.

David Travis,

*Specialist, Guidelines & Panel Operations,
National Endowment for the Arts.*

[FR Doc. 2026-09556 Filed 5-12-26; 8:45 am]

BILLING CODE 7537-01-P

NUCLEAR REGULATORY COMMISSION

[Docket No. 70-7033-ML ASLBP No. 26-992-01-ML-BD01]

Global Laser Enrichment, LLC; Establishment of Atomic Safety and Licensing Board

Pursuant to the Commission's regulations, *see, e.g.*, 10 CFR 2.104, 2.105, 2.300, 2.309, 2.313, 2.318, 2.321, notice is hereby given that an Atomic Safety and Licensing Board (Board) is being established to preside over the following proceeding:

GLOBAL LASER ENRICHMENT, LLC
(Paducah Laser Enrichment Facility)

Global Laser Enrichment, LLC has applied for a license to possess and use special nuclear material for the purpose of constructing and operating a uranium enrichment facility in McCracken County, Kentucky. The requested license would authorize the facility to re-enrich depleted uranium hexafluoride tails and enrich natural-grade uranium hexafluoride to a maximum of 8-weight percent uranium-235 via laser-based isotope separation technology.

In response to a notice filed in the **Federal Register** announcing the opportunity to request a hearing, *see* 91 FR 11092 (Mar. 6, 2026), Kentucky Resources Council, Inc. filed a hearing request on May 5, 2026.

The Board is comprised of the following Administrative Judges:

Emily I. Krause, Chair, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001

Dr. David A. Smith, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001

Dr. Arielle J. Miller, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001

All correspondence, documents, and other materials shall be filed in accordance with the NRC E-Filing rule. *See* 10 CFR 2.302.

Rockville, Maryland.

Dated: May 11, 2026.

Edward R. Hawkens,

Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. 2026-09553 Filed 5-12-26; 8:45 am]

BILLING CODE 7590-01-P

POSTAL REGULATORY COMMISSION

[Docket Nos. K2025-174; MC2026-235 and K2026-234]

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:* May 18, 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. The comment due date discussed below does not apply to Section III proceedings (Docket Nos. MC2026-235 and K2026-234).

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).

II. Public Proceeding(s)

1. Docket No(s): K2025–174; Filing Title: USPS Request Concerning Amendment One to Priority Mail Express, Priority Mail & USPS Ground Advantage Contract 551, with Materials Filed Under Seal; Filing Acceptance Date: May 8, 2026; Filing Authority: 39 CFR 3035.105 and 39 CFR 3041.505; Public Representative: Kenneth Moeller; Comments Due: May 18, 2026.

III. Summary Proceeding(s)

1. Docket No(s): MC2026–235 and K2026–234; Filing Title: USPS Request to Add New Fulfillment Standardized Distinct Product, PM–GA Contract 983, and Notice of Filing Materials Under Seal; Filing Acceptance Date: May 8, 2026; Filing Authority: 39 U.S.C. 3642 and 3633, 39 CFR 3035.105, and 39 CFR 3041.325.

This Notice will be published in the **Federal Register**.

Danielle LeFlore,
Legal Assistant.

[FR Doc. 2026–09514 Filed 5–12–26; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL SERVICE**Product Change—Priority Mail and USPS Ground Advantage Negotiated Service Agreements**

AGENCY: Postal Service.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule’s Competitive Products List.

DATES: Date of required notice: May 13, 2026.

FOR FURTHER INFORMATION CONTACT:
Sean C. Robinson, 202–268–8405.

SUPPLEMENTARY INFORMATION: The United States Postal Service hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), it filed with the Postal Regulatory Commission the following requests:

Date filed with postal regulatory commission	Negotiated service agreement product category and No.	MC Docket No.	K Docket No.
05/01/26	PM–GA 976	MC2026–228	K2026–226
05/05/26	PM–GA 977	MC2026–229	K2026–227
05/05/26	PM–GA 978	MC2026–230	K2026–228
05/05/26	PM–GA 979	MC2026–231	K2026–229
05/06/26	PM–GA 980	MC2026–232	K2026–230
05/06/26	PM–GA 981	MC2026–233	K2026–231
05/06/26	PM–GA 982	MC2026–234	K2026–233
05/08/26	PM–GA 983	MC2026–235	K2026–234

Documents are available at
www.prc.gov.

Sean C. Robinson,
Attorney, Corporate and Postal Business Law.
[FR Doc. 2026–09470 Filed 5–12–26; 8:45 am]

BILLING CODE 7710–12–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–105420; File No. SR–CboeBYX–2026–019]

Self-Regulatory Organizations; Cboe BYX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Exchange’s Fee Schedule To Remove Text Capping the Number of Dedicated Cores Available to Market Participants

May 8, 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 May 1, 2026, Cboe BYX Exchange, Inc. (the “Exchange” or “BYX”) filed with the Securities and Exchange Commission

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.

(“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

BYX proposes to amend the Exchange’s Fee Schedule to remove text capping the number of Dedicated Cores available to market participants. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Commission’s website (<https://www.sec.gov/rules/sro.shtml>), the Exchange’s website (https://www.cboe.com/us/equities/regulation/rule_filings/bzx/ [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 remove the text that caps the maximum number of Dedicated Cores available to Members and Sponsoring Members in its Fee Schedule.³ Upon effectiveness of this proposal, the Exchange will include the same cap on the number of Dedicated Cores in the Cboe Titanium Cboe U.S. Equities Binary Order Entry Specification, available on its website. The Exchange does not propose to amend the fee charged for Dedicated Cores that market participants may voluntarily purchase.

For background, the Exchange launched Dedicated Cores in July 2024 and, as discussed below, established caps at that time.⁴ The Dedicated Core permits users to assign a single Binary Order Entry ("BOE") logical order entry port to a single dedicated Central Processing Unit (CPU Core). Historically, CPU Cores had been shared by logical order entry ports (*i.e.*, multiple logical ports from multiple firms may connect to a single CPU Core). Use of Dedicated Cores however, can provide reduced latency, enhanced throughput, and improved performance since a firm using a Dedicated Core is utilizing the full processing power of a CPU Core instead of sharing that power with other firms. This offering is completely voluntary and is available to all Users that wish to purchase Dedicated Cores. Users may utilize BOE logical order entry ports on shared CPU Cores, either in lieu of, or in addition to, their use of Dedicated Core(s). As such,

Users are able to operate across a mix of shared and dedicated CPU Cores which the Exchange believes provides additional risk and capacity management. Further, Dedicated Cores are not required nor necessary to participate on the Exchange and as such Users may opt not to use Dedicated Cores at all.

Upon the launch of Dedicated Cores, the Exchange established caps of 60 Dedicated Cores for Members and 25 Dedicated Cores for each of Sponsored Access Relationship a Sponsoring firm has.⁵ On October 1, 2024, the Exchange proposed to increase this cap for Members from 60 up to 80 Dedicated Cores and from 25 Dedicated Cores to 35 Dedicated Cores for each Sponsored Access Relationship a Sponsoring firm has.⁶ The Exchange last amended the cap for Members on December 1, 2024⁷ to the levels it is at today, which permits market participants to purchase up to 120 Dedicated Cores for Members and up to 35 Dedicated Cores for each Sponsored Access relationship a Sponsoring Firm has (the Exchange did not modify the Sponsored Access cap in December). The Exchange noted previously that it would continue monitoring Dedicated Core interest by all Users and allotment availability with the goal of increasing these limits to meet Users' needs if and when the demand is there and/or the Exchange is able to accommodate additional Dedicated Cores.

The Exchange now proposes to amend its Fee Schedule to remove language that caps the maximum number of Dedicated Cores available to participants. This change will bring the Exchange's Fee Schedule in line with other exchanges who impose caps, whether on ports or on other connectivity offerings, and do not specify these caps in their respective fee schedules.

MIAX Emerald, LLC, ("MIAX Emerald") recently removed the cap in its fee schedule regarding the number of Limited Service MEI Ports and moved this into the spec.⁸ MIAX Emerald notes that such a change aligns with its affiliates' fee schedules (MIAX, MIAX Pearl, and MIAX Sapphire), all of which do not include text providing for a similar cap on the maximum number of

Limited Service MEI/MEO Ports available to each market maker on those exchanges in their respective fee schedules.⁹ Instead, MIAX Emerald notes that information regarding caps is within its affiliates technical specifications and it proposed to take this same approach.¹⁰

Additionally, in the Exchange's prior filings regarding Dedicated Cores, it referenced a similar offering by Nasdaq, the Dedicated OUCH server.¹¹ In prior analysis done in the Exchange's fee filings, it noted that Nasdaq Stock Market, LLC ("Nasdaq"), introduced the Dedicated Ouch Port Infrastructure in 2014 which allows a member firm to assign up to 30 of its OUCH ports to a dedicated server infrastructure for its exclusive use.¹² The Dedicated OUCH server handles only the subscribing member firm's message traffic sent through their ports on the Dedicated OUCH to Nasdaq's system. Similarly, a Dedicated Core only handles that subscribing firm's messaging activity. Nasdaq notes that with its Dedicated OUCH offering, member firms can develop a tailored solution by controlling their message traffic in order to optimize their trading strategies.¹³

Similar to the existing cap for Dedicated Cores, Nasdaq has a cap for its Dedicated OUCH offering. Nasdaq notes in its technical requirements that it has a cap of four Dedicated OUCH servers for a firm.¹⁴ While the Dedicated OUCH offering is within Nasdaq's fee schedule,¹⁵ it does not specify the cap for this product within the fee schedule nor within its rulebook.¹⁶ When Nasdaq previously filed fees for this product, it did not establish a cap for this

⁹ *Id.*

¹⁰ See *e.g.*, MIAX Pearl Options Exchange, MEO Interface Specification.

¹¹ See Securities Exchange Act Release No. 103511 (July 21, 2025), 90 FR 34933 (July 24, 2025) (SR-CboeBYX-2025-020).

¹² For a more fulsome discussion, the Exchange previously underwent an extended analysis over the course of more than a year regarding the comparability of both offerings and their pricing structures, including the cap the Exchange proposed. See *e.g.*, Securities Exchange Act Release No. 103511 (July 21, 2025), 90 FR 34933 (July 24, 2025) (SR-CboeBYX-2025-020).

¹³ *Id.*

¹⁴ See <https://nasdaqtrader.com/Trader.aspx?id=OUCH>.

¹⁵ See <https://www.nasdaqtrader.com/Trader.aspx?id=PriceListTrading2#connectivityouch>.

¹⁶ See Rulebook—The Nasdaq Stock Market. Equity Rules. Equity 7 Pricing Schedule. Section 115. Ports and Services. Dedicated OUCH Port Infrastructure.

³ The Exchange initially submitted the proposed rule change on April 27, 2026 (SR-CboeBYX-2026-016). On May 1, 2026, the Exchange withdrew that proposal and submitted this filing.

⁴ See Securities Exchange Act Release No. 100476 (July 9, 2024), 89 FR 57482 (July 15, 2024) (SR-CboeBYX-2024-024).

⁵ *Id.*

⁶ See Securities Exchange Act Release No. 101303 (October 10, 2024), 89 FR 83740 (October 17, 2024) (SR-CboeBYX-2024-036).

⁷ See Securities Exchange Act Release No. 101827 (December 11, 2024), 89 FR 99945 (December 5, 2024) (SR-CboeBYX-2024-047).

⁸ See Securities Exchange Act Release No. 103163 (June 2, 2025), 90 FR 24177 (June 6, 2025) (SR-EMERALD-2025-12).

offering,¹⁷ nor did it do so in any subsequent filings.¹⁸

As described in prior filings, Dedicated Cores are not an unlimited resource.¹⁹ As such, the Exchange believes that including the cap on the number of Dedicated Cores in the Fee Schedule may hamper the Exchange's ability to provide fair and equitable access²⁰ for all market participants to access the Exchange's network. By removing the cap from the Fee Schedule, the Exchange will be able to more easily adjust access, which may be based upon, among other factors, requests by market participants and planned server upgrades. The proposed change will ensure that the Exchange meets its obligations under the Act to offer access to the Exchange on terms that are not unfairly discriminatory²¹ among its market participants, as well as to ensure sufficient capacity and headroom in the System.²² The Exchange monitors the System's performance and makes adjustments to its System based on market conditions

and Member demand. Accordingly, the Exchange's obligations under the Act to provide access on terms that are not unfairly discriminatory and market conditions are key drivers of the System's architecture and expansion. Thus, the Exchange believes a cap in the Fee Schedule is inconsistent with other exchanges' access offerings and no longer believes it serves as an appropriate mechanism to govern access to the Exchange. The proposed change is to align with industry standards and to ensure fair and equal access among market participants.

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.²³ Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)²⁴ 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)²⁵ requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The Exchange also believes the proposed rule change is consistent with Section 6(b)(4)²⁶ of the Act, which requires that Exchange rules provide for the equitable allocation of reasonable dues, fees, and other charges among its Members and other persons using its facilities.

In particular, the Exchange believes that removing this language from the Fee Schedule is consistent with the objectives of Section 6(b)(5) of the Act because it will promote uniformity and consistency across the industry regarding caps for connectivity offerings. As noted above, MIAx Emerald and its affiliates do not include cap limitations within its fee schedules,

but instead include these within each exchange's tech specs.²⁷ Similarly, Nasdaq includes the cap for its Dedicated OUCH offering in its spec and not within its rulebook or fee schedule.²⁸ The Exchange proposes to do the same here with its Dedicated Cores offering and will note caps within the Cboe Titanium Cboe U.S. Equities Binary Order Entry Specification.

The Exchange also believes that its proposal is consistent with the objectives of Section 6(b)(5) of the Act²⁹ because the same caps specified in the Cboe Titanium Cboe U.S. Equities Binary Order Entry Specification shall continue to apply to all participants, regardless of type or size, and will allow the Exchange to offer access to its System on terms that are not unfairly discriminatory. Including the cap on the number of Dedicated Cores in the Fee Schedule may unnecessarily burden the Exchange from being able to adjust access to the Exchange's System in order to ensure that the Exchange is able to provide access³⁰ to all participants on non-discriminatory terms and ensure sufficient capacity and headroom in the System.

As the Exchange noted when it established these caps, the Exchange believes that it is reasonable to limit the number of Dedicated Cores Users can purchase because the Exchange has a finite amount of space in its third-party data centers to accommodate CPU cores, including Dedicated Cores. The Exchange must also take into account timing and cost considerations in procuring additional Dedicated Cores and related hardware such as servers, switches, optics and cables, as well as the readiness of the Exchange's data center space to accommodate additional Dedicated Cores in the Exchange's respective Order Handler Cabinets. Moreover, procuring data center space has grown to be more challenging than it was five years ago with the increased demand for data center space. For example, the U.S. colocation data center market has doubled in size in just four years. In addition to the Exchange's rollout of Dedicated Cores, the Exchange is mindful of its other business areas and the need to continue to be mindful of its existing, external restraints in procuring additional space in this area. The Exchange has, and will continue to, monitor market participant demand and space availability and endeavor to adjust the limit if and when the Exchange is able to acquire additional

¹⁷ See Securities Exchange Act Release No. 71198 (December 30, 2013), 79 FR 692 (January 6, 2014) (SR-NASDAQ-2013-161).

¹⁸ See e.g., Securities Exchange Act Release No. 74829 (April 29, 2015), 80 FR 25745 (May 5, 2015) (SR-NASDAQ-2015-042).

¹⁹ The Exchange was required for over a year to continue justifying its rationale behind establishing caps. Specifically, the Exchange noted that "... it is reasonable to limit the number of Dedicated Cores Users can purchase because the Exchange has a finite amount of space in its third-party data centers to accommodate CPU cores, including Dedicated Cores. The Exchange must also take into account timing and cost considerations in procuring additional Dedicated Cores and related hardware such as servers, switches, optics and cables, as well as the readiness of the Exchange's data center space to accommodate additional Dedicated Cores in the Exchange's respective Order Handler Cabinets. Moreover, procuring data center space has grown to be more challenging than it was five years ago with the increased demand for data center space. For example, the U.S. colocation data center market has doubled in size in just four years. In addition to the Exchange's rollout of Dedicated Cores, the Exchange is mindful of its other business areas and the need to continue to be mindful of its existing, external restraints in procuring additional space in this area. The Exchange has, and will continue to, monitor market participant demand and space availability and endeavor to adjust the limit if and when the Exchange is able to acquire additional space and power within the third-party data centers and/or additional CPU Cores to accommodate additional Dedicated Cores. The Exchange monitors its capacity and data center space and thus is in the best place to determine these limits and modify them as appropriate in response to changes to this capacity and space, as well as market demand." See Securities Exchange Act Release No. 103511 (July 21, 2025), 90 FR 34933 (July 24, 2025) (SR-CboeBYX-2025-020).

²⁰ 15 U.S.C. 78f(b)(5).

²¹ *Id.*

²² 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).

²³ 15 U.S.C. 78f(b).

²⁴ 15 U.S.C. 78f(b)(5).

²⁵ *Id.*

²⁶ 15 U.S.C. 78f(b)(4).

²⁷ *Supra* note 9.

²⁸ *Supra* note 13.

²⁹ 15 U.S.C. 78f(b)(5).

³⁰ *Id.*

space and power within the third-party data centers and/or additional CPU Cores to accommodate additional Dedicated Cores. The Exchange monitors its capacity and data center space and thus is in the best place to determine these limits and modify them as appropriate in response to changes to this capacity and space, as well as market demand.

However, including the cap on the number of Dedicated Cores in the Fee Schedule unnecessarily burdens the Exchange from being able to adjust the connectivity and access to the Exchange's System in order to ensure that the Exchange is able to provide access to market participants on non-discriminatory terms and ensure sufficient capacity and headroom in the System. The Exchange constantly monitors the System's performance based on market conditions and needs to make adjustments based on customer demand. All exchanges, including BYX are required to provide access pursuant to the same requirements under Section 6(b)(5) of the Act regardless of whether their rules or fee schedules set forth caps on access.³¹ The Exchange believes that removing the cap on the number of Dedicated Cores from the Fee Schedule would enable the Exchange to be more responsive to market participants connectivity needs and allow the Exchange to better compete with other exchanges that do not currently provide similar connectivity limitations in their fee schedules.

This proposal is simply to include the caps on Dedicated Cores in the Cboe Titanium Cboe U.S. Equities Binary Order Entry Specification, rather than the Fee Schedule. Accordingly, the Exchange's obligations under Section 6(b)(5) of the Act³² and market conditions are key drivers of the System's architecture and expansion and thus the Exchange believes a cap in the Fee Schedule may hamper equal access to the Exchange.

Further, the Exchange anticipates that it will continue to expand its System and provide market participants with additional access, including Dedicated Cores, based on customer demand and in response to changing market conditions. The Exchange represents that any expansion or reduction in the number of additional Dedicated Cores will be conducted in a similar manner that ensures fair access to its System.³³

Lastly, the Exchange believes the proposed rule change is consistent with

Section 6(b)(4)³⁴ of the Act as the Exchange notes that fees will continue to apply consistently to all Members and Sponsored Access Participants who choose to purchase Dedicated Cores. The caps that are within the Cboe Titanium U.S. Equities Binary Order Entry Specification will apply to all Members and Sponsoring Access firms alike (with one cap for Members and another for Sponsoring Access firms). The Exchange believes its maximum limits, and distinction between Members and Sponsored Participants, is another appropriate means to help the Exchange manage its allotment of Dedicated Cores and better ensure this finite resource is apportioned fairly. The Exchange will continue to assess the fees for Dedicated Cores as specified in its Fee Schedule and will cap the number of Dedicated Cores for a participant as set forth in the Cboe Titanium U.S. Equities Binary Order Entry Specification.

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. Rather, the proposal is intended to promote align the Exchange with industry standards regarding caps as several other exchanges do not provide a limitation on the number of ports or servers available to participants in their fee schedules.³⁵ Thus the Exchange believes that providing the cap in the Fee Schedule may hamper the Exchange's ability to provide access to the Exchange on terms that are not unfairly discriminatory; rather, the Exchange will include the cap in the Cboe Titanium Cboe U.S. Equities Binary Order Entry Specification.

The Exchange believes the proposal to no longer include the cap on the number of Dedicated Cores in the Fee Schedule will not impose any burden on competition because it will provide greater flexibility for the Exchange's ability to adjust access to the Exchange's network in order to ensure that the Exchange meets its obligations under the Act such that access to the Exchange is offered on terms that are not unfairly discriminatory among its Members, as well as ensure sufficient capacity and headroom in the System, as needed.

The Exchange does not believe that the proposed rule change will impose a burden on intra-market competition because Dedicated Cores are available to

all market participants on an equal basis at the same cost. It is a business decision of each market participant whether to pay for Dedicated Cores.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act³⁶ and paragraph (f) of Rule 19b-4³⁷ 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 will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-CboeBYX-2026-019 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-CboeBYX-2026-019. 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

³¹ *Id.*

³² 15 U.S.C. 78f(b).

³³ *Id.*

³⁴ 15 U.S.C. 78f(b)(4).

³⁵ *Supra* notes 9 and 13.

³⁶ 15 U.S.C. 78s(b)(3)(A).

³⁷ 17 CFR 240.19b-4(f).

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–CboeBYX–2026–019 and should be submitted on or before June 3, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.³⁸

Vanessa A. Countryman,
Secretary.

[FR Doc. 2026–09474 Filed 5–12–26; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–105419; File No. SR–CboeBZX–2026–040]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Amend the Exchange's Fee Schedule to Remove Text Capping the Number of Dedicated Cores Available to Market Participants

May 8, 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 May 1, 2026, Cboe BZX Exchange, Inc. (the “Exchange” or “BZX”) filed with the Securities and Exchange Commission (“SEC” or “Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

BZX proposes to amend the Exchange's Fee Schedule to remove text capping the number of Dedicated Cores available to market participants. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Commission's website (<https://www.sec.gov/rules/sro.shtml>), the Exchange's website (<https://www.cboe.com/us/equities/>

[regulation/rule_filings/bzx/](#)), and at the principal office of the Exchange.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to remove the text that caps the maximum number of Dedicated Cores available to Members and Sponsoring Members in its Fee Schedule.³ Upon effectiveness of this proposal, the Exchange will include the same cap on the number of Dedicated Cores in the Cboe Titanium Cboe U.S. Equities Binary Order Entry Specification, available on its website. The Exchange does not propose to amend the fee charged for Dedicated Cores that market participants may voluntarily purchase.

For background, the Exchange launched Dedicated Cores in June 2024 and, as discussed below, established caps at that time.⁴ The Dedicated Core permits users to assign a single Binary Order Entry (“BOE”) logical order entry port to a single dedicated Central Processing Unit (CPU Core). Historically, CPU Cores had been shared by logical order entry ports (*i.e.*, multiple logical ports from multiple firms may connect to a single CPU Core). Use of Dedicated Cores however, can provide reduced latency, enhanced throughput, and improved performance since a firm using a Dedicated Core is utilizing the full processing power of a CPU Core instead of sharing that power with other firms. This offering is completely voluntary and is available to all Users that wish to purchase Dedicated Cores. Users may utilize BOE logical order entry ports on shared CPU

Cores, either in lieu of, or in addition to, their use of Dedicated Core(s). As such, Users are able to operate across a mix of shared and dedicated CPU Cores which the Exchange believes provides additional risk and capacity management. Further, Dedicated Cores are not required nor necessary to participate on the Exchange and as such Users may opt not to use Dedicated Cores at all.

Upon the launch of Dedicated Cores, the Exchange established caps of 60 Dedicated Cores for Members and 25 Dedicated Cores for each of Sponsored Access Relationship a Sponsoring firm has.⁵ On October 1, 2024, the Exchange proposed to increase this cap for Members from 60 up to 80 Dedicated Cores and from 25 Dedicated Cores to 35 Dedicated Cores for each Sponsored Access Relationship a Sponsoring firm has.⁶ The Exchange last amended the cap for Members on December 1, 2024⁷ to the levels it is at today, which permits market participants to purchase up to 120 Dedicated Cores for Members and up to 35 Dedicated Cores for each Sponsored Access relationship a Sponsoring Firm has (the Exchange did not modify the Sponsored Access cap in December). The Exchange noted previously that it would continue monitoring Dedicated Core interest by all Users and allotment availability with the goal of increasing these limits to meet Users' needs if and when the demand is there and/or the Exchange is able to accommodate additional Dedicated Cores.

The Exchange now proposes to amend its Fee Schedule to remove language that caps the maximum number of Dedicated Cores available to participants. This change will bring the Exchange's Fee Schedule in line with other exchanges who impose caps, whether on ports or on other connectivity offerings, and do not specify these caps in their respective fee schedules.

MIAX Emerald, LLC, (“MIAX Emerald”) recently removed the cap in its fee schedule regarding the number of Limited Service MEI Ports and moved this into the spec.⁸ MIAX Emerald notes that such a change aligns with its affiliates' fee schedules (MIAX, MIAX Pearl, and MIAX Sapphire), all of which

⁵ *Id.*

⁶ See Securities Exchange Act Release No. 101302 (October 10, 2024), 89 FR 83727 (October 17, 2024) (SR–CboeBZX–2024–094).

⁷ See Securities Exchange Act Release No. 101825 (December 11, 2024), 89 FR 99930 (December 5, 2024) (SR–CboeBZX–2024–122).

⁸ See Securities Exchange Act Release No. 103163 (June 2, 2025), 90 FR 24177 (June 6, 2025) (SR–EMERALD–2025–12).

³⁸ 17 CFR 200.30–3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.

³ The Exchange initially submitted the proposed rule change on April 27, 2026 (SR–CboeBZX–2026–036). On May 1, 2026, the Exchange withdrew that proposal and submitted this filing.

⁴ See Securities Exchange Act Release No. 100395 (June 21, 2024), 89 FR 53687 (June 27, 2024) (SR–CboeBZX–2024–054).

do not include text providing for a similar cap on the maximum number of Limited Service MEI/MEO Ports available to each market maker on those exchanges in their respective fee schedules.⁹ Instead, MIAX Emerald notes that information regarding caps is within its affiliates technical specifications and it proposed to take this same approach.¹⁰

Additionally, in the Exchange's prior filings regarding Dedicated Cores, it referenced a similar offering by Nasdaq, the Dedicated OUCH server.¹¹ In prior analysis done in the Exchange's fee filings, it noted that Nasdaq Stock Market, LLC ("Nasdaq"), introduced the Dedicated Ouch Port Infrastructure in 2014 which allows a member firm to assign up to 30 of its OUCH ports to a dedicated server infrastructure for its exclusive use.¹² The Dedicated OUCH server handles only the subscribing member firm's message traffic sent through their ports on the Dedicated OUCH to Nasdaq's system. Similarly, a Dedicated Core only handles that subscribing firm's messaging activity. Nasdaq notes that with its Dedicated OUCH offering, member firms can develop a tailored solution by controlling their message traffic in order to optimize their trading strategies.¹³

Similar to the existing cap for Dedicated Cores, Nasdaq has a cap for its Dedicated OUCH offering. Nasdaq notes in its technical requirements that it has a cap of four Dedicated OUCH servers for a firm.¹⁴ While the Dedicated OUCH offering is within Nasdaq's fee schedule,¹⁵ it does not specify the cap for this product within the fee schedule nor within its rulebook.¹⁶ When Nasdaq previously filed fees for this product, it did not establish a cap for this

offering,¹⁷ nor did it do so in any subsequent filings.¹⁸

As described in prior filings, Dedicated Cores are not an unlimited resource.¹⁹ As such, the Exchange believes that including the cap on the number of Dedicated Cores in the Fee Schedule may hamper the Exchange's ability to provide fair and equitable access²⁰ for all market participants to access the Exchange's network. By removing the cap from the Fee Schedule, the Exchange will be able to more easily adjust access, which may be based upon, among other factors, requests by market participants and planned server upgrades. The proposed change will ensure that the Exchange meets its obligations under the Act to offer access to the Exchange on terms that are not unfairly discriminatory²¹ among its market participants, as well as to ensure sufficient capacity and headroom in the System.²² The Exchange monitors the System's performance and makes adjustments to its System based on market conditions

¹⁷ See Securities Exchange Act Release No. 71198 (December 30, 2013), 79 FR 692 (January 6, 2014) (SR-NASDAQ-2013-161).

¹⁸ See e.g., Securities Exchange Act Release No. 74829 (April 29, 2015), 80 FR 25745 (May 5, 2015) (SR-NASDAQ-2015-042).

¹⁹ The Exchange was required for over a year to continue justifying its rationale behind establishing caps. Specifically, the Exchange noted that "... it is reasonable to limit the number of Dedicated Cores Users can purchase because the Exchange has a finite amount of space in its third-party data centers to accommodate CPU cores, including Dedicated Cores. The Exchange must also take into account timing and cost considerations in procuring additional Dedicated Cores and related hardware such as servers, switches, optics and cables, as well as the readiness of the Exchange's data center space to accommodate additional Dedicated Cores in the Exchange's respective Order Handler Cabinets. Moreover, procuring data center space has grown to be more challenging than it was five years ago with the increased demand for data center space. For example, the U.S. colocation data center market has doubled in size in just four years. In addition to the Exchange's rollout of Dedicated Cores, the Exchange is mindful of its other business areas and the need to continue to be mindful of its existing, external restraints in procuring additional space in this area. The Exchange has, and will continue to, monitor market participant demand and space availability and endeavor to adjust the limit if and when the Exchange is able to acquire additional space and power within the third-party data centers and/or additional CPU Cores to accommodate additional Dedicated Cores. The Exchange monitors its capacity and data center space and thus is in the best place to determine these limits and modify them as appropriate in response to changes to this capacity and space, as well as market demand." See Securities Exchange Act Release No. 103510 (July 21, 2025), 90 FR 34919 (July 24, 2025) (SR-CboeBZX-2025-092).

²⁰ 15 U.S.C. 78f(b)(5).

²¹ *Id.*

²² 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).

and Member demand. Accordingly, the Exchange's obligations under the Act to provide access on terms that are not unfairly discriminatory and market conditions are key drivers of the System's architecture and expansion. Thus, the Exchange believes a cap in the Fee Schedule is inconsistent with other exchanges' access offerings and no longer believes it serves as an appropriate mechanism to govern access to the Exchange. The proposed change is to align with industry standards and to ensure fair and equal access among market participants.

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.²³ Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)²⁴ 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)²⁵ requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The Exchange also believes the proposed rule change is consistent with Section 6(b)(4)²⁶ of the Act, which requires that Exchange rules provide for the equitable allocation of reasonable dues, fees, and other charges among its Members and other persons using its facilities.

In particular, the Exchange believes that removing this language from the Fee Schedule is consistent with the objectives of Section 6(b)(5) of the Act because it will promote uniformity and consistency across the industry regarding caps for connectivity offerings. As noted above, MIAX Emerald and its affiliates do not include cap limitations within its fee schedules,

²³ 15 U.S.C. 78f(b).

²⁴ 15 U.S.C. 78f(b)(5).

²⁵ *Id.*

²⁶ 15 U.S.C. 78f(b)(4).

⁹ *Id.*

¹⁰ See e.g., MIAX Pearl Options Exchange, MEO Interface Specification.

¹¹ See Securities Exchange Act Release No. 103510 (July 21, 2025), 90 FR 34919 (July 24, 2025) (SR-CboeBZX-2025-092).

¹² For a more fulsome discussion, the Exchange previously underwent an extended analysis over the course of more than a year regarding the comparability of both offerings and their pricing structures, including the cap the Exchange proposed. See e.g., Securities Exchange Act Release No. 103510 (July 21, 2025), 90 FR 34919 (July 24, 2025) (SR-CboeBZX-2025-092).

¹³ *Id.*

¹⁴ See <https://nasdaqtrader.com/Trader.aspx?id=OUCH>.

¹⁵ See <https://www.nasdaqtrader.com/Trader.aspx?id=PriceListTrading2#connectivityouch>.

¹⁶ See Rulebook—The Nasdaq Stock Market. Equity Rules. Equity 7 Pricing Schedule. Section 115. Ports and Services. Dedicated OUCH Port Infrastructure.

but instead include these within each exchange's tech specs.²⁷ Similarly, Nasdaq includes the cap for its Dedicated OUCH offering in its spec and not within its rulebook or fee schedule.²⁸ The Exchange proposes to do the same here with its Dedicated Cores offering and will note caps within the Cboe Titanium Cboe U.S. Equities Binary Order Entry Specification.

The Exchange also believes that its proposal is consistent with the objectives of Section 6(b)(5) of the Act²⁹ because the same caps specified in the Cboe Titanium Cboe U.S. Equities Binary Order Entry Specification shall continue to apply to all participants, regardless of type or size, and will allow the Exchange to offer access to its System on terms that are not unfairly discriminatory. Including the cap on the number of Dedicated Cores in the Fee Schedule may unnecessarily burden the Exchange from being able to adjust access to the Exchange's System in order to ensure that the Exchange is able to provide access³⁰ to all participants on non-discriminatory terms and ensure sufficient capacity and headroom in the System.

As the Exchange noted when it established these caps, the Exchange believes that it is reasonable to limit the number of Dedicated Cores Users can purchase because the Exchange has a finite amount of space in its third-party data centers to accommodate CPU cores, including Dedicated Cores. The Exchange must also take into account timing and cost considerations in procuring additional Dedicated Cores and related hardware such as servers, switches, optics and cables, as well as the readiness of the Exchange's data center space to accommodate additional Dedicated Cores in the Exchange's respective Order Handler Cabinets. Moreover, procuring data center space has grown to be more challenging than it was five years ago with the increased demand for data center space. For example, the U.S. colocation data center market has doubled in size in just four years. In addition to the Exchange's rollout of Dedicated Cores, the Exchange is mindful of its other business areas and the need to continue to be mindful of its existing, external restraints in procuring additional space in this area. The Exchange has, and will continue to, monitor market participant demand and space availability and endeavor to adjust the limit if and when the Exchange is able to acquire additional

space and power within the third-party data centers and/or additional CPU Cores to accommodate additional Dedicated Cores. The Exchange monitors its capacity and data center space and thus is in the best place to determine these limits and modify them as appropriate in response to changes to this capacity and space, as well as market demand.

However, including the cap on the number of Dedicated Cores in the Fee Schedule unnecessarily burdens the Exchange from being able to adjust the connectivity and access to the Exchange's System in order to ensure that the Exchange is able to provide access to market participants on non-discriminatory terms and ensure sufficient capacity and headroom in the System. The Exchange constantly monitors the System's performance based on market conditions and needs to make adjustments based on customer demand. All exchanges, including BZX are required to provide access pursuant to the same requirements under Section 6(b)(5) of the Act regardless of whether their rules or fee schedules set forth caps on access.³¹ The Exchange believes that removing the cap on the number of Dedicated Cores from the Fee Schedule would enable the Exchange to be more responsive to market participants connectivity needs and allow the Exchange to better compete with other exchanges that do not currently provide similar connectivity limitations in their fee schedules.

This proposal is simply to include the caps on Dedicated Cores in the Cboe Titanium Cboe U.S. Equities Binary Order Entry Specification, rather than the Fee Schedule. Accordingly, the Exchange's obligations under Section 6(b)(5) of the Act³² and market conditions are key drivers of the System's architecture and expansion and thus the Exchange believes a cap in the Fee Schedule may hamper equal access to the Exchange.

Further, the Exchange anticipates that it will continue to expand its System and provide market participants with additional access, including Dedicated Cores, based on customer demand and in response to changing market conditions. The Exchange represents that any expansion or reduction in the number of additional Dedicated Cores will be conducted in a similar manner that ensures fair access to its System.³³

Lastly, the Exchange believes the proposed rule change is consistent with

Section 6(b)(4)³⁴ of the Act as the Exchange notes that fees will continue to apply consistently to all Members and Sponsored Access Participants who choose to purchase Dedicated Cores. The caps that are within the Cboe Titanium U.S. Equities Binary Order Entry Specification will apply to all Members and Sponsoring Access firms alike (with one cap for Members and another for Sponsoring Access firms). The Exchange believes its maximum limits, and distinction between Members and Sponsored Participants, is another appropriate means to help the Exchange manage its allotment of Dedicated Cores and better ensure this finite resource is apportioned fairly. The Exchange will continue to assess the fees for Dedicated Cores as specified in its Fee Schedule and will cap the number of Dedicated Cores for a participant as set forth in the Cboe Titanium U.S. Equities Binary Order Entry Specification.

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. Rather, the proposal is intended to promote align the Exchange with industry standards regarding caps as several other exchanges do not provide a limitation on the number of ports or servers available to participants in their fee schedules.³⁵ Thus the Exchange believes that providing the cap in the Fee Schedule may hamper the Exchange's ability to provide access to the Exchange on terms that are not unfairly discriminatory; rather, the Exchange will include the cap in the Cboe Titanium Cboe U.S. Equities Binary Order Entry Specification.

The Exchange believes the proposal to no longer include the cap on the number of Dedicated Cores in the Fee Schedule will not impose any burden on competition because it will provide greater flexibility for the Exchange's ability to adjust access to the Exchange's network in order to ensure that the Exchange meets its obligations under the Act such that access to the Exchange is offered on terms that are not unfairly discriminatory among its Members, as well as ensure sufficient capacity and headroom in the System, as needed.

The Exchange does not believe that the proposed rule change will impose a burden on intra-market competition because Dedicated Cores are available to

²⁷ *Supra* note 9.

²⁸ *Supra* note 13.

²⁹ 15 U.S.C. 78f(b)(5).

³⁰ *Id.*

³¹ *Id.*

³² 15 U.S.C. 78f(b).

³³ *Id.*

³⁴ 15 U.S.C. 78f(b)(4).

³⁵ *Supra* notes 9 and 13.

all market participants on an equal basis at the same cost. It is a business decision of each market participant whether to pay for Dedicated Cores.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act³⁶ and paragraph (f) of Rule 19b-4³⁷ 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 will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-CboeBZX-2026-040 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.
- All submissions should refer to file number SR-CboeBZX-2026-040. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<https://www.sec.gov/rules/sro.shtml>). Copies of the filing will

be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR-CboeBZX-2026-040 and should be submitted on or before June 3, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.³⁸

Vanessa A. Countryman,
Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-105424; File No. SR-NASDAQ-2025-085]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing of Proposed Rule Change, as Modified by Amendment No. 1 Thereto, To List and Trade Shares of iShares Bitcoin Premium Income ETF Under Nasdaq Rule 5711(d) (Commodity-Based Trust Shares)

May 8, 2026.

On September 30, 2025, The Nasdaq Stock Market LLC ("Nasdaq" or "Exchange") 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 list and trade shares ("Shares") of the of the iShares Bitcoin Premium Income ETF ("Trust") under Nasdaq Rule 5711(d) (Commodity-Based Trust Shares). The proposed rule change was published for comment in the **Federal Register** on October 2, 2025.³

On November 3, 2025, pursuant to Section 19(b)(2) of the Act,⁴ the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change.⁵ On December

16, 2025, the Commission initiated proceedings under Section 19(b)(2)(B) of the Act⁶ to determine whether to approve or disapprove the proposed rule change.⁷ On March 10, 2026, pursuant to Section 19(b)(2) of the Act,⁸ the Commission designated a longer period for Commission action on proceedings to determine whether to approve or disapprove the proposed rule change.⁹

On May 7, 2026, the Exchange filed with the Commission Amendment No. 1 to proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. Amendment No. 1 replaces and supersedes the proposed rule change as originally filed. The Commission is publishing this notice to solicit comments on the proposed rule change, as modified by Amendment No. 1, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to list and trade shares of iShares® Bitcoin Premium Income ETF (the "Trust") under Nasdaq Rule 5711(d) ("Commodity-Based Trust Shares"). The shares of the Trust are referred to herein as the "Shares." This Amendment No. 1 supersedes the original filing in its entirety.

The text of the proposed rule change is available on the Exchange's website at <https://listingcenter.nasdaq.com/rulebook/nasdaq/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

Commission designated December 31, 2025, as the date by which the Commission shall approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change.

⁶ 15 U.S.C. 78s(b)(2)(B).

⁷ See Securities Exchange Act Release No. 104414, 90 FR 59600 (Dec. 19, 2025).

⁸ 15 U.S.C. 78s(b)(2).

⁹ See Securities Exchange Act Release No. 104962, 91 FR 12466 (Mar. 13, 2026) (designating May 30, 2026, as the date by which the Commission shall either approve or disapprove the proposed rule change).

³⁶ 15 U.S.C. 78s(b)(3)(A).

³⁷ 17 CFR 240.19b-4(f).

³⁸ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 104148 (Sept. 30, 2025), 90 FR 47846. The Commission has received no comments on the proposed rule change.

⁴ 15 U.S.C. 78s(b)(2).

⁵ See Securities Exchange Act Release No. 104173, 90 FR 57424 (Nov. 17, 2025). The

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 list and trade the Shares under Nasdaq Rule 5711(d), which governs the listing and trading of Commodity-Based Trust Shares on the Exchange ("Generic Listing Standards").¹⁰ iShares® Delaware Trust Sponsor LLC, a Delaware limited liability company and an indirect subsidiary of BlackRock, Inc. ("BlackRock"), is the sponsor of the Trust (the "Sponsor"). BlackRock Financial Management, Inc., an affiliate of the Sponsor, is the investment advisor for the Trust (the "Advisor").¹¹ The Trust will be an actively-managed exchange-traded product ("ETP"), that intends to be treated as a publicly-traded partnership for U.S. federal income tax purposes and is registered under the Securities Act of 1933, as amended (the "1933 Act"). Rule 5711(d)(iii)(A)(2) currently requires Commodity-Based Trust Shares to be designed to reflect the performance of one or more reference assets or an index of reference assets, less expenses, and other liabilities. In other words, the Generic Listing Standards require Commodity-Based Trust Shares to be passively managed. For the securities options holdings of Commodity-Based Trust Shares, the Generic Listing Standards require that such options be listed and traded on an ISG market. The Exchange submits this proposal because the Trust will be actively managed; however, it will meet all of the other requirements under the Generic Listing Standards. Any statements or representations included in this proposal regarding: (a) the description of the trust holdings or reference assets; (b) limitations on the trust holdings or reference assets; (c) dissemination and

availability of the trust holdings, reference assets or intraday indicative value; or (d) the applicability of Exchange listing rules specified in this proposal shall constitute continued listing standards for the Shares listed on the Exchange. The Shares will be registered with the SEC by means of the Trust's registration statement on Form S-1 (the "Registration Statement"), the latest version of which was filed with the SEC on April 1, 2026.¹²

Overview of the Trust

The Shares will be issued by the Trust, a Delaware statutory trust. The Trust will operate pursuant to a trust agreement (the "Trust Agreement") between the Sponsor, a third party as the trustee of the Trust (the "Trustee"), and Wilmington Trust, National Association, as Delaware trustee (the "Delaware Trustee"). The Trust issues Shares representing fractional undivided beneficial interests in its net assets. The assets of the Trust consist of bitcoin, as well as shares of iShares Bitcoin Trust ETF ("IBIT") (such shares, "IBIT shares"), and cash, including premiums associated with written options ("options", collectively with IBIT shares, the "Securities"). The Trust seeks to reflect generally the performance of the price of bitcoin while providing premium income through an actively managed strategy of writing (selling) call options on IBIT shares ("IBIT options") and, from time to time, on indices that track spot bitcoin ETPs, including IBIT (such indices, "ETP Indices" and options written on such ETP Indices, "index options"). The Trust seeks to reflect such performance before payment of the Trust's expenses and liabilities. All options written by the Trust will be listed and traded on U.S. options exchanges.

The Trust is not an investment company registered under the Investment Company Act of 1940, as amended (the "1940 Act") and, in accordance therewith, will not own or acquire Securities in excess of 40% of the value of the Trust's total assets (excluding Government Securities (as defined in the 1940 Act) and cash items) on an unconsolidated basis.

Coinbase Custody Trust Company, LLC (the "Bitcoin Custodian") is the custodian for the Trust's bitcoin holdings and maintains a custody account for the Trust. Coinbase, Inc., is the prime broker for the Trust and maintains a bitcoin trading account for

the Trust. Bank of New York Mellon is a custodian for the Trust's Securities holdings (the "Securities Custodian") and its cash holdings (the "Cash Custodian" and together with the Securities Custodian and Bitcoin Custodian, the "Custodians").

Actively-Managed Strategies

Actively-managed exchange-traded funds ("ETFs") have become a significant and growing segment of the U.S. and global ETF markets. For example, in 2024, around 49% of all ETFs launched globally were active, and in the U.S., active ETF launches outnumbered index launches by nearly 4:1.¹³ Active ETFs in the U.S. represent the vast majority of total ETF launches in 2025,¹⁴ with over a third of U.S. ETF inflows coming from active strategies over the past two years.¹⁵ The Exchange believes that these figures demonstrate substantial market demand in actively-managed strategies, and that this proposal would benefit investors by providing a transparent, regulated investment vehicle as an alternative to less regulated avenues that investors could use to obtain bitcoin exposure.

Background on Trust Holdings

The Trust will invest primarily in spot bitcoin and IBIT,¹⁶ will hold cash, and will primarily write options on IBIT¹⁷ and in limited circumstances,

¹³ See "Decoding active ETFs," BlackRock, available at <https://www.ishares.com/us/literature/whitepaper/decoding-active-etfs.pdf>.

¹⁴ See "How active ETFs are unlocking innovation and opportunity for investors," BlackRock, available at <https://www.ishares.com/us/insights/active-etf-investors> ("Active ETFs accounted for 88% of all U.S.-listed ETF launches through June 2025, and 51% of global ETF launches."); see also "Monthly Active ETF Monitor (August 31, 2025)," J.P.Morgan, available at <https://am.jpmorgan.com/content/dam/jpm-am-aem/americas/us/en/insights/etf-insights/monthly-active-etf.pdf> ("60 active ETFs were launched in August. Active ETFs represent 85% of total ETF launches in 2025.").

¹⁵ See "Decoding active ETFs," BlackRock, available at <https://www.ishares.com/us/literature/whitepaper/decoding-active-etfs.pdf> ("31% of net asset inflows come from actively managed strategies," sourcing BlackRock Global Business Intelligence data through June 2024); see also "Monthly Active ETF Monitor (August 31, 2025)," J.P.Morgan, available at <https://am.jpmorgan.com/content/dam/jpm-am-aem/americas/us/en/insights/etf-insights/monthly-active-etf.pdf> ("Over 37% of ETF flows in 2025 have gone into active strategies").

¹⁶ The Commission approved the listing and trading of IBIT on January 10, 2024. See Securities Exchange Act Release No. 99306 (January 10, 2024), 89 FR 3008 (January 17, 2024) (SR-NYSEARCA-2021-90; SR-NYSEARCA-2023-44; SR-NYSEARCA-2023-58; SR-NASDAQ-2023-016; SR-NASDAQ-2023-019; SR-CboeBZX-2023-028; SR-CboeBZX-2023-038; SR-CboeBZX-2023-040; SR-CboeBZX-2023-042; SR-CboeBZX-2023-044; SR-CboeBZX-2023-072).

¹⁷ The Commission approved the listing and trading of IBIT options on September 20, 2024. See

¹⁰ The Commission approved Nasdaq Rule 5711 in Securities Exchange Act Release No. 66648 (March 23, 2012), 77 FR 19428 (March 30, 2012) (SR-NASDAQ-2012-013). The Commission subsequently approved amendments to Rule 5711(d) to adopt generic listing standards for Commodity-Based Trust Shares. See Securities Exchange Act Release No. 103995 (September 17, 2025), 90 FR 45414 (September 22, 2025) (SR-NASDAQ-2025-056; SR-CboeBZX-2025-104; SR-NYSEARCA-2025-54) (Order Granting Accelerated Approval of Proposed Rule Changes, as Modified by Amendments Thereto, to Adopt Generic Listing Standards for Commodity-Based Trust Shares) ("Generic Listing Standards Approval Order").

¹¹ According to the Registration Statement (as defined below), the Advisor is registered as an investment adviser under the Investment Advisers Act of 1940, as amended.

¹² The Shares will not trade on the Exchange until such time that the Registration Statement is effective.

will write index options.¹⁸ All options written by the Trust are U.S. exchange-listed. Options written on IBIT may be standardized options or flexible exchange (“FLEX”) options, while index options will be standardized options.¹⁹ The Trust’s IBIT holdings would be used to settle standardized IBIT options; either the Trust’s IBIT holdings or cash holdings would be used to settle FLEX IBIT options; and the Trust’s cash holdings would be used to settle index options, if, in any case, those written options positions are exercised. The Trust will write standardized IBIT options and, based on a number of factors, FLEX IBIT options. Such factors may include market conditions, options liquidity, and options’ strike price, among other things. The Trust may also write standardized index options. Bitcoin, IBIT, IBIT options, and index options meet the eligibility criteria for Commodity-Based Trust Shares set forth in Rule 5711(d)(iv)(A) (Bitcoin) and (B) (IBIT, IBIT options, and index options).

Bitcoin (BTC)

Bitcoin is a digital asset that is created and transmitted through the operations of the peer-to-peer Bitcoin network, a decentralized network of computers that operates on cryptographic protocols (the “Bitcoin network”). No single entity owns or operates the Bitcoin network, the infrastructure of which is collectively maintained by its user base.

The Bitcoin network allows people to exchange tokens of value, called bitcoin, which are recorded on a public transaction ledger known as the Bitcoin blockchain (the “Bitcoin blockchain”). Bitcoin can be used to pay for goods and services, or it can be converted to fiat currencies, such as the U.S. dollar, at rates determined on bitcoin platforms that enable trading in bitcoin or in individual end-user-to-end-user transactions under a barter system.

The Bitcoin network is commonly understood to be decentralized and does not require governmental authorities or financial institution intermediaries to create, transmit or determine the value of bitcoin. Rather, bitcoin is created and

allocated by the Bitcoin network protocol through a “mining” process. The value of bitcoin is determined by the supply of and demand for bitcoin-on-bitcoin platforms or in private end-user-to-end-user transactions.

New bitcoins are created and rewarded to the miners of a block in the Bitcoin blockchain for verifying transactions. The Bitcoin blockchain is a shared database that includes all blocks that have been solved by miners and it is updated to include new blocks as they are solved. Each bitcoin transaction is broadcast to the Bitcoin network and, when included in a block, recorded in the Bitcoin blockchain. As each new block records outstanding bitcoin transactions, and outstanding transactions are settled and validated through such recording, the Bitcoin blockchain represents a complete, transparent, and unbroken history of all transactions of the Bitcoin network.

Under the source code that governs the Bitcoin network, the supply of new bitcoin is mathematically controlled so that the number of bitcoin grows at a limited rate pursuant to a pre-set schedule. The number of bitcoin awarded for solving a new block is automatically halved after every 210,000 blocks are added to the Bitcoin blockchain, approximately every 4 years. This deliberately controlled rate of bitcoin creation means that the number of bitcoin in existence will increase at a controlled rate until the number of bitcoin in existence reaches the pre-determined 21 million bitcoin. However, the 21 million supply cap could be changed in a hard fork. A hard fork could change the source code to the Bitcoin network, including the 21 million bitcoin supply cap.

Bitcoin’s role as the dominant digital asset has positioned it as a key component of institutional portfolios and investment products. Its market dynamics are influenced by macroeconomic trends, adoption rates, and its regulatory environment, making it a focal point for the broader crypto industry. With a decentralized governance model and a community-driven upgrade process, bitcoin continues to evolve while adhering to its core principles of decentralization and security.

Security Investments

The Trust will invest in IBIT and write standardized options on IBIT and, based on a number of factors, may write FLEX IBIT options. Such factors may include market conditions, options liquidity, and options’ strike price,

among other things.²⁰ It may also write standardized index options. As discussed above, all options written by the Trust are U.S. exchange-listed. Options written on IBIT may be standardized options or FLEX options, while index options will be standardized options. The Trust’s options holdings will be available on its website (www.ishares.com).

Creation and Redemption of Shares

The Trust issues and redeems Baskets²¹ on a continuous basis. Baskets are typically issued only in exchange for all cash deposits. The Trust may, however, issue Baskets in exchange for partial cash deposits²² and in-kind deposits.²³ Generally, the Trust redeems Shares only in Baskets in exchange for partial cash deposits. The Trust may, however, redeem Baskets in exchange for all cash deposits or in-kind deposits. Whether the Trust accepts all cash, partial cash, or in-kind deposits for the issuance and redemption of Baskets, the amount provided to the Trust will be equal to the Basket Amount²⁴ for the business day on which the purchase order was received by the Trust.

No Shares are issued unless the Trustee receives confirmation that the required consideration has been received in the account or accounts specified by the Trustee. The amount of consideration necessary for the creation of a Basket, or to be received upon redemption of a Basket, will vary over the life of the Trust, due to the payment or accrual of fees and other expenses or liabilities payable by the Trust. Baskets may be created or redeemed only by Authorized Participants, who pay BlackRock Investments, LLC (“BRIL”), an affiliate of the Sponsor that has been

²⁰ IBIT is issued by an affiliate of the Trust. As discussed above, the Trust will be managed by the Advisor, which is an affiliate of the Sponsor. The Trustee has adopted and implemented policies and procedures that are reasonably designed to ensure compliance with applicable law, which address conflicts of interest and affiliate transactions. Refer to the Trust’s Registration Statement for additional details on the Trustee’s policies and procedures.

²¹ Baskets will be offered continuously at NAV per Share for 20,000 Shares.

²² The Sponsor may in its sole discretion, allow authorized participants to purchase Baskets in exchange for a combination of cash, bitcoin, and/or IBIT shares, including cash that replaces bitcoin or IBIT shares (“partial cash”).

²³ The Sponsor may also in its sole discretion, allow authorized participants to purchase Baskets in exchange for bitcoin, IBIT shares and a cash amount (“in-kind”).

²⁴ “Basket Amount” means the amount of cash, bitcoin, and/or IBIT shares (depending on the type of transaction) that an Authorized Participant must deliver in exchange for one Basket, or that an Authorized Participant is entitled to receive in exchange for each Basket surrendered for redemption.

Securities Exchange Act Release No. 101128 (September 20, 2024), 89 FR 78942 (September 26, 2024) (SR-ISE-2024-03).

¹⁸ Cboe Options currently offers listed index options on the Cboe Bitcoin U.S. ETF Index and the Mini-Cboe Bitcoin U.S. ETF Index. See https://www.cboe.com/tradable_products/bitcoin-etf-index-options/.

¹⁹ FLEX options are presently available on multiple U.S. options exchanges and available for IBIT options. For example, both Nasdaq ISE and Cboe Options offer electronic FLEX trading today. Additionally, the Commission approved the trading of FLEX IBIT options on Nasdaq ISE. See Securities Exchange Act Release No. 103563 (July 29, 2025), 90 FR 36242 (August 1, 2025) (SR-ISE-2025-12).

retained by the Trust to perform certain order processing, Authorized Participant communications, and related services in connection with the issuance and redemption of Baskets ("ETF Services"), a transaction fee for each order to create or redeem Baskets. As part of its Authorized Participant communications, BRIL will communicate to Authorized Participants whether the Trust will permit all cash deposits, in-kind deposits or partial cash deposits in creation of Baskets or for redemptions for Baskets.

The Sponsor will maintain ownership and control of bitcoin and Securities in a manner consistent with good delivery requirements for spot commodity transactions and securities transactions, respectively.

Net Asset Value

The net asset value ("NAV") of the Trust is used by the Trust in its day-to-day operations to measure the net value of the Trust's assets. The NAV of the Trust will be equal to the total assets of the Trust, which will consist of (1) the Trust's bitcoin, IBIT and cash, (2) any earnings on those assets, and (3) any other assets of the Trust, less total liabilities of the Trust, which includes the Trust's options positions, each determined by the Trustee pursuant to policies established from time to time by the Trustee or its affiliates as described herein. The Sponsor has the exclusive authority to determine the Trust's NAV, which it has delegated to the Trustee under the Trust Agreement. The Sponsor has delegated to the Trustee the responsibility to calculate the NAV and the NAV per Share for the Trust, based on a pricing source selected by the Trustee. In determining the Trust's NAV per Share, the Trustee will assess the value of bitcoin and the Securities. The Trustee has delegated to the trust administrator, Bank of New York Mellon, the responsibility to calculate the NAV, based on a pricing source selected by the Trustee.

Bitcoin Valuation

The value of the bitcoin held by the Trust will be based on the index price, unless the Sponsor in its sole discretion determines that the index is unreliable. The CME CF Bitcoin Reference Rate—New York Variant for the Bitcoin—U.S. Dollar trading pair (the "CF Benchmarks Index") shall constitute the index (the "Index"), unless the CF Benchmarks Index is not available or the Sponsor in its sole discretion determines that the CF Benchmarks Index is unreliable and therefore determines not to use the CF Benchmarks Index as the Index. If the CF Benchmarks Index is not available or

the Sponsor determines, in its sole discretion, that the CF Benchmarks Index is unreliable, (together a "Fair Value Event") the Trust's holdings may be fair valued on a temporary basis in accordance with the fair value policies approved by the Trustee. If the CF Benchmarks Index is not used as the Index price, owners of the beneficial interests of Shares (the "Shareholders") will be notified in a prospectus supplement or on the Trust's website and, if this index change is on a permanent basis, a filing with the SEC under Rule 19b-4 of the Act will be required. A Fair Value Event value determination will be based upon all available factors that the Sponsor or Trustee deems relevant at the time of the determination, and may be based on analytical values determined by the Sponsor or Trustee using third-party valuation models. Fair value policies approved by the Trustee will seek to determine the fair value price that the Trust might reasonably expect to receive from the current sale of that asset or liability in an arm's-length transaction on the date on which the asset or liability is being valued consistent with "Relevant Transactions". In the instance of a Fair Value Event and pursuant to the Sponsor's fair valuation policies and procedures Volume Weighted Average Prices ("VWAP") or Volume Weighted Median Prices ("VWMP") from another index administrator ("Secondary Index") would be utilized. If a Secondary Index is not available or the Sponsor in its sole discretion determines the Secondary Index is unreliable the price set by the Trust's principal market as of 4:00 p.m. ET, on the valuation date would be utilized. In the event the principal market price is not available or the Sponsor in its sole discretion determines the principal market valuation is unreliable the Sponsor will use its best judgment to determine a good faith estimate of fair value. The Trustee identifies and determines the Trust's principal market (or in the absence of a principal market, the most advantageous market) for bitcoin consistent with the application of fair value measurement framework in FASB ASC 820–10.²⁵ The principal market is the market where the reporting entity would normally enter into a transaction to sell the asset or

²⁵ See FASB (Financial Accounting Standards Board) Accounting standards codification (ASC) 820–10. For financial reporting purposes only, the Trustee has adopted a valuation policy that outlines the methodology for valuing the Trust's assets. The policy also outlines the methodology for determining the principal market (or in the absence of a principal market, the most advantageous market) in accordance with FASB ASC 820–10.

transfer the liability. The principal market must be available to and be accessible by the reporting entity. The reporting entity is the Trust.

Intraday Indicative Value

In order to provide updated information relating to the Trust for use by Shareholders, the Trust intends to publish an intraday indicative value per Share ("IIV"). The IIV will be calculated using data provided by one or more third-party data vendors. One or more major market data vendors will provide an IIV updated every 15 seconds, as calculated by a third-party financial data provider during the Exchange's regular market session of 9:30 a.m. to 4:00 p.m. ET (the "Regular Market Session"). The IIV will be calculated using the prior day's closing NAV per Share as a base and updating that value during the Exchange's Regular Market Session to reflect changes in the value of the Trust's NAV per Share during the trading day. The IIV is disseminated during the Exchange's Regular Market Session and should not be viewed as an actual real-time update of the NAV per Share, which will be calculated only once at the end of each trading day. The IIV will be widely disseminated on a per Share basis every 15 seconds during the Exchange's Regular Market Session by one or more major market data vendors. In addition, the IIV will be available through online information services.

Availability of Information

The website for the Trust, which will be publicly accessible at no charge, will prominently disclose the information required under Rule 5711(d)(v).

The NAV per Share for the Trust will be calculated once a day and will be disseminated daily to all market participants at the same time. Quotation and last sale information regarding the Shares will be disseminated through the facilities of the relevant securities information processor. Also, an estimated value that reflects an estimated IIV will be disseminated. For more information on the IIV, including the calculation methodology, see "Intraday Indicative Value above."

The IIV disseminated during the Exchange's Regular Market Session should not be viewed as an actual real-time update of the NAV per Share, which will be calculated only once at the end of each trading day. The IIV will be widely disseminated on a per Share basis every 15 seconds during the Exchange's Regular Market Session by one or more major market data vendors. In addition, the IIV will be available through online information services.

Quotation and last sale information for the Trust's holdings are widely disseminated through a variety of major market data vendors. Information relating to trading, including price and volume information, in the Trust's holdings is available from major market data vendors and from the platforms on which such holdings are traded. Depth of book information is also available from those platforms. As it relates to bitcoin, the normal trading hours for platforms are 24 hours per day, 365 days per year.

Information regarding market price and trading volume of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services. Information regarding the previous day's closing price and trading volume information for the Shares will be published daily in the financial section of newspapers.

Applicable Standard

As noted above, the Commission has approved Generic Listing Standards for Commodity-Based Trust Shares.²⁶ In the Generic Listing Standards Approval Order, the Commission found that the Generic Listing Standards were consistent with the Exchange Act and the rules and regulations thereunder applicable to a national securities exchange.²⁷ In particular, the Commission found that the Generic Listing Standards were consistent with Section 6(b)(5) of the Exchange Act, which requires, among other things, that the Exchange's rules 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 and are not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.²⁸

As noted above, the Trust's holdings of bitcoin, IBIT, IBIT options, and index options meet the eligibility criteria in the Generic Listing Standards under Rule 5711(d)(iv). As discussed above, the Trust's IBIT options holdings may be standardized or FLEX options, while index options will be standardized options. All of the Trust's options will be exchange-listed.

In approving the Generic Listing Standards, the Commission found that these eligibility criteria would facilitate

information sharing and help to ensure the availability of information necessary to aid in the detection and deterrence of potential fraud and manipulation with respect to a commodity or commodity underlying a commodity-based asset, and that the availability of such information can be reasonably expected to assist a listing exchange in its efforts to surveil for fraud and manipulation that may impact the Commodity-Based Trust Shares.²⁹ With respect to IBIT options and index options, ISG membership would help to ensure the availability of information necessary to detect and deter potential manipulations and other trading abuses, thereby making the Commodity-Based Trust Shares less readily susceptible to manipulation.³⁰

With respect to the Trust's bitcoin holdings, today, both the Chicago Mercantile Exchange ("CME") and Coinbase Derivatives, LLC ("Coinbase Derivatives") offer trading in bitcoin futures. Nasdaq has a comprehensive surveillance-sharing agreement with both the CME and Coinbase Derivatives via its common membership in the Intermarket Surveillance Group ("ISG").³¹ This facilitates the sharing of information that is available to the CME and Coinbase Derivatives through their surveillance of their respective markets, including their surveillance of their respective bitcoin futures market.

With respect to the Trust's investments in Securities (*i.e.*, IBIT, IBIT options and index options), which are all exchange-listed, the Exchange has the ability to obtain information regarding trading in these Securities from other markets that are members of the ISG. Accordingly, the Exchange believes that its ability to share information regarding trading in the Trust's investments from other markets via common ISG membership would assist the Exchange in surveilling for fraudulent and manipulative acts and practices.

Initial and Continued Listing

The Shares will be subject to Nasdaq Rule 5711(d)(viii), which sets forth the initial and continued listing criteria applicable to Commodity-Based Trust Shares. The Exchange will obtain a representation that the Trust's NAV per Share will be calculated daily and will be made available to all market participants at the same time. A

minimum of 80,000 Shares will be required to be outstanding at the time of commencement of trading on the Exchange. Upon termination of the Trust, the Shares will be removed from listing.

As required in Nasdaq Rule 5711(d)(xii), the Exchange notes that any registered market maker ("Market Maker") in the Shares must file with the Exchange, in a manner prescribed by the Exchange, and keep current a list identifying all accounts for trading the underlying commodity and commodity-based asset, which the registered Market Maker may have or over which it may exercise investment discretion. No registered Market Maker shall trade in an underlying commodity, commodity-based asset, or any other related derivative thereon in an account in which a registered Market Maker (1) directly or indirectly controls trading activities, or has a direct interest in the profits or losses thereof, (2) is required by this Rule to disclose to the Exchange, and (3) has not reported to Nasdaq.

In addition to the existing obligations under Exchange rules regarding the production of books and records (see, *e.g.*, Rule 4625), the registered Market Maker in Commodity-Based Trust Shares shall make available to the Exchange such books, records or other information pertaining to transactions by such entity or registered or non-registered employee affiliated with such entity for its or their own accounts for trading the underlying commodity or commodity-based asset, or applicable derivatives of each of the foregoing, as may be requested by the Exchange.

The Exchange is able to obtain information regarding trading in the Shares and the underlying securities, bitcoin, bitcoin futures contracts, or any other bitcoin derivative through members acting as registered Market Makers, in connection with their proprietary or customer trades.

As a general matter, the Exchange has regulatory jurisdiction over its members, and their associated persons. The Exchange also has regulatory jurisdiction over any person or entity controlling a member, as well as a subsidiary or affiliate of a member that is in the securities business. A subsidiary or affiliate of a member organization that does business only in commodities would not be subject to Exchange jurisdiction, but the Exchange could obtain information regarding the activities of such subsidiary or affiliate through surveillance sharing agreements with regulatory organizations of which such subsidiary or affiliate is a member.

²⁹ See Generic Listing Standards Approval Order at 45418–19.

³⁰ See Generic Listing Standards Approval Order at 45419.

³¹ For a list of the current members and affiliate members of ISG, see <https://isgportal.org/public-members>.

²⁶ See *supra* note 3.

²⁷ See Generic Listing Standards Approval Order at 45417.

²⁸ *Id.*

Trading Rules

The Exchange deems the Shares to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities. Transactions in the Shares will occur during the trading hours specified in Rule 4120. The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions. The Shares of the Trust will conform to the initial and continued listing criteria set forth in Nasdaq Rule 5711(d) and will comply with the requirements of Rule 10A-3 of the Act.

Trading Halts

With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares. The Exchange will halt trading in the Shares under the conditions specified in Rules 4120, 4121, and 5711(d)(ix), including the conditions specified in Rules 4120(a)(9), 4120(a)(10), and 5711(d)(ix), and the trading pauses under Rules 4120(a)(11) and (12); provided, however, that with respect to the Trust's holdings, if the Exchange becomes aware that the Trust's holdings are not disseminated to all market participants at the same time, it will halt trading in the Shares until such time as the Trust's holdings are available to all market participants.

Trading may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. These may include: (1) the extent to which trading is not occurring in the bitcoin and/or Securities underlying the Shares; or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present.

In addition, pursuant to Rule 5711(d)(ix), the Exchange may halt trading during the day in which an interruption occurs in any of the scenarios specified therein. If the interruption persists past the trading day in which it occurred, the Exchange will halt trading no later than the beginning of the trading day following the interruption.

In addition, if the Exchange becomes aware that the NAV or Trust's holdings with respect to the Shares are not disseminated to all market participants at the same time, it will halt trading in the Shares until such time as the NAV or Trust's holdings are available to all market participants.

Surveillance

The Exchange believes that its surveillance procedures are adequate to properly monitor the trading of the Shares on the Exchange during all trading sessions and to deter and detect violations of Exchange rules and the applicable federal securities laws. The surveillance program includes real-time patterns for price and volume movements and post-trade surveillance patterns (e.g., spoofing, marking the close, ping, phishing). Trading of Shares on the Exchange will be subject to the Exchange's surveillance program for derivative products, as well as cross-market surveillances administered by FINRA, on behalf of the Exchange pursuant to a regulatory services agreement, which are also designed to detect violations of Exchange rules and applicable federal securities laws. The Exchange is responsible for FINRA's performance under this regulatory services agreement.

The Exchange will require the Trust to represent to the Exchange that it will advise the Exchange of any failure by the Trust to comply with the continued listing requirements, and, pursuant to its obligations under Section 19(g)(1) of the Exchange Act, the Exchange will surveil for compliance with the continued listing requirements. If the Trust is not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures under the Nasdaq 5800 Series. In addition, the Exchange also has a general policy prohibiting the distribution of material, non-public information by its employees.

The Exchange or FINRA, on behalf of the Exchange, or both, will communicate as needed regarding trading in the Shares and Securities with other markets and other entities that are members of the ISG, and the Exchange or FINRA, on behalf of the Exchange, or both, may obtain trading information regarding trading in the Shares, Securities, bitcoin futures, and the Trust's assets from such markets and other entities.

Information Circular

Prior to the commencement of trading, the Exchange will inform its members in an information circular ("Information Circular") of the special characteristics and risks associated with trading the Shares. Specifically, the Information Circular will discuss the following: (1) the procedures for creations and redemptions of Shares in Baskets (and that Shares are not individually redeemable); (2) Section 10 of Nasdaq General Rule 9, which

imposes suitability obligations on Nasdaq members with respect to recommending transactions in the Shares to customers; (3) how information regarding the IIV and NAV is disseminated; (4) the risks involved in trading the Shares during the pre-market and post-market sessions when an updated IIV will not be calculated or publicly disseminated; (5) the requirement that members deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; and (6) trading information. The Information Circular will also discuss any exemptive, no action and interpretive relief granted by the Commission from any rules under the Act.

The Information Circular will also reference the fact that there is no regulated source of last sale information regarding bitcoin, that the Commission has no jurisdiction over the trading of bitcoin as a commodity.

Additionally, the Information Circular will reference that the Trust is subject to various fees and expenses described in the Registration Statement. The Information Circular will also disclose the trading hours of the Shares. The Information Circular will disclose that information about the Shares will be publicly available on the Trust's website.

Firewalls

The Trust will be subject to the firewall requirements in Rule 5711(d)(x), as applicable. In addition, if the current Advisor or any new advisor of the Trust is or becomes affiliated with a broker-dealer, the Advisor shall erect and maintain a "firewall" between the Advisor and the broker-dealer with respect to access to information concerning the composition and/or changes to the Trust's portfolio. Any personnel or person associated with the current Advisor or any new advisor who makes decisions pertaining to the Trust's portfolio must be subject to procedures designed to prevent the use and dissemination of material nonpublic information regarding the Trust's portfolio. In addition, any institution or reporting service that provides the Trust's portfolio must implement and maintain, or be subject to, procedures designed to prevent the use and dissemination of material nonpublic information regarding the actual components of the Trust's portfolio. Furthermore, the current Advisor and any new advisor of the Trust must establish, maintain, and enforce written policies and procedures reasonably designed to prevent the misuse of

material nonpublic information by the Advisor and any person associated with the Advisor.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,³² in general, and furthers the objectives of Section 6(b)(5) of the Act,³³ in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest.

The Commission has approved numerous series Commodity-Based Trust Shares to be listed on U.S. national securities exchanges. In order for any proposed rule change from an exchange to be approved, the Commission must determine that, among other things, the proposal is consistent with the requirements of Section 6(b)(5) of the Act, specifically including: (i) the requirement that a national securities exchange's rules are designed to prevent fraudulent and manipulative acts and practices; and (ii) the requirement that an exchange proposal be designed, in general, to protect investors and the public interest. The Exchange believes that this proposal is consistent with the requirements of Section 6(b)(5) of the Act.

As noted above, the Trust's holdings will meet the eligibility criteria in the Generic Listing Standards under Rule 5711(d)(iv). These eligibility criteria are generally designed to ensure that the Exchange can obtain information regarding trading in the assets held by the Trust issuing the Commodity-Based Trust Shares. This, in turn, would assist in monitoring the trading in such Shares on the Exchange and to deter and detect violations of Exchange rules and applicable federal securities laws, thereby making the Shares less readily susceptible to fraud and manipulation.

With respect to the Trust's bitcoin holdings, today, both the CME and Coinbase Derivatives offer trading in bitcoin futures. Nasdaq has a comprehensive surveillance-sharing agreement with both the CME and Coinbase Derivatives via its common ISG membership. This facilitates the sharing of information that is available to the CME and Coinbase Derivatives through their surveillance of their respective markets, including their surveillance of their respective bitcoin futures market.

With respect to the Trust's investments in Securities (*i.e.*, IBIT, IBIT options, and index options), the Exchange has the ability to obtain information regarding trading in these Securities from other markets that are members of the ISG. Accordingly, the Exchange believes that its ability to share information regarding trading in the Trust's Securities investments from other markets via common ISG membership would assist the Exchange in surveilling for fraudulent and manipulative acts and practices.

While the Trust will be an actively-managed product, the Exchange does not believe this raises any novel regulatory issues under the Act. Indeed, in the context of SEC Rule 6c-11 ETFs, the Commission did not distinguish between active and passive management, and found they function similarly with respect to operational matters.³⁴ There, the Commission concluded: "[w]e therefore believe that eliminating the regulatory distinction between index-based ETFs and actively managed ETFs for purposes of exemptive relief under the Act will help to provide a more consistent and transparent regulatory framework for ETFs organized as open-end funds. This approach is consistent with our regulation of other types of open-end funds, which does not distinguish between actively managed and index-based strategies." In other words, the regulatory framework treats active and passive ETFs registered under the 1940 Act as functionally similar from a market oversight perspective. The Exchange believes that extending this logic to the ETPs registered under the 1933 Act will bring regulatory parity between actively-managed ETPs under the 1933 Act and 1940 Act. Furthermore, as discussed above, the Exchange believes there is substantial market demand for actively-managed strategies, and that this proposal would benefit investors by providing a transparent, regulated investment vehicle as an alternative to less regulated avenues that investors could use to obtain bitcoin exposure.

In addition, the Exchange is adopting equivalent safeguards around trading halts and firewalls that are already in place for other actively-managed products listed and trading on the Exchange today. Specifically, if the Exchange becomes aware that the Trust's holdings are not disseminated to all market participants at the same time, it will halt trading in the Shares until

such time as the Trust's holdings are available to all market participants. This aligns with the trading halt provisions in the Exchange's Managed Fund Shares³⁵ rule in Rule 5735(d)(2)(D).³⁶ The Exchange believes that the trading halt provisions are reasonably designed to prevent trading when a reasonable degree of transparency cannot be assured, and to ensure fair and orderly markets for the Shares. The proposed rule change also adds firewall requirements consistent with Managed Fund Shares' firewall requirements, including to erect firewalls between the Advisor and any affiliated broker-dealer, and to implement (and/or be subject to) procedures around material, non-public information.³⁷ These requirements provide additional protections against the potential misuse of material, non-public information related to the Shares and are designed to prevent fraudulent and manipulative acts and practices with respect to the Shares and the underlying portfolio, consistent with the Act.

The Exchange further believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices and to protect investors and the public interest in that the Shares will be listed and traded on the Exchange pursuant to the initial and continued listing criteria set forth in Nasdaq Rule 5711(d). The Exchange has in place surveillance procedures that are adequate to properly monitor trading in the Shares in all trading sessions and to deter and detect violations of Exchange

³⁵ A Managed Fund Share is an actively-managed ETF, and is defined as a security that (a) represents an interest in a registered investment company ("Investment Company") organized as an open-end management investment company or similar entity, that invests in a portfolio of securities selected by the Investment Company's investment adviser consistent with the Investment Company's investment objectives and policies; (b) is issued in a specified aggregate minimum number in return for a deposit of a specified portfolio of securities and/or a cash amount with a value equal to the next determined net asset value; and (c) when aggregated in the same specified minimum number, may be redeemed at a holder's request, which holder will be paid a specified portfolio of securities and/or cash with a value equal to the next determined net asset value. See Rule 5735(c)(1).

³⁶ Rule 5735(d)(2)(D) provides that if Nasdaq becomes aware that the net asset value or the Disclosed Portfolio with respect to a series of Managed Fund Shares is not disseminated to all market participants at the same time, it will halt trading in such series until such time as the net asset value or the Disclosed Portfolio is available to all market participants. As defined in Rule 5735(c)(2), the term "Disclosed Portfolio" means the identities and quantities of the securities and other assets held by the Investment Company that will form the basis for the Investment Company's calculation of net asset value at the end of the business day.

³⁷ See Rule 5735(d)(2)(B)(ii) and (g) for substantially similar provisions.

³² 15 U.S.C. 78f(b).

³³ 15 U.S.C. 78f(b)(5).

³⁴ See Securities Exchange Act Release No. 33-10695 (September 26, 2019), 84 FR 57162 (October 24, 2019), at 57168.

rules and applicable federal securities laws. As discussed above, the surveillance program includes real-time patterns for price and volume movements and post-trade surveillance patterns (e.g., spoofing, marking the close, pinging, phishing). Trading of Shares on the Exchange will be subject to the Exchange's surveillance program for derivative products, as well as cross-market surveillances administered by FINRA, on behalf of the Exchange pursuant to a regulatory services agreement, which are also designed to detect violations of Exchange rules and applicable federal securities laws. The Exchange is responsible for FINRA's performance under this regulatory services agreement.

The Exchange will require the Trust to represent to the Exchange that it will advise the Exchange of any failure by the Trust to comply with the continued listing requirements, and, pursuant to its obligations under Section 19(g)(1) of the Exchange Act, the Exchange will surveil for compliance with the continued listing requirements. If the Trust is not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures under the Nasdaq 5800 Series. In addition, the Exchange also has a general policy prohibiting the distribution of material, non-public information by its employees.

The Exchange will communicate as needed regarding trading in the Shares and Securities with other markets and other entities that are members of the ISG, and the Exchange may obtain trading information regarding trading in the Shares, Securities, listed bitcoin futures, and the Trust's assets from such markets and other entities that are members of ISG.

Trading in Shares of the Trust will be halted if the circuit breaker parameters have been reached or because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. These may include unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market.

The proposed rule change is designed to perfect the mechanism of a free and open market and, in general, to protect investors and the public interest in that it will facilitate the listing and trading of Shares that will enhance competition among market participants, to the benefit of investors and the marketplace.

For all the above reasons, the Exchange believes that the proposed rule change is consistent with the requirements of Section 6(b)(5) of the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange notes that the proposed rule change will rather facilitate the listing and trading of an additional ETP that will enhance competition among both market participants and listing venues, to the benefit of investors and the marketplace.

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. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change, as modified by 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-NASDAQ-2025-085 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-NASDAQ-2025-085. 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-NASDAQ-2025-085 and should be submitted on or before June 3, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.³⁸

Vanessa A. Countryman,
Secretary.

[FR Doc. 2026-09478 Filed 5-12-26; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-105421; File No. SR-CboeBYX-2026-020]

Self-Regulatory Organizations; Cboe BYX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Rule Regarding Members and Associated Persons of Members Who Are or Become Subject to a Statutory Disqualification

May 8, 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 May 6, 2026, Cboe BYX Exchange, Inc. (the "Exchange" or "BYX") 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

Cboe BYX Exchange, Inc. (the "Exchange" or "BYX") proposes to amend its rule regarding Members and associated persons of Members who are or become subject to a statutory disqualification. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Commission's website (<https://www.sec.gov/rules/sro.shtml>), the Exchange's website (https://www.cboe.com/us/equities/regulation/rule_filings/bzx/) [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

³⁸ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is proposing to amend Exchange Rule 2.5, the Exchange's eligibility proceedings section regarding statutory disqualifications, and adopt Rule 2.13 to conform (with certain exceptions) to rules of the Financial Industry Regulatory Authority, Inc. ("FINRA")³ and to industry standard rules.^{4,5} The Exchange's proposal also includes the proposed Statutory Disqualification Circular ("SD Circular") that outlines the applicable eligibility procedures. The amended rules would incorporate by reference the procedures in the SD Circular. As further detailed in the SD Circular, the need for a Member to file an application with the Exchange for approval, notwithstanding the disqualification would depend on (i) the type of disqualification; (ii) the date of disqualification; and (iii) whether the firm or individual is seeking admission, readmission or continuation in the securities industry.

By way of background, Section 3(a)(39) of the Act defines the term "statutory disqualification" and the circumstances that can cause a person (either a Member, or a person associated with a Member) to be subject to a statutory disqualification.⁶ Absent relief, a statutory disqualification would preclude a Member or person associated with a Member from certain activities, including membership in a self-regulatory organization ("SRO").

There is, however, a well-established process through which a Member (or a person associated with a broker-dealer) may continue to operate in the securities industry (and either become a

Member of, or continue as a Member of, one or more SROs) despite being subject to a statutory disqualification.⁷

In particular, SEC Rule 19h-1⁸ describes several ways an SRO may seek relief for a member (or prospective member) that is subject to a statutory disqualification, including whether an SRO must file a notice with the Commission in order to allow the disqualified firm to become or continue as a member with the SRO (a "19h-1 Notice").

The existing Rule 2.5(b) provides that if a Member or person associated with a Member that becomes subject to a statutory disqualification under the Exchange Act wants to continue as a Member of the Exchange or in association with a Member, the Member or associated person must, within 30 days of becoming subject to a statutory disqualification, submit a request to the Exchange seeking to continue as a Member or in association with a Member notwithstanding the statutory disqualification. Failure to timely submit such a request may be taken into consideration by the Exchange in determining whether the Exchange may determine not to permit a person to become a Member or person associated with a Member or person associated with a Member in any capacity on the Exchange pursuant to Rule 2.5(a). The existing Rule 2.5(c) provides that the procedural elements for making this request and the Exchange's review of the request will occur pursuant to Chapter X of the Exchange's Rulebook.

Currently, FINRA processes statutory disqualification applications on behalf of the Exchange.⁹ Notably, having different rules has led to outcomes where FINRA is not required to process an application and/or an applicable 19h-1 Notice under its rules, but the Exchange (or FINRA, acting on the Exchange's behalf) is required under its existing Rule 2.5. As such, the Exchange proposes to, in large part, conform to FINRA Rule Series 9520 Eligibility Proceedings in order to prevent different outcomes when FINRA is reviewing potential statutory disqualifications on behalf of the Exchange. The Exchange also notes that its existing Rule 2.5 is an outlier when compared to industry standards, as other exchanges have

adopted rules similar to FINRA's. This may lead to inconsistent results when a firm is a member of multiple exchanges and/or FINRA.¹⁰

To aid in further conformity between the Exchange and FINRA, the Exchange further proposes that it shall also rely on the no-action letter issued to FINRA in 2009 that provides interpretive guidance regarding (i) the effect of certain time-limited bars or license revocations, (ii) the effect of bars by State securities commissions that are based solely upon a disciplinary action taken by an SRO, (iii) the notice requirements for willful violations of the Municipal Securities Rulemaking Board and aiding and abetting violations, and (iv) enforcement action to the Commission under Exchange Action 15A(g)(2) or Rule 19h-1(a) if an SRO does not file a notice with the Commission for any person subject to a statutory disqualification under Section 3(a)(39) that an SRO is proposing to admit or continue in membership or association with a member under specific circumstances.¹¹ Due to FINRA's No-Action Letter, there have been instances where review of the same circumstances had resulted in different outcomes regarding when a notice is required pursuant to Rule 19h-1.¹² Specifically, the No-Action Letter makes clear certain instances where they will grant no-action relief if FINRA does not file a 19h-1 Notice with the Commission. For example, the Commission explicitly grants no-action relief if FINRA does not file a 19h-1 Notice if the subject person is subject to a statutory disqualification solely due to a finding of a willful violation of the CEA or the rules or regulations thereunder, provided that the sanctions are no longer in effect. The FINRA No-

¹⁰ See, e.g., NYSE Rule 9520, IEX Rule 9.520 and Nasdaq Rule 9520.

¹¹ See Financial Industry Regulatory Authority, Inc., SEC No-Action Letter, 2009 SEC No-Act. (March 17, 2009) ("FINRA No-Action Letter").

¹² For example, the FINRA No-Action Letter grants FINRA relief from notice requirements regarding a member's continued association with a disqualified person when the statutory disqualification is based on willful violations of the CEA. Because of the relief granted by the No Action Letter and pursuant to Regulatory Notice 09-19, FINRA would not require a member to file an application. However, the Exchange's current Rule 2.5 does not offer relief from application requirements for the firm to continue its association with an associated person, notwithstanding their disqualification. Relief is also not provided under the Exchange Act Rule 19h-1(a)(3)(iii), since the disqualifying event is a finding by the CFTC of a willful violation of the CEA and not a finding by the SEC or SRO of a willful violation of the Exchange Act, among others. As such, a notice pursuant to Rule 19h-1 for the Exchange is required, but is not required for FINRA.

³ See Securities Exchange Act Release No. 59586 (March 17, 2009), 74 FR 12166 (March 23, 2009) (SR-FINRA-2008-045); Securities Exchange Act Release No. 59722 (April 7, 2009), (SR-FINRA-2009-022).

⁴ See, e.g., NYSE Rules 9520-9550 or IEX Rule Series 9.520.

⁵ The Exchange initially submitted the proposed rule change on April 28, 2026 (SR-CboeBYX-2026-018). On May 6, 2026, the Exchange withdrew that filing and submitted this filing.

⁶ 15 U.S.C. 78c(a)(39).

⁷ See FINRA Regulatory Notice 09-19 ("Amendments to FINRA Rule 9520 Series to Establish Procedures Applicable to Firms and Associated Persons Subject to Certain Statutory Disqualifications").

⁸ 17 CFR 240.19h-1.

⁹ FINRA processes these applications on behalf of the Exchange pursuant to a Regulatory Services Agreement ("RSA") between the Exchange and FINRA.

Action Letter ultimately requires fewer 19h–1 Notices to be filed.

The Exchanges notes that other exchanges, such as The Nasdaq Stock Market LLC (“Nasdaq”), Investors Exchange (IEX) and New York Stock Exchange (“NYSE”), have already adopted similar changes to more materially align their rules with FINRA’s.

Proposed Rule 2.13 would govern eligibility proceedings for persons subject to statutory disqualifications.¹³ Proposed Rule 2.13(a) would add certain definitions relating to eligibility proceedings that are not currently part of the Exchange’s rules, including “Application,” “disqualified Member,” “disqualified person,” “sponsoring Member,” and “Exchange staff.” The Exchange notes that this is substantially similar to FINRA’s Rule 9521, with the following exceptions: (i) “member” has been replaced with “Member”; (ii) references to FINRA By Laws have been replaced with references to the Exchange Act and Exchange rules (where applicable); (iii) a new term of Exchange staff has been added to account for the relationship between the Exchange and FINRA, where the Exchange has a regulatory services agreement in place with FINRA and FINRA may act within the bounds of the agreed upon services; (iv) the definition of a disqualified Member differs; and (v) proposed Rule 2.13(a)(1) does not include reference to FINRA By Laws.

The Exchange proposes to define “disqualified Member” as a Member that is or becomes subject to a disqualification under Section 3(a)(39) of the Exchange Act. This differs from the definition in FINRA Rule 9521(b)(2), which includes various other industry participants in addition to existing members in the definition. The Exchange limited its definition to Members, as the Exchange has jurisdiction over Members.¹⁴

¹³ The Exchange notes that it is also proposing to amend the text of Rule 2.5(b) to specify that the procedures set forth under the proposed Rule 2.13 shall be followed if a Member or person associated with a Member becomes subject to a statutory disqualification.

¹⁴ The Exchange notes the definition excludes Member applicants (the Exchange understands FINRA’s definition also does not apply to FINRA member applicants), because the Exchange would address a disqualification of a Member applicant as part of the Member application process, and the Exchange would not file a 19h–1 Notice with the Commission for a Member applicant. The proposed rule language, like FINRA’s, indicates the provisions that are applicable to a Member applicant. If the Exchange approves the Member application of an applicant that is or becomes subject to a disqualification, the firm would then be a Member that could take advantage of the provisions of the proposed rule that apply to a disqualified Member. The Exchange understands

Further, while the Exchange differs from FINRA in that it does not include reference to FINRA By Laws or Exchange Rules under proposed Rule 2.13(a)(1), the Exchange believes this language better suits the intended purpose of this section. Specifically, proposed Rule 2.13 specifies procedures to be followed in the event of a statutory disqualification as defined in Section 3(a)(39) of the Exchange Act. FINRA’s equivalent Rule 9521 states that the Rule 9520 Series sets forth procedures for a person to become or remain associated with a member, notwithstanding the existence of a statutory disqualification as defined in Article III, Section 4 of the FINRA By-Laws and for a current member or person associated with a member to obtain relief from the eligibility or qualification requirements of the FINRA By-Laws and FINRA rules. Such actions hereinafter are referred to as ‘eligibility proceedings.’” While the Exchange only references statutory disqualification events in its equivalent rule, for its purposes, it believes it is more fitting as different procedures would be followed in the event a Member, or Member applicant is ineligible for other reasons.¹⁵

Proposed Rule 2.13(b) is largely mirrored off of FINRA’s Rule 9522; however, there were adjustments made to account for updating rule references, adjusting “member” to “Member”, and replacing the “National Adjudicatory Council” with the “Appeals Committee.” First, the proposed Rules 2.13(b)(1)¹⁶ and 2.13(b)(2) would govern the initiation of an eligibility proceeding by the Exchange and the obligation for a Member to file an application to initiate an eligibility proceeding if it or a Member’s

this is consistent with FINRA’s process with respect to member applicants that are or become subject to a disqualification.

¹⁵ See, e.g., Rule 2.7, which permits the Exchange to revoke a person’s membership or association if the Exchange has reason to believe that such a Member or associated person fails to meet all the qualifications set forth in the Exchange Rules.. The Exchange understands FINRA similarly follows procedures set forth in other applicable rules (such as FINRA Rule 9555) in the event a FINRA member or member applicant is ineligible for other reasons.

¹⁶ The Exchange notes that for instances in which Exchange staff will not issue written notice to Members or applicants for membership with respect to disqualifications arising solely from findings or orders specified in Section 15(b)(4)(D), (E), or (H) of the Exchange Act or arising under Section 3(a)(39)(E) of the Exchange Act (when a Member or application for membership under Exchange Rules is not required to file an application pursuant to the SD Regulatory Circular), information regarding the disqualifying event and the resolution of any fines, sanctions, or undertakings related to the disqualification are recorded in WebCRD.

associated person¹⁷ has been subject to certain disqualifications.

Next, Rule 2.13(b)(3) sets out the process for a withdrawal of an application and Rule 2.13(b)(4) sets out prohibitions against ex parte communications when Exchange staff has initiated the eligibility proceedings. The Exchange notes that its rule text does differ from FINRA’s; however, this is due to FINRA having a panel that reviews the matter prior to an appeal and thus, ex parte communication concerns arise before appeals. Under the Exchange’s proposed rule, with Exchange staff making determinations, a firm will need to talk to the Exchange and FINRA while their application is pending. Thus, the Exchange proposes to note that the proposed ex parte communications provision shall become effective only when an appeal is initiated. Further, under the proposed Rule 2.13(b)(5), the Exchange could approve a written request for relief from the eligibility requirements under certain circumstances. Specifically, Rule 2.13(b)(5)(A) describes certain circumstances of which a matter may be approved by the Exchange staff without the filing of an application. This provision is the same as the corresponding provisions of FINRA, Nasdaq, and IEX, with one exception. Specifically, under proposed Rule 2.13(b)(5)(A)(iii), Exchange staff may approve a written request for relief without the filing of an application if a disqualified Member or sponsoring Member is a Member or seeking to become a Member is a member of both the Exchange and another SRO and the other SRO intends to file a Notice under Exchange Act Rule 19h–1 approving the membership continuance of the disqualified Member or, in the case of a sponsoring Member, the proposed association or continued associated of the disqualified person and Exchange staff concurs with that determination. This proposed provision is the same as that of Nasdaq, FINRA, and IEX, except it applies to those seeking to become a Member in addition to Members, while the corresponding rules of Nasdaq, FINRA, and IEX apply solely to members of those SROs. However, other organizations have acknowledged this gap in their rules, noting it would be their practice to apply this provision to prospective members as well as members. Therefore, despite the

¹⁷ Under proposed Rule 2.13(b)(1)(C), if a Member fails to file the application or, where appropriate, the written request for relief, within the 10-day period, the registration of the disqualified person shall be revoked and the sponsoring Member must promptly terminate association with the disqualified person.

differences in the rule text of these other organizations, the Exchange believes the outcome under its proposed rule would be the same as both IEX and Nasdaq from a practical perspective.¹⁸

Proposed Rule 2.13(b)(5)(B) covers matters that may be approved by¹⁹ the Exchange staff after the filing of an application. Notably, under proposed Rule 2.13(b)(5)(B) the Exchange staff may approve an application with respect to disqualifications arising solely from findings or orders specified in Section 15(b)(4)(D), (E), or (H) of the Act or arising under Section 3(a)(39)(E) of the Act. Proposed Rule 2.13(b)(6) specifies the process for implementing an interim plan of heightened supervision during the application process for a disqualified person.

Proposed Rules 2.13(b)(7) and 2.13(b)(8) cover the process for determining that an application is substantially incomplete and the consequences for not remedying an application in a timely manner.²⁰ In the event an applicant fails to remedy an application under Rule 2.13(b)(8), Exchange staff will serve a written notice on the sponsoring Member of its determination to reject the application and the sponsoring Member must promptly terminate association with the disqualified person. Under FINRA's Rule 9522, there is a reference to FINRA's application fee and that FINRA shall refund the application fee, less \$1,000 which shall be retained by FINRA as a processing fee. The Exchange notes, however, that the Exchange has its own application fee program reflected in its fee schedule that is distinct from FINRA's. As a result, the

Exchange proposes to not include this in its proposed rule.

As further explained, proposed Rule 2.13(c) largely mirrors FINRA Rule 9523, with technical changes to account for different defined terms and functions across the SROs. This proposed rule would allow the Exchange staff (handled by FINRA) to recommend a supervisory plan to which the disqualified Member, sponsoring Member, and/or disqualified person, as the case may be, may consent and by doing so, waive the right to appeal if the plan is accepted and right to claim bias or prejudgment, or prohibited ex parte communications. If such a supervisory plan were rejected, proposed Rule 2.13(d) would allow a request for review by the applicant to the Appeals Committee and would provide that a filing of an application for review would not stay the effectiveness of final action by the Exchange unless the Commission otherwise ordered.

Proposed Rule 2.13(c) is covered under two parts: (i) to cover all disqualification except those arising solely from findings or orders specified in Section 15(b)(4)(D), (E), or (H) of the Exchange Act and (ii) to cover disqualifications that arise solely from findings or orders specified in Section 15(b)(4)(D), (E) or (H). The Exchange notes that the latter (proposed Rule 2.13(c)(2)) is intended to cover events where an application is required under the SD Circular, as under the proposed rule, events arising from findings or order specified in Section 15(b)(4)(D), (E) or (H) of the Exchange Act do not typically require an application unless otherwise specified in the SD Circular.

The text of the proposed rule change is similar to that in FINRA's counterpart rules, except for conforming and technical changes and except as follows. First, under proposed Rule 2.13(c), if the disqualified Member, sponsoring Member, and/or disqualified person executed a letter consenting to a supervisory plan, it would be submitted to the Exchange staff. Under FINRA's rule, the letter is submitted to FINRA Office of General Counsel, which submits it to the Chairman of the Statutory Disqualification Committee, acting on behalf of the NAC; the Chairman may accept or reject the plan or refer it to the NAC for action. The Exchange does not propose to utilize the NAC or the Statutory Disqualification Committee Chairman for this purpose. The Exchange believes that its staff can provide an appropriate review. The staff is performing this same function today when it reviews statutory disqualification decisions reached by FINRA subject to an RSA Agreement

between the Exchange and FINRA. In addition, under FINRA's rule, the waiver of bias or prejudgment is with respect to the Department of Member Regulation, the FINRA General Counsel, the NAC and any member thereof, while under proposed Rule 2.13(c), the waiver would be with respect to the Exchange staff, the Exchange, the Appeals Committee, or any member of the Appeals Committee.

Next, under proposed Rule 2.13(d), if the Exchange staff rejects the plan, the Member or applicant may request a review by the Appeals Committee.²¹ This differs from FINRA's process, which provides for a hearing before the NAC and further consideration by the FINRA Board of Directors. Because the Exchange does not propose to utilize the NAC, the Exchange proposes instead that any appeal be heard by the Appeals Committee. FINRA Rule 9525 also allows for discretionary review by the FINRA Board and the Exchange does not propose to adopt a comparable rule. The Exchange believes that the Exchange staff's role in the process will provide sufficient oversight and independence.

The Exchange does not propose to adopt the text of FINRA Rule 9526, which provides for expedited proceedings by the FINRA Board of Governors in certain instances. The Exchange believes that its proposed rules for review can be carried out in a timely manner and would sufficiently protect investors. The Exchange historically has not provided an expedited statutory disqualification review.

Lastly, the Exchange also notes that it will adopt a definition of "associated person" in Rule 1.5(q), specifically as it pertains to statutory disqualifications. This rule will be similar to the definitions of associated persons implemented by other exchanges to specifically apply to the process of statutory disqualifications.²² Currently, the Exchange's rule for associated person includes entities, meaning that an entity that is under common control of a Member is considered a person associated with the Member. As the proposed rule requires Members to submit an application for continuance as a TH if any person associated with the Member becomes subject to a statutory disqualification, the Exchange's current rules require Members to file applications for

¹⁸ See, e.g., Securities Exchange Act Release No. 101799 (November 29, 2024), 89 FR 96698 (December 5, 2024) (SR-IEX-2024-26), where IEX states "In the course of reviewing this membership application, IEX identified that its rules do not specifically address this situation, which has not previously occurred with respect to IEX. Specifically, the Exchange believes that its rules regarding the process by which a prospective Member that is subject to a statutory disqualification can be approved for membership on IEX notwithstanding the statutory disqualification could be enhanced to provide additional clarity and more clearly align with the processes set forth in Rule 19h-1 for a membership applicant that is subject to a statutory disqualification."

¹⁹ The Exchange notes that approval of an application allows for a Member's continued participation on the Exchange.

²⁰ Proposed Rule 2.13(b)(7) applies to applications that are deemed substantially incomplete if they do not include information related to an interim plan of heightened supervision. Plans of heightened supervisions are issued solely for associated persons (and not Members), and thus this provision applies solely to associated persons.

²¹ The Exchange's proposed Rule 2.13(d) closely aligns with NYSE Rule 9524 except for conforming and technical changes.

²² See IEX Rule 1.160(y)(2) and Nasdaq General 3, Rule 1002(b)(2).

affiliates under common control that would be subject to a statutory disqualification under securities law. In contrast, FINRA does not define “Person Associated with a member” or “Associated Person of a Member” as including affiliates under common control of the FINRA member.²³ Thus, a firm that is both an Exchange Member and FINRA member, which has an affiliate under common control that would be subject to a statutory disqualification under securities laws, is required to file an application with the Exchange, but not with FINRA.

The Exchange proposes to adopt a similar definition to Nasdaq and IEX except that it shall (i) remove the reference to investment banking as that is not applicable for the Exchange’s functions and (ii) remove subpoint (3) which specifies that for the purposes of another exchange rule of Nasdaq and IEX²⁴ (that is not the exchange’s statutory disqualification rule), that it shall also include any other person listed in Schedule A of Form BD of a member. As the Exchange does not have this rule, the Exchange proposes not to include this subpoint (3) in its adopted definition of associated persons for the purpose of statutory disqualifications.

As noted above, other exchanges, such as Nasdaq, IEX and NYSE, have already adopted similar changes to more materially align its rules with FINRA’s, and similar to the Exchange, have made some edits to align its proposed rules with existing exchange processes.²⁵

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.²⁶ Specifically, the Exchange believes the proposed rule change is consistent with the Section

6(b)(5)²⁷ 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)²⁸ requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers, because the rule applies uniformly to all Members and does not unfairly discriminate against any Member or type of market participant. The Exchange also believes the proposed rule change is consistent with Section 6(b)(1) of the Act,²⁹ which provides that the Exchange be organized and have the capacity to be able to carry out the purposes of the Act and to enforce compliance by the Exchange’s Members and persons associated with its Members with the Act, the rules and regulations thereunder, and the rules of the Exchange.

In particular, the proposed rule change will better enable the Exchange to streamline the administration of its statutory disqualification program and better protect investors and the public interest, as it will eliminate the need for Members or associated persons of Members to submit Statutory Disqualification Applications for prior statutory qualifications that have been resolved. Similar to Nasdaq, IEX and NYSE, the Exchange proposes to harmonize its description of statutory disqualification to align its application of statutory disqualification to FINRA.³⁰ This proposal would avoid potentially different outcomes for members of both FINRA and the Exchange with respect to ineligibility for membership and association.

The proposed changes will provide greater harmonization between Exchange and FINRA rules of similar purpose, resulting in less burdensome and more efficient regulatory compliance for dual members. As previously noted, in many instances the proposed rule text is substantially similar to FINRA’s current rule text,

which already has been approved by the Commission, and in many other cases the differences between current FINRA rules and the proposed rules would be strictly technical in nature. Further, in other instances, such as the Exchange’s proposed Rule 2.13(d), the Exchange’s rule closely follows NYSE’s Rule 9524.

B. Self-Regulatory Organization’s Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is not designed to address any competitive issues but rather is designed to provide greater harmonization between Exchange and FINRA rules of similar purpose for investigations and disciplinary matters, resulting in less burdensome and more efficient regulatory compliance for dual members and facilitating FINRA’s performance of its regulatory functions under the RSA.

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)(iii) of the Act³¹ and Rule 19b-4(f)(6) thereunder.³² Because the 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) of the Act³³ and Rule 19b-4(f)(6) thereunder.³⁴

²³ FINRA Regulation, Inc. By-laws, Article I, paragraph (ee) defines the terms “person associated with a member” or “associated person of a member” in relevant part as: “(2) a sole proprietor, partner, officer, director, or branch manager of a member, or other natural person occupying a similar status or performing similar functions, or a natural person engaged in the investment banking or securities business who is directly or indirectly controlling or controlled by a member, whether or not any such person is registered or exempt from registration with the Corporation under these By-Laws or the Rules of the Corporation; and (3) for purposes of Rule 8210, any other person listed in Schedule A of Form BD.”

²⁴ See IEX Rule 8.210 and Nasdaq General 5, Rule 8210.

²⁵ See, e.g., Securities Exchange Act Release No. 61703 (March 12, 2010), 75 FR 13620 (March 22, 2010) (SR-NASDAQ-2010-023) and Securities Exchange Act Release No. 68678 (January 16, 2013), 78 FR 5213 (January 24, 2013) (SR-NYSE-2013-02).

²⁶ 15 U.S.C. 78f(b).

²⁷ 15 U.S.C. 78f(b)(5).

²⁸ *Id.*

²⁹ 15 U.S.C. 78f(b)(1).

³⁰ See *supra* note 11.

³¹ 15 U.S.C. 78s(b)(3)(A)(iii).

³² 17 CFR 240.19b-4(f)(6).

³³ 15 U.S.C. 78s(b)(3)(A).

³⁴ 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.

A proposed rule change filed under Rule 19b-4(f)(6)³⁵ normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b4(f)(6)(iii),³⁶ the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the Exchange and its affiliates can have uniform proposed rules in place at the same time. The Exchange notes that its proposed rule is mirrored off the revised rule for Cboe Exchange, Inc., which will become operative on May 18, 2026, and it is in the best interest of participants to have a uniform change carried out across all Cboe exchanges³⁷ on the same date to avoid confusion. Further, the Exchange states that waiver of the operative delay will permit the Exchange to harmonize its rules regarding statutory disqualifications with the industry as soon as practicable, allowing for consistent outcomes for industry participants across exchanges and FINRA. For these reasons, and because the proposed rule change does not raise any new or novel regulatory issues, the Commission finds that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission hereby waives the 30-day operative delay and designates the proposed rule change as operative upon filing.³⁸

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 will institute proceedings under Section 19(b)(2)(B)³⁹ 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-CboeBYX-2026-020 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-CboeBYX-2026-020. 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-CboeBYX-2026-020 and should be submitted on or before June 3, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁴⁰

Stephanie J. Fouse,
Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-105418; File No. SR-CboeEDGA-2026-016]

Self-Regulatory Organizations; Cboe EDGA Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Exchange's Fee Schedule To Remove Text Capping the Number of Dedicated Cores Available to Market Participants

May 8, 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 May 1, 2026, Cboe EDGA Exchange, Inc. (the “Exchange” or “EDGA”) 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

EDGA proposes to amend the Exchange's Fee Schedule to remove text capping the number of Dedicated Cores available to market participants. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Commission's website (<https://www.sec.gov/rules/sro.shtml>), the Exchange's website ([https://www.cboe.com/us/equities/regulation/rule_filings/bzx/\[sic\]](https://www.cboe.com/us/equities/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 remove the text that caps the maximum number of Dedicated Cores available to Members and Sponsoring Members in its Fee Schedule.³ Upon effectiveness of this proposal, the Exchange will include the same cap on the number of Dedicated Cores in the Cboe Titanium Cboe U.S. Equities Binary Order Entry Specification, available on its website.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ The Exchange initially submitted the proposed rule change on April 27, 2026 (SR-CboeEDGA-2026-013). On May 1, 2026, the Exchange withdrew that proposal and submitted this filing.

³⁵ 17 CFR 240.19b-4(f)(6).

³⁶ 17 CFR 240.19b-4(f)(6)(iii).

³⁷ The Exchange notes that the Exchange's affiliated exchanges, Cboe BZX Exchange, Inc., Cboe C2 Exchange, Inc., Cboe EDGX Exchange, Inc., and Cboe EDGA Exchange, Inc. are also proposing this revised new rule for statutory disqualifications.

³⁸ For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

³⁹ 15 U.S.C. 78s(b)(2)(B).

⁴⁰ 17 CFR 200.30-3(a)(12), (59).

The Exchange does not propose to amend the fee charged for Dedicated Cores that market participants may voluntarily purchase.

For background, the Exchange launched Dedicated Cores in March 2024⁴ and, as discussed below, established caps and fees in April.⁵ The Dedicated Core permits users to assign a single Binary Order Entry (“BOE”) logical order entry port to a single dedicated Central Processing Unit (CPU Core). Historically, CPU Cores had been shared by logical order entry ports (*i.e.*, multiple logical ports from multiple firms may connect to a single CPU Core). Use of Dedicated Cores however, can provide reduced latency, enhanced throughput, and improved performance since a firm using a Dedicated Core is utilizing the full processing power of a CPU Core instead of sharing that power with other firms. This offering is completely voluntary and is available to all Users that wish to purchase Dedicated Cores. Users may utilize BOE logical order entry ports on shared CPU Cores, either in lieu of, or in addition to, their use of Dedicated Core(s). As such, Users are able to operate across a mix of shared and dedicated CPU Cores which the Exchange believes provides additional risk and capacity management. Further, Dedicated Cores are not required nor necessary to participate on the Exchange and as such Users may opt not to use Dedicated Cores at all.

Upon establishing fees for Dedicated Cores, the Exchange established caps of 10 Dedicated Cores for Members and 4 Dedicated Cores for each of Sponsored Access Relationship a Sponsoring firm has.⁶ On June 1, the Exchange proposed to increase this cap to 60 Dedicated Cores for Members and 25 Dedicated Cores for each of Sponsored Access Relationship a Sponsoring firm has.⁷ On October 1, 2024, the Exchange proposed to increase this cap for Members from 60 up to 80 Dedicated Cores and from 25 Dedicated Cores to 35 Dedicated Cores for each Sponsored Access Relationship a Sponsoring firm has.⁸ The Exchange last amended the cap for

Members on December 1, 2024⁹ to the levels it is at today, which permits market participants to purchase up to 120 Dedicated Cores for Members and up to 35 Dedicated Cores for each Sponsored Access relationship a Sponsoring Firm has (the Exchange did not modify the Sponsored Access cap in December). The Exchange noted previously that it would continue monitoring Dedicated Core interest by all Users and allotment availability with the goal of increasing these limits to meet Users’ needs if and when the demand is there and/or the Exchange is able to accommodate additional Dedicated Cores.

The Exchange now proposes to amend its Fee Schedule to remove language that caps the maximum number Dedicated Cores available to participants. This change will bring the Exchange’s Fee Schedule in line with other exchanges who impose caps, whether on ports or on other connectivity offerings, and do not specify these caps in their respective fee schedules.

MIAX Emerald, LLC, (“MIAX Emerald”) recently removed the cap in its fee schedule regarding the number of Limited Service MEI Ports and moved this into the spec.¹⁰ MIAX Emerald notes that such a change aligns with its affiliates’ fee schedules (MIAX, MIAX Pearl, and MIAX Sapphire), all of which do not include text providing for a similar cap on the maximum number of Limited Service MEI/MEO Ports available to each market maker on those exchanges in their respective fee schedules.¹¹ Instead, MIAX Emerald notes that information regarding caps is within its affiliates technical specifications and it proposed to take this same approach.¹²

Additionally, in the Exchange’s prior filings regarding Dedicated Cores, it referenced a similar offering by Nasdaq, the Dedicated OUCH server.¹³ In prior analysis done in the Exchange’s fee filings, it noted that Nasdaq Stock Market, LLC (“Nasdaq”), introduced the Dedicated Ouch Port Infrastructure in 2014 which allows a member firm to assign up to 30 of its OUCH ports to a dedicated server infrastructure for its

exclusive use.¹⁴ The Dedicated OUCH server handles only the subscribing member firm’s message traffic sent through their ports on the Dedicated OUCH to Nasdaq’s system. Similarly, a Dedicated Core only handles that subscribing firm’s messaging activity. Nasdaq notes that with its Dedicated OUCH offering, member firms can develop a tailored solution by controlling their message traffic in order to optimize their trading strategies.¹⁵

Similar to the existing cap for Dedicated Cores, Nasdaq has a cap for its Dedicated OUCH offering. Nasdaq notes in its technical requirements that it has a cap of four Dedicated OUCH servers for a firm.¹⁶ While the Dedicated OUCH offering is within Nasdaq’s fee schedule,¹⁷ it does not specify the cap for this product within the fee schedule nor within its rulebook.¹⁸ When Nasdaq previously filed fees for this product, it did not establish a cap for this offering,¹⁹ nor did it do so in any subsequent filings.²⁰

As described in prior filings, Dedicated Cores are not an unlimited resource.²¹ As such, the Exchange

¹⁴ For a more fulsome discussion, the Exchange previously underwent an extended analysis over the course of more than a year regarding the comparability of both offerings and their pricing structures, including the cap the Exchange proposed. *See e.g.*, Securities Exchange Act Release No. 103467 (July 15, 2025), 90 FR 34039 (July 18, 2025) (SR–CboeEDGA–2025–019).

¹⁵ *Id.*

¹⁶ *See* <https://nasdaqtrader.com/Trader.aspx?id=OUCH>.

¹⁷ *See* <https://www.nasdaqtrader.com/Trader.aspx?id=PriceListTrading2#connectivityouch>.

¹⁸ *See* Rulebook—The Nasdaq Stock Market. Equity Rules. Equity 7 Pricing Schedule. Section 115. Ports and Services. Dedicated OUCH Port Infrastructure.

¹⁹ *See* Securities Exchange Act Release No. 71198 (December 30, 2013), 79 FR 692 (January 6, 2014) (SR–NASDAQ–2013–161).

²⁰ *See e.g.*, Securities Exchange Act Release No. 74829 (April 29, 2015), 80 FR 25745 (May 5, 2015) (SR–NASDAQ–2015–042).

²¹ The Exchange was required for over a year to continue justifying its rationale behind establishing caps. Specifically, the Exchange noted that “. . . it is reasonable to limit the number of Dedicated Cores Users can purchase because the Exchange has a finite amount of space in its third-party data centers to accommodate CPU cores, including Dedicated Cores. The Exchange must also take into account timing and cost considerations in procuring additional Dedicated Cores and related hardware such as servers, switches, optics and cables, as well as the readiness of the Exchange’s data center space to accommodate additional Dedicated Cores in the Exchange’s respective Order Handler Cabinets. Moreover, procuring data center space has grown to be more challenging than it was five years ago with the increased demand for data center space. For example, the U.S. colocation data center market has doubled in size in just four years. In addition to the Exchange’s rollout of Dedicated Cores, the Exchange is mindful of its other business areas and the need to continue to be mindful of its existing, external restraints in procuring additional space in

⁴ *See* Securities Exchange Act Release No. 99818 (March 21, 2024), 89 FR 21294 (March 27, 2024) (SR–CboeEDGA–2024–008).

⁵ *See* Securities Exchange Act Release No. 99875 (April 1, 2024), 89 FR 24046 (April 5, 2024) (SR–CboeEDGA–2024–009).

⁶ *Id.*

⁷ *See* Securities Exchange Act Release No. 100300 (June 10, 2024), 89 FR 50653 (June 14, 2024) (SR–CboeEDGA–2024–020).

⁸ *See* Securities Exchange Act Release No. 101304 (October 10, 2024), 89 FR 83748 (October 17, 2024) (SR–CboeEDGA–2024–039).

⁹ *See* Securities Exchange Act Release No. 101823 (December 11, 2024), 89 FR 99940 (December 5, 2024) (SR–CboeEDGA–2024–048).

¹⁰ *See* Securities Exchange Act Release No. 103163 (June 2, 2025), 90 FR 24177 (June 6, 2025) (SR–EMERALD–2025–12).

¹¹ *Id.*

¹² *See e.g.*, MIAX Pearl Options Exchange, MEO Interface Specification.

¹³ *See* Securities Exchange Act Release No. 103467 (July 15, 2025), 90 FR 34039 (July 18, 2025) (SR–CboeEDGA–2025–019).

believes that including the cap on the number of Dedicated Cores in the Fee Schedule may hamper the Exchange's ability to provide fair and equitable access²² for all market participants to access the Exchange's network. By removing the cap from the Fee Schedule, the Exchange will be able to more easily adjust access, which may be based upon, among other factors, requests by market participants and planned server upgrades. The proposed change will ensure that the Exchange meets its obligations under the Act to offer access to the Exchange on terms that are not unfairly discriminatory²³ among its market participants, as well as to ensure sufficient capacity and headroom in the System.²⁴ The Exchange monitors the System's performance and makes adjustments to its System based on market conditions and Member demand. Accordingly, the Exchange's obligations under the Act to provide access on terms that are not unfairly discriminatory and market conditions are key drivers of the System's architecture and expansion. Thus, the Exchange believes a cap in the Fee Schedule is inconsistent with other exchanges' access offerings and no longer believes it serves as an appropriate mechanism to govern access to the Exchange. The proposed change is to align with industry standards and to ensure fair and equal access among market participants.

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.²⁵ Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)²⁶ 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)²⁷ requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The Exchange also believes the proposed rule change is consistent with Section 6(b)(4)²⁸ of the Act, which requires that Exchange rules provide for the equitable allocation of reasonable dues, fees, and other charges among its Members and other persons using its facilities.

In particular, the Exchange believes that removing this language from the Fee Schedule is consistent with the objectives of Section 6(b)(5) of the Act because it will promote uniformity and consistency across the industry regarding caps for connectivity offerings. As noted above, MIAx Emerald and its affiliates do not include cap limitations within its fee schedules, but instead include these within each exchange's tech specs.²⁹ Similarly, Nasdaq includes the cap for its Dedicated OUCH offering in its spec and not within its rulebook or fee schedule.³⁰ The Exchange proposes to do the same here with its Dedicated Cores offering and will note caps within the Cboe Titanium Cboe U.S. Equities Binary Order Entry Specification.

The Exchange also believes that its proposal is consistent with the objectives of Section 6(b)(5) of the Act³¹ because the same caps specified in the Cboe Titanium Cboe U.S. Equities Binary Order Entry Specification shall continue to apply to all participants, regardless of type or size, and will allow the Exchange to offer access to its System on terms that are not unfairly discriminatory. Including the cap on the number of Dedicated Cores in the Fee Schedule may unnecessarily burden the Exchange from being able to adjust access to the Exchange's System in order to ensure that the Exchange is able

to provide access³² to all participants on non-discriminatory terms and ensure sufficient capacity and headroom in the System.

As the Exchange noted when it established these caps, the Exchange believes that it is reasonable to limit the number of Dedicated Cores Users can purchase because the Exchange has a finite amount of space in its third-party data centers to accommodate CPU cores, including Dedicated Cores. The Exchange must also take into account timing and cost considerations in procuring additional Dedicated Cores and related hardware such as servers, switches, optics and cables, as well as the readiness of the Exchange's data center space to accommodate additional Dedicated Cores in the Exchange's respective Order Handler Cabinets. Moreover, procuring data center space has grown to be more challenging than it was five years ago with the increased demand for data center space. For example, the U.S. colocation data center market has doubled in size in just four years. In addition to the Exchange's rollout of Dedicated Cores, the Exchange is mindful of its other business areas and the need to continue to be mindful of its existing, external restraints in procuring additional space in this area. The Exchange has, and will continue to, monitor market participant demand and space availability and endeavor to adjust the limit if and when the Exchange is able to acquire additional space and power within the third-party data centers and/or additional CPU Cores to accommodate additional Dedicated Cores. The Exchange monitors its capacity and data center space and thus is in the best place to determine these limits and modify them as appropriate in response to changes to this capacity and space, as well as market demand.

However, including the cap on the number of Dedicated Cores in the Fee Schedule unnecessarily burdens the Exchange from being able to adjust the connectivity and access to the Exchange's System in order to ensure that the Exchange is able to provide access to market participants on non-discriminatory terms and ensure sufficient capacity and headroom in the System. The Exchange constantly monitors the System's performance based on market conditions and needs to make adjustments based on customer demand. All exchanges, including EDGA are required to provide access pursuant to the same requirements under Section 6(b)(5) of the Act regardless of whether their rules or fee

this area. The Exchange has, and will continue to, monitor market participant demand and space availability and endeavor to adjust the limit if and when the Exchange is able to acquire additional space and power within the third-party data centers and/or additional CPU Cores to accommodate additional Dedicated Cores. The Exchange monitors its capacity and data center space and thus is in the best place to determine these limits and modify them as appropriate in response to changes to this capacity and space, as well as market demand." See Securities Exchange Act Release No. 103467 (July 15, 2025), 90 FR 34039 (July 18, 2025) (SR-CboeEDGA-2025-019).

²² 15 U.S.C. 78f(b)(5).

²³ *Id.*

²⁴ 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).

²⁵ 15 U.S.C. 78f(b).

²⁶ 15 U.S.C. 78f(b)(5).

²⁷ *Id.*

²⁸ 15 U.S.C. 78f(b)(4).

²⁹ *Supra* note 10.

³⁰ *Supra* note 14.

³¹ 15 U.S.C. 78f(b)(5).

³² *Id.*

schedules set forth caps on access.³³ The Exchange believes that removing the cap on the number of Dedicated Cores from the Fee Schedule would enable the Exchange to be more responsive to market participants connectivity needs and allow the Exchange to better compete with other exchanges that do not currently provide similar connectivity limitations in their fee schedules.

This proposal is simply to include the caps on Dedicated Cores in the Cboe Titanium Cboe U.S. Equities Binary Order Entry Specification, rather than the Fee Schedule. Accordingly, the Exchange's obligations under Section 6(b)(5) of the Act³⁴ and market conditions are key drivers of the System's architecture and expansion and thus the Exchange believes a cap in the Fee Schedule may hamper equal access to the Exchange.

Further, the Exchange anticipates that it will continue to expand its System and provide market participants with additional access, including Dedicated Cores, based on customer demand and in response to changing market conditions. The Exchange represents that any expansion or reduction in the number of additional Dedicated Cores will be conducted in a similar manner that ensures fair access to its System.³⁵

Lastly, the Exchange believes the proposed rule change is consistent with Section 6(b)(4)³⁶ of the Act as the Exchange notes that fees will continue to apply consistently to all Members and Sponsored Access Participants who choose to purchase Dedicated Cores. The caps that are within the Cboe Titanium U.S. Equities Binary Order Entry Specification will apply to all Members and Sponsoring Access firms alike (with one cap for Members and another for Sponsoring Access firms). The Exchange believes its maximum limits, and distinction between Members and Sponsored Participants, is another appropriate means to help the Exchange manage its allotment of Dedicated Cores and better ensure this finite resource is apportioned fairly. The Exchange will continue to assess the fees for Dedicated Cores as specified in its Fee Schedule and will cap the number of Dedicated Cores for a participant as set forth in the Cboe Titanium U.S. Equities Binary Order Entry Specification.

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. Rather, the proposal is intended to promote align the Exchange with industry standards regarding caps as several other exchanges do not provide a limitation on the number of ports or servers available to participants in their fee schedules.³⁷ Thus the Exchange believes that providing the cap in the Fee Schedule may hamper the Exchange's ability to provide access to the Exchange on terms that are not unfairly discriminatory; rather, the Exchange will include the cap in the Cboe Titanium Cboe U.S. Equities Binary Order Entry Specification.

The Exchange believes the proposal to no longer include the cap on the number of Dedicated Cores in the Fee Schedule will not impose any burden on competition because it will provide greater flexibility for the Exchange's ability to adjust access to the Exchange's network in order to ensure that the Exchange meets its obligations under the Act such that access to the Exchange is offered on terms that are not unfairly discriminatory among its Members, as well as ensure sufficient capacity and headroom in the System, as needed.

The Exchange does not believe that the proposed rule change will impose a burden on intra-market competition because Dedicated Cores are available to all market participants on an equal basis at the same cost. It is a business decision of each market participant whether to pay for Dedicated Cores.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act³⁸ and paragraph (f) of Rule 19b-4³⁹ 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 will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-Cboe-EDGA-2026-016 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-CboeEDGA-2026-016. 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-CboeEDGA-2026-016 and should be submitted on or before June 3, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁴⁰

Vanessa A. Countryman,
Secretary.

[FR Doc. 2026-09472 Filed 5-12-26; 8:45 am]

BILLING CODE 8011-01-P

³³ *Id.*

³⁴ 15 U.S.C. 78f(b).

³⁵ *Id.*

³⁶ 15 U.S.C. 78f(b)(4).

³⁷ *Supra* notes 10 and 14.

³⁸ 15 U.S.C. 78s(b)(3)(A).

³⁹ 17 CFR 240.19b-4(f).

⁴⁰ 17 CFR 200.30-3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–105422; File No. SR–NYSE–2026–21]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Price List

May 8, 2026.

Pursuant to Section 19(b)(1)¹ of the Securities Exchange Act of 1934 (“Act”)² and Rule 19b–4 thereunder,³ notice is hereby given that on April 30, 2026, New York Stock Exchange LLC (“NYSE” or the “Exchange”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its Price List to eliminate underutilized tiered credits for providing displayed liquidity to the Exchange in Tape A, B and C securities. The proposed rule change is available on the Exchange’s website at www.nyse.com, 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 self-regulatory organization 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 those 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 parts of such statements.

A. Self-Regulatory Organization’s Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its Price List to eliminate underutilized tiered credits for providing displayed

liquidity to the Exchange in Tape A, B and C securities. Specifically, the Exchange proposes to delete Step Up Tiers 4 and 5 Adding Credits in Tape A securities and the associated adding step up tier adding credits for Tapes B and C securities.

The Exchange proposes to implement the fee changes effective May 1, 2026.

Background and Proposed Rule Change

The Exchange adopted the Step Up 4 Adding Credit in July 2020.⁴ The Step Up 4 Adding Credit provides an incremental \$0.0015 credit in Tape A securities for all orders for all orders, other than MPL and Non-Displayed Limit Orders, that (1) has an Adding average daily volume (“ADV”) that is at least 0.20% of NYSE consolidated ADV (“CADV”), and (2) has an Adding ADV, excluding any liquidity added by a DMM, that is at least 0.05% of NYSE CADV over that member organization’s November 2020 adding liquidity taken as a percentage of NYSE CADV.

The Step Up 5 Adding Credit was added in February 2021.⁵ The Step Up Tier 5 Adding Credit provides incremental credits in Tape A securities for all orders, other than MPL and Non-Displayed Limit Orders, from a qualifying member organization’s market participant identifier (“MPID”) or mnemonic if the member organization has Adding ADV, excluding any liquidity added by a Designated Market Maker (“DMM”), that is at least 1.00% of Tape A CADV, and if the MPID or mnemonic has an Adding ADV as a percentage of Tape A CADV, excluding any liquidity added by a DMM, that is (1) at least two times more than that MPID’s or mnemonic’s Adding ADV in January 2021 as a percentage of Tape A CADV, and (2) at least 0.10% of Tape A CADV over that MPID’s or mnemonic’s Adding ADV in January 2021 as a percentage of Tape A CADV. Member organizations that qualify for this tier would receive an incremental credit of \$0.0001 for an increase of at least 0.10% of Tape A CADV, or an incremental credit of \$0.0002 for an increase of at least 0.175% of Tape A CADV.

Finally, the adding credit for providing displayed liquidity to the Exchange in Tape B and C Securities was added in 2022.⁶ The Exchange

offers a \$0.0029 credit for providing displayed liquidity in Tape B and C securities in Tape B and C Securities for a qualifying member organization’s MPID or mnemonic that has providing volume in Tape A Securities of at least 1.0% of Tape A CADV, and the MPID or mnemonic has providing volume in Tape A Securities that is (1) at least two times more than that MPID’s or mnemonic’s baseline in January 2021 as a percentage of Tape A CADV, and (2) at least 0.10% of Tape A CADV over that MPID’s or mnemonic’s Adding ADV in January 2021 baseline as a percentage of Tape A CADV, and (3) at least 0.25% of Tape A CADV over that MPID’s or mnemonic’s Adding ADV in January 2021 as a percentage of Tape A CADV.

The Exchange proposes to eliminate and remove all three credits in their entirety. The fees have been underutilized by member organizations insofar as they have not encouraged member organizations to increase their adding liquidity volume in response to these credits as the Exchange had anticipated since the fees were adopted. The Exchange does not anticipate that any additional member organization in the near future would qualify for any of the credits that are the subject of this proposed rule change.

The proposed change is not otherwise intended to address other issues, and the Exchange is not aware of any significant problems that market participants would have in complying with the proposed changes.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,⁷ in general, and furthers the objectives of Sections 6(b)(4) and (5) of the Act,⁸ in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

The Proposed Change Is Reasonable

The Exchange believes that the proposed elimination of the underutilized adding tier credits is reasonable because member organizations have underutilized these credits. As noted, member organizations have not increased adding liquidity since they were adopted as the Exchange had anticipated. The Exchange does not anticipate that any

⁴ See Securities Exchange Act Release No. 89324 (July 15, 2020), 85 FR 44129 (July 21, 2020) (SR–NYSE–2020–59) (Notice).

⁵ See Securities Exchange Act Release No. 91123 (Feb. 12, 2021), 86 FR 10368 (Feb. 19, 2021) (SR–NYSE–2021–11) (Notice).

⁶ See Securities Exchange Act Release No. 94933 (May 17, 2022), 87 FR 31280 (May 23, 2022) (SR–NYSE–2022–22) (Notice).

⁷ 15 U.S.C. 78f(b).

⁸ 15 U.S.C. 78f(b)(4) & (5).

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b–4.

additional member organization in the near future would qualify for the tiered credits that are the subject of this proposed rule change. The Exchange believes it is reasonable to eliminate fees when such incentives become underutilized. The Exchange also believes eliminating underutilized incentives would add clarity and transparency to the Price List.

The Proposal Is an Equitable Allocation of Credits

The Exchange believes the proposal equitably allocates credits among its market participants because the underutilized credits that the Exchange proposes to eliminate would be eliminated in their entirety, and would no longer be available to any member organization in any form. Similarly, the Exchange believes the proposal equitably allocates credits among its market participants because elimination of the underutilized credits would apply to all similarly-situated member organizations that remove liquidity from the Exchange on an equal basis. All such member organizations would continue to be subject to the same fee structure, and access to the Exchange's market would continue to be offered on fair and nondiscriminatory terms.

The Proposal Is Not Unfairly Discriminatory

The Exchange believes that the proposal is not unfairly discriminatory because it neither targets nor will it have a disparate impact on any particular category of market participant. The Exchange believes that eliminating credits that are underutilized and ineffective would no longer be available to any member organization on an equal basis. The Exchange believes that the proposal is not unfairly discriminatory because the proposed elimination of the underutilized credits would affect all similarly situated market participants on an equal and non-discriminatory basis. The Exchange also believes that the proposed change would protect investors and the public interest because the deletion of underutilized credits would make the Price List more accessible and transparent.

Finally, the Exchange believes that it is subject to significant competitive forces, as described below in the Exchange's statement regarding the burden on competition.

For the foregoing reasons, the Exchange believes that the proposal is consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,⁹ the Exchange believes that the proposed rule change would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Instead, as discussed above, the proposal relates to the elimination of an underutilized credits and, as such, would not have any impact on intra- or inter-market competition because the proposed change is solely designed to accurately reflect the services that the Exchange currently offers, thereby adding clarity to the Price List.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Pursuant to Section 19(b)(3)(A)(ii) of the Act,¹⁰ and Rule 19b-4(f)(2) thereunder¹¹ the Exchange has designated this proposal as establishing or changing a due, fee, or other charge imposed on any person, whether or not the person is a member of the self-regulatory organization, which renders the proposed rule change effective upon filing. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-NYSE-2026-21 on the subject line.

⁹ 15 U.S.C. 78f(b)(8).

¹⁰ 15 U.S.C. 78s(b)(3)(A)(ii).

¹¹ 17 CFR 240.19b-4.

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-NYSE-2026-21. 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-NYSE-2026-21 and should be submitted on or before June 3, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹²

Vanessa A. Countryman,
Secretary.

[FR Doc. 2026-09476 Filed 5-12-26; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 36144; 812-16014]

G-X Private Equity and Goldman Sachs Asset Management, L.P.

May 7, 2026.

AGENCY: Securities and Exchange Commission ("Commission" or "SEC").
ACTION: Notice.

Notice of application for an order under section 6(c) of the Investment Company Act of 1940 (the "Act") granting an exemption from section 23(a)(1) of the Act.

SUMMARY OF APPLICATION: Applicants request an order to permit certain registered closed-end management investment companies and business development companies (as defined under section 2(a)(48) of the Act) to pay investment advisory fees (as described in the application) in shares of their common stock.

APPLICANTS: G-X Private Equity and Goldman Sachs Asset Management, L.P.

¹² 17 CFR 200.30-3(a)(12).

FILING DATES: The application was filed on April 3, 2026, and amended on May 6, 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 Secretaries-Office@sec.gov and serving the Applicants with a copy of the request by email, if an email address is listed for the relevant Applicant below, or personally or by mail, if a physical address is listed for the relevant Applicant below. 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 June 1, 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.

ADDRESSES: The Commission: Secretaries-Office@sec.gov. Applicants: Curtis A. Tate, Esq., Goldman Sachs Asset Management, L.P., 200 West Street, New York, New York 10282; with copies to: William J. Bielefeld, Esq., and Alexander C. Karampatsos, Esq., Dechert LLP, 1900 K Street NW, Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: Trace W. Rakestraw, Senior Special Counsel, 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, dated May 6, 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 Assistance at (202) 551–8090.

For the Commission, by the Division of Investment Management, under delegated authority.

Vanessa A. Countryman,
Secretary.

[FR Doc. 2026–09481 Filed 5–12–26; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–105417; File No. SR–CboeEDGX–2026–034]

Self-Regulatory Organizations; Cboe EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Exchange's Fee Schedule To Remove Text Capping the Number of Dedicated Cores Available to Market Participants

May 8, 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 May 1, 2026, Cboe EDGX Exchange, Inc. (the “Exchange” or “EDGX”) 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

EDGX proposes to amend the Exchange's Fee Schedule to remove text capping the number of Dedicated Cores available to market participants. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Commission's website (<https://www.sec.gov/rules/sro.shtml>), the Exchange's website (https://www.cboe.com/us/equities/regulation/rule_filings/bzx/ [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 remove the text that caps the maximum number of Dedicated Cores available to Members and Sponsoring Members in its Fee Schedule.³ Upon effectiveness of this proposal, the Exchange will include the same cap on the number of Dedicated Cores in the Cboe Titanium Cboe U.S. Equities Binary Order Entry Specification, available on its website. The Exchange does not propose to amend the fee charged for Dedicated Cores that market participants may voluntarily purchase.

For background, the Exchange launched Dedicated Cores in July 2024 and, as discussed below, established caps at that time.⁴ The Dedicated Core permits users to assign a single Binary Order Entry (“BOE”) logical order entry port to a single dedicated Central Processing Unit (CPU Core). Historically, CPU Cores had been shared by logical order entry ports (i.e., multiple logical ports from multiple firms may connect to a single CPU Core). Use of Dedicated Cores however, can provide reduced latency, enhanced throughput, and improved performance since a firm using a Dedicated Core is utilizing the full processing power of a CPU Core instead of sharing that power with other firms. This offering is completely voluntary and is available to all Users that wish to purchase Dedicated Cores. Users may utilize BOE logical order entry ports on shared CPU Cores, either in lieu of, or in addition to, their use of Dedicated Core(s). As such, Users are able to operate across a mix of shared and dedicated CPU Cores which the Exchange believes provides additional risk and capacity management. Further, Dedicated Cores are not required nor necessary to participate on the Exchange and as such Users may opt not to use Dedicated Cores at all.

Upon the launch of Dedicated Cores, the Exchange established caps of 60

³ The Exchange initially submitted the proposed rule change on April 27, 2026 (SR–CboeEDGX–2026–030). On May 1, 2026, the Exchange withdrew that proposal and submitted this filing.

⁴ See Securities Exchange Act Release No. 100471 (July 9, 2024), 89 FR 57454 (July 15, 2024) (SR–CboeEDGX–2024–043).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.

Dedicated Cores for Members and 25 Dedicated Cores for each of Sponsored Access Relationship a Sponsoring firm has.⁵ On October 1, 2024, the Exchange proposed to increase this cap for Members from 60 up to 80 Dedicated Cores and from 25 Dedicated Cores to 35 Dedicated Cores for each Sponsored Access Relationship a Sponsoring firm has.⁶ The Exchange last amended the cap for Members on December 1, 2024⁷ to the levels it is at today, which permits market participants to purchase up to 120 Dedicated Cores for Members and up to 35 Dedicated Cores for each Sponsored Access relationship a Sponsoring Firm has (the Exchange did not modify the Sponsored Access cap in December). The Exchange noted previously that it would continue monitoring Dedicated Core interest by all Users and allotment availability with the goal of increasing these limits to meet Users' needs if and when the demand is there and/or the Exchange is able to accommodate additional Dedicated Cores.

The Exchange now proposes to amend its Fee Schedule to remove language that caps the maximum number of Dedicated Cores available to participants. This change will bring the Exchange's Fee Schedule in line with other exchanges who impose caps, whether on ports or on other connectivity offerings, and do not specify these caps in their respective fee schedules.

MIAX Emerald, LLC, ("MIAX Emerald") recently removed the cap in its fee schedule regarding the number of Limited Service MEI Ports and moved this into the spec.⁸ MIAX Emerald notes that such a change aligns with its affiliates' fee schedules (MIAX, MIAX Pearl, and MIAX Sapphire), all of which do not include text providing for a similar cap on the maximum number of Limited Service MEI/MEO Ports available to each market maker on those exchanges in their respective fee schedules.⁹ Instead, MIAX Emerald notes that information regarding caps is within its affiliates technical specifications and it proposed to take this same approach.¹⁰

Additionally, in the Exchange's prior filings regarding Dedicated Cores, it referenced a similar offering by Nasdaq, the Dedicated OUCH server.¹¹ In prior analysis done in the Exchange's fee filings, it noted that Nasdaq Stock Market, LLC ("Nasdaq"), introduced the Dedicated Ouch Port Infrastructure in 2014 which allows a member firm to assign up to 30 of its OUCH ports to a dedicated server infrastructure for its exclusive use.¹² The Dedicated OUCH server handles only the subscribing member firm's message traffic sent through their ports on the Dedicated OUCH to Nasdaq's system. Similarly, a Dedicated Core only handles that subscribing firm's messaging activity. Nasdaq notes that with its Dedicated OUCH offering, member firms can develop a tailored solution by controlling their message traffic in order to optimize their trading strategies.¹³

Similar to the existing cap for Dedicated Cores, Nasdaq has a cap for its Dedicated OUCH offering. Nasdaq notes in its technical requirements that it has a cap of four Dedicated OUCH servers for a firm.¹⁴ While the Dedicated OUCH offering is within Nasdaq's fee schedule,¹⁵ it does not specify the cap for this product within the fee schedule nor within its rulebook.¹⁶ When Nasdaq previously filed fees for this product, it did not establish a cap for this offering,¹⁷ nor did it do so in any subsequent filings.¹⁸

As described in prior filings, Dedicated Cores are not an unlimited resource.¹⁹ As such, the Exchange

believes that including the cap on the number of Dedicated Cores in the Fee Schedule may hamper the Exchange's ability to provide fair and equitable access²⁰ for all market participants to access the Exchange's network. By removing the cap from the Fee Schedule, the Exchange will be able to more easily adjust access, which may be based upon, among other factors, requests by market participants and planned server upgrades. The proposed change will ensure that the Exchange meets its obligations under the Act to offer access to the Exchange on terms that are not unfairly discriminatory²¹ among its market participants, as well as to ensure sufficient capacity and headroom in the System.²² The Exchange monitors the System's performance and makes adjustments to its System based on market conditions and Member demand. Accordingly, the Exchange's obligations under the Act to provide access on terms that are not unfairly discriminatory and market conditions are key drivers of the System's architecture and expansion. Thus, the Exchange believes a cap in the Fee Schedule is inconsistent with other exchanges' access offerings and no longer believes it serves as an appropriate mechanism to govern access to the Exchange. The proposed change is to align with industry standards and

centers to accommodate CPU cores, including Dedicated Cores. The Exchange must also take into account timing and cost considerations in procuring additional Dedicated Cores and related hardware such as servers, switches, optics and cables, as well as the readiness of the Exchange's data center space to accommodate additional Dedicated Cores in the Exchange's respective Order Handler Cabinets. Moreover, procuring data center space has grown to be more challenging than it was five years ago with the increased demand for data center space. For example, the U.S. colocation data center market has doubled in size in just four years. In addition to the Exchange's rollout of Dedicated Cores, the Exchange is mindful of its other business areas and the need to continue to be mindful of its existing, external restraints in procuring additional space in this area. The Exchange has, and will continue to, monitor market participant demand and space availability and endeavor to adjust the limit if and when the Exchange is able to acquire additional space and power within the third-party data centers and/or additional CPU Cores to accommodate additional Dedicated Cores. The Exchange monitors its capacity and data center space and thus is in the best place to determine these limits and modify them as appropriate in response to changes to this capacity and space, as well as market demand." See Securities Exchange Act Release No. 103464 (July 15, 2025), 90 FR 34022 (July 18, 2025) (SR-CboeEDGX-2025-052).

²⁰ 15 U.S.C. 78f(b)(5).

²¹ *Id.*

²² 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).

⁵ *Id.*

⁶ See Securities Exchange Act Release No. 101305 (October 10, 2024), 89 FR 83720 (October 17, 2024) (SR-CboeEDGX-2024-061).

⁷ See Securities Exchange Act Release No. 101824 (December 11, 2024), 89 FR 99936 (December 5, 2024) (SR-CboeEDGX-2024-080).

⁸ See Securities Exchange Act Release No. 103163 (June 2, 2025), 90 FR 24177 (June 6, 2025) (SR-EMERALD-2025-12).

⁹ *Id.*

¹⁰ See e.g., MIAX Pearl Options Exchange, MEO Interface Specification.

¹¹ See Securities Exchange Act Release No. 103464 (July 15, 2025), 90 FR 34022 (July 18, 2025) (SR-CboeEDGX-2025-052).

¹² For a more fulsome discussion, the Exchange previously underwent an extended analysis over the course of more than a year regarding the comparability of both offerings and their pricing structures, including the cap the Exchange proposed. See e.g., Securities Exchange Act Release No. 103464 (July 15, 2025), 90 FR 34022 (July 18, 2025) (SR-CboeEDGX-2025-052).

¹³ *Id.*

¹⁴ See <https://nasdaqtrader.com/Trader.aspx?id=OUCH>.

¹⁵ See <https://www.nasdaqtrader.com/Trader.aspx?id=PriceListTrading2#connectivityouch>.

¹⁶ See Rulebook—The Nasdaq Stock Market. Equity Rules. Equity 7 Pricing Schedule. Section 115. Ports and Services. Dedicated OUCH Port Infrastructure.

¹⁷ See Securities Exchange Act Release No. 71198 (December 30, 2013), 79 FR 692 (January 6, 2014) (SR-NASDAQ-2013-161).

¹⁸ See e.g., Securities Exchange Act Release No. 74829 (April 29, 2015), 80 FR 25745 (May 5, 2015) (SR-NASDAQ-2015-042).

¹⁹ The Exchange was required for over a year to continue justifying its rationale behind establishing caps. Specifically, the Exchange noted that "... it is reasonable to limit the number of Dedicated Cores Users can purchase because the Exchange has a finite amount of space in its third-party data

to ensure fair and equal access among market participants.

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.²³ Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)²⁴ 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)²⁵ requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The Exchange also believes the proposed rule change is consistent with Section 6(b)(4)²⁶ of the Act, which requires that Exchange rules provide for the equitable allocation of reasonable dues, fees, and other charges among its Members and other persons using its facilities.

In particular, the Exchange believes that removing this language from the Fee Schedule is consistent with the objectives of Section 6(b)(5) of the Act because it will promote uniformity and consistency across the industry regarding caps for connectivity offerings. As noted above, MIAX Emerald and its affiliates do not include cap limitations within its fee schedules, but instead include these within each exchange’s tech specs.²⁷ Similarly, Nasdaq includes the cap for its Dedicated OUCH offering in its spec and not within its rulebook or fee schedule.²⁸ The Exchange proposes to do the same here with its Dedicated Cores offering and will note caps within the Cboe Titanium Cboe U.S. Equities Binary Order Entry Specification.

The Exchange also believes that its proposal is consistent with the objectives of Section 6(b)(5) of the Act²⁹ because the same caps specified in the Cboe Titanium Cboe U.S. Equities Binary Order Entry Specification shall continue to apply to all participants, regardless of type or size, and will allow the Exchange to offer access to its System on terms that are not unfairly discriminatory. Including the cap on the number of Dedicated Cores in the Fee Schedule may unnecessarily burden the Exchange from being able to adjust access to the Exchange’s System in order to ensure that the Exchange is able to provide access³⁰ to all participants on non-discriminatory terms and ensure sufficient capacity and headroom in the System.

As the Exchange noted when it established these caps, the Exchange believes that it is reasonable to limit the number of Dedicated Cores Users can purchase because the Exchange has a finite amount of space in its third-party data centers to accommodate CPU cores, including Dedicated Cores. The Exchange must also take into account timing and cost considerations in procuring additional Dedicated Cores and related hardware such as servers, switches, optics and cables, as well as the readiness of the Exchange’s data center space to accommodate additional Dedicated Cores in the Exchange’s respective Order Handler Cabinets. Moreover, procuring data center space has grown to be more challenging than it was five years ago with the increased demand for data center space. For example, the U.S. colocation data center market has doubled in size in just four years. In addition to the Exchange’s rollout of Dedicated Cores, the Exchange is mindful of its other business areas and the need to continue to be mindful of its existing, external restraints in procuring additional space in this area. The Exchange has, and will continue to, monitor market participant demand and space availability and endeavor to adjust the limit if and when the Exchange is able to acquire additional space and power within the third-party data centers and/or additional CPU Cores to accommodate additional Dedicated Cores. The Exchange monitors its capacity and data center space and thus is in the best place to determine these limits and modify them as appropriate in response to changes to this capacity and space, as well as market demand.

However, including the cap on the number of Dedicated Cores in the Fee

Schedule unnecessarily burdens the Exchange from being able to adjust the connectivity and access to the Exchange’s System in order to ensure that the Exchange is able to provide access to market participants on non-discriminatory terms and ensure sufficient capacity and headroom in the System. The Exchange constantly monitors the System’s performance based on market conditions and needs to make adjustments based on customer demand. All exchanges, including EDGX are required to provide access pursuant to the same requirements under Section 6(b)(5) of the Act regardless of whether their rules or fee schedules set forth caps on access.³¹ The Exchange believes that removing the cap on the number of Dedicated Cores from the Fee Schedule would enable the Exchange to be more responsive to market participants connectivity needs and allow the Exchange to better compete with other exchanges that do not currently provide similar connectivity limitations in their fee schedules.

This proposal is simply to include the caps on Dedicated Cores in the Cboe Titanium Cboe U.S. Equities Binary Order Entry Specification, rather than the Fee Schedule. Accordingly, the Exchange’s obligations under Section 6(b)(5) of the Act³² and market conditions are key drivers of the System’s architecture and expansion and thus the Exchange believes a cap in the Fee Schedule may hamper equal access to the Exchange.

Further, the Exchange anticipates that it will continue to expand its System and provide market participants with additional access, including Dedicated Cores, based on customer demand and in response to changing market conditions. The Exchange represents that any expansion or reduction in the number of additional Dedicated Cores will be conducted in a similar manner that ensures fair access to its System.³³

Lastly, the Exchange believes the proposed rule change is consistent with Section 6(b)(4)³⁴ of the Act as the Exchange notes that fees will continue to apply consistently to all Members and Sponsored Access Participants who choose to purchase Dedicated Cores. The caps that are within the Cboe Titanium U.S. Equities Binary Order Entry Specification will apply to all Members and Sponsoring Access firms alike (with one cap for Members and another for Sponsoring Access firms).

²³ 15 U.S.C. 78f(b).

²⁴ 15 U.S.C. 78f(b)(5).

²⁵ *Id.*

²⁶ 15 U.S.C. 78f(b)(4).

²⁷ *Supra* note 9.

²⁸ *Supra* note 13.

²⁹ 15 U.S.C. 78f(b)(5).

³⁰ *Id.*

³¹ *Id.*

³² 15 U.S.C. 78f(b).

³³ *Id.*

³⁴ 15 U.S.C. 78f(b)(4).

The Exchange believes its maximum limits, and distinction between Members and Sponsored Participants, is another appropriate means to help the Exchange manage its allotment of Dedicated Cores and better ensure this finite resource is apportioned fairly. The Exchange will continue to assess the fees for Dedicated Cores as specified in its Fee Schedule and will cap the number of Dedicated Cores for a participant as set forth in the Cboe Titanium U.S. Equities Binary Order Entry Specification.

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. Rather, the proposal is intended to promote align the Exchange with industry standards regarding caps as several other exchanges do not provide a limitation on the number of ports or servers available to participants in their fee schedules.³⁵ Thus the Exchange believes that providing the cap in the Fee Schedule may hamper the Exchange's ability to provide access to the Exchange on terms that are not unfairly discriminatory; rather, the Exchange will include the cap in the Cboe Titanium Cboe U.S. Equities Binary Order Entry Specification.

The Exchange believes the proposal to no longer include the cap on the number of Dedicated Cores in the Fee Schedule will not impose any burden on competition because it will provide greater flexibility for the Exchange's ability to adjust access to the Exchange's network in order to ensure that the Exchange meets its obligations under the Act such that access to the Exchange is offered on terms that are not unfairly discriminatory among its Members, as well as ensure sufficient capacity and headroom in the System, as needed.

The Exchange does not believe that the proposed rule change will impose a burden on intra-market competition because Dedicated Cores are available to all market participants on an equal basis at the same cost. It is a business decision of each market participant whether to pay for Dedicated Cores.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act³⁶ and paragraph (f) of Rule 19b-4³⁷ 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 will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-CboeEDGX-2026-034 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.
- All submissions should refer to file number SR-CboeEDGX-2026-034. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<https://www.sec.gov/rules/sro.shtml>). Copies of the filing will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR-CboeEDGX-2026-034

³⁶ 15 U.S.C. 78s(b)(3)(A).

³⁷ 17 CFR 240.19b-4(f).

and should be submitted on or before June 3, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.³⁸

Vanessa A. Countryman,
Secretary.

[FR Doc. 2026-09471 Filed 5-12-26; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-105423; File No. SR-24X-2026-11]

Self-Regulatory Organizations; 24X National Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend 24X Rules 2.11, 1.5(kk), 11.6(p), and 4.5(qq)

May 8, 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 April 27, 2026, 24X National Exchange LLC ("24X" or the "Exchange") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. 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 (i) to amend 24X Rule 2.11 to clarify that the Exchange's routing services are available for the routing of orders to any Trading Center³ and not only to other securities exchanges, (ii) to amend 24X Rules 1.5(kk) and 11.6(p) to update cross references to the Act's definition of Trading Center, and (iii) to amend 24X Rule 4.5(qq) to update a cross reference to the Act's definition of NMS Stocks. The proposed rule change is available on the Exchange's website at <https://equities.24exchange.com/regulation> and at the principal office of the Exchange.

³⁸ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See 24X Rule 1.5(kk).

³⁵ *Supra* notes 9 and 13.

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 self-regulatory organization 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 those 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 parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes (i) to amend 24X Rule 2.11 to clarify that the Exchange's routing services are available for the routing of orders to any Trading Center⁴ and not only to other securities exchanges, (ii) to amend 24X Rules 1.5(kk) and 11.6(p) to update cross references to the Act's definition of Trading Center, and (iii) to amend 24X Rule 4.5(qq) to update a cross reference to the Act's definition of NMS Stocks.

Currently, all subparts of 24X Rule 2.11 specify that the Exchange's routing services allow orders to be routed to Trading Centers except for subparts (f) and (g), and except for the title of the rule, which all use the term "exchange" instead of "Trading Center." The Exchange believes that this inconsistent terminology creates the potential for confusion given that the Exchange's routing services are available for the routing of orders to any Trading Center and not only to other securities exchanges. To eliminate such potential confusion, the Exchange proposes to replace the word "exchange" with the term "Trading Center" in both subparts (f) and (g) of 24X Rule 2.11 and in the title of the rule.

In addition, 24X Rules 1.5(kk) and 11.6(p) currently define "Trading Center" as "any trading center as defined in Rule 600(b)(95) of the Act," and 24X Rule 4.5(qq) references the term "NMS Stocks" "as defined in SEC Rule 600(b)(47)." In 2024, the Commission amended Regulation NMS under the Act to update the rule that requires disclosures for order executions in national market system ("NMS")

stocks.⁵ As part of that initiative, the Commission adopted new definitions in Rule 600(b) of Regulation NMS and renumbered the remaining definitions, including the definitions of NMS Stocks and Trading Center,⁶ which means that the above-mentioned cross references are no longer up to date. The Exchange accordingly proposes to update the relevant citations to Rule 600(b) in its rules as follows: (i) the citations to the definition of Trading Center in 24X Rules 1.5(kk) and 11.6(p) would be changed to "Rule 600(b)(106) of the Act"; and (ii) the citation to the definition of NMS Stocks in 24X Rule 4.5(qq) would be changed to "Rule 600 of Regulation NMS," omitting the reference to the subparagraph for consistency with all other citations to the definition of NMS Stocks in the Exchange rules.⁷

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act⁸ in general, and with Section 6(b)(5) of the Act⁹ in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to, and perfect the mechanism of, a free and open market and a national market system and, in general, to protect investors and the public interest; and it is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

Specifically, the Exchange believes that the proposed rule change furthers the objectives of the Act by clarifying terminology to reflect the actual operation of the Exchange's routing services and by updating cross references to the Act that are currently out of date, in both cases reducing the potential for confusion surrounding such terminology and references, thereby removing impediments to and perfecting the mechanism of a free and open market and a national market system.

⁵ See Securities Exchange Act Release No. 99679, 89 FR 26428 (April 15, 2024) (S7–29–22).

⁶ See *id.* (renumbering the definition of NMS Stocks to § 242.600(b)(65) and the definition of Trading Center to § 242.600(b)(106)).

⁷ See 24X Rules 11.20(d)(2) and 12.6 Interpretations and Policies .02(a).

⁸ 15 U.S.C. 78f.

⁹ 15 U.S.C. 78f(b)(5).

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is not intended to address competitive issues but rather is intended solely to clarify that the Exchange's routing services are available for the routing of orders to any Trading Center and not only to other securities exchanges, and to update cross references to the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(iii)¹⁰ of the Act and Rule 19b–4(f)(6) thereunder¹¹ in that it effects a change that: (i) does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) by its terms, does not become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest.

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)¹² 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:

¹⁰ 15 U.S.C. 78s(b)(3)(A)(iii).

¹¹ 17 CFR 240.19b–4(f)(6).

¹² 15 U.S.C. 78s(b)(2)(B).

⁴ See 24X Rule 1.5(kk).

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-24X-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-24X-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-24X-2026-11 and should be submitted on or before June 3, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹³

Vanessa A. Countryman,
Secretary.

[FR Doc. 2026-09477 Filed 5-12-26; 8:45 am]

BILLING CODE 8011-01-P

DEPARTMENT OF STATE

[Public Notice: 13009]

Privacy Act of 1974; System of Records

AGENCY: Department of State.

ACTION: Rescinding of a system of records notice.

SUMMARY: The Law of the Sea Records, State-19, which is being rescinded, contained information used for the efficient handling of matters concerning the Law of the Sea Advisory Committee such as correspondence to and from members of Congress relating to the Law of the Sea and their participation in the Executive Branch's Law of the Sea program, information pertaining to security clearances for members of the

Advisory Committee on the Law of the Sea, and articles written by members of the Advisory Committee.

DATES: Since the original publication of State-19 in the **Federal Register** (42 FR 49708) on September 27, 1977, system contents have been retired as permanent records to the Office of Enterprise Records Management within the Privacy, Policy and Knowledge Management Directorate (A/SKS/PPKM/ERM). A subsection of these records was subsequently transferred to the National Archives and Records Administration in 2004 in accordance with the Department's records retention policy for the records of senior officials. The subsection of these records which remains under the control of the Department is no longer maintained as a System of Records, as defined in 5 U.S.C. 552a because the records under the control of the Department are not in a system separated from other Department records. Thus, State-19 must be rescinded.

ADDRESSES: Questions can be submitted by mail, email, or by calling Timothy J. Kootz, the Senior Agency Official for Privacy on (202) 485-2051. If by mail, please write to: Timothy Kootz, Senior Agency Official for Privacy; U.S. Department of State; Shared Knowledge Services (A/SKS); Room 4534, 2201 C St. NW; Washington, DC 20520. If email, please address the email to the Senior Agency Official for Privacy, Timothy J. Kootz, at SORN@state.gov. Please write "Law of the Sea Records, State-19" on the envelope or the subject line of your email.

FOR FURTHER INFORMATION CONTACT:

Timothy J. Kootz, Senior Agency Official for Privacy; U.S. Department of State; Shared Knowledge Services (A/SKS); Room 4534, 2201 C St. NW; Washington, DC 20520 or by calling (202) 485-2051.

SUPPLEMENTARY INFORMATION: Law of the Sea Records, State-19, must be rescinded because the records were retired, made permanent records in A/SKS/PPKM/ERM custody, and then subsequently transferred to the National Archives and Records Administration in accordance with the Department's records retention policy for the records of senior officials. Additionally, the subsection of the Law of the Sea Records under the control of the Department does not constitute a system of records pursuant to 5 U.S.C. 552a and State-19 must be rescinded.

SYSTEM NAME AND NUMBER:

Law of the Sea Records, State-19.

HISTORY:

42 FR 49708.

Timothy J. Kootz,

Deputy Assistant Secretary, Shared Knowledge Services (A/SKS), U.S. Department of State.

[FR Doc. 2026-09534 Filed 5-12-26; 8:45 am]

BILLING CODE 4710-09-P

DEPARTMENT OF STATE

[Public Notice 13012]

30-Day Notice of Proposed Information Collection: Office of Language Services Contractor Application Form

ACTION: Notice of request for public comment and submission to OMB of proposed collection of information.

SUMMARY: The Department of State is seeking Office of Management and Budget (OMB) approval for the information collection described below. In accordance with the Paperwork Reduction Act of 1995, we are requesting comments on this collection from all interested individuals and organizations. The purpose of this Notice is to allow 30 days for public comment.

DATES: Submit comments up to June 12, 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:

Direct requests for additional information regarding the collection listed in this notice, including requests for copies of the proposed collection instrument and supporting documents, to Angelika Graham who may be reached on (202) 655-9946 or at GrahamAR@state.gov or

Regular Mail: Send written comments to: Department of State, Office of Language Services, 2201 C Street NW, Washington, DC 20522-0114.

You must include the DS form number (if applicable), information collection title, and the OMB control number in any correspondence.

SUPPLEMENTARY INFORMATION:

- *Title of Information Collection:* Office of Language Services Contractor Application Form.
- *OMB Control Number:* 1405-0191.
- *Type of Request:* Extension of a Currently Approved Collection.

¹³ 17 CFR 200.30-3(a)(12).

• *Originating Office:* Bureau of Management (M/EX), Office of Language Services (LS).

• *Form Number:* DS-7651.

• *Respondents:* General public applying for translator and/or interpreter contract positions.

• *Estimated Number of Respondents:* 1,000.

• *Estimated Number of Responses:* 1,000.

• *Average Time per Response:* 30 minutes.

• *Total Estimated Burden Time:* 500 annual hours.

• *Frequency:* On occasion.

• *Obligation to Respond:* Required to Obtain or Retain a Benefit.

We are soliciting public comments to permit the Department to:

• Evaluate whether the proposed information collection is necessary for the proper functions of the Department.

• Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used.

• Enhance the quality, utility, and clarity of the information to be collected.

• Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Please note that comments submitted in response to this Notice are public record. Before including any detailed personal information, you should be aware that your comments as submitted, including your personal information, will be available for public review.

The information collected is needed to ascertain whether respondents are valid interpreting and/or translating candidates, based on their work history and legal work status in the United States. If candidates successfully become contractors for the U.S. Department of State, Office of Language Services, the information collected is used to initiate security clearance background checks and for processing payment vouchers. Respondents are typically members of the general public with varying degrees of experience in the fields of interpreting and/or translating.

Methodology

The Office of Language Services makes the "Office of Language Services Contractor Application Form" (DS-7651) available on the Department of State forms site, <https://efrms.state.gov>.

Respondents can submit the form via email.

Ihab M. Ali,

*Director (Acting), Office of Language Services,
Department of State.*

[FR Doc. 2026-09528 Filed 5-12-26; 8:45 am]

BILLING CODE 4710-24-P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36922]

OmniTRAX Holdings Combined, Inc., and HGS Railway Holdings, Inc.—Control Exemption—Arkansas Short Line Railroads, Inc. (d/b/a Dardanelle and Russellville Railroad), Camden & Southern Railroad, Inc., and Ouachita Railroad, Inc.

OmniTRAX Holdings Combined, Inc. (OmniTRAX) and HGS Railway Holdings, Inc. (HGS) (together, Omni-HGS),¹ both noncarriers, have filed a verified notice of exemption under 49 CFR 1180.2(d)(2) to acquire control of three Class III railroads: Arkansas Short Line Railroads, Inc. (d/b/a Dardanelle and Russellville Railroad (DR)), and DR's two Class III rail carrier subsidiaries, Camden & Southern Railroad, Inc. (CSR), and Ouachita Railroad, Inc. (OUCH) (collectively, Target Carriers).

According to the verified notice, the proposed transaction will occur through OmniTRAX's wholly owned noncarrier subsidiary, ASL Acquisition, LLC, which will acquire 100% of the issued and outstanding shares of DR pursuant to a Stock Purchase Agreement dated February 19, 2026, as amended on April 2, 2026.² Upon consummation, Omni-HGS will obtain indirect control of CSR and OUCH.

The verified notice states that none of the existing Omni-HGS-controlled railroads connect to any of the Target Carriers. Further, according to the verified notice, the transaction: (1) would not connect any of the Omni-HGS carriers with each other, connect any of the Target Carriers with each other, or connect any Omni-HGS carrier to any of the Target Carriers; (2) is not part of a series of anticipated transactions that would connect these

carriers with each other; and (3) no Class I carrier is involved in the transaction. Therefore, the proposed transaction is exempt from the prior approval requirements of 49 U.S.C. 11323. See 49 CFR 1180.2(d)(2).

The earliest the transaction may be consummated is May 27, 2026, the effective date of the exemption (30 days after the verified notice was filed).

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. However, 49 U.S.C. 11326(c) does not provide for labor protection for transactions under 49 U.S.C. 11324 and 11325 that involve only Class III rail carriers. Because this transaction involves Class III rail carriers only, the Board, under the statute, may not impose labor protective conditions for this transaction.

If the verified notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions to stay must be filed no later than May 20, 2026 (at least seven days before the exemption becomes effective).

All pleadings, referring to Docket No. FD 36922, should be filed with the Surface Transportation Board via e-filing on the Board's website. In addition, a copy of each pleading must be served on Omni-HGS' representative, Robert A. Wimbish, Fletcher & Sippel LLC, 29 North Wacker Drive, Suite 800, Chicago, IL 60606-3208.

According to Omni-HGS, this action is categorically excluded from environmental review under 49 CFR 1105.6(c) and from historic preservation reporting requirements under 49 CFR 1105.8(b).

Board decisions and notices are available at www.stb.gov.

Decided: May 7, 2026.

By the Board, Anika S. Cooper, Chief Counsel, Office of Chief Counsel.

Aretha Laws-Byrum,
Clearance Clerk.

[FR Doc. 2026-09453 Filed 5-12-26; 8:45 am]

BILLING CODE 4915-01-P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Notice of Final Federal Agency Actions on Proposed Highway in Tennessee

AGENCY: Federal Highway Administration (FHWA), DOT.

¹ According to the verified notice, OmniTRAX and HGS are under joint managerial and operational control, and together they exercise control over numerous Class III rail carriers through affiliated holding company entities.

² Public and confidential versions of the Stock Purchase Agreement dated February 19, 2026, and the First Amendment dated April 2, 2026, were filed with the verified notice. The confidential version was submitted under seal concurrently with a motion for protective order, which is addressed in a separate decision.

ACTION: Notice of limitation on claims for judicial review of actions by FHWA and other Federal agencies.

SUMMARY: This notice announces action taken by FHWA and other Federal agencies that are final. The actions relate to a proposed highway project, State Route (SR) 66, from SR-34 (US-11E, Andrew Johnson Highway) in Bulls Gap to near Speedwell Road/Old Highway 66, in Hawkins County, Tennessee, for approximately 5.70 miles. The FHWA's Finding of No Significant Impact (FONSI) provides details on the Selected Alternative for the proposed improvements.

DATES: By this notice, FHWA is advising the public of final agency actions subject to 23 U.S.C. 139(l)(1). A claim seeking judicial review of the Federal agency actions on the listed highway project will be barred unless the claim is filed on or before October 13, 2026. If the Federal law that authorizes judicial review of a claim provides a time period of less than 150 days for filing such claim, then that shorter time period still applies.

FOR FURTHER INFORMATION CONTACT: For FHWA: Jacinda Russell, Field Operations & Engineering Team Leader; FHWA, Tennessee Division Office; 404 BNA Drive, Building 200, Suite 508, Nashville, Tennessee 37217; (615) 781-5770; Jacinda.Russell@dot.gov. The FHWA, Tennessee Division Office's normal business hours are 7:30 a.m. to 4:00 p.m. (Central Time). For the Tennessee Department of Transportation (TDOT): Sharon Schutz, P.E., Environmental Division Director, TDOT; 312 Rosa L. Parks Avenue, 14th Floor, Nashville, Tennessee, 37243; (615) 806-2914; Sharon.Schutz@tn.gov. The TDOT Environmental Division's normal business hours are 8:00 a.m. to 5:00 p.m. (Central Time).

SUPPLEMENTARY INFORMATION: Notice is hereby given that FHWA has taken final agency actions by issuing a FONSI for the following highway project in the State of Tennessee: widening and realignment of SR 66, from SR-34 (US-11E, Andrew Johnson Highway) in Bulls Gap to near Speedwell Road/Old Highway 66, in Hawkins County, Tennessee, PIN 107579.00. The project extends approximately 5.70 miles and includes widening the existing two-lane roadway to provide two 12-foot travel lanes with paved shoulders. The Build Alternative would generally follow the existing SR-66 alignment, with minor horizontal or vertical shifts in select locations to address existing geometric deficiencies. Project improvements also include an intermittent 12-foot two-way

left-turn lane, sidewalks, curb and gutter, and guardrail installed at various locations along the corridor.

The FHWA's actions, related actions by other Federal agencies, and the laws under which such actions were taken are described in the Environmental Assessment (EA) for the project, approved on April 15, 2025, and the FONSI approved on October 17, 2025, and other documents in the project file. The EA and FONSI are available by contacting FHWA or TDOT at the addresses provided above. In addition, these documents can be viewed and downloaded from the <https://www.tn.gov/tdot/projects/projects-region-1/state-route-66.html>.

This notice applies to all Federal agency decisions as of the issuance date of this notice and all laws under which such actions were taken, including but not limited to:

1. *General:* National Environmental Policy Act (NEPA) [42 U.S.C. 4321 *et seq.*]; Federal-Aid Highway Act [23 U.S.C. 109, 128, and 139].

2. *Air:* Clean Air Act [42 U.S.C. 7401–7671(q)].

3. *Noise:* Federal-Aid Highway Act of 1970, Public Law 91–605 [84 Stat. 1713]; [23 U.S.C. 109(h) & (i)].

4. *Land:* Section 4(f) of the Department of Transportation Act of 1966 [23 U.S.C. 138 and 49 U.S.C. 303]; Land and Water Conservation Fund (LWCF) [54 U.S.C. 200302–200310].

5. *Wildlife:* Endangered Species Act (ESA) [16 U.S.C. 1531–1544 and Section 1536]; Fish and Wildlife Coordination Act [16 U.S.C. 661–667(d)]; Migratory Bird Treaty Act [16 U.S.C. 703–712].

6. *Historic and Cultural Resources:* Section 106 of the National Historic Preservation Act of 1966, as amended [54 U.S.C. 306108 *et seq.*]; Archaeological Resources Protection Act of 1977 [16 U.S.C. 470(aa)–470(mm)]; Archaeological and Historic Preservation Act [54 U.S.C. 312501–312508]; Native American Grave Protection and Repatriation Act (NAGPRA) [25 U.S.C. 3001–3013].

7. *Social and Economic:* American Indian Religious Freedom Act [42 U.S.C. 1996]; Farmland Protection Policy Act (FPPA) [7 U.S.C. 4201–4209].

8. *Wetlands and Water Resources:* Clean Water Act (Section 319, Section 401, Section 404) [33 U.S.C. 1251–1387]; Safe Drinking Water Act (SDWA) [42 U.S.C. 300(f)–300(j)(26)]; Rivers and Harbors Act of 1899 [33 U.S.C. 401–406]; Wild and Scenic Rivers Act [16 U.S.C. 1271–1287]; Emergency Wetlands Resources Act [16 U.S.C. 3921, 3931]; Wetlands Mitigation, [23 U.S.C. 119(g) and 133(b)(3)]; Flood

Disaster Protection Act [42 U.S.C. 4001–4131].

9. *Hazardous Materials:* Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended by the Superfund Amendments and Reauthorization Act of 1986 (SARA) [42 U.S.C. 9601 *et seq.*]; Resource Conservation and Recovery Act (RCRA) [42 U.S.C. 6901–6992(k)].

10. *Executive Orders:* E.O. 11990 Protection of Wetlands; E.O. 11988 Floodplain Management; E.O. 11593 Protection and Enhancement of Cultural Resources; E.O. 13007 Indian Sacred Sites; E.O. 13287 Preserve America; E.O. 13112 Invasive Species.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Authority: 23 U.S.C. 139(l)(1),

Issued on May 7, 2026.

Dysha Weems,

Finance & Administration Team Leader, Tennessee Division, Federal Highway Administration.

[FR Doc. 2026–09496 Filed 5–12–26; 8:45 am]

BILLING CODE 4910-RY-P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2024–0200]

Drug and Alcohol Clearinghouse Requirements; Driver Qualification Requirements; Waste Management Holdings, Inc.; Application for Exemptions

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

ACTION: Notice of final disposition; grant in part and deny in part application for exemptions.

SUMMARY: FMCSA announces its decision to grant in part and deny in part the exemption application from Waste Management Holdings, Inc. (WM) for a period of two years. FMCSA grants WM's request for limited relief from certain driver qualification requirements to allow WM to use the exception for a "single-employer driver" when it transfers drivers among affiliates. FMCSA also grants a limited exemption from the requirement for the driver to undergo controlled substances testing when being transferred among affiliates if the driver has participated in a WM

random controlled substances testing pool for any WM-affiliated employer for the previous 12 months. Finally, FMCSA grants an exemption to allow WM to conduct a limited, rather than full, Clearinghouse query when transferring drivers among affiliates. FMCSA denies WM's request for broad exemptions from the pre-employment controlled substance testing and Clearinghouse requirements. FMCSA concludes that the exemptions will likely achieve a level of safety equivalent to or greater than the level of safety that would be achieved absent the exemptions.

DATES: This exemption is May 13, 2026 and expires May 13, 2028.

FOR FURTHER INFORMATION CONTACT: Ms. Pearlle Robinson, Driver and Carrier Operations Division; Office of Carrier, Driver and Vehicle Safety Standards, FMCSA; 1200 New Jersey Avenue SE, Washington, DC 20590-0001; (202) 366-4225; pearlie.robinson@dot.gov. If you have questions on viewing or submitting material to the docket, contact Dockets Operations at (202) 366-9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation

Viewing Comments and Documents

To view comments, go to www.regulations.gov, insert the docket number "FMCSA-2024-0200" in the keyword box, and click "Search." Next, sort the results by "Posted (Newer-Older)," choose the first notice listed, click "Browse Comments."

To view documents mentioned in this notice as being available in the docket, go to www.regulations.gov, insert the docket number "FMCSA-2024-0200" in the keyword box, click "Search," and chose the document to review.

If you do not have access to the internet, you may view the docket online by visiting Dockets Operations on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366-9317 or (202) 366-9826 before visiting Dockets Operations.

II. Legal Basis

FMCSA has authority under 49 U.S.C. 31136(e) and 31315(b) to grant exemptions from the Federal Motor Carrier Safety Regulations (FMCSRs). FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public an opportunity to inspect the information relevant to the application, including

the applicant's safety analysis. The Agency must provide an opportunity for public comment on the request.

The Agency reviews the application, safety analyses, and public comments submitted and determines whether granting the exemption would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved absent such exemption, pursuant to the standard set forth in 49 U.S.C. 31315(b)(1). The Agency must publish its decision in the **Federal Register** (49 CFR 381.315(b)). If granted, the notice will identify the regulatory provision(s) from which the applicant will be exempt, the effective period, and all terms and conditions of the exemption (49 CFR 381.315(c)(1)). If the exemption is denied, the notice will explain the reasons for the denial (49 CFR 381.315(c)(2)). The exemption may be renewed (49 CFR 381.300(b)).

III. Background

Current Regulatory Requirements

Under 49 CFR 391.21(a), no person shall operate a commercial motor vehicle (CMV) unless they have completed and provided to their employing motor carrier an application for employment that meets the requirements of section 391.21(b). Under 49 CFR 391.23, the hiring motor carrier must make specified investigations and inquiries, to include contacting previous employers, reviewing motor vehicle records from States where a driver-applicant was licensed, and obtaining a copy of the driver's medical examiner certificate. Under 49 CFR 391.23(e), if the driver was employed in a safety-sensitive function that required alcohol and controlled substance testing specified by 49 CFR part 40 within the previous three years, the hiring motor carrier must investigate the driver's DOT drug and alcohol program compliance.

Motor carriers must also retain certain paperwork in the driver qualification file, pursuant to 49 CFR 391.51. The file must include the driver's application for employment; information relating to the driver's motor vehicle record received from the driver's licensing authority; the driver's certificate of road test or equivalent; the driver's medical examiner certificate and supplemental documentation, if any; the driver's Skills Performance Evaluation certificate or exemption documentation, if applicable; and verification of the medical examiner's listing on the National Registry of Certified Medical Examiners.

Under 49 CFR 391.65, a motor carrier may employ a driver who is not a

"single-employer driver," as defined in 49 CFR 390.5T, of that motor carrier without complying with the generally applicable driver qualification file requirements in Part 391, if the driver is a single-employer driver for another motor carrier and the other motor carrier certifies that the driver is fully qualified to drive a CMV in a written statement. A "single-employer driver" is defined in 49 CFR 390.5T as "a driver who, in any period of 7 consecutive days, is employed or used as a driver solely by a single motor carrier." In practice, this means that a motor carrier may use the exception in 49 CFR 391.65 if the motor carrier does not employ the driver for more than 6 consecutive days.

In addition to the requirements in 49 CFR part 391, for drivers subject to FMCSA's drug and alcohol use and testing program requirements in 49 CFR part 382, an employer must also administer a pre-employment test for controlled substances prior to the first time a driver performs a safety-sensitive function for the employer (49 CFR 382.301(a)), unless the driver is eligible for an exception under 49 CFR 382.301(b). This exception applies if the driver has participated in a controlled substances testing program within the previous 30 days and either was tested for controlled substances within the past six months or participated in the random controlled substances testing program for the previous 12 months. The employer must ensure that no prior employer has records of a controlled substances violation within the previous six months.

The hiring employer must also conduct a full pre-employment query of FMCSA's Drug and Alcohol Clearinghouse, as required by 49 CFR 382.413(b) and 382.701(a). An employer must obtain the driver's specific consent, provided electronically through the Clearinghouse, prior to the release of detailed information in response to the full query.

Applicant's Request

On August 22, 2024, the Agency requested public comment on WM's exemption request (89 FR 68024). The details of WM's request can be found in that notice and will not be repeated here, as the information has not changed.

IV. Public Comments

The Agency received 15 comments: 11 in support, three in opposition, and one taking no position either for or against granting the exemptions. WM also responded to one comment that opposed the exemptions.

Of the 11 comments in support of granting the exemptions, four were from trucking companies or associations (Bridgeway Connects Inc., National Waste Recycling Association (NWRA), Pennsylvania Motor Truck Association, and Western States Trucking Association (WSTA)), and seven were from individuals.

Comments in support of the exemption supported increased efficiency. Bridgeway Connects Inc. commented, "This process enhances efficiency but also ensures consistent Safety and Compliance with regulatory requirements across the entire fleet." WSTA noted that its member companies with multiple divisions under separate U.S. DOT numbers typically conduct driver related safety management through a centralized office. NWRA supported WM's request because it would "implement a more streamlined process for operations by allowing WM drivers to transfer between operating authorities under the company's umbrella without having to complete mandated paperwork as if these drivers are an outside employee."

An individual commenter, Wayne Gilbert, stated that he was an FMCSA-trained state safety investigator for over 7 years and is currently employed as a WM driver safety trainer at one of their two training centers. Mr. Gilbert supported the exemption, writing, "At the training center, I have trained drivers from across the country. It does not matter which USDOT number (state/site) they came from, all drivers are held to the same [driver qualification] file and the same [drug and alcohol] standards across the nation."

Two individuals, Gene Hullette and Carl Wolf, and one company, AWM Associates, LLC (AWM), opposed the exemption. Mr. Hullette said, "[T]he administrative burden they claim is due to [WM's] own self-created inefficiencies in that they are one corporate entity having 83 different DOT identities, which by the way, seems questionable to me upon the surface anyway why they are structured that way." Similarly, Mr. Wolf asked FMCSA to "deny this attempt to abuse our regulations" and questioned why any company would need over 80 USDOT numbers.

AWM reviewed the safety record of each WM entity and provided the research in an attached spreadsheet. AWM noted, "Regardless of other entities being granted a waiver, WM's ad hoc network and multiple DOT numbers, some with Conditional safety ratings for decades indicates that WM has allowed some safety management programs to slide." AWM also identified

a number of violations for failure of WM affiliate drivers to be medically qualified and to have a valid commercial driver's license (CDL) and noted that drivers without a required CDL would not have received a required pre-employment drug and alcohol test. In addition, AWM noted that 16 affiliates are registered as intrastate-only carriers.

WM responded to AWM's comments and explained that many of the Conditional safety ratings were in place prior to its acquisition of the subject entities and that WM had no hand in the issues that led to the imposition of the ratings. WM noted that "FMCSA has acknowledged many times, including in its pending Advanced Notice of Proposed Rulemaking on Safety Fitness Determinations (Docket No. FMCSA-2022-0003), a safety rating 'is a snapshot of a company's safety performance at the time of the investigation.'"

V. FMCSA Decision

FMCSA has evaluated WM's application for exemption and the public comments and based on its analysis, grants an exemption to allow WM to use the exception for a "single-employer driver" in 49 CFR 391.65 for drivers who are transferred among WM affiliates for periods longer than six days. FMCSA believes this exemption will likely achieve a level of safety equivalent to or greater than the level of safety achieved by complying with the regulations because WM remains responsible for complying with the driver qualification file requirements and for maintaining the required documentation.

FMCSA denies WM's request for a blanket exemption from the pre-employment testing requirements in 49 CFR 382.301(a). The drug and alcohol testing requirements in part 382 serve several essential safety functions, including deterring substance misuse, identifying impaired drivers before they operate a CMV, removing unsafe drivers from service, and ensuring that drivers who test positive are subject to appropriate evaluation and treatment. WM, however, may use the exception in 49 CFR 382.301(b) if the driver has participated in a WM controlled substances testing program that meets the requirements of 49 CFR part 382 within the previous 30 days and, while participating in that program, either was tested for controlled substances within the past six months (from the date of the transfer from one WM affiliate to another) or participated in a WM random controlled substances testing program for any WM-affiliated employer

for the previous 12 months. FMCSA agrees with WM that this practice meets the spirit of the existing exception in 49 CFR 382.301(b) because any driver who qualifies for this exception will have either been tested for controlled substances within the previous six months or will have been enrolled in a WM random controlled substances testing program for the previous 12 months.

FMCSA also denies the request for a broad exemption from the pre-employment Clearinghouse query requirements in 49 CFR 382.701(a) for the same reason the Agency denied the blanket exemption from the pre-employment testing requirements in 49 CFR 382.301(a). However, FMCSA is granting an exemption from 49 CFR 382.701(a)(2) to allow WM to conduct a limited query, rather than a full query, to satisfy the requirements of 49 CFR 382.701(a) when transferring a driver from one affiliate to another. If the limited query reveals that information about the driver exists in the Clearinghouse, the driver is not permitted to perform safety-sensitive functions unless and until a full query subsequently shows that the driver is not prohibited from operating a CMV. As WM notes in its application, FMCSA granted a similar exemption from 49 CFR 382.701(a)(2) to DISA Entertainment Compliance Solutions (90 FR 21541, May 20, 2025). FMCSA believes that granting those limited exemptions to 49 CFR part 382 will likely achieve an equivalent level of safety because WM remains responsible for ensuring that its drivers undergo pre-employment testing and for ensuring that no information exists in the Clearinghouse about a driver when the driver is transferred among affiliates.

FMCSA reviewed the safety records of each affiliate carrier and acknowledges AWM's concerns regarding the safety records of some carriers. Under the terms and conditions of the exemption, should any affiliate carrier receive a final Unsatisfactory safety rating, the exemption is automatically rescinded as to all affiliates. FMCSA notes that the exemption does not relieve WM from the requirement to ensure all drivers are qualified under 49 CFR 391.11, nor does it relieve WM from the required inquiries and investigations under 49 CFR part 391. The exemption also does not relieve WM from the requirement to ensure all drivers are compliant with 49 CFR part 382. Lastly, FMCSA is limiting the exemption to two years to allow FMCSA to monitor any potential safety impacts of the exemption.

VI. Exemptions Decision**A. Grant of Exemptions**

FMCSA grants an exemption from the “seven consecutive day” requirement in the definition of “Single-employer driver” in 49 CFR 390.5T such that WM may use the exception in 49 CFR 391.65 when it transfers a driver from one WM affiliate to another WM affiliate for a period of seven or more days. FMCSA also grants an exemption from 49 CFR 382.301(b)(2)(ii) to allow WM to use the exception in 49 CFR 382.301(b) when a driver is being transferred from one WM affiliate to another WM affiliate, as long as the driver was continuously enrolled in any WM random controlled substances testing pool continuously for at least the previous 12 months. Finally, FMCSA grants an exemption from 49 CFR 382.701(a)(2) to allow WM to conduct a limited query of the Clearinghouse when transferring a driver from one WM affiliate to another WM affiliate, rather than conducting a full pre-employment query. If the limited query indicates that information about the driver exists in the Clearinghouse, the driver is not permitted to perform safety-sensitive functions unless and until a full query subsequently shows that the driver is not prohibited from operating a CMV.

B. Applicability of Exemptions

The exemptions apply to WM, the 83 WM affiliate motor carriers listed in the appendix to this notice, and the drivers employed by WM and its affiliates.

C. Terms and Conditions

1. WM and its affiliated motor carriers must comply with all other applicable FMCSRs (49 CFR parts 350–399).

2. WM and its affiliated motor carriers must ensure that no employee drives a CMV until he or she is qualified to drive a CMV under 49 CFR 391.11.

3. WM and its affiliated motor carriers must ensure that no driver subject to 49 CFR part 382 operates a CMV when he or she is not compliant with the requirements in part 382.

4. All affiliated motor carriers must be enrolled in, and actively participating in, WM’s Employment Screening Program and its licensing monitoring system.

5. If any affiliated motor carrier receives a final Unsatisfactory safety rating from FMCSA, the exemptions as to all affiliates are automatically rescinded.

6. WM and its affiliated motor carriers may be investigated to evaluate compliance with the terms and conditions of this exemption, in addition to compliance with the FMCSRs.

7. Upon request, WM must provide to FMCSA:

(a) The number of limited pre-employment queries conducted under this exemption; and

(b) The number of driver transfers performed among affiliates under this exemption.

8. WM shall, at FMCSA’s request, provide additional data and information and shall meet with FMCSA to answer

questions regarding data and information provided under this exemption.

D. Preemption

In accordance with 49 U.S.C. 31315(d), as implemented by 49 CFR 381.600, during the period this exemption is in effect, no State shall enforce any law or regulation applicable to interstate commerce that conflicts with or is inconsistent with these exemptions with respect to a firm or person operating under the exemptions.

E. Termination

FMCSA does not believe WM’s affiliated motor carriers covered by these exemptions will experience any deterioration of their safety records. FMCSA will immediately take steps to revoke the exemptions if: (1) motor carriers operating under the exemptions fail to comply with the terms and conditions of the exemptions; (2) the exemptions result in a lower level of safety than was maintained before the exemptions were granted; or (3) continuation of the exemptions would not be consistent with the goals and objectives of Title 49, chapter 313 or section 31136. The exemptions are automatically terminated if any affiliated motor carrier receives a final Unsatisfactory safety rating.

Derek Barrs,
Administrator.

Appendix: Waste Management Holdings List of 83 Motor Carriers

Motor carrier	DOT No.	Street address	City, state, zip code
1. Reno Disposal Co	17157	1394 E Commercial Row	Reno, NV 89512.
2. Waste Management of Kentucky LLC	92061	7501 Grade Lane	Louisville, KY 40219.
3. Waste Management of Wisconsin Inc	150683	W132 N10487 Grant Drive	Germantown, WI 53022.
4. Chemical Waste Management Inc	157567	7170 John Brannon Road	Sulphur, LA 70665.
5. Waste Away Group Inc	193891	700 Clow Road	Birmingham, AL 35217.
6. Waste Management Collection & Recycling Inc	216875	17700 Indian Street	Moreno Valley, CA 92551.
7. GI Industries Inc	216910	195 W Los Angeles Avenue	Simi Valley, CA 93065.
8. Waste Management Recycle America LLC	225628	9590 Clay Road	Houston, TX 77080.
9. Waste Management of Delaware Inc	231232	300 Harvey Drive	Wilmington, DE 19804.
10. Waste Management of Iowa Inc	232638	315 43rd Street SW	Mason City, IA 50401.
11. Waste Management of NY LLC	237060	100 Ransier Drive	West Seneca, NY 14224.
12. Waste Management of Missouri Inc	263893	220 Aurora	St Louis, MO 63147.
13. Waste Management of Mississippi Inc	268831	1450 Country Club Drive	Jackson, MS 39209.
14. Deffenbaugh Industries Inc	271225	2601 Midwest Drive	Kansas City, KS 66111.
15. Waste Management of New Hampshire Inc	281653	15 Taylor Avenue	Rochester, NH 03839.
16. Waste Management of Rhode Island Inc	286550	1610 Pontiac Avenue	Cranston, RI 02920.
17. Waste Management of Illinois Inc	289606	700 E Butterfield Road	Lombard, IL 60148.
18. Waste Management of Oklahoma Inc	293260	3824 W Reno Avenue	Oklahoma City, OK 73107.
19. Waste Management of Maine Inc	297498	2000 Forest Avenue	Portland, ME 04103–1004.
20. Waste Management of Minnesota Inc	308623	W132N10487 Grant Drive	Germantown, WI 53022.
21. Waste Management of Massachusetts Inc	316373	26 Patriot PL Ste 300	Foxboro, MA 02035–3304.
22. Waste Management of Ohio Inc	332596	1006 W Walnut Street	Canal Winchester, OH 43110.
23. Waste Management of Nebraska Inc	334402	13505 N 216th Street	Bennington, NE 68007.
24. Waste Management of Maryland Inc	334445	3545 Fairfield Road	Baltimore, MD 21226.
25. Waste Management of Virginia Inc	334446	3016 Yadkin N Road	Chesapeake, VA 23323–2206.
26. Waste Management of South Carolina Inc	334449	390 Innovation Way	Wellford, SC 29385.
27. Waste Management of Carolinas Inc	334451	2712 Lowell Road	Gaston, NC 28054.
28. Waste Management of West Virginia Inc	335239	1488 Dawson Drive	Bridgeport, WV 26330.

Motor carrier	DOT No.	Street address	City, state, zip code
29. Waste Management of Pennsylvania Inc	344050	197 Swamp Creek Road	Gilbertsville, PA 19525.
30. Waste Management of Leon County	357001	11990 SR 82	Fort Myers, FL 33913.
31. Waste Management of New Mexico Inc	364545	402 Industrial Park Loop	Rio Rancho, NM 87124.
32. City Disposal Systems Inc	364781	11990 SR 82	Fort Myers, FL 33913.
33. USA Waste of California Inc	375375	9081 Tujunga Avenue	Sun Valley, CA 91352.
34. WM of Kansas Inc	376492	3611 NW 16th Street	Topeka, KS 66618.
35. Waste Management of Idaho-Sandpoint	380096	825 Kootena Cutoff Road	Ponderay, ID 83864.
36. Greenstar Mid America LLC	380449	5610 East Houston Street	San Antonio, TX 78220.
37. Waste Management of Texas, Inc	386083	3623 Wilson Road	Humble, TX 77396.
38. Waste Management of Colorado, Inc	388132	5500 S Quebec St., Suite 250	Greenwood Village, CO 80111.
39. Waste Management of Utah Inc	389289	8652 South 4000 West	West Jordan, UT 84088-5425.
40. TX NewCO LLC	405569	2708 West 7th Street	Texarkana, TX 75501.
41. Waste Management of LA LLC	418853	2685 Gause Boulevard West	Slidell, LA70460.
42. Waste Management of New Jersey, Inc	446050	208 Patterson Avenue	Trenton, NJ 08610.
43. Waste Management of Tennessee	448609	1428 Antioch Pke	Nashville, TN 37013.
44. Waste Management of Arkansas	464828	2900 West 68th Street	Little Rock, AR 72209.
45. Waste Management of Michigan, Inc	486983	48797 Alpha Drive	Wixom, MI 48393.
46. Waste Management of Iowa, Inc	501287	201 SE 18th Street	Des Moines, IA 50317.
47. Waste Management of Oregon	535166	7227 NE 55th Avenue	Portland, OR 97218-1215.
48. Chemical Waste Management of the NW	611580	17629 Cedar Springs Lane	Arlington, OR 97812.
49. Grenstar LLC	644856	178 Durkee Road NE	Cleveland, TN 37323.
50. WM Transport of Indiana LLC	649935	2920 E US 52	Morristown, IN 46161.
51. Greenstar Patterson LLC	649935	59-85 Florida Avenue	Patterson, NJ 07503.
52. Advanced Disposal Services Solid Waste South-east, Inc.	817559	1800 N Military Trail Suite 201	Boca Raton, FL 33431.
53. Waste Management of Arizona Inc	827166	222 South Mill Avenue	Tempe, AZ 85281.
54. Harris Sanitation, Inc	834365	7382 Talona Drive	West Melbourne, FL 32904.
55. Waste Management of Florida	856351	1800 N Military Trail Suite 201	Boca Raton, FL 33431.
56. Advanced Disposal Services Solid Waste Midwest, LLC.	887804	W132N10487 Grant Drive	Germantown, WI 53022.
57. Georgia Waste Systems Inc	913435	208 Prep Phillips Drive	Augusta, GA 30901.
58. Chemical Waste Management, Inc	985468	36964 Alabama Highway 17	Emelle, AL 35459-0055.
59. RAA Trucking LLC	997647	1001 Fannin	Houston, TX 77002.
60. Deffenbaugh Recycling Company LLC	1010315	2404 88th Street	Kansas City, KS 66111.
61. Elk River Landfill Registrant, Inc	1153523	22460 Hwy. 169 NW	Elk River, MN 55330.
62. Waste Management	1175653	910 West Baraga Avenue	Marquette, MI 49855.
63. Waste Management of Georgia, Inc	1244109	8029 Speedway Boulevard	Hardeeville, SC 29927.
64. Waste Management National Services, Inc	1527340	720 East Butterfield Road	Lombard, IL 60148.
65. Waste Management of Londonderry, Inc	1704642	26 Liberty Drive	Londonderry, NH 03053.
66. WM Lampracker, Inc	1846707	221 N 48th Avenue Suite B2	Phoenix, AZ 85043.
67. Waste Management of Washington, Inc	1967746	720 4th Avenue Suite 400	Kirkland, WA 98034.
68. WM Curbside, LLC	2089958	10633 Ruchti Road	South Gate, CA 90280.
69. Waste Management of Nevada, Inc	2123311	100 Vassar Street	Reno, NV 89502.
70. Waste Management of South Dakota, Inc	2395615	2221 E Rice Street	Sioux Falls, SD 57103.
71. Waste Management of North Dakota, Inc	2395639	7007 15th Street NW	Bismarck, ND 58503.
72. L&K Group Holdings LLC	2460381	26873 Metcalf	Louisburg, KS 66053.
73. Waste Management National Transportation Services, Inc.	2552725	610 Bennett Road	Homer, GA 30547.
74. Burney Disposal Inc	2745465	37484 B Cornaz Drive	Burney, CA 96013.
75. Valley Garbage & Rubbish Company, Inc	2831532	1850 West Betteravia Road	Santa Maria, CA 93455.
76. Waste Management of California Inc	2831542	2141 Oceanside Boulevard	Oceanside, CA 92054.
77. Looney Bins, Inc	2831599	2424 East Olympia Boulevard	Los Angeles, CA 90021.
78. Cal Sierra Disposal	2831758	14959 Camage Avenue	Sonora, CA 94603.
79. Waste Management of Alameda County, Inc	2831765	172 98th Avenue	Oakland, CA 94603.
80. Modesto Garbage Co, Inc	2938674	730 Industry Way	Atwater, CA 95301.
81. Capital Sanitation, Inc	3250192	1392 Commercial Row	Reno, NV 89512.
82. CGS Leasing, Inc	4188174	3726 E State Road 64	Winslow, IN 47598.
83. Winters Bros Hauling of Long Island LLC	2483208	120 Nancy Street	West Babylon, NY 11704.

[FR Doc. 2026-09469 Filed 5-12-26; 8:45 am]

BILLING CODE 4910-EX-P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA-2011-0069]

Notice of Petition for Extension of Waiver of Compliance

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice.

SUMMARY: This document provides the public notice that Northern Central Railway of York (NCR) petitioned FRA for an amendment of relief from certain regulations concerning safety glazing on a locomotive.

DATES: FRA must receive comments on the petition by July 13, 2026. FRA will consider comments received after that date to the extent practicable.

ADDRESSES:

Comments: Comments related to this docket may be submitted by going to <https://www.regulations.gov> and following the online instructions for submitting comments.

Instructions: All submissions must include the agency name and docket number. All comments received will be posted without change to <https://www.regulations.gov>; this includes any personal information. Please see the Privacy Act heading in the **SUPPLEMENTARY INFORMATION** section of this document for Privacy Act information related to any submitted comments or materials.

Docket: For access to the docket to read background documents or comments received, go to <https://www.regulations.gov> and follow the online instructions for accessing the docket.

FOR FURTHER INFORMATION CONTACT:

Michael Barron, Railroad Safety Specialist, FRA Motive Power & Equipment Division, telephone: 202-493-1367, email: michael.barron@dot.gov.

SUPPLEMENTARY INFORMATION: Under part 211 of title 49 Code of Federal Regulations (CFR), this document provides the public notice that by letter received March 16, 2026, NCR petitioned FRA for an addendum of a waiver of compliance from certain provisions of the Federal railroad safety regulations contained in 49 CFR part 223 (Safety Glazing Standards—Locomotives, Passenger Cars and Cabooses). The relevant Docket Number is FRA-2011-0069.

Specifically, NCR requests an amendment to the existing waiver from § 233.9, *Requirements for equipment built or rebuilt after June 30, 1980*, which, in part, requires locomotives with the specified characteristics to be equipped with certified glazing in all locomotive cab windows. That waiver granted relief from glazing requirements on steam locomotive 17 (No. 17), which is used in tourist excursion service. In its March 16, 2026 petition, NCR requested that No. 17's operation area be expanded to the Gettysburg and Northern Railroad, between Gettysburg and Mount Holly Springs, Pennsylvania, and the CSX Transportation Hanover Subdivision, from BAS 70.8 to BAS 72.0.

In addition, NCR requests reconsideration of FRA's determination of part 223's applicability to No. 17's operations. In support of this request for reconsideration, NCR stated that it has "historically been treated as a non-general system railroad" due to its

limited operation and lack of an accessible physical connection to the national rail network. It also represented that its "[t]rains operate at speeds not exceeding 15 miles per hour and primarily traverse rural territory."

A copy of the petition, as well as any written communications concerning the petition, is available for review online at www.regulations.gov.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment and a public hearing, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

Communications received by July 13, 2026 will be considered by FRA before final action is taken. Comments received after that date will be considered if practicable.

Privacy Act

Anyone can search the electronic form of any written communications and comments received into any of FRA's dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). Under 5 U.S.C. 553(c), DOT solicits comments from the public to inform its processes. DOT posts these comments, without edit, including any personal information the commenter provides, to www.regulations.gov, as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at <https://www.transportation.gov/privacy>. See also <https://www.regulations.gov/privacy-notice> for the privacy notice of [regulations.gov](https://www.regulations.gov).

Issued in Washington, DC.

John Karl Alexy,

Associate Administrator for Railroad Safety, Chief Safety Officer.

[FR Doc. 2026-09443 Filed 5-12-26; 8:45 am]

BILLING CODE 4910-06-P

DEPARTMENT OF TRANSPORTATION**Federal Railroad Administration**

[Docket Number FRA-2000-7137]

Notice of Petition for Extension of Waiver of Compliance

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice.

SUMMARY: This document provides the public notice that San Diego Trolley Incorporated (SDTI) petitioned FRA for an extension of relief from certain regulations related to its shared use property.

DATES: FRA must receive comments on the petition by July 13, 2026. FRA will consider comments received after that date to the extent practicable.

ADDRESSES:

Comments: Comments related to this docket may be submitted by going to <https://www.regulations.gov> and following the online instructions for submitting comments.

Instructions: All submissions must include the agency name and docket number. All comments received will be posted without change to <https://www.regulations.gov>; this includes any personal information. Please see the Privacy Act heading in the **SUPPLEMENTARY INFORMATION** section of this document for Privacy Act information related to any submitted comments or materials.

Docket: For access to the docket to read background documents or comments received, go to <https://www.regulations.gov> and follow the online instructions for accessing the docket.

FOR FURTHER INFORMATION CONTACT: John Mardente, Railroad Safety Specialist, FRA Engineering & Technology Division, telephone: 202-493-1335, email: john.mardente@dot.gov.

SUPPLEMENTARY INFORMATION: Under part 211 of title 49 Code of Federal Regulations (CFR), this document provides the public notice that by letter dated March 17, 2026, the SDTI petitioned FRA for an extension of a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at multiple parts of 49 CFR: part 217 (Railroad Operating Rules); section 218.27 (*Workers on track other than main track*); part 219 (Control of Alcohol and Drug Use); part 220 (Railroad Communications); part 221 (Rear End Marking Device—Passenger, Commuter and Freight Trains); section 223.9 (*Requirements for equipment built or rebuilt after June 30, 1980*), 223.17,¹ and 223.15 (*Requirements for passenger cars built or rebuilt prior to July 1, 1980*); part 225 (Railroad Accidents/Incidents: Reports Classification, and Investigations); part 228 (Passenger Train Employee Hours of

¹ The stenciling requirements of § 223.17 were eliminated in a final rule that took effect on April 11, 2016. 81 FR 6775 (Feb. 9, 2016).

Service; Recordkeeping and Reporting; Sleeping Quarters); part 229 (Railroad Locomotive Safety Standards); section 231.14 (*Passenger-train cars without end platforms*); part 238 (Passenger Equipment Safety Standards); part 239 (Passenger Train Emergency Preparedness); part 240 (Qualification and Certification of Locomotive Engineers); part 242 (Qualification and Certification of Conductors); and part 270 (System Safety Program). FRA assigned the petition Docket Number FRA-2000-7137.

Specifically, the SDTI requests extended relief from the parts given above for certain Light Rail Transit System operations, which share certain track with San Diego & Imperial Valley Railroad freight service. The extension would allow continued limited nighttime join operations.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at www.regulations.gov.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment and a public hearing, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

Communications received by July 13, 2026 will be considered by FRA before final action is taken. Comments received after that date will be considered if practicable.

Privacy Act

Anyone can search the electronic form of any written communications and comments received into any of FRA's dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). Under 5 U.S.C. 553(c), DOT solicits comments from the public to inform its processes. DOT posts these comments, without edit, including any personal information the commenter provides, to www.regulations.gov, as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at <https://www.transportation.gov/privacy>. See also <https://www.regulations.gov/privacy-notice> for the privacy notice of www.regulations.gov.

Issued in Washington, DC.

John Karl Alexy,

*Associate Administrator for Railroad Safety,
Chief Safety Officer.*

[FR Doc. 2026-09446 Filed 5-12-26; 8:45 am]

BILLING CODE 4910-06-P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD-2026-0701]

Request Notice: Use of Foreign-Built Small Passenger Vessel in United States Coastwise Trade, S/V LA BATEAU

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 June 12, 2026.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD-2026-0701 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.

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.

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. 2026–09548 Filed 5–12–26; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2026–0695]

Request Notice: Use of Foreign-Built Small Passenger Vessel in United States Coastwise Trade, S/V DEVINE SAILING

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 June 12, 2026.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2026–0695 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

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.

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. 2026-09549 Filed 5-12-26; 8:45 am]

BILLING CODE 4910-81-P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD-2026-0696]

Request Notice: Use of Foreign-Built Small Passenger Vessel in United States Coastwise Trade, M/V MISS APALACHICOLA

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 June 12, 2026.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD-2026-0696 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

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.

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

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(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. 2026-09547 Filed 5-12-26; 8:45 am]

BILLING CODE 4910-81-P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD-2026-0699]

Request Notice: Use of Foreign-Built Small Passenger Vessel in United States Coastwise Trade, M/V REMEDY

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 June 12, 2026.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD-2026-0699 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.

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.

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

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(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. 2026-09545 Filed 5-12-26; 8:45 am]

BILLING CODE 4910-81-P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2026–0700]

Request Notice: Use of Foreign-Built Small Passenger Vessel in United States Coastwise Trade, M/V TAXI DIVER

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 June 12, 2026.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2026–0700 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

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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

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(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. 2026-09546 Filed 5-12-26; 8:45 am]

BILLING CODE 4910-81-P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD-2026-0697]

Request Notice: Use of Foreign-Built Small Passenger Vessel in United States Coastwise Trade, S/V ALDEBARAN

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 June 12, 2026.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD-2026-0697 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

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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

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(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. 2026-09552 Filed 5-12-26; 8:45 am]

BILLING CODE 4910-81-P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD-2026-0698]

Request Notice: Use of Foreign-Built Small Passenger Vessel in United States Coastwise Trade, S/V DAMA LINDO

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 June 12, 2026.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD-2026-0698 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

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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?

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Will my comments be made available to the public?

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May I submit comments confidentially?

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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. 2026-09550 Filed 5-12-26; 8:45 am]

BILLING CODE 4910-81-P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD-2026-0694]

Request Notice: Use of Foreign-Built Small Passenger Vessel in United States Coastwise Trade, M/V CALAIS

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 June 12, 2026.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD-2026-0694 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.

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.

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. 2026–09551 Filed 5–12–26; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0924]

Agency Information Collection Activity: Request for Payment of Bowel and Bladder Services

AGENCY: Veterans Health Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: Veterans Health Administration (VHA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish a notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice.

DATES: Comments must be received on or before July 13, 2026.

ADDRESSES: Comments must be submitted through www.regulations.gov.

FOR FURTHER INFORMATION CONTACT:

Program-specific information: Rebecca Mimmall, 202–695–9434, vhacopra@va.gov.

VA PRA information: Dorothy Glasgow, 202–461–1084, VAPRA@va.gov.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995, Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VHA invites comments on: (1) whether the proposed collection of information is necessary for the proper performance of VHA’s functions, including whether the information will have practical utility; (2) the accuracy of VHA’s estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Request for Payment of Bowel and Bladder Services, VA Form 10–314.

OMB Control Number: 2900–0924.
<https://www.reginfo.gov/public/do/>

PRA Search (Once at this link, you can enter the OMB Control Number to find the historical versions of this Information Collection).

Type of Review: Reinstatement with change of a previously approved collection.

Abstract: Legal authority for this information collection is found in 38 U.S.C., Chapter 17, for Veterans seeking health care services. Data collected may be used to establish, determine, and monitor eligibility to receive VA benefits and for authorizing and paying Non-VA healthcare services furnished to Veterans and beneficiaries. VA Form 10–314 is required for caregivers to receive reimbursement for bowel and bladder care services. The form is used to list the dates and times the care was rendered to the Veteran and is then submitted monthly to VA to request payment for those services. There is a decrease in the anticipated annual number of responses and burden hours based upon program data since the last PRA clearance.

Affected Public: Individuals or Households.

Estimated Annual Burden: 6,200 hours.

Estimated Average Burden per Respondent: 10 minutes.

Frequency of Response: 12 times per year.

Estimated Number of Responses: 37,200.

Authority: 44 U.S.C. 3501 *et seq.*

Lanea Haynes,

Alternate, VA PRA Clearance Officer, Office of Information Technology, Data Governance Analytics, Department of Veterans Affairs.

[FR Doc. 2026–09511 Filed 5–12–26; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0904]

Agency Information Collection Activity Under OMB Review: Staff Sergeant Parker Gordon Fox Suicide Prevention Grant Program (SSG Fox SPGP)

AGENCY: Veterans Health Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995, this notice announces that the Veterans Health Administration (VHA), Department of Veterans Affairs (VA), will submit the collection of information abstracted below to the Office of Management and Budget

(OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden, and it includes the actual data collection instrument.

DATES: Comments and recommendations for the proposed information collection should be sent by June 12, 2026.

ADDRESSES: To submit comments and recommendations for the proposed information collection, please type the following link into your browser: www.reginfo.gov/public/do/PRAMain, select “Currently under Review—Open for Public Comments”, then search the list for the information collection by Title or “OMB Control No. 2900–0904.”

FOR FURTHER INFORMATION CONTACT:

VA PRA information: Dorothy Glasgow, 202–461–1084, VAPRA@va.gov.

SUPPLEMENTARY INFORMATION:

Title: Staff Sergeant Parker Gordon Fox Suicide Prevention Grant Program (SSG Fox SPGP) (VA Forms 10–315a–b, 10–316b–e, and 10–317a–e).

OMB Control Number: 2900–0904.
<https://www.reginfo.gov/public/do/PRAsearch>.

Type of Review: Reinstatement of a previously approved collection.

Abstract: On October 17, 2020, the Commander John Scott Hannon Veterans Mental Health Care Improvement Act of 2019, Public Law (Pub. L.) 116–171 (the Act), codified as a note to section 1720F of title 38, United States Code (U.S.C.), was enacted in law. Section 201 of the Act mandated VA establish the Staff Sergeant Parker Gordon Fox Suicide Prevention Grant Program (SSG Fox SPGP) to reduce Veteran suicide through the provision of community-based grants to certain eligible entities to provide or coordinate the provision of suicide prevention services to eligible individuals and their families.

In order to award grants under this program, and assess services and compliance with grants provided, VA requires submission of Applications for grants and Renewals of grants, Compliance Reports, Eligibility Screening, Intake Forms, Baseline Mental Health Screening, Participant Satisfaction Surveys, and Program Exit Screening Checklists.

VA Form 10–315a—Application: This information is needed to award SSG Fox SPGP grants to eligible entities. The application requirements are consistent with section 201(f) of the Act and are designed to ensure that VA can fully evaluate the ability of applicants to achieve the goals of the grant program.

VA Form 10–315b—Renewal Application: This data collection instrument has been developed for grantees to renew grants previously awarded. The renewal application will allow VA to fully evaluate the ability of applicants to achieve the goals of the SSG Fox SPGP and proposed 38 CFR part 78. This information will be used by VA to determine whether to award renewal funds to existing grantees.

VA Forms 10–316b–e—Compliance Reports: This collection of information will be required to ensure grantees are complying with all program requirements set forth in proposed 38 CFR part 78 and their grant agreements. These reports will allow VA to assess the provision of services under this grant program. The reports consist of mid-year and end-of-year Performance Reports, Program & Budget Changes, Corrective Action Plans, and Annual Financial Expenditure Reports.

VA Form 10–317a—Eligibility Screening Form: This data will be collected by grantee staff to determine eligibility for the grant program, prior to enrollment. Suicide risk screening will be administered by grantees using the existing Columbia Suicide Severity Rating Scale (C–SSRS) to assess suicide risk of program participants.

VA Form 10–317b—Intake Form: This data collection instrument will be used by grantee staff to collect demographic and military service. This information will be used by the VA to identify trends of the Veteran population the grantees are servicing.

VA Form 10–317c—Participant Satisfaction Survey: This data collection instrument has been developed to capture participant feedback about services and to evaluate the SSG Fox SPGP. This information will be used by VA to determine the satisfaction of Veterans participating in the grant program funded services and the effectiveness of those services provided under the SSG Fox SPGP.

VA Form 10–317d—Program Exit Screening Checklist: This data collection instrument will be used by grantee staff at the completion of the program to track the following assessments upon program exit: Social Economic Status (SES); Patient Health Questionnaire (PHQ–9); Short Warwick-Edinburgh Mental Wellbeing Scale (SWEMWS); and Interpersonal Support Evaluation List (ISEL–12).

VA Form 10–317e—Baseline Mental Health Screening: This screening is required for all eligible individuals upon enrollment in the program. The screening includes the following assessments: Social Economic Status (SES); Patient Health Questionnaire

(PHQ–9); Warwick-Edinburgh Mental Wellbeing Scale (WEMWS); and Interpersonal Support Evaluation List (ISEL–12).

The program has streamlined certain requirements by consolidating the Performance Reports into one form that is submitted twice per year and requiring only one Annual Financial Report. The prior Intake Form and Assessments has been split into two forms that have the same total burden, with one form used only for intake information and a new form that captures baseline mental health assessment information. Several of the remaining forms have been updated with required PRA information and other minor changes for clarity and ease of use by respondents. Overall, there is an increase in the number of respondents and burden hours for the SSG Fox SPGP based upon program data, which includes an increase in the number of applicants.

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 **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published at 91 FR 8311, February 20, 2026.

Total Annual Number of Responses = 54,525.

Total Annual Time Burden = 31,166 hours.

VA Form 10–315a:
Affected Public: Private Sector.
Estimated Annual Burden: 12,600 hours.

Estimated Average Burden per Respondent: 35 hours.

Frequency of Response: Once annually.

Estimated Number of Respondents: 360.

VA Form 10–315b:
Affected Public: Private Sector.
Estimated Annual Burden: 900 hours.
Estimated Average Burden per Respondent: 10 hours.

Frequency of Response: Once annually.

Estimated Number of Respondents: 90.

VA Form 10–316b:
Affected Public: Private Sector.
Estimated Annual Burden: 90 hours.
Estimated Average Burden per Respondent: 30 minutes.

Frequency of Response: Twice annually.

Estimated Number of Respondents: 90.

VA Form 10–316c:
Affected Public: Private Sector.
Estimated Annual Burden: 45 hours.

Estimated Average Burden per Respondent: 15 minutes.

Frequency of Response: Twice annually.

Estimated Number of Respondents: 90.

VA Form 10–316d:

Affected Public: Private Sector.

Estimated Annual Burden: 13 hours.

Estimated Average Burden per Respondent: 30 minutes.

Frequency of Response: Once annually.

Estimated Number of Respondents: 25.

VA Form 10–316e:

Affected Public: Private Sector.

Estimated Annual Burden: 68 hours.

Estimated Average Burden per Respondent: 45 minutes.

Frequency of Response: Once annually.

Estimated Number of Respondents: 90.

VA Form 10–317a:

Affected Public: Individuals or Households.

Estimated Annual Burden: 8,100 hours.

Estimated Average Burden per Respondent: 30 minutes.

Frequency of Response: 180 times annually.

Estimated Number of Respondents: 90.

VA Form 10–317b:

Affected Public: Individuals or Households.

Estimated Annual Burden: 2,700 hours.

Estimated Average Burden per Respondent: 10 minutes.

Frequency of Response: 180 times annually.

Estimated Number of Respondents: 90.

VA Form 10–317c:

Affected Public: Individuals or Households.

Estimated Annual Burden: 1,250 hours.

Estimated Average Burden per Respondent: 15 minutes.

Frequency of Response: Once annually.

Estimated Number of Respondents: 5,000.

VA Form 10–317d:

Affected Public: Individuals or Households.

Estimated Annual Burden: 2,700 hours.

Estimated Average Burden per Respondent: 20 minutes.

Frequency of Response: 90 times annually.

Estimated Number of Respondents: 90.

VA Form 10–317e:

Affected Public: Individuals or Households.

Estimated Annual Burden: 2,700 hours.

Estimated Average Burden per Respondent: 20 minutes.

Frequency of Response: 90 times annually.

Estimated Number of Respondents: 90.

(Authority: 44 U.S.C. 3501 *et seq.*)

Lanea Haynes,

Alternate, VA PRA Clearance Officer, Office of Information Technology, Data Governance Analytics Department of Veterans Affairs.

[FR Doc. 2026–09542 Filed 5–12–26; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–NEW]

Agency Information Collection Activity: Healthcare Advancement and Partnerships (HAP) Recognition Application

AGENCY: Veterans Health Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: Veterans Health Administration (VHA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish a notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice.

DATES: Comments must be received on or before July 13, 2026.

ADDRESSES: Comments must be submitted through www.regulations.gov.

FOR FURTHER INFORMATION CONTACT:

Program-specific information:

Rebecca Mimmall, 202–695–9434, vhacopra@va.gov.

VA PRA information: Dorothy Glasgow, 202–461–1084, VAPRA@va.gov.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995, Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VHA invites

comments on: (1) whether the proposed collection of information is necessary for the proper performance of VHA's functions, including whether the information will have practical utility; (2) the accuracy of VHA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Healthcare Advancement and Partnerships (HAP) Recognition Application.

OMB Control Number: 2900–NEW. <https://www.reginfo.gov/public/do/PRAsearch> (Once at this link, you can enter the OMB Control Number to find the historical versions of this Information Collection).

Type of Review: New collection.

Abstract: Section 129 of Public Law 118–210, the Elizabeth Dole 21st Century Veterans Healthcare and Benefits Improvement Act (Dole Act), requires the Department of Veterans Affairs (VA) to establish a process to recognize organizations and individuals that assist Veterans, family members, or caregivers with navigating available VHA programs and services, but do not receive compensation or charge a fee for rendered services. The process VA has developed for recognizing such organizations and individuals includes an electronic information collection instrument (application) through which organizations and individuals can provide standardized details for VA to review.

The information collected is reviewed by staff in the Veterans Health Administration (VHA) National Center for Healthcare Advancement and Partnerships (HAP) to determine if the organization or individual requesting recognition meets the Department's criteria for recognition. VA has created a HAP Application that is completed through an online system.

Affected Public: Private Sector.

Estimated Annual Burden: 135 hours.

Estimated Average Burden per Respondent: 45 minutes.

Frequency of Response: One time.

Estimated Number of Responses: 180.

Authority: 44 U.S.C. 3501 *et seq.*

Lanea Haynes,

Alternate, VA PRA Clearance Officer, Office of Information Technology, Data Governance Analytics, Department of Veterans Affairs.

[FR Doc. 2026–09515 Filed 5–12–26; 8:45 am]

BILLING CODE 8320–01–P



FEDERAL REGISTER

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Part II

Department of the Treasury

Internal Revenue Service

26 CFR Part 54

Department of Labor

Employee Benefits Security Administration

29 CFR Part 2590

Department of Health and Human Services

45 CFR Part 146

Excepted Fertility Benefits; Proposed Rule

DEPARTMENT OF THE TREASURY**Internal Revenue Service****26 CFR Part 54**

[REG–118484–25]

RIN 1545–BS02

DEPARTMENT OF LABOR**Employee Benefits Security Administration****29 CFR Part 2590**

RIN 1210–AC40

DEPARTMENT OF HEALTH AND HUMAN SERVICES**45 CFR Part 146**

[CMS–9879–P]

RIN 0938–AV94

Excepted Fertility Benefits

AGENCY: Internal Revenue Service, Department of the Treasury; Employee Benefits Security Administration, Department of Labor; Centers for Medicare & Medicaid Services, Department of Health and Human Services.

ACTION: Proposed rules.

SUMMARY: This document contains proposed rules that would amend the regulations regarding excepted benefits under the Employee Retirement Income Security Act of 1974, the Internal Revenue Code, and the Public Health Service Act to establish certain fertility benefits as a new category of limited excepted benefits. Excepted benefits are generally exempt from the market requirements that were added to those laws by the Health Insurance Portability and Accountability Act, the Patient Protection and Affordable Care Act, the No Surprises Act, and certain other Federal laws specifically related to group health plans and group and individual health insurance coverage.

DATES: To be assured consideration, comments must be received at one of the addresses provided below, no later than July 13, 2026.

ADDRESSES: Written comments may be submitted to the address specified below. Any comment that is submitted will be shared with Treasury, Internal Revenue Service (IRS), and the Department of Health and Human Services (HHS). Please do not submit duplicates.

Comments will be made available to the public. Warning: Do not include any

personally identifiable information (such as name, address, or other contact information) or confidential business information that you do not want publicly disclosed. All comments are posted on the internet exactly as received and can be retrieved by most internet search engines. No deletions, modifications, or redactions will be made to the comments received, as they are public records. Comments may be submitted anonymously.

In commenting, please refer to file code 1210–AC40. The Departments cannot accept comments by facsimile (FAX) transmission.

Comments must be submitted in one of the following two ways (please choose only one of the ways listed):

1. *Electronically.* You may submit electronic comments on this regulation to <https://www.regulations.gov>. Follow the “Submit a comment” instructions.

2. *By mail.* You may mail written comments to the following address ONLY: Office of Health Plan Standards and Compliance Assistance, Employee Benefits Security Administration, Room N–5653, U.S. Department of Labor, 200 Constitution Avenue NW, Washington, DC 20210, *Attention:* 1210–AC40.

Please allow sufficient time for mailed comments to be received before the close of the comment period.

Inspection of Public Comments: All comments received before the close of the comment period are available for viewing by the public, including any personally identifiable or confidential business information that is included in a comment. The comments are posted on the following website as soon as possible after they have been received: <https://www.regulations.gov>. Follow the search instructions on that website to view public comments. The Departments encourage commenters to include supporting facts, research, and evidence in their comments. When doing so, commenters are encouraged to provide citations to the materials referenced, including active hyperlinks. Likewise, commenters who reference materials that have not been published are encouraged to upload relevant data collection instruments, data sets, and detailed findings as a part of their comment. Providing such citations and documentation will assist the Departments in analyzing the comments.

Plain Language Summary: In accordance with 5 U.S.C. 553(b)(4), a summary of not more than 100 words in length of this proposed rule, in plain language may be found at <https://www.regulations.gov/>.

FOR FURTHER INFORMATION CONTACT: Alexander Krupnick, Internal Revenue

Service, Department of the Treasury, at 202–317–5500; Rebecca Miller and David Sydlík, Employee Benefits Security Administration, Department of Labor, at 202–693–8335; David Mlawsky, Centers for Medicare & Medicaid Services, Department of Health and Human Services, at 410–786–6851.

Customer Service Information: Individuals interested in obtaining information from DOL concerning private employment-based health coverage laws may call the Employee Benefits Security Administration (EBSA) Toll-Free Hotline at 1–866–444–EBSA (3272) or visit the DOL’s website (<https://www.dol.gov/agencies/ebsa>).

In addition, information from HHS on private health insurance coverage and coverage provided by self-funded, non-Federal governmental group health plans can be found on the Centers for Medicare & Medicaid Services (CMS) website (<https://www.cms.gov/marketplace/about/oversight>), and information on health care reform can be found at <https://www.healthcare.gov/> or <https://www.hhs.gov/healthcare/index.html>.

SUPPLEMENTARY INFORMATION:**I. Background****A. Introduction****1. Statutory Provisions**

The Health Insurance Portability and Accountability Act of 1996 (HIPAA)¹ added chapter 100 to the Internal Revenue Code (Code), part 7 to the Employee Retirement Income Security Act (ERISA), and title XXVII to the Public Health Service Act (PHS Act), which set forth portability and nondiscrimination rules with respect to health coverage. These provisions of the Code, ERISA, and the PHS Act were later augmented by other laws, including the Mental Health Parity Act of 1996;² the Newborns’ and Mothers’ Health Protection Act;³ the Women’s Health and Cancer Rights Act;⁴ the Genetic Information Nondiscrimination Act of 2008;⁵ the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 (MHPAEA);⁶ the Children’s Health Insurance Program Reauthorization Act of 2009;⁷ Michelle’s Law;⁸ the Patient

¹ Public Law 104–191 (Aug. 21, 1996).

² Public Law 104–204 (Sept. 26, 1996).

³ Public Law 104–204 (Sept. 26, 1996).

⁴ Public Law 105–277 (Oct. 21, 1998).

⁵ Public Law 110–233 (May 21, 2008).

⁶ Public Law 110–343 (Oct. 3, 2008).

⁷ Public Law 111–3 (Feb. 4, 2009).

⁸ Public Law 110–381 (Oct. 9, 2008).

Protection and Affordable Care Act,⁹ as amended by the Health Care and Education Reconciliation Act of 2010 (collectively known as the Affordable Care Act or ACA);¹⁰ Division BB of the Consolidated Appropriations Act, 2021, which includes the No Surprises Act;¹¹ and Division J of the Consolidated Appropriations Act, 2026.¹²

The ACA reorganized, amended, and added to the provisions of part A of title XXVII of the PHS Act relating to health coverage requirements for group health plans and health insurance issuers in the group and individual markets. The term “group health plan” includes both insured and self-insured group health plans. The ACA also added section 715 to ERISA and section 9815 to the Code to incorporate the provisions of part A of title XXVII of the PHS Act into ERISA and the Code, making them applicable to group health plans and health insurance issuers providing health insurance coverage in connection with group health plans. The provisions of the PHS Act incorporated into ERISA and the Code, as amended or added by the ACA, are sections 2701 through 2728 (market requirements).

In accordance with Code section 9831(b) and (c), ERISA section 732(b) and (c), and PHS Act sections 2722(b) and (c) and 2763, the market requirements of chapter 100 of the Code, part 7 of ERISA, and title XXVII of the PHS Act do not apply to a group health plan or a health insurance issuer in the group or individual market in relation to the provision of excepted benefits described in Code section 9832(c), ERISA section 733(c), and PHS Act section 2791(c).¹³ There are four statutory categories of excepted benefits: benefits that are excepted in all circumstances; limited excepted benefits, which are the subject of this rulemaking; independent, noncoordinated excepted benefits; and supplemental excepted benefits.

The first category, under section 9832(c)(1) of the Code, section 733(c)(1) of ERISA, and section 2791(c)(1) of the PHS Act, includes benefits that are

generally not health coverage (such as automobile insurance, liability insurance, workers’ compensation, and accidental death and dismemberment coverage). The benefits in this category are excepted in all circumstances. In contrast, the benefits in the second, third, and fourth categories are types of health coverage that are excepted only if certain conditions are met.

The second category of excepted benefits is limited excepted benefits. Under section 9832(c)(2)(A) and (B) of the Code, section 733(c)(2)(A) and (B) of ERISA, and section 2791(c)(2)(A) and (B) of the PHS Act, limited excepted benefits include limited-scope dental or vision benefits, and benefits for long-term care, nursing home care, home health care, or community-based care that are offered separately, or any combination thereof. Section 9832(c)(2)(C) of the Code, section 733(c)(2)(C) of ERISA, and section 2791(c)(2)(C) of the PHS Act further provide that limited excepted benefits also include such other, similar limited benefits as are specified in regulations.¹⁴ To be a limited excepted benefit, the benefits must either: (1) be provided under a separate policy, certificate, or contract of insurance; or (2) otherwise not be an integral part of the plan.¹⁵

The third category of excepted benefits, referred to as “noncoordinated excepted benefits,” includes both coverage for only a specified disease or illness (such as cancer-only policies), and hospital indemnity or other fixed indemnity insurance. These benefits are excepted under section 9831(c)(2) of the Code, section 732(c)(2) of ERISA, and section 2722(c)(2) of the PHS Act only if all of the following conditions are met: (1) the benefits are provided under a separate policy, certificate, or contract of insurance; (2) there is no coordination between the provision of such benefits and any exclusion of benefits under any group health plan maintained by the same plan sponsor; and (3) the benefits are paid with respect to any event without regard to whether benefits are provided under any group health plan maintained by

the same plan sponsor or, with respect to individual coverage, under any health insurance coverage maintained by the same health insurance issuer.

The fourth category, under section 9832(c)(4) of the Code, section 733(c)(4) of ERISA, and section 2791(c)(4) of the PHS Act, is supplemental excepted benefits. These benefits are excepted only if they are provided under a separate policy, certificate, or contract of insurance and are Medicare supplemental health insurance (also known as Medigap), TRICARE supplemental programs, or “similar supplemental coverage provided to coverage under a group health plan.”¹⁶

2. Limited Excepted Benefit Regulations

As stated in section I.A.1 of this preamble, under section 9832(c)(2) of the Code, section 733(c)(2) of ERISA, and section 2791(c)(2) of the PHS Act, limited excepted benefits include limited scope vision or dental benefits, benefits for long-term care, nursing home care, home health care, or community-based care that are offered separately, or any combination thereof. Under section 9832(c)(2)(C) of the Code, section 733(c)(2)(C) of ERISA, and section 2791(c)(2)(C) of the PHS Act, the Departments have the authority and discretion to specify in regulations additional limited excepted benefits that are similar to the limited benefits specified in section 9832(c)(2)(A) and (B) of the Code, section 733(c)(2)(A) and (B) of ERISA, and section 2791(c)(2)(A) and (B) of the PHS Act and that either are provided under a separate policy, certificate, or contract of insurance, or are otherwise not an integral part of a plan.

In 1997, the Departments published interim final regulations defining limited-scope dental and vision benefits, as well as long-term care benefits.¹⁷ The 1997 interim final rules did not define the terms limited-scope dental and limited-scope vision benefits. The preamble to the 1997 interim final rules stated that limited-scope dental and vision benefits typically do not include medical services, such as procedures associated with oral cancer or mouth injury or ophthalmological services treating an eye disease or eye injury.¹⁸ Following

⁹ Public Law 111–148 (Mar. 23, 2010).

¹⁰ Public Law 111–152 (Mar. 30, 2010).

¹¹ Public Law 116–260 (Dec. 27, 2020).

¹² Public Law 119–75 (Feb. 3, 2026).

¹³ HHS does not interpret the ACA amendments to PHS Act section 2722(b) and (c) (formerly PHS Act section 2721(c) and (d)) as restricting the exemption for excepted benefits so it applies only with respect to subpart 2 of part A of title XXVII of the PHS Act, and it does not intend to use its resources to enforce the market requirements with respect to excepted benefits offered by non-federal governmental plan sponsors and encourages States to adopt a similar approach with respect to issuers of excepted benefits. See 75 FR 34538, 34539–40 (Jun. 17, 2010).

¹⁴ Moreover, section 9833 of the Code, section 734 of ERISA, and section 2792 of the PHS Act authorize the Secretaries of Treasury, Labor, and HHS (collectively, the Secretaries) to promulgate such regulations as may be necessary or appropriate to carry out the provisions of chapter 100 of the Code, part 7 of ERISA, and title XXVII of the PHS Act.

¹⁵ See Code section 9831(c)(1), ERISA section 732(c)(1), and PHS Act section 2722(c)(1) and 2763(b); see also 79 FR 59130, 59131–59134 (Oct. 1, 2014) (discussing the application of these requirements to benefits such as limited-scope dental and vision benefits and employee assistance programs).

¹⁶ To be considered “similar supplemental coverage” and thus a supplemental excepted benefit, the coverage, whether offered in the group or individual market, must supplement coverage provided under a group health plan. This category does not include coverage that supplements individual health insurance coverage. See 89 FR 23338, 23342 fn. 36 (Apr. 3, 2024).

¹⁷ 62 FR 16894 (Apr. 8, 1997).

¹⁸ *Id.* at 16903.

these interim final regulations, the Departments also published a notice clarifying the conditions under which it is appropriate to treat benefits under a health flexible spending arrangement (health FSA) as limited excepted benefits.¹⁹ In 2004, the Departments published final regulations defining the conditions under which limited-scope dental and vision benefits, long-term care benefits, and health FSAs would be considered limited excepted benefits.²⁰ In contrast with the scope of services covered by limited-scope dental and vision benefits contemplated in the preamble of the 1997 interim final rules, the 2004 final rules defined limited-scope dental and vision benefits more broadly. Under the 2004 final rules, limited-scope dental benefits are benefits substantially all of which are for treatment of the mouth (including any organ or structure within the mouth). Limited-scope vision benefits are benefits substantially all of which are for treatment of the eye.

In 2014, the Departments amended the excepted benefit regulations for limited-scope dental and vision benefits, as well as for certain employee assistance programs (EAPs).²¹ Under the 2014 final rules, the Departments removed the requirement that participants pay an additional premium or contribution for limited-scope dental or vision benefits to qualify as benefits that are not an integral part of the plan in order to qualify as excepted benefits. The 2014 final rules also established four requirements that an EAP must meet in order to be an excepted benefit. The first requirement is that the EAP does not provide significant benefits in the nature of medical care. The second requirement is that the EAP cannot be coordinated with the benefits under another group health plan. To satisfy this requirement, participants in the other group health plan must not be required to use and exhaust benefits under the EAP before an individual is eligible for benefits under the other group health plan, and participant eligibility for the EAP must not be dependent on participation in another group health plan. The third requirement that an EAP must satisfy in order to be an excepted benefit is that no employee premiums or contributions may be required as a condition of participation in the EAP. The fourth requirement is that an EAP may not impose any cost-sharing requirements. Following the 2014 final rules, the Departments also finalized rules for a

pilot program for limited wraparound benefits as limited excepted benefits in the group market if five conditions were satisfied.²² This pilot program was available for a limited time and has since sunset. Most recently, in 2019, the Departments finalized rules establishing an excepted benefit Health Reimbursement Arrangement (HRA) as a limited excepted benefit, which can be used to reimburse certain medical care expenses, subject to the requirements at 26 CFR 54.9831–1(c)(3)(viii), 29 CFR 2590.732(c)(3)(viii), and 45 CFR 146.145(b)(3)(viii).²³

3. Recent Executive Orders and Access to Fertility Benefits and Services

On February 18, 2025, President Trump issued Executive Order 14216, “Expanding Access to In Vitro Fertilization” (Executive Order 14216).²⁴ In Executive Order 14216, President Trump highlighted the importance of family formation, and emphasized that “as a Nation, our public policy must make it easier for loving and longing mothers and fathers to have children.” Executive Order 14216 seeks to ensure reliable access to in vitro fertilization (IVF) and provide more affordable treatment options, recognizing both the medical necessity of infertility treatment for affected individuals and the broader importance of supporting American families in achieving their family formation goals. As part of the Executive Order, President Trump made it the policy of the Administration to ensure reliable access to IVF treatment, including by easing unnecessary statutory or regulatory burdens to make IVF treatment drastically more affordable. Separately, on January 31, 2025, President Trump issued Executive Order 14192 “Unleashing Prosperity Through Deregulation” (Executive Order 14192). In Executive Order 14192, President Trump emphasized that the application of complicated Federal regulation imposes massive costs on the lives of millions of Americans, creates a substantial restraint on our economic growth and ability to build and innovate, and hampers our global competitiveness.²⁵ Therefore, President Trump emphasized that it was the policy of the government to alleviate unnecessary regulatory burdens placed on the American people.

The Departments recognize that family formation is a longstanding

priority for millions of Americans in the United States, and access to fertility benefits and services plays a role in supporting their ability to build families. However, the United States is currently experiencing a declining fertility rate. Between 2014 and 2024 the number of births declined by 9 percent and the general fertility rate declined by 14 percent, from 62.9 births per 1,000 females ages 15 to 44 to 53.8.²⁶ The total fertility rate has remained below replacement level for over a decade. Since 1990, the U.S. total fertility rate declined from about the replacement level of 2.1 births per woman—the fertility level needed for a population to replace itself from one generation to the next—to 1.6 births per woman in 2023.²⁷ Even as the birth rate has fallen, however, Americans continue to report that their ideal family size includes an average of 2.7 children.²⁸

Infertility is a common problem in the United States, with recent CDC data highlighting that one in five Americans suffer from infertility.²⁹ While infertility stems from a variety of factors affecting both men and women, including, but not limited to, age, ovulation, uterine, and ejaculation disorders, chronic reproductive health conditions, medications, and genetic disorders, it can also be unexplained after medical tests reveal no obvious fertility problems. Possible reasons for unexplained infertility include an undiagnosed underlying condition, sperm and egg quality,³⁰ or environmental factors.³¹

²⁶ See Joyce Martin, M.P.H., Brady Hamilton, Ph.D., and Michelle Osterman, M.H.S., *National Vital Statistics System*, Data Brief Number 535 (Jul. 2025), <https://www.cdc.gov/nchs/data/databriefs/db535.pdf>; see also Michelle J.K. Osterman, M.H.S., et. al., *Births: Final Data for 2023*, National Vital Statistics Report, Volume 74, No. 1 (Mar. 18, 2025), <https://www.cdc.gov/nchs/data/nvsr/nvsr74/nvsr74-1.pdf>.

²⁷ See Anne Driscoll, Ph.D., and Brady Hamilton, Ph.D., *Effects of Age-specific Fertility Trends on Overall Fertility Trends: United States, 1990–2023*, National Vital Statistics Reports, Vol. 74, No. 3 (Mar. 6, 2025), <https://www.cdc.gov/nchs/data/nvsr/nvsr74/nvsr74-3.pdf>.

²⁸ Megan Brennan, *Americans’ Ideal Family Size Remains Above Two Children*, Gallup (Sept. 4, 2025), <https://news.gallup.com/poll/694640/americans-ideal-family-size-remains-above-two-children.aspx>.

²⁹ *Infertility: Frequently Asked Questions* (May 15, 2024), <https://www.cdc.gov/reproductive-health/infertility-faq/index.html>.

³⁰ Cleveland Clinic, *Unexplained Infertility* (June 6, 2022), <https://my.clevelandclinic.org/health/diseases/23187-unexplained-infertility>.

³¹ See Jie Lin, et. al., *Association between heavy metals exposure and infertility among American women aged 20–44: A cross-sectional analysis from 2013 to 2018 NHANES data* (Feb. 13, 2023), <https://pmc.ncbi.nlm.nih.gov/articles/PMC9971928/>; Amran, N. H., Zaid, S. S. M., Mokhtar, M. H., Manaf, L. A. & Othman, S., *Exposure to Microplastics during Early Developmental Stage:*

²² 80 FR 13995 (Mar. 18, 2015).

²³ 84 FR 28888 (Jun. 20, 2019).

²⁴ Exec. Order No. 14216, 90 FR 10451 (Feb. 18, 2025).

²⁵ Exec. Order No. 14192, 90 FR 9065 (Feb. 6, 2025).

¹⁹ 62 FR 67688 (Dec. 29, 1997).

²⁰ 69 FR 78720 (Dec. 30, 2004).

²¹ 79 FR 59130 (Oct. 1, 2014).

Fertility treatments, including medication, surgery, intrauterine insemination (IUI), and assisted reproductive technology (ART) procedures such as IVF, as well as less invasive pre-conception care options that address the root causes of infertility, allow those who experience infertility a potential path to expand their families.³² In 2022, 98,289 infants born (or about 2.7% of all infants born) in the United States were conceived through the use of ART.³³ While ART has been available for more than three decades, families seeking to avail themselves of these technologies often face access challenges related to cost.³⁴ IVF is the most commonly used form of ART and more than 99% of ART procedures performed are IVF.³⁵ A single cycle of IVF has recently been estimated to cost between \$15,000 and \$20,000.³⁶ However, given that the average number of cycles that are needed to become pregnant from IVF is 2.5, the average cost of IVF to conceive

successfully can exceed \$40,000.³⁷ Often, less invasive fertility treatments are more affordable than ART for a wide variety of reasons, but may still present significant cost barriers to patients depending on which treatments are most clinically appropriate for each specific patient.

4. Coverage of Fertility Benefits (EHBs, State Insurance Laws, and Employer Sponsored Plans)

Historically, employer-sponsored group health plans have not covered most fertility treatments, including prescription fertility medications as well as IVF and non-IVF treatments.³⁸ Though coverage is now increasing, the majority of employer-sponsored group health plans do not offer coverage of many fertility benefits, with some estimates indicating that approximately 60 percent of employers do not offer fertility benefits.³⁹ Of those that do offer fertility benefits, many have claims for such benefits administered under a separate contract from their major medical coverage, with many employers offering their fertility benefits through specialty vendors.⁴⁰ Accordingly, even where fertility benefits are offered by an employer, they are often treated as a separate offering from the main group health plan, with separate claims processes, provider networks, and other plan administration features. Further, while insured plans may be required to cover fertility benefits, including IVF, as an Essential Health Benefit (EHB) or by applicable State law, such requirements generally do not apply to self-insured group health plans, which cover more than half of the people covered by

private-sector employer-sponsored health coverage.⁴¹

Coverage of fertility benefits as an EHB varies by State and issuer. EHBs are defined under ACA section 1302 and 45 CFR 156 subpart B. Non-grandfathered health insurance coverage offered in the individual or small group market is required to cover 10 categories of EHBs.⁴² Under ACA section 1302(b)(2)(A) and 45 CFR 156.111, States select an EHB-benchmark plan for their State, which must provide a scope of benefits that is equal to the scope of benefits provided under a typical employer plan. Where benefits are not EHBs, they are not required to be covered (unless a separate Federal or State insurance law applies) and are not subject to certain protections that apply to EHBs, such as PHS Act section 2707(b)'s maximum out-of-pocket requirements and section 2711's prohibition on annual and lifetime dollar limits.⁴³ While large group health insurance plans and self-insured group health plans are not required to cover EHBs under the ACA, they must comply with the requirements of PHS Act section 2707(b) and section 2711 for those EHBs that they cover.⁴⁴

Other insurance laws requiring coverage of fertility benefits vary at the State level.⁴⁵ Currently, 15 States and

Review of Current Evidence, *Toxics* 10, 597 (Oct. 10, 2022), <https://pmc.ncbi.nlm.nih.gov/articles/PMC9611505/>.

³² U.S. Department of Health and Human Services, *Use Across the United States* (Mar. 13, 2024), <https://us.pagefreeser.com/en-US/wa/browse/0a7f82bb-be6e-448a-ae11-373d22c37842?find-by-timestamp=2025-01-02T05:49:59Z&url=https%3F%2Fwww.hhs.gov%2Fabout%2Fnews%2F2024%2F03%2F13%2Ffact-sheet-in-vitro-fertilization-ivf-use-across-united-states.html×tamp=2025-01-02T07:03:02Z>.

³³ U.S. Centers for Disease Control and Prevention, *National ART Summary* (Dec. 10, 2024), <https://www.cdc.gov/art/php/national-summary/index.html?cove-tab=2>.

³⁴ See World Health Organization, *Infertility* (Nov. 28, 2025), <https://www.who.int/news-room/fact-sheets/detail/infertility> (These proposed rules contains links to non-United States Government websites. The Departments are providing these links because they contain additional information relevant to the topic(s) discussed in this proposed rule or that otherwise may be useful to the reader. The Departments cannot attest to the accuracy of information provided on the cited third-party websites or any other linked third-party site. The Departments are providing these links for reference only; linking to a non-United States Government website does not constitute an endorsement by the Departments or any of their employees of the sponsors or the information and/or any products presented on the website. Also, the privacy protections generally provided by United States Government websites do not apply to third-party sites).

³⁵ Saswati Sunderam, Ph.D. et. al., *Assisted Reproductive Technology Surveillance—United States, 2018, Morbidity and Mortality Weekly Report* (Feb. 18, 2024).

³⁶ U.S. Department of Health and Human Services, *Fact Sheet: In Vitro Fertilization (IVF) Use Across the United States* (Mar. 13, 2024), <https://us.pagefreeser.com/en-US/wa/browse/0a7f82bb-be6e-448a-ae11-373d22c37842?find-by-timestamp=2025-01-02T05:49:59Z&url=https%3F%2F%2Fwww.hhs.gov%2Fabout%2Fnews%2F2024%2F03%2F13%2Ffact-sheet-in-vitro-fertilization-ivf-use-across-united-states.html×tamp=2025-01-02T07:03:02Z>.

³⁷ *Id.*; see also Society for Assisted Reproductive Technology, *Preliminary National Summary Report 2024, Final Primary Outcome Per Egg Retrieval Cycle, Patient's Own Eggs, First IVF*, <https://www.sartcorsonline.com/Csr/Public?ClinicPKID=0&reportingYear=2024&newReport=True> (last accessed Apr. 16, 2026) (finding that a preliminary national summary report for 2024 from the Society for Assisted Reproductive Technology reported that the rate of live births following first-use IVF for women under the age of 35 using their own oocytes is only 13.8%).

³⁸ Cara McMullin, *Organizations Adding More Fertility and Adoption Support*, International Foundation of Employee Benefits Plans (Aug. 22, 2024), <https://blog.ifebp.org/organizations-adding-more-fertility-and-adoption-support/>; Mercer, *Mercer National Survey of Employer-Sponsored Health Plans* (2024).

³⁹ Cara McMullin, *Organizations Adding More Fertility and Adoption Support*, International Foundation of Employee Benefits Plans (Aug. 22, 2024), <https://blog.ifebp.org/organizations-adding-more-fertility-and-adoption-support/>.

⁴⁰ Ron Shinkman, *Compared: Progyny, Kindbody, Carrot, and Maven as fertility benefit coverage increases 33% in two years* (Apr. 20, 2023), <https://www.fertilitybridge.com/news-articles/fertility-benefit-coverage-progyny-kindbody-carrot-maven>.

⁴¹ KFF, *Share of Private-Sector Enrollees Enrolled in Self-Insured Plans* (2024), <https://www.kff.org/state-health-policy-data/state-indicator/share-of-private-sector-enrollees-enrolled-in-self-insured-plans/>.

⁴² PHS Act section 2707(a); ACA section 1302(a)–(b). The 10 categories of essential health benefits are ambulatory patient services; emergency services; hospitalization; maternity and newborn care; mental health and substance use disorder services, including behavioral health treatment; prescription drugs; rehabilitative and habilitative services and devices; laboratory services; preventive and wellness services and chronic disease management; and pediatric services, including oral and vision care.

⁴³ PHS Act sections 2707(b) and 2711; see also 26 CFR 54.9815–2711, 29 CFR 2590.715–2711, and 45 CFR 147.126.

⁴⁴ PHS Act sections 2707(b) and 2711. Final regulations implementing PHS Act section 2711 provide that, for plan years beginning on or after January 1, 2020, a group health plan or health insurance issuer that is not required to provide EHB under section 1302(b) of the ACA must define EHB, for purposes of the prohibition on lifetime and annual limits, in a manner consistent with an EHB-benchmark plan selected by a State in accordance with 45 CFR 156.111, including coverage of any additional required benefits that are considered EHB consistent with 45 CFR 155.170(a)(2), 26 CFR 54.9815–2711(c)(2); 29 CFR 2590.715–2711(c)(2); 45 CFR 147.126(c)(2).

⁴⁵ See KFF, *Mandated Coverage of Infertility Treatment*, <https://www.kff.org/state-health-policy-data/state-indicator/infertility-coverage/?currentTimeframe=0&sortModel=%7B%22colId%22:%22Location%22,%22sort%22:%22asc%22%7D> (last accessed Apr. 16, 2026) (finding 23 States and the District of Columbia have required various levels of

Continued

the District of Columbia require that health insurance coverage include IVF benefits.⁴⁶ State IVF coverage requirements often include procedural limitations on coverage, such as establishing a benefit-specific waiting period before coverage is provided. For example, some of these waiting periods require a participant or beneficiary to fail to get pregnant or fail to carry a baby to full term for a specified period of time prior to being eligible for IVF coverage. The length of this waiting period may vary depending on the age of the person attempting to get pregnant. Under some State laws, a diagnosis of infertility by a licensed physician allows a covered individual to access fertility benefits before the waiting period requirement has been satisfied. Some State laws also contain coverage limitations based on dollar amount or other quantitative limitations, or both, but coverage limitations are present in all State IVF coverage requirements.⁴⁷ For example, a limit on the total number of IVF treatment cycles or oocyte retrievals is common, with limits ranging from one cycle of IVF treatment to three, the latter of which is more common.⁴⁸ In contrast, some State laws include explicit dollar-amount lifetime caps as low as \$15,000 and as high as \$100,000.⁴⁹ Some States also require coverage of other ART procedures in addition to IVF, such as gamete

intrafallopian transfer (GIFT) and zygote intra-fallopian transfer (ZIFT).⁵⁰

A few States also recently enacted legislation that addresses coverage for other fertility treatments in an attempt to address the root causes of infertility and give couples more information about their reproductive health. For example, in 2025, Arkansas enacted the Reproductive Empowerment and Support Through Optimal Restoration Act (RESTORE Act), which amended State law⁵¹ to require that fertility treatment coverage also include fertility treatments that address reproductive health conditions and male factor infertility.⁵² The RESTORE Act, among other things, attempts to address the gap in research and care for female reproductive health and treat the underlying reproductive health conditions causing infertility.⁵³ The RESTORE Act requires coverage for medical treatments including ultrasounds; blood tests; hormone panel tests; laparoscopic or exploratory surgery; examination of a patient's overall health and lifestyle; eliminating environmental endocrine disruptors; assessing the health and fertility health of a patient's partner; natural procreative technology; fertility awareness-based methods; and fertility education and medical management.⁵⁴

5. FAQs Part 72

On October 15, 2025, President Trump announced that the Departments would clarify the existing categories of excepted benefits employers can use to offer fertility benefits, including the categories of independent, noncoordinated excepted benefits and limited excepted benefits. The Departments then contemporaneously issued FAQs about Affordable Care Act Implementation Part 72 (FAQs Part 72)⁵⁵ highlighting their commitment to exploring ways to leverage their existing authority to protect IVF access, reduce costs for IVF, and encourage the adoption of a full range of fertility

benefits by employers, including treatments to restore fertility by addressing root causes of infertility, in accordance with Executive Order 14216.

FAQs Part 72 clarifies the existing categories of excepted benefits employers can use to offer fertility benefits, including the categories of independent, noncoordinated excepted benefits and limited excepted benefits. Additionally, in FAQs Part 72, the Departments announced their intention to undertake notice and comment rulemaking to provide additional ways that certain fertility benefits may be offered as a limited excepted benefit, if certain conditions are met. In accordance with the directives in Executive Order 14216 and Executive Order 14192 and the commitment expressed in FAQs Part 72, in consideration of the concerns highlighted in this section of the preamble, the Departments are now issuing these proposed rules to reduce the regulatory burden for employers seeking to offer fertility benefits to their employees. As discussed later in section II.A.6 of this preamble, HHS is considering and soliciting comments on whether similar approaches would be appropriate to reduce regulatory burden and improve access to fertility benefits for individuals in the individual market.

II. Overview of the Proposed Rules—Departments of the Treasury, Labor, and HHS

A. Proposed Standards

Many employers, for a variety of reasons, do not cover fertility benefits as part of their major medical coverage. Additionally, there may be scenarios in which an employer wants to offer fertility benefits without regard to whether their employees have other coverage at all, or without regard to whether their employees have coverage that is subject to and satisfies the market requirements. The Departments wish to support and encourage employers in their offering of fertility benefits and to ensure that employees are able to afford a range of fertility treatments to make it easier to have children. Therefore, the Departments propose to utilize the Departments' statutory authority under Code section 9832(c)(2)(C), ERISA section 733(c)(2)(C), and PHS Act section 2791(c)(2)(C) to recognize fertility benefits as other similar limited excepted benefits, if specific conditions are satisfied.

Under proposed paragraph (c)(3)(i) of 26 CFR 54.9831–1 and 29 CFR 2590.732 and proposed paragraph (b)(3)(i) of 45 CFR 146.145, fertility benefits would be excepted benefits if they satisfy the

fertility-related care coverage for private insurance, while 15 States and the District of Columbia have required various levels of IVF coverage); *see also* RESOLVE, *Insurance Coverage by State* (2024), <https://resolve.org/learn/financial-resources/insurance-coverage/insurance-coverage-by-state/> (last accessed Apr. 16, 2026) (finding that 25 States have infertility insurance laws, 21 States have laws requiring coverage of fertility preservation treatments, and only 15 States have IVF coverage requirements).

⁴⁶ *See id.* (Some States require coverage of other ART procedures in addition to IVF, such as gamete intrafallopian transfer (GIFT), Zygote intra-fallopian transfer (ZIFT), and pronuclear stage tubal transfer (PROST)); *see also* OPM, 2025 FEHB IVF Information (Oct. 1, 2024), <https://www.opm.gov/healthcare-insurance/healthcare/reference-materials/reference/2025-fehb-ivf-information.pdf> (Additionally, for plan year 2025 all Federal Employees Health Benefits (FEHB) Program carriers are required to cover three cycles of IVF-related drugs).

⁴⁷ *See* RESOLVE, *Insurance Coverage by State*, <https://resolve.org/learn/financial-resources/insurance-coverage/insurance-coverage-by-state/> (last accessed Apr. 16, 2026).

⁴⁸ Arkansas sets the maximum lifetime coverage amount at \$15,000. *See* Ark. Code § 23–85–137(d); 054–00.1–6 Ark. Code R. (2025). Maryland and Rhode Island set their respective lifetime maximum coverage limitations at \$100,000. Md. Ins. Code Ann. § 15–810(e) (2021); 27 R.I. Gen. Laws § 27–18–30(g) (2017).

⁴⁹ *See* RESOLVE, *Insurance Coverage by State*, <https://resolve.org/learn/financial-resources/insurance-coverage/insurance-coverage-by-state/> (last accessed Apr. 16, 2026).

⁵⁰ *See, e.g.*, Ark. Code § 20–16–2603(1)(D), (E); DC Code § 31–3834.06(i)(3).

⁵¹ Ark. Code § 23–85–137.

⁵² Reproductive Empowerment and Support Through Optimal Restoration (RESTORE) Act, H.B. 1142 (2025).

⁵³ Cf. Chuck Grassley, *Grassley, Hyde-Smith, Lankford Introduce Bill to Help Address Infertility* (Jun. 14, 2024) (introducing similar legislation in the U.S. Senate), <https://www.grassley.senate.gov/news/news-releases/grassley-hyde-smith-lankford-introduce-bill-to-help-address-infertility>.

⁵⁴ Ark. Code § 20–16–2603(8).

⁵⁵ FAQs about Affordable Care Act Implementation Part 72 (Oct. 16, 2025), <https://www.dol.gov/agencies/ebsa/about-ebsa/our-activities/resource-center/faqs/aca-part-72> and <https://www.cms.gov/files/document/faqs-part-72.pdf>.

requirements of proposed paragraph (c)(3)(ix) of 26 CFR 54.9831–1 and 29 CFR 2590.732 and proposed paragraph (b)(3)(ix) of 45 CFR 146.145. Under proposed paragraph (c)(3)(ix) of 26 CFR 54.9831–1 and 29 CFR 2590.732 and proposed paragraph (b)(3)(ix) of 45 CFR 146.145, fertility benefits would be a new type of limited excepted benefit if they are provided under a separate policy, certificate, or contract of insurance or are otherwise not an integral part of the plan as described in proposed paragraph (c)(3)(ix)(C) of 26 CFR 54.9831–1 and 29 CFR 2590.732, and proposed paragraph (b)(3)(ix)(C) of 45 CFR 146.145, and satisfy the requirements of proposed paragraph (c)(3)(ix)(A), (B), and (D) of 26 CFR 54.9831–1 and 29 CFR 2590.732, and proposed paragraph (b)(3)(ix)(A), (B), and (D) of 45 CFR 146.145.

As explained in section I.A.1 of this preamble, the Departments have statutory authority to create additional categories of limited excepted benefits that are similar to the limited excepted benefits specified in statute, and that are provided under a separate policy, certificate, or contract of insurance, or are otherwise not an integral part of a plan.⁵⁶ Similar to adult dental and vision coverage, fertility benefits are often not considered EHBs, are often not covered by self-funded group health plans at all or solely to a limited extent, and are often not administered under the same contract as benefits offered through an employer's major medical plan. The Departments' proposal to specify in regulations excepted fertility benefits as a new additional category of other similar limited excepted benefits is consistent with the market reality that fertility benefits are often not covered or, in the minority of cases in which such benefits are covered, are administered under a separate contract from a plan sponsor's major medical plan, along with the statutory framework applicable to limited excepted benefits. This proposal also aligns with the priorities of the Trump Administration expressed in Executive Order 14216 to protect IVF access and reduce out-of-pocket and health plan costs for IVF treatment.

Additionally, the ability to offer a separate excepted fertility benefit that is not subject to the market requirements captured in chapter 100 of the Code, part 7 of ERISA, and title XXVII of the PHS Act is consistent with Executive Order 14192's goals of reducing regulatory burden, as excepted benefits are not subject to certain market

requirements imposed on other group health plans and group health insurance coverage. The Departments are soliciting comments on the proposal to establish excepted fertility benefits as a new category of limited excepted benefits, the limits of the category itself, and the associated proposed conditions for such benefits to qualify as a limited excepted benefit set forth below.

1. Benefits Covered

As stated in section I.A.1 of this preamble, under the Code, ERISA, and the PHS Act, limited excepted benefits include limited-scope dental or vision benefits, benefits for long-term care, nursing home care, home health care, or community-based care that are offered separately, or any combination thereof, and may include "such other similar, limited benefits as are specified in regulations" by the Departments.⁵⁷ Thus, in proposing to create excepted fertility benefits as a new category of limited excepted benefits, the Departments determined that fertility benefits are similar to the limited excepted benefits identified in section 9832(c)(2) of the Code, section 733(c)(2) of ERISA, and section 2791(c)(2) of the PHS Act because they are benefits that are often excluded from major medical coverage offered by employers and are often administered under a separate contract. In developing this proposal, the Departments considered in what manner a fertility benefit would be sufficiently limited to be similar to the other categories of limited excepted benefits.

The Departments have consistently applied limiting principles in prior rulemakings when exercising their statutory authority to specify in regulations additional categories of limited excepted benefits.⁵⁸ For example, a health FSA is a limited excepted benefit only if the arrangement is structured so that the maximum benefit payable to any participant in the class for a year does not exceed two times the participant's salary reduction election under the arrangement for the year (or, if greater, \$500 plus the amount of the participant's salary reduction election).⁵⁹ Additionally, limited wraparound coverage was recognized as a limited excepted benefit during a temporary pilot program only if it was limited in amount, such that the cost of coverage per employee (and any covered dependents) under the limited

wraparound coverage did not exceed the greater of the maximum permitted annual salary reduction contribution toward a health FSA or 15 percent of the cost of coverage under the primary plan.⁶⁰ As stated earlier in this preamble, the statutorily identified dental and vision excepted benefits are limited by implementing regulations in the scope of coverage provided instead of dollar amount, such that substantially all of the benefits thereunder are for the treatment of the mouth (including any organ or structure within the mouth) and treatment of the eye, respectively.⁶¹

The Departments propose to apply a limiting principle that is similar to limited-scope dental and vision excepted benefits for fertility benefits to qualify as a limited excepted benefit, in addition to proposing to apply a lifetime dollar limit. Under these proposed rules, the Departments propose to add paragraph (c)(3)(ix)(A) to 26 CFR 54.9831–1 and 29 CFR 2590.732 and paragraph (b)(3)(ix)(A) to 45 CFR 146.145, to specify that fertility benefits would be recognized as limited excepted benefits when coverage is limited to benefits substantially all of which are for the diagnosis, mitigation, or treatment of infertility or infertility-related reproductive health conditions and substantially all of which are provided by medical professionals authorized to practice under applicable law.⁶²

The Departments also propose to specify that such benefits may include medically appropriate items or services targeted to address infertility-related reproductive health conditions, in order to clarify that this provision would include benefits for items and services to address underlying medical causes of the infertility. Similar to limited-scope dental and vision benefits, and benefits for long term care, nursing care, and home care and community-based care, this proposed excepted fertility benefit is for targeted, limited benefits that are not typically covered under an employer's major medical plan and are often administered under a separate contract. The definition of limited-scope dental and vision benefits under 26 CFR 54.9831–1(c)(3)(iii), 29 CFR 2590.732(c)(3)(iii), and 45 CFR 146.145(b)(3)(iii) allows for coverage of

⁶⁰ 26 CFR 54.9831–1(c)(3)(vii)(B), 29 CFR 2590.732(c)(3)(vii)(B), and 45 CFR 146.145(b)(3)(vii)(B).

⁶¹ 26 CFR 54.9831–1(c)(3)(iii), 29 CFR 2590.732(c)(3)(iii), and 45 CFR 146.145(b)(3)(iii).

⁶² The Departments do not intend for this excepted fertility benefit to include coverage for abortion or abortion-related services. As proposed, this excepted fertility benefit would be for the diagnosis, mitigation, or treatment of infertility or infertility-related reproductive health conditions.

⁵⁷ Code section 9832(c)(2)(C), ERISA section 733(c)(2)(C), and PHS Act section 2791(c)(2)(C).

⁵⁸ See 83 FR 54420, 54437 (Oct. 29, 2018).

⁵⁹ 26 CFR 54.9831–1(c)(3)(v); 29 CFR 2590.732(c)(3)(v); 45 CFR 146.145(b)(3)(v).

⁵⁶ See Code section 9831(c)(1), ERISA section 732(c)(1), and PHS Act section 2722(c)(1).

a range of services from preventive care visits through more intensive care such as major restorative care, orthodontics, and ophthalmological services. The Departments propose to allow for a similar scope of coverage for the excepted fertility benefit in order to provide meaningful coverage for individuals facing challenges with infertility or infertility-related reproductive health conditions. As detailed further below, under these proposed rules, fertility benefits that provide coverage for some or all of a similar range of items and services—from preventive care to initial treatments to more intensive care—would fall within the scope of coverage necessary to qualify as limited excepted benefits.

Consistent with the Departments' goal of preserving flexibility for employers to design and offer their benefits in a way that is tailored towards their workforce, the Departments intend that excepted fertility benefits could provide coverage for the services of fertility counselors and general education on fertility, provided that substantially all of the fertility benefits are still at the direction of a medical professional authorized to practice under applicable law. This is also consistent with many families' desire to pursue non-IVF fertility treatment options.⁶³ As such, the Departments are proposing language to codify that excepted fertility benefits must be for items and services, substantially all of which are provided by medical professionals authorized to practice under applicable law.

Additionally, the Departments recognize that the causes of infertility and infertility-related conditions may vary by individual based on their overall health, specific health conditions, age, and environmental and socioeconomic factors. For example, maintaining a healthy weight and eating a healthy diet can help men and women address infertility.⁶⁴ Common

reproductive health conditions, such as polycystic ovary syndrome, endometriosis, or uterine fibroids also can cause infertility for women.⁶⁵ Furthermore, there are many underlying endocrinopathies that cause infertility including thyroid disorders, hyperprolactinemia, acromegaly, Cushing's disease, hypogonadotropic hypogonadism, and primary ovarian disorders.⁶⁶ For men, fertility can be impacted by conditions such as varicoceles, obstruction in the vas deferens, and male hypogonadism.⁶⁷ Therefore, under these proposed rules, excepted fertility benefits may include coverage to diagnose, mitigate and treat infertility and infertility-related conditions and may include medically appropriate items or services targeted to address such conditions.

The Departments note that fertility benefits that may be excepted fertility benefits under these proposed rules may include benefits that are typically covered by major medical plans, including as an EHB. To the extent the group health plan or health insurance issuer of group health insurance coverage offers a major medical plan that both covers any such benefits as an EHB as well as under an excepted fertility benefit, there may be overlapping coverage. Nothing in these proposed rules would prevent such overlapping coverage and coordination-of-benefits provisions under the terms of the plan or coverage, and applicable State and Federal law would continue to apply.⁶⁸

As stated earlier in this section of the preamble, under these proposed rules, excepted fertility benefits may include benefits to diagnose infertility. Examples of benefits for the diagnosis of infertility include, but are not limited to, benefits for lab tests, imaging, and diagnostic procedures such as laparoscopies and hysteroscopies. Such benefits may also include, for example,

benefits for evaluation with hysteroscopy or laparoscopy for patients with a history of endometriosis, pelvic infections, or ectopic pregnancy,⁶⁹ as well as blood tests to measure hormones for both men and women, semen analyses to assess the quality and health of the sperm for men, and urine tests to measure levels of luteinizing hormone for women.⁷⁰

Additionally, under these proposed rules, an excepted fertility benefit may also include benefits to mitigate infertility and address infertility-related reproductive health conditions including, for example, examination of a patient's overall health and lifestyle and elimination of environmental endocrine disruptors.⁷¹ Benefits to mitigate infertility under these proposed rules may also include, but are not limited to, fertility awareness-based methods, fertility education and medical management, surgical procedures, and pre-conception care with a focus on fertility awareness.

Under these proposed rules, benefits to mitigate infertility that would be considered excepted fertility benefits may furthermore include assessment of the health and fertility of a patient's partner (where the partner is also a participant or a beneficiary under the plan or coverage). Male-factor infertility treatments are also a component of infertility mitigation.⁷² They can include an evaluation of a patient's medical history, a physical examination, analysis of a patient's semen, and surgical approaches, including robotic surgery.⁷³ Additional methods of

⁶⁹ Tammy Lindsay, MD, and Kirsten Vitrikas, MD, *Evaluation and Treatment of Infertility*, Am Fam Physician, March 1, 2015; 91(5), <https://www.aafp.org/pubs/afp/issues/2015/0301/p308.pdf> (During a hysteroscopy, a licensed medical professional inserts a hysteroscope (a thin, lighted tube) through the cervix into the uterus and checks for any irregular signs. During a laparoscopy, a licensed medical professional makes a small cut beneath the navel and places a thin viewing device through the cut to check the fallopian tubes, ovaries, and uterus); Mayo Clinic, *Diagnosis and Treatment*, <https://www.mayoclinic.org/diseases-conditions/infertility/diagnosis-treatment/drc-20354322> (last accessed Apr. 16, 2026).

⁷⁰ American College of Obstetricians & Gynecologists, *Evaluating Infertility, Frequently Asked Questions, What does the basic testing for women include?*, <https://www.acog.org/womens-health/faqs/evaluating-infertility> (last accessed Apr. 16, 2026).

⁷¹ See Heather Patisaul, *Reproductive Toxicology: Endocrine disruption and reproductive disorders: impacts on sexually dimorphic neuroendocrine pathways*, <https://rep.bioscientifica.com/view/journals/rep/162/5/REP-20-0596.xml> (Oct. 5, 2021).

⁷² See Jefferson Health, *Male Factor Infertility* (last accessed Apr. 16, 2026), <https://www.jeffersonhealth.org/conditions-and-treatments/male-factor-infertility>.

⁷³ Mourad Assidi, Ph.D., *Infertility in Men: Advances towards a Comprehensive and Integrative*

⁶³ A recent survey of 1,010 adults in the United States, United Kingdom, Ireland, and Canada, who are trying to conceive, have tried to achieve pregnancy in the last five years, or plan to try to achieve pregnancy in the next five years revealed that 89% of women preferred to use a less invasive fertility treatment if supported by evidence before trying IVF. Furthermore, the survey showed that 78% of respondents said that having a better understanding of non-IVF options would make them more likely to pursue other fertility options first. Carrot, *Beyond IVF: What people really want from fertility care* (March 2026), <https://content.get-carrot.com/rs/418-PQJ-171/images/2026-Beyond-IVF-Report.pdf?version=0> (last accessed Apr. 16, 2026).

⁶⁴ American College of Obstetricians & Gynecologists, *Treating Infertility, Frequently Asked Questions, What lifestyle changes may help improve my chances for pregnancy?*, <https://>

www.acog.org/womens-health/faqs/treating-infertility (last accessed Apr. 16, 2026).

⁶⁵ U.S. Centers for Disease Control and Prevention, *Common Reproductive Health Concerns for Women* (May 15, 2024), <https://www.cdc.gov/reproductive-health/womens-health/common-concerns.html>.

⁶⁶ Unuane D, Tournaye H, Velkeniers B, Poppe K. *Endocrine disorders & female infertility*. Best Pract Res Clin Endocrinol Metab. (2011).

⁶⁷ Mayo Clinic, *Diagnosis and Treatment, Male infertility* (Dec. 28, 2022), <https://www.mayoclinic.org/diseases-conditions/male-infertility/symptoms-causes/syc-20374773>.

⁶⁸ See, e.g., 42 CFR 411 (providing Medicare Secondary Payer rules); see also *McGurl v. Trucking Employees of North Jersey Welfare Fund, Inc.*, 124 F.3d 471 (3d Cir. 1997) (utilizing ERISA common law authority to determine which plan would take precedence where coordination of benefits provisions conflicted).

mitigation include ultrasound scanning, urinalysis, genetic tests, testicular biopsies, and other tests to determine sperm function.

Another example of a benefit to treat infertility that would be an excepted fertility benefit under these proposed rules is ovulation induction, which includes either oral or injectable medications, that can help improve ovulation patterns or increase the number of eggs released each month.⁷⁴ Additionally, although hysteroscopy and laparoscopy are tests that can help diagnose infertility, these tests can also help with the treatment of infertility. For example, a laparoscopy can remove growths called fibroids or endometriosis tissue which can lead to infertility.⁷⁵ Treatment of infertility may also include IVF, where egg production is stimulated through medication and eggs are surgically retrieved from the ovaries prior to ovulation and fertilized with sperm in a laboratory environment before being transferred into the uterus.⁷⁶ People who have absent or blocked fallopian tubes, endometriosis, ovulatory dysfunction, or low sperm count, among others, are generally considered candidates for IVF.⁷⁷

IVF is the most commonly used ART procedure and one of the most effective for treating infertility.⁷⁸ Other types of

ART, such as GIFT and ZIFT, are much less common. In a national report on ART looking at the chance of a live birth, the data showed a 41.7 percent chance of live birth with an intended egg retrieval for women under the age of 35.⁷⁹ Between 2004 and 2013, among women ages 18 to 43 using autologous oocytes (i.e. the individual's own eggs), the live birth rate per IVF cycle was 35.5 percent.⁸⁰ The Departments recognize that based on the cost of IVF treatment, employers and issuers may choose to limit the benefits available for IVF under an excepted fertility benefit.

These proposed rules are generally intended to provide employers and health insurance issuers with flexibility to cover a broad spectrum of treatments and interventions for fertility-related and pre-conception care as part of the excepted fertility benefit. The Departments believe allowing employers and health insurance issuers this flexibility creates the opportunity for fertility benefits to help individuals address their specific fertility needs, regardless of whether they need pre-conception care related to the underlying cause of infertility or more invasive treatments and procedures, like IVF. Furthermore, to the extent that issuers are assuming financial risk for providing fertility benefits under a separate contract from major medical insurance, the Departments believe the assumption of such risk for a patient's financial exposure and fertility outcome creates a powerful incentive for the issuer to help patients access the highest-quality interventions based on each specific patient's needs at the lowest cost. The Departments solicit comments on the proposals related to the scope of excepted fertility benefits, including the illustrative examples provided in this preamble.

2. Lifetime Dollar Amount

In addition to the proposed limitation on the scope of coverage, the Departments are also proposing to establish a lifetime dollar limit for the proposed excepted fertility benefits. Under these proposed rules, at paragraph (c)(3)(ix)(B) of 26 CFR

54.9831-1 and 29 CFR 2590.732 and paragraph (b)(3)(ix)(B) of 45 CFR 146.145, the Departments propose that the total lifetime benefit per participant, together with their beneficiaries (if such beneficiaries are eligible for the excepted fertility benefit), would not exceed \$120,000. This proposed maximum lifetime dollar limit would be indexed for medical inflation to keep up with the rising cost of medical items and services. As illustrated in proposed Example 3, to the extent the plan or issuer of the excepted fertility benefits paid \$120,000 in benefits (plus the increase due to medical inflation applicable for the plan year) for any participant, together with their beneficiaries if eligible, counting plan payments for both the current plan year to date and any previous plan years, the excepted fertility benefits would be exhausted and no further coverage or additional benefits could be provided by the plan or issuer.⁸¹ Further, a fertility benefit that provides benefits in excess of the maximum lifetime dollar limitation for any participant, together with their beneficiaries if eligible, would fail to meet the requirements of proposed paragraph (c)(3)(ix) of 26 CFR 54.9831-1 and 29 CFR 2590.732 and paragraph (b)(3)(ix) of 45 CFR 146.145.

The Departments are proposing that for plan years beginning after December 31, 2027, the maximum lifetime dollar amount would be increased by an amount equal to \$120,000 multiplied by the difference between the overall medical care component of the CPI-U (unadjusted) published by the Department of Labor for December of the previous plan year and 587.144 (the overall medical care component of the CPI-U (unadjusted) for December 2025), divided by 587.144.⁸² This method is similar to the method utilized to account for medical inflation in the Departments' grandfathered plan regulations.⁸³ The Departments seek comment regarding whether an alternative method of calculating medical inflation may more accurately reflect the rising costs of fertility treatment.

The Departments have applied limits on other limited excepted benefits specified in regulations, such as the

Strategy for Precision Therapeutics. Cells (May 22, 2022), <https://doi.org/10.3390/cells11101711>.

⁷⁴ Johns Hopkins Medicine, Gynecology & Obstetrics Fertility Center, Infertility Services: Ovulation Induction, <https://www.hopkinsmedicine.org/gynecology-obstetrics/specialty-areas/fertility-center/infertility-services/ovulation-induction-intercourse> (last accessed Apr. 16, 2026).

⁷⁵ Mayo Clinic, Diagnosis and Treatment, <https://www.mayoclinic.org/diseases-conditions/infertility/diagnosis-treatment/drc-20354322> (last accessed Apr. 16, 2026); see also American College of Obstetricians & Gynecologists, *Treating Infertility, Frequently Asked Questions, What are gonadotropins?*, <https://www.acog.org/womens-health/faqs/treating-infertility> (last accessed Apr. 16, 2026) (Gonadotropins are another drug used to trigger ovulation. Gonadotropins are used if other drugs are not successful or if many eggs are needed for infertility treatments. Gonadotropins are given in a series of shots early in the menstrual cycle.).

⁷⁶ Johns Hopkins Medicine, Gynecology & Obstetrics Fertility Center, Infertility Services: In Vitro Fertilization (IVF), <https://www.hopkinsmedicine.org/gynecology-obstetrics/specialty-areas/fertility-center/infertility-services/ivf> (last accessed Apr. 16, 2026).

⁷⁷ Johns Hopkins Medicine, Gynecology & Obstetrics Fertility Center, Infertility Services: In Vitro Fertilization (IVF), <https://www.hopkinsmedicine.org/gynecology-obstetrics/specialty-areas/fertility-center/infertility-services/ivf> (last accessed Apr. 16, 2026).

⁷⁸ U.S. Department of Health and Human Services, Fact Sheet: In Vitro Fertilization (IVF) Use Across the United States (Mar. 13, 2024), <https://us.pagefreezer.com/en-US/wa/browse/0a7f82bb-be6e-448a-ae11-373d22c37842?find-by-timestamp=2025-01-02T05:49:59Z&url=https%3F%2Fwww.hhs.gov%2Fabout%2Fnews%2F2024%2F03%2F13%2Ffact-sheet-in-vitro-fertilization-ivf-use-across-united-states.html×tamp=2025-01-02T07:03:02Z>.

⁷⁹ Society for Assisted Reproductive Technology, Preliminary National Summary Report for 2024, National Summary Report (last accessed Apr. 16, 2026), <https://www.sartcorsonline.com/CSR/PublicSnapshotReport?ClinicPKID=&reportingYear=2024&fromDisclaimer=true>.

⁸⁰ Luke, B. et al., Likelihood of success at each stage of IVF treatment by maternal age and oocyte source: analysis of the 2004-13 cycles in the SART CORS, Fertility and Sterility (Sept. 2017), [https://www.fertstert.org/article/S0015-0282\(17\)31538-8/fulltext](https://www.fertstert.org/article/S0015-0282(17)31538-8/fulltext).

⁸¹ If consistent with the plan's terms, the excepted fertility benefit plan may, in future years, cover additional benefits for such participant or beneficiary based on the then-applicable lifetime total benefit maximum, as increased by medical inflation.

⁸² See Bureau of Labor Statistics, Medical care in U.S. city average, all urban consumers, not seasonally adjusted, https://data.bls.gov/timeseries/CUUR0000SAM?output_view=data.

⁸³ 26 CFR 54.9815-1251(g)(4)(i), 29 CFR 2590.715-1251(g)(4)(i), and 45 CFR 147.140(g)(4)(i).

limited health FSA and the excepted benefit HRA. These types of account-based limited excepted benefits can be used to reimburse a wide range of medical care expenses as defined under section 213(d) of the Code. The Departments recognize that certain limited excepted benefits that are not limited in scope by benefit type (as compared to limited-scope dental or limited-scope vision benefits) must be limited in some way to constitute the type of ancillary benefit contemplated within the meaning of “similar, limited benefits” under Code section 9832(c)(2)(C), ERISA section 733(c)(2)(C), and PHS Act section 2791(c)(2)(C). For example, a health FSA is an excepted benefit only if the arrangement is structured so that the maximum benefit payable to any participant in the class for a year does not exceed two times the participant’s salary reduction election under the arrangement for the year (or, if greater, \$500 plus the amount of the participant’s salary reduction election).⁸⁴ An excepted benefit HRA may not exceed \$1,800, indexed for inflation for plan years beginning after December 31, 2020.⁸⁵

In the context of the proposed excepted fertility benefit, as stated earlier in this preamble, the Departments recognize that the causes of infertility and infertility-related conditions may vary by individual based on various factors such as overall health, specific health conditions, age, and environmental and socioeconomic factors. Given the potential for an expansive understanding of the items and services that may constitute benefits for the diagnosis, mitigation, or treatment of infertility and its causes, the establishment of a total lifetime dollar limit, together with the limit in scope, would ensure the Departments, in the exercise of their statutory authority to specify this new category of limited excepted benefits, give appropriate meaning to the term “limited.” For excepted fertility benefits, a total lifetime dollar limit, as opposed to the annual dollar limit utilized for other excepted benefits such as excepted benefit HRAs and limited health FSAs, is more appropriate because applying a maximum lifetime dollar limit would be similar to the structure of several States’ insurance laws (which impose a lifetime limit on coverage of IVF) as well as the structure of the majority of employer plans that

currently offer IVF coverage.⁸⁶ The Departments request comment on the proposal to apply a limit on scope of coverage and a lifetime dollar limit and whether fertility benefits that meet both requirements would be sufficiently “similar” and “limited” to constitute the type of benefit contemplated within the meaning of “similar, limited benefits” under Code section 9832(c)(2)(C), ERISA section 733(c)(2)(C), and PHS Act section 2791(c)(2)(C).

In proposing the lifetime dollar amount be limited to \$120,000 (plus medical inflation for plan years beginning after December 31, 2027), the Departments considered the main cost drivers of fertility benefits, including IVF. One source estimates the average cost of one IVF cycle in the U.S. ranges from \$15,000 to \$20,000.⁸⁷ Another source suggests that the cost is higher, costing \$24,373 to \$38,015 for IVF and \$61,377 for successful pregnancy via IVF.⁸⁸ Even less costly procedures like IUI can be several thousand dollars per treatment.⁸⁹ Beyond the cost of the procedures involved, a patient faces other associated costs such as imaging, bloodwork, and medications. Given that the average number of cycles that are needed to achieve a successful pregnancy from IVF is 2.5, the total cost of IVF can exceed \$40,000, or even \$60,000, depending on the source.⁹⁰ The Departments are therefore proposing a \$120,000 lifetime dollar limit because it would give employers and health insurance issuers the flexibility to offer benefits sufficient to meaningfully provide a benefit that covers the needs of their employees,

including successful conceptions via IVF. The Departments do not intend that employers and issuers offering fertility benefits would be unduly constrained in designing a meaningful fertility benefit, and accordingly, the Departments are proposing a dollar limit that reflects the cost of fertility treatment for many individuals and is in line with the lifetime maximum benefits of several State insurance laws (which are currently as high as \$100,000).⁹¹ The Departments also believe setting such dollar limit would reduce the amount of disruption for employers who may choose to transition their current fertility benefits to an excepted fertility benefit, as such employers could retain any current dollar limit, as long as it is \$120,000 or lower, while adding a limiting principle.

While the Departments considered proposing an alternative, lower lifetime dollar limit (e.g. \$50,000), they determined that such a limit may constrain employers and health insurance issuers that want to offer a fertility benefit sufficient to cover multiple fertility treatments, including for those families who wish to have more than one child. While the Departments acknowledge the proposed \$120,000 lifetime dollar limit would be a considerable benefit, the Departments are of the view that this limiting principle, in conjunction with the proposed limitation on the scope of benefits covered by the excepted fertility benefit, aligns with the meaning of the term “similar, limited benefits” under Code section 9832(c)(2)(C), ERISA section 733(c)(2)(C), and PHS Act section 2791(c)(2)(C). The fact that the statute sets forth benefits for “long-term care, nursing home care, home health care, community-based care, or any combination thereof” as a category of limited benefits, which can cost an average of \$120,900,⁹² suggests that Congress contemplated that the limited excepted benefits category could include other benefits of comparable value, including the proposed excepted fertility benefit category.

The Departments also note that other States have made fertility benefits an

⁸⁶ See 054.00.1 Ark. Admin. Code § 6; see also 27 R.I. Gen. Laws § 27–18–30(g); see also Md. Code Ann., Ins. § 15–810(e); see also Mercer, *National Survey of Employer-Sponsored Health Plans* (2024).

⁸⁷ Alina Salganicoff, Brittnei Frederiksen, and Usha Ranji, *Will Trump’s Announcement Expand Access to IVF?*, KFF (Oct. 27, 2025), https://www.kff.org/womens-health-policy/will-trumps-announcement-expand-access-to-ivf/?spm=a2700_accio_bizSeo.0.0.25a87e47Npdtl2.

⁸⁸ Patricia Katz et. al., *Costs of infertility treatment: results from an 18-month prospective cohort study*, Fertil Steril. (March 1, 2011).

⁸⁹ Penn Medicine, *Intrauterine insemination (IUI)*, <https://www.pennmedicine.org/treatments/intrauterine-insemination> (last accessed Apr. 16, 2026).

⁹⁰ Patricia Katz et. al., *Costs of infertility treatment: results from an 18-month prospective cohort study*, Fertil Steril. (March 1, 2011); U.S. Department of Health and Human Services, *Fact Sheet: In Vitro Fertilization (IVF) Use Across the United States* (Mar. 13, 2024), <https://us.pagefreeser.com/en-US/wa/browse/0a7f82bb-be6e-448a-ae11-373d22c37842?find-by-timestamp=2025-01-02T05:49:59Z&url=https%3F%2Fwww.hhs.gov%2Fabout%2Fnews%2F2024%2F03%2F13%2Ffact-sheet-in-vitro-fertilization-ivf-use-across-united-states.html×tamp=2025-01-02T07:03:02Z>.

⁸⁴ 26 CFR 54.9831–1(c)(3)(v), 29 CFR 2590.732(c)(3)(v), and 45 CFR 146.145(b)(3)(v).

⁸⁵ 26 CFR 54.9831–1(c)(3)(viii), 29 CFR 2590.732(c)(3)(viii), and 45 CFR 146.145(b)(3)(viii).

⁹¹ See Mercer, *National Survey of Employer-Sponsored Health Plans* (2024) (The median lifetime dollar limit for employer-sponsored IVF coverage was \$20,000 in 2023); Md. Ins. Code Ann. § 15–810(e) (2021); 27 R.I. Gen. Laws § 27–18–30(g) (2017).

⁹² See HHS Office of the Assistance Secretary for Planning and Evaluation, Office of Behavioral Health, Disability, and Aging Policy, *Long-Term Services and Supports for Older Americans: Risks and Financing*, 2022 (Aug. 2022), <https://aspe.hhs.gov/sites/default/files/documents/08b8b7825f7bc12d2c79261fd7641c88/ltsr-risks-financing-2022.pdf>.

EHB. EHBs are prohibited from having annual or lifetime dollar limits, but may have non-dollar limits, such as limits on the number of IVF cycles covered. Proposing a lifetime dollar limit for the excepted fertility benefits would not undermine these State insurance requirements. Fertility benefits that are EHB in a State must be covered by the non-grandfathered individual and small group major medical health insurance coverage in that State.

The Departments solicit comment on whether a different maximum dollar amount is necessary to achieve the goals of sufficiently limiting the scope of the excepted fertility benefits. The Departments also solicit comment on whether a maximum dollar amount is unnecessary and the Departments should instead rely on the definition of excepted fertility benefits to limit their scope.

The Departments are also considering whether the dollar limit should be a maximum lifetime dollar amount as proposed, or whether the amount should be a maximum annual limit (e.g., up to \$15,000) where any unused portion could carry over to the following plan year, similar to what is allowed for excepted benefit HRAs.⁹³ The advantage of such a cumulative annual amount under the latter arrangement is that it would encourage participants to enroll in the excepted fertility benefit before they may be planning to use the benefit in order to build up the benefit to be used at a later date.⁹⁴ Accordingly, the Departments solicit comment on whether instead of a lifetime dollar limit, a maximum annual cumulative limit should apply to the excepted fertility benefit, and what the annual dollar amount should be under such an alternative approach.

3. Not an Integral Part of the Plan

To be a limited excepted benefit under Code section 9831(c)(1), ERISA section 732(c)(1), and PHS Act section 2722(c)(1), benefits must: (1) be provided under a separate policy, certificate, or contract of insurance; or (2) otherwise not be an integral part of the plan. While only insured coverage may qualify under the first test, both

insured and self-insured coverage may qualify under the second test.⁹⁵

Under these proposed rules, for a fertility benefit in the group market to be considered not an integral part of the plan, the Departments propose that a group health plan that is not limited to excepted benefits and that is not an HRA or other account-based group health plan must be made available by the same plan sponsor for the plan year to the participants offered the fertility benefit. Only individuals eligible to participate in the traditional group health plan would be eligible to participate in the excepted fertility benefit. However, while the plan sponsor would be required to offer a traditional group health plan to all individuals offered the fertility benefit, participants in the fertility benefit (and beneficiaries, if eligible for the fertility benefit) would not be required to enroll in that traditional group health plan in order for the fertility benefit to qualify as a limited excepted benefit. This proposed standard is similar to rules for health FSAs at paragraph (c)(3)(v) of 26 CFR 54.9831-1 and 29 CFR 2590.732, and paragraph (b)(3)(v) of 45 CFR 146.145 and for excepted benefit HRAs at paragraph (c)(3)(viii) of 26 CFR 54.9831-1 and 29 CFR 2590.732, and (b)(3)(viii) of 45 CFR 146.145. Participants (and beneficiaries, if eligible for the fertility benefit) enrolling in the fertility benefit may decline coverage for the other group health plan coverage. For example, a participant may decline the other group health plan coverage if the participant can opt out of that coverage, whether or not there is a contribution required for the coverage.⁹⁶ This may be an attractive option for participants who have enrolled in group health plan coverage through another household member, such as a spouse, but would still like to take advantage of this excepted fertility benefit. The Departments solicit comments on this approach.

The Departments are also considering whether additional safeguards are necessary to ensure that such coverage is not an integral part of the plan. For example, the rule for EAPs to qualify as limited excepted benefits requires at paragraph (c)(3)(vi)(C) of 26 CFR 54.9831-1 and 29 CFR 2590.732 and paragraph (b)(3)(vi)(C) of 45 CFR 146.145 that no employee premiums or contributions be required as a condition

of participation in the EAP.

Additionally, paragraph (c)(3)(vi)(D) of 26 CFR 54.9831-1 and 29 CFR 2590.732 and paragraph (b)(3)(vi)(D) of 45 CFR 146.145 provides that EAPs that qualify as limited excepted benefits have no cost sharing. As compared to EAPs, excepted fertility benefits may provide a broader scope of benefits. Accordingly, the Departments are not proposing to prohibit plans and issuers from charging a premium or contribution or imposing cost sharing for excepted fertility benefits. In addition, there are other categories of limited excepted benefits that are permitted to charge a premium or contribution and/or impose cost-sharing that the Departments believe are more analogous to the proposed excepted fertility benefits (e.g., limited-scope dental or vision benefits and benefits for long-term care). The Departments solicit comments on whether an additional safeguard that no employee premium or contribution be required as a condition of participation in the excepted fertility benefit should be imposed, or whether plans and issuers should have the flexibility to charge premiums or contributions and impose cost sharing, as they do for limited-scope dental, vision, and long-term care coverage.

4. Notice Requirements

In order to ensure that participants and beneficiaries who are eligible to participate in an excepted fertility benefit are informed about its availability and understand the scope of coverage provided, the Departments propose, under their statutory authority in section 9833 of the Code, section 734 of ERISA, and section 2792 of the PHS Act, to require that plans and issuers provide written notice to plan participants and beneficiaries in accordance with proposed paragraph (c)(3)(ix)(D) of 26 CFR 54.9831-1 and 29 CFR 2590.732 and proposed paragraph (b)(3)(ix)(D) of 45 CFR 146.145 for fertility benefits to qualify as limited excepted benefits. Under these proposed rules, if a single notice is provided to a participant and any beneficiaries at the participant's last known address, then the requirement to provide the notice to the participant and any beneficiaries would generally be satisfied. However, if a beneficiary's last known address is different from the participant's last known address, a separate notice provided to the beneficiary at the beneficiary's last known address would be required. In either case, such address could include an electronic address, if otherwise allowed under the relevant

⁹³ See 26 CFR 54.9831-1(c)(3)(viii)(B)(2); 29 CFR 2590.732(c)(3)(viii)(B)(2); and 146.145(b)(3)(viii)(B)(2).

⁹⁴ Under the current proposal, a plan sponsor could similarly design an excepted fertility benefit such that it imposes an annual dollar limitation where any unused portion could carry over to subsequent plan years, up to the lifetime dollar amount at proposed paragraph (c)(3)(ix)(B) of 26 CFR 54.9831-1 and 29 CFR 2590.732 and paragraph (b)(3)(ix)(B) of 45 CFR 146.145.

⁹⁵ 79 FR 59130, 59131 (Oct. 1, 2014).

⁹⁶ This is also consistent with the standard applicable to limited scope dental benefits, limited scope vision benefits, and long-term care benefits that are limited excepted benefits. See 26 CFR 54.9831-1(c)(3)(ii)(A), 29 CFR 2590.732(c)(3)(ii)(A), and 45 CFR 146.145(b)(3)(ii)(A).

disclosure requirements applicable to the plan.⁹⁷

Such a notice requirement would be in addition to any notice requirements otherwise applicable to excepted benefits. For excepted benefits that are ERISA welfare benefit plans, such disclosure requirements would include the Summary Plan Description (SPD) under ERISA section 102 and 29 CFR 2520.102–3(j)(2) and (3) and 2520.104b–2(a). The Departments recognize that SPDs often contain far too much detail for a summary document and intend that participants and beneficiaries have information on the excepted fertility benefits in a shorter, more reader-friendly format.⁹⁸ The proposed notice requirement would instead be expected to function as an executive summary or “quick reference guide” for the excepted fertility benefits.⁹⁹ While the excepted fertility benefits notice would be a separate notice, it could be provided with other ERISA-required documents. For example, if multiple documents are furnished together as part of an open enrollment packet, the excepted fertility benefits notice could be included as part of the packet. Under these proposed rules, the notice for non-Federal governmental plans would similarly be expected to function as an executive summary and be a separate notice that could be provided with other documents.

Under these proposed rules, the Departments would require issuers and plan sponsors of both insured and self-insured excepted fertility benefits to provide this notice. The Departments require a notice for other types of limited excepted benefits, such as excepted benefit HRAs at paragraph (c)(3)(viii) of 26 CFR 54.9831–1 and 29 CFR 2590.732 and paragraph (b)(3)(viii) of 45 CFR 146.145. The Departments are of the view that participants and beneficiaries should be aware of the availability of any excepted fertility coverage offered, so that they can utilize it expeditiously. Additionally, participants and beneficiaries may be unfamiliar with how benefits for the diagnosis, mitigation, and treatment of infertility generally work under the

plan. Therefore, the Departments intend that the proposed notice would be an important educational tool that would help participants and beneficiaries navigate their excepted fertility benefits. It is also important that participants understand what would be covered under their excepted fertility benefits, as opposed to under their traditional group health plan. Therefore, in the Departments’ view, it is appropriate to require this additional disclosure.¹⁰⁰ The Departments solicit comments on this approach, and whether there are alternative approaches that may better accomplish the same goal of informing eligible participants and beneficiaries about the availability of excepted fertility benefits and the scope of coverage provided.

a. Notice Content

The Departments propose in proposed paragraph (c)(3)(ix)(D)(1) of 26 CFR 54.9831–1 and 29 CFR 2590.732 and proposed paragraph (b)(3)(ix)(D)(1) of 45 CFR 146.145 that this notice would include a description of the coverage. This description would be required to include a summary of benefits and limitations of the coverage, including the lifetime dollar limit established by the plan or issuer that complies with the maximum lifetime dollar limit described in proposed paragraph (c)(3)(ix)(B) (or paragraph (b)(3)(ix)(B), as applicable). As proposed, the notice would also include information on how to identify and utilize a network provider, if applicable, and how to submit a claim for reimbursement. This could include, for example, any electronic and paper filing options, the required information needed for such a claim, and a brief description of the documentation that must be submitted in order for the plan or issuer to be able to process the claim promptly. Finally, the notice would be required to include accurate information on whether the benefit utilizes the same claims procedure as for the sponsor’s other group health plans. Participants and beneficiaries would need such information in order to properly utilize their fertility benefits and receive the promised coverage. The Departments solicit comments on this approach, including whether any additional elements should be required for the notice.

¹⁰⁰ See ERISA sections 505 and 734, PHS Act sections 2761 and 2792, ACA section 1321(a)(1) and (c), and Code section 7805 (providing the Secretaries of Labor, HHS, and the Treasury the authority to promulgate regulations as may be necessary or appropriate to carry out provisions of ERISA, the PHS Act, and the Code).

Furthermore, the notice would be required to be written and presented in a manner calculated to be understood by the average plan participant. In determining whether this standard has been satisfied, the plan or issuer would be required to take into account such factors as the level of comprehension and education of typical participants and beneficiaries in the plan or coverage and the complexity of the terms of the plan or coverage. Accounting for these factors would likely require limiting or eliminating the use of technical jargon, complex medical terminology except where necessary, and defining any technical terms of art used. This would also generally require eliminating long, complex sentences, and providing information in plain English (*i.e.*, at or below an 8th-grade reading level) so that the information provided would not have the effect of misleading, misinforming, confusing, or failing to inform participants or beneficiaries. The Departments solicit comments on this approach.

b. Notice Timing

Under proposed paragraph (c)(3)(ix)(D)(2) of 26 CFR 54.9831–1 and 29 CFR 2590.732 and proposed paragraph (b)(3)(ix)(D)(2) of 45 CFR 146.145, a plan or issuer would be required to provide the notice no later than the first date on which the participant is eligible to enroll in coverage, and annually thereafter. This would allow individuals to be informed about their coverage and generally would align with the timing of disclosures that participants and beneficiaries currently receive from their group health plan, such as the summary of benefits and coverage.¹⁰¹ Additionally, this notice would be required to be provided upon request of the participant or beneficiary. This would ensure that participants and beneficiaries would have such information available to them when needed. The Departments solicit comments on this approach.

5. Examples

In proposed 26 CFR 54.9831–1(c)(3)(ix)(E), 29 CFR 2590.732(c)(3)(ix)(E), and 45 CFR 146.145(b)(3)(ix)(E), the Departments also propose including several examples in order to illustrate the requirements of these proposed rules and provide clarity. In example 1 of these proposed rules, an employer offers benefits for fertility counseling through a separate policy of insurance that satisfy the

¹⁰¹ See 26 CFR 54.9815–2715(a)(1)(i), 29 CFR 2590.715–2715(a)(1)(i), and 45 CFR 147.200(a)(1)(i).

⁹⁷ See 29 CFR 2520.104b–1.

⁹⁸ See ERISA Advisory Council, *Mandated Disclosure for Retirement Plans—Enhancing Effectiveness for Participants and Sponsors* (Nov. 2017), <https://www.dol.gov/sites/dolgov/files/ebsa/about-ebsa/about-us/erisa-advisory-council/2017-mandated-disclosure-for-retirement-plans.pdf>; see also ERISA Advisory Council, *Advisory Council Report of the Working Group on Health and Welfare Benefit Plans’ Communications* (2005), <https://www.dol.gov/agencies/ebsa/about-ebsa/about-us/erisa-advisory-council/2005-health-and-welfare-benefit-plans-communications>.

⁹⁹ *Id.*

requirements of proposed paragraph (c)(3)(ix)(A) and (B) (or paragraph (b)(3)(ix)(A) and (B), as applicable). The issuer of the fertility counseling coverage also provides notice to plan participants and beneficiaries at or before the time individuals are given the opportunity to enroll in the coverage and annually thereafter. The notice is written in a manner calculated to be understood by the average plan participant and includes a description of the coverage, including a summary of benefits and limitations of the coverage, how to identify and utilize a network provider, how to submit a claim for reimbursement, and that the benefit utilizes the same claims procedure as for the sponsor's other group health plans. The fertility counseling coverage also has a lifetime dollar limit that complies with proposed 26 CFR 54.9831-1(c)(3)(ix)(B), 29 CFR 2590.732(c)(3)(ix)(B) and 45 CFR 146.145(b)(3)(ix)(B).

In example 1 of these proposed rules, the benefits under the fertility counseling coverage satisfy the requirements to be considered a limited excepted benefit under proposed paragraph (c)(3)(ix) (or paragraph (b)(3)(ix), as applicable). The employer provides fertility benefits that do not exceed the maximum lifetime limit which are limited as required and are provided by the employer through a separate fully insured policy. Additionally, the plan provides written notice in accordance with proposed paragraph (c)(3)(ix)(D) (or paragraph (b)(3)(ix)(D), as applicable). Therefore, the benefits would qualify as an excepted fertility benefit that is a limited excepted benefit.

In example 2 of these proposed rules, an employer sponsors a group health plan that is not limited to excepted benefits, that is not an HRA or other account-based group health plan and also offers fertility benefits for the mitigation or treatment of infertility that satisfy the requirements of proposed paragraph (c)(3)(ix)(A) (or paragraph (b)(3)(ix)(A), as applicable). The fertility benefits are self-funded by the employer. The employer offers both the group health plan and the fertility benefits to participants and permits participants to enroll in either or both benefit options or decline to participate in either or both options for the plan year. The employer also includes a lifetime dollar limit on fertility benefits that satisfies the requirements of proposed paragraph (c)(3)(ix)(B) (or (b)(3)(ix)(B), as applicable) and provides written notice to participants in accordance with the requirements of

proposed paragraph (c)(3)(ix)(D) (or paragraph (b)(3)(ix)(D), as applicable).

In example 2 of these proposed rules, the fertility benefits satisfy the conditions in proposed paragraph (c)(3)(ix) (or paragraph (b)(3)(ix), as applicable). Because the fertility benefits are not provided under a separate policy, certificate, or contract of insurance, the requirements under paragraphs (c)(3)(ix)(C) (or paragraph (b)(3)(ix)(C), as applicable) apply. The fertility benefits are not an integral part of the group health plan because the employer offers, to participants that are offered the fertility benefit, coverage under another group health plan that is not limited to excepted benefits for the plan year, and that is not an HRA or other account-based group health plan and participants may decline coverage for such other group health plan coverage. In addition, the fertility benefit plan offers fertility benefits for the mitigation or treatment of infertility that satisfy the requirements of paragraph (c)(3)(ix)(A) (or paragraph (b)(3)(ix)(A), as applicable), includes a lifetime limit on fertility benefits that complies with paragraph (c)(3)(ix)(B) (or paragraph (b)(3)(ix)(B), as applicable), and provides written notice as required by paragraph (c)(3)(ix)(D) (or paragraph (b)(3)(ix)(D), as applicable).

Example 3 of these proposed rules illustrates the application of the lifetime limit on dollar amounts for the excepted fertility benefit. In example 3, an employer sponsors a fertility benefit plan for the mitigation or treatment of infertility that satisfies the requirements of paragraph (c)(3)(ix)(A), (C) and (D) (or paragraph (b)(3)(ix)(A), (C) and (D), as applicable) in a plan year. The fertility benefits are self-funded by the employer. The fertility benefit plan imposes a lifetime, per participant limitation on benefits of \$120,000. During the plan year, the fertility benefit plan covers a given participant's claims for treatment of infertility by medical professionals authorized to practice under applicable law totaling \$65,000. In December of the plan year, the overall medical care component of the CPI-U (unadjusted) published by the Department of Labor is 625.522. During the following plan year, the plan again covers \$65,000 in claims for the same participant for treatment of infertility by medical professionals authorized to practice under applicable law pursuant to such plan's terms.

In this example, the plan fails to satisfy the conditions to be an excepted fertility benefit because lifetime benefits to the participant in the following plan year exceed \$127,843.66, which is the proposed excepted fertility benefit

lifetime dollar limit indexed for medical inflation for the relevant plan year. For purposes of calculating the lifetime dollar limit adjusted for medical inflation in this example, medical inflation is calculated by subtracting 587.144 (the overall medical care component of the CPI-U (unadjusted) for December 2025) from 625.522 (the overall medical care component of the CPI-U (unadjusted) published by the Department of Labor for December of the previous plan year) and dividing that amount by 587.144 ((625.522–587.144)/587.144). This amount is multiplied by \$120,000 which determines the dollar amount of medical inflation (\$7,843.66). Because the fertility benefit covers benefits beyond the permissible lifetime dollar limit adjusted for medical inflation (\$127,843.66), the plan fails to satisfy the condition that the benefit be limited in amount. The employer may still cover fertility benefits that are in excess of the lifetime limit through its group health plan that is not limited to excepted benefits and that is not an HRA or other account-based group health plan, provided it otherwise complies with the market requirements of chapter 100 of the code, part 7 of ERISA, or title XXVII of the PHS Act, as applicable.

6. Applicability

This proposal to create an excepted fertility benefit as a new category of limited excepted benefits would apply to group health plans and health insurance issuers offering group health insurance coverage for plan years beginning on or after January 1, 2027. The Departments solicit comments on this proposed applicability date, including how long it may take group health plan sponsors and health insurance issuers in the group market to make the necessary amendments for their existing fertility benefits coverage to qualify as limited excepted benefits or to newly offer a limited benefit for excepted fertility benefits, if so desired, and with respect to insurance coverage, for States to review and approve such filings. The Departments also solicit comment on whether these proposed rules, if finalized, should instead be applicable upon the effective date of the final rules in order to grant group health plan sponsors and health insurance issuers flexibility to offer this new category of limited excepted benefits immediately, if desired.

In accordance with the directives in Executive Order 14216 and the commitment expressed in FAQs Part 72, these proposed rules would reduce the regulatory burden for employers with

respect to offering fertility benefits to their employees because they would establish a new pathway for plan sponsors to offer fertility benefits as a limited excepted benefit that generally would not be subject to the parallel market requirements of chapter 100 of the Code, part 7 of ERISA, and title XXVII of the PHS Act.

As proposed, these rules would apply to group health plans and health insurance issuers offering group health insurance coverage. The Departments are generally aware of how employers provide fertility benefits in the group market, including through specialty vendors. The Departments believe that employers would utilize excepted fertility benefits to expand their fertility coverage offerings. The Departments have less information, however, on how excepted fertility benefits might work in the individual market, including whether there would be interest from issuers to offer these benefits on a stand-alone basis in such market.

HHS is considering whether the final rules should adopt similar standards for the individual market to reduce regulatory burden and promote access to fertility coverage for individuals and their dependents. Specifically, HHS is considering an approach under which it would exercise its authority under section 2791(c)(2)(C) of the PHS Act to recognize certain fertility benefits as limited excepted benefits in the individual market under sections 2722(c)(1) and 2763(b) of the PHS Act for policy years beginning on or after January 1, 2027, if certain conditions are met.

Under the approach HHS is considering, the individual market excepted benefit regulations at 45 CFR 148.220(b) would provide that fertility benefits constitute excepted fertility benefits in the individual market, if the benefits are offered under a separate policy, certificate, or contract of insurance and satisfy the conditions in proposed 45 CFR 146.145(b)(3)(ix)(A), (B), and (D) that the benefits be limited in scope, be subject to a maximum lifetime dollar amount, and the issuer provides written notice informing individuals and their dependents of the availability of coverage and describing the coverage.

Under this approach, certain proposed group market standards for excepted fertility benefits would be modified or inapplicable with respect to the individual market. For example, an issuer of excepted fertility benefits in the individual market would be required to provide notice to individuals and their dependents containing similar content as the group

market. The notice would be provided with any application materials provided to individuals or dependents prior to enrollment, and annually thereafter at the time of coverage renewal, as well as upon request of an individual or dependent. This would allow individuals and their dependents to be informed about the fertility benefit coverage before enrolling or reenrolling in coverage and generally would align with the proposed notice timing standard for the group market. Unlike in the group market, the notice in the individual market would not be required to include information on whether the excepted fertility benefit utilizes the same claims procedure as the sponsor's other group health plans, as there is no plan sponsor in the individual market.

Also under the approach HHS is considering, the individual market excepted benefit regulations would not incorporate the proposed group market standard at 45 CFR 146.145(b)(3)(ix)(C) that benefits not be an integral part of a plan, as the reference to "plan" in section 2722(c)(2) of the PHS Act has been interpreted as referring to a group health plan.¹⁰² Furthermore, HHS's individual market excepted benefits regulations at 45 CFR 148.220 provide that individual coverage is excepted only if the benefits are offered under a separate policy, certificate, or contract of insurance. Therefore, the requirement that the benefits not be an integral part of a plan would not apply under the approach HHS is considering for the individual market.

HHS seeks comments on all aspects of this approach, including whether it would be appropriate to create a new category of limited excepted benefits for excepted fertility benefits in the individual market, the standards HHS is considering, and any additional standards or considerations that may be appropriate for the individual market.

7. Severability

The Departments are proposing amendments to recognize excepted fertility benefits as a new category of limited excepted benefits. The Departments' authority to propose these amendments is well-established in law and practice. However, in the event that any portion of these proposed rules, if

finalized, is declared invalid, the Departments intend that the other provisions, which could still function sensibly, would be severable. Overall, the aim of the Departments is to ensure that employers and issuers can offer fertility benefits that qualify as limited excepted benefits. The proposed group market requirements under paragraphs (c)(3)(ix)(A), (B) and (C) of 26 CFR 54.9831-1, and 29 CFR 2590.732 and paragraph (b)(3)(ix)(A), (B) and (C) of 45 CFR 146.145, while part of a comprehensive regulatory scheme, are also separate requirements and can stand independently of each other and the Departments' other group market excepted benefits regulations.

Similarly, the proposed notice requirements at paragraphs (c)(3)(ix)(D) of 26 CFR 54.9831-1, and 29 CFR 2590.732 and paragraph (b)(3)(ix)(D) of 45 CFR 146.145 are separate requirements that can stand independently of the standards under paragraphs (c)(3)(ix)(A), (B), and (C) of 26 CFR 54.9831-1, and 29 CFR 2590.732 and paragraph (b)(3)(ix)(A), (B), and (C) of 45 CFR 146.145. Consequently, following any potential legal challenge, a court's decision to invalidate one standard should not affect any provision that relates to a separate standard. As indicated, this discussion of the application of severability to the provisions in these proposed rules offers examples and is not exhaustive of other potential applications. Therefore, these proposed rules specify that if any provision of paragraph (c)(3)(ix) of 26 CFR 54.9831-1 and 29 CFR 2590.732, and paragraph (b)(3)(ix) of 45 CFR 146.145 is held to be invalid or unenforceable by its terms, or as applied to any person or circumstance, or stayed pending further agency action, the provision would be construed so as to continue to give the maximum effect to the provision permitted by law. For example, if the notice requirement were to be struck down, an employer could still offer an excepted fertility benefit that met the other conditions of paragraph (c)(3)(ix) of 26 CFR 54.9831-1 and 29 CFR 2590.732, and paragraph (b)(3)(ix) of 45 CFR 146.145. However, if such holding is one of invalidity or unenforceability, these proposed rules specify the provision would be severable from this section and would not affect the remainder thereof or the application of the provision to persons not similarly situated or to dissimilar circumstances.

¹⁰² See, e.g., 79 FR 59130, 59131 (Oct. 1, 2014) ("To be excepted under this second category, the statute (specifically, ERISA section 732(c)(1), PHS Act section 2722(c)(1), and section 9831(c)(1) of the Code) provides that limited benefits must either: (1) Be provided under a separate policy, certificate, or contract of insurance; or (2) otherwise not be an integral part of a group health plan, whether insured or self-insured.").

III. Regulatory Impact Analysis

A. Summary

These proposed rules would establish fertility benefits as a new category of limited excepted benefits, the limits of the category itself, and the associated proposed conditions for such benefits to qualify as a limited excepted benefit. The Departments have examined the impacts of these proposed rules as required by Executive Order 12866,¹⁰³ Executive Order 13563,¹⁰⁴ Executive Order 14192,¹⁰⁵ the Paperwork Reduction Act of 1995,¹⁰⁶ the Regulatory Flexibility Act,¹⁰⁷ section 202 of the Unfunded Mandates Reform Act of 1995,¹⁰⁸ and Executive Order 13132.¹⁰⁹

B. Executive Orders 12866 and 13563

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, select regulatory approaches that maximize net benefits (including potential economic, environmental, public health, and safety effects; distributive impacts; and equity). Executive Order 13563 emphasizes the importance of quantifying costs and benefits, reducing costs, harmonizing rules, and promoting flexibility.

Under Executive Order 12866, “significant” regulatory actions are subject to review by the Office of Management and Budget (OMB). Section 3(f) of the Executive Order defines a “significant regulatory action” as any regulatory action that is likely to result in a rule that may:

(1) Have an annual effect on the economy of \$100 million or more; or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, territorial, or Tribal governments or communities (also referred to as “economically significant”);

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President’s priorities, or the principles set forth in this Executive order.

Based on the Departments’ estimates, OMB’s Office of Information and Regulatory Affairs (OIRA) has determined this rulemaking is significant per section 3(f). The Departments have provided an assessment of the potential costs, benefits, and transfers, associated with these proposed rules, and OMB has reviewed these proposed rules.

Executive Order 14192, titled “Unleashing Prosperity Through Deregulation,” was issued on January 31, 2025. Section 3(a) of Executive Order 14192 requires an agency, unless prohibited by law, to identify at least ten existing regulations to be repealed when the agency issues a new regulation. In furtherance of this requirement, section 3(c) of Executive Order 14192 requires that the new incremental costs associated with new regulations shall, to the extent permitted by law, be offset by the elimination of existing costs associated with prior regulations. A significant regulatory action (as defined in section 3(f) of Executive Order 12866) that would impose total costs greater than zero is considered an Executive Order 14192 regulatory action. These proposed rules, if finalized as proposed, are therefore expected to be regulatory actions under Executive Order 14192.

C. Need for Regulatory Action

Executive Order 14216, “Expanding Access to In Vitro Fertilization,” states that the policy of the Trump Administration is to provide support, awareness, and access to affordable fertility treatments, including reliable access to IVF treatment, by easing unnecessary statutory or regulatory burdens to make IVF and fertility treatments drastically more affordable.¹¹⁰

These proposed rules would help address the increasing need for fertility services through the addition of a new type of limited excepted benefit that provides coverage for items and services to diagnose, mitigate, or treat infertility or infertility-related reproductive health conditions. By proposing to expand the classification of limited excepted benefits to include this coverage, the Departments anticipate greater coverage for such items and services could help address coverage gaps and prohibitively expensive medical care that limits access to and utilization of such items and services.

1. Background

The decline in fertility rates has been an increasing concern in the United States. Since 1990, the general fertility rate, which is the number of births per 1,000 women aged 15 to 44, has declined by 23 percent in the United States. This has resulted in over half a million fewer births in the United States in 2023 compared to 1990. Across the population, the general fertility rate has broadly declined with the total fertility rate now estimated at 1.6 births per woman, well below the 2.1 births per woman required for population stability (referred to as the “replacement rate”).¹¹¹

The decline in births has been driven by women under 30, who had nearly 1.2 million fewer births in 2023 than in 1990, a decline of nearly 40 percent.¹¹² This has coincided with increasing delays to childbirth, indicated by the age of the mother at their child’s first birth, which has steadily increased from 24.2 years of age in 1990 to 27.5 in 2023.¹¹³ Similarly, the age of the father at their first child’s birth has also increased over time.¹¹⁴ Though individuals may intentionally delay childbirth to later in life, advanced maternal age increases the risks associated with pregnancy complications.¹¹⁵ This, coupled with the declining natural fertility associated with older age, could result in some intentionally delayed pregnancies not occurring and leading to missed birth opportunities.

While women under 30 have experienced a significant decline in birth rates, women over 30 have experienced growth in their birth rates

¹¹¹ Anne Driscoll and Brady Hamilton, *Effects of Age-Specific Fertility Trends on Overall Fertility Trends: United States, 1990–2023*, Centers for Disease Control and Prevention, National Vital Statistics Reports, Vol. 74, No. 3 (Mar. 6, 2025), <https://stacks.cdc.gov/view/cdc/174576>.

¹¹² *Id.*

¹¹³ T.J. Matthew and Brady Hamilton, *Mean Age of Mother, 1970–2000*, Centers for Disease Control and Prevention, National Vital Statistics Reports, Vol. 51, No. 1 (Dec. 11, 2002), https://www.cdc.gov/nchs/data/nvsr/nvsr51/nvsr51_01.pdf.

¹¹⁴ Andrea Brown, Brady Hamilton, Dmitry Kissin and Joyce Martin, *Trends in Mean Age of Mother: 2016–2023* (Jun. 13, 2025), <https://pmc.ncbi.nlm.nih.gov/articles/PMC12278045/>.

¹¹⁵ Gladys Martinez and Kimberly Daniels, *Fertility of Men and Women Aged 15–49 in the United States: National Survey of Family Growth, 2015–2019*, Centers for Disease Control and Prevention, National Center for Health Statistics, National Health Statistics Reports, No. 179 (Jan. 10, 2023), <https://www.cdc.gov/nchs/data/nhsr/nhsr179.pdf>.

¹¹⁶ Siddharth Zabak, Ashish Varma, Spandan Bansod, and Meera Pohane, *Exploring the Complex Landscape of Delayed Childbearing: Factors, History, and Long-Term Implications* (Sept. 30, 2023), <https://pmc.ncbi.nlm.nih.gov/articles/PMC10616531/>.

¹⁰³ Regulatory Planning and Review, 58 FR 51735 (Oct. 4, 1993).

¹⁰⁴ Improving Regulation and Regulatory Review, 76 FR 3821 (Jan. 18, 2011).

¹⁰⁵ 90 FR 9065 (January 31, 2025).

¹⁰⁶ 44 U.S.C. 3506(c)(2)(A) (1995).

¹⁰⁷ 5 U.S.C. 601 *et seq.* (1980).

¹⁰⁸ 2 U.S.C. 1501 *et seq.* (1995).

¹⁰⁹ Federalism, 64 FR 153 (Aug. 4, 1999).

¹¹⁰ 90 FR 10451 (Feb. 18, 2025).

and now account for 51 percent of all births in the United States.¹¹⁷ The number of births to women over 40 nearly tripled between 1990 and 2023, while births to women aged 35 to 39 nearly doubled and births to women aged 30 to 34 increased moderately. This resulted in approximately 600,000 additional births to women over 30 in 2023 when compared to 1990, though this growth was not sufficient to offset the considerable decline in births to women under 30.

These changes in reproductive patterns have not been reflected in individuals' stated preferences, as the average ideal number of children reported in surveys has remained between 2.4 and 2.7 for nearly half a century.¹¹⁸ Distinct from an "ideal," the intended family size has also been stable across a similar time period, indicating most individuals intend to have between two and three children.¹¹⁹ As fertility rates are forecasted to continue declining while both men and women further delay childbirth to later in life, the growing divergence between intended reproduction rates and actual rates suggests that access to medical care that can assist in reproduction will become even more integral to prospective parents.¹²⁰

A 2024 report from the National Center for Health Statistics illustrates that, as women age, fecundity—the ability to produce offspring—declines while fertility issues increase, a health outcome that is similarly observed in men.¹²¹ As such, many medical

providers will typically diagnose and treat fertility issues in women aged 35 or older after they have attempted to conceive for at least six months.¹²²

Declining fertility in later life, coinciding with intentional delays to reproduction, has generated demand for assistive reproductive medical care. A 2024 survey from KFF indicated that 13 percent of women have reported that they or their partner required fertility treatments to help them become pregnant or prevent a miscarriage.¹²³ Additionally, data from the 2022–2023 National Survey of Family Growth (NSFG) indicate that among respondents ages 25 to 45, approximately 12 percent of women and 7 percent of men reported having sought medical care to help in having a child.¹²⁴ The KFF Women's Health Survey reported that among women of reproductive age who reported that they or their partner have needed fertility services, approximately 22 percent did not receive any services.¹²⁵ This suggests a small but significant number of reproductive age adults require but do not receive the necessary medical care to conceive. Given the continual rise of average parental age at first birth over the past several decades, reproductive medical treatments are expected to become increasingly important to a greater share of women and men trying to conceive. In 2022 approximately 2.7 percent of all live births in the United States were born with the use of ART, such as IVF.^{126 127}

United States, 2015–2019, Centers for Disease Control and Prevention, National Health Statistics Reports, No. 202 (Apr. 24, 2024), <https://www.cdc.gov/nchs/data/nhsr/nhsr202.pdf>.

¹²² *Infertility: Frequently Asked Questions*, Centers for Disease Control and Prevention, Division of Reproductive Health (May 15, 2024), <https://www.cdc.gov/reproductive-health/infertility-faq/index.html>.

¹²³ KFF, *Women's Health Survey 2024* (Oct. 21, 2024), <https://www.kff.org/womens-health-policy/access-to-fertility-care-findings-from-the-2024-kff-womens-health-survey/>.

¹²⁴ National Center for Health Statistics, *National Survey of Family Growth, 2022–2023*, Public Use Data File (last accessed April 16, 2026), <https://www.cdc.gov/nchs/nsfg/nsfg-2022-2023-puf.htm#nsfg>.

¹²⁵ KFF, *Women's Health Survey 2024* (Oct. 21, 2024), <https://www.kff.org/womens-health-policy/access-to-fertility-care-findings-from-the-2024-kff-womens-health-survey/>.

¹²⁶ Michelle Osterman, Brady Hamilton, Joyce Martin, Anne Driscoll, and Claudia Valenzuela, *Births: Final Data for 2022*, National Center for Health Statistics, National Vital Statistics Reports,

Given the numerous and complex issues that could potentially contribute to, or accompany, infertility, medical care to resolve infertility can be lengthy, expensive, and multifaceted, addressing numerous potential causes through diagnostics and treatment from a variety of specialists. As such, diagnosing and treating fertility issues can be complex and prohibitively expensive for many people who are hoping to conceive. As infertility is not commonly considered a disease by insurers and benefits for infertility are frequently not included as a covered service by health plans, many of those hoping to utilize medical care for assistance with reproduction struggle to afford such high-cost procedures, as discussed in sections III.C.2 and 3 of this preamble.

2. Lack of Coverage for Fertility Services

The 2022–2023 NSFG indicates that for all female respondents indicating they had ever sought medical care to help conceive, approximately 66 percent had diagnostic fertility testing done on themselves or a male partner.¹²⁸ Nearly 1 in 3 of those who had diagnostic fertility testing (33 percent) stated that none of the costs were covered by their insurance. Similarly, 40 percent of female respondents utilizing IVF indicated that none of the costs were covered by their insurance, while 29 percent reported no coverage for commonly prescribed medications to improve ovulation. This is consistent with other research showing a considerable absence of coverage for fertility-related medical care. A report by the KFF found that in 2024, 37 percent of large firms (200 or more employees) reported providing coverage for fertility medications, while IVF was covered by 27 percent of large firms.¹²⁹ Other infertility treatments were covered at even lower rates.

Vol 73, No. 2 (Apr. 4, 2024), <https://www.cdc.gov/nchs/data/nvsr/nvsr73/nvsr73-02-tables.pdf>.

¹²⁷ Centers for Disease Control and Prevention, *National ART Summary*, (Dec. 10, 2024), <https://www.cdc.gov/art/php/national-summary/index.html#cove-tab=2>.

¹²⁸ National Center for Health Statistics, *National Survey of Family Growth, 2022–2023*, Public Use Data File (last accessed April 16, 2026), <https://www.cdc.gov/nchs/nsfg/nsfg-2022-2023-puf.htm#nsfg>.

¹²⁹ KFF, *2024 Annual Survey of Employer Health Benefits* (Oct. 2024), <https://files.kff.org/attachment/Employer-Health-Benefits-Survey-2024-Annual-Survey.pdf>.

¹¹⁷ Anne Driscoll and Brady Hamilton, *Effects of Age-Specific Fertility Trends on Overall Fertility Trends: United States, 1990–2023*, Centers for Disease Control and Prevention, National Vital Statistics Reports, Vol. 74, No. 3 (Mar. 6, 2025), <https://stacks.cdc.gov/view/cdc/174576>.

¹¹⁸ Gallup News Service, *Americans' Ideal Family Size Remains Above Two Children* (Sept. 4, 2025), <https://news.gallup.com/poll/694640/americans-ideal-family-size-remains-above-two-children.aspx>.

¹¹⁹ Kellie Hagewen and S. Philip Morgan, *Intended and Ideal Family Size in the United States, 1970–2002*, Population Development and Review, Vol. 31(3) (Sept. 1, 2005), <https://pmc.ncbi.nlm.nih.gov/articles/PMC2849141/>.

¹²⁰ Global Burden of Disease 2021 Fertility and Forecasting Collaborators, *Global Fertility in 204 Countries and Territories, 1950–2021 with Forecasts to 2100: A Comprehensive Demographic Analysis for the Global Burden of Disease Study 2021*, The Lancet Vol. 403, 2057–99 (May, 2024), <https://www.sciencedirect.com/science/article/pii/S0140673624005506>.

¹²¹ Colleen Nugent and Anjani Chandra, *Infertility and Impaired Fecundity in Women and Men in the*

3. Prohibitive Costs of Certain Fertility Services

Access to fertility services can be limited by financial barriers, as is the case with many healthcare services that are not widely covered by health insurance. The 2024 KFF Women's Health Survey indicates that among the approximately 12 percent of reproductive age women that reported needing and not receiving fertility services, cost was the most commonly cited barrier to acquiring the necessary medical care.¹³⁰ A 2024 study found that the average cost for preliminary diagnostic fertility testing in the United States was approximately \$1,600.¹³¹ A 2010 study of women undergoing infertility treatment reported that median per-person treatment costs, inclusive of out-of-pocket and insurer expenditures, ranged from approximately \$1,200 to \$38,000 depending on treatment type, while median total costs for those women with successful pregnancy outcomes ranged from approximately \$6,000 to \$73,000 depending on treatment type.¹³² Across all women seeking infertility treatment, the median cost was approximately \$15,000. These costs only included fertility treatment expenses and did not include any associated healthcare costs, such as for labor and delivery. A 2014 study, examining the out-of-pocket expenses for common fertility treatments among couples with commercial health insurance, found that the median overall out-of-pocket expense was approximately \$5,300 across all couples seeking fertility care, while those using IVF had median out-of-pocket expenses exceeding \$19,000.¹³³ More recent data suggests that in 2024, a single cycle of fertility drugs cost over \$5,000, and the full cost of an IVF cycle ranged from \$15,000 to

\$20,000, with many individuals requiring multiple cycles.¹³⁴

The NSFG indicates that of the female respondents that had none of their medical costs for fertility-related medical care covered by insurance, approximately 28 percent reported combined family incomes of less than \$50,000 in the previous year.¹³⁵ For these and many other families already grappling with the costs associated with raising a child, the financial burden of obtaining medical care to assist in reproduction may impose a barrier to accessing care or place undue hardship on individuals intending to have a child.

4. Summary

The previous sections illustrate the growing need for fertility services, the lack of widely available and affordable insurance coverage for such services, and the prohibitive costs associated with obtaining these services out-of-pocket. These proposed rules would establish, as a new limited excepted benefit category, standalone coverage for the diagnostic procedures, mitigation, and treatments for infertility or infertility-related reproductive health conditions. This would allow group health plans and health insurance issuers in the group market to offer fertility-related benefits that generally are not subject to the market requirements of part 7 of ERISA and parallel provisions in title XXVII of the PHS Act and chapter 100 of the Code, thereby providing a more flexible pathway for employers that wish to provide coverage for fertility services to do so and allow employers to provide these benefits for employees, regardless of whether they enroll in their major medical coverage. This, in turn, would potentially reduce out-of-pocket costs and increase access and utilization for families with fertility issues and unable to bear the full cost of treatments.

D. Regulatory Baseline

While the Departments have exercised their rulemaking authority for limited excepted benefits that are not an integral part of a group health plan,¹³⁶ they have

not previously included coverage for the diagnosis, mitigation, or treatment of infertility or infertility-related reproductive health conditions. Traditional group health plans may provide coverage for some medical services or care related to fertility issues, though this coverage varies widely and may not include comprehensive coverage that includes medication or treatment for infertility. Separately, as of November 2025, 23 States and the District of Columbia require various levels of fertility-related care coverage for private insurance, though these requirements do not apply to self-insured plans.¹³⁷ Fifteen States and the District of Columbia require various levels of IVF coverage as well, though these requirements also do not apply to self-insured plans.¹³⁸

The baseline for these proposed rules reflects the current legal and regulatory framework. Therefore, it accounts for group health insurance coverage already subject to State requirements that would not be eligible to utilize the excepted benefit to meet those requirements. Benefits, costs, and transfers associated with these proposed rules are measured as changes relative to this baseline.

E. Summary of Impacts

In accordance with OMB Circular A-4, Table 1 depicts an accounting statement summarizing the Departments' assessment of the benefits, costs, and transfers associated with this proposed regulatory action. These proposed rules would impact individuals who elect to enroll in standalone coverage of fertility-related items and services that could include coverage of diagnostic procedures, medications, and treatments for infertility or infertility-related reproductive health conditions. As such, they would also impact issuers and plan sponsors of such coverage as well as the plans themselves. The

¹³⁰ KFF, *2024 Women's Health Survey* (Oct. 21, 2024), <https://www.kff.org/womens-health-policy/access-to-fertility-care-findings-from-the-2024-kff-womens-health-survey/>.

¹³¹ Naveena Daram, Malika Day, Rose Maxwell, and Megan Ozcan, *Disparities in Infertility Workup Costs Across the United States*, Fertility and Sterility Reports, Vol. 5 No. 4 (Oct. 5, 2024), <https://pmc.ncbi.nlm.nih.gov/articles/PMC11705584/>.

¹³² Patricia Katz, Jonathan Showstack, James Smith, Robert Nachtigall, Susan Millstein, Holly Wing, Michael Eisenberg, Lauri Pasch, Mary Croughan, and Nancy Adler, *Costs of Infertility Treatment: Results from an 18-month Prospective Cohort Study*, Journal of Fertility & Sterility, Vol. 95 No. 3 (Mar. 1, 2011), <https://pmc.ncbi.nlm.nih.gov/articles/PMC3043157/pdf/nihms253376.pdf>.

¹³³ Alex Wu, Anobel Odisho, Samuel Washington, Patricia Katz, and James Smith, *Out-of-Pocket Fertility Patient Expense: Data from a Multicenter Prospective Infertility Cohort*, Journal of Urology, Vol. 191, No. 2 (Feb. 1, 2014), <https://www.auajournals.org/doi/10.1016/j.juro.2013.08.083>.

¹³⁴ Alina Salganicoff, Brittni Frederiksen, and Usha Ranji, *Will Trump's Announcement Expand Access to IVF?*, KFF (Oct. 27, 2025), https://www.kff.org/womens-health-policy/will-trumps-announcement-expand-access-to-ivf/?spm=a2700.accio_bizSeo.0.0.25a87e47NpdtI2.

¹³⁵ National Center for Health Statistics, *National Survey of Family Growth, 2022–2023*, Public Use Data File (last accessed April 16, 2026), <https://www.cdc.gov/nchs/nsfg/nsfg-2022-2023-puf.htm#nsfg>.

¹³⁶ See 26 CFR 54.9831–1(c)(3)(v), (vi), (vii), and (viii); 29 CFR 2590.732(c)(3)(v), (vi), (vii), and (viii); and 45 CFR 146.145(b)(3)(v), (vi), (vii), and (viii).

¹³⁷ KFF, *Mandated Coverage of Infertility Treatment* (Nov. 2025), <https://www.kff.org/state-health-policy-data/state-indicator/infertility-coverage/?currentTimeframe=0&sortModel=%7B%22colId%22%22Location%22%22sort%22%22asc%22%7D> (The States listed in the KFF report are Arkansas, California, Colorado, Connecticut, Delaware, Georgia, Hawaii, Illinois, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Montana, New Hampshire, New Jersey, New York, Ohio, Oklahoma, Rhode Island, Texas, Utah and West Virginia as well as the District of Columbia).

¹³⁸ RESOLVE, *Insurance Coverage by State* (last accessed Apr. 16, 2026), <https://resolve.org/learn/financial-resources/insurance-coverage/insurance-coverage-by-state/> (The States listed as requiring IVF treatments are Arkansas, California, Colorado, Connecticut, Delaware, Hawaii, Illinois, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Rhode Island, and Utah as well as the District of Columbia).

Departments are unable to quantify all benefits, costs, and transfers of the rulemaking but have sought, where possible, to describe these non-quantified impacts.

TABLE 1—ACCOUNTING STATEMENT

Benefits:				
Non-Quantified:				
- Potentially improved access to and utilization of medical care for fertility-related health. - Potentially improved fertility-related health and birth outcomes, including more births, for participants and beneficiaries. - Potential increased tenure and productivity of covered employees.				
Costs:	Estimate	Year dollar	Discount (percent)	Period covered
Annualized Monetized (\$million/year)	\$1.49 1.48	2026 2026	7 3	2027–2036 2027–2036
Quantified: \$1.88 million (first year), \$1.43 million (subsequent years).				
- Prepare and send notice to eligible participants and beneficiaries. (\$1.58 million in the first year; \$1.43 in subsequent years). - One time rule familiarization costs for issuers. (\$304,000 in the first year).				
Non-Quantified:				
Increased number of births could lead to increased health care expenditures for employers, plan participants, and government programs.				
Transfers:				
Non-Quantified:				
- Transfer of some financial risk from participants and beneficiaries to plans. - Transfer of financial contributions from low-utilization participants and beneficiaries to high-utilization participants and beneficiaries. - Transfer of Tax Revenue from Government to participants, beneficiaries and employers through Tax-Advantaged Employee Benefits.				
Perpetual Time Horizon Costs:				
Annualized Cost (in 2024 dollars): \$1.41 million.				

F. Affected Entities

These proposed rules would impact group health plans and issuers offering excepted fertility benefits, and the participants and beneficiaries in those plans. The Departments expect that participants and beneficiaries seeking more expansive coverage of benefits for the diagnosis, mitigation, and treatment of infertility or infertility-related reproductive health conditions, particularly those between the ages of 25 and 45 who currently lack, but are seeking, coverage for such services, would be most likely to enroll. The Departments lack data that would allow for the estimation of the number of excepted fertility benefit plans that would arise due to these proposed rules. Table 2 summarizes the number of group health plans, group health insurance issuers, participants, and other entities that could be affected by these proposed rules. These estimates are discussed in greater detail in this section (III.F.1–3) of this preamble.

TABLE 2—AFFECTED ENTITIES

Group Health Insurance Companies	373
Group Health Insurance Issuers	811
Group Health Plans and Sponsoring Employers	522,811
Participants and Eligible Employees ¹³⁹	54,411,264
Participants and Eligible Employees Likely to Enroll	743,361

The Departments seek comments on the number of entities that would be affected by these proposed rules. In particular, the Departments seek comments on the number of issuers and plans that might offer coverage of diagnostic procedures, medications, and treatments for infertility as limited excepted benefits as well as the expected number of participants that might enroll in these plans.

1. Group Health Insurance Issuers

The Departments estimate that these proposed rules could affect up to 373 health insurance companies offering group health insurance coverage (811 group health insurance issuers when considering the total number of subsidiaries licensed to sell health insurance in a specific State).¹⁴⁰ These entities provide insurance coverage to fully insured plans as well as administrative services such as plan management to level-funded and self-insured group health plans.

Issuers in States with a fertility benefit requirement are already providing some level of coverage for the diagnosis, mitigation, or treatment of infertility. Issuers in States without a

¹³⁹ The Departments acknowledge that beneficiaries may also be affected by these proposed rules. However, since notices are likely to be sent out at the policy holder level, and the Departments lack sufficient data on the number of beneficiaries, the Departments' calculations will only include affected participants and eligible employees.

¹⁴⁰ A health insurance company is a legal entity with subsidiaries that are each licensed to sell health insurance in one specific State, while an issuer is one of those subsidiaries. Data source: Centers for Medicare and Medicaid Services, 2023 Medical Loss Ratio Data, <https://www.cms.gov/marketplace/resources/data/medical-loss-ratio-data-systems-resources>.

fertility benefit requirement could also be providing some level of coverage. The Departments are uncertain how many of these issuers currently provide fertility benefits as part of their coverage or how many of these issuers would likely offer excepted fertility benefits in response to these proposed rules. Issuers already providing coverage for fertility benefits voluntarily could be the issuers most likely to elect to offer excepted fertility benefits, but it is unknown how many would do so. There are also service providers that specialize in coverage or benefit management of fertility-related benefits that could be well positioned to provide coverage of an excepted fertility benefit or help design and manage such coverage. The Departments utilize the number of group health insurance issuers (811) as an estimate of the upper bound of the number of issuers that could provide excepted fertility benefit coverage. The Departments request comments on the number of issuers that might provide such coverage.

2. Group Health Plans

These proposed rules would impact non-Federal group health plans¹⁴¹ and employers that decide to sponsor excepted fertility benefits. Currently, 15 States and the District of Columbia have laws mandating insurance coverage for IVF.¹⁴² However, issuers providing insured coverage to fully insured group health plans in States already requiring IVF coverage would likely not be able to meet State requirements by offering those benefits through excepted benefit plans. As a result, the Departments have excluded fully insured group health plan sponsors in the 15 States and the District of Columbia that currently require IVF benefits in their analysis, while including all self-insured plan sponsors and fully insured plan sponsors in all other States.¹⁴³

Additionally, the Departments assume that plan sponsors that already offer fertility benefits as part of their comprehensive health plans would offer excepted fertility benefits on a more limited basis, similar to plans that offer dental and/or vision benefits that also offer these benefits in standalone plans.

The Departments relied on dental and vision excepted benefit offer rates as a proxy for excepted fertility benefits offer rates, although because those benefits are substantially less expensive and affect a larger population, this may overstate the actual offer rates for excepted fertility benefits. Finally, the Departments assume that the smallest of plans, those with fewer than 10 participants, would be unlikely to offer such an excepted benefit as the prevalence of infertility among such a small group would likely impact few, if any, participants and the potential costs may be prohibitive for these small groups.

Based on these assumptions, the Departments estimate that there are 32,545 State and local government employer-sponsored plans, in addition to 490,266 private sector employer-sponsored plans, that could be affected by these proposed rules. In total, these proposed rules are expected to affect 522,811 plans and entities. These calculations are detailed in the table below. The Departments request comments on these assumptions.

TABLE 3—AFFECTED PLAN COUNTS

	Plans (A)	Not currently offering ¹ (A) × 73% = (B)	Currently offering (A) × 27% = (C)	Expected to offer ²
Public Entities:				
Self-insured (States with Requirements)	11,081	8,089	2,992	5,818
Self-insured (States without Requirements)	21,581	15,754	5,827	11,330
Fully insured (States without Requirements)	29,327	21,409	7,918	15,397
Total Public	61,988	45,251	16,737	32,545
Private Entities:				
Self-insured (States with Requirements)	217,651	158,885	58,766	114,271
Self-insured (States without Requirements)	401,392	293,016	108,376	210,739
Fully insured (States without Requirements)	314,761	229,775	84,985	165,256
Total Private	933,803	681,677	252,127	490,266
All Plans	995,792	726,928	268,864	522,811

* Totals displayed in the table may not sum due to rounding.

¹ Estimated from the KFF 2024 Employer Health Benefits Survey where 27% indicated that they offered IVF benefits for fertility-related treatment.

² Estimated from the Agency for Healthcare Research and Quality (AHRQ) 2023 Medical Expenditure Panel Survey—Insurance Component (MEPS), which indicated 17.9% of establishments with medical coverage of vision and dental benefits offered excepted benefit plans for vision and dental benefits, while 65.3% of establishments with no medical coverage of vision and dental benefits offered excepted benefit plans for vision and dental benefits.

3. Participants and Beneficiaries

These proposed rules would impact individuals who are currently eligible for an employer-sponsored health plan. However, because 15 States and the District of Columbia have required some level of IVF benefits for fully insured plans in their States, the Departments have limited this analysis to plans and

participants in non-Federal group health plans in States without such requirements and only self-insured plans and their participants in non-Federal group health plans in States with such requirements.¹⁴⁴ Additionally, the Departments have limited this analysis to participants in plans with 10 or more participants, as

those would be the most likely to offer the excepted benefit. Finally, in order to capture the number of eligible employees that could be offered these plans, the Departments use the number of current employer sponsored health insurance participants and then divide this number by the take-up rate of eligible employees offered employer

¹⁴¹ This includes private-sector and public-sector employer-sponsored health plans, except those offered by the Federal government.

¹⁴² RESOLVE, *Insurance Coverage by State* (2026), <https://resolve.org/learn/financial-resources/insurance-coverage/insurance-coverage-by-state/>. The States listed as requiring IVF

treatments are Arkansas, California, Colorado, Connecticut, Delaware, Hawaii, Illinois, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Rhode Island, and Utah as well as the District of Columbia.

¹⁴³ The Departments separately looks at a high-cost scenario which assumes that those mandates

do not preclude plans from offering the excepted benefit/in the Uncertainty Section.

¹⁴⁴ The Departments also include a sensitivity analysis that relaxes this restriction in the Uncertainty section.

coverage. This provides an estimate of the number of employees eligible for coverage.

The estimates in this analysis use imperfect proxies to provide estimates of the number of excepted fertility benefit plans that might be offered and potential enrollment in those plans. The estimates are likely an overestimate due to reasons discussed in section III.K.

Plans and issuers that decide to offer these benefits would need to provide notices to plan participants and beneficiaries. Therefore, the Departments first estimate the number of participants in non-Federal group health plans, both by whether they are fully insured or self-insured and also whether they are in States with an IVF mandate. Utilizing data from the 2024 Auxiliary Database and the MEPS-IC, the Departments estimate that there are 78.9 million employees eligible for non-Federal, group insurance arrangements in States without fertility requirements and an additional 24.7 million employees eligible for non-Federal, self-insured group insurance arrangements in States with fertility requirements.^{145 146}

The Departments assume that participants already offered fertility benefits as part of their comprehensive health plans would be offered excepted fertility benefits on a more limited basis, similar to the rate at which dental and/or vision benefits are also offered in standalone plans. The Departments have been unable to find data on the share of participants in group health plans that have fertility benefits coverage in their comprehensive plan. However, the KFF 2024 Employer Health Benefits Survey reported that 27 percent of plans with 200 or more participants offer coverage for IVF. While this likely overstates coverage in smaller plans, the

Departments use this assumption to estimate that there are 75.6 million individuals eligible for non-Federal, group insurance arrangements that are not currently offered fertility benefits coverage and an additional 28.0 million individuals eligible for non-Federal, group insurance arrangements that are currently offered fertility benefits coverage.^{147 148}

Data from the Agency for Healthcare Research and Quality (AHRQ) suggest approximately 66 percent of private sector employees without medical coverage for vision and dental benefits are offered excepted benefits for vision and dental coverage, while 17 percent of private sector employees with medical coverage for vision and dental benefits are offered additional excepted benefits for vision and dental coverage. Utilizing this statistic to estimate how many individuals may be offered excepted fertility benefits, the Departments estimate that approximately 54.4 million participants and beneficiaries would be offered excepted fertility benefits.^{149 150}

Additionally, the Departments estimate that of those 54.4 million plan participants and beneficiaries that would be offered excepted fertility benefits, approximately 26.2 million participants and beneficiaries are aged 25 to 45. This population is expected to be the most likely to take advantage of an offered excepted fertility benefit.¹⁵¹

¹⁴⁷ KFF, 2024 Annual Survey of Employer Health Benefits (Oct. 2024), <https://files.kff.org/attachment/Employer-Health-Benefits-Survey-2024-Annual-Survey.pdf>.

¹⁴⁸ This estimate is calculated as: $103,608,927$ participants in non-Federal group health plans $\times$ 65.8 percent not offering coverage = $75,634,517$ participants enrolled in non-Federal group health plans that do not offer fertility benefits. Additionally, $103,608,927$ participants in non-Federal group health plans $\times$ 27 percent offering coverage = $27,974,410$ participants enrolled in non-Federal group health plans that do offer fertility benefits.

¹⁴⁹ Agency for Healthcare Research and Quality, 2023 Medical Expenditure Panel Survey—Insurance Component, https://meps.ahrq.gov/survey_comp/survey_ic.jsp.

¹⁵⁰ This estimate is calculated as: $(75,634,517$ participants in non-Federal group health plans without offer of fertility coverage $\times$ 65.8 percent offer rate) + $(27,974,410$ participants in non-Federal group health plans with offer of fertility coverage $\times$ 16.6 percent offer rate) = $54,411,264$ eligible participants in non-Federal group health plans offered coverage of excepted fertility benefit.

¹⁵¹ The estimate is calculated as: $(36,384,174$ participants aged 25 to 45 enrolled in non-federal, employer-sponsored health insurance without offer of fertility coverage in group plan $\times$ 65.8 percent offer rate) + $(13,457,160$ participants aged 25 to 45 enrolled in non-federal, employer-sponsored health insurance with offer of fertility coverage in group plan $\times$ 16.6 percent offer rate) = $26,174,675$ participants aged 25 to 45 enrolled in non-federal, employer-sponsored health insurance offered excepted fertility benefits coverage.

Using data from the NSFG, the Departments estimate that approximately 3 percent of female respondents in private health plans aged 25 to 45 are currently seeking medical assistance for themselves or their partner to become pregnant.¹⁵² As such, the Departments estimate that approximately 743,361 participants or beneficiaries in non-Federal employer-sponsored health plans aged 25 to 45 would seek medical assistance to become pregnant each year.¹⁵³ The Departments estimate an equal share would likely enroll in excepted fertility benefits coverage, resulting in an estimated 743,361 individuals enrolling annually.¹⁵⁴ The Departments acknowledge the uncertainty around this estimate of the number of individuals that would enroll and request comment on ways to improve it.

G. Requests for Comments

The Departments invite comments addressing their estimates of the benefits, costs, and transfers associated with this proposed rulemaking, as well as any quantifiable data that could inform any aspect of the analysis. Specifically, the Departments request comments on the following:

1. Does the offering of excepted benefits vary by plan sponsor size? For other excepted benefits, what share of plans elect to offer them? Are similar rates for fertility benefits anticipated given the higher costs?

2. Would employers that already offer fertility benefits through their health plan choose instead to only offer this coverage through an excepted benefit? If so, what share of employers already offering this benefit would choose to do so? Would this vary by employer size?

3. How many plans that provide excepted fertility benefits might be created under these proposed rules? Would there be a significant number of

¹⁵² National Center for Health Statistics, *National Survey of Family Growth, 2022–2023*, Public Use Data File (last accessed April 16, 2026), <https://www.cdc.gov/nchs/nsfg/nsfg-2022-2023-puf.htm#nsfg> (This estimate is calculated as: 15.73 percent of female respondents aged 25 to 45 indicating they or their partner having ever sought medical assistance to become pregnant $\times$ 18.08 percent of those respondents indicating that they or their partner sought medical assistance in the past year = 2.84 percent of respondents seeking medical assistance to become pregnant in the past year).

¹⁵³ This estimate is calculated as: $26,174,675$ estimated participants offered excepted benefits aged 25 to 45 $\times$ 2.84 percent currently seeking medical assistance for fertility = $743,361$ participants and beneficiaries in covered plans seeking fertility-related medical care annually.

¹⁵⁴ National Center for Health Statistics, *National Survey of Family Growth, 2022–2023*, Public Use Data File (last accessed April 16, 2026), <https://www.cdc.gov/nchs/nsfg/nsfg-2022-2023-puf.htm#nsfg>.

¹⁴⁵ Employee Benefits Security Administration, Health Insurance Coverage Bulletin Abstract of Auxiliary Data for the March 2024 Annual Social and Economic Supplement to the Current Population Survey, U.S. Department of Labor (Aug. 30, 2024), <https://www.dol.gov/sites/dolgov/files/EBSA/researchers/data/health-and-welfare/health-insurance-coverage-bulletin-2023.pdf> (The Departments used this source for the number of policyholders at non-Federal group health plans by State and plan funding. The Departments then used Tables I.B.2.a (private-sector) and III.B.2.b (State and local government) on the percent of employees eligible for health insurance that are enrolled from the 2024 MEPS-IC to augment these counts to estimate employees eligible for coverage). The Departments utilize this data source for all subsequent participant counts.

¹⁴⁶ This estimate is calculated as: $24,738,866$ participants enrolled in non-Federal, self-insured employer-sponsored insurance arrangements in States with fertility requirements + $78,870,061$ participants enrolled in non-Federal, employer-sponsored insurance arrangements in States without fertility requirements = $103,608,927$ participants in non-Federal group health plans.

employers offering excepted fertility benefits immediately upon the applicability of a final rule? Would there be a more gradual increase in the number of employers offering an excepted fertility benefit?

4. How would State requirements impact employers' decision to offer the excepted benefit?

5. What share of total premiums for the excepted fertility benefit plans would plan sponsors contribute? How would this vary by plan size?

6. What is the expected take-up rate for the benefit if premiums were expected to approach the full cost of treatment without coverage?

H. Benefits

1. Increased Utilization of Fertility Services

The Departments expect that these proposed rules, if finalized, would reduce barriers to accessing diagnostic procedures, medications, and treatments for infertility and infertility-related reproductive health conditions and would allow individuals who are attempting to conceive an opportunity to more readily assess their treatment needs or address any medical impediments that might prevent them from having children. Having coverage increases the likelihood of healthcare utilization and improves health outcomes for participants and beneficiaries.¹⁵⁵ Having coverage for these services may allow participants and beneficiaries to more quickly establish a diagnosis (and understanding of the cause) of their infertility, enabling them to access more advanced treatments sooner than if care was delayed due to a lack of coverage. Additionally, having coverage for infertility medications and treatments may result in more expeditious resolution of fertility-related health issues for many individuals, limiting potential delays or impediments to seeking care. As such, the Departments anticipate that these proposed rules would result in an increase in the utilization of diagnostic fertility testing as well as subsequent medications and treatments.

These proposed rules would not require that employers or issuers offer these benefits, specify the scope of these benefits, or require that employers contribute financially to any coverage that they offer. These proposed rules

also provide for a wide scope of potential benefit designs that could significantly vary which items and services are covered in such plans. Participation in these plans would likely be influenced by how generous the excepted benefits are and whether employers contribute, thereby potentially offsetting some of the cost of coverage for participants and beneficiaries. As a result, the Departments lack the data necessary to estimate the potential increase in utilization of fertility-related medical services resulting from these proposed rules. However, it is assumed that the covered, affected population would have high rates of enrollment in standalone fertility coverage and utilization of those covered fertility-related medical services, provided the participant's or covered individual's premium cost is less than the full cost of treatment without this coverage. The Departments request comments or data that may provide insight into potential plan design and utilization.

2. Improved Health Outcomes Among Patients

Given how complex the underlying causes of infertility can be, as well as the relationship between age and infertility, more expansive health benefits coverage for the diagnosis, mitigation, and treatment of infertility has the potential to improve health outcomes among participants and beneficiaries. The Departments expect the utilization of fertility-related medical care to expand and treatment to occur earlier than if participants and beneficiaries did not have coverage made available in accordance with these proposed rules, if finalized. This has the potential to improve health outcomes for participants and beneficiaries experiencing infertility by allowing them to more readily obtain a diagnosis of infertility and to seek treatment sooner. As increased patient age is associated with higher rates of infertility as well as poorer outcomes for infertility treatments such as IVF, an earlier diagnosis and potential access to medication or treatment could improve later pregnancy-related health outcomes.¹⁵⁶

States that have required more comprehensive insurance coverage for fertility-related treatments have also experienced better healthcare outcomes for these interventions, such as lower

rates of multiple births, fewer embryo transfers per IVF cycle, and higher rates of live birth, suggesting that more insurance coverage may lead to better fertility outcomes.¹⁵⁷ While the lack of data to estimate the increase in utilization of fertility-related medical care limits further extrapolation to health and birth outcomes, the significant improvement in pregnancy outcomes from those receiving fertility-related treatments suggests that a significant share of the participants and beneficiaries gaining access to coverage for such treatments could result in many achieving positive birth outcomes that would not occur in the absence of these proposed rules.¹⁵⁸ As such, this increased utilization of fertility-related medical care that the Departments anticipate arising from these proposed rules is expected to produce better health outcomes for participants and beneficiaries as well as more live births. This is consistent with a 2025 study utilizing claims data for both covered and uncovered IVF cycles which found that "[i]nsurance coverage for IVF was significantly associated with a higher cumulative live birth rate but not multiple birth rate. This finding was driven by higher live birth rates per cycle and more IVF cycles initiated among insured patients."¹⁵⁹

Additionally, individuals who have better fertility-related health outcomes may also experience improvements to their mental health, as infertility is associated with increased risk of common psychiatric disorders such as anxiety or depression.^{160 161} Persistent

¹⁵⁷ Benjamin Peipert, Esther Chung, Benjamin Harris, and Tarun Jain, *Impact of Comprehensive State Insurance Mandates on In Vitro Fertilization Utilization, Embryo Transfer Practices and Outcomes in the United States*, *American Journal of Gynecology* (2022), <https://pubmed.ncbi.nlm.nih.gov/35283088/>.

¹⁵⁸ James Smith, Michael Eisenberg, Susan Millstein, Robert Nachtigall, Natalia Sadetsky, Marcelle Cedars, and Patricia Katz, *Fertility Treatments and Outcomes among Couples Seeking Fertility Care: Data from a Prospective Fertility Cohort in the United States*, *Journal of Fertility and Sterility* Vol. 95, No.1 (Jul. 25, 2010), <https://pmc.ncbi.nlm.nih.gov/articles/PMC2966858/>.

¹⁵⁹ Benjamin Peipert, Phyllis Yan, Rodney Dunn, David Suh, Brandon Swinney, Edward Norton, Vanessa Dalton, Erica Marsh, Marissa Steinberg Weiss, and James Dupree, *Insurance Coverage and IVF Outcomes in the United States: A National Claims-Based Study of Privately Insured Patients, Fertility and Sterility*, Volume 124, Issue 6, e87 (Oct. 29, 2025), [https://www.fertstert.org/action/showPdf?pii=S0015-0282\(2025\)2900880-5](https://www.fertstert.org/action/showPdf?pii=S0015-0282(2025)2900880-5).

¹⁶⁰ Myles Doyle and Angela Carballo, *Infertility and Mental Health*, *Advances in Psychiatric Treatment*, Vol. 20 (2014), https://www.cambridge.org/core/services/aop-cambridge-core/content/view/12C29995CD4A52912CF84503C721EB62/S1355514600011822a.pdf/infertility_and_mental_health.pdf.

¹⁵⁵ Joseph Freeman, Srikanth Kadiyala, Janice Bell and Diane Martin, *The Causal Effect of Health Insurance on Utilization and Outcomes in Adults: A Systematic Review of US Studies*, *Medical Care*, Vol. 46, No. 10 (Oct., 2008), <https://pubmed.ncbi.nlm.nih.gov/18815523/>.

¹⁵⁶ Laxmi Shingshetty, Natalie Cameron, David McLernon, and Siladitya Bhattacharya, *Predictors of Success After In Vitro Fertilization*, *Journal of Fertility and Sterility*, Vol. 121, No.5 (Mar. 16, 2024), [https://www.fertstert.org/article/S0015-0282\(24\)00173-0/pdf](https://www.fertstert.org/article/S0015-0282(24)00173-0/pdf).

infertility has also been associated with an increased use of mental health medication, both among women experiencing infertility as well as their partners, in addition to an increased incidence of divorce.¹⁶² However, successful delivery can also be associated with increased risk of mental health disorders, such as postpartum anxiety and depression.¹⁶³ The Departments lack the necessary data to compare these effects and quantify the value of these changes to health outcomes and live births and request comment on any data that might allow for quantification of the benefits related to these proposed rules.

3. Increased Tenure and Productivity of Covered Employees

Employers could also benefit from these proposed rules as research suggests that returns on investments for fertility benefits are significant for employers. A 2023 Maven report found that “workers whose employer-provided health care plans covered IVF treatment were more likely to remain in their job long-term, and more likely recommend [sic] their employer to others.”¹⁶⁴ Additionally, there are downstream benefits to offering fertility benefits, such as reducing potential stays in neonatal intensive care units and associated high-risk maternity-related expenses by prioritizing first-line interventions and medical policies that lead to more singleton births, fewer preterm births and ultimately lower health care costs.¹⁶⁵ Finally, because these proposed rules would offer flexibility in the manner and generosity of the excepted fertility benefits and would not require a set contribution by

plan sponsors, employers and plan sponsors would be able to determine how and at what level they want to provide these benefits in order to maximize the net returns for plan sponsors. The Departments request comments on quantifying the value of these benefits.

4. Improved Birth Outcomes for Participants

The Departments believe that these proposed rules would likely result in additional births due to greater access to fertility-related care. A recent study of women in the United States using self-reported infertility and treatment status found that 10 percent of women who undergo fertility treatments achieve a live birth.¹⁶⁶ However, while the Departments are able to estimate the number of women that would receive fertility coverage under an excepted benefit plan and pursue treatment, it is unclear how many of these women would receive treatment absent these proposed rules. As a result, the Departments are unable to estimate the number of births that would arise from changes to improved treatment access due to these proposed rules, though the Departments acknowledge that an increase in births would provide substantial benefits to individuals and their families, as well as society.

I. Costs

1. Plan Administration Expenses

As excepted fertility benefits would constitute a new category of limited excepted benefits, employers that elect to offer such coverage would incur certain administrative costs to initiate and maintain a plan.

The Departments anticipate that the administrative costs of such a program would be considerably lower than those for traditional group health plans given that limited excepted benefits are exempt from ERISA Part 7 requirements. Additionally, the Departments are of the view that many of the issuers that elect to offer coverage for such plans would mostly likely be those that already provide fertility-related coverage in traditional group health plans, which the Departments believe would mitigate many of the startup expenses to issuers. For those issuers that do not currently offer coverage of fertility-related medical care in traditional group health plans, the Departments assume that

these issuers could utilize existing providers that offer carve out coverage as a way to offer excepted fertility benefit. Some of these costs could also be offset through the use of third-party administrators that could more efficiently service the plan documentation and reporting requirements than could a plan sponsor. The Departments lack sufficient data on the exact value of such administrative costs and request comments on the average administrative expenditures for an excepted fertility benefit plan in addition to the other assumptions stated.

Additionally, the Departments estimate the 811 issuers acting as service providers to plans would incur a one-time cost of approximately \$304,255 to familiarize themselves with these proposed rules as they help plan sponsors develop excepted fertility benefit plans in response to these proposed rules.¹⁶⁷

2. Employer Contributions

Employers that elect to offer excepted fertility benefits coverage could also elect to make contributions towards plan premiums, though there would be no requirement that they contribute under these proposed rules. Employer contributions would be expected to vary widely based on factors such as employer size, plan type, and coverage level. For excepted benefits like vision and dental insurance, the employer costs are often lower than for traditional group health plans and, as such, employers may cover a higher share of the premium expense. The 2023 KFF Employer Health Benefits Survey indicates that about half of small firms and two-thirds of large firms that offer dental plans contribute toward the premiums.¹⁶⁸ For vision plans, this rate is approximately one-quarter and one-third, respectively. The potentially high costs of fertility-related items and services may limit the share of premiums that employers would be willing to cover if electing to offer such a plan. The Departments request comments on the share of employers that might elect to contribute towards the plan premiums for fertility-related items and services, and the share of total

¹⁶¹ Brent Hanson, Erica Johnstone, Jessie Dorais, Bob Silver, C. Matthew Peterson and James Hotaling, *Female Infertility, Infertility-Associated Diagnoses, and Comorbidities: A Review*, Journal of Assisted Reproduction Technologies (Nov. 5, 2017), https://pmc.ncbi.nlm.nih.gov/articles/PMC5306404/pdf/10815_2016_Article_836.pdf.

¹⁶² Sarah Bogl, Jasmin Moshfegh, Petra Persson, and Maria Polyakova, *The Economics of Infertility: Evidence from Reproductive Medicine*, National Bureau of Economic Research, Working Paper 32445 (May. 2024), <https://www.nber.org/papers/w32445>.

¹⁶³ Om Suryawanshi, and Sandhya Pajai, *A comprehensive review on postpartum depression*, Cureus (Dec. 20, 2022), <https://doi.org/10.7759/cureus.32745>.

¹⁶⁴ Michelle Travis, *Why Reproductive Health Benefits Are a Good Investment for Employers*, Forbes (Mar. 26, 2025), <https://www.forbes.com/sites/michelletravis/2025/03/26/why-employers-should-invest-in-reproductive-health-benefits/>.

¹⁶⁵ Benjamin Peipert, Esther Chung, Benjamin Harris, and Tarun Jain, *Impact of Comprehensive State Insurance Mandates on In Vitro Fertilization Utilization, Embryo Transfer Practices and Outcomes in the United States*, American Journal of Gynecology (Mar. 11, 2022), <https://pubmed.ncbi.nlm.nih.gov/35283088/>.

¹⁶⁶ Theresa Boyer, Linh Tran, Michael Fang, Elizabeth Selvin, and Anum S. Minhas, *The Fertility Cascade: Infertility Prevalence, Access to Treatment, and Successful Live Birth*, American Journal of Obstetrics and Gynecology (Jan. 2026), [https://www.ajog.org/article/S0002-9378\(25\)00573-3/abstract](https://www.ajog.org/article/S0002-9378(25)00573-3/abstract).

¹⁶⁷ This cost is estimated as: 2 hours × \$187.58 hourly wage rate for attorney × 811 issuers = \$304,255. The one-hour time estimate is derived from the amount of time it would take for the rule to be reviewed at an average reading rate of 250 words per minute.

¹⁶⁸ KFF, *2023 Employer Health Benefits Survey* (Oct. 2023), <https://files.kff.org/attachment/Employer-Health-Benefits-Survey-2023-Annual-Survey.pdf>.

premiums they might elect to contribute.

3. Notice to Participants and Eligible Employees

These proposed rules aim to establish, as a limited excepted benefit, standalone coverage for diagnostic procedures, medications, and treatments related to infertility. This coverage would be available to eligible participants and beneficiaries of employer-sponsored health plans. Under these proposed rules, the Departments propose to require that a notice be sent to eligible participants and beneficiaries. This notice would include a description of the coverage, including a summary of benefits and limitations of the coverage, how to identify and utilize a network provider, if applicable, as well as procedures for claims reimbursement, including whether the benefit utilizes the same claim procedures as for the sponsor's other group health plans. The notice is expected to be approximately one page in length, would be sent to eligible

employees, and any printed notices would be sent with minimal additional costs.¹⁶⁹

The Departments expect this notice would be prepared by attorneys for the issuers of such benefits or service providers assisting a plan at a burden of approximately 2 hours. This is estimated to result in a total cost for all issuers of approximately \$0.3 million in the first year.¹⁷⁰ In each subsequent year, the Departments anticipate that attorneys for the issuer or service provider would review and provide any required updates to the notice at a burden of approximately 1 hour, incurring a total annual cost for all issuers of approximately \$0.2 million.¹⁷¹ The Departments estimate that approximately 25.5 million paper notices would be sent to eligible employees each year at an annual cost of approximately \$1.3 million to produce the notices.^{172 173}

4. Increased Health Expenditures Due to Additional Births

The introduction of excepted fertility benefit coverage has the potential to

increase the birth rate by making it easier for individuals to access treatments that support conception and pregnancy. Pregnancy and even uncomplicated births are costly medical events, often involving pre-natal care, hospital stays, specialized care, and follow-up services. This could lead to increased expenditures for employers, plan participants and government programs. Due to the uncertainty regarding the number of women that would become pregnant as a result of these proposed rules, carry to term and give birth, and any additional medical items or services that may be required during the process, the Departments are not able to quantify the costs that would arise from expanded access to fertility-related medical care under these proposed rules, if finalized.

5. Summary of Quantified Costs

The quantified costs associated with these proposed rules are summarized in Table 4.

TABLE 4—SUMMARY OF QUANTIFIED COSTS

	First year	Subsequent years
Prepare Notices	\$304,255	\$0
Review and Update Notices	0	152,127
Distribute Notices	1,274,953	1,274,953
Rule Familiarization	304,255	0
Total Costs	1,883,462	1,427,080

* Totals displayed in the table may not sum due to rounding.

J. Transfers

The following sections are primarily qualitative discussions of transfers that the Departments expect would occur due to these proposed rules. The Departments request comments or data that might help in quantifying these transfers.

1. Transfers of Contributions From Participants to Plans

The Departments anticipate that, upon enrollment in an excepted fertility benefit plan, most participants would begin to make premium contributions to maintain their coverage. These premium contributions would represent a transfer from participants and beneficiaries that utilize fertility-related medical care

below the value of their premium contributions to those participants and beneficiaries who utilize their benefits beyond the value of their premium contributions. The Departments lack data on the potential expenditures related to these transfers and request comments on how best to estimate the value of these transfers.

2. Transfers of Risk From Participants and Beneficiaries to Issuers or Self-Insured Plans

As discussed in section III.C, large shares of insured individuals currently lack coverage for diagnostic procedures, medications, and treatments for infertility. When issuers or plan sponsors offer excepted fertility benefits

to participants and beneficiaries, the issuers or self-insured plans assume some risk in covering the costs related to the utilization of these items and services. While these participants and beneficiaries previously paid such expenses out-of-pocket, issuers and plans would bear some of the risk associated with the expenditures under these proposed rules, if finalized. As such, these proposed rules would result in a transfer of risk from participants and beneficiaries to issuers or plans offering excepted fertility benefits.

¹⁶⁹ The Departments assume that for private sector plans, approximately 58% of plan documents would be sent electronically, while 42% would be physical notices mailed to participants. For public sector plans, approximately 34% of plan documents would be sent electronically, while 66% would be physical notices mailed to participants.

¹⁷⁰ This cost is estimated as: 2 hours × \$187.58 hourly wage rate for attorney × 811 issuers = \$304,255.

¹⁷¹ This cost is estimated as: 1 hour × \$187.58 hourly wage rate for attorney × 811 issuers = \$152,127.

¹⁷² This is estimated as: (42,849,310 potentially eligible private-sector individuals × 42 percent

notice mailing rate) + (11,561,954 potentially eligible public-sector individuals × 66 percent notice mailing rate) = 25,499,052 notices mailed.

¹⁷³ This cost is estimated as: 25,499,052 notices mailed × \$0.05 material cost per notice = \$1,274,953.

3. Transfers of Tax Revenue From Government to Individuals and Employers Through Tax-Advantaged Employee Benefits

When employers and employees are permitted to pay plan premiums for excepted benefits with pre-tax dollars, these contributions are excluded from taxable income. As a result, both employer and employee tax liabilities are reduced. This in turn impacts the federal government as the expansion of pre-tax benefits decreases overall tax receipts, constituting a transfer from the government to individuals and employers. The magnitude of these impacts would depend on the number of employers that would offer excepted fertility benefits and the level of employee participation. It would also depend on the marginal tax rate of the individual, the premiums associated with these plans, and the amount of any employer contribution.

The favorable tax treatment is likely to encourage greater offering of excepted fertility benefit plans, thereby expanding access to valuable fertility items and services. It could also make enrollment in an excepted fertility benefit plan more attractive and affordable for employees as the ability to pay premiums with pre-tax dollars could reduce the cost of coverage. This could further encourage those with infertility to obtain care through excepted fertility benefit plans.

K. Uncertainty

As noted throughout this preamble, due to a lack of data and information, there are several areas of uncertainty regarding the potential impacts of the proposed rule. Much of this uncertainty arises from potential issues of adverse selection and how such concerns may impact risk pools and, subsequently, offers of coverage.

1. Coverage and Enrollment in Excepted Benefits

Participants and beneficiaries opting to enroll in the excepted fertility benefit may be aware that they plan to attempt to conceive or have a health condition that may increase the likelihood that they experience infertility. Additionally, they may time their enrollment to coincide with plans to conceive or have other knowledge that could ultimately limit their financial risk by enrolling in coverage when their perceived need for such coverage is high. As such, risk pools for this type of insurance coverage may be complicated by adverse selection, where many participants and beneficiaries that elect to enroll in this

type of coverage are aware of their need to utilize the benefits offered.

Additionally, the availability of such coverage may induce some participants and beneficiaries to delay attempting to conceive in the knowledge that such benefits could minimize the financial risks of fertility-related medical care when they ultimately decide to attempt to conceive if fertility-related medical care is required. This may produce a pool of participants and beneficiaries that utilize fertility-related medical care at very high rates and more frequently require advanced fertility treatments or medications which could subsequently generate high costs for the insurers that provide such plans. Given the sizeable expense for fertility-related treatment such as IVF, this could yield substantial expenditures for issuers and plans.

While there are some steps that plans and issuers might be able to take to mitigate these risks through enrollment and benefit design, these issues might ultimately impact not only the extent to which issuers and plans offer coverage but potentially increase the premiums of such coverage. As such, the Departments are uncertain how many plans and issuers would offer excepted fertility benefits, how enrollment would affect the risk pool, and how premiums for participants would be subsequently impacted. The Departments request comments on any information that may indicate the extent to which issuers and participants and beneficiaries would offer and enroll in such an arrangement, respectively.

2. Offer Rates of Employers

The Departments based their assumptions regarding offer rates by employers of limited excepted fertility benefits on existing data for vision and dental limited excepted benefits plans. Fertility benefits, however, are significantly more expensive than vision or dental benefits, and appeal to a much smaller population. As a result, the actual offer rates for these limited excepted benefits may be substantially less than those for vision or dental excepted benefits. Additionally, employers may delay offering these benefits until they observe the advantages early adopters of these plans receive, or else choose not to offer them at all. Additionally, because of sensitivities regarding fertility care, it is possible that some employers may hold religious objections to offering these benefits, which would further reduce the share of entities that would offer this limited excepted benefit plan option. The Departments request comments on any information that may clarify the rate

at which employers chose to offer limited excepted fertility benefit plans.

3. Costs to Plans of Providing Benefits

These proposed rules would not require a minimum level of coverage nor would they require that plan sponsors contribute to the costs of the plans. As a result, it is not clear how much plan sponsors would subsidize the total premium costs of participants covered by the excepted fertility benefits. The Departments request comments on any information that may clarify the level of contributions offered by plan sponsors to participants for these benefits.

4. Sponsors Already Covering IVF Benefits

According to KFF, 27 percent of employers with 200 or more employees already offer IVF coverage as part of their medical plan.¹⁷⁴ The decision by employers to offer an excepted fertility benefit plan may stem from a belief that such benefits may help them attract and retain talent and support overall employee well-being.¹⁷⁵ As such, the Departments have assumed that plans already offering these benefits would continue to offer, with some even supplementing existing coverage by offering an excepted fertility benefit plan as an additional option to eligible employees.

However, it is possible that some plans currently offering IVF and other fertility benefits through their medical plans would, under these proposed rules, remove such coverage from their existing plan and offer fertility benefits through an excepted benefit plan instead. This could reduce costs for plan sponsors because plans under these proposed rules would not be subject to ACA market reforms or HIPAA portability requirements, while still allowing employers to offer some level of fertility services to their employees. Moreover, while plan sponsors may contribute to these plans, they are not required to, and in the case of dental and vision plans, a significant portion do not, further reducing costs to plan sponsors.

The Departments request comments on the likelihood and extent that

¹⁷⁴ KFF, *2024 Annual Survey of Employer Health Benefits* (Oct. 2024), <https://files.kff.org/attachment/Employer-Health-Benefits-Survey-2024-Annual-Survey.pdf>.

¹⁷⁵ Dawn Kawamoto, *Why More than 40% of U.S. Employers Now Offer Fertility Benefits*, HR Executive (Sept. 16, 2024), <https://hrxexecutive.com/why-more-than-40-of-u-s-employers-now-offer-fertility-benefits/#:~:text=According%20to%20a%20recent%20survey%20by%20the%20International,consider%20fertility%20and%20family-building%20benefits%20imperative%20business%20tools.>

employers who currently offer fertility benefits in their medical plans would instead choose to only offer fertility coverage through an excepted benefit plan.

5. Effects of State Insurance Requirements

As discussed in the regulatory baseline (section III.D), 15 States and the District of Columbia require various levels of IVF coverage, while 23 States and the District of Columbia require various levels of fertility-related care coverage. The Departments are unsure

of the extent to which these fertility-related care requirements currently cover IVF, and other types of items and services detailed in these proposed rules. The RIA currently assumes that fully insured plans covered by IVF mandates would not be affected by these proposed rules, because they are already required to provide fertility items and services at or similar to what would be covered in an excepted fertility benefit plan, or at additional levels under their State requirements. However, it is possible that those fully insured plans could still be affected, depending on the

State coverage requirements. This would produce a higher number of affected entities, and a higher estimated cost for these proposed rules.

To address this uncertainty, the Departments have re-calculated their analysis including fully insured plans in the 15 States and the District of Columbia that require IVF as an alternative baseline, which would result in more fully insured plans potentially impacted by the proposed rulemaking. These alternative calculations are presented in Table 5.

TABLE 5—STATE INSURANCE REQUIREMENT UNCERTAINTY ANALYSIS

	RIA estimate	Alternative baseline
Jurisdiction Fertility Mandate Assumption	16	16
Total Affected Public Plans	32,545	48,033
Total Affected Private Plans	490,266	709,272
Sent Notices (All Offered Participants)	54,411,264	64,149,681
Enrolled Participants and Beneficiaries	743,361	877,731
First Year Total Costs	\$1,883,462	\$1,946,030
Subsequent Year Total Costs	\$1,427,080	\$1,489,648

L. Alternatives

In addition to the regulatory approach outlined in these proposed rules for the group market, as well as the approach under consideration by HHS to adopt standards for the individual market that would be similar to the proposed rules for the group market, as discussed in section II.A.6 of this preamble, the Departments considered several alternative approaches during the development of these proposed rules. These alternatives are discussed in greater detail below.

1. Limiting the Excepted Benefits To Include Only Diagnostic Procedures

The Departments considered reducing the scope of the proposed excepted fertility benefit by excluding coverage of IVF cycles, and instead limiting the proposed excepted fertility benefit to pre-IVF items and services. However, because IVF is one of the key fertility benefits that individuals seek when facing fertility-related pregnancy challenges, the Departments are of the view that these proposed rules would be more beneficial for participants and beneficiaries if employers and issuers had the flexibility to cover these costs. Additionally, such coverage is also consistent with President Trump's Executive Order 14216, which specifically calls for expanding access to IVF, as well as aggressively reducing

out-of-pocket and health plan costs for IVF treatment.

2. Impose IVF Cycle Limitations on Benefits

The Departments also considered including a limit on the number of IVF cycles permitted by the proposed excepted fertility benefit. However, in an effort to provide plan sponsors and issuers with greater flexibility in terms of the types of infertility-related benefits that they cover, while still ensuring that the benefits are sufficiently "similar" and "limited" to constitute the type of ancillary benefit contemplated within the meaning of "similar, limited benefits" under Code section 9832(e)(2)(C), ERISA section 733(e)(2)(C), and PHS Act section 2791(c)(2)(C), the Departments are not proposing to impose specific limitations on infertility treatments or the number of IVF cycles; rather, the Departments are proposing to impose a \$120,000 lifetime dollar limitation on benefits coverage, in addition to a limit on the scope of excepted fertility benefits, as discussed in sections II.A.1 and II.A.2 of this preamble. The complexity of fertility-related care and services like IVF is such that, given the need to apply a limiting principle for fertility benefits to qualify as limited excepted benefits, participants and beneficiaries would be better served by a limitation not on the quantity of the items and services that are provided but by a limitation on the

lifetime dollar amount for those items and services as they choose the combination of services to utilize.

IV. Paperwork Reduction Act

A. Paperwork Reduction Act

1. Paperwork Reduction Act—Departments of Labor and Treasury

As part of their continuing effort to reduce paperwork and respondent burden, the Departments conduct a preclearance consultation program to allow the general public and Federal agencies to comment on proposed and continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA).¹⁷⁶ This helps to ensure that the public understands the Departments' collection instructions, respondents can provide the requested data in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the Departments can properly assess the impact of collection requirements on respondents.

Currently, the Departments are soliciting comments concerning the proposed information collection request (ICR) included in this rulemaking. To obtain a copy of the ICR, contact the PRA addressee shown below or go to <https://www.RegInfo.gov>.

¹⁷⁶ 44 U.S.C. 3506(c)(2)(A) (1995).

The Departments have submitted a copy of these proposed rules to OMB in accordance with 44 U.S.C. 3507(d) for review of its information collections. The Departments and OMB are particularly interested in comments that:

- Evaluate whether the collection of information is necessary for the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the Departments' estimate of the burden for the collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated,

electronic, mechanical, or other technological collection techniques or other forms of information technology (for example, permitting electronically delivered responses).

Commenters may send their views on the Departments' PRA analysis in the same way they send comments in response to these proposed rules (for example, through the <https://www.regulations.gov> website), including as part of a comment responding to the broader NPRM.

PRA Addressee: Address requests for copies of the ICR to PRA Clearance Officer, Office of Research and Analysis, U.S. Department of Labor, Employee Benefits Security Administration, 200 Constitution Avenue NW, Room N-5718, Washington, DC 20210; ebssa.opr@dol.gov (<https://www.reginfo.gov/public/do/PRAMain>).

For a full discussion of all burden related to this information collection

please see the supporting statement which is part of the ICR available at <https://www.reginfo.gov/public/do/PRAMain>.

These proposed rules are intended to provide participants and beneficiaries with greater access to and coverage options for items and services related to fertility. Under these proposed rules, the Departments propose to require that a notice be sent to eligible participants and beneficiaries, which would contain a summary of their coverage benefits and limitations, as well as any claims procedures, among other details that the Departments propose to include in the notice, as discussed in more detail in section II.A.4 of this preamble. A summary of the hour and cost burdens are presented below in Table 6. For a description of how the estimates are obtained please see section III.I (Costs) of the preamble.

TABLE 6—SUMMARY OF ANNUAL HOUR AND COST BURDEN—DEPARTMENTS OF LABOR AND TREASURY

	Hour burden	Cost equivalent of hour burden	Cost burden
Notice Drafting (Year One)	811	\$152,127	.....
Review & Update Notice (Subsequent Years)	406	76,064	.....
Mail Disclosure (Annually)			\$893,408
First Year Total	811	152,127	893,408
Subsequent Year Total	406	76,064	893,408
Three-Year Average Total	541	101,418	893,408

Below is a summary of the burden associated with the collection of information.

Type of Review: New.
Agency: Employee Benefits Security Administration, U.S. Department of Labor; Internal Revenue Service, U.S. Department of the Treasury.
Title: Fertility Limited Excepted Benefits.
OMB Control Number: 1210-New, 1545-New.
Affected Public: Businesses or other for-profits.
Estimated Number of Respondents: 490,266.
Estimated Number of Annual Responses: 17,868,973.
Frequency of Response: Annual.
Estimated Total Annual Burden Hours: 541 (270 for Treasury and 270 for DOL).
Estimated Total Annual Burden Cost: \$893,408 (\$446,704 for Treasury and \$446,704 for DOL).

2. Paperwork Reduction Act—Department of HHS

As part of its continuing effort to reduce paperwork and respondent

burden, HHS conducts a preclearance consultation program to allow the general public and Federal agencies to comment on proposed and continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA).¹⁷⁷ This helps to ensure that the public understands HHS's collection instructions, respondents can provide the requested data in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and HHS can properly assess the impact of collection requirements on respondents.

Currently, HHS is soliciting comments concerning the proposed information collection request (ICR) included in this rulemaking. To obtain a copy of the ICR, contact the PRA addressee shown below or go to <https://www.RegInfo.gov>.

HHS has submitted a copy of these proposed rules to OMB in accordance with 44 U.S.C. 3507(d) for review of its information collections. HHS and OMB

are particularly interested in comments that:

- Evaluate whether the collection of information is necessary for the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology (e.g., permitting electronically delivered responses).

Commenters may send their views on HHS PRA analysis in the same way they send comments in response to the NPRM as a whole (e.g., through the <https://www.regulations.gov> website),

¹⁷⁷ 44 U.S.C. 3506(c)(2)(A) (1995).

including as part of a comment responding to the broader NPRM. PRA Addressee: To obtain copies of the supporting statement and any

related forms for the proposed collections, please visit CMS's website at <https://www.cms.gov/Regulations->

and-Guidance/Legislation/Paperwork Reduction Act of 1995/PRA-Listing.

TABLE 7—SUMMARY OF ANNUAL HOUR AND COST BURDEN—DEPARTMENT OF HEALTH AND HUMAN SERVICES

	Hour burden	Cost equivalent of hour burden	Cost burden
Notice Drafting (Year One)	811	\$152,127	.....
Review & Update Notice (Subsequent Years)	406	76,064	.....
Mail Disclosure (Annually) .....	.....	.....	\$381,544
First Year Total	811	152,127	381,544
Subsequent Year Total	406	76,064	381,544
Three-Year Average Total	541	101,418	381,544

Overall Summary

The paperwork burden associated with the proposed rule is presented in Table 7 above.

Type of Review: New.

Agency: U.S. Department of Health and Human Services.

Title: Fertility Limited Excepted Benefits.

OMB Control Number: 0938–XXXX.

Affected Public: Businesses or other for-profits, Not-for-profit institutions, State, Local, or Tribal Governments.

Estimated Number of Respondents: 32,545.

Estimated Number of Annual Responses: 7,631,701.

Frequency of Response: Annual.

Estimated Total Annual Burden Hours: 541.

Estimated Total Annual Burden Cost: \$381,544.

V. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA)¹⁷⁸ imposes certain requirements with respect to Federal rules that are subject to the notice-and-comment requirements of section 553(b) of the Administrative Procedure Act and are likely to have a significant economic impact on a substantial number of small entities. Unless the head of an agency certifies that a rule will not, if promulgated, have a significant economic impact on a substantial number of small entities, section 603¹⁷⁹ of the RFA requires the agency to present an initial regulatory flexibility analysis (IRFA) of these proposed rules. The RFA generally defines a “small entity” as (1) a proprietary firm meeting the size standards of the Small Business Administration (SBA), (2) a not-for-profit organization that is not dominant in its field, or (3) a small government

jurisdiction with a population of less than 50,000. States and individuals are not included in the definition of “small entity.” The Departments do not anticipate that these regulations would have a significant impact on a substantial number of small entities. However, there is significant uncertainty about take-up of excepted benefit coverage and costs related to provision of the coverage. Therefore, the Departments are preparing an initial regulatory flexibility analysis and request data or other information that would assist in making a final determination.

A. Need for the Rule

There is a growing concern over declining fertility rates in the United States, which has been influenced by changing birth patterns. Fewer women under the age of 30 are giving birth while an increasing number of women are delaying reproductive decision making past the age of 30.¹⁸⁰ Despite this, there has been little change to the “ideal” family size and many adults intend to have children.¹⁸¹

These shifting reproductive patterns, combined with age-related declines in fertility, heighten the growing demand for fertility care. As testing and treatment for infertility are not covered to the same extent as other health conditions, there is a widening gap in the demand for such items and services and their accessibility to patients. The financial burden of accessing fertility-related healthcare is significant, with

many individuals facing high out-of-pocket costs, making regulation in this area essential to improving access and affordability.¹⁸²

B. Objectives of the Rule

These proposed rules would expand access to diagnostic procedures, medications, and treatments for infertility, which could potentially reduce out-of-pocket costs to participants and beneficiaries and may encourage employers to expand fertility benefits coverage to assist in addressing the widening disparity in demand and access for fertility care and services.

C. Affected Small Entities

The following sections and Table 8 below summarize the number of small entities that would be affected by these proposed rules. The Departments anticipate that these proposed rules would primarily impact issuers acting as service providers to excepted fertility benefit health plans and employers that sponsor such plans.

1. Group Health Insurance Issuers

The provisions in these proposed rules would affect issuers of insurance providing standalone, limited excepted benefits of diagnostic procedures, medications, and treatments for infertility and infertility-related health conditions. Health insurance issuers are generally classified under the North American Industry Classification System (NAICS) code 524114 (Direct Health and Medical Insurance Carriers).

¹⁸⁰ Anne Driscoll and Brady Hamilton, *Effects of Age-Specific Fertility Trends on Overall Fertility Trends: United States, 1990–2023*, Centers for Disease Control and Prevention, National Vital Statistics Reports, Vol. 74, No. 3 (Mar. 6, 2025), <https://stacks.cdc.gov/view/cdc/174576>.

¹⁸¹ Gallup News Service, *Americans' Ideal Family Size Remains Above Two Children* (Sept. 4, 2025), <https://news.gallup.com/poll/694640/americans-ideal-family-size-remains-above-two-children.aspx>.

¹⁸² Patricia Katz, Jonathan Showstack, James Smith, Robert Nachtigall, Susan Millstein, Holly Wing, Michael Eisenberg, Lauri Pasch, Mary Croughan, and Nancy Adler, *Costs of Infertility Treatment: Results from an 18-month Prospective Cohort Study*, Journal of Fertility & Sterility, Vol. 95 No. 3 (Mar. 1, 2011), <https://pmc.ncbi.nlm.nih.gov/articles/PMC3043157/pdf/nihms253376.pdf>.

¹⁷⁸ 5 U.S.C. 601 *et seq.* (1980).

¹⁷⁹ 5 U.S.C. 603 (1980).

According to SBA size standards,¹⁸³ entities with average annual receipts of \$47.0 million or less are considered small entities for this NAICS code. The Departments expect that few, if any, insurance companies underwriting health insurance policies for non-federal group health plans fall below these size thresholds. These entities provide services such as plan management to level-funded and self-insured group health plans. They also provide insurance coverage to fully insured plans and are the issuers most likely to offer standalone limited excepted benefits. Based on data from the CMS Medical Loss Ratio (MLR) annual report submissions for the 2023 reporting year, approximately 65 out of 373 health insurance companies had total premium revenue of \$47 million or less.¹⁸⁴ However, it should be noted that at least 76 percent of these small companies belong to larger holding groups that may not be small, and many, if not all, of these companies are likely to have non-health lines of business that would result in their revenues exceeding \$47 million. The Departments expect this to be the case for issuers of insurance that would provide standalone excepted fertility benefits pursuant to these proposed rules, if finalized. However, due to a lack of data, the Departments are unable to quantify the number of small issuers of insurance for fertility-related limited excepted benefits would be affected by these proposed rules. The Departments seek comments on this analysis and seek information on the number of small issuers of insurance that would provide standalone, limited excepted benefits of diagnostic procedures, medications, and treatments for infertility.

2. Health Plans and Plan Sponsors

For purposes of the IRFA, the Departments consider employee benefit plans with fewer than 100 participants to be small entities.¹⁸⁵ The basis of this definition is found in section 104(a)(2) of ERISA, which permits the Secretary of Labor to prescribe simplified annual reports for plans that cover fewer than 100 participants. Under section 104(a)(3) of ERISA, the Secretary may also provide for exemptions or simplified annual reporting and disclosure for welfare benefit plans. Pursuant to the authority of section 104(a)(3), the Department of Labor has previously issued (*see* 29 CFR 2520.104–20, 2520.104–21, 2520.104–41, 2520.104–46, and 2520.104b–10) simplified reporting provisions and limited exemptions from reporting and disclosure requirements for small plans, including unfunded or insured welfare plans that satisfy certain requirements.

While some large employers sponsor small plans, small plans are generally maintained by small employers. Thus, the Departments believe that assessing the impact of this proposed exemption on small plans is an appropriate way to evaluate its effect on small entities. The definition of small entity applied for this purpose differs, however, from a definition of small business based on size standards promulgated by the Small Business Administration¹⁸⁶ pursuant to the Small Business Act and Section 601 of the RFA.¹⁸⁷ Therefore, the Departments request comments on the appropriateness of the size standard used in evaluating the impact of these proposed rules on small entities.

The Departments have data on the share of private group health plans that have less than 100 employees, but not the share of public group health plans.

However, 93.4 percent of all group health plans are small, so the Departments assume that the share of small public plans will match this figure.¹⁸⁸ These proposed rules would impact non-Federal group health plans that decide to sponsor excepted fertility benefits. However, issuers providing insured coverage to fully insured group health plans in States already requiring IVF coverage would likely not be able to meet State requirements by offering those benefits through excepted fertility benefit plans. As a result, the Departments limit their analysis to only self-insured group health plan sponsors in those States. The Departments also assume that plan sponsors that already offer comprehensive fertility benefits as part of their major medical coverage would offer excepted fertility benefits on a more limited basis, similar to plans that offer dental and/or vision benefits that also offer these benefits in standalone plans. The Departments relied on dental and vision excepted benefit offer rates as a proxy for excepted fertility benefits offer rates, though because those benefits are substantially less expensive and affect a larger population, this may overstate the actual offer rates for excepted fertility benefits. Finally, the Departments assume that the smallest of plans, those with fewer than 10 participants, would be unlikely to offer such an excepted benefit as the prevalence of infertility among such a small group would likely impact few, if any, participants and the potential costs may be prohibitive for these small groups. For more information on these assumptions, see the RIA above. The calculations of affected small entities are detailed below. The Departments request comments on these assumptions.

TABLE 8—AFFECTED PLAN COUNTS

	Small plans	Not currently offering	Currently offering	Expected to offer
	(A)	(A) × 73% = (B)	(A) × 27% = (C)	((B) × 65%) + ((C) × 18%)
Small Public Entities:				
Small Self-insured (States with Requirements)	10,349	7,555	2,794	5,434
Small Self-insured (States without Requirements)	20,156	14,714	5,442	10,582
Small Fully insured (States without Requirements)	27,391	19,996	7,396	14,381
Total Small Public	57,897	42,265	15,632	30,397
Small Private Entities:				
Small Self-insured (States with Requirements)	176,478	128,829	47,649	92,654

¹⁸³ Small Business Administration, *SBA Table of Size Standards* (Mar. 17, 2023), https://www.sba.gov/sites/default/files/2023-06/Table%20of%20Size%20Standards_Effective%20March%2017%2C%202023%20%282%29.pdf.

¹⁸⁴ Centers for Medicare and Medicaid Services, *2023 Medical Loss Ratio Data* (as of Dec. 16, 2024), <https://www.cms.gov/marketplace/resources/data/medical-loss-ratio-data-systems-resources>.

¹⁸⁵ The Department of Labor consulted with the Small Business Administration in making this determination, as required by 5 U.S.C. 603(c) and 13 CFR 121.903(c). Memorandum received from the U.S. Small Business Administration, Office of Advocacy on July 10, 2020.

¹⁸⁶ 13 CFR 121.201 (2011).

¹⁸⁷ 15 U.S.C. 631 *et seq.* (2011).

¹⁸⁸ See Agency for Healthcare Research and Quality, *2023 Medical Expenditure Panel Survey Insurance Component (MEPS-IC)*, <https://datatools.ahrq.gov/meps-ic/> (last accessed Apr. 16, 2026); see also U.S. Census Bureau, *2021 County Business Patterns*, <https://www.census.gov/programs-surveys/cbp/data.html> (last accessed Apr. 16, 2026).

TABLE 8—AFFECTED PLAN COUNTS—Continued

	Small plans	Not currently offering	Currently offering	Expected to offer
	(A)	(A) × 73% = (B)	(A) × 27% = (C)	((B) × 65%) + ((C) × 18%)
Small Self-insured (States without Requirements)	312,151	227,870	84,281	163,885
Small Fully insured (States without Requirements)	281,018	205,143	75,875	147,540
Total Small Private	769,646	561,842	207,805	404,080
All Small Plans	827,543	604,107	223,437	434,477

* Totals displayed in the table may not sum due to rounding.

3. Cost of Proposed Rules

a. Small Plan Sponsors and Plans

Small plan sponsors would be able to choose to offer excepted fertility benefits and would be able to design a plan that fits their needs including their share of the premiums. The Departments cannot rule out the possibility that these premium payments could be significant under the requirements of the RFA. However, due to the voluntary nature of these proposed rules, plan sponsors would be expected to make decisions that would

not create an adverse impact on themselves.

Excepted fertility benefit plans that would be created in accordance with these proposed rules would be required to send a notice containing specific information, including a description of the coverage, including a summary of benefits and limitations of the coverage, how to identify and utilize a network provider, if applicable, as well as procedures for claims reimbursement, including whether the benefit utilizes the same claim procedures as for the sponsor's other group health plans.

Service providers, likely issuers, would help plans by reviewing these proposed rules requirements and preparing and distributing the notice. Plan expenses charged by issuers would include these costs. The Departments assume that costs borne by issuers to familiarize themselves with these proposed rules and prepare the appropriate notices would be passed along to the 434,477 small plans. These costs for small plans are summarized in Table 9. These costs would not have a significant impact on a substantial number of small entities.

TABLE 9—COSTS FOR SMALL ENTITIES

	First year	Subsequent years	Per small entity cost *
Rule Familiarization (Year One)	\$304,255	\$0	\$0.70
Notice Drafting (Year One)	304,255	0	0.70
Review & Update Notice (Subsequent Years)	0	152,127	0.35
Average Mail Disclosure (20 participants)	316,513	316,513	0.73
Per Plan First Year Costs			2.13
Per Plan Subsequent Year Costs			1.08

* The cost per entity reflects the total costs of the regulation averaged to account for the 434,477 small, non-Federal group health plans.

D. Duplicate, Overlapping, or Relevant Federal Rules

There are no duplicate, overlapping, or relevant Federal rules.

E. Significant Alternatives Considered

The regulatory alternatives considered in developing these proposed rules are discussed in section III.L of this preamble. The Departments are of the view that none of these alternatives would both achieve the policy objectives and goals of these proposed rules as previously stated and be less burdensome to small entities. The Departments emphasize that because these proposed rules would provide a voluntary means of providing benefits, administrators would be free to begin offering excepted fertility benefits at any time on or after the applicability date of any finalized rules, if they choose to do so. For a more detailed discussion of the regulatory alternatives considered,

please refer to section III.L of this preamble.

VI. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed or final agency rule that may result in an expenditure of \$100 million or more (adjusted annually for inflation with the base year 1995) in any one year by State, local, and Tribal governments, in the aggregate, or by the private sector.¹⁸⁹ For purposes of the UMRA, this rulemaking is not expected to have such an impact. For the purposes of this rulemaking, the RIA shall meet the UMRA obligations.

VII. Federalism Statement

Executive Order 13132 outlines fundamental principles of federalism,

and requires the adherence to specific criteria by Federal agencies in the process of their formulation and implementation of policies that have “substantial direct effects” on the States, the relationship between the Federal Government and States, or on the distribution of power and responsibilities among the various levels of government.¹⁹⁰ Federal agencies promulgating regulations that have federalism implications must consult with State and local officials and describe the extent of their consultation and the nature of the concerns of State and local officials in the preamble to these proposed rules.

In the Departments' view, these proposed rules would not have federalism implications because they would have no substantial direct effect on the States, on the relationship between the Federal Government and the States, or on the distribution of

¹⁸⁹ 2 U.S.C. 1501 *et seq.* (1995).

¹⁹⁰ *Federalism*, 64 FR 153 (Aug. 4, 1999).

power and responsibilities among the various levels of government. Section 514 of ERISA provides, with certain exceptions specifically enumerated, that the provisions of Titles I and IV of ERISA supersede any and all laws of the States as they relate to any employee benefit plan covered under ERISA.

Section 2724 of the PHS Act (implemented in 45 CFR 146.143(a) and 148.210(b)) apply so that the requirements of title XXVII of the PHS Act are not to be construed to supersede any provision of State law which establishes, implements, or continues in effect any standard or requirement solely relating to health insurance issuers in connection with individual or group health insurance coverage except to the extent that such standard or requirement prevents the application of a federal requirement. The conference report accompanying HIPAA indicates that this is intended to be the “narrowest” preemption of State laws (See House Conf. Rep. No. 104–736, at 205, reprinted in 1996 U.S. Code Cong. & Admin. News 2018).

These proposed requirements, if implemented in a final rule, would not alter the fundamental requirements of any State with respect to employee benefit plans nor would it alter State benefit requirements, and, as such, would have no implications for the States or the relationship or distribution of power between the Federal Government and the States. The Departments welcome input from affected States regarding this assessment.

List of Subjects

26 CFR Part 54

Excise taxes, Health care, Pensions, Reporting and recordkeeping requirements.

29 CFR Part 2590

Child support, Employee benefit plans, Health care, Health insurance, Infants and children, Maternal and child health, Penalties, Pensions, Privacy, Reporting and Recordkeeping requirements.

45 CFR Part 146

Health care, Health insurance, Reporting and recordkeeping requirements.

Frank J. Bisignano,

Chief Executive Officer, Internal Revenue Service.

Daniel Aronowitz,

Assistant Secretary, Employee Benefits Security Administration, Department of Labor.

Robert F. Kennedy, Jr.,

Secretary, Department of Health and Human Services.

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Accordingly, the Treasury Department and the IRS propose to amend 26 CFR part 54 as follows:

PART 54—PENSION EXCISE TAXES

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

Authority: 26 U.S.C. 7805, unless otherwise noted.

■ 2. Section 54.9831–1 is amended by—

■ a. Revising paragraph (c)(3)(i); and

■ b. Adding new paragraph (c)(3)(ix).

The revisions and additions read as follows:

§ 54.9831–1 Special rules relating to group health plans.

* * * * *

(c) * * *

(3) * * *

(i) *In general.* Limited-scope dental benefits, limited-scope vision benefits, or long-term care benefits are excepted if they are provided under a separate policy, certificate, or contract of insurance, or are otherwise not an integral part of a group health plan as described in paragraph (c)(3)(ii) of this section. In addition, benefits provided under a health flexible spending arrangement (health FSA) are excepted benefits if they satisfy the requirements of paragraph (c)(3)(v) of this section; benefits provided under an employee assistance program are excepted benefits if they satisfy the requirements of paragraph (c)(3)(vi) of this section; benefits provided under limited wraparound coverage are excepted benefits if they satisfy the requirements of paragraph (c)(3)(vii) of this section; benefits provided under a health reimbursement arrangement or other account-based group health plan, other than a health FSA, are excepted benefits if they satisfy the requirements of paragraph (c)(3)(viii) of this section; and fertility benefits are excepted benefits if

they satisfy the requirements of paragraph (c)(3)(ix) of this section.

* * * * *

(ix) *Excepted fertility benefits.* For plan years beginning on or after January 1, 2027, fertility benefits are excepted if they are provided under a separate policy, certificate, or contract of insurance or are otherwise not an integral part of the plan as described in paragraph (c)(3)(ix)(C) of this section, and satisfy the requirements of paragraphs (c)(3)(ix)(A), (B), and (D) of this section.

(A) *Benefits covered.* Coverage is limited to benefits substantially all of which are for the diagnosis, mitigation, or treatment of infertility or infertility-related reproductive health conditions and substantially all of which are provided by medical professionals authorized to practice under applicable law, which may include medically appropriate items or services targeted to address such conditions.

(B) *Lifetime dollar amount.* The total lifetime benefit per participant, together with their beneficiaries (if such beneficiaries are eligible for the fertility benefit), does not exceed \$120,000. In the case of any plan year beginning after December 31, 2027, the maximum lifetime dollar amount in the preceding sentence shall be increased by medical inflation. For these purposes, medical inflation is calculated as \$120,000 multiplied by the difference between the overall medical care component of the Consumer Price Index for All Urban Consumers (CPI-U) (unadjusted) published by the Department of Labor for December of the previous plan year and 587.144 (the overall medical care component of the CPI-U (unadjusted) for December 2025), divided by 587.144.

(C) *Not an integral part of the plan.* For purposes of this paragraph (c)(3)(ix), fertility benefits are not an integral part of a group health plan if other group health plan coverage that is not limited to excepted benefits and that is not an HRA or other account-based group health plan is made available by the same plan sponsor for the plan year to participants that are offered the fertility benefit (and beneficiaries, if eligible for the fertility benefit), and participants (and beneficiaries, if eligible for the fertility benefit) enrolling in the fertility benefit may decline coverage for the other group health plan coverage. For example, a participant may decline the other group health plan coverage if the participant can opt out of that coverage, whether or not there is a contribution required for the coverage.

(D) *Notice requirement.* The plan or issuer provides written notice to

participants and beneficiaries of the fertility benefit coverage in accordance with the requirements of this paragraph (c)(3)(ix)(D).

(1) *Content.* Such notice must be written in a manner calculated to be understood by the average plan participant and must also include a description of the coverage, including a summary of benefits and limitations of the coverage (including the lifetime dollar amount limit established by the plan or issuer that complies with the lifetime dollar amount limit described in paragraph (c)(3)(ix)(B) of this section), how to identify and utilize a network provider, if applicable, and how to submit a claim for reimbursement, including whether the benefit utilizes the same claims procedure as for the sponsor's other group health plans.

(2) *Timing.* The plan or issuer must provide the notice no later than the first date on which the participant or beneficiary is eligible to enroll in coverage, and annually thereafter, as well as upon request of the participant or beneficiary.

(3) *Special rule.* If a single notice is provided to a participant and any beneficiaries at the participant's last known address, the requirement to provide the notice to the participant and any beneficiaries is generally satisfied. However, if a beneficiary's last known address is different than the participant's last known address, a separate notice is required to be provided to the beneficiary at the beneficiary's last known address.

(E) *Examples.* The rules of this paragraph (c)(3)(ix) are illustrated by the following examples:

(1) *Example 1.*

(i) *Facts.* An employer offers benefits for fertility counseling through a separate insurance policy that satisfy the requirements of paragraph (c)(3)(ix)(A) of this section. The fertility counseling coverage issuer also provides notice to plan participants and beneficiaries at or before the time individuals are given the opportunity to enroll in the coverage and annually thereafter. The notice is written in a manner calculated to be understood by the average plan participant and includes a description of the coverage, including a summary of benefits and limitations of the coverage, how to identify and utilize a network provider, how to submit a claim for reimbursement and that the benefit utilizes the same claims procedure as for the sponsor's other group health plans. The fertility counseling coverage also has a lifetime dollar limit that

complies with the requirements of paragraph (c)(3)(ix)(B) of this section.

(ii) *Conclusion.* In this Example, the fertility counseling coverage satisfies the conditions in this paragraph (c)(3)(ix), because the employer offers such fertility benefit through a separate fully insured policy that satisfies the requirements of paragraph (c)(3)(ix)(A) of this section, provides written notice as required by paragraph (c)(3)(ix)(D) of this section, and includes a lifetime dollar limit on fertility benefits that complies with paragraph (c)(3)(ix)(B) of this section.

(2) *Example 2.*

(i) *Facts.* An employer sponsors a group health plan that is not limited to excepted benefits and that is not an HRA or other account-based group health plan and also offers fertility benefits for the mitigation or treatment of infertility that satisfy the requirements of paragraph (c)(3)(ix)(A) of this section. The fertility benefits are self-funded by the employer. The employer offers both the group health plan and the fertility benefits to participants and permits participants to enroll in either or both benefit options, or decline to participate in either or both options for the plan year. The employer also includes a lifetime dollar limit on fertility benefits that satisfies the requirements of paragraph (c)(3)(ix)(B) of this section and provides written notice to participants in accordance with the requirements of paragraph (c)(3)(ix)(D) of this section.

(ii) *Conclusion.* In this Example, the fertility benefit plan satisfies the conditions in this paragraph (c)(3)(ix). Because the fertility benefits are not provided under a separate policy, certificate, or contract of insurance, the requirements under paragraph (c)(3)(ix)(C) of this section apply. In this Example, the fertility benefits are not an integral part of the group health plan because the employer offers, to participants that are offered the fertility benefit, coverage under another group health plan that is not limited to excepted benefits for the plan year and that is not an HRA or other account-based group health plan, and participants may decline coverage for such other group health plan coverage. In addition, the fertility benefit plan satisfies the requirements of paragraph (c)(3)(ix)(A) of this section, includes a lifetime dollar limit on fertility benefits that complies with paragraph (c)(3)(ix)(B) of this section, and provides written notice as required by paragraph (c)(3)(ix)(D) of this section.

(3) *Example 3.*

(i) *Facts.* An employer sponsors a fertility benefit plan for the mitigation

or treatment of infertility that satisfies the requirements of paragraphs (c)(3)(ix)(A), (C) and (D) of this section in a plan year. The fertility benefits are self-funded by the employer. The fertility benefit plan imposes a lifetime, per participant limitation on benefits of \$120,000. During the plan year, the fertility benefit plan covers a given participant's claims for treatment of infertility by medical professionals authorized to practice under applicable law totaling \$65,000. In December of the plan year, the overall medical care component of the CPI-U (unadjusted) published by the Department of Labor is 625.522. During the following plan year, the plan again covers \$65,000 in claims for the same participant for treatment of infertility by medical professionals authorized to practice under applicable law pursuant to such plan's terms.

(ii) *Conclusion.* In this Example, the plan fails to satisfy the conditions in paragraph (c)(3)(ix)(B) of this section because lifetime benefits to the participant in the following plan year exceed \$127,843.66 ($\$120,000 \text{ increased by an amount equal to } \$120,000 \text{ multiplied by the difference between the overall medical care component of the CPI-U (unadjusted) published by the Department of Labor for December of the previous plan year (625.522) and 587.144, divided by 587.144, i.e., } 120,000 + 120,000 ((625.522 - 587.144) / 587.144)$). The employer may still cover fertility benefits that are in excess of the lifetime dollar limit through its group health plan that is not limited to excepted benefits and that is not an HRA or other account-based group health plan, provided it otherwise complies with the requirements of Chapter 100 of the Code.

(F) *Severability.* If any provision of this paragraph (c)(3)(ix) is held to be invalid or unenforceable by its terms, or as applied to any person or circumstance, or stayed pending further agency action, the provision shall be construed so as to continue to give the maximum effect to the provision permitted by law, unless such holding shall be one of invalidity or unenforceability, in which event the provision shall be severable from this section and shall not affect the remainder thereof or the application of the provision to persons not similarly situated or to dissimilar circumstances.

* * * * *

DEPARTMENT OF LABOR
Employee Benefits Security
Administration

For the reasons stated in the preamble, the Department of Labor

proposes to amend 29 CFR part 2590 as set forth below:

PART 2590—RULES AND REGULATIONS FOR GROUP HEALTH PLANS

■ 3. The authority citation for part 2590 continues to read as follows:

Authority: 29 U.S.C. 1027, 1059, 1135, 1161–1168, 1169, 1181–1183, 1181 note, 1185, 1185a–n, 1191, 1191a, 1191b, and 1191c; sec. 101(g), Pub. L. 104–191, 110 Stat. 1936; sec. 401(b), Pub. L. 105–200, 112 Stat. 645 (42 U.S.C. 651 note); sec. 512(d), Pub. L. 110–343, 122 Stat. 3881; sec. 1001, 1201, and 1562(e), Pub. L. 111–148, 124 Stat. 119, as amended by Pub. L. 111–152, 124 Stat. 1029; Division M, Pub. L. 113–235, 128 Stat. 2130; Pub. L. 116–260, 134 Stat. 1182; Secretary of Labor’s Order 1–2011, 77 F. R. 1088 (Jan. 9, 2012).

■ 4. Section 2590.732 is amended by—
■ a. Revising paragraph (c)(3)(i); and
■ b. Adding new paragraph (c)(3)(ix).

The revisions and additions read as follows:

§ 2590.732 Special rules relating to group health plans.

* * * * *

(c) * * *

(3) * * *

(i) *In general.* Limited-scope dental benefits, limited-scope vision benefits, or long-term care benefits are excepted if they are provided under a separate policy, certificate, or contract of insurance, or are otherwise not an integral part of a group health plan as described in paragraph (c)(3)(ii) of this section. In addition, benefits provided under a health flexible spending arrangement (health FSA) are excepted benefits if they satisfy the requirements of paragraph (c)(3)(v) of this section; benefits provided under an employee assistance program are excepted benefits if they satisfy the requirements of paragraph (c)(3)(vi) of this section; benefits provided under limited wraparound coverage are excepted benefits if they satisfy the requirements of paragraph (c)(3)(vii) of this section; benefits provided under a health reimbursement arrangement or other account-based group health plan, other than a health FSA, are excepted benefits if they satisfy the requirements of paragraph (c)(3)(viii) of this section; and fertility benefits are excepted benefits if they satisfy the requirements of paragraph (c)(3)(ix) of this section.

* * * * *

(ix) *Excepted fertility benefits.* For plan years beginning on or after January 1, 2027, fertility benefits are excepted fertility benefits if they are provided under a separate policy, certificate, or contract of insurance or are otherwise

not an integral part of the plan as described in paragraph (c)(3)(ix)(C) of this section, and satisfy the requirements of paragraphs (c)(3)(ix)(A), (B), and (D) of this section.

(A) *Benefits covered.* Coverage is limited to benefits substantially all of which are for the diagnosis, mitigation, or treatment of infertility or infertility-related reproductive health conditions and substantially all of which are provided by medical professionals authorized to practice under applicable law, which may include medically appropriate items or services targeted to address such conditions.

(B) *Lifetime dollar amount.* The total lifetime benefit per participant, together with their beneficiaries (if such beneficiaries are eligible for the fertility benefit), does not exceed \$120,000. In the case of any plan year beginning after December 31, 2027, the maximum lifetime dollar amount in the preceding sentence shall be increased by medical inflation. For these purposes, medical inflation is calculated as \$120,000 multiplied by the difference between the overall medical care component of the Consumer Price Index for All Urban Consumers (CPI-U) (unadjusted) published by the Department of Labor for December of the previous plan year and 587.144 (the overall medical care component of the CPI-U (unadjusted) for December 2025), divided by 587.144.

(C) *Not an integral part of the plan.* For purposes of this paragraph (c)(3)(ix), fertility benefits are not an integral part of a group health plan if other group health plan coverage that is not limited to excepted benefits and that is not an HRA or other account-based group health plan is made available by the same plan sponsor for the plan year to participants that are offered the fertility benefit (and beneficiaries, if eligible for the fertility benefit), and participants (and beneficiaries, if eligible for the fertility benefit) enrolling in the fertility benefit may decline coverage for the other group health plan coverage. For example, a participant may decline the other group health plan coverage if the participant can opt out of that coverage, whether or not there is a contribution required for the coverage.

(D) *Notice requirement.* The plan or issuer provides written notice to participants and beneficiaries of the fertility benefit coverage in accordance with the requirements of this paragraph (c)(3)(ix)(D).

(1) *Content.* Such notice must be written in a manner calculated to be understood by the average plan participant and must also include a description of the coverage, including a summary of benefits and limitations of

the coverage (including the lifetime dollar limit established by the plan or issuer that complies with the lifetime dollar limit described in paragraph (c)(3)(ix)(B) of this section), how to identify and utilize a network provider, if applicable, and how to submit a claim for reimbursement, including whether the benefit utilizes the same claims procedure as for the sponsor’s other group health plans.

(2) *Timing.* The plan or issuer must provide the notice no later than the first date on which the participant or beneficiary is eligible to enroll in coverage, and annually thereafter, as well as upon request of the participant or beneficiary.

(3) *Special rule.* If a single notice is provided to a participant and any beneficiaries at the participant’s last known address, the requirement to provide the notice to the participant and any beneficiaries is generally satisfied. However, if a beneficiary’s last known address is different than the participant’s last known address, a separate notice is required to be provided to the beneficiary at the beneficiary’s last known address.

(E) *Examples.* The rules of this paragraph (c)(3)(ix) are illustrated by the following examples:

(1) *Example 1.*

(i) *Facts.* An employer offers benefits for fertility counseling through a separate insurance policy that satisfy the requirements of paragraph (c)(3)(ix)(A) of this section. The fertility counseling coverage issuer also provides notice to plan participants and beneficiaries at or before the time individuals are given the opportunity to enroll in the coverage and annually thereafter. The notice is written in a manner calculated to be understood by the average plan participant and includes a description of the coverage, including a summary of benefits and limitations of the coverage, how to identify and utilize a network provider, how to submit a claim for reimbursement and that the benefit utilizes the same claims procedure as for the sponsor’s other group health plans. The fertility counseling coverage also has a lifetime dollar limit that complies with the requirements of paragraph (c)(3)(ix)(B) of this section.

(ii) *Conclusion.* In this Example, the fertility counseling coverage satisfies the conditions in this paragraph (c)(3)(ix), because the employer offers such fertility benefit through a separate fully insured policy that satisfies the requirements of paragraph (c)(3)(ix)(A) of this section, provides written notice as required by paragraph (c)(3)(ix)(D) of this section, and includes a lifetime

dollar limit on fertility benefits that complies with paragraph (c)(3)(ix)(B) of this section.

(2) *Example 2.*

(i) *Facts.* An employer sponsors a group health plan that is not limited to excepted benefits and that is not an HRA or other account-based group health plan and also offers fertility benefits for the mitigation or treatment of infertility that satisfy the requirements of paragraph (c)(3)(ix)(A) of this section. The fertility benefits are self-funded by the employer. The employer offers both the group health plan and the fertility benefits to participants and permits participants to enroll in either or both benefit options, or decline to participate in either or both options for the plan year. The employer also includes a lifetime dollar limit on fertility benefits that satisfies the requirements of paragraph (c)(3)(ix)(B) of this section and provides written notice to participants in accordance with the requirements of paragraph (c)(3)(ix)(D) of this section.

(ii) *Conclusion.* In this Example, the fertility benefit plan satisfies the conditions in this paragraph (c)(3)(ix). Because the fertility benefits are not provided under a separate policy, certificate, or contract of insurance, the requirements under paragraph (c)(3)(ix)(C) of this section apply. In this Example, the fertility benefits are not an integral part of the group health plan because the employer offers, to participants that are offered the fertility benefit, coverage under another group health plan that is not limited to excepted benefits for the plan year and that is not an HRA or other account-based group health plan, and participants may decline coverage for such other group health plan coverage. In addition, the fertility benefit plan satisfies the requirements of paragraph (c)(3)(ix)(A) of this section, includes a lifetime dollar limit on fertility benefits that complies with paragraph (c)(3)(ix)(B) of this section, and provides written notice as required by paragraph (c)(3)(ix)(D) of this section.

(3) *Example 3.*

(i) *Facts.* An employer sponsors a fertility benefit plan for the mitigation or treatment of infertility that satisfies the requirements of paragraphs (c)(3)(ix)(A), (C) and (D) of this section in a plan year. The fertility benefits are self-funded by the employer. The fertility benefit plan imposes a lifetime, per-participant limitation on benefits of \$120,000. During the plan year, the fertility benefit plan covers a given participant's claims for treatment of infertility by medical professionals authorized to practice under applicable

law totaling \$65,000. In December of the plan year, the overall medical care component of the CPI-U (unadjusted) published by the Department of Labor is 625.522. During the following plan year, the plan again covers \$65,000 in claims for the same participant for treatment of infertility by medical professionals authorized to practice under applicable law pursuant to such plan's terms.

(ii) *Conclusion.* In this Example, the plan fails to satisfy the conditions in paragraph (c)(3)(ix)(B) of this section because lifetime benefits to the participant in the following plan year exceed \$127,843.66 (\$120,000 increased by an amount equal to \$120,000 multiplied by the difference between the overall medical care component of the CPI-U (unadjusted) published by the Department of Labor for December of the previous plan year (625.522) and 587.144, divided by 587.144, *i.e.*, $120,000 + 120,000 ((625.522 - 587.144) / 587.144)$). The employer may still cover fertility benefits that are in excess of the lifetime dollar limit through its group health plan that is not limited to excepted benefits and that is not an HRA or other account-based group health plan, provided it otherwise complies with the requirements of Part 7 of ERISA.

(F) *Severability.* If any provision of this paragraph (c)(3)(ix) is held to be invalid or unenforceable by its terms, or as applied to any person or circumstance, or stayed pending further agency action, the provision shall be construed so as to continue to give the maximum effect to the provision permitted by law, unless such holding shall be one of invalidity or unenforceability, in which event the provision shall be severable from this section and shall not affect the remainder thereof or the application of the provision to persons not similarly situated or to dissimilar circumstances.

* * * * *

DEPARTMENT OF HEALTH AND HUMAN SERVICES

For the reasons stated in the preamble, the Department of Health and Human Services proposes to amend 45 CFR part 146 as set forth below:

PART 146—REQUIREMENTS FOR THE GROUP HEALTH INSURANCE MARKET

■ 5. The authority citation for part 146 continues to read as follows:

Authority: 42 U.S.C. 300gg–1 through 300gg–5, 300gg–11 through 300gg–23, 300gg–91, and 300gg–92.

■ 6. Section 146.125 is amended by revising the first sentence to read as follows:

§ 146.125 Applicability dates.

Unless otherwise specified, section 144.103 of this subchapter and §§ 146.111 through 146.119, 146.143, and 146.145 are applicable for plan years beginning on or after July 1, 2005.

* * * * *

■ 7. Section 146.145 is amended by—

- a. Revising paragraph (b)(3)(i); and
- b. Adding new paragraph (b)(3)(ix).

The revisions and additions read as follows:

§ 146.145 Special rules relating to group health plans.

* * * * *

(b) * * *

(3) * * *

(i) *In general.* Limited-scope dental benefits, limited-scope vision benefits, or long-term care benefits are excepted if they are provided under a separate policy, certificate, or contract of insurance, or are otherwise not an integral part of a group health plan as described in paragraph (b)(3)(ii) of this section. In addition, benefits provided under a health flexible spending arrangement (health FSA) are excepted benefits if they satisfy the requirements of paragraph (b)(3)(v) of this section; benefits provided under an employee assistance program are excepted benefits if they satisfy the requirements of paragraph (b)(3)(vi) of this section; benefits provided under limited wraparound coverage are excepted benefits if they satisfy the requirements of paragraph (b)(3)(vii) of this section; benefits provided under a health reimbursement arrangement or other account-based group health plan, other than a health FSA, are excepted benefits if they satisfy the requirements of paragraph (b)(3)(viii) of this section; and fertility benefits are excepted benefits if they satisfy the requirements of paragraph (b)(3)(ix) of this section.

* * * * *

(ix) *Excepted fertility benefits.* For plan years beginning on or after January 1, 2027, fertility benefits are excepted fertility benefits if they are provided under a separate policy, certificate, or contract of insurance or are otherwise not an integral part of the plan as described in paragraph (b)(3)(ix)(C) of this section, and satisfy the requirements of paragraphs (b)(3)(ix)(A), (B), and (D) of this section.

(A) *Benefits covered.* Coverage is limited to benefits substantially all of which are for the diagnosis, mitigation, or treatment of infertility or infertility-related reproductive health conditions

and substantially all of which are provided by medical professionals authorized to practice under applicable law, which may include medically appropriate items or services targeted to address such conditions.

(B) *Lifetime dollar amount.* The total lifetime benefit per participant, together with their beneficiaries (if such beneficiaries are eligible for the fertility benefit), does not exceed \$120,000. In the case of any plan year beginning after December 31, 2027, the maximum lifetime dollar amount in the preceding sentence shall be increased by medical inflation. For these purposes, medical inflation is calculated as \$120,000 multiplied by the difference between the overall medical care component of the Consumer Price Index for All Urban Consumers (CPI-U) (unadjusted) published by the Department of Labor for December of the previous plan year and 587.144 (the overall medical care component of the CPI-U (unadjusted) for December 2025), divided by 587.144.

(C) *Not an integral part of the plan.* For purposes of this paragraph (b)(3)(ix), fertility benefits are not an integral part of a group health plan if other group health plan coverage that is not limited to excepted benefits and that is not an HRA or other account-based group health plan is made available by the same plan sponsor for the plan year to participants that are offered the fertility benefit (and beneficiaries, if eligible for the fertility benefit), and participants (and beneficiaries, if eligible for the fertility benefit) enrolling in the fertility benefit may decline coverage for the other group health plan coverage. For example, a participant may decline the other group health plan coverage if the participant can opt out of that coverage, whether or not there is a contribution required for the coverage.

(D) *Notice requirement.* The plan or issuer provides written notice to participants and beneficiaries of the fertility benefit coverage in accordance with the requirements of this paragraph (b)(3)(ix)(D).

(1) *Content.* Such notice must be written in a manner calculated to be understood by the average plan participant and must also include a description of the coverage, including a summary of benefits and limitations of the coverage (including the lifetime dollar amount limit established by the plan or issuer that complies with the lifetime dollar amount limit described in paragraph (b)(3)(ix)(B) of this section), how to identify and utilize a network provider, if applicable, and how to submit a claim for reimbursement, including whether the benefit utilizes the same claims

procedure as for the sponsor's other group health plans.

(2) *Timing.* The plan or issuer must provide the notice no later than the first date on which the participant or beneficiary is eligible to enroll in coverage, and annually thereafter, as well as upon request of the participant or beneficiary.

(3) *Special rule.* If a single notice is provided to a participant and any beneficiaries at the participant's last known address, the requirement to provide the notice to the participant and any beneficiaries is generally satisfied. However, if a beneficiary's last known address is different than the participant's last known address, a separate notice is required to be provided to the beneficiary at the beneficiary's last known address.

(E) *Examples.* The rules of this paragraph (b)(3)(ix) are illustrated by the following examples:

(1) *Example 1.*

(i) *Facts.* An employer offers benefits for fertility counseling through a separate insurance policy that satisfy the requirements of paragraph (b)(3)(ix)(A) of this section. The fertility counseling coverage issuer also provides notice to plan participants and beneficiaries at or before the time individuals are given the opportunity to enroll in the coverage and annually thereafter. The notice is written in a manner calculated to be understood by the average plan participant and includes a description of the coverage, including a summary of benefits and limitations of the coverage, how to identify and utilize a network provider, how to submit a claim for reimbursement and that the benefit utilizes the same claims procedure as for the sponsor's other group health plans. The fertility counseling coverage also has a lifetime dollar limit that complies with the requirements of paragraph (b)(3)(ix)(B) of this section.

(ii) *Conclusion.* In this Example, the fertility counseling coverage satisfies the conditions in this paragraph (b)(3)(ix), because the employer offers such fertility benefit through a separate fully insured policy that satisfies the requirements of paragraph (b)(3)(ix)(A) of this section, provides written notice as required by paragraph (b)(3)(ix)(D) of this section, and includes a lifetime dollar limit on fertility benefits that complies with paragraph (b)(3)(ix)(B) of this section.

(2) *Example 2.*

(i) *Facts.* An employer sponsors a group health plan that is not limited to excepted benefits and that is not an HRA or other account-based group health plan and also offers fertility

benefits for the mitigation or treatment of infertility that satisfy the requirements of paragraph (b)(3)(ix)(A) of this section. The fertility benefits are self-funded by the employer. The employer offers both the group health plan and the fertility benefits to participants and permits participants to enroll in either or both benefit options, or decline to participate in either or both options for the plan year. The employer also includes a lifetime dollar limit on fertility benefits that satisfies the requirements of paragraph (b)(3)(ix)(B) of this section and provides written notice to participants in accordance with the requirements of paragraph (b)(3)(ix)(D) of this section.

(ii) *Conclusion.* In this Example, the fertility benefit plan satisfies the conditions in this paragraph (b)(3)(ix). Because the fertility benefits are not provided under a separate policy, certificate, or contract of insurance, the requirements under paragraph (b)(3)(ix)(C) of this section apply. In this Example, the fertility benefits are not an integral part of the group health plan because the employer offers, to participants that are offered the fertility benefit, coverage under another group health plan that is not limited to excepted benefits for the plan year and that is not an HRA or other account-based group health plan, and participants may decline coverage for such other group health plan coverage. In addition, the fertility benefit plan satisfies the requirements of paragraph (b)(3)(ix)(A) of this section, includes a lifetime dollar limit on fertility benefits that complies with paragraph (b)(3)(ix)(B) of this section, and provides written notice as required by paragraph (b)(3)(ix)(D) of this section.

(3) *Example 3.*

(i) *Facts.* An employer sponsors a fertility benefit plan for the mitigation or treatment of infertility that satisfies the requirements of paragraphs (b)(3)(ix)(A), (C) and (D) of this section in a plan year. The fertility benefits are self-funded by the employer. The fertility benefit plan imposes a lifetime, per-participant limitation on benefits of \$120,000. During the plan year, the fertility benefit plan covers a given participant's claims for treatment of infertility by medical professionals authorized to practice under applicable law totaling \$65,000. In December of the plan year, the overall medical care component of the CPI-U (unadjusted) published by the Department of Labor is 625.522. During the following plan year, the plan again covers \$65,000 in claims for the same participant for treatment of infertility by medical professionals

authorized to practice under applicable law pursuant to such plan's terms.

(ii) *Conclusion.* In this Example, the plan fails to satisfy the conditions in paragraph (b)(3)(ix)(B) of this section because lifetime benefits to the participant in the following plan year exceed \$127,843.66 (\$120,000 increased by an amount equal to \$120,000 multiplied by the difference between the overall medical care component of the CPI-U (unadjusted) published by the Department of Labor for December of the previous plan year (625.522) and 587.144, divided by 587.144, *i.e.*,

$120,000 + 120,000((625.522 - 587.144) / 587.144)$). The employer may still cover fertility benefits that are in excess of the lifetime dollar limit through its group health plan that is not limited to excepted benefits and that is not an HRA or other account-based group health plan, provided it otherwise complies with the requirements of Title XXVII of the PHS Act.

(F) *Severability.* If any provision of this paragraph (b)(3)(ix) is held to be invalid or unenforceable by its terms, or as applied to any person or circumstance, or stayed pending further

agency action, the provision shall be construed so as to continue to give the maximum effect to the provision permitted by law, unless such holding shall be one of invalidity or unenforceability, in which event the provision shall be severable from this section and shall not affect the remainder thereof or the application of the provision to persons not similarly situated or to dissimilar circumstances.

* * * * *

[FR Doc. 2026-09479 Filed 5-12-26; 8:45 am]

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Part III

The President

Presidential Determination No. 2026-13 of May 7, 2026—Presidential Determination Pursuant to Section 1245(d)(4)(B) and (C) of the National Defense Authorization Act for Fiscal Year 2012

Presidential Documents

Title 3—

Presidential Determination No. 2026–13 of May 7, 2026

The President

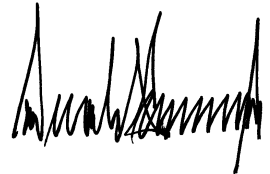
Presidential Determination Pursuant to Section 1245(d)(4)(B) and (C) of the National Defense Authorization Act for Fiscal Year 2012

Memorandum for the Secretary of State[,] the Secretary of the Treasury[, and] the Secretary of Energy

By the authority vested in me as President by the Constitution and the laws of the United States, after carefully considering the reports submitted to the Congress by the Energy Information Administration, including the report submitted in April 2026, and other relevant factors, including global economic conditions and the availability of strategic reserves, I determine, pursuant to section 1245(d)(4)(B) and (C) of the National Defense Authorization Act for Fiscal Year 2012, Public Law 112–81, and consistent with prior determinations, that there is a sufficient supply of petroleum and petroleum products from countries other than Iran to permit a significant reduction in the volume of petroleum and petroleum products purchased from Iran by or through foreign financial institutions.

I will continue to monitor this situation closely.

The Secretary of State is authorized and directed to publish this determination in the *Federal Register*.



THE WHITE HOUSE,
Washington, May 7, 2026



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Part IV

The President

Notice of May 11, 2026—Continuation of the National Emergency With Respect to Securing the Information and Communications Technology and Services Supply Chain

Presidential Documents

Title 3—

Notice of May 11, 2026

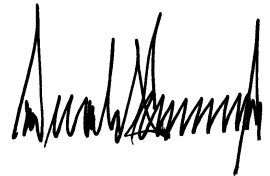
The President

Continuation of the National Emergency With Respect to Securing the Information and Communications Technology and Services Supply Chain

On May 15, 2019, by Executive Order 13873, the President declared a national emergency pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*) to deal with the unusual and extraordinary threat to the national security, foreign policy, and economy of the United States constituted by the unrestricted acquisition and use of certain information and communications technology and services (ICTS) transactions.

Certain ICTS transactions and classes of transactions involving a foreign country or foreign national can allow for exploitation of vulnerabilities in the information and communications technology or services supply chain, resulting in potentially catastrophic effects. This threat continues to pose an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States. For this reason, the national emergency declared on May 15, 2019, must continue in effect beyond May 15, 2026. Therefore, in accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing for 1 year the national emergency declared in Executive Order 13873 with respect to securing the information and communications technology and services supply chain.

This notice shall be published in the *Federal Register* and transmitted to the Congress.



THE WHITE HOUSE,
May 11, 2026.

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S. 98/P.L. 119–89

Rural Broadband Protection Act of 2025 (May 11, 2026; 140 Stat. 818)

S. 1020/P.L. 119–90

To require the Federal Energy Regulatory Commission to

extend the time period during which licensees are required to commence construction of certain hydropower projects. (May 11, 2026; 140 Stat. 820)
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